OSHA 2002 Recordkeeping Simplified

James E. Roughton

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Dedication

To my wife, my friend, my lifelong partner, who has always been patient with me in my endeavors to enhance my safety profession.

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Contents

Preface

HOW TO USE THIS BOOK

You may question why this book was written. Why did I take the time to research and assemble the information in this book? After all, you have access to all of the OSHA rule from the website www.OSHA.gov and that should be sufficient. I think that these are fair questions and I will try to answer them the best I can. This book was written to help the general users understand the OSHA recordkeeping requirements. To help you, this book has been divided into several major subject areas within two parts. The rule has been annotated using the preamble, and specific chapters have been developed that will help to support the new rule, incident investigation, employee participation, medical provider selection, and how OSHA works.

This book was written to provide both the novice and the experienced user a reference to help comply with this new far-reaching rule. In the past, a guide subtitled *Recordkeeping Guidelines for Occupational Injuries and Illness*, commonly known as the "Blue Book," was used to help with recordkeeping compliance. This guide was an invaluable resource. It did not provide all of the answers but was detailed enough to provide similar conditions that could easily be fit to a particular case. It helped the user make a more educated and informed decision on questionable cases.

As we make the transition from these guidelines to the requirements (rule) making sure that you are meeting specific requirements becomes even more important.

As a review, in Chapter 2, you will find the rule broken down into a question-and-answer (Q&A) format. For example, the rule refers to many sections within sections where you have to understand how to read the standard numbering system. To help you understand how to read OSHA regulations, you need to understand how they are written. Refer to Appendix A for an overview of how to cite the code and find specific sections in any regulatory requirements.[1]

This book has been organized into a logical flow of how to identify a recordable injury by conducting an incident investigation. In addition,

many flow diagrams and tables have been developed to help find your way through the process of understanding the rule. The text has been structured as follows: At the end of each paragraph the appropriate section is cited with the reference and page number where you can go directly to the rule (Appendix A) and find the associated text.

Although revised and organized in a logical flow, it is still most important to understand that this book is only a guide based on the regulatory text (including the preamble). Every effort has been made to provide a text that is consistent and accurate based on the most current OSHA regulatory requirements. However, to understand the full implication of compliance, you must refer to the full standard (including the preamble) to understand specific requirements. You must constantly visit the OSHA website (www.OSHA.gov) to look for updates to the new rule. This may change over time.

It is always important to make sure that you understand why cases are recordable. If you decide that there are gray areas and there are still some areas where you will struggle, and you chose not to record a particular case, it is highly recommended that you document the complete history as a backup to your thought process. This is a twofold process as I see it:

- If you have to explain to anyone why you did not record a case, you will have a sound documented strategy.
- In addition, it will provide you an audit trail for any future follow-up.

Furthermore, if you have a questionable recordable case and you think that there may be complications in the future, one recommendation is to record the case. At the appropriate time you decide to remove the case from the log just put a red line through the entry. In other words, record the case and then as you build your case then you can take it off the OSHA Log. At least it will show that you have considered this case. Good luck!

ORGANIZATION

Many managers and safety professionals consider a written policy to be a solution to solving safety issues. To help you understand the importance of recordkeeping, this book has been divided into two parts to help you follow the process.

PART I: UNDERSTANDING THE RULE

Chapter 1

OSHA's new rule (recording and reporting of occupational injuries and illnesses) affects approximately 1.4 million establishments. A number of specific industries in the retail, service, finance, insurance, and real estate sectors, which are classified as low hazard, are exempt from most requirements of the rule, as are small businesses with 10 or fewer employees.

The revised rule took effect January 1, 2002, except for provisions covering hearing loss and musculoskeletal disorders, which OSHA has proposed to delay for one year while the agency reconsiders these issues. OSHA states that:

> The new rule improves employee involvement (participation), provides a greater level of employee privacy protection, creates simpler forms, provides clearer regulatory requirements, and allows the use of computerized forms to meet OSHA regulatory requirements. (Paraphrased)

The difference is that the old rule did not outline what is recordable. Prior to 2002, the Part 1904 recordkeeping rule was supplemented by the "Blue Book," which was considered to show the recordkeeping guidelines for occupational injuries and illnesses. The book was first published by the U.S. Department Labor Bureau of Labor Statistics in September 1986 and modified and updated in March 8, 1999, becoming the so-called safety bible for determining what was recordable.

This booklet contained guidelines for keeping the occupational injury and illness records necessary to fulfill recordkeeping obligations under the Occupational Safety and Health (OSHA) Act of 1970 (29 USC 651) and 29 CFR Part 1904 or equivalent state law. As of January 1, 2002, these guidelines were eliminated and incorporated into the new rules.

With this said, there are some major changes in the OSHA recordkeeping rules for 2002 and beyond. This chapter provides an overview of the major changes from OSHA's old Part 1904 recordkeeping rule to the new rule. The chapter list summarizes the major differences between the old and new recordkeeping rules to help employers who are familiar with the old rule to learn the new rule quickly.

Chapter 2

The purpose of the new recordkeeping rule (Part 1904) is to require employers to record and report work-related fatalities, injuries, and illnesses.

The Purpose section of the final rule explains why OSHA is promulgating this new rule. This section of the rule contains no regulatory requirements and is intended merely to provide information. A note to this section informs employers and employees that recording a case on the OSHA recordkeeping forms does not indicate either that the employer or the employee was at fault in the incident or that an OSHA rule has been violated. Recording an injury or illness on the log also does not, in and of itself, indicate that the case qualifies for workers' compensation or other benefits. This is often a misunderstood concept. Many individuals do not understand the difference between the two.

As a result of the differences between the two systems, recording a case does not mean that the case is compensable, or vice versa. If an injury or illness occurs to an employee, the employer must independently analyze the case in light of both the OSHA recording criteria and the requirements of the state workers' compensation system to determine if the case is recordable or compensable or both, which ever rule(s) apply.[1]

However, OSHA notes that many circumstances that lead to a recordable work-related injury or illness are "beyond the employer's control," at least as that phrase is commonly interpreted. Nevertheless, because such an injury or illness was caused, contributed to, or significantly aggravated by an event or exposure at work, it must be recorded (assuming that it meets one or more of the recording criteria and does not qualify for an exemption under the geographic presumption, discussed later). This approach is consistent with the no-fault recordkeeping system OSHA has adopted, which includes work-related injuries and illnesses, regardless of the level of employer control or non-control involved. The issue if different types of cases are deemed work related under the OSHA recordkeeping rule is discussed later in the work-relationship section (section 1904.5).[1]

As you get more into the new rule, you will start to understand specific requirements. However, you must remember that parts of this new rule are subject to interpretation, particularly when determining work-relatedness. A lot of caution must be taken to make sure that you have the best evidence (facts) possible to understand each case. This is why understanding how to conduct an effective incident investigation, discussed in Chapter 3, is important. One important note: No matter the direction you may take, it is most important that you document all incident investigations thoroughly and completely.

Reading the preamble of any standard is one of the most important things that you can possibly do. It allows you to understand the rationale why OSHA did what it did and some of the comments offered by stakeholders. How does this help you? It enables you to make some informed decisions that otherwise cannot be made. As you go through

this book and the new rule (refer to Appendix A for the regulatory text), you will find that specific sections have been pulled from the preamble, referenced as a table, applied to particular questions and answers, and incorporated to help you make a better determination of the recordability status. These excerpts provide you some additional information. As discussed, I also encourage that you read the preamble, found at http://www.osha-slc.gov/FedReg_osha_data/FED20010119.html in detail to get the full benefit of the new rule. The preamble has not been included due to its length (205 pages, 5916–6121).

PART II: PROGRAMS THAT SUPPORT THE RECORDKEEPING RULE

Chapter 3

Incident investigations are an important element in any effective management system, particularly when determining recordability. An incident investigation is a fact-finding management tool to help prevent future incidents. The investigation is an analysis and account of an incident, based on factual information gathered by a thorough and conscientious examination of *all* of the facts. It is not a mere repetition of the employee's explanation of the incident. Effective investigations include the objective evaluation of all the facts, opinions, statements, and related information, as well as the identification of the root cause(s) and actions to be taken to prevent recurrence. Facts should be reported without regard to personalities, individual responsibilities, and/or actions. Blame and fault finding should never be a part of the investigation proceedings or results.

This chapter provides a brief summary of the root cause analysis process and helps you understand and conduct successful incident investigations. Incident investigation is an important element in an effective safety management system. The basic reason for investigating and reporting the causes of occurrences is to identify action plans to prevent recurrence of incidents.

Chapter 4

Job-related incidents occur every day in the workplace. Incidents often occur because employees are not trained in the proper job

procedure(s). One way to reduce these workplace incidents is to develop proper job procedures and train all employees in the safer and more efficient methods.

Chapter 4 discusses why developing a job hazard analysis for each task is important.

Chapter 5

A medical surveillance program is a system put in place to ensure that the level of occupational health expertise identified in the safety and health program is sufficient. Having a medical surveillance program does not mean that you have to hire a doctor to work at your facility. There are many ways to find and use occupational health expertise. This chapter provides some guidance to help you decide what will work best for your operation.

Chapter 6

The success of any business depends on all employees that work in an organization. Protecting employees from hazards on the job not only makes good business sense but in all cases is the right thing to do. As part of management, you need not face this task alone. In this chapter, we outline how employee participation can strengthen your management system and safety program. In addition, we look at some of the reasons behind this employee participation and some of the ways to implement a successful employee-driven program.

Chapter 7

Unfortunately, with any new rule comes the possibility of inspections and potential citations or fines for noncompliance. Recordkeeping has been one of the top reasons for citations for many years. Whether you are new to the safety profession, new to recordkeeping, or a seasoned professional, this review will help you understand how OSHA works.

Chapter 7 discusses how penalties and citations are determined. In addition, it provides some insight on the new OSHA instruction to its compliance officers and what they are being told to do when conducting an inspection.

Today, providing employees a safer place to work has reduced employee injuries. Many companies have developed a safety culture that

says, "Management will provide the commitment and leadership to provide employees a safe place to work." In addition, "We will let our employees participate in the safety process." This book is not intended to discuss corporate culture. Instead, it is designed to talk about the new OSHA recordkeeping rule in detail. If you are interested in developing a safety culture, you can refer to my other book, *Developing an Effective Safety Culture: A Leadership Approach.*[2]

Chapter 8

Chapter 8 provides an overview of the concepts presented in this book with some final words that you may be able to use in achieving a safety culture.

Good luck on your recordkeeping.

REFERENCES

1. Roughton, James, and Nancy Whiting. *Safety Training Basics: A Handbook for Safety Training Program Development.* Rockville, MD: Government Institutes, a Division of ABS Group, Inc., 2000.

2. Roughton, James, and James Mercurio. *Developing an Effective Safety Culture: A Leadership Approach.* Boston: Butterworth–Heinemann, 2002.

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Acknowledgments

Projects like this book take a lot of time to research to make sure that the material presented is as accurate as possible. It is even more difficult when you are trying to provide someone a guidance document on regulatory issues to make sure that the correct resources are provided for clarity to the text.

In that event, you look for other professionals that can contribute to the quality and success of the book and professionals who can help to convey the message in a better format. In addition, you look for other quality professionals and authors who have been instrumental in developing safety programs and Safety Management Processes that have made a difference in the safety and health field.

I was fortunate to find several professionals who were willing to share their time and expertise on the subject. A special thanks goes to Neal Leonhard, CIH, CSP, who I met several years ago. He has been a good friend and mentor, among many, who has helped me to redefine my niche in the safety field. I would also like to thank David Coble, CSP, and Bill Taylor, CSP, for allowing me to reprint/modify several flow diagrams and charts. These additions helped to make the OSHA 300 guide a better resource and also helped to make several provisions of the rule easier to understand.

I would also like to recognize the Occupational Safety and Health Administration (OSHA) on their efforts to promote this new rule. They provided resources for extensive training via satellite broadcast and simultaneous webcast. In addition, they conducted many seminars throughout the country. I would like to commend OSHA on their OSHA website (http://www.OSHA.gov/recordkeeping/index.htm). This site is devoted to helping anyone comply with the new rule.

With the knowledge and expertise presented in this book, college professors, managers, safety professionals, students, and small businesses can benefit from the text. This book provides a clear road map on how to implement and comply with the sections of the rule. However, no matter what is presented in this book there is no substitute for any regulatory requirement.

I hope that you enjoy this book and recommend it to your friends and other professionals. In addition, I encourage you to use this book as a guide only and make sure that you constantly review the OSHA website for new and updated information to the new rule.

Good luck!

Acronyms

ADA	Americans with Disabilities Act
BLS	Bureau of Labor Statistics
CFR	Code of Federal Register
CSHO	Compliance safety and health officer
CTD	Cumulative trauma disorders
DART	Days away, restricted, or transferred
DOL	Department of Labor
HCP	Licensed health care professional
HHS	Secretary of Health and Human Services
IPPB	Positive pressure breathing
JHA	Job hazard analysis
LWDII	Lost Workday Injury and Illness Rate
MSDs	Musculoskeletal disorders
NACOSH	National Advisory Committee on Occupational Safety and Health
NAICS	North American Industry Classification System
NIOSH	National Institute for Occupational Safety and Health
OPIM	Other potentially infectious material
OSH Act	Occupational Safety and Health Act
OSHA	Occupational Safety and Health Administration
OSHRC	Occupational Safety and Health Review Commission
PLAN	Plain Language Action Network
PLHCP	Physician or other licensed health care provider
PMA	Petition for modification of abatement
RAD	Reactive airways dysfunction syndrome
RKM	Recordkeeping Policies and Procedures Manual
SIC	Standard industrial classification

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About the Author

James E. Roughton has a Master of Science in Safety, is a Certified Safety Professional (CSP), Canadian Register Safety Professional (CRSP), and a Certified Hazardous Materials Manager (CHMM). His experience includes 4 years in the military and 35 years' experience in industry, with the past 27 years developing and implementing safety management systems and safety programs that support the management system.

Mr. Roughton has worked for various corporations. He has served in the following capacities: provided consulting services for medium to large manufacturing facilities; developed and implemented management systems and safety programs; provided consulting services for hazardous waste remedial investigation and site cleanup and for developing and implementing site-specific safety plans; conducted site health and safety assessments; and provided internal support for multiple office locations.

In addition, he has written on various areas of safety, environment, quality, security, computers, and the like. He also provides mentoring to professionals who want to get published, and is a frequent coauthor with those professionals. He is a frequent speaker at conferences and professional meetings. He can be reached at safeday@mindspring.com or the website www.emeetingplace.com.

He is a member of the American Society of Safety Engineers (ASSE), where he is past president of the Georgia chapter. He received several management and professional awards for safety-related activities, including the Safety Professional of the Year (SPY).

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Introduction

HIGHLIGHTS AND MAJOR CHANGES TO OSHA'S RECORDKEEPING RULE

One of the newest OSHA rules, 29 Code of Federal Regulations (CFR) 1904 (recording and reporting of occupational injuries and illnesses), issued July 3, 2001, went into effect January 1, 2002. There are some major changes in the OSHA recordkeeping rules for 2002.[1] There are several exceptions to the rule. OSHA, however, has delayed implementation of the provisions covering hearing loss and musculoskeletal disorders for one year while it reconsiders these issues.

The intent of this Introduction is to provide a basic overview of the major changes from OSHA's old Part 1904 recordkeeping rule to the new rule employers are to use in 2002 and beyond. Table I-1 summarizes the changes in the new recordkeeping requirements. OSHA states that

> The new rule improves employee involvement (participation), provides a greater level of employee privacy protection, creates simpler forms, provides clearer regulatory requirements, and allows the use of computerized forms to meet OSHA regulatory requirements. (Paraphrased)

Table I-1
Changes in Recordkeeping Requirements

Section of Final Rule	Section of Former or Other Source	Rule Change
1904.2	1904.16	Cover parts of SICs 55, 57, 59, 65, 72, 73, 83, & 84; Exempt parts of SICs 52, 54, 76, 79, & 80.
1904.5	Guidelines	Include specific exemptions from recording for certain cases, such as common cold or flu. Limit parking lot exemption to commuting.

Table I-1
Continued

Section of Final Rule	Section of Former or Other Source	Rule Change
1904.5 (*cont.*)		Require recording of preexisting injury or illness only if workplace exposure "significantly" aggravates the injury or illness.
1904.7	1904.12	Replace term *lost workdays* in recording criteria with *days away* or *days restricted or transferred*; count days as calendar days, rather than scheduled workdays; cap count at 180 days; do not record restricted, transferred, or lost time occurring only on day of injury or illness as restricted work, job transfer, or a day away. Define *routine duties* for restricted work purposes as work activities done at least once per week. Define *medical treatment* beyond first aid to include all nonprescription drugs given at prescription strength and first and subsequent physical therapy or chiropractic treatment and to exclude use of Steri-Strips™ and hot or cold therapy.
1904.7	New	Narrow criteria for recording illnesses by excluding minor illnesses.
1904.8	New	Record all needlestick and sharps injury cases involving exposure to blood or other potentially infectious materials.
1904.10	Interpretation	Record all hearing loss cases at 10-dB shift rather than 25-dB shift (delayed).
1904.11	Interpretation	Narrow criteria for recording positive tuberculosis test.
1904.12	1904.12	Make criteria for recording MSD cases the same as those for all other injuries and illnesses. Refer to Appendix I.
1904.29	1904.2	Replace old log form with simplified Form 300. Require that cases be recorded within seven calendar days rather than six workdays.

Table I-1
Continued

Section of Final Rule	Section of Former or Other Source	Rule Change
1904.29	1904.4	Require more information on new Form 301 than on former Form 101.
1904.29	New	Define new category of "privacy concern cases" and require maintenance of separate, confidential list of names for such.
1904.29	New	Require employer to protect privacy of injured or ill workers by withholding names, with certain exceptions.
1904.32	1904.5 New	Post annual summary for three months rather than one month. Review records for accuracy at end of year. Require descriptive and statistical totals in annual summary. Require certification of accuracy of the log by responsible company official.
1904.34	1904.11	With change of ownership, require seller to turn over OSHA records to buyer.
1904.35	New	Inform employees how to report injuries or illnesses to employer. Provide union representative access to some, but not all, Form 301 information.
1904.39	1904.8	Delete requirement for common carrier and motor vehicle incidents to be reported.

Source: *Federal Register*, Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Preamble, p. 6082, public domain.

In this rule, some allowances have been made for a number of specific industries in the retail, service, finance, insurance, and real estate sectors, which are classified as low hazard and exempt from most requirements of the rule, as are businesses with 10 or fewer employees. The list of service and retail industries partially exempt from the rule has been updated. Some establishments covered under the old rule are not required to keep OSHA records under the new rule and some formerly exempted establishments now have to keep records.[1] You will learn more about this in Chapter 1 and 2.

HOW CAN I TELL IF I AM EXEMPT?

OSHA used the standard industrial classification (SIC) code to determine which establishments must keep records. You can search for the SIC by keywords or four-digit SIC to retrieve descriptive information regarding specific SICs in OSHA's on-line Standard Industrial Classification search, found on the OSHA website at http://www.osha.gov/oshstats/sicser.html.[2] See Appendix I.

What Must I Do If I Am Not Exempt?

Employers not exempt from the recordkeeping rules must prepare and maintain records of work-related injuries and illnesses. You need to review Title 29 CFR Part 1904, Recording and Report Occupational and Illness, to determine which cases are to be recorded.[2] Chapter 2 explains the standard in details and Appendix A provides a copy of the actual standard.

LOW-HAZARD INDUSTRY EXEMPTION

Since 1982, OSHA has exempted some low-hazard industries from maintaining injury and illness records on a regular basis. The new rule updates the old rule's listing of partially exempted low-hazard industries, which are those SIC code industries within SICs 52–89 that have an average days away, restricted, or transferred (DART) rate at or below 75% of the national average DART rate. The new rule at §1904.2 continues this low-hazard industry exemption.

Table I-2 lists these partially exempt industries. Note: In the new rule, the description of some industry groups is abridged in the chart in Appendix A. Industries that are not listed, such as Music Stores in SIC 573, are nevertheless intended to be included in the list. Consult the *Standard Industrial Classification Manual 1987* for a complete description of each industry included in each industry group. Table I-3 lists newly covered industries, and Table I-4 lists newly partially exempted industries.

Table I-2
Partially Exempt Industries

SIC Code	Industry Description	SIC Code	Industry Description
525	Hardware stores	725	Shoe repair and shoeshine parlors
542	Meat and fish markets	726	Funeral service and crematories
544	Candy, nut, and confectionery stores	729	Miscellaneous employee services
545	Dairy products stores	731	Advertising services
546	Retail bakeries	732	Credit reporting and collection services
549	Miscellaneous food stores	733	Mailing, reproduction, and stenographic services
551	New and used car dealers	737	Computer and data processing services
552	Used car dealers	738	Miscellaneous business services
554	Gasoline service stations	764	Reupholstery and furniture repair
557	Motorcycle dealers	78	Motion picture
56	Apparel and accessory stores	791	Dance studios, schools, and halls
573	Radio, television, and computer stores	792	Producers, orchestras, and entertainers
58	Eating and drinking places	793	Bowling centers
591	Drug stores and proprietary stores	801	Offices and clinics of medical doctors
592	Liquor stores	802	Offices and clinics of dentists
594	Miscellaneous shopping goods stores	803	Offices of osteopathic physicians
599	Retail stores, not elsewhere classified	804	Offices of other health practitioners
60	Depository institutions (banks and savings institutions)	807	Medical and dental laboratories
61	Nondepository	809	Health and allied services, not elsewhere classified
62	Security and commodity brokers	81	Legal services
63	Insurance carriers	82	Educational services (schools, colleges, universities, and libraries)

Table I-2
Continued

SIC Code	Industry Description	SIC Code	Industry Description
64	Insurance agents, brokers and services	832	Employee and family services
653	Real estate agents and managers	835	Child day care services
654	Title abstract offices	839	Social services, not elsewhere classified
67	Holding and other investment offices	841	Museums and art galleries
722	Photographic studios, portrait	86	Membership organizations
723	Beauty shops	87	Engineering, accounting, research, management, and related services
724	Barber shops	899	Services, not elsewhere classified

Source: 29 CFR, 1904.2(a)(1), Non-Mandatory Appendix A to Subpart B—Partially Exempt Industries, Page 6123, OSHA Instruction, *Recordkeeping Policies and Procedures Manual* (RKM), Directive number CPL 2-0.131, effective date: January 1, 2002, Partially Exempt Industries, pp. 2–23, public domain.

Table I-3
Formerly Exempt Industries That the Final Recordkeeping Rule Covers (Newly Covered)

Two-Digit Industry*	Three-Digit Industries	Industry That OSHA's Final Rule Covers
SIC 55	SIC 553	Auto and home supply stores
	SIC 555	Boat dealers
	SIC 556	Recreational vehicle dealers
SIC 57	SIC 571	Home furniture and furnishings stores
	SIC 572	Household appliance stores
SIC 59	SIC 593	Used merchandise stores
	SIC 596	Nonstore retailers
	SIC 598	Fuel dealers
SIC 65	SIC 651	Real estate operators and lessors
	SIC 655	Subdividers and developers

Table I-3
Continued

Two-Digit Industry*	Three-Digit Industries	Industry That OSHA's Final Rule Covers
SIC 72	SIC 721	Laundry, cleaning, and garment service
SIC 73	SIC 734	Services to buildings
	SIC 735	Miscellaneous equipment rental and leasing
	SIC 736	Personnel
SIC 83	SIC 833	Job training and related services
	SIC 836	Residential care
SIC 84	SIC 842	Botanical and zoological gardens

Source: 29 CFR, 1904.2(a)(1), Non-Mandatory Appendix A to Subpart B—Partially Exempt Industries, p. 6123, OSHA Instruction, *Recordkeeping Policies and Procedures Manual* (RKM), Directive number CPL 2-0.131, effective date: January 1, 2002, Partially Exempt Industries, pp. 2–24, public domain.

*Only the three-digit SICs shown in the second column are covered by the rule; those within the two-digit SIC that are not listed are still exempt from the requirement to keep OSHA records routinely.

Table I-4
Formerly Covered Industries Exempted by the Final Rule (Newly Partially Exempt Industries)

Two-Digit Industry (SIC)	Three-Digit Industry (SIC)	Industries That OSHA's Final Rule Exempts
SIC 52	SIC 525	Hardware stores
SIC 54	SIC 542	Meat and fish markets
	SIC 544	Candy, nut, and confectionery stores
	SIC 545	Dairy product stores
	SIC 546	Retail bakeries
	SIC 549	Miscellaneous food stores
SIC 76	SIC 764	Reupholstery and furniture repair
SIC 79	SIC 791	Dance studios, schools, and halls
	SIC 792	Producers, orchestras, and entertainers
	SIC 793	Bowling centers
SIC 80	SIC 801	Offices and clinics of medical doctors
	SIC 802	Offices and clinics of dentists
	SIC 803	Offices of osteopathic physicians
	SIC 804	Offices of other health practitioners

Table I-4
Continued

Two-Digit Industry (SIC)	Three-Digit Industry (SIC)	Industries That OSHA's Final Rule Exempts
SIC 80 *(cont.)*	SIC 807	Medical and dental laboratories
	SIC 809	Health and allied services, not elsewhere classified

Source: 29 CFR, 1904.2(a)(1), Non-Mandatory Appendix A to Subpart B—Partially Exempt Industries, p. 6123, OSHA Instruction, *Recordkeeping Policies and Procedures Manual* (RKM), Directive number CPL 2-0.131, effective date: January 1, 2002, Partially Exempt Industries, pp. 2–24, public domain.

WHAT IS IMPORTANT ABOUT RECORDKEEPING?

Recordkeeping is considered a critical part of any safety and health efforts for several reasons:

- Records help keep track of work-related injuries and illnesses and can help prevent recurrence of incidents.
- Injury and illness data can help identify problem areas. The more you know about the situation, the better you can identify and correct hazardous conditions.
- You can better administer company safety and health programs with accurate records.
- As everyone becomes more awareness of injuries, illnesses, and hazards in the workplace, employees are more likely to follow safe work practices and report workplace hazards.

AN OVERVIEW OF WHAT HAS CHANGED

The final recordkeeping rules represents the culmination of an effort, which began in the 1980s, to improve how the government tracks occupational injuries and illnesses.

A major outreach (providing assistance in complying with the new requirements) effort has been provided by OSHA to help employers and employees understand the new changes. To aid in that effort, OSHA launched a new page on its website that highlights key provisions and

major changes of the new recordkeeping rule. The page, located on the OSHA website http://www.osha-slc.gov/recordkeeping/index.html, details training programs and provides various materials designed to aid employers and employees alike. All of the information has been modified and incorporated into this book to help provide a quick reference to the new requirements.

The following summarizes the major enhancements of the rule to help employers who are familiar with the old rule learn the new rule quickly.[1]

OVERVIEW OF THE NEW FORMS

Three new forms have been developed to document recordable cases:

- The OSHA 300 Form (Log of Work-Related Injuries and Illnesses), which replaces the OSHA 200, has been simplified and can be printed on smaller legal-sized paper.
- The OSHA 301 Form (Summary of Work-Related Injuries and Illnesses), which replaces the OSHA 101 (Injury and Illness Incident Report), includes more data about how the injury or illness occurred.
- The OSHA 300A Form (a new addition) provides additional data to make it easier for employers to calculate incidence rates.

Maximum flexibility has been provided, so employers can keep all the information on computers, at a central location, or on alternative forms, as long as the information is compatible and the data can be produced when needed.

WORK-RELATED STATUS

To be work related, an injury requires a "significant" degree of aggravation before a preexisting injury or illness becomes recordable.

The work-related status adds further exceptions to the definition of *work-relatedness* to limit recording of the geographic presumption of a work relationship. For example, the following cases no longer need to be recorded: cases arising from eating and drinking of food and beverages,

blood donations, exercise programs, common cold and flu cases. This is discussed in detail in Chapter 2.

Additional criteria for deciding when mental illnesses are considered work related have been added.

Sections have been added clarifying the work relationship when employees travel or work out of their home.

RECORDING CRITERIA

Different criteria for recording work-related injuries and illnesses are eliminated; one set of criteria is used for both. (The former rule required employers to record all illnesses in a separate section of the log, regardless of severity.) Employers are required to record work-related injuries or illnesses if they result in one of the following: death, days away from work, restricted work or transfer to another job, medical treatment beyond first aid, loss of consciousness, or diagnosis of a significant injury or illness by a physician or other licensed health care professional.

The rule includes new definitions for medical treatment, first aid, and restricted work that are intended to simplify recording decisions. *First aid* is defined by treatments on a finite list. All treatment not on this list is considered medical treatment. This is discussed in more detail in Chapter 2.

The recording of "light duty," or restricted work, cases has been clarified. Employers are required to record cases as restricted work cases when the injured or ill employee works only partial days or is restricted from performing their "routine job functions" (a *routine job function* is defined as work activities the employee regularly performs at least once weekly).

Employers are required to record all needlestick and sharps injuries involving contamination by another person's blood (bodily fluids) or other potentially infectious material.

Musculoskeletal disorders (MSDs) are treated like all other injuries or illnesses: They must be recorded if they result in days away, restricted work, transfer to another job, or medical treatment beyond first aid. See Appendix I.

Special recording criteria are included for cases involving the work-related transmission of tuberculosis or medical removal under OSHA standards.

DAY COUNTS

The term *lost workdays* has been eliminated. The rule requires recording days away from work, days of restricted work, or transfer to another job. In addition, some new rules for counting rely on calendar days instead of workdays. Employers are no longer required to count days away or days of restriction beyond 180 days.

In addition, the day when the injury or illness occurs is not counted as a day away from work or a day of restricted work.

ANNUAL SUMMARY

The following is an overview of the annual summary policy:

- Employers must review the 300 Log information before it is summarized on the 300A Form.
- The new rule includes data on hours worked to make it easier for employers to calculate incidence rates.
- A company executive is required to certify the accuracy of the summary.
- The annual summary must be posted for three months instead of one.

EMPLOYEE INVOLVEMENT (PARTICIPATION)

Employers are required to develop a procedure for employees to be able to report injuries and illnesses and tell their employees how to report these events.

In addition, employers are prohibited from discriminating against employees who do report injuries and illnesses by Section 11(c) of the Occupational Safety and Health Act of 1970.

Employees are allowed to access the 301 Forms to review records of their own injuries and illnesses. This will be discussed in more detail in Chapter 6.

PROTECTING PRIVACY

For the first time, employees and former employees are guaranteed access to their individual OSHA 301 Forms. Employee representatives are provided access to the "information about the case" section of the OSHA 301 Form in establishments where they represent employees.

In addition, the privacy section protects employee by the following methods:

- Employers are prohibited from entering an individual's name on the OSHA 300 Form for certain types of injuries and illnesses (e.g., sexual assaults, HIV infections, mental illnesses).
- Employers are allowed to withhold descriptive information about sensitive injuries in cases where not doing so would disclose the employee's identity.
- Employee representatives are given access to only the portion of Form 301 that contains no personal information.
- Employers are required to remove employees' names before providing the data to persons not provided access rights under the rule.

REPORTING INFORMATION TO THE GOVERNMENT

Employers must notify OSHA concerning all fatal heart attacks occurring in the work environment. This is a new provision in the rule.

The rule excludes some motor carrier and motor vehicle accidents from the reporting of fatalities and catastrophes. Employers do not need to notify OSHA about public street motor vehicle accidents except those in a construction work zone. In addition, employers do not need to notify OSHA of any commercial airplane, train, subway, or bus accidents.

Also, employers must provide records to an OSHA compliance officer who requests them within 4 hours.

PROVISIONS DELAYED

Two provisions of the standard have been delayed until at least one year, to January 2003. These would

- Require employers to record standard threshold shifts (STS) in employees' hearing and to check a separate column on the OSHA 300 for these cases. (OSHA is reconsidering the level of hearing loss that should be recorded as a significant health condition.)
- Define *musculoskeletal disorder* and require employers to check a separate column on the OSHA 300 to record these injuries.

These are discussed later in Chapter 3. Also, see Appendix I.

HOW CAN I GET MORE INFORMATION ON RECORDKEEPING?

This book is a collection of all of the current information provided by OSHA. You should have everything that you need except for the preamble to the rule. You can find the preamble on the OSHA website at http://www.osha-slc.gov/recordkeeping/index.html. You can also receive a copy of the regulation from OSHA's Office of Publication, P.O. Box 37535, Washington, DC 20013-7535; phone number (202) 693-1888. If your workplace is in a state operation under an OSHA-approved plan, state plan standards, although similar to federal ones, may have different and independent requirements. For further information and assistance, you can call OSHA at 1-800-321-OSHA or the nearest OSHA regional office and ask for the recordkeeping coordinator. Refer to Appendix F for a list of these locations.

STATE PROGRAMS

States that operate their own job safety and health programs are adopting comparable recordkeeping rules that also became effective January 1, 2002. States must have the same requirements as to which injuries and illnesses are recordable and how they are recorded. However, other provisions, such as industry exemptions, may be different as long as they are as stringent as the federal requirements.

Note: This introduction is a summary of two specific documents that are available from the OSHA website, Brochure-OSHA Publication 3169[2] and Major Changes.[3] In addition, for your convenience, these documents have been included in Appendix A.

REFERENCES

1. OSHA website, fact sheet, http://www.osha.gov/OshDoc/data_RecordkeepingFacts/Rkfactsheet1.pdf, public domain.
2. OSHA website, brochure—OSHA Publication 3169, http://www.osha-slc.gov/Publications/osha3169.pdf, public domain.
3. OSHA website, Major Changes, http://www.osha-slc.gov/recordkeeping/RKmajorchanges.html, public domain.

Part I
Understanding the Rule

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1

Overview of the Final Regulation

On February 2, 1996, OSHA published its first proposed rule for Occupational Injury and Illness Recording and Reporting.[1,2] On February 29, 1996, OSHA published an addendum to the proposed rule,[3] the executive summary of the Preliminary Economic Analysis. On January 19, 2001, the final rule was published in the Federal Register[4] with an effective date of January 1, 2002. The new Part 1904 recordkeeping rule maintains the basic structure and practices of the old system but employs new forms and somewhat different requirements for recording, maintaining, posting, retaining, and reporting occupational injury and illness information (refer to Appendix A). Information collection and reporting under the new rule continues to be done on a calendar-year basis.[2]

CHANGES TO THE NEW RULE

As discussed in the Introduction, on July 3, 2001, OSHA issued a notice in the *Federal Register*, announcing it was proceeding with implementation of the new Recordkeeping Rule effective January 1, 2002, with two exceptions.[5] OSHA proposed delaying for one year implementing the criteria covering work-related hearing loss and the definition of musculoskeletal disorders (MSDs), including the requirement to check the Hearing Loss and MSD columns on the OSHA 300 Log. See Appendix I. Public comments were accepted on this proposal through September 4, 2001. On October 12, 2001,[6] OSHA issued a notice in the *Federal Register*[5] delaying the effective date of three provisions the final new rule published January 19, 2001.

The following changes highlight the revisions to the new rule published in the October 12, 2001, *Federal Register* notice:[6]

- Section 1904.10 was amended by adding a note to the section (paragraphs (a) and (b) of this section are effective on January 1, 2003; paragraph (c) of this section applies from January 1, 2002 until December 31, 2002), and by adding a new paragraph (c), paraphrased here: Recording criteria for calendar year 2002—from January 1, 2002 until December 31, 2002, you are required to record a work-related hearing loss averaging 25 dB or more at 2,000, 3,000, and 4,000 Hz in either ear on the OSHA 300 Log. You must use the employee's original baseline audiogram for comparison. You may make a correction for presbycusis (aging) by using the appropriate tables listed in of 29 CFR 1910.95, Appendix F. The requirement §1904.37(b)(1) that states with OSHA-approved state plans must have the same requirements for determining which injuries and illnesses are recordable and how they are recorded shall not preclude the states from retaining their existing criteria with regard to this section during calendar year 2002.[6(p. 52032)] See Appendix I.
- Section 1904.12 (Recording Criteria for Cases Involving Work-Related Musculoskeletal Disorders, see Appendix I) was amended by adding a note to the section, paraphrased here: Note to §1904.12—this section is effective January 1, 2003—from January 1, 2002 until December 31, 2002, you are required to record work-related injuries and illnesses involving muscles, nerves, tendons, ligaments, joints, cartilage and spinal discs in accordance with the requirements applicable to any injury or illness under §1904.5 (Determination of Work-Relatedness), §1904.6 (Determination of New Cases), §1904.7 (General Recording Criteria), and §1904.29 (Forms). For entry (M) on the OSHA 300 Log, you must check either the entry for "injury" or "all other illnesses."[6(p. 52034)]
- Section 1904.29(b)(7)(vi) was revised to read as follows: Other illnesses, if the employee independently and voluntarily requests that his or her name not be entered on the log. Musculoskeletal disorders (MSDs) are not considered privacy concern cases. (Note: The first sentence of this §1904.29(b)(7)(vi) is effective on January 1, 2002. The second sentence is effective beginning on January 1, 2003.)[6(p. 52034)] See Appendix I.

TRANSITION FROM THE OLD RULE TO THE NEW RULE

The transition includes training and outreach to familiarize employers and employees about the new forms and requirements as well as

informing employers in newly covered industries, as discussed in the Introduction to this book, that they are now required to keep OSHA Part 1904 records. An additional transition issue for employers, who kept records under the old system and also keep records under the new system, is how to handle the data collected under the old system during the transition year.[4]

Sections 1904.43 (Summary and Posting of the 2001 Data, p. 6134) and 1904.44 (Retention and Updating of Old forms, page 6134)[2] of the new rule address what employers must do to keep the required OSHA records during the first five years (transition period) that the new system is in effect. The majority of the transition requirements apply only to the first year, when the data from the previous year (collected under the old rule) must be summarized and posted during the month of February. For the remainder of the transition period, the employer is required to retain the records created under the old rule for five years and provide access to those records for the government, the employer's employees, and employee representatives.[4]

Prior to the new recordkeeping rules, a manual developed by the U.S. Bureau of Labor Statistics (BLS) (see Appendix I) issued in September 1986, the "blue book," included OSHA's interpretation of the standards and was for guidance about recordability. This manual was revised March 1999. In the transition from the old rule to the new rule, employers make a clean break with the old system. On January 1, 2002, the new rule replaced the old rule, which discontinued the use of all previous forms, interpretations, and guidance. Table 1-1 is a timetable that outlines the sequence of events and postings that have occurred or will occur.

The new rule's requirements for certification by a company executive and a three-month posting period do not apply to the posting of the OSHA 200 Log and Summary for the year 2001 but will apply for the year 2002.[4]

CHANGES IN THE RECORDING CRITERIA

OSHA recognizes that individual employers will be affected differently by the changes in the final rule and that some employers will record more cases under the final system while others will record fewer. Table 1-2 shows changes to the definitions of medical treatment and first aid and Table 1-3 provides an overview of the impact on number of cases recorded. OSHA also believes that the overall effect of the changes made to the final rule is to greatly ease the determination of recordability. Table 1-4 shows changes in recording criteria and Table 1-5

Table 1-1
Timetable of Sequence of Events and Posting

Date	Activity
During 2001	Employers keep injury and illness information on the OSHA 200 Form
January 1, 2002	Employers begin keeping data on the OSHA 300 Form
February 1, 2002	Employers post the 2001 data on the OSHA 200 Form
March 1, 2002	Employers may remove the 2001 posting
February 1, 2003	Employers post the 2002 data on the OSHA 300A Form
May 1, 2003	Employers may remove the 2002 posting

Source: *Federal Register*, Vol. 66, No. 13, pp. 6071, OSHA Instruction, *Recordkeeping Policies and Procedures Manual* (RKM), directive number: CPL 1-0.131, effective date: January 1, 2002, OSHA website: http://www.osha-slc.gov/OshDoc/Directive_data/CPL_1-0_131.html, public domain; *Federal Register*, Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Preamble, pp. 5916–6122, public domain.

Table 1-2
Changes to the Definitions of Medical Treatment and First Aid

FORMER RULE

The former rule defined *medical treatment* as any treatment, other than first aid treatment, administered to injured or ill employees. Medical treatment involved the provision of medical or surgical care for injuries through the application of procedures or systematic therapeutic measures.

The former regulation defined *first aid* as "any one-time treatment, and any follow-up visit for the purpose of observation, of minor scratches, cuts, burns, splinters, and so forth, which do not ordinarily require medical care. Such one-time treatment, and follow-up visits for the purpose of observation are considered first aid even though provided by a physician or registered professional personnel."

The former *Recordkeeping Guidelines* provided two lists of treatments employers could use to determine whether a particular treatment was first aid or medical treatment for recordkeeping purposes. For example, the use of prescription drugs was generally considered medical treatment, except when only a single dose was prescribed. Physical therapy, hot or cold therapy, or soaking therapy was considered medical treatment if it was used on a second or subsequent visit to medical personnel. Treatment of any third- or second-degree burn was considered medical treatment. The former rule's lists provided a useful starting point for determining which treatments were first aid or medical treatment, but also caused some confusion because, if a particular treatment was not on either list, the employer was not sure how to classify the treatment.

Table 1-2
Continued

FINAL RULE

The final rule defines *medical treatment* as the management and care of a patient to combat disease or disorder. For the purposes of Part 1904, medical treatment does not include visits to a physician or other licensed health care professional solely for observation or counseling; the conduct of diagnostic procedures, such as X rays and blood tests, including the administration of prescription medications used solely for diagnostic purposes (e.g., eye drops to dilate pupils); or first aid.

The final rule then defines *first aid* by listing 14 first aid treatments, such as using nonprescription drugs at nonprescription strength, using bandages or butterfly bandages, using hot or cold therapy, using splints or slings to transport an accident victim, and drinking liquids for relief of heat stress.

CHANGE

The final rule changes the definitions of which treatments are considered first aid and medical treatment. Each change will result in some change in the number of cases that are recorded, as shown in Table 1-3.

Source: *Federal Register*, Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Preamble, p. 6084, public domain.

Table 1-3
Changes from the Former Rule to the Final Rule and Their Impact on Number of Cases Recorded

Changes from the Former Rule to the Final Rule	Impact on the Number of Cases Recorded
Medical treatment now includes all nonprescription drugs at prescription strength and any dose of a prescription drug	More cases
First aid now includes hot or cold therapy, regardless of how often applied	Fewer cases
Medical treatment now includes any physical therapy or chiropractic treatment	More cases
First aid now includes use of butterfly bandages and Steri-Strips for any purpose	Fewer cases

Table 1-3
Continued

Changes from the Former Rule to the Final Rule	Impact on the Number of Cases Recorded
Medical treatment now includes any use of oxygen	More cases
Second degree burns are now not automatically recordable	Fewer cases

Source: *Federal Register*, Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Preamble, p. 6085, public domain.

Table 1-4
Changes in the Recording Criteria

FORMER RULE

The former rule exempted all employers with 10 or fewer employees and all employers in specific low-hazard retail and service industry sectors from routinely keeping OSHA records. The industry exemptions were based on injury and illness data at the two-digit SIC code level.

FINAL RULE

The final rule includes a number of changes that will affect the number of recorded cases and thus may affect the costs and costs savings associated with the regulation.

CHANGE

Some of these changes will result in more cases being recorded: (1) changes to the definitions of *medical treatment* and *first aid*, (2) change to the criterion for recording cases of hearing loss, and (3) change to the criterion for recording needlestick and sharps injuries. Other changes will result in fewer cases being recorded: (1) exemptions from the requirement to consider certain cases work related, (2) elimination of different recording criteria for injuries and illnesses, (3) changes to the requirements for recording injuries and illnesses with days away from the job or job restriction or transfer, (4) changes to the criteria for recording cases of tuberculosis, and (5) elimination of separate recording criteria for musculoskeletal disorders.

Table 1-4
Continued

Because the final rule makes a number of changes, some of which increase the number of recordable injuries and illnesses and some of which decrease the number of recordable cases, it is difficult to estimate the impact of each change. OSHA expects that these changes, with two exceptions, will offset each other, with the result that approximately the same number of injury and illness cases will be recorded under the final rule as were recorded under the former rule. The costs and cost savings associated with each small definitional change have not been quantified in the economic analysis. However, the changes made in the recording of hearing loss cases (delayed) and the recording of needlestick and sharps injury cases will result in quantifiable increases in the number of recorded injuries.

OSHA recognizes that individual employers will be affected differently by the changes made in the final rule and that some employers will record more cases under the final rule while others will record fewer. OSHA also finds that the overall effect of the changes made to the final rule is to greatly ease the determination of recordability, and has quantified these cost savings in the economic analysis.

Source: *Federal Register*, Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Preamble, p. 6083, public domain.

Table 1-5
Elimination of Different Recording Criteria for Injuries and Illnesses

FORMER RULE

Under the former rule, employers were required to record all work-related deaths, all illnesses, and injuries that resulted in days away from work, restricted work, transfer to another job, medical treatment beyond first aid, or loss of consciousness. The employer was required to decide if the case was either an injury or illness; injuries included all back cases and any case caused by an instantaneous event, while illnesses were any abnormal condition or disorder caused by a noninstantaneous event. The employer was required to record every illness case, regardless of severity.

FINAL RULE

Under the final rule, the employer is not required to determine whether a case is an injury or illness to decide whether or not to record the case. A case is

Table 1-5
Continued

recordable if it results in death, days away from work, job restriction or transfer, medical treatment beyond first aid, loss of consciousness, or if the case is a significant injury or illness diagnosed by a physician or other licensed health care professional. Additional criteria are included for cases of hearing loss, tuberculosis, and needlestick injuries and the rule clarifies how to record musculoskeletal disorders and cases involving medical removal or work restriction under OSHA's standards.

CHANGE

The new general recording criteria eliminate the recording of minor illness cases, which will result in fewer cases being recorded by employers and lower costs. The new criteria for recording hearing loss and needlestick cases will increase the number of cases and the costs associated with recording.

Source: *Federal Register*, Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Preamble, p. 6084, public domain.

provides an overview of the elimination of different recording criteria for injuries and illnesses.[1]

OVERVIEW OF THE FINAL REGULATION

The final regulation reflects a complete rewriting of 29 CFR Part 1904. As discussed, the new version of the rule is written in plain language, using a question-and-answer (Q&A) format. This style is designed to make the rule clearer, more accessible, and easier for all users to understand. In addition, the final rule provides answers to many questions that employers frequently ask about recordkeeping. By including these questions and answers in the rule, OSHA provides employers with a readily available source of information on how to record particular cases. Appendix D has questions and answers based on the agency promotion of the new rule and comments received from participants during the satellite seminar training sessions. This means that the quality of the data being recorded should be higher than in the past.[1]

The rule has been completely restructured, placing provisions of the rule into a logical sequence, with topics addressed as an employer would encounter them in the work environment when trying to comply with the rule. This makes the text flow in a more logical format. All numbering of sections within 29 CFR Part 1904 has been entirely revised.[1] Appendix B has a side-by-side comparison of the changes.

NEW OSHA INSTRUCTIONS

OSHA issued a new manual, *Recordkeeping Policies and Procedures Manual* (RKM), directive number CPL 1-0.131, with the effective date of January 1, 2002 (see Appendix H), that details recordkeeping compliance policies and procedures from several existing OSHA instructions as they apply to the new rule.[4] This new OSHA instruction and compliance officer checklist and other information are discussed in more detail in Chapter 7 and Appendix H.

RECORDING AND REPORTING REQUIREMENTS

To make sure that national statistics are uniform, states must adopt the interpretations in the OSHA instruction manual that relate to the determination of which injuries and illnesses are recordable and how they are to be recorded. (States must also adhere to any additional formal federal interpretations regarding the recording and reporting of injuries and illnesses issued through formal letter or memorandum or posted on OSHA's website.) States must implement these interpretations as soon as possible but no later than six months from the date of issuance of the instruction (January 1, 2002) and submit the cover page of the state's implementing guidance to the regional administrator.[4]

Therefore, the revised recordkeeping rule section 29 CFR §1904.37 (State Recordkeeping Regulations) and §1952.4 (Injury and Illnesses Recording and Reporting Requirements) require that states adopt occupational injury and illness recording and reporting requirements substantially identical to the requirements in the federal revision of 29 CFR Part 1904. All other injury and illness recording and reporting requirements must be at least as effective as the federal requirements. The states are expected to adopt a regulation equivalent to 29 CFR 1904

by January 1, 2002. States are also required to adopt provisions corresponding to the federal provisions on hearing loss and musculoskeletal disorders promulgated October 12, 2001. During calendar-year (CY) 2002, states having existing criteria for recording hearing loss that are stricter than the federal 25-dB level may maintain those criteria.[4] See Appendix I.

ENFORCEMENT DATE

OSHA decided not to issue citations for violations of the recordkeeping rule during the first 120 days after January 1, 2002, provided that the employer attempted in good faith to meet its recordkeeping obligations and agreed to make the corrections necessary to bring the records into compliance. During the initial period that the new recordkeeping rule is in effect, OSHA compliance officers conducting inspections focused on assisting employers to comply with the new rule rather than enforcement.[4]

SUMMARY OF THE NEW RECORDKEEPING RULE

The central requirements for the new OSHA's recordkeeping rule, 29 CFR 1904 include the following areas.

Coverage

The rule requires employers to keep records of occupational deaths, injuries, and illnesses and to make certain reports to OSHA and the Bureau of Labor Statistics. Employers with 10 or fewer workers and employers who have establishments in certain retail, service, finance, real estate, or insurance industries are not required to keep these records. However, they must report any occupational fatalities or catastrophes that occur in their establishments to OSHA, and they must participate in government surveys if asked to do so.[4] See Chapter 2 for more details and Table 1-6 for an overview of the changes in coverage.

Table 1-6
Changes in Coverage

FORMER RULE

The former rule exempted all employers with 10 or fewer employees and all employers in specific low-hazard retail and service industry sectors from routinely keeping OSHA records. The industry exemptions were based on injury and illness data at the two-digit SIC code level.

FINAL RULE

The final rule continues the former rule's exemption of all employers with 10 or fewer employees from routine recordkeeping requirements. The final rule also exempts all employers in specific lower-hazard retail and service industry sectors, as the former rule did, from maintaining OSHA records routinely. The final rule exempts three-digit SIC industries if their average lost workday injury (LWDI) rate was at or below 75% of the overall private sector LWDI average rate in the most recent BLS occupational injury and illness data.

CHANGE

Updating the list of exempted industry categories by relying on three-digit, rather than two-digit, data in the final rule results in 17 formerly exempt industries being covered under the final rule (see Table I-3). Employers in 16 industries that were covered by the former rule are exempted by the final rule (see Table I-4). The exemptions in the final rule are better targeted than those in the former rule, because high-hazard three-digit industries embedded within lower-hazard two-digit industries are not exempted, while low-hazard three-digit industries embedded within higher-hazard two-digit industries are exempted. Employers in the newly covered industries will experience additional costs and benefits from these new requirements, while newly exempted employers will also experience changes in costs and benefits. These costs and benefits are quantified in this economic analysis.

Source: *Federal Register*, Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Preamble, p. 6083, public domain.

Changes to the OSHA Forms

Employers who operate establishments that are required by the rule to keep injury and illness records are required to complete three forms:

- OSHA 300 Log of Work-Related Injuries and Illnesses.
- Annual OSHA 300A Summary of Work-Related Injuries and Illnesses.
- OSHA 301 Injury and Illness Incident Report.[4]

Table 1-7 presents an overview of the changes to these OSHA Forms. Employers are required to keep separate 300 Logs for each establishment that they operate that is expected to be in operation for one year

Table 1-7
Changes to the OSHA Forms

FORMER RULE	FINAL RULE	CHANGE
The former rule required the employer to maintain two forms, the OSHA 200 Log and Summary of Occupational Injuries and Illnesses (one form including both a log and summary) and the OSHA 101 Supplementary Record of Occupational Injuries and Illnesses. The employee who supervised the production of the annual summary was required to certify it.	The final rule requires the employer to maintain up to four records: the OSHA 300 Log of Work-Related Injuries and Illnesses, the OSHA 300-A Summary of Work-Related Injuries and Illnesses, the OSHA 301 Injury and Illness Incident Report, and if one or more employees experiences an injury or illness case classified as a "privacy concern" case, a confidential list of those employees. (See the discussion on privacy provisions, Table 1-15.)	The new OSHA 300 Log is smaller than the OSHA 200 Log. It fits on legal sized pages ($8\frac{1}{2}'' \times 14''$) and has fewer columns and a more logical, user friendly design. Each injury and illness must be recorded within seven calendar days, as compared to the six working days allowed under the former rule. Although the 300 Log requires essentially the same information as the 200 Log, it is easier to complete, which will result in cost savings for employers. The OSHA 300-A Summary Form replaces the summary portion of the former OSHA 200 Log and Summary Form. Each covered employer must complete the summary at the end of the year and post it for three months, while the former rule required posting for one month. The longer posting period will result in only minimal additional costs. The final rule also requires the employer to review the records at the end of the year for accuracy before summarizing

Table 1-7
Continued

them, additional certification of accuracy by a company executive, and additional data on the average employment and hours worked at the establishment. These changes will result in higher-quality data but add costs for employers. These costs are quantified in this economic analysis.

The OSHA 301 Incident Report is only slightly different from the OSHA 101 Form. Some data elements have been added to the form. In addition, the form has been redesigned to obtain better responses to the questions and accommodate employee access to the forms while still protecting privacy (see the discussion on privacy, Table 1-15).

Source: *Federal Register*, Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Preamble, p. 6083, public domain.

or longer. The log must include injuries and illnesses to employees on the employer's payroll and injuries and illnesses of other employees who the employer supervises on a day-to-day basis, such as temporary workers or contractor employees who are subject to daily supervision by the employer. Within seven calendar days of the time the fatality, injury, or illness occurred, the employer must record any case that is work related, a new case, and meets one or more of the recording criteria in the rule.[4] It depends on the supervision of the employee and must be handled on a case-by-case basis.

Use of Computerized and Centralized Records

Beginning January 1, 2002, references in any OSHA directive, memorandum, or other publication to the recordkeeping forms will be considered as references to the OSHA 300, 301, and 300A unless it is clear that the reference is to the forms used before January 1, 2002. Also, all references to the Lost Workday Injury (LWDI) rate or the Lost Workday Injury and Illness (LWDII) rate shall be considered to be a reference to the Days Away, Restricted, or Transferred (DART) rate, unless it is clear that the reference is to the rate in use prior to January 1, 2002.[4] See Table 1-8 for changes to the rules on use of computerized and centralized records.

Table 1-8
Computerized and Centralized Records

FORMER RULE

The former rule allowed the employer to keep the OSHA 200 Log on computer equipment or at a location other than the establishment and required that the employer have available a copy of the Log current to within 45 calendar days. The former rule had no provisions for keeping the OSHA 101 Form off-site or on computer equipment.

FINAL RULE

The final rule allows all forms to be kept on computer equipment or at an alternate location, providing the employer can produce the data when it is needed to provide access to a government inspector, employee, or an employee representative. There is no need to keep records at the establishment at all times.

CHANGE

The final rule provides the employer with greater flexibility for keeping records on computer equipment and at off-site locations. These costs savings have been quantified in the economic analysis.

Source: *Federal Register*, Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Preamble, p. 6086, public domain.

Changes to the Determination of a Work Relationship

Section 1904.5(a) states that the employer

> must consider an injury or illness to be work-related if an event or exposure in the work environment either caused or contributed to the resulting condition. Work-relatedness is presumed for injuries and illnesses resulting from events or exposures occurring in the work environment.

Under this language, a case is presumed work related if and only if an event or exposure in the work environment is a discernable cause of the injury or illness or of a significant aggravation to a preexisting condition. The work event or exposure need only be one of the discernable causes; it need not be the sole or predominant cause.[4]

Section 1904.5(b)(2)(ii) states that a case is not recordable if it

> involves signs or symptoms that surface at work but result solely from a non-work-related event or exposure that occurs outside of the work environment.

This language is intended as a restatement of the principle expressed in the previous paragraph.

Section 1904.5(b)(3) states that, if it is not obvious whether the precipitating event or exposure occurred in the work environment or elsewhere, the employer "must evaluate the employee's work duties and environment to decide if one or more events or exposures in the work environment caused or contributed to the resulting condition or significantly aggravated a pre-existing condition." This means that the employer must determine if it is more likely than not that work events or exposures were a cause of the injury, illness, or significant aggravation to a preexisting condition. If the employer decides that the case is not work related and OSHA subsequently issues a citation for failure to record, the government would have the burden of proving that the injury or illness was work related.[4] See Chapter 2 for details.

Table 1-9 examines the changes to the determination of a work relationship, and Table 1-4 discusses the different recording criteria for injuries and illnesses.

Table 1-9
Changes to the Determination of a Work Relationship

FORMER RULE
Under the former rule, a work relationship was established if work either caused or contributed to the injury or illness or aggravated a preexisting condition. Injuries and illnesses that occurred on the employer's premises were presumed to be work related, with three exceptions: cases that occurred in a parking lot or recreational facility, cases that occurred while the employee was present at the workplace as a member of the general public and not as an employee, and cases where injury or illness symptoms arose at work but were the result of a nonwork-related injury or illness. These were not required to be recorded.
FINAL RULE
A work relationship is established if work either caused or contributed to the injury or illness or significantly aggravated a preexisting condition. The final rule continues the former rule's geographic presumption of a work relationship but adds several additional exceptions to the need to record cases involving: voluntary participation in wellness programs, eating and drinking food or

Table 1-9
Continued

beverages for personal consumption, intentionally self-inflicted wounds, personal grooming, or the common cold or flu. The final rule also contains an exception that limits the recording of mental illness cases.

CHANGE

The final rule changes the requirement to record cases in which any degree of aggravation of a preexisting injury or illness has occurred; now, the work environment must have significantly aggravated a preexisting injury or illness before the case becomes work related. The final rule also adds several new exceptions to the geographic presumption of a work relationship. Both changes will result in fewer cases being recorded under the final rule.

Source: *Federal Register*, Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Preamble, p. 6084, public domain.

New Cases

Work-related injuries and illnesses are considered to be new cases when the employee has never reported similar signs or symptoms before or when the employee has completely recovered from a previous injury or illness and workplace events or exposures have caused the signs or symptoms to reappear.[4] See Chapter 2 for more detail.

Employers must classify each case on the 300 Log in accordance with the most serious outcome associated with the case. For cases resulting in days away from work or a work restriction or transfer of the employee, the employer must count the number of calendar days involved and enter that total on the form. The employer may stop counting when the total number of days away, restricted, or transferred reaches 180.[4] See Chapter 2 for more detail.

An employee's work is considered restricted when, as a result of a work-related injury or illness,

- The employer keeps the employee from performing one or more of the routine functions of his or her job or from working the full workday that he or she would otherwise have been scheduled to work, or
- A physician or other licensed health care professional recommends that the employee not perform one or more of the routine functions of his or her job, or not work the full workday that he or she would otherwise have been scheduled to work.[4]

See Chapter 2 for more details.

The new rule continues the policy established under the old rule that a case is not recordable under section 1904.7(b)(4) (General Recording Criteria) as a restricted work case if the employee experiences minor musculoskeletal discomfort, a health care professional determines that the employee is fully able to perform all of his or her routine job functions, and the employer assigns a work restriction to that employee for the purpose of preventing a more serious condition from developing.[4] Table 1-10 summarizes the changes to days away and job restriction or transfer.

Table 1-10
Days Away from Work and Job Restriction or Transfer

FORMER RULE

Under the former rule, employers were required to record lost workday cases, which were defined as any case that resulted in days away from work and/or days of restricted work or job transfer. Restricted work included any case when, because of injury or illness, (1) the employee was assigned to another job on a temporary basis, (2) the employee worked at a permanent job less than full time, or (3) the employee worked at his or her permanently assigned job but could not perform his or her routine duties. Routine duties were defined as any activity the employee would be expected to perform even once during the course of the year. The employer was required to record any case that involved restricted work, even if the restriction occurred only on the day the injury or illness occurred.

Employers were also required to count days as the number of scheduled days away or restricted, that is, to use a counting system that included only scheduled workdays and excluded any days off, such as weekends and days the plant was closed.

FINAL RULE

The final rule continues to require employers to record cases with days away from work, restricted work, or transfer to another job. For restricted work or a job transfer, the final rule focuses on whether or not the employee is permitted to perform his or her routine job functions, defined as the duties he or she would have performed at least once per week before the injury or illness. If the work restriction is limited to the day of the injury or illness and none of the other recording criteria are met, the case is not recordable.

The final rule continues to require the employer to count days away from work and days of restricted work or job transfer. However, the days are counted using calendar days, and employers may stop the count at 180 days. The employer also may stop counting restricted days if the employer permanently

Table 1-10
Continued

modifies the employee's job in a way that eliminate the routine functions the employee was restricted from performing.

CHANGE

The final rule shifts the focus of the definition of restricted work to the routine functions of the job and away from the former rule's focus on any activity the injured or ill employee might have performed during the work year and eliminates the requirement to record cases that involve restrictions only on the day of injury or illness. These changes will result in fewer cases being recorded and reduce costs for employers.

The final rule's changes to the method of counting days, that is, relying on calendar days instead of scheduled workdays, will simplify the counting requirements and produce more reliable information on injury and illness severity. Both the change to the calendar day counting method and the capping of days away and days restricted or transferred at 180 days will reduce costs for employers.

Source: *Federal Register*, Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Preamble, p. 6084, public domain.

Medical Treatment

Medical treatment means any treatment not contained in the list of first aid treatments. Medical treatment does not include visits to a health care professional for observation and counseling or diagnostic procedures. *First aid* refers to only those treatments specifically listed in section 1904.7. Examples of first aid include the use of nonprescription medications at nonprescription strength, the application of hot or cold therapy, eye patches or finger guards, and others.[4] These are discussed in more detail in Chapter 2.

The overall effect of the changes to the definitions of *medical treatment* and *first aid* is difficult to determine. OSHA believes that they generally offset each other, but data to confirm this are not available.

Diagnosis of a Significant Injury or Illness

A work-related cancer, chronic irreversible disease such as silicosis or byssinosis, punctured eardrum, or fractured or cracked bone is a signifi-

cant injury or illness that must be recorded when diagnosed by a physician or a licensed health care professional.[4]

Recording Injuries and Illnesses to Soft Tissues

Work-related injuries and illnesses involving muscles, nerves, tendons, ligaments, joints, cartilage, and spinal discs are recordable under the same requirements applicable to any other type of injury or illness. There are no special rules for recording these cases: If the case is work related and involves medical treatment, days away, job transfer or restricted work, it is recordable.[4] See Table 1-11 for changes in the recording of musculoskeletal disorders (MSD). In addition, Figure 2-48 shows the schedule for implementing these changes to the rule. See Appendix I.

Table 1-11
Changes in the Recording of Musculoskeletal Disorders (MSD)
(This has been delayed, see Figure 2-48 and Appendix I)

FORMER RULE

Under the former rule, MSD cases were recorded differently, based on whether they were occupational injuries or occupational illnesses. An MSD injury was recorded if it resulted in days away from work, restricted work, job transfer, or medical treatment beyond first aid. If the case was an MSD illness, it was recorded if it resulted in the following objective findings:

- A diagnosis by a health care provider (carpal tunnel, tendinitis, etc.);
- Positive test results (Tinel's, Finkelstein's, Phalen's, EMG);
- Signs (redness, swelling, loss of motion, deformity); or
- Symptoms combined with days away from work, restricted work, or medical treatment beyond first aid.

Injury MSD cases were considered "new cases" if they resulted from new (additional) workplace events or exposures. Illness MSD cases were treated in the same way or were subject to a "30-day rule," whereby if an ill employee did not return to the health care provider for care after 30 days, the case was considered resolved. If the same employee reported later with additional MSD problems, the case was evaluated for recordability as a new illness.

FINAL RULE

Under the final rule, MSD cases are recorded using the same criteria as those for other injuries and illnesses. Cases are recorded if they result in days away

Table 1-11
Continued

from work, restricted work or job transfer, or medical treatment beyond first aid. Recurrences are also handled just like other types of injuries and illnesses.

CHANGE

The final rule simplifies the recording of MSDs and collects improved statistical information on these disorders on the 300 Log. Because the final rule does not require the automatic recording of diagnosed disorders, physical signs, and positive test results, it will generally require employers to record fewer MSD cases, resulting in some cost savings. However, the magnitude of these cost savings is not known. The employer must check a separate box on the log for MSD cases to permit separate data on these disorders to be collected.

Source: *Federal Register*, Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Preamble, pp. 6085–6086, public domain.

Hearing Loss

The new rule's changes in the recording of hearing loss are delayed as well, see Table 1-12 for a summary of the changes and Figure 2-48 for the implementation schedule. See Appendix I.

Table 1-12
Changes in the Recording of Hearing Loss (This has been delayed, see Figure 2-48 and Appendix I)

FORMER RULE

Under OSHA's interpretations of the former rule, an employer was required to record a hearing loss of 25 decibels (dB) in one or both ears, averaged over three frequencies, compared to the employee's baseline audiogram. Work relatedness was presumed if the employee was exposed to noise at or above an eight-hour time-weighted average of 85 dB.

FINAL RULE

The final rule requires an employer to record any hearing loss that reaches the level of a standard threshold shift (STS), defined by the occupational noise standard as a 10-dB shift in hearing, averaged over three frequencies, in one or both ears, compared to the employee's baseline audiogram. Work-relatedness is

Table 1-12
Continued

presumed if the employee was exposed to noise at or above an eight-hour time-weighted average of 85 dB.

The employer must check a separate box on the OSHA log to identify hearing loss cases.

CHANGE

The additional check box will result in improved statistical data on occupational hearing loss. The change to a more sensitive threshold (10-dB shift rather than 25-dB shift) for recording occupational hearing loss will result in the recording of additional cases. Based on audiometric data collected from 22 companies in SICs 20 through 29, 33, 34, 35, 39, 49, and 90, OSHA estimated that, with the new threshold, 250,000 more workers in manufacturing and 25,000 more workers elsewhere in general industry would sustain recordable hearing loss annually. The costs associated with this increase have been quantified in this economic analysis. See Appendix I.

Source: *Federal Register*, Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Preamble, p. 6085, public domain.

Certification, Summarization, and Posting of Logs

After the end of the year, employers must review the 300 Log to verify its accuracy, summarize the information on the 300A Summary Form, and certify the summary (a company executive must sign the certification). This information must be posted for three months, from February 1 to April 30. The employer must keep the records for five years following the calendar year covered by them, and if the employer sells the business, he or she must transfer the records to the new owner.[4] Also, see the section on employee, as this may affect posting requirements.

Change in Ownership

As just mentioned, when the ownership of a company changes, the new owner is to receive OSHA records for the five preceding calendar years. Table 1-13 presents an overview of those alterations in the rule affecting change in ownership.

Table 1-13
Change in Ownership

FORMER RULE

Under the former rule, an employer who acquired a business establishment was required to retain the OSHA records of the prior owner. Each owner was responsible for the records only for that period of the year that each owned the business.

FINAL RULE

Under the final rule, when a business establishment changes owners, each owner is responsible for the OSHA records only for that period of the year that each owned the business. The prior owner is required to transfer the records to the new owner, and the new owner is responsible for retaining those records.

CHANGE

The final rule differs from the former rule by requiring the prior owner to transfer the records to the new owner. Any new costs imposed by this requirement are extremely small and have not been quantified in this economic analysis.

Source: *Federal Register*, Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Preamble, p. 6086, public domain.

Employee Involvement (Participation)

Each employer must develop a way for employees to report work-related injuries and illnesses. In addition, each employee must be informed on how he or she is to report an injury or illness. Employees, former employees, and employee representatives also have a right to access the records, and an employer must provide copies of certain records on request.[4] See Table 1-14 for an overview of the changes in employee involvement.

CITATIONS AND PENALTIES

Specific citations are being used to make sure that employers are recording injuries properly. This important subject is discussed in detail in Chapter 7.

Table 1-14
Employee Involvement (Participation)

FORMER RULE

The former rule involved employees in the recordkeeping process in two ways: through posting of the annual summary of occupational injuries and illnesses for one month and by allowing access to the OSHA 200 Log by employees, former employees, and their representatives.

FINAL RULE

The final rule involves employees in the process to a greater extent than formerly: It requires the employer to set up a system for accepting injury and illness reports from employees and requires the employer to tell each employee how to report a work-related injury or illness. The final rule also requires the employer to post the annual summary for three months. Employees, former employees, and their representatives have the right to one free copy of the 300 Log, the injured or ill employee or a personal representative has a right to one free copy of the 301 (Incident Report) for his or her case, and authorized employee representatives have a right to one free copy of a portion of the 301 Form for all injuries and illnesses at the establishment he or she represents.

CHANGE

The final rule will improve employee reporting of work-related injuries and illnesses and allow improved access to the information in the records, including one free copy of each record requested. OSHA finds that these provisions will increase costs for employers, and these costs have been quantified in the economic analysis.

Source: *Federal Register*, Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Preamble, p. 6086, public domain.

RECORDING CRITERIA FOR CASES INVOLVING MEDICAL REMOVAL

Section 1904.9 (Recording Criteria for Cases Involving Medical Removal Under OSHA Standards) requires the employer to record the case on the OSHA 300 Log if an employee is medically removed under

the medical surveillance requirements of an OSHA standard. Currently, the medical surveillance requirements of the following standards have medical removal requirements:

- *Benzene.* General industry standard (§1910.1028(i)); Shipyard standard (§1915.1028); and Construction standard (§1926.1128).
- *Cadmium.* General industry standard (§1910.1027(l)); Shipyard standard (§1915.1027); and Construction standard (§1926.1127).
- *Formaldehyde.* General industry standard (§1910.1048(l)); Shipyard standard (§1915.1048); and Construction standard (§1926.1148).
- *Lead.* General industry standard (§1910.1025); Shipyard standard (§1915.1025); and Construction standard (§1926.625).
- *Methylenedianiline.* General industry standard (§1910.1050(m)); Shipyard standard (§1915.1050); and Construction standard (§1926.60(n)).
- *Methylene Chloride.* General industry standard (§1910.1052(j)); Shipyard standard (§1915.1052); Construction standard (§1926.1152).
- *Vinyl Chloride.* General industry standard (§1910.1017); Shipyard standard (§1915.1517); and Construction standard (§1926.1117).[4]

PRIVACY CONCERN CASES—EMPLOYEE PRIVACY

The employer must protect the privacy of injured or ill employees when recording cases. In certain types of cases, such as those involving mental illness or sexual assault, the employer may not enter the injured or ill employee's name on the log. Instead, the employer can enter "privacy case" and keep a separate, confidential list containing the identifying information. If the employer provides the OSHA records to anyone who is not entitled access to the records under the rule, the names of all injured and ill employees generally must be removed before the records are turned over.[4]

> The new rule at §1904.29(b)(6) through (10) requires the employer to protect the privacy of the injured or ill employee. The employer must not enter an employee's name on the OSHA 300 Log when recording a privacy case. The employer must keep a separate, confidential list of the case numbers and employee names, and provide it to the government upon request.[4]

Table 1-15 summarizes the changes in privacy protections.

Table 1-15
Privacy Protections

FORMER RULE

The former rule had no provisions to protect the privacy of injured or ill workers when a coworker or employee representative was allowed access to the OSHA 200 Log. The employer was required to provide the log with names intact.

FINAL RULE

The final rule protects the privacy of injured or ill workers when a coworker or employee representative accesses the records by prohibiting the employer from entering the employee's name for certain "privacy concern" cases. A separate, confidential list of case numbers and employee names must be kept for these cases. An employee representative can access only part of the information from the 301 Form, and the employer must withhold the remainder of the information when providing copies. With certain exceptions, if the employer provides the information to anyone other than a government representative, an employee, a former employee, or an employee representative, the names and other personally identifying information must be removed from the forms. In addition, separation of the summary form will eliminate accidental disclosure of employee names during the posting of the summary information.

CHANGE

The final rule protects injured or ill employees' privacy in several ways, such as by limiting the distribution of injured or ill employees' names, by not recording the employee's name in privacy concern cases, and by providing employee representatives access to only part of the 301 Form. The costs of keeping a separate, confidential list for privacy concern cases have been quantified in the economic analysis.

Source: *Federal Register*, Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Preamble, p. 6086, public domain.

PHYSICIAN OR OTHER LICENSED HEALTH CARE PROVIDER'S OPINION

In cases where two or more physicians or other licensed health care providers make conflicting or differing recommendations, the employer

must decide which recommendation is the most authoritative (best documented, best reasoned, or most persuasive) and note on the record any decision based on that recommendation.[4]

OTHER CHANGES

See Table 1-16 for changes in the recording of needlestick and sharps injuries. See Table 1-17 for changes in the recording of tuberculosis. See Table 1-18 for changes in reporting fatal and catastrophic incidents.[1]

Table 1-16
Changes in the Recording of Needlestick and Sharps Injuries

FORMER RULE

Under the former rule, an employer was required to record a needlestick or sharps injury involving human blood or other potentially infectious material if the case resulted in death, days away from work, restricted work, medical treatment beyond first aid, or loss of consciousness or if the employee seroconverted (contracted HIV or hepatitis infection).

FINAL RULE

Under the final rule, an employer is required to record all needlestick or sharps injuries involving human blood or other potentially infectious material. These cases are recorded as privacy concern cases.

CHANGE

The final rule will require the recording of an additional estimated 501,640 needlestick and sharps injury cases. The costs associated with this change have been quantified in this economic analysis. This change will also significantly simplify recording for those employers who recorded 88,925 needlestick and sharps injuries under the former rule, resulting in cost savings for those cases. These cost savings have been quantified in this economic analysis.

Source: *Federal Register*, Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Preamble, p. 6085, public domain.

Table 1-17
Changes in the Recording of Tuberculosis

FORMER RULE

Under OSHA's interpretation of the former rule, an employer was required to record an active case of tuberculosis (TB) or a positive TB skin test. If the employee was employed in one of five high-risk industries, as defined by the Centers for Disease Control and Prevention (CDC), the case was presumed to be work related.

FINAL RULE

Under the final rule, a case of tuberculosis is recorded if the employee has active TB or a positive skin test. The case is considered work related if the employee has been occupationally exposed at work to another person (client, patient, and coworker) with a known, active case of tuberculosis. The employer may subsequently remove or line out the case if a medical investigation shows that the case was caused by a nonoccupational exposure.

CHANGE

The final rule eliminates the "special industries" presumption of work relatedness. OSHA believes that this change will reduce the number of recorded TB cases and thus reduce costs somewhat. However, data to estimate the cost savings associated with this change are not available.

Source: *Federal Register*, Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Preamble, p. 6085, public domain.

Table 1-18
Reporting Fatal and Catastrophic Incidents

FORMER RULE

The former rule required the employer to report any workplace fatality or any incident involving the hospitalization of three or more employees to OSHA within eight hours.

FINAL RULE

The final rule requires the employer to report any workplace fatality or any incident involving the hospitalization of three or more employees to OSHA within eight hours. The final rule does not require the employer to report to

Table 1-18
Continued

OSHA fatal or multiple hospitalization incidents that occur on commercial airlines, trains, and buses or fatality or catastrophe incidents from a motor vehicle accident on a public highway.

CHANGE

The final rule requires employers to report fewer incidents to OSHA, which will result in cost savings. These cost savings have not been quantified in the economic analysis.

Source: *Federal Register*, Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Preamble, pp. 6086–6087, public domain.

SUMMARY

The rule has been restructured with provisions put into a logical sequence. Topics are addressed as an employer would encounter them when complying with the rule. The numbering of sections within 29 CFR Part 1904 has been revised.

The final rule includes considerable detail not found in the former rule. This detail generally reflects interpretations that OSHA has made over time. By including these in the rule itself, OSHA intends to make the rule far clearer. Interpretations and related details are formatted as checklists, for ease of interpretation. See Table 1-19 for a summary of the changes in recordkeeping requirements.

Table 1-19
Changes in Recordkeeping Requirements

Sections of Former or Other Source	Sections of Final Rule	Rule Change
1904.16	1904.2	Cover parts of SICs 55, 57, 59, 65, 72, 73, 83, and 84; exempt parts of SICs 52, 54, 76, 79, and 80.
Guidelines	1904.5	Include specific exemptions from recording for certain cases, such as common cold or flu. Limit parking lot exemption to commuting.

Table 1-19
Continued

Sections of Former or Other Source	Sections of Final Rule	Rule Change
Guidelines (*cont.*)		Require recording of preexisting injury or illness only if workplace exposure "significantly" aggravates the injury or illness.
1904.12	1904.7	Replace term *lost workdays* in recording criteria with *days away* or *days restricted or transferred*; count days as calendar days, rather than scheduled workdays; cap count at 180 days; do not record restricted, transferred, or lost time occurring only on day of injury or illness as restricted work, job transfer, or a day away. Define *routine duties* for restricted work purposes as work activities done at least once per week. Define *medical treatment* beyond first aid to include all nonprescription drugs given at prescription strength and first and subsequent physical therapy or chiropractic treatment and to exclude use of Steri-Strips™ and hot or cold therapy.
New	1904.7	Narrow criteria for recording illnesses by excluding minor illnesses.
New	1904.8	Record all needlestick and sharps injury cases involving exposure to blood or other potentially infectious materials.
Interpretation	1904.10	Record all hearing loss cases at 10-dB shift, rather than 25-dB shift (delayed, see Figure 2-49 and Appendix I).
Interpretation	1904.11	Narrow criteria for recording positive tuberculosis test.
1904.12	1904.12	Make criteria for recording MSD cases the same as those for all other injuries and illnesses (delayed, see Figure 2-49 and Appendix I).
1904.2	1904.29	Replace old Log form with simplified 300 Form. Require that cases be recorded within seven calendar days rather than six working days.
1904.4	1904.29	Require more information on new 301 Form rather than on former 101 Form.

Table 1-19
Continued

Sections of Former or Other Source	Sections of Final Rule	Rule Change
New	1904.29	Define new category of *privacy concern cases* and require maintenance of separate, confidential list of names for such. Require employer to protect privacy of injured or ill workers by withholding names, with certain exceptions.
1904.5 New	1904.32	Postannual summary for three months rather than one month. Review records for accuracy at end of year. Require descriptive and statistical totals in annual summary. Require certification of accuracy of the log by responsible company official.
1904.11	1904.34	With change of ownership, require seller to turn over OSHA records to buyer.
New	1904.35	Inform employees how to report injuries or illnesses to employer. Provide union representative access to some, but not all, 301 Form information.
1904.8	1904.39	Delete requirement for common carrier and motor vehicle incidents to be reported.

Source: *Federal Register*, Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Preamble, p. 6082, public domain.

Chapter 1 presented a summary of the changes in the rules and a general overview of what to expect. Chapter 2 provides complete details to the rule, annotated with section from the preamble, flow diagrams, charts, and figures. Appendix D provides additional questions and answers since the Rule was published.

REFERENCES

1. OSHA Instruction, *Recordkeeping Policies and Procedures Manual* (RKM), directive number CPL 1-0.131, effective date: January 1, 2002 OSHA website http://www.osha-slc.gov/OshDoc/Directive_data/CPL_1-0_131.html, public domain.
2. *Federal Register,* Vol. 61, February 2, 1996, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904; 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Preamble, pp. 4029–4067, OSHA website, http://www.osha-slc.gov/FedReg_osha_data/FED19960202.html, public domain.
3. *Federal Register,* Vol. 61, February 29, 1996, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904; 1952, Occupational Injury and Illnesses Recording and Reporting Requirements, pp. 7758–7760, OSHA website, http://www.osha-slc.gov/FedReg_osha_data/FED19960229.html, public domain.
4. *Federal Register,* Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Preamble, pp. 5916–6122, public domain.
5. *Federal Register,* Vol. 61, July 3, 2001, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904.4; 1904.5; 1904.6; 1904.7; 1904.10; 1904.12, Occupational Injury and Illnesses Recording and Reporting Requirements; Notice, pp. 35113–35115, OSHA website, http://www.osha-slc.gov/FedReg_osha_data/FED20010703.html, public domain.
6. *Federal Register,* Vol. 61, October 12, 2001, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904; 1904.4; 1904.5; 1904.6; 1904.7; 1904.10; 1904.12; 1901.95; 1952 Occupational Injury and Illnesses Recording and Reporting Requirements; Final, pp. 52031–52034, OSHA website, http://www.osha-slc.gov/FedReg_osha_data/FED20011012.html, public domain.

2

Occupational Injury and Illness Recording and Reporting Requirements, Part 1904

The new rule is intended to make recordkeeping simpler for employers. Appendix A presents Part 1904, Recordkeeping and Reporting Occupational Injuries and Illnesses, in its entirety, beginning with a complete table of contents and index for listing the page numbers where you can find the appropriate citation in the new rule.

Occupational injury and illness records have several distinct functions. One use is to provide information to employers whose employees are being injured or made ill by hazards in the workplace. The information in OSHA records makes employers more aware of the kinds of injuries and illnesses occurring in the workplace and the hazards that can cause or contribute to them. When employers analyze and review the information in their OSHA logs, they quickly can identify and develop action plans to correct hazardous workplace conditions. Injury and illness records are also an essential tool to help employers manage the company safety and health programs effectively.[1(pp. 5916–5917)]

Employees who have information concerning occupational injuries and illnesses in their workplace are better informed about the hazards they face each day as they perform their jobs. OSHA's belief is that employees are more likely to follow safe work practices and report workplace hazards to their employers for correction if they are involved. When employees are aware of workplace hazards and participate in the identification and control of those hazards, the overall level of safety and health in the workplace improves.[1(p. 5917)]

With this said, let us dive into the new rule. Note that selected parts of the Preamble have been added to selected sections of this chapter to

provide further information to help you understand the Rule. As mentioned before, do not rely solely on this book to make your recordability decisions. When in doubt, read the text of the Preamble and the rule (found in Appendix A) and use some good management practices to make your decisions.

The new recordkeeping rule (Part 1904) requires employers to record and report work-related fatalities, injuries, and illnesses as appropriate (1904.0 Subpart A, FR p. 6122; see Appendix D, Question 0-1).

The Purpose section of the final rule explains why OSHA is promulgating this rule. This section contains no regulatory requirements and is intended merely to provide information. A note to this section informs employers and employees that recording a case on the OSHA log does not indicate either that the employer or the employee was at fault in the incident or that an OSHA rule was violated. Recording an injury or illness also does not, in and of itself, indicate that the case qualifies for workers' compensation or other benefits (FR p. 6122;[1(p. 5933)] Appendix D, 0-2). This is often a misunderstood concept. Many individuals do not understand the difference between recording a case on the OSHA log and filing a workers' compensation claim.

Although any specific work-related injury or illness may involve some or all of these factors, the record made of that injury or illness on the OSHA log only shows three things:

- An injury or illness has occurred.
- The employer has determined that the case is work related (using the OSHA definition of work relatedness).
- The case is not minor. For example, it meets one or more of the OSHA injury and illness recording criteria. OSHA has added the note to this first subpart of the rule because employers and employees have frequently requested clarification on these points.[1(p. 5933)]

Although some injuries captured by the OSHA recordkeeping system and workers' compensation system overlap, they often do not. For example, many injuries and illnesses covered by workers' compensation are not required to be recorded on the OSHA Logs. Such a situation could arise, for example, if an employee were injured on the job, sent to a hospital emergency room, and examined and X-rayed by a physician but told that the injury was minor and required no treatment. This is first aid as defined by the rule. Therefore, the employee's medical bills would be covered by workers' compensation because of the medical cost but the event would not be recordable.[1(p. 5934)]

Conversely, an injury may be recordable for OSHA's purposes but not be covered by workers' compensation. However, if the injury meets

any OSHA recordability criteria, it must be recorded, even if the specific injury would not be compensable or the employee not be covered. Similarly, some injuries, although technically compensable under workers' compensation, do not result in the payment of workers' compensation benefits. For example, an employee who is injured on the job, receives treatment from the company physician, and returns to work without loss of wages would generally not receive workers' compensation because the company would usually absorb the costs. However, if the case meets the OSHA recording criteria, the employer would nevertheless be required to record the injury.[1(pp. 5933–5934)]

As a result of these differences between the two systems, recording a case does not mean that the case is compensable or vice versa. If an injury or illness occurs to an employee, the employer must independently analyze the case in light of both the OSHA recording criteria and the requirements of workers' compensation system to determine if the case is recordable, compensable, or both, which ever rule(s) apply. [1(pp. 5933–5934)]

OSHA notes that many circumstances that lead to a recordable work-related injury or illness are "beyond the employer's control," at least as that phrase is commonly interpreted. Nevertheless, because such an injury or illness was caused, contributed to, or significantly aggravated by an event or exposure at work, it must be recorded (assuming that it meets one or more of the recording criteria and does not qualify for an exemption under the geographic presumption, as discussed later). This approach is consistent with the no-fault recordkeeping system OSHA has adopted, which includes work-related injuries and illnesses, regardless of the level of employer control or noncontrol involved. The issue of whether different types of cases are deemed work related under the OSHA recordkeeping rule is discussed later, in the work-relationship section (Section 1904.5). [1(pp. 5934–5935)]

As you get more into the new rule, you will start to understand specific requirements. However, you must remember that parts of this new rule are subject to interpretation, particular when determining work relatedness. A lot of caution must be taken to make sure that you have the best evidence (facts) possible to understand each case and how it will relate to the new rule. This is why understanding how to conduct an effective incident investigation, discussed in Chapter 3 is important to master.

One other thought before we proceed with the discussion on the new rule. Reading the Preamble of any standard is one of the most important things that you can do. It allows you to understand the rationale behind why OSHA did what it did and some of the comments offered by stakeholders. How does this help you? It will help you make some informed decisions that otherwise cannot be made. As you read this book and the

new rule (refer to Appendix A for the entire regulatory text), you will find that specific sections have been pulled from the Preamble, applied to particular Questions and Answers (Appendix D), and also incorporated text from the Preamble to help you make a better determination of the recordability status. These excerpts provide additional information. As discussed, I strongly encourage that you read the Preamble, found on the OSHA website[1] in detail to get the full benefit of the new rule. The Preamble has not been included in this book due to its length (205 pages, pp. 5916–6121).

One important note before we go any further. As indicated previously, this chapter has been enhanced with flowcharts, tables, and figures to help you maneuver through the rule. I want to present one word of caution at this point. Do not rely solely on the flowcharts, tables, and figures. They are merely a graphical guide that I have used to help me understand the rule. I believe that it also will help to provide you another way of looking at specific parts of the rule. They are no substitute for reading and understanding the rule and what is being posted on the OSHA website frequently. Stay tuned.

PURPOSE—SUBPART A

As noted earlier, OSHA makes it clear that recording or reporting a work-related injury, illness, or fatality does not mean that the employer or employee was at fault, that an OSHA rule has been violated, or that the employee is eligible for workers' compensation or other benefits (1904.0 Subpart A, FR p. 6122; see Appendix D, Question 0-2, p. 296).

DEFINITIONS, SECTION 1904.46, SUBPART G

Sometimes understanding specific definitions is the key to understanding regulatory requirements. Therefore, before we get into the new recordkeeping rule, I provide some selected definitions. Note that definitions may vary from requirement to requirement. So, make sure that you understand the specific definitions for the rule with which you are working.

As with any regulatory standard, without understanding the definitions, some of the information will not make sense or your decisions

might not reflect the current rule. The definitions cited in this section are listed in Subpart G 29 CFR 1904.46. In addition, other words or phrases that are called out in the compliance sections and the Preamble are defined here to further clarify the intent of the new rule.

The Act

The *Act* refers to the Occupational Safety and Health (OSHA) Act of 1970 (29 U.S.C. 651 et seq.). The definitions contained in Section 3 of the Act (29 U.S.C. 652) and related interpretations apply to such terms when used in this Part 1904 (FR p. 6135).

Days Away, Restricted, or Transferred (DART) Rate

The DART rate includes cases involving days away from work, restricted work activity, and transfers to another job. It is calculated based on $(N/EH) \times (200{,}000)$, where N is the number of cases involving days away and/or job transfer or restriction, EH is the total number of hours worked by all employees during the calendar year, and 200,000 is the base for 100 full-time-equivalent employees. For example, the employees of an establishment (XYZ Company), including temporary and leased workers, worked 645,089 hours at XYZ company. There were 22 injury and illness cases involving days away and/or restricted work activity and/or job transfer from the OSHA 300 Log (total of column H plus column I). The DART rate would be $(22/645{,}089) \times (200{,}000) = 6.8$.

Note: The DART rate replaces the Lost Workday Injury and Illness (LWDII) rate (Figure 2-1 shows the Optional Incidence Rate Worksheet). This is covered in more detail in Chapter 7. In addition, for the DART rate information, this worksheet comes from the OSHA instruction for compliance officers, Appendix H in this book.[2] (Figures from the appendixes that appear in this chapter will not be repeated there but cross-referenced to here.)

Establishment

An establishment is a single physical location where business is conducted or where services or industrial operations are performed. For activities where employees do not work at a single physical location—for example, construction; transportation; communications, electric, gas, and sanitary services; or similar operations—the establishment is

Incident Rate	Columns from OSHA 300 Log Entry	Calculation	Year Company Rate	Year BLS Rate for SIC
Total Injury and Illness	G	Cases		
	H +	× 200,000		
	I +	(Hours)		
	J +	= (Rate)		
	Total			
DART Rate	H	Cases		
	I +	× 200,000		
	Total	= (Hours)		
		= (Rate)		
Day Count Rate	K	Days		No comparable rate available from BLC
	L +	× 200,000		
	Total	= (Hours)		
		= (Rate)		

Figure 2-1 Sample Optional OSHA Incident Rate Worksheet. Source: OSHA Instruction, *Recordkeeping Policies and Procedures Manual* (RKM), directive number: CPL 2-0.131, effective date: January 1, 2002, pp. 2–26, OSHA website: http://www.osha-slc.gov/OshDoc/Directive_pdf/CPL_2-0_131fig2-8.pdf.

represented by main or branch offices, terminals, stations, and the like that either supervise such activities or are the base where employees carry out these activities (Subpart G, FR p. 6135).[2]

Q: Can one business location include two or more establishments?

A: Normally, one business location has only one establishment. Under limited conditions, the employer may consider two or more separate businesses that share a single location to be separate establishments. An employer may divide one location into two or more establishments only when

- Each of the establishments represents a distinctly separate business;
- Each business is engaged in a different economic activity;
- No one industry description in the Standard Industrial Classification Manual (1987) applies to the joint activities of the establishments;
- Separate reports are routinely prepared for each establishment on the number of employees, their wages and salaries, sales or receipts, and other business information. For example, if an

employer operates a construction company at the same location as a lumber yard, the employer may consider each business to be a separate establishment (Subpart G, FR p. 6135).

Q: Can an establishment include more than one physical location?

A: Yes, but only under certain conditions. An employer may combine two or more physical locations into a single establishment only when

- The employer operates the locations as a single business operation under common management.
- The locations are all located in close proximity to each other.
- The employer keeps one set of business records for the locations, such as records on the number of employees, their wages and salaries, sales or receipts, and other kinds of business information. For example, one manufacturing establishment might include the main plant, a warehouse a few blocks away, and an administrative services building across the street (Subpart G, FR p. 6135).

Q: If an employee telecommutes from home, is his or her home considered a separate establishment?

A: No, for employees who telecommute from home, the employee's home is not a business establishment and a separate 300 Log is not required. Employees who telecommute must be linked to one of your establishments under 1904.30(b)(3). Figure 2-2 shows some examples of establishment applications and Figure 2-3 is an expanded discussion on establishment.

Injury or Illness

An injury or illness is an abnormal condition or disorder. Injuries include cases such as, but not limited to, a cut, fracture, sprain, or amputation. Illnesses include both acute and chronic illnesses, such as, but not limited to, a skin disease, respiratory disorder, or poisoning. (Note: Injuries and illnesses are recordable only if they are new, work-related cases that meet one or more of the Part 1904 recording criteria, 1904.46 Subpart G, FR p. 6135). See Figure 2-4 for a more detailed definition of injury and illnesses. Note that the distinction between injury and illness is no longer a factor for determining which cases are recordable.[2]

Medical Treatment

Medical treatment is the management and care of a patient to combat disease or disorder (1904.46 Subpart G, FR pp. 6127–6128). For recordkeeping purposes, it does not include

Example 1

Normally, one business location has only one establishment. Under limited conditions, the employer may consider two or more separate businesses that share a single location to be separate establishments. An employer may divide one location into two or more establishments when

- Each establishment represents a distinctly separate business.
- Each business is engaged in a different economic activity.
- No one industry description in the Standard Industrial Classification Manual (1987) applies to the joint activities of the establishments.
- Separate reports are routinely prepared for each establishment on the number of employees, their wages and salaries, sales or receipts, and other business information.

For example, if an employer operates a construction company at the same location as a lumber yard, the employer may consider each business to be a separate establishment.

Example 2

An establishment can include more than one physical location, but only under certain conditions. An employer may combine two or more physical locations into a single establishment only when

- The employer operates the locations as a single business operation under common management.
- All the locations are located in close proximity to each other.
- The employer keeps one set of business records for the locations, such as records on the number of employees, their wages and salaries, sales or receipts, and other kinds of business information.

For example, one manufacturing establishment might include the main plant, a warehouse a few blocks away, and an administrative services building across the street. For employees who telecommute from home, the employee's home is not a business establishment and a separate 300 Log is not required. Employees who telecommute shall be linked to one of the employer's establishments under §1904.30(b)(3).

Example 3

Construction work sites that are

- Scheduled to continue for a year or more:
  - — A separate OSHA 300 Log must be maintained for each establishment.
  - — The log may be maintained either at the construction site or at an established central location provided the employer can
    - Transmit information about the injuries and illnesses from the establishment to the central location within seven calendar days of receiving information that a recordable injury or illness has occurred.
    - Produce and send records from the central location to the establishment within four business hours when the employer is required to provide to a government representative or by the end of the next business day when providing records to an employee, former employee, or employee representative.

Figure 2-2 Examples of Establishment Application. Source: OSHA Instruction, *Record-keeping Policies and Procedures Manual* (RKM), directive number: CPL 2-0.131, effective date: January 1, 2002.

- Scheduled to continue for less than a year:
  - — A separate OSHA 300 Log need not be maintained for each establishment.
  - — One OSHA 300 Log may be maintained to cover
    - All such short-term establishments or all such short-term establishments within company divisions or geographic regions.
    - The log may be maintained at the establishment or at a central location under the directions given for work sites scheduled to continue for more than a year.

Figure 2-2 *Continued.*

For recordkeeping purposes, the final rule includes company parking lots and access roads in the definition of establishment. However, the final rule recognizes that some injuries and illnesses occurring on company parking lots and access roads are not work related and delineates those that are work related from those that are not based on the activity the employee was performing at the time the injury or illness occurred. For example, if an employee is injured in a motor vehicle accident that occurs during that employee's commute to or from work, the injury is not considered work related, see section 1904.5(b)(2)(vii) (FR p. 6124).

If an employee is injured in a car accident while arriving at work or while leaving the company's property at the end of the day or while driving on his or her lunch hour to run an errand, the case would not be considered work related. On the other hand, if an employee were injured in a car accident while leaving the property to purchase supplies for the employer, the case would be work related. This exception represents a change from the position taken under the former rule, which was that no injury or illness occurring in a company parking lot was considered work related. OSHA has concluded, based on the evidence in the record, that some injuries and illnesses that occur in company parking lots are clearly caused by work conditions or activities;[1(p. 5951)] for example, accidents being struck by a car while painting parking space indicators on the pavement of the lot or while removing snow, slipping or falling on ice permitted to accumulate in the lot by the employer,[1(p. 5951)] assaults. By their nature such incidents pointing to conditions that could be corrected to improve workplace safety and health are considered work-related and must be recorded on the establishment's log if they meet the other recording criteria of the final rule (for example, if they involve medical treatment, lost time, etc.).[1(p. 5959)]

To recap, the parking lot exception in the final rule applies to cases when employees are injured in motor vehicle accidents commuting to and from work and running employee errands (and so such cases are not recordable) but does not apply to cases when an employee slips in the parking lot or is injured in a motor vehicle accident while conducting company business (and so such cases are recordable).[1(p. 5956)]

In the final rule, OSHA decided to include recreational areas in the definition of establishment but to include voluntary fitness and recreational activities, and other wellness activities, on the list of excepted activities employers may use to rebut the presumption of work relatedness as defined in paragraph 1904.5(b)(2). OSHA finds that this approach is simpler and will provide better injury and illness data because recreational facilities are often multiuse areas that are sometimes used as work zones and sometimes as recreational areas. Several of the interpretations OSHA

Figure 2-3 Expanded Discussion on Establishment. Source: *Federal Register*, Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Preamble, pp. 5916–6122.

provided over the years address this problem. For example, the loading dock or warehouse at some establishments has an area with a basketball hoop that is used for impromptu ball games during breaks, while at other establishments employees may use a grassy area to play softball, an empty meeting room for aerobics classes, or the perimeter of the property as a jogging or bicycling track. Providing an exception based on activity makes it easier for employers to evaluate injuries and illnesses that occur in mixed-use areas of the facility.[1(p. 5959)]

Figure 2-3 *Continued.*

In the final rule, OSHA relied primarily on the former rule's concept of an abnormal condition or disorder. Although injury and illness are broadly defined, they capture only those changes that reflect an adverse change in the employee's condition that is of some significance, that is, that reach the level of an abnormal condition or disorder. For example, a mere change in mood or experiencing normal end-of-the-day tiredness would not be considered an abnormal condition or disorder. Similarly, a cut or obvious wound, breathing problems, skin rashes, blood tests with abnormal results, and the like are clearly abnormal conditions and disorders. Pain and other symptoms that are wholly subjective are also considered an abnormal condition or disorder. There is no need for the abnormal condition to include objective signs to be considered an injury or illness. However, it is important to remember that identifying a workplace incident (work relatedness) as an occupational injury or illness is only the first step in the determination an employer makes about the recordability of a given case.

Figure 2-4 Injury and Illness Defined. Source: *Federal Register*, Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Preamble, p. 5959.

- Visits to a physician or other licensed health care professional solely for observation or counseling.
- Diagnostic procedures such as X rays and blood tests, including the administration of prescription medications used solely for diagnostic purposes (e.g., eye drops to dilate pupils).
- Any treatment contained on the list of first-aid treatments.[2]

Physician or Other Licensed Health Care Professional

A physician or other licensed health care professional is an employee whose legally permitted scope of practice (i.e., license, registration, or certification) allows him or her to independently perform or be delegated the responsibility to perform the activities described by this regulation (1904.46, Subpart G, FR p. 6135).

Routine Functions

For recordkeeping purposes, an employee's routine functions are those work activities the employee regularly performs at least once per week (1904.7(b)(4)(B)(ii), FR p. 6127).

You

You means an employer as defined in Section 3 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 652) (1904.46 Subpart G, FR p. 6135).

SCOPE—SUBPART B

The coverage and partial exemption provisions in Subpart B of the final rule establish which employers must keep OSHA injury and illness records at all times and which employers are generally exempt but must keep records under specific circumstances.

The final rule's size exemption and the industry exemptions listed in nonmandatory Appendix A to Subpart B, p. 5, discussed in the Introduction (see Table I-2), do not relieve employers with 10 or fewer employees or employers in these industries from all their recordkeeping obligations under 29 CFR Part 1904. Employers qualifying for either the industry exemption or the employment size exemption are not routinely required to record work-related injuries and illnesses occurring to their employees; that is, they are not normally required to keep the OSHA Log or OSHA 301 Form. However, as sections 1904.1(a)(1) and 1904.2 of this final recordkeeping rule make clear, these employers must still comply with three discrete provisions of Part 1904. First, all employers covered by the Act must report work-related fatalities or multiple hospitalizations to OSHA under §1904.39. Second, under §1904.41, any employer may be required to provide occupational injury and illness reports to OSHA or OSHA's designee on written request. Finally, under §1904.42, any employer may be required to respond to the Survey of Occupational Injuries and Illnesses conducted by the Bureau of Labor Statistics (BLS) (see Appendix I) if asked to do so. Each of these requirements is discussed in greater detail in the relevant portion of this summary and explanation.

As discussed, all employers covered by the Occupational Safety and Health Act (OSHA) are covered by these Part 1904 regulations. However,

most employers do not have to keep OSHA injury and illness records unless OSHA or the BLS (see Appendix I) informs them in writing that they must keep records. For example, employers with 10 or fewer employees and business establishments in certain industry classifications are partially exempt from keeping OSHA injury and illness records (1904.0 Subpart B, FR p. 6122).

PARTIAL EXEMPTION FOR EMPLOYERS WITH 10 OR FEWER EMPLOYEES, SECTION 1904.1

If your company had 10 or fewer employees at all times during the last calendar year, you need not keep OSHA injury and illness records unless OSHA or the BLS informs you in writing that you must keep records under §1904.41 or §1904.42 (on these sections, see the specific requirements for all employers). However, as required by §1904.39, employers must report to OSHA any workplace incident that results in a fatality or the hospitalization of three or more employees (1904.1(a)(1), FR p. 6122). See Figure 2-5 for an overview of partial exemption for employers with 10 or fewer employees.

The final rule contains two categories of exemptions that, together, relieve most employers of the obligation routinely to record injuries and illnesses. Section 1904.1 contains a "very small-employer" exemption: Employers need not record injuries or illnesses in the current year if they had 10 or fewer employees at all times during the previous year, unless required to do so as outlined.[1(pp. 5926–5927)]

As discussed in the Preamble, the 10 or fewer employee threshold is consistent with congressional intent: The 1977 *Federal Register* notice announcing the new exemption cited the Department of Labor (DOL) appropriations acts for fiscal years 1975 and 1976, which exempted employers having 10 or fewer employees from most routine record-keeping requirements, and Section 8(d) of the Act, as the major reasons for raising the exemption size threshold from 7 to 10 employees.[1(p. 5935)] Therefore, if your company had more than 10 employees at any time during the last calendar year, you must keep OSHA injury and illness records, unless your establishment is classified as a partially exempt industry under §1904.2 (1904.1(a)(2), FR p. 6122).

Q: Is the partial exemption for size based on the size of my entire company or on the size of an individual business establishment?

A: The partial exemption for size is based on the number of employees in the entire company (1904.1(b)(1), FR p. 6122).

Q: How do I determine the size of my company to find out if I qualify for the partial exemption for size?

A: To determine if you are exempt because of size, you need to determine your company's peak employment during the last calendar year. If you had no more than 10 employees at any time in the last calendar year, your company qualifies for the partial exemption for size (1904.1(b)(2), FR p. 6122;[1(p. 5935)] see Figure 2-5).

PARTIAL EXEMPTION FOR ESTABLISHMENTS IN CERTAIN INDUSTRIES, SECTION 1904.2

If your business establishment is classified in a specific low-hazard retail, service, finance, insurance, or real estate industry listed in Appendix

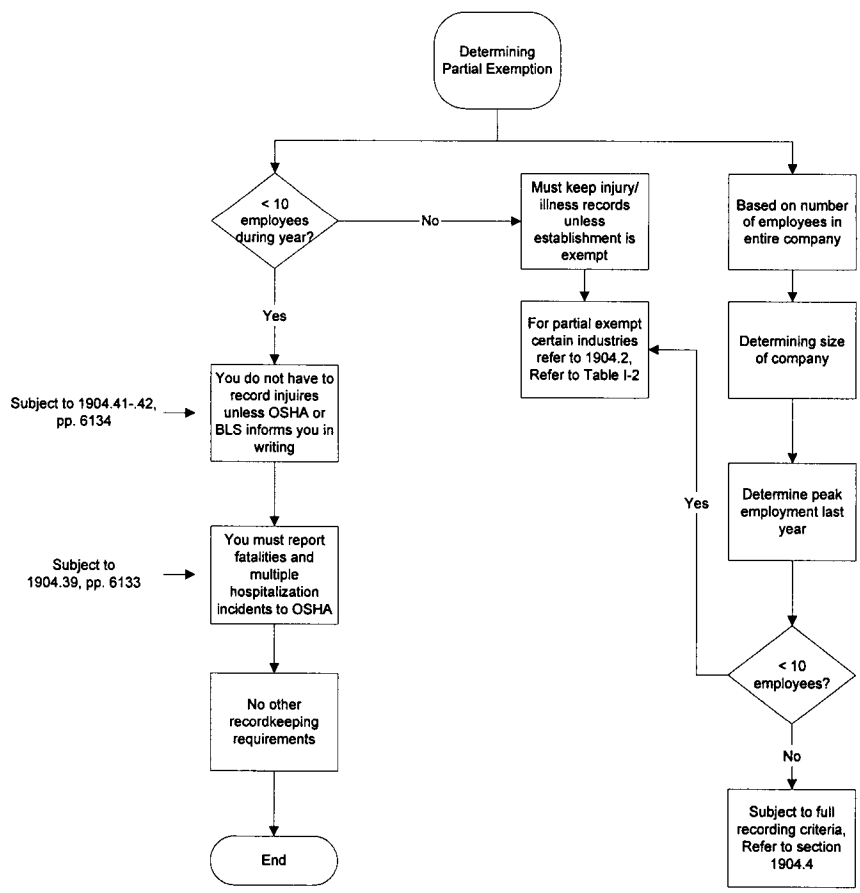

Figure 2-5 Overview: Partial Exemption for Employers with 10 or Fewer Employees.

A to this Subpart B, you do not need to keep OSHA injury and illness records unless the government asks you to keep the records under 1904.41 or 1904.42 (see Table I-2 for a summary of these industries) or if asked in writing to do so by OSHA, the Bureau of Labor Statistics, or a state agency operating under the authority of OSHA or the BLS. In addition, see the special requirements for all employers. However, all employers must report to OSHA any workplace incident that results in a fatality or the hospitalization of three or more employees (see §1904.39 and the specific requirements for all employers, 1904.2(a)(1), FR p. 6122). Also, Section 1904.2 contains a "low-hazard industry" exemption, where business establishments are not required to keep records if they are classified in specific low-hazard retail, service, finance, insurance, or real estate industries.[1(pp. 5926–5927)] Figure 2-6 can help determine your exemption.

If one or more of your company's establishments is classified in a nonexempt industry, you must keep OSHA injury and illness records for all of such establishments unless your company is partially exempted because of size under §1904.1 (1904.2(a)(2), FR p. 6122; see also Appendix D, Question 2-1, p. 296. Figure 2-7 summarizes the DART rate used for small business exemptions.

Q: Does the partial industry classification exemption apply only to business establishments in the retail, services, finance, insurance, or real estate industries (SICs 52-89)?

A: Yes, business establishments classified in agriculture; mining; construction; manufacturing; transportation; communication, electric, gas, and sanitary services; or wholesale trade are not eligible for the partial industry classification exemption (1904.2(b)(1), FR p. 6122).

Q: Is the partial industry classification exemption based on the industry classification of my entire company or on the classification of employee business establishments operated by my company?

A: The partial industry classification exemption applies to employee business establishments. If a company has several business establishments engaged in different classes of business activities, some of the company's establishments may be required to keep records, while others may be exempt (1904.2(b)(2), FR p. 6122).

Q: How do I determine the Standard Industrial Classification (SIC) code for my company or for employee establishments?

A: You determine your SIC code by using the *Standard Industrial Classification Manual*, Executive Office of the President, Office of Management and Budget. You may contact your nearest OSHA office or state agency for help in determining your SIC. Note:

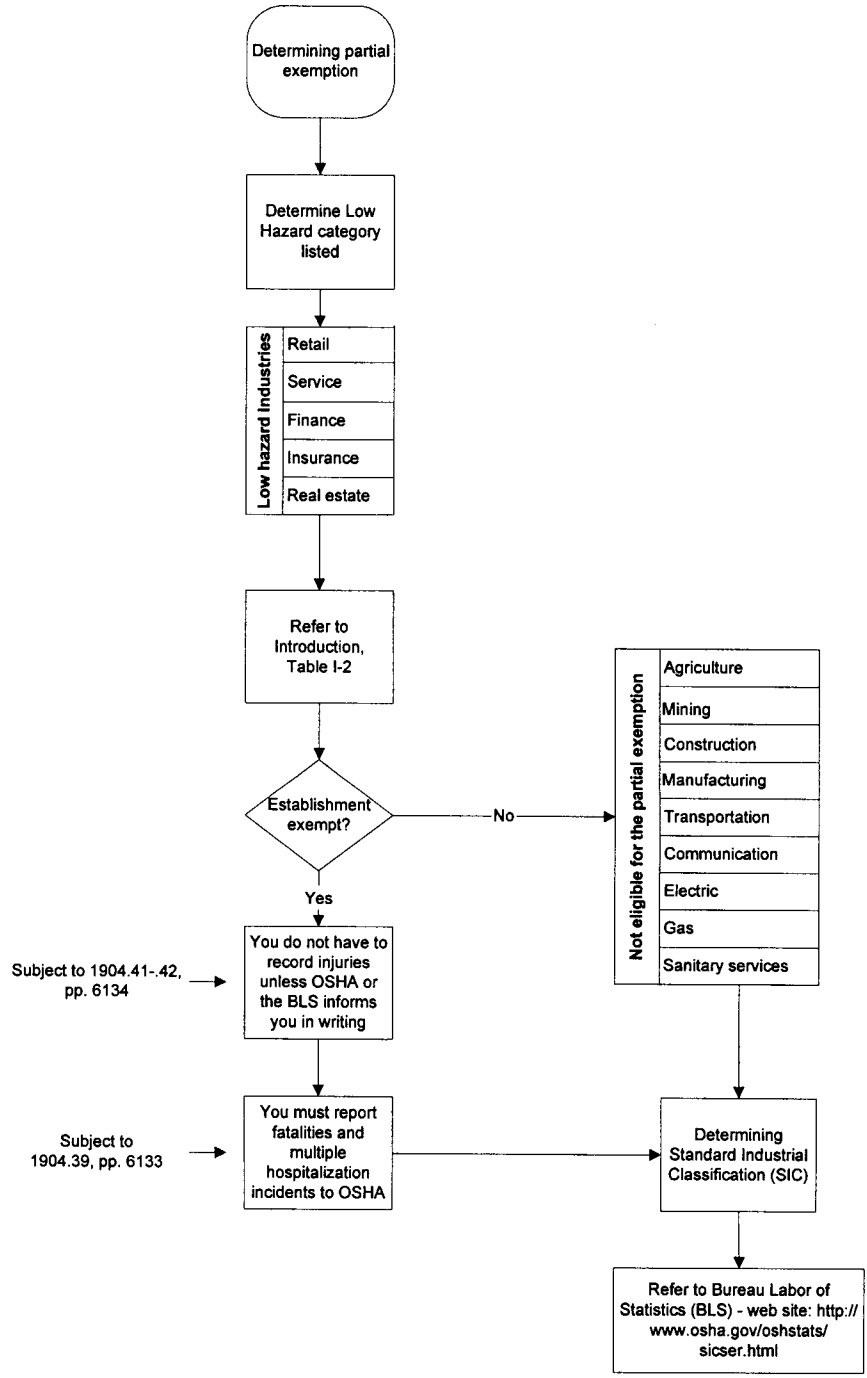

Figure 2-6 Overview: Partial Exemption for Establishments in Certain Industries. Source: OSHA, 29 CFR 1904.2, Partial Exemption for Establishments in Certain Industries, p. 6122, public domain.

> OSHA has decided in the final rule to continue to use a formula that will exempt retail, finance, and services industries from most recordkeeping requirements if they have a days-away, restricted, or transferred (DART) rate that is at or below 75% of the national average rate. OSHA believes that the 75% threshold will make sure that only industries with relatively low injury and illness rates are exempted from these requirements. Using the national average DART rate, rather than 75% of the national DART rate, as the threshold for exemption purposes would exempt employers whose industries were average merely in terms of their DART rate.[1(p. 5941)]

Figure 2-7 DART Used for Small Business Exemptions. Source: *Federal Register*, Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Preamble, pp. 5916–6122, public domain.

You may want to check the OSHA website (http://www.osha.gov/recordkeeping/index.html) for a link to the SIC search website (http://www.osha.gov/oshstats/sicser.html) appendix (1904.2(b)(3), FR p. 6122), or North America Industrial Classification System (NAICS; http://www.census.gov/Eped/www/Naics.html).

KEEPING RECORDS FOR MORE THAN ONE AGENCY, SECTION 1904.3

If you create records to comply with another government agency's injury and illness recordkeeping requirements, OSHA considers those records as meeting OSHA's recordkeeping requirements if OSHA accepts the other agency's records under a memorandum of understanding with that agency or if the other agency's records contain the same information as Part 1904 requires you to record. You may contact your nearest OSHA office or state agency for help in determining if your records meet OSHA's requirements (1904.3, FR p. 6123).

RECORDKEEPING FORMS AND RECORDING CRITERIA—SUBPART C

Subpart C describes the work-related injuries and illnesses that an employer must enter on the OSHA log and explains the OSHA forms that employers must use to record any work-related fatalities, injuries, and illnesses (Subpart C, 1904, FR p. 6123).

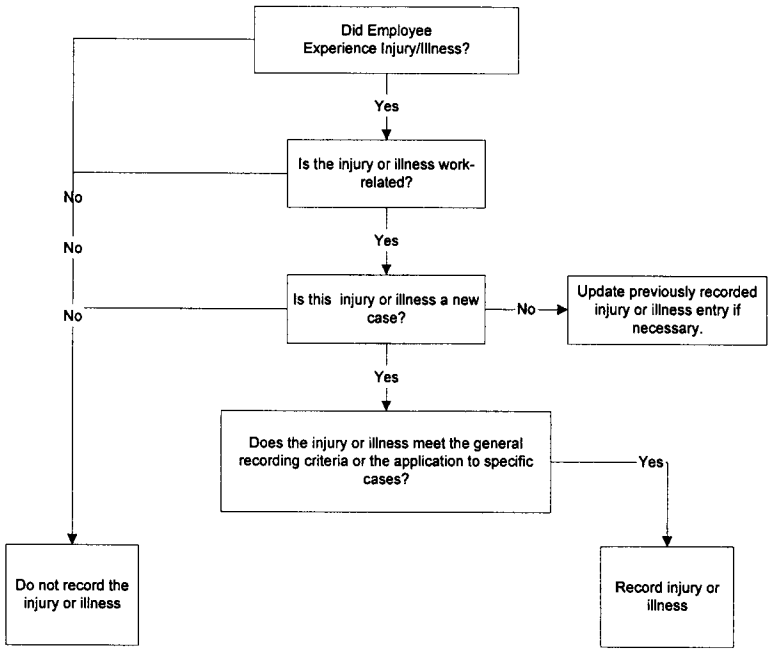

Figure 2-8 Determining Recordkeeping Status: Recording Criteria. *Federal Register*, Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Final Rule, p. 6124, public domain.

Section 1904.4 provides an overview of the requirements in Subpart C and contains a flowchart (see Figure 2-8). How employers are to determine if a given injury or illness is work related is defined in section 1904.5. Section 1904.6 provides the requirement that employers must follow to determine if a work-related injury or illness is a new case or the continuation of a previously recorded injury or illness. Sections 1904.7 through 1904.12 contain the recording criteria for determining which new work-related injuries and illnesses must be recorded. Section 1904.29 explains which forms must be used and indicates the circumstances under which the employer may use substitute forms.

RECORDING CRITERIA, SECTION 1904.4

Table 2-1 summarizes the recordkeeping changes to Part 1904 and can be used to explain some of the differences between the former rule and the new rule.

Table 2-1
Changes to Part 1904 – Recordkeeping

Subject	Current Requirement	New Requirement
1904.5(a)—Preexisting conditions are work related if aggravated by the work environment	"Aggravated"	"Significantly aggravated"
1904.5(b)(2)(iv)—Eating, drinking, preparing food for personal consumption	Work related	Not work related
1904.5(b)(2)(v)—Employee doing personal tasks on premises outside of employee's assigned working hours	Work related	Not work related
1904.5(b)(2)(vi)—Personal grooming, self-medication for nonwork condition, self-inflicted intentionally	Work related	Not work related
1904.5(b)(2)(vii)—Commuting to and from work	Second commute work related	Not work related
1904.7(b)(1)(vi)—Diagnosis of illness	Anyone can diagnose	Doctors and licensed health care professionals can diagnose
1904.7(b)(3)—Number of days away from work	Scheduled workdays	Calendar days
1904.7(b)(3)(ii)—Doctor recommends time-off but employee works anyway	Not days away from work	Must count these days away from work anyway
1904.7(b)(3)(viii)—Cap on days away from work	5 years	180 calendar days
1904.7(b)(4)(iii)—Restriction on day of injury only	Recordable "52(c)(2)"	Not recordable
1904.7(b)(4)(ii)—Routine functions of an employee's job	Any job within next 12 months	Any activity performed at least once per week
1904.7(b)(4)(viii)—Doctor recommends job restriction but employee performs all duties	Not restricted duty	Must count these days as restricted duty anyway
1904.7(b)(5)(i)(B)—Prescription medications used solely for diagnostic purposes	Recordable beyond a single dose	Not recordable

Table 2-1
Continued

Subject	Current Requirement	New Requirement
1904.7(b)(5)(ii)(A)—Use of a nonprescription medication in prescription strength	Not recordable	Recordable
1904.7(b)(5)(ii)(D)—Butterfly bandages and Steri-Strips	Recordable	Not recordable
1904.7(b)(5)(ii)(E)—Hot and cold therapy	Recordable on second or subsequent visit	Not recordable
1904.7(b)(5)(ii)(H)—Drilling a fingernail or draining a blister	Recordable	Not recordable
1904.7(b)(5)(ii)(M)—Message therapy	Recordable on second or subsequent visit	Not recordable
1904.8(a)—Needlesticks and cuts contaminated with potentially infection materials	Recordable if seroconverts or postexposure treatment	Recordable
1904.10(a)—Hearing loss	25 dB, except six states (NC, SC, TN, MI, OR, CA require recording at 10 dB)	25 dB
1904.12—Musculoskeletal disorders	Subjective symptoms only not recordable; 30-day rule for new cases	All new cases recordable
1904.29(a)—Forms	200 and 101	300 (Log) 300A (Summary) 301 (Incident Report)
1904.29(b)(3)—How soon to record	Within six working days	Within seven calendar days
1904.29(b)(6)—Privacy	All names must be provided	Privacy concern cases do not require names

Table 2-1
Continued

Subject	Current Requirement	New Requirement
1904.32(b)(3)—Certifying the annual summary	Totals verified by anyone	Certified by an executive
1904.32(b)(6)—Posting the summary	February 1–28	February 1–April 30
1904.35(a)(1)—Inform employees of how they report injuries and illnesses	Not required	Required
1904.35(b)(2)(iii)—Deadline for providing a copy of 300 Form to employees	No deadline	End of next business day
1904.39—Reporting fatalities to OSHA	Report all work-related fatalities	Not required to report: • Motor-vehicle fatalities on a public road • Fatalities on a public conveyance
1904.39(b)(6)—Fatalities long after the incident	Report all work-related fatalities	Not required to report death if occurs more than 30 days after the incident
1904.40(a)—Providing access of records to OSHA	Not specified	Within four hours
1904.44—Retention and updating 200 Form	Keep current for five years	Not required to update old 200s, but retain 300s for five years

The new injury and illness recordkeeping standard was published in the *Federal Register* on January 19, 2001, and became effective January 1, 2002. This is a summary of the key changes to the current rules and interpretations.

Source: Coble, David, F., *Guide to OSHA Recordkeeping*, CTJ Safety Associates, LLC, Changes to Part 1904—Recordkeeping Attachment I, pp. 46–50, Pulp and Paper Safety Association (PPSA) presentation, Atlanta, GA, October 2001. Table created by Bill Taylor, CSP. Reproduced and modified with permission.

Each employer is required to keep records of fatalities, injuries, and illnesses and must record each fatality, injury, and illness that

- Is work-related.
- Is a new case.
- Meets one or more of the general recording criteria of §1904.7 or the application to specific cases of §1904.8 through §1904.12 (1904.4(a), FR p. 6123; see also Appendix D, Question 4-1, p. 297).

Figure 2-9 presents an overview of determining recordkeeping criteria. These are discussed in more detail in various section of the rule.

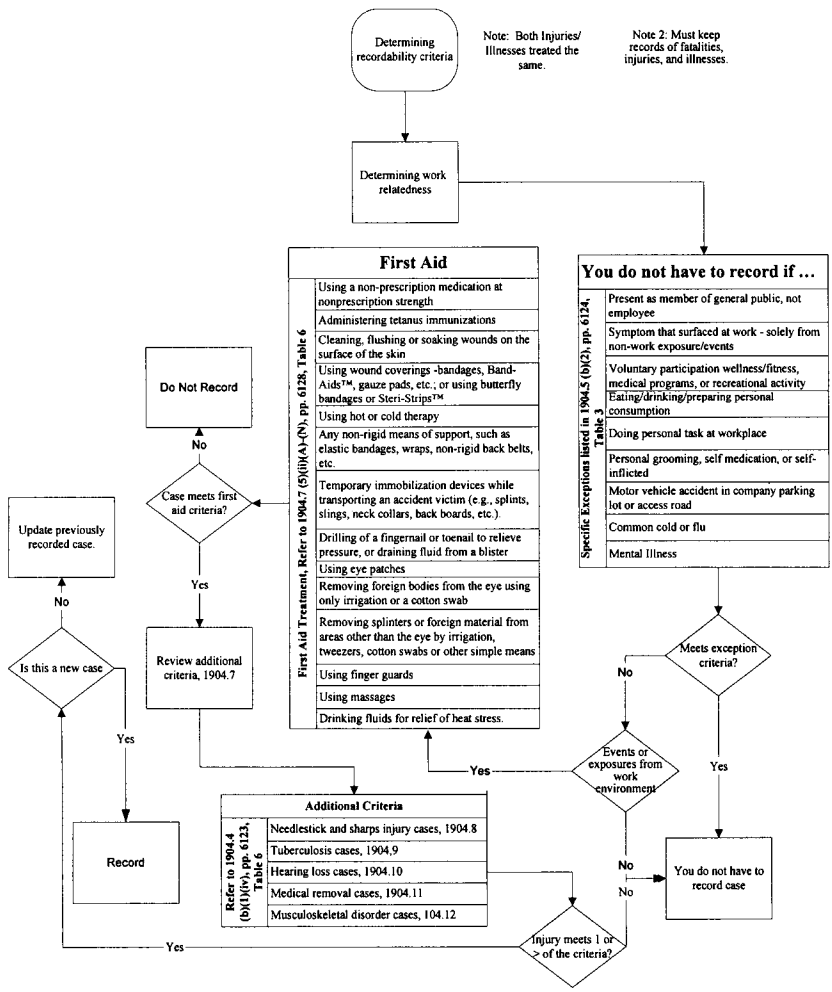

Figure 2-9 Basic System Overview: Determining Recordkeeping Criteria
Notes: Both injuries and illnesses are treated the same. Employers must keep records of fatalities, injuries, and illnesses. Source: OSHA, 29 CFR 1904.4, Recording Criteria, Subpart C, Recording Form and Recording Criteria, p. 6123, public domain.

Table 2-2
Summary of Sections of Recording Criteria for Specific Sections

Section	Reference
Determination of work relatedness	1904.5
Determination of a new case	1904.6
General recording criteria	1904.7
Needlestick and sharps cases	1904.8
Medical removal cases	1904.9
Hearing loss cases	1904.10
Tuberculosis cases	1904.11
Musculoskeletal disorder cases	1904.12

Source: 29 CFR 1904.4, Recording Criteria for Specific Sections (1904.4(b)(1)(i)–(iv), p. 6123, public domain.

Q: What sections of this rule describe recording criteria for recording work-related injuries and illnesses?
A: Table 2-2 indicates which section of the rule addresses each topic (1904.4(b)(1), FR p. 6123).
Q: How do I decide if a particular injury or illness is recordable?
A: As indicated in the preceding text, Figure 2-8 provides an overview for recording work-related injuries and illnesses, showing the steps involved in making this determination.

DETERMINATION OF WORK-RELATEDNESS, SECTION 1904.5

Under the final rule's exceptions to the geographic presumption, nine exceptions to the work environment presumption are listed in 1904.5(b)(2) (see Table 2-3). These exceptions are intended to exclude from the recordkeeping system those injuries and illnesses that occur or manifest in the work environment but have been identified by OSHA, based on its years of experience with recordkeeping, as cases that do not provide information useful to the identification of occupational injuries and illnesses and would thus tend to skew national injury and illness statistics. These nine exceptions are the only exceptions to the presumption permitted by the final rule.[1(p. 5950)]

Injuries or illnesses are not considered work related if, at the time of the injury or illness, the employee was present in the work environment as a member of the general public rather than as an employee. This

Table 2-3
Exception to Work-Relatedness (1904.5(b)(2))

(1904.5(b)(2))	You are not required to record injuries and illnesses if the following applies:
(i)	At the time of the injury or illness, the employee was present in the work environment as a member of the general public rather than as an employee.
(ii)	The injury or illness involves signs or symptoms that surface at work but result solely from a non-work-related event or exposure that occurs outside the work environment. See Appendix D, Question 5-8, p. 299.
(iii)	The injury or illness results solely from voluntary participation in a wellness program or in a medical, fitness, or recreational activity such as blood donation, physical examination, flu shot, exercise class, racquetball, or baseball.
(iv)	The injury or illness is solely the result of an employee eating, drinking, or preparing food or drink for employee consumption (if bought on the employer's premises or brought in). For example, if the employee is injured by choking on a sandwich while in the employer's establishment, the case would not be considered work related. Note: If the employee is made ill by ingesting food contaminated by workplace contaminants (such as lead) or gets food poisoning from food supplied by the employer, the case would be considered work related. See Figure 2-9, Note 1.
(v)	The injury or illness is solely the result of an employee doing employee tasks (unrelated to their employment) at the establishment outside of the employee's assigned working hours. See Appendix D, Questions 5-4 and 5-5, p. 298.
(vi)	The injury or illness is solely the result of employee grooming, self-medication for a non-work-related condition, or is intentionally self-inflicted. See Figure 2-9, Note 2. See also Appendix D, Question 5-3, p. 298.
(vii)	The illness is the common cold or flu (Note: contagious diseases, such as tuberculosis, brucellosis, hepatitis A, or plague are considered work related if the employee is infected at work.) See Figure 2-9, Note 3. See also Appendix D, Question 5-9, p. 299.
(viii)	The injury and illness is caused by a motor accident and occurs on a company parking lot or company access road while the employee is commuting to or from work.

Table 2-3
Continued

(ix)	The illness is a mental illness. Mental illness will not be considered work related unless the employee voluntarily provides the employer with an opinion from a physician or other licensed health care professional with appropriate training and experience (psychiatrist, psychologist, psychiatric nurse practitioner, etc.) stating that the employee has a mental illness that is work related. See Figure 2-9, Note 4.

Source: 29 CFR, 1904.5(b)(2)(i)–(ix), Determination of Work-Related Injuries and Illnesses, pp. 6124–6125, public domain.

exception, which is codified at paragraph 1904.5(b)(2)(i), is based on the fact that no employment relationship is in place at the time an injury or illness of this type occurs. For example, a case exemplifying this exception would occur if an employee of a retail store patronized that store as a customer on a nonwork day and was injured in a fall. This exception allows the employer not to record cases that occur outside of the employment relationship when his or her establishment is also a public place and an employee happens to be using the facility as a member of the general public. In these situations, the injury or illness has nothing to do with the employee's work or the employee's status as an employee, and it would therefore be inappropriate for the recordkeeping system to capture the case.[1(p. 5950)]

Injuries or illnesses will not be considered work related if they involve symptoms that surface at work but result solely from a non-work-related event or exposure that occurs outside the work environment. The recordkeeping system is intended to capture only cases caused by conditions or exposures arising in the work environment. It is not designed to capture cases that have no relationship to the work environment. For this exception to apply, the work environment cannot have caused, contributed to, or significantly aggravated the injury or illness. This exception is consistent with the position followed by OSHA for many years and reiterated in the final rule, that any job-related contribution to the injury or illness makes the incident work related, and its corollary, that any injury or illness where work makes no actual contribution is not work related. An example of this type of injury would be a diabetic incident that occurs while an employee is working. Because no event or exposure at work contributed in any way to the diabetic incident, the case is not recordable. This exception allows the employer to exclude cases where an employee's nonwork activities are the sole cause of the injury or illness.[1(p. 5950)]

Injuries and illnesses are not considered work related if they result solely from voluntary participation in a wellness program or in a

medical, fitness, or recreational activity such as blood donation, physical, flu shot, exercise classes, racquetball, or baseball. This exception allows the employer to exclude certain injury or illness cases related to the employee medical care, physical fitness activities, and voluntary blood donations. The key words under this exception are *solely* and *voluntary*. The work environment cannot have contributed to the injury or illness in any way for this exception to apply, and participation in the wellness, fitness, or recreational activities must be voluntary and not a condition of employment. For example, if there is a company policy or a requirement to participate in work activities then the case could be recordable.[1(p. 5950)]

For example, if a clerical employee was injured while performing aerobics in the company gymnasium during their lunch hour, the case would not be work related. On the other hand, if an employee who was assigned to manage the gymnasium was injured while teaching that aerobics class, the injury would be work related because the employee was working at the time of the injury and the activity was not voluntary. Similarly, if an employee suffered a severe reaction to a flu shot that was administered as part of a voluntary inoculation program, the case would not be considered work related; however, if an employee suffered a reaction to medications administered to enable the employee to travel overseas on business or the employee had an illness reaction to a medication administered to treat a work-related injury, the case would be considered work related.[1(pp. 5050–5051)]

Injuries and illnesses are not considered work related if they are solely the result of an employee eating, drinking, or preparing food or drink for employee consumption (if bought on the premises or brought in). This exception responds to a situation that has given rise to many letters of interpretation and caused concern over the years. In addition, a note to the exception makes it clear that, if an employee becomes ill as a result of ingesting food contaminated by workplace contaminants such as lead or contracts food poisoning from food items provided by the employer, the case would be considered work related. As a result, if an employee contracts food poisoning from a sandwich brought from home or purchased in the company cafeteria and must take time off to recover, the case is not considered work related. On the other hand, if an employee contracts food poisoning from a meal provided by the employer at a business meeting or company function and takes time off to recover, the case would be considered work related. Food provided or supplied by the employer does not include food purchased by the employee from the company cafeteria but does include food purchased by the employer from the company cafeteria for business meetings or other company functions. OSHA believes that the number of cases where this exception applies will be few.[1(p. 5951)]

OSHA decided to maintain the exclusion for intentionally self-inflicted injuries that occur in the work environment in the final rule. The agency believes that when a self-inflicted injury occurs in the work environment, the case is analogous to one when the signs or symptoms of a preexisting, nonoccupational injury or illness happen to arise at work and that such cases should be excluded for the same reasons.[1(p. 5956)]

In paragraph 1904.5(b)(4), the final rule makes an important change to the former rule's position on the extent of the workplace aggravation of a preexisting injury or illness that must occur before the case is considered work related. In the past, any amount of aggravation of such an injury or illness was considered sufficient for this purpose. The final rule, however, requires that the amount of aggravation of the injury or illness that work contributes must be "significant," for example, nonminor, before work-relatedness is established. The preexisting injury or illness must be one caused entirely by nonoccupational factors.[1(p. 5959)]

You must consider an injury or illness to be work related if an event or exposure in the work environment either caused or contributed to the resulting condition or significantly aggravated a preexisting injury or illness. Work-relatedness is presumed for injuries and illnesses resulting from events or exposures occurring in the work environment, unless an exception in §1904.5(b)(2) specifically applies (1904.5(2), FR p. 6124). Figure 2-10 summarizes OSHA's approach to a work relationship. Figure 2-11 is a decision tree that can be used to determine the level of recordability. In addition, Figure 2-12 is a flowchart on establishing a work relationship.

Q: What is the "work environment"?

A: OSHA defines the *work environment* as "the establishment and other locations where one or more employees are working or are present as a condition of their employment. The work environment includes not only physical locations, but also the equipment or materials used by the employee during the course of his or her work" (1904.5(b)(i), FR p. 6124) See Appendix D, Questions Q 5-1, p. 297, and Q 5-6, p. 298, for some examples. Figure 2-13 summarizes OSHA's definition of work environment.

Q: Are there situations where an injury or illness occurs in the work environment and is not considered work related?

A: Yes, an injury or illness occurring in the work environment that falls under one of the exceptions listed in Table 2-3 is not work related and therefore not recordable (1904.5(b)(2), FR p. 6124). In addition, Figure 2-14 contains notes from Preamble regarding exceptions to work-relatedness. These notes will help you clearly understand some of the thinking of OSHA and why the changes

OSHA's approach to the work relationship in both the former and the final recordkeeping rules reflects two important principles. The first is that work need be only a causal factor for an injury or illness to be work related. The rule requires neither precise quantification of the occupational cause nor an assessment of the relative weight of occupational and nonoccupational causal factors. If work is a tangible, discernible causal factor, the injury or illness is work related. The second principle is that a "geographic presumption" applies for injuries and illnesses caused by events or exposures that occur in the work environment. These injuries and illnesses must be considered work related unless an exception to the presumption specifically applies.[1(p. 5929)]

The final rule sets out the requirement employers must follow in determining if a given injury or illness is work related. Paragraph 1904.5(a) states that an injury or illness must be considered work related if an event or exposure in the work environment caused or contributed to the injury or illness or significantly aggravated a preexisting injury or illness. It stipulates that, for OSHA recordkeeping purposes, work relationship is presumed for such injuries and illnesses unless an exception listed in paragraph 1904.5(b)(2) specifically applies.

Section 8(c)(2) of the OSHA act directs the Secretary of Labor to issue regulations requiring employers to record "work-related" injuries and illnesses. It is implicit in this wording that there must be a causal connection between the employment and the injury or illness before the case is recordable. For most types of industrial accidents involving traumatic injuries (for example, amputations, fractures, burns, and electrocutions) a causal connection is easily determined because the injury arises from forces, equipment, activities, or conditions inherent in the work environment. There is general agreement that, when an employee is struck by or caught in moving machinery or is crushed in a construction cave-in, the case is work related. It is also accepted that a variety of illnesses are associated with exposure to toxic substances, such as lead and cadmium, used in industrial processes. There is little question that cases of lead or cadmium poisoning are work related if the employee is exposed to these substances at work.

On the other hand, a number of injuries and illnesses that occur, or manifest themselves, at work are caused by a combination of factors, for example, performing job-related bending and lifting motions and other effects such as a preexisting medical condition. In many such cases, it is likely that these type of factors have played a tangible role in causing the injury or illness but one that cannot be readily quantified as "significant" or "predominant" in comparison with the employee factors involved.

Injuries and illnesses also occur at work that have no clear connection to a specific work activity, condition, or substance that is peculiar to the employment environment. For example, an employee may trip for no apparent reason while walking across a level factory floor, be sexually assaulted by a coemployee, or be injured accidentally as a result of an act of violence perpetrated by one coemployee against a third party. In these and similar cases, the employee's job-related tasks or exposures did not create or contribute to the risk that such an injury would occur. Instead, a causal connection is established by the fact that the injury would not have occurred but for the conditions and obligations of employment that placed the employee in the position when he or she was injured or made ill.

Under paragraph 1904.5(b)(1), and defined in the definition section, the *work environment* means "the establishment and other locations where one or more

Figure 2-10 OSHA's Approach to the Work Relationship. Source: *Federal Register*, Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Preamble, pp. 5916–6122, public domain.

employees are working or are present as a condition of their employment. The work environment includes not only physical locations, but also equipment or materials used by the employee during the course of his or her work." See Appendix D, Questions 5-1 through 5-7 for examples.

The final rule requires that the work event or exposure "significantly" aggravate a preexisting injury or illness.[1(p. 5946)]

OSHA concluded that the employer makes the best determination of work-relatedness, as it has been in the past. Employers are in the best position to obtain the information, both from the employee and the workplace, necessary to make this determination. Although expert advice may occasionally be sought by employers in particularly complex cases, the final rule provides that the determination of work relatedness ultimately rests with the employer.[1(p. 5950)]

For example, if an employee was injured in a flood while at work, the case would be work related, even though the flood could be considered an act of God. Accordingly, if workplace injuries and illnesses result from these events, they must be entered into the records.[1(p. 5958)]

OSHA recordkeeping regulation does not apply to non-U.S. operations, and injuries or illnesses that may occur to an employee traveling outside the United States need not be recorded on the OSHA 300 Log.[1(p. 5961)]

Figure 2-10 *Continued.*

were defined. To further help you understand work relatedness, Figure 2-15 reviews some addition examples of selected cases discussed in the Preamble.

Q: How do I handle a case if it is not obvious whether the precipitating event or exposure occurred in the work environment or away from work?

A: In these situations, you must evaluate the employee's work duties and environment to decide if one or more events or exposures in the work environment either caused or contributed to the resulting condition or significantly aggravated a preexisting condition (1904.5(b)(3), FR p. 6125). To accomplish this, consider developing and maintaining a job hazard analysis (JHA) for each job step/task. These JHAs help define specific tasks as they relate to the entire job. Chapter 4 presents an overview of how to conduct a JHA.

Q: How do I know if an event or exposure in the work environment "significantly aggravated" a preexisting injury or illness?

A: A preexisting injury or illness has been significantly aggravated when an event or exposure in the work environment results in any of the following:

- Death, provided that the preexisting injury or illness would likely not have resulted in death but for the occupational event or exposure.

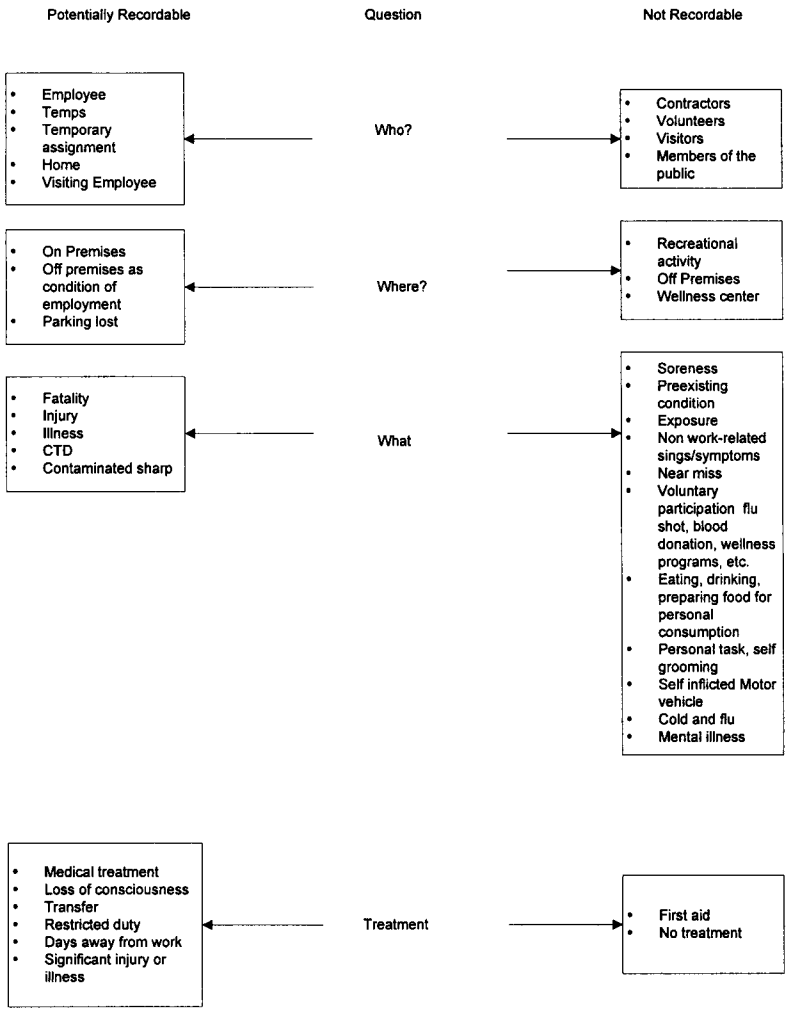

Figure 2-11 Recordkeeping Decision Tree. Source: Coble, David, F. *Guide to OSHA Recordkeeping.* CTJ Safety Associates, LLC, Chart 5, pp. 2–9, Pulp and Paper Safety Association (PPSA) Presentation, Atlanta, GA, October 2001, chart created by Bill Taylor, CAP, modified with permission.

- Loss of consciousness, provided that the preexisting injury or illness would likely not have resulted in loss of consciousness but for the occupational event or exposure.
- One or more days away from work, or days of restricted work, or days of job transfer that otherwise would not have occurred but for the occupational event or exposure.
- Medical treatment in a case where no medical treatment was needed for the injury or illness before the workplace event or exposure or a change in medical treatment was necessitated by

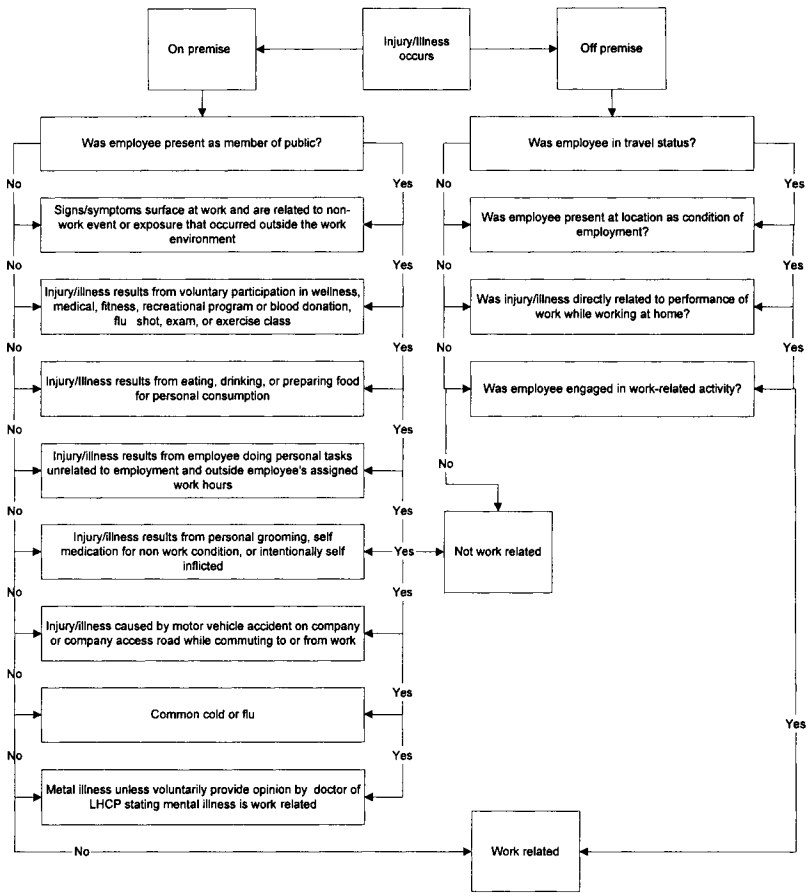

Figure 2-12 Establishing a Work Relationship. Source: Coble, David, F. *Guide to OSHA Recordkeeping.* CTJ Safety Associates, LLC, Chart 3, pp. 2–5, Pulp and Paper Safety Association (PPSA) Presentation, Atlanta, GA, October 2001, chart created by Bill Taylor, CAP, modified with permission.

the workplace event or exposure (1904.5(4)(i)–(iv), FR p. 6125; see also Appendix D, Section 1904.5, p. 297).

Figure 2-16 helps you determine whether the condition was significantly aggravated by the work environment using the "but for" formula. Figures 2-17 and 2-18 show a different look at OSHA's way of thinking about conditions aggravated by events or exposures in the work environment.

Q: Which injuries and illnesses are considered preexisting conditions?

A: An injury or illness is a preexisting condition if it resulted solely from a non-work-related event or exposure that occurred outside

The Paragraph (b)(1) definition of *work environment* makes it clear that the work environment includes the physical locations where employees work and the equipment and materials used by the employee to perform work.[1(p. 5946)]

Figure 2-13 Work Environment Defined. Source: *Federal Register*, Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Preamble, pp. 5916–6122, public domain.

Note 1

An example of the application of this exception would be a case where the employee injured himself or herself by choking on a sandwich brought from home but eaten in the employer's establishment; such a case would not be considered work related under this exception. On the other hand, if the employee was injured by a trip or fall hazard present in the employer's lunchroom, the case would be considered work related.[1(p. 5951)]

Note 2

For example, a burn injury from a hair dryer used at work to dry the employee's hair would not be work related. Similarly, a negative reaction to a medication brought from home to treat a nonwork condition would not be considered a work-related illness, even though it first manifested at work.[1(p. 5951)]

Note 3

In the case of other infectious diseases, such as tuberculosis, brucellosis, and hepatitis C, employers must evaluate reports of such illnesses for work relationship, just as they would any other type of injury or illness.[1(p. 5952)]

Note 4

OSHA agrees that recording work-related mental illnesses involves several unique issues, including the difficulty of detecting, diagnosing, and verifying mental illnesses and the sensitivity and privacy concerns raised by mental illnesses. The final rule requires employers to record only those mental illnesses verified by a health care professional with the appropriate training and experience in the treatment of mental illness, such as a psychiatrist, psychologist, or psychiatric nurse practitioner. The employer is under no obligation to seek out information on mental illnesses from its employees, and employers are required to consider mental illness cases only when an employee voluntarily presents the employer with an opinion from the health care professional that the employee has a mental illness and that it is work related. In the event that the employer does not believe the reported mental illness is work related, the employer may refer the case to a physician or other licensed health care professional for a second opinion.[1(p. 5953)]

In addition, for mental illnesses, the employee's identity must be protected by omitting the employee's name from the OSHA 300 Log and instead entering "privacy concern case" as required by §1904.29.[1(p. 5953)]

Figure 2-14 Notes from the Preamble on Exceptions to Work-Relatedness. Source: *Federal Register*, Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Preamble, pp. 5916–6122, public domain.

In the final rule, OSHA decided not to exclude from recording those injury and illness cases involving acts of violence against employees by family members or ex-spouses that occur in the work environment or cases involving other types of violence-related injuries and illnesses.[1(p. 5955)]

Some cases of violence are excluded under §1904.5(b)(2)(v), see Table 2-4, which exempts an injury or illness that is solely the result of an employee doing employee tasks (unrelated to his or her employment) at the establishment outside of the employee's assigned working hours. For example, if an employee arrives at work early to use a company conference room for a civic club meeting and is injured by some violent act, the case would not be considered work related.[1(p. 5955)]

In another example, if an employee reports pain and swelling in a joint but cannot say whether the symptoms first arose during work or during recreational activities at home, it may be difficult for the employer to decide if the case is work related. The same problem arises when an employee reports symptoms of a contagious disease that affects the public at large, such as a staphylococcus ("staph") infection or Lyme disease, and the workplace is only one possible source of the infection. In these situations, the employer must examine the employee's work duties and environment to determine whether it is more likely than not that one or more events or exposures at work caused or contributed to the condition. If the employer determines that it is unlikely that the precipitating event or exposure occurred in the work environment, the employer would not record the case.[1(p. 5958)]

If an event, such as a fall, an awkward motion or lift, an assault, or an instance of horseplay, occurs at work, the geographic presumption applies and the case is work related unless it otherwise falls under the list referenced in Table 2-3. As discussed in the definition section, if an employee trips while walking across a level factory floor, the resulting injury is considered work related under the geographic presumption because the precipitating event, the tripping accident, occurred in the workplace. The case is work related even if the employer cannot determine why the employee tripped or if any particular workplace hazard caused the accident to occur.

If an employee reports an injury at work but cannot say if it resulted from an event that occurred at work or at home, as in the example of a swollen joint, the employer might determine that the case is not work related because the employee's work duties were unlikely to have caused, contributed to, or significantly aggravated such an injury.[1(p. 5959)]

Figure 2-15 Examples of Selected Cases. Source: *Federal Register*, Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Preamble, pp. 5916–6122, public domain.

the work environment (1904.5, FR p. 6125). Figure 2-19 discusses preexisting injury and illness.

Q: How do I decide if an injury or illness is work related if the employee is on travel status at the time the injury or illness occurs?

A: Injuries and illnesses that occur while an employee is on travel status are work related if, at the time of the injury or illness, the employee was engaged in work activities "in the interest of the employer." Another commonly used phrase is "in the course of employment." No matter which term you use, you must determine if a specific case is work related. Examples of such activities

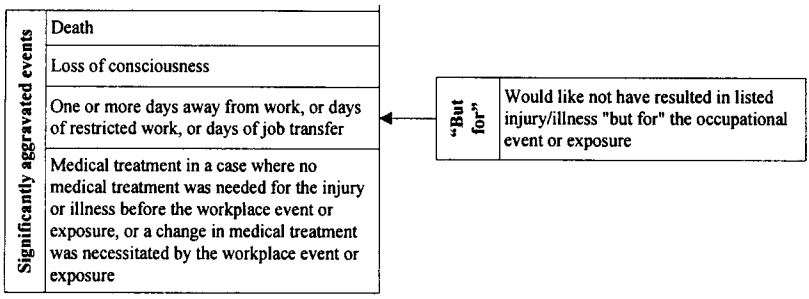

Figure 2-16 Determination of Significantly Aggravated: Using the "But For" Formula. Source: OSHA, 29 CFR 1904.5(b)(4)(i)–(iv), How Do I Know If an Event or Exposure in the Work Environment "Significantly Aggravated" a Preexisting Injury or Illness?, p. 6125, public domain.

> OSHA also believes that preexisting injury or illness cases that have been aggravated by events or exposures in the work environment represent cases that should be recorded, because work has clearly worsened the injury or illness. OSHA is concerned that, in some cases the work-related aggravation affects the preexisting case in only a minor way, for example, in a way that does not appreciably worsen the preexisting condition, alter its nature, change the extent of the medical treatment, trigger lost time, or require job transfer. Accordingly, the final rule requires that workplace events or exposures must "significantly" aggravate a preexisting injury or illness case before the case is presumed to be work related.[1(p. 5959)]

Figure 2-17 Representative Cases Aggravated by Events or Exposures in the Work Environment. Source: *Federal Register*, Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Preamble, pp. 5916–6122, public domain.

> Paragraph 1904.5(b)(4) of the final rule defines aggravation as *significant* if the contribution of the aggravation at work is such that it results in tangible consequences that go beyond those that the employee would have experienced as a result of the preexisting injury or illness alone, absent the aggravating effects of the workplace. Preexisting injury or illness will be considered to have been significantly aggravated when an event or exposure in the work environment results in
>
> - Death, providing that the preexisting injury or illness would likely not have resulted in death but for the occupational event or exposure.
> - Loss of consciousness, providing that the preexisting injury or illness would likely not have resulted in loss of consciousness but for the occupational event or exposure.
> - A day or days away from work, restricted work, or a job transfer that otherwise would not have occurred but for the occupational event or exposure.

Figure 2-18 Significantly Aggravated Defined. Source: *Federal Register*, Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Preamble, pp. 5916–6122, public domain.

- Medical treatment where no medical treatment was needed for the injury or illness before the workplace event or exposure, or a change in the course of medical treatment that was being provided before the workplace event or exposure.

OSHA's decision not to require the recording of cases involving only minor aggravation of preexisting conditions is consistent with its efforts to require the recording only of nonminor injuries and illnesses; for example, the final rule also no longer requires employers to record minor illnesses.[1(pp. 5959–5960),4(p. 6124)]

Figure 2-18 *Continued.*

Preexisting conditions also include any injury or illness that the employee experienced while working for another employer.[1(pp. 5959–5960)]

As an example, the work-environment presumption clearly applies to the case of a delivery driver who experiences an injury to his or her back while loading boxes and transporting them into a building. The employee is engaged in a work activity and the injury resulted from an event, loading or unloading, occurring in the work environment.[1(pp. 5959–5960)]

Figure 2-19 Preexisting Conditions. Source: *Federal Register*, Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Preamble, pp. 5916–6122, public domain.

include travel to and from customer contacts, conducting job tasks, and entertaining or being entertained to transact, discuss, or promote business. (Note: Work-related entertainment includes only entertainment activities being engaged in at the direction of the employer) (1904.5(6), FR p. 6125). Figure 2-20 helps you determine the employee's travel status, Figure 2-21 presents an exception for travel status situations, and Figure 2-22 has some additional examples. Injuries or illnesses that occur when the employee is on travel status do not have to be recorded if they meet one of the exceptions listed in Table 2-4.

Q: How do I decide if a case is work related when the employee is working at home?

A: Injuries and illnesses that occur when an employee is working at home, including work in a home office, are considered work related if the injury or illness occurs while the employee is performing work for pay or compensation in the home and the injury or illness is directly related to the performance of work rather than to the general home environment or setting. Here are some examples OSHA cited:

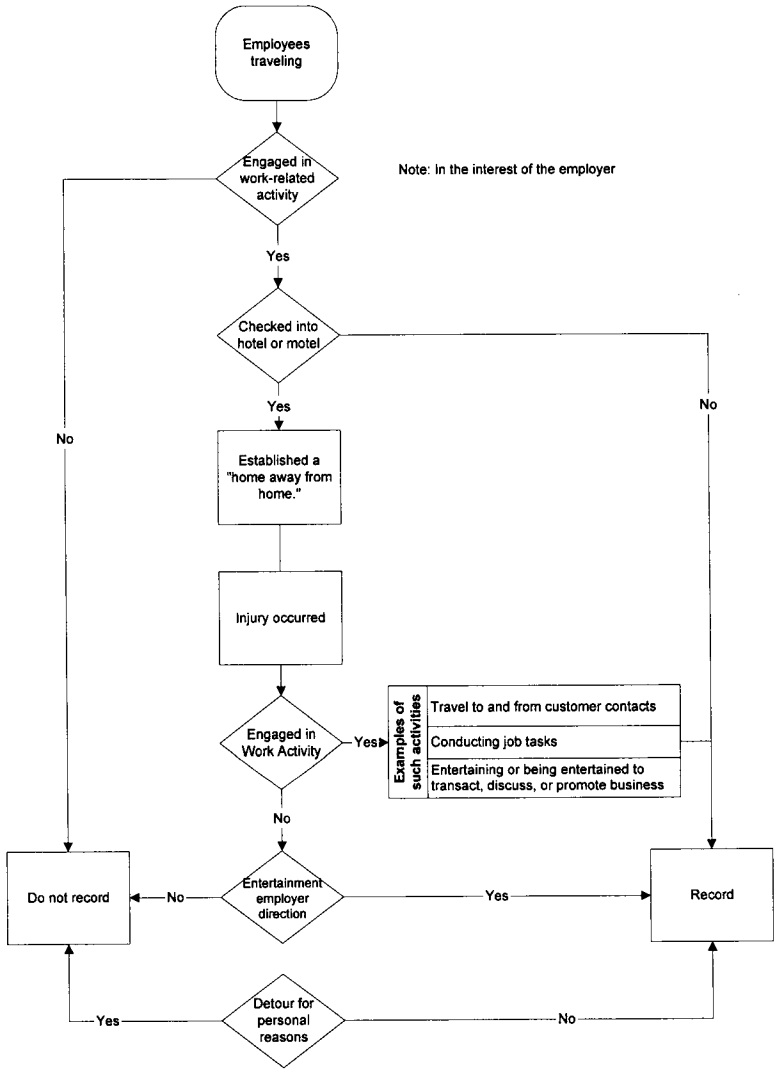

Figure 2-20 Determining Employee Travel Status.

- If an employee drops a box of work documents and injures his or her foot, the case is considered work related.
- If an employee's fingernail is punctured by a needle from a sewing machine used to perform garment work at home, becomes infected, and requires medical treatment, the injury is considered work related.
- If an employee is injured because he or she trips on the family dog while rushing to answer a work phone call, the case is not considered work related.

The final rule contains three exceptions for travel-status situations. The rule describes situations where injuries or illnesses sustained by traveling employees are not considered work related and therefore need not be recorded. First, when a traveling employee checks into a hotel, motel, or other temporary residence, he or she is considered to have established a "home away from home." At this time, the status of the employee is the same as that of an employee working at an establishment who leaves work and is essentially "at home." Injuries and illnesses that occur at home are generally not considered work related. However, just as an employer may sometimes be required to record an injury or illness occurring to an employee working in his or her home, the employer is required to record an injury or illness occurring to an employee who is working in his or her hotel room (see the section on working at home). See Table 2-4 and Figures 2-23 and 2-24.

Second, if an employee has established a "home away from home" and is reporting to a fixed work site each day, the employer does not consider injuries or illnesses work related if they occur while the employee is commuting between the temporary residence and the job location. These cases are parallel to those involving employees commuting to and from work when they are at their home location and do not have to be recorded, just as injuries and illnesses that occur during normal commuting are not required to be recorded.

Third, the employer is not required to consider an injury or illness to be work related if it occurs while the employee is on an employee detour from the route of business travel. This exception allows the employer to exclude injuries and illnesses that occur when the employee has taken a side trip for employee reasons while on a business trip, such as a vacation or sightseeing excursion, to visit relatives, or for some other employee purpose.[1(p. 5960)] See Table 2-5.

Figure 2-21 OSHA Exception for Travel Status Situations. Source: *Federal Register*, Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Preamble, pp. 5916-6122, public domain.

When an employee is engaged in an activity at a location away from the establishment, any injury or illness occurring during that activity is considered work related if the employee is present as a condition of employment; for example, the employee is assigned to represent the company at a local charity event. For those situations where the employee is engaged in volunteer work away from the establishment and is not working or present as a condition of employment, the case is not considered work related under the general definition of work relationship. There is thus no need for a special exception.[1(pp. 5957 and 5959)]

Similarly, if an employee is injured in an automobile accident while running errands for the company or traveling to make a speech on behalf of the company, the employee is present at the scene as a condition of employment and any resulting injury would be work related.[1(pp. 5959–5960)]

The issue is not whether the conditions could have, or should have, been prevented or whether they were controllable but simply whether they are

Figure 2-22 Additional Examples on Travel Status. Source: *Federal Register*, Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Preamble, pp. 5916–6122, public domain.

occupational, for example, related to work. This is true regardless of whether the employee is injured while on travel or while present at the employer's workplace. An employee who is injured in an automobile accident or killed in an airline crash while traveling for the company has clearly experienced a work-related injury that is included in the OSHA injury and illness records and the nation's occupational injury and illness statistics.[1(p. 5961)]

Not all injuries and illnesses sustained in the course of business-related entertainment are recordable. To be recordable, the entertainment activity must be one that the employee engages in at the direction of the employer. Business-related entertainment activities undertaken voluntarily by an employee in the exercise of his or her discretion are not covered by the rule. For example, if an employee attending a professional conference at the direction of the employer goes out for an evening of entertainment with friends, some of whom happen to be clients or customers, any injury or illness resulting from the entertainment activities would not be recordable. In this case, the employee was socializing after work, not entertaining at the direction of the employer. Similarly, the fact that an employee joins a private club or organization, perhaps to "network" or make business contacts, does not make any injury that occurs there work related.[1(p. 5961)]

Figure 2-22 *Continued.*

Table 2-4
Determining Employee Travel Status (1904.5(b)(6))

(1904.5(b)(6))	If the employee has	You may use the following to determine if an injury or illness is work related
(i)	Checked into a hotel or motel for one or more days.	When a traveling employee checks into a hotel, motel, or into another temporary residence, he or she establishes a "home away from home." You must evaluate the employee's activities after he or she checks into the hotel, motel, or other temporary residence for their work relatedness in the same manner as you evaluate the activities of a nontraveling employee. When the employee checks into the temporary residence, he or she is considered to have left the work environment. When the employee begins work each day, he or she reenters the work environment. If the employee has established a "home away from home" and is reporting to a fixed work site each day, you also do not consider injuries or illnesses work related if they occur while the employee is commuting between the temporary residence and the job location.

Table 2-4
Continued

(ii)	Taken a detour for employee reasons.	Injuries or illnesses are not considered work related if they occur while the employee is on an employee detour from a reasonably direct route of travel (for example, has taken a side trip for employee reasons).

Source: 29 CFR 1904.5(b)(6)(i)(ii), FR p. 6125, Work-Relatedness, Determining If Injuries or Illnesses Is Work Related Based on Employee on Travel Status, public domain.

- If an employee working at home is electrocuted because of faulty home wiring, the injury is not considered work related (1904.5(b)(7), FR p. 6125; see also Appendix D, Question 5-7, p. 299).

Figure 2-23 helps determine whether an event that occurs to an employee working at home is work related. Figure 2-23 presents OSHA's view on the employer's responsibility for employees working at home.

DETERMINATION OF NEW CASES, SECTION 1904.6

Employers may occasionally have difficulty in determining if new signs or symptoms are due to a new event or exposure or if they are the continuation of an existing work-related injury or illness. Most occupational injury and illness cases are fairly discrete events; for example, events where an injury or acute (short time) illness occurs, is treated, and then resolves completely. For example, an employee may suffer a cut, bruise, or rash from a clearly recognized event in the workplace, receive treatment, and fully recover within a few weeks. At some future time, the employee may suffer another cut, bruise, or rash from another workplace event. In such cases, it is clear that the two injuries or illnesses are unrelated events and each represents an injury or illness that must be separately evaluated for its recordability.[1(p. 5962)]

It is sometimes difficult to determine if signs or symptoms are due to a new event or exposure or are a continuance of an injury or illness already recorded. This is an important distinction, because a new injury or illness requires the employer to make a new entry on the OSHA 300 Log, while a continuation of an old recorded case requires, at most, an

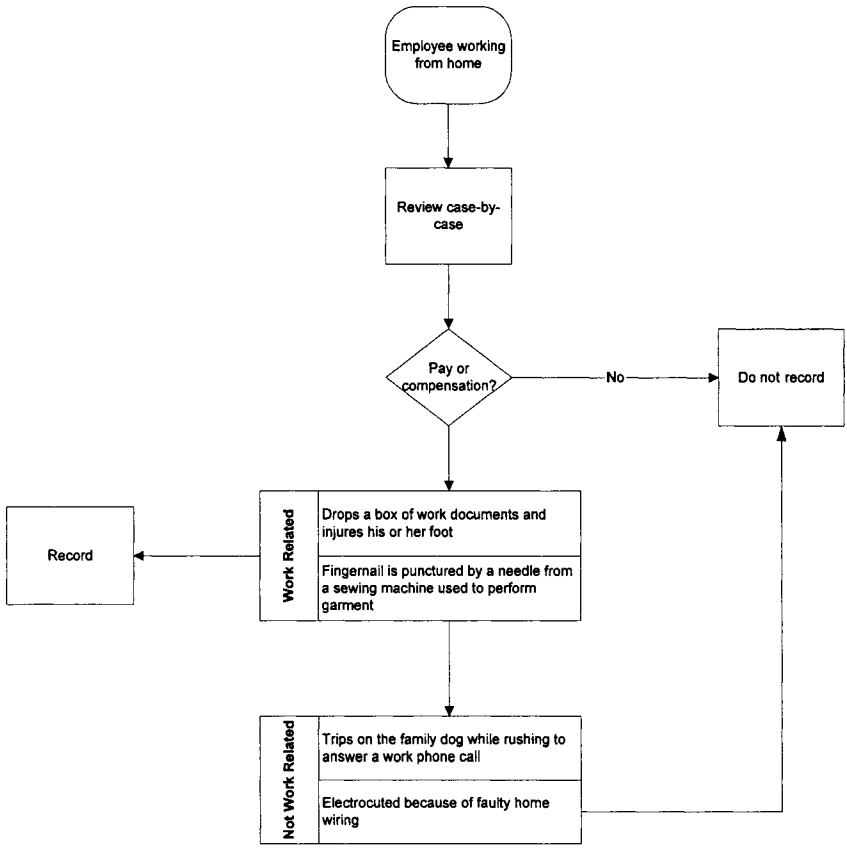

Figure 2-23 Home Office Environment.

The final rule relies on the geographic presumption, with a few limited exceptions, as the recordkeeping system's test for work relationship.[1(pp. 5949 and 5959)] The home environment is not controlled by the employer and therefore it will be hard to dispute an alleged work-related injury.

A recently issued compliance directive (CPL 2-0.125)[5] clarifies that OSHA does not conduct inspections of home offices and does not hold employers liable for employees' home offices. The compliance directive also notes that employers required by the recordkeeping rule to keep records "will continue to be responsible for keeping such records, regardless if the injuries occur in the factory (plant), in a home office, or elsewhere, as long as they are work related, and meet the recordability criteria of 29 CFR Part 1904."[1(pp. 5959 and 5962)]

Figure 2-24 Working at Home. Source: *Federal Register*, Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Preamble, pp. 5916–6122, public domain.

updating of the original entry. Figure 2-25 helps determine whether an injury or illness constitutes a new case. See Section 1904.6, which explains what employers must do to determine if an injury or illness is a new case.[1(p. 5962)]

The question in implementation at §1904.6(b)(1) addresses chronic (over a period of time) work-related cases that have already been recorded once and distinguishes between those conditions that will progress even in the absence of workplace exposure and those that are triggered by events in the workplace. Some conditions progress even

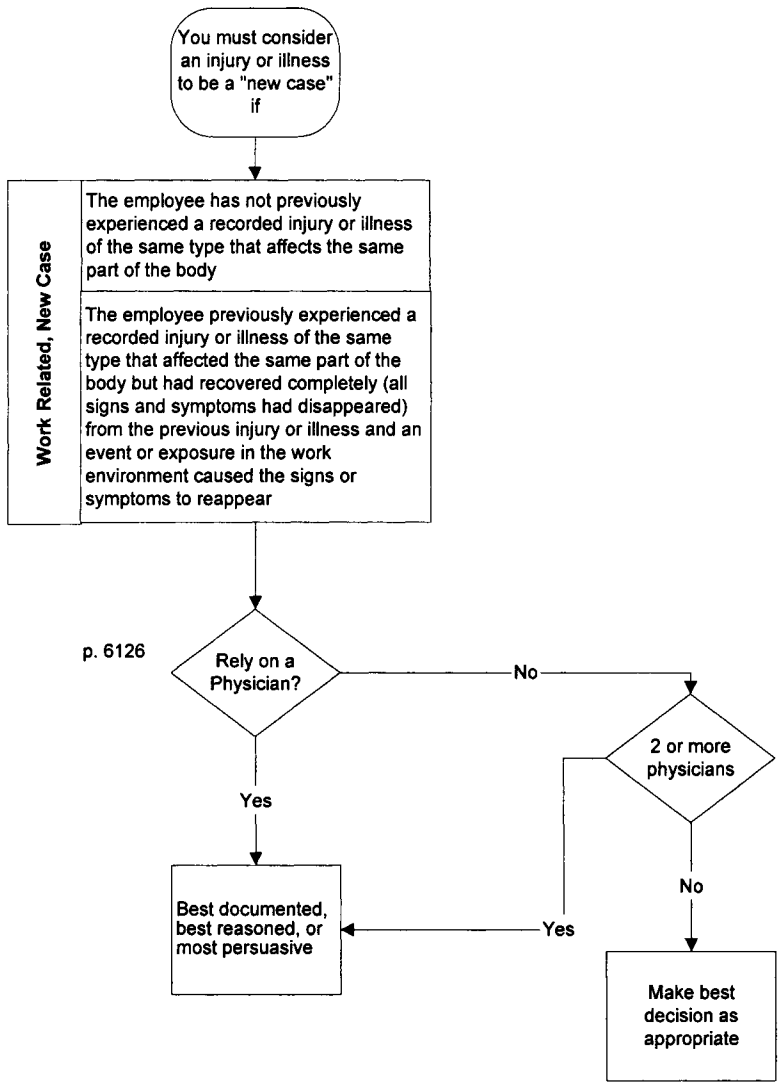

Figure 2-25 Determining a New Case.

in the absence of further exposure, for example, some occupational cancers, advanced asbestosis, tuberculosis, advanced byssinosis, and advanced silicosis. These conditions are chronic; once the disease is contracted it may never be cured or completely resolved, and therefore the case is never "closed," even though the signs and symptoms of the condition may alternate between remission and active disease.

Other chronic work-related illness conditions, such as occupational asthma, reactive airways dysfunction syndrome (RADs), and sensitization (contact) dermatitis, recur if the ill employee again is exposed to the agent (or agents, in the case of cross-reactivities or RADs) that triggers the illness. Typically, but not always, employees with these conditions will be symptom free if exposure to the sensitizing or precipitating agent does not occur.[1(p. 5962)]

The final rule states that the employer is not required to record as a new case a previously recorded case of chronic work-related illness where the signs or symptoms have recurred or continued in the absence of exposure in the workplace. OSHA recognizes that there are occupational illnesses that may be diagnosed at some stage of the disease and may then progress without regard to workplace events or exposures. Such diseases progress without further workplace exposure to the toxic substance(s) that caused the disease. Examples of such chronic work-related diseases include silicosis, tuberculosis, and asbestosis. With these conditions, the ill employee will show signs (such as a positive TB skin test or a positive chest X ray) at every medical examination and may experience symptomatic bouts as the disease progresses.[1(p. 5962)] Figure 2-26 presents OSHA's view on determining whether a case is new or the continuation of an old case.

You must consider an injury or illness to be a "new case" if

- The employee has not previously experienced a recorded injury or illness of the same type that affects the same part of the body (1904.6(a)(1)).
- The employee previously experienced a recorded injury or illness of the same type that affected the same part of the body but had recovered completely (all signs and symptoms had disappeared) from the previous injury or illness and an event or exposure in the work environment caused the signs or symptoms to reappear (1904.6(a)(2), FR p. 6125; see also Appendix D, Question 6-1, p. 299).

Figure 2-27 presents OSHA's view on handling an injury or illness that has not healed.

Q: When an employee experiences the signs or symptoms of a chronic work-related illness, do I need to consider each recurrence of signs or symptoms to be a new case?

> Paragraph 1904.6(b)(3) addresses how to record a case where the employer requests a physician or other licensed health care professional to determine whether it is a new case or continuation of an old case. Paragraph (b)(3) makes it clear that employers are to follow the guidance provided by the HCP. In cases where two or more HCPs make conflicting or differing recommendations, the employer is required to base his or her decision about recordation based on the most authoritative (best documented, best reasoned, or most persuasive) evidence or recommendation.[1(pp. 5962–5963)]

Figure 2-26 Physician Determination of a New Case or Continuation of an Old Case. Source: *Federal Register*, Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Preamble, pp. 5916–6122, public domain.

> If the previous injury or illness has not healed (signs and symptoms have not resolved), then the case cannot be considered resolved. The employer may make this determination or may rely on the recommendation of a physician or other licensed health care professional. If the injured or ill employee still exhibits signs or symptoms of the previous injury or illness, the malady has not healed, and a new case need not be recorded. If work activities aggravate a previously recorded case, there is no need to consider recording it again (although there may be a need to update the case information if the aggravation causes a more severe outcome than the original case, such as days away from work).[1(pp. 5959 and 5966)]

Figure 2-27 Injury or Illness Has Not Healed. Source: *Federal Register*, Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Preamble, pp. 5916–6122, public domain.

A: No, for occupational illnesses where the signs or symptoms may recur or continue in the absence of an exposure in the workplace, the case must only be recorded once. Examples may include occupational cancer, asbestosis, byssinosis, and silicosis (1904.6(b)(1), FR pp. 6125 and 6126).

Q: When an employee experiences the signs or symptoms of an injury or illness as a result of an event or exposure in the workplace, such as an episode of occupational asthma, must I treat the episode as a new case?

A: Yes, because the episode or recurrence was caused by an event or exposure in the workplace, the incident must be treated as a new case (1904.6(b)(2), FR pp. 6125–6126).

Q: May I rely on a physician or other licensed health care professional to determine if a case is a new case or a recurrence of an old case?

A: You are not required to seek the advice of a physician or other licensed health care professional (HCP). However, if you do seek

any HCP advice, you must follow the physician or other licensed health care professional's recommendation about whether the case is a new case or a recurrence. If you receive recommendations from two or more physicians or other licensed health care professionals, you must decide which recommendation is the most authoritative (best documented, best reasoned, or most authoritative) and record the case based on that recommendation (1904.6(b)(3), FR p. 6126). Chapter 5 discusses developing and administering a medical surveillance program.

GENERAL RECORDING CRITERIA, SECTION 1904.7

This section describes the basic requirement for recording an injury or illness. It states that employers must record any work-related injury or illness that meets one or more of the final rule's general recording criteria, which we discuss later. For example, an injured employee may initially be sent home to recuperate (making the case recordable as a "days-away" case) and then subsequently return to work on a restricted ("light duty") basis (meeting a second criterion, that for restricted work). Section 1904.29 presents information on how to record such cases.[1(p. 5968)]

Paragraphs 1904.7(b)(3)(i)–(vi) implement the basic requirements. Paragraph 1904.7(b)(3)(i) states that the employer is not to count the day of the injury or illness as a day away but is to begin counting days away on the following day. Even though an injury or illness may result in some loss of time on the day of the injurious event or exposure because, for example, the employee seeks treatment or is sent home, the case is not considered a days-away-from-work case unless the employee does not work on at least one subsequent day because of the injury or illness. The employer is to begin counting days away on the day following the injury or onset of illness. This policy is a continuation of OSHA's practice under the former rule, which also excluded the day of injury or onset of illness from the day counts.[1(p. 5968)]

OSHA requires employers to follow the physician's or HCP's recommendation when recording the case. Further, whether the employee works or not is in the control of the employer, not the employee. That is, if an HCP recommends that the employee remain away from work for one or more days, the employer is required to record the injury or illness as a case involving days away from work and to keep track of the days; the employee's wishes in this case are not relevant, since the employer controls the conditions of work. If the HCP tells the employee that he or

she can return to work, the employer is required by the rule to stop counting the days away from work, even if the employee chooses not to return to work. These policies are a continuation of OSHA's previous policy of requiring employees to follow the recommendations of health care professionals when recording cases in the OSHA system.

OSHA is aware that there may be situations where the employer obtains an opinion from a physician or other health care professional and a subsequent HCP's opinion differs from the first. (The subsequent opinion could be that of an HCP retained by the employer or the employee.) In this case, the employer is the ultimate recordkeeping decision maker and must resolve the differences in opinion; he or she may turn to a third HCP for this purpose or make the recordability decision himself or herself.[1(p. 5968)]

Also, a number of significant occupational diseases progress once the disease process begins or reaches a certain point, for example, byssinosis, silicosis, and some types of cancer, for which medical treatment or work restrictions may not be recommended at the time of diagnosis, although medical treatment and loss of work certainly will occur at later stages. This provision of the final rule is designed to capture this small group of significant work-related cases. Although the employer is required to record these illnesses even if they manifest themselves after the employee leaves employment (assuming the illness meets the standards for work relatedness that apply to all recordable incidents), these cases are less likely to be recorded once the employee has left employment. OSHA believes that work-related cancer, chronic irreversible diseases, fractures of bones or teeth, punctured eardrums are generally recognized as constituting significant diagnoses and, if the condition is work related, are appropriately recorded at the time of initial diagnosis even if, at that time, medical treatment or work restrictions are not recommended.[1(p. 5995)]

You must consider an injury or illness to meet the general recording criteria and, therefore, to be recordable, if it results in any of the following:

- Death.
- Days away from work.
- Restricted work or transfer to another job.
- Medical treatment beyond first aid.
- Loss of consciousness.

See Appendix D, Questions 7-1, 7-2 (p. 300), and 7-3 (p. 301) for examples.

You must also consider a case to meet the general recording criteria if it involves a significant injury or illness diagnosed by a physician or other licensed health care professional, even if it does not result in

> OSHA believes that the conditions that are required to be recorded under §1904.7(b)(7) of the final rule represent significant occupational injuries and illnesses as described in the Act. Some clearly significant injuries or illnesses are not amenable to medical treatment, at least at the time of initial diagnosis. For example, a fractured rib, a broken toe, or a punctured eardrum is often, after being diagnosed, left to heal on his or her own with no medical treatment and may not result in days away from work, but these are clearly significant injuries. Similarly, an untreatable occupational cancer is clearly a significant injury or illness. The second set of conditions identified in paragraph 1904.7(b)(7), chronic irreversible diseases, are cases that would clearly become recordable at some point in the future (unless the employee leaves employment before medical treatment is provided), when the employee's condition worsens to a point where medical treatment, time away from work, or restricted work are needed.[1(p. 5996)]

Figure 2-28 Examples of Recordability Cases. Source: *Federal Register*, Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Preamble, pp. 5916-6122, public domain.

death, days away from work, restricted work or job transfer, medical treatment beyond first aid, or loss of consciousness (1904.6(a), FR p. 6126). Figure 2-28 has additional examples of recordability.

Q: How do I decide if a case meets one or more of the general recording criteria?

A: See Table 2-5 and Figures 2-9 and 2-11.

Death

Q: How do I record a work-related injury or illness that results in the employee's death?

Table 2-5
Recording Criteria Cross-Reference

Criteria	Reference
Death	1904.7(b)(2)
Days away from work	1904.7(b)(3)
Restricted work or transfer to another job	1904.7(b)(4)
Medical treatment beyond first aid	1904.7(b)(5)
Loss of consciousness	1904.7(b)(6)
A significant injury or illness diagnosed by a physician or other licensed health care professional. See Figure 2-5.	1904.7(b)(i)–(vi)

Source: 29 CFR 1904.7(b)(1)(i)–(vi), FR p. 6126, public domain.

A: You must record an injury or illness that results in death by entering a check mark on the OSHA 300 Log in the space for cases resulting in death (see Appendix G). You must also report any work-related fatality to OSHA within eight hours, as required by §1904.39 (1904.7(b)(2), FR p. 6126). See the special requirement for all employers.

Days Away from Work

Q: How do I record a work-related injury or illness that results in days away from work?

A: When an injury or illness involves one or more days away from work, you must record the injury or illness on the OSHA 300 Log with a check mark in the space for cases involving days away and an entry of the number of calendar days away from work in the number of days column. If the employee is out for an extended period of time, you must enter an estimate of the days that the employee will be away and update the day count when the actual number of days is known (1904.7(b)(3), FR p. 6126).

Q: Do I count the day on which the injury occurred or the illness began?

A: No, you begin counting days away on the day after the injury occurred or the illness began (1904.7(b)(3)(i), FR p. 6126).

Q: How do I record an injury or illness when a physician or other licensed health care professional recommends that the employee stay at home but the employee comes to work anyway?

A: You must record these injuries and illnesses using the check box for cases with days away from work and enter the number of calendar days away recommended by the physician or other licensed health care professional. If a physician or other licensed health care professional recommends days away, you should encourage your employee to follow that recommendation. However, the days away must be recorded whether or not the injured or ill employee follows the physician or licensed health care professional's recommendation. If you receive recommendations from two or more physicians or other licensed health care professionals, you may decide which recommendation is the most authoritative and record the case based on that recommendation (1904.7(3)(ii), FR p. 6126).

Q: How do I handle a case when a physician or other licensed health care professional recommends that the employee return to work but the employee stays at home anyway?

A: In this situation, you must end the count of days away from work on the date the physician or other licensed health care professional recommends that the employee return to work (1904.7(3)(iii), FR p. 6126).

Q: How do I count weekends, holidays, or other days the employee would not have worked anyway?

A: You must count the number of calendar days the employee was unable to work as a result of the injury or illness, regardless of whether the employee was scheduled to work on those day(s). Weekend days, holidays, vacation days, or other days off are included in the total number of days recorded if the employee would not have been able to work on those days because of a work-related injury or illness (1904.7(3)(iv), FR p. 6126). Figure 2-29 summarizes the changes from the former policy.

Q: How do I record a case when an employee is injured or becomes ill on a Friday and reports to work on a Monday and was not scheduled to work on the weekend?

A: You need to record this case only if you receive information from a physician or other licensed health care professional indicating that the employee should not have worked or should have performed only restricted work during the weekend. If so, you must record the injury or illness as a case with days away from work or restricted work and enter the day counts, as appropriate (1904.7(3)(v), FR p. 6126).

Q: How do I record a case when an employee is injured or becomes ill on the day before scheduled time off, for example, a holiday, a planned vacation, or a temporary plant closing?

A: You need to record a case of this type only if you receive information from a physician or other licensed health care professional indicating that the employee should not have worked or should have performed only restricted work during the scheduled time off. If so, you must record the injury or illness as a case with days away from work or restricted work and enter the day counts, as appropriate (1904.7(3)(vi), FR p. 6126).

This requirement is a change from the former policy, which focused on scheduled workdays missed due to injury or illness and excluded from the days-away count any normal days off, holidays, and other days the employee would not have worked.[1(p. 5959)]

Figure 2-29 Changes from the Former Policy. Source: *Federal Register*, Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Preamble, pp. 5916–6122, public domain.

> This is a new provision of the final rule; it is included because OSHA believes that the "180" notation indicates a case of exceptional severity and that counting days away beyond that point would provide little if any additional information.[1(p. 5959)]

Figure 2-30 New Provision of the Final Rule. Source: *Federal Register*, Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Preamble, pp. 5916–6122, public domain.

Q: Is there a limit to the number of days away from work I must count?

A: Yes, you may "cap" the total days away at 180 calendar days (see Appendix D, Question 7-13, p. 303). You are not required to keep track of the number of calendar days away from work if the injury or illness resulted in more than 180 calendar days away from work and/or days of job transfer or restriction. In such a case, entering 180 in the total days away column is considered adequate (1904.7(3)(vii), FR p. 6126; see also Appendix D, Question 7-9, p. 302). Figure 2-30 summarizes this new provision.

Q: May I stop counting days if an employee who is away from work because of an injury or illness retires or leaves my company?

A: Yes, if the employee leaves your company for some reason unrelated to the injury or illness, such as retirement, a plant closing, or to take another job, you may stop counting days away from work or days of restriction or job transfer. If the employee leaves your company because of the injury or illness, you must estimate the total number of days away or days of restriction or job transfer and enter the day count on the 300 Log (1904.7(3)(viii), FR pp. 6126–6127). See Figure 2-31 for OSHA's opinion on moving to calendar days.

Q: If a case occurs in one year but results in days away during the next calendar year, do I record the case in both years?

A: No, you only record the injury or illness once. You must enter the number of calendar days away for the injury or illness on the OSHA 300 Log for the year when the injury or illness occurred. If the employee is still away from work because of the injury or illness when you prepare the annual summary, estimate the total number of calendar days you expect the employee to be away from work, use this number to calculate the total for the annual summary, and then update the initial log entry later when the day count is known or reaches the 180-day cap (1904.7(3)(ix), FR p. 6127).

> OSHA recognizes that moving to calendar day counts will have two effects on the data. First, it will be difficult to compare injury and illness data gathered under the former rule with data collected under the new rule. This is true for day counts as well as the overall number and rate of occupational injuries and illnesses. Second, it will be more difficult for employers to estimate the economic impact of lost time. Calendar day counts will have to be adjusted to accommodate for days away from work that the employee would not have worked even if he or she was not injured or ill. This does not mean that calendar day counts are not appropriate in these situations, but it does mean that their use is more complicated in such cases. Those employers who wish to continue to collect additional data, including scheduled workdays lost, may continue to do so. However, employers must count and record calendar days for the OSHA injury and illness log.[1(p. 5959)]

Figure 2-31 Moving to Calendar Days. Source: *Federal Register*, Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Preamble, pp. 5916–6122, public domain.

Restricted Work or Transfer to Another Job

Figure 2-32 helps you figure days away from work or on restricted work.

Q: How do I record a work-related injury or illness that results in restricted work or job transfer?

A: When an injury or illness involves in restricted work or job transfer but does not involve death or days away from work, you must record the injury or illness on the OSHA 300 Log by placing a check mark in the space for job transfer or restriction and an entry of the number of restricted or transferred days in the restricted workdays column (1904.4, FR p. 6127).

Q: How do I decide if the injury or illness resulted in restricted work?

A: Restricted work occurs when, as the result of a work-related injury or illness (1904.7(b)(4)(i), FR p. 6127):

- You keep the employee from performing one or more of the routine functions of his or her job or from working the full workday he or she would otherwise have been scheduled to work (1904.7(b)(4)(i)(A), FR p. 6127; see also Appendix D, Question 7-14, p. 303).
- A physician or other licensed health care professional recommends that the employee not perform one or more of the routine functions of his or her job or not work the full workday he or she would otherwise have been scheduled to work (1904.7(b)(4)(i)(B), FR p. 6127).

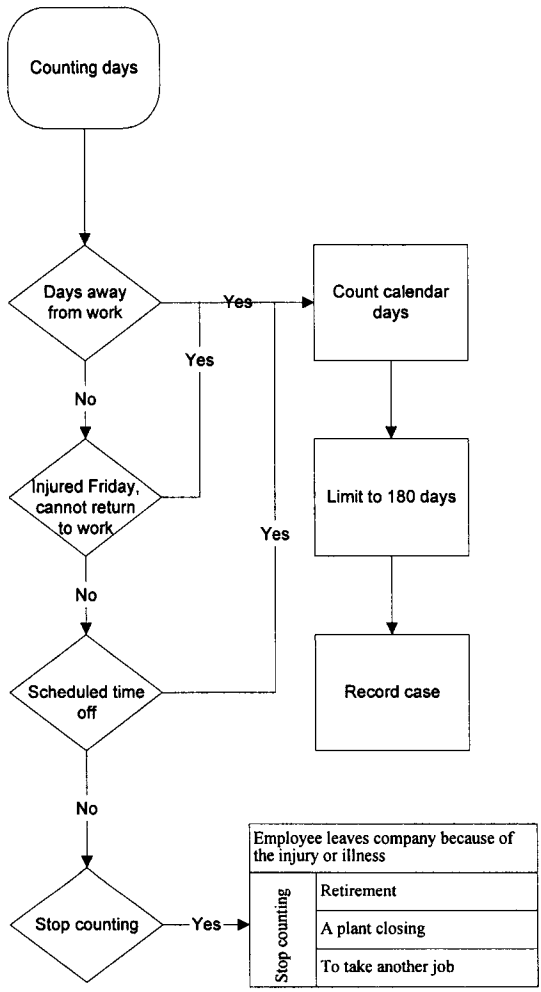

Figure 2-32 Days Away from Work.

Transfers or restrictions to allow an employee to recover from an injury or illness or to keep the injury or illness from becoming worse are recordable because they involve restriction or work transfer caused by the injury or illness. All restricted work and job transfer cases that result from a work-related injury or illness are recordable.[1(pp. 5959, 5981)] See Figure 2-33 for OSHA's opinion on restricted work cases and Figure 2-34 for help in determining if a case is recordable.

Q: What is meant by *routine functions*?

A: For recordkeeping purposes, an employee's routine functions are those work activities the employee regularly performs at least once per week (1904.7(b)(4)(ii), FR p. 6127; see also Appendix D,

The regulatory text in paragraph 1904.7(b)(4) makes it clear that the final rule's requirements for the recording of restricted work cases are similar in many ways to those pertaining to restricted work under the former rule. First, like the former rule, the final rule requires employers to record as restricted work cases only those cases where restrictions are imposed or recommended as a result of a work-related injury or illness. A work restriction that is made for another reason, such as to meet reduced production demands, is not a recordable restricted work case. For example, an employer might "restrict" employees from entering the area when a toxic chemical spill has occurred or make an accommodation for an employee who is disabled as a result of a non-work-related injury or illness. These cases would not be recordable as restricted work cases because they are not associated with a work-related injury or illness. However, if an employee has a work-related injury or illness and that employee's work is restricted by the employer to prevent exacerbation of, or to allow recuperation from, that injury or illness, the case is recordable as a restricted work case because the restriction was necessitated by the work-related injury or illness. In some cases, there may be more than one reason for imposing or recommending a work restriction; for example, to prevent an injury or illness from becoming worse or to prevent entry into a contaminated area. In such cases, if the employee's work-related illness or injury played any role in the restriction, OSHA considers the case to be a restricted work case.

Second, for the definition of *restricted work* to apply, the work restriction must be decided by the employer, based on his or her best judgment and/or the recommendation of a physician or other licensed health care professional. If a work restriction is not followed or implemented by the employee, the injury or illness must be recorded as a restricted case.

Third, like the former rule, the final rule's definition of *restricted work* relies on two components: whether the employee is able to perform the duties of his or her preinjury job, and whether the employee is able to perform those duties for the same period of time as before.[1(p. 5981)]

Figure 2-33 Restricted Work Cases. Source: *Federal Register*, Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Preamble, pp. 5916–6122, public domain.

Question 7-4, p. 301). Figure 2-35 presents OSHA's opinion on the frequency of work activities.

Q: Do I have to record restricted work or job transfer if it applies only to the day on which the injury occurred or the illness began?

A: No, you do not have to record restricted work or job transfers if you or the physician or other licensed health care professional impose the restriction or transfer only for the day when the injury occurred or the illness began (1904.7(b)(4)(iii), FR p. 6127).

Q: If the employer or a physician or other licensed health care professional recommends a work restriction, is the injury or illness automatically recordable as a "restricted work" case?

A: No, a recommended work restriction is recordable only if it affects one or more of the employee's routine job functions. To determine if this is the case, you must evaluate the restriction in

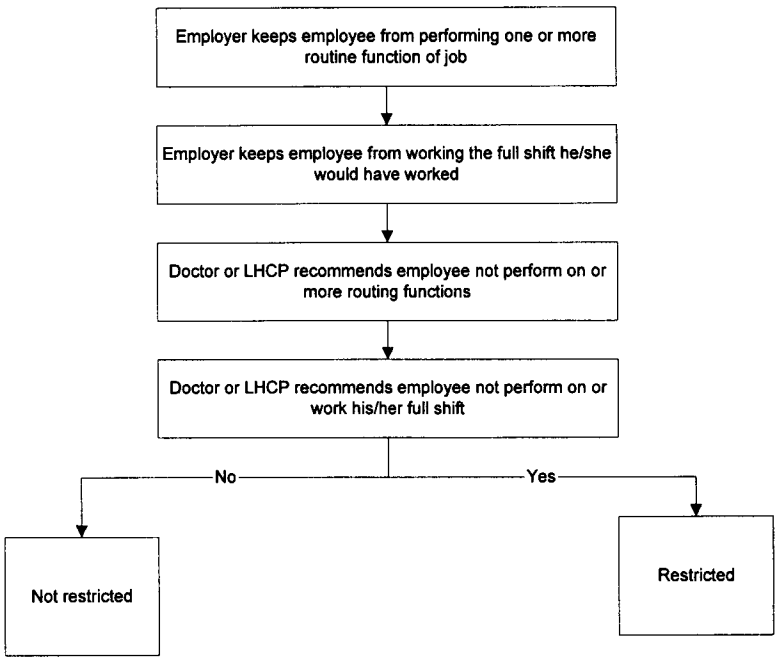

Figure 2-34 Determining If Case Is Restricted. Source: Coble, David, F. *Guide to OSHA Recordkeeping.* CTJ Safety Associates, LLC, chart 4, pp. 2–7, Pulp and Paper Safety Association (PPSA) Presentation, Atlanta, GA, October 2001, chart created by Bill Taylor, CSP, modified with permission.

light of the routine functions of the injured or ill employee's job. If the restriction from you or the physician or other licensed health care professional keeps the employee from performing one or more of his or her routine job functions or from working the full workday the injured or ill employee would otherwise have worked, the employee's work has been restricted and you must record the case (1904.7(b)(4)(iv), FR p. 6127). See also Chapter 4 on JHA, which will help you to determine how to define job tasks. As you will see in Chapter 4, JHA is a valuable tool and you should learn how to use it. Figure 2-36 has some additional rules on restricted work.

Q: How do I record a case where the employee works for only a partial work shift because of a work-related injury or illness?

A: A partial day of work is recorded as a day of job transfer or restriction for recordkeeping purposes, except for the day on which the injury occurred or the illness began (1904.7(b)(4)(v), FR p. 6127).

Q: If the injured or ill employee produces fewer goods or services than prior to the injury or illness but otherwise performs all of the

Activities performed less frequently than once per week reflect more uncommon work activities that are not considered routine duties for the purposes of this rule.[1(p. 5980)] The final rule considers work as restricted if the injured or ill employee is restricted from performing any job activity the employee would have regularly performed at least once per week before the injury or illness, while the former rule counted work as restricted if the employee was restricted in performing any activity he or she would have performed at least once per year.[1(pp. 5959 and 5981)]

The final rule does not rely on the duties the employee actually performed during the week when he or she was injured or became ill. Therefore, even if an employee did not perform the activity within the last week but usually performs the activity once a week, the activity will be included. OSHA believes that this change in definition will foster greater acceptance of the concept of restricted work among employers and employees because of its common sense approach.[1(pp. 5959 and 5969)]

Figure 2-35 Frequency of Work Activities. Source: *Federal Register*, Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Preamble, pp. 5916–6122, public domain.

Under the final rule, employers are not required to record a case as a restricted work case if the restriction is imposed on the employee only for the day of the injury or onset of illness. This represents a change in the treatment of restricted work cases from OSHA's practice under the former rule. OSHA made this change to bring the recording of restricted work cases into line with that for days-away cases. Under the final rule, employers are not required to record as days away or restricted work cases those injuries and illnesses that result in time away or time on restriction or job transfer lasting only for the day of injury of illness onset.[1(pp. 5959 and 5981)]

Figure 2-36 Additional Rules on Restricted Work. Source: *Federal Register*, Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Preamble, pp. 5916–6122, public domain.

routine functions of his or her work, is the case considered a restricted work case?

A: No, the case is considered restricted work only if the employee does not perform all of the routine functions of his or her job or does not work the full shift that he or she would otherwise have worked (1904.7(b)(4)(vi), FR p. 6127).

Q: How do I handle vague restrictions from a physician or other licensed health care professional such as that the employee engage only in "light duty" or "take it easy for a week"?

A: If you are not clear about the physician or other licensed health care professional's recommendation, you may ask that person whether the employee can do all of his or her routine job functions and work all of his or her normally assigned work shift. If

the answer to both of these questions is "Yes," then the case does not involve a work restriction and does not have to be recorded as such. If the answer to one or both of these questions is "No," the case involves restricted work and must be recorded as a restricted work case. If you are unable to obtain this additional information from the physician or other licensed health care professional who recommended the restriction, record the injury or illness as a case involving restricted work (1904.7(b)(4)(vii), FR p. 6127).

Q: What do I do if a physician or other licensed health care professional recommends a job restriction meeting OSHA's definition, but the employee does all of his or her routine job functions anyway.

A: You must record the injury or illness as a restricted work case. If a physician or other licensed health care professional recommends a job restriction, you should make sure that the employee complies with that restriction. If you receive recommendations from two or more physicians or other licensed health care professionals, you may decide which recommendation is the most authoritative and record the case based on that recommendation (1904.7(b)(4)(viii), FR p. 6127; see also Appendix D, Question 7-16, p. 304).

Q: How do I decide if an injury or illness involved a transfer to another job?

A: If you assign an injured or ill employee to a job other than his or her regular job for part of the day, the case involves transfer to another job. Note: This does not include the day on which the injury or illness occurred (1904.7(b)(4)(ix), FR p. 6127).

Q: Are transfers to another job recorded in the same way as restricted work cases?

A: Yes, both job transfer and restricted work cases are recorded in the same box on the OSHA 300 Log. For example, if you assign, or a physician or other licensed health care professional recommends that you assign, an injured or ill employee to his or her routine job duties for part of the day and to another job for the rest of the day, the injury or illness involves a job transfer. You must record an injury or illness that involves a job transfer by placing a check in the box for job transfer (1904.7(b)(4)(x), FR p. 6127).

Q: How do I count days of job transfer or restriction?

A: You count days of job transfer or restriction in the same way you count days away from work, using 1904.7(b)(3)(i)–(viii). The only difference is that, if you permanently assign the injured or ill employee to a job that has been modified or permanently

changed in a manner that eliminates the routine functions the employee was restricted from performing, you may stop the day count when the modification or change is made permanent. You must count at least one day of restricted work or job transfer for such cases (1904.7(b)(4)(xi), FR p. 6127; see also Appendix D, Question 7-12, p. 303).

As a final review, Figure 2-37 summarizes the principal differences between the final and former rules' concepts of restricted work.

The principal differences between the final and former rules' concepts of restricted work cases are

- The final rule allows employers to cap the total number of restricted workdays for a particular case at 180 days, while the former rule required all restricted days for a given case to be recorded.
- The final rule does not require employers to count the restriction of an employee's duties on the day the injury occurred or the illness began as restricted work, providing that the day the incident occurred is the only day that work is restricted.
- As discussed, the final rule considers work as restricted if the injured or ill employee is restricted from performing any job activity that the employee would have regularly performed at least once per week before the injury or illness, while the former rule counted work as restricted if the employee was restricted in performing any activity he or she would have performed at least once per year.

In all other respects, the final rule continues to treat restricted work and job transfer cases in the same manner as they were treated under the former rule, including the counting of restricted days. Paragraph 1904.7(b)(4)(xi) requires the employer to count restricted days using the same rules as those for counting days away from work, using §1904.7(b)(3)(i)–(viii), with one exception. Like the former rule, the final rule allows the employer to stop counting restricted days if the employee's job has been permanently modified in a manner that eliminates the routine functions the employee has been restricted from performing. Some examples of permanent modifications would include reassigning an employee with a respiratory allergy to a job where such allergens are not present or adding mechanical assistance to a job that formerly required manual lifting.

To make it clear that employers may stop counting restricted days when a job has been permanently changed but not to eliminate the count of restricted work altogether, the rule makes it clear that at least one restricted workday must be counted, even if the restriction is imposed immediately. A discussion of the desirability of counting days of restricted work and job transfer is included in the explanation for the OSHA 300 Form and the §1904.29 requirements.[1(pp. 5959 and 5981)]

Figure 2-37 Principal Differences between the Final and Former Rules' Concepts of Restricted Work. Source: *Federal Register*, Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Preamble, pp. 5916–6122, public domain.

Medical Treatment Beyond First Aid

Q: How do I record an injury or illness that involves medical treatment beyond first aid?

A: If a work-related injury or illness results in medical treatment beyond first aid, you must record it on the OSHA 300 Log. If the injury or illness did not involve death, one or more days away from work, one or more days of restricted work, or one or more days of job transfer, you enter a check mark in the box for cases where the employee received medical treatment but remained at work and was not transferred or restricted from his or her usual job (1904.7(b)(5), FR p. 6127). See Figure 2-38 for OSHA's opinion on the difference between minor and nonminor injuries.

Q: What is the definition of *medical treatment*?

A: Figure 2-39 presents OSHA's definition of *medical treatment*. *Medical treatment* means the management and care of a patient to combat disease or disorder. Medical treatment does not include

> In the past, OSHA has not interpreted the distinction made by the Act between minor (for example, first aid only) injuries and nonminor injuries as applying to occupational illnesses, and employers have therefore been required to record all occupational illnesses, regardless of severity. As a result of this new rule, OSHA now applies the same recordability criteria to both injuries and illnesses. OSHA believes that doing so will simplify the decision-making process that employers carry out when determining which work-related injuries and illnesses to record and will also result in more complete data on occupational illness, because employers will know that they must record these cases when they result in medical treatment beyond first aid, regardless of whether or not a physician or other licensed health care professional has made a diagnosis.[1(p. 5982)]

Figure 2-38 Minor and Nonminor Injuries. Source: *Federal Register*, Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Preamble, pp. 5916–6122, public domain.

> OSHA believes that providing a definition of medical treatment for recordkeeping purposes will help employers who are uncertain about what constitutes medical treatment. OSHA also provides examples of medical treatments covered by this definition in compliance assistance documents designed to help smaller businesses comply with the rule.[1(p. 5985)]

Figure 2-39 Medical Treatment Defined. Source: *Federal Register*, Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Preamble, pp. 5916–6122, public domain.

- Visits to a physician or other licensed health care professional solely for observation or counseling.
- The conduct of diagnostic procedures, such as X rays and blood tests, including the administration of prescription medications used solely for diagnostic purposes (for example, eye drops to dilate pupils).
- First aid, as defined in paragraph (b)(5)(ii) of this section (1904.7(b)(5(i)(A)–(C), FR pp. 6127–6128). Table 2-6 and Figure 2-40 discuss first aid treatments.

Q: What is *first aid*?

A: For the purposes of Part 1904, first aid treatments are listed in Table 2-6 (FR p. 6127). Note: Table 2-6 was developed to allow a quick overview of the first aid treatment vs. medical treatment. Figure 2-41 presents an overview of the notes on first aid vs. medical treatment. Figure 2-42 provides a graphical overview of the first aid options based on the rule. Figure 2-43 provides a graphical overview of the medical treatments as stated in the rule. Figure 2-44 provides some notes from the preamble concerning first aid treatment vs. medical treatment.

Q: Are any other procedures included in first aid?

A: No, the list in Table 2-6 is a complete list of all treatments considered first aid for Part 1904 purposes (1904.7(5)(3)(iii), FR p. 6128; see also Appendix D, Question 7-15, p. 304).

Table 2-6
First Aid Treatment versus Medical Treatment

First Aid Treatment	Medical Treatment
Using a nonprescription medication at nonprescription strength. See Figure 2-43, Note 1.	For medications available in both prescription and nonprescription form, a recommendation by a physician or other licensed health care professional to use a nonprescription medication at prescription strength is considered medical treatment for recordkeeping purposes. See Figure 2-43, Note 1. See also Appendix D, Question 7-8, p. 301.
Administering tetanus immunizations	Other immunizations, such as hepatitis B vaccine or rabies vaccine, are considered medical treatment. See Figure 2-43, Note 2.
Cleaning, flushing or soaking wounds on the surface of the skin; see Figure 2-43, Note 3.	

Table 2-6
Continued

First Aid Treatment	Medical Treatment
Using wound coverings such as bandages, Band-Aids™, gauze pads, etc. or using butterfly bandages or Steri-Strips™	Other wound closing devices such as sutures, staples, etc. are considered medical treatment. See Figure 2-43, Note 3. See also Appendix D, Question 7-5, p. 301.
Using hot or cold therapy; see Figure 2-43, Note 4	
Using any nonrigid means of support, such as elastic bandages, wraps, nonrigid back belts	Devices with rigid stays or other systems designed to immobilize parts of the body are considered medical treatment for recordkeeping purposes.
Using temporary immobilization devices while transporting an accident victim (for example, splints, slings, neck collars, backboards)	
Drilling of a fingernail or toenail to relieve pressure or draining fluid from a blister	
Using eye patches	
Removing foreign bodies from the eye using only irrigation or a cotton swab	
Removing splinters or foreign material from areas other than the eye by irrigation, tweezers, cotton swabs, or other simple means. See Figure 2-43, Note 5. See also Appendix D, Question 7-11, p. 303	
Using finger guards; see Appendix D, Question 7-7, p. 301	
Using massage	Physical therapy or chiropractic treatment are considered medical treatment for recordkeeping purposes. See Figure 2-43, Note 6
Drinking fluids for relief of heat stress. See Appendix D, Question 7-6, p. 301	

Source: 29 CFR 1904.7, First Aid Treatment, 1904.7(5)(ii)(A)–(N), FR p. 6128, public domain.

Under the final rule, employers will be able to rely on a single list of 14 first aid treatments. These treatments are considered first aid whether they are provided by a lay employee or a licensed health care professional.[1(p. 5984)]

OSHA does not believe that multiple applications of first aid should constitute medical treatment; it is the nature of the treatment, not how many times it is applied, that determines whether it is first aid or medical treatment.[1(p. 5989)] See Table 2-6 for a comparison of first aid treatment versus medical treatment.

Figure 2-40 Fourteen First Aid Treatments. Source: *Federal Register*, Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Preamble, pp. 5916–6122, public domain.

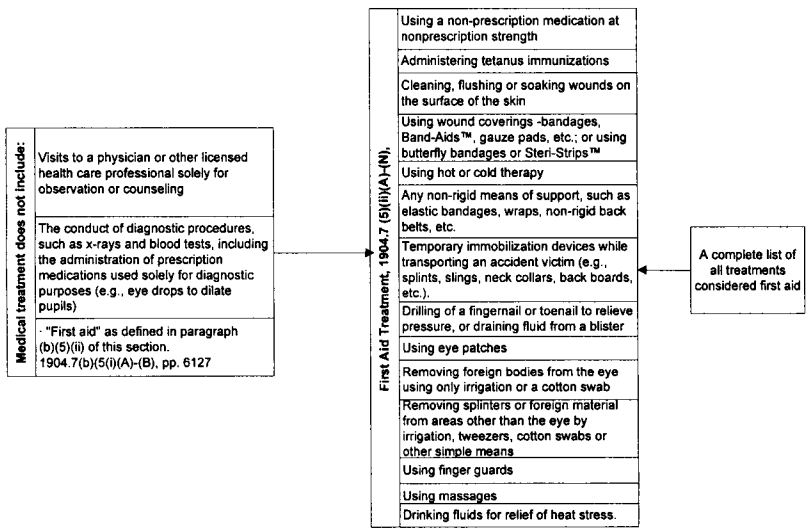

Figure 2-41 First Aid Treatment Options.

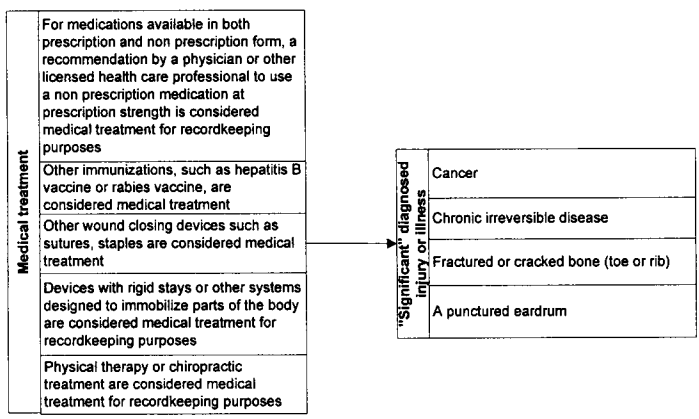

Figure 2-42 Medical Treatment.

Note 1

In the final rule, OSHA has not included prescription medications, whether given once or over a longer period of time, in the list of first aid treatments.[1(p. 5986)] Note that this is considered medical treatment and is listed in the medical treatment column of Table 2-6.

OSHA decided to retain its long-standing policy of requiring the recording of cases when a health care professional issues a prescription, no matter if that prescription is filled or taken. The patient's acceptance or refusal of the treatment does not alter the fact that, in the health care professional's judgment, therefore, the case warrants medical treatment. In addition, a rule that relied on if a prescription is filled or taken, rather than on if the medicine was prescribed, would create administrative difficulties for employers, because such a rule would mean that the employer would have to investigate if a given prescription had been filled or the medicine had actually been taken. Finally, many employers and employees might consider an employer's inquiry about the filling of a prescription an invasion of the employee's privacy. For these reasons, the final rule continues OSHA's long-standing policy of considering the giving of a prescription medical treatment and therefore is considered recordable. It departs from former practice with regard to the administration of a single dose of a prescription medicine because there is no medical reason for differentiating medical treatment from first aid based on the number of doses involved. This is particularly well illustrated by the recent trend toward giving a single large dose of antibiotics instead of the more traditional pattern involving several smaller doses given over several days.[1(p. 5987)]

The final rule does not consider the prescribing of nonprescription medications, such as aspirin or over-the-counter skin creams, as medical treatment. If the drug is available both in prescription and nonprescription strengths, such as ibuprofen, and is used or recommended for use by a physician or other licensed health care professional at prescription strength, the medical treatment criterion is met and the case must be recorded. There is no reason for one case to be recorded and another not to be recorded simply because one physician issued a prescription and another told the employee to use the same medication at prescription strength but to obtain it over the counter. Both cases received equal treatment and should be recorded. This relatively small change in the recordkeeping rule will improve the consistency and accuracy of the data on occupational injuries and illnesses and simplify the system as well.[1(p. 5987)]

OSHA believes that the use of prescription medications is not first aid because prescription medications are powerful substances that can be prescribed only by a licensed health care professional, for the majority of medications in the majority of states, by a licensed physician. The availability of these substances is carefully controlled and limited because they must be prescribed and administered by a trained and knowledgeable professional, can have detrimental side effects, and should not be self-administered.[1(p. 5986)]

Note 2

The issue whether immunizations and inoculations are first aid or medical treatment is irrelevant for recordkeeping purposes unless a work-related injury or illness has occurred. Immunizations and inoculations provided for public health or other

Figure 2-43 Notes on First Aid Treatment versus Medical Treatment Restated. Source: *Federal Register*, Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Preamble, pp. 5916–6122, public domain.

purposes, where there is no work-related injury or illness, are not first aid or medical treatment and do not in themselves make the case recordable. However, when inoculations such as gamma globulin, rabies, and the like are given to treat a specific injury or illness or in response to workplace exposure, medical treatment has been rendered and the case must be recorded. The following example illustrates the distinction OSHA makes about inoculations and immunizations: If a health care employee is given a hepatitis B shot when he or she is first hired, the action is considered first aid and the case would not be recordable; on the other hand, if the same health care employee has been occupationally exposed to a splash of potentially contaminated blood and a hepatitis B shot is administered as prophylaxis, the shot constitutes medical treatment and the case is recordable.[1(p. 5988)]

Note 3

Because OSHA decided not to include a list of medical treatments in the final rule, there is no need to articulate that the use of other wound closing devices, such as surgical staples, tapes, glues, or other means are medical treatment. Because they are not included on the first aid list, they are by definition medical treatment.[1(p. 5959)]

Note 4

Use of any hot/cold therapy (for example, compresses, soaking, whirlpools), nonprescription skin creams or lotions for local relief, and so forth.[1(p. 5989)]

Note 5

OSHA believes that it is often difficult for a health care professional to determine whether an object is embedded in or adheres to the eye and has not included this suggested language in the final rule. In all probability, if the object is embedded or adhered, it will not be removed simply with irrigation or a cotton swab, and the case will be recorded because it will require additional treatment.[1(p. 5991)]

If a chiropractor provides observation, counseling, diagnostic procedures, or first aid procedures for a work-related injury or illness, the case would not be recordable. However, if a chiropractor provides medical treatment or prescribes work restrictions, the case would be recordable.[1(p. 5992)]

OSHA removed the use of oxygen from the first aid list and considers any use of oxygen medical treatment. Oxygen administration is a treatment that can be provided only by a trained medical professional, uses relatively complex technology, and is used to treat serious injuries and illnesses. The use of any artificial respiration technology, such as intermittent positive pressure breathing (IPPB), also clearly is considered medical treatment under the final rule.[1(p. 5988)]

Figure 2-43 *Continued.*

Employers will therefore be clear that any condition that is treated, or that should have been treated, with a treatment not on the first aid list is a recordable injury or illness for recordkeeping purposes.[1(p. 5985)]

In making its decisions about the items to be included on the list of first aid treatments, OSHA relied on its experience with the former rule, the advice of the

Figure 2-44 More on First Aid Treatment and Medical Treatment. Source: *Federal Register*, Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Preamble, pp. 5916–6122, public domain.

agency's occupational medicine and occupational nursing staff, and a thorough review of stakeholder comments. In general, first aid treatment can be distinguished from medical treatment as follows:

- First aid is usually administered after the injury or illness occurs and at the location, for example, the workplace, where the injury or illness occurred.
- First aid generally consists of one-time or short-term treatment.
- First aid treatments are usually simple and require little or no technology.
- First aid can be administered by people with little training (beyond first aid training) and even by the injured or ill employee.
- First aid is usually administered to keep the condition from worsening, while the injured or ill employee is awaiting medical treatment.[1(p. 5985)]

It is the experience of OSHA that employers generally understand the difference between procedures used to combat an injury or illness and those used to diagnose or assess an injury or illness. In the event that the employer lacks this knowledge, he or she may contact a health care professional to obtain help with this decision. Chapter 5 discusses medical providers. If the employer lacks this knowledge and elects not to contact a health care professional, OSHA expects the employer to refer to the first aid list and, if the procedure is not on the list, to presume that the procedure is medical treatment and record the case. OSHA also does not believe that this provision will be subject to abuse, because the procedures used for diagnosis are generally quite different from those involving treatment.[1(p. 5985)]

OSHA decided not to include debridement (usually performed in conjunction with other forms of medical treatment, such as sutures or prescription drugs) as a first aid treatment. This procedure must be performed by a trained professional using surgical instruments.[1(p. 5986)]

In the final rule, OSHA decided not to include the IV administration of fluids on the first aid list because these treatments are used for serious medical events, such as postshock, dehydration, or heat stroke. The administration of IVs is an advanced procedure that can be administered only by an employee with advanced medical training and is usually performed under the supervision of a physician.[1(p. 5992)]

After careful consideration, OSHA decided not to include UV treatment of blisters, rashes, and dermatitis; acupuncture, when administered by a licensed health care professional; and electronic stimulation treatments as first aid. Each of these treatments must be provided by an employee with specialized training and is usually administered only after recommendation by a physician or other licensed health care professional.[1(p. 5992)]

In the final rule, OSHA decided not to include burn treatments on the first aid list. If first-, second-, or third-degree burns result in days away from work, restricted work activity, or medical treatment beyond first aid, such as prescription drugs or complex removal of foreign material from the wound, they rise to the level that requires recording.[1(p. 5993)]

Figure 2-44 *Continued.*

Q: Does the professional status of the individual providing the treatment have any effect on what is considered first aid or medical treatment?

A: No, OSHA considers the treatments listed in §1904.7(b)(5)(ii) to be first aid regardless of the professional status of the employee providing the treatment. Even when these treatments are provided by a physician or other licensed health care professional,

they are considered first aid. Similarly, OSHA considers treatment beyond first aid to be medical treatment even when it is provided by someone other than a physician or other licensed health care professional (1904.7(b)(5)(iv), FR p. 6128).

Q: What if a physician or other licensed health care professional recommends medical treatment but the employee does not follow the recommendation?

A: If a physician or other licensed health care professional recommends medical treatment, you should encourage the injured or ill employee to follow that recommendation. However, you must record the case even if the injured or ill employee does not follow the physician or other licensed health care professional's recommendation (1904.7(b)(5)(v), FR p. 6128).

Loss of Consciousness

Q: Is every work-related injury or illness case involving a loss of consciousness recordable?

A: Yes, you must record a work-related injury or illness if the employee becomes unconscious, regardless of the length of time the employee remains unconscious (1904.7(b)(6), FR p. 6128). Figure 2-45 presents a discussion of loss of consciousness.

Q: What is a "significant" diagnosed injury or illness that is recordable under the general criteria even if it does not result in death, days away from work, restricted work or job transfer, medical treatment beyond first aid, or loss of consciousness?

Any time an employee becomes unconscious because of a workplace exposure to chemicals, heat, an oxygen deficient environment, a blow to the head, or some other workplace hazard that can cause loss of consciousness, the employer must record the case.[1(p. 5994)]

A fainting episode involving a phobia stemming from an event or exposure in the work environment would be recordable.[1(p. 5994)]

The definition of *unconscious* is a complete loss of consciousness and not a sense of disorientation, "feeling woozy," or another diminished level of awareness. Second, the final rule makes it clear that loss of consciousness does not depend on the amount of time the employee is unconscious. If the employee is rendered unconscious for any length of time, no matter how brief, the case must be recorded on the OSHA 300 Log.[1(p. 5994)]

Figure 2-45 Loss of Consciousness. Source: *Federal Register*, Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Preamble, pp. 5916–6122, public domain.

A: Work-related cases involving cancer, chronic irreversible disease, a fractured or cracked bone, or a punctured eardrum must always be recorded under the general criteria at the time of diagnosis by a physician or other licensed health care professional (1904.7(b)(7), FR p. 6128). Note to 1904.7: OSHA believes that most significant injuries and illnesses will result in one of the criteria listed in 1904.7(a):

- Death.
- Days away from work.
- Restricted work or job transfer.
- Medical treatment beyond first aid.
- Loss of consciousness.

However, there are some significant injuries, such as

- A punctured eardrum.
- A fractured toe or rib, for which neither medical treatment nor work restrictions may be recommended.

In addition, there are some significant progressive diseases, such as

- Byssinosis.
- Silicosis.
- Some types of cancer, where medical treatment or work restrictions may not be recommended at the time of diagnosis but are likely to be recommended as the disease progresses.

OSHA believes that

- Cancer
- Chronic irreversible diseases
- Fractured or cracked bones
- Punctured eardrums

are generally considered significant injuries and illnesses and must be recorded at the initial diagnosis, even if medical treatment or work restrictions are not recommended, or are postponed, in a particular case (1904.7(b)(7), FR p. 6128).[1(p. 5959)]

ADDITIONAL CRITERIA, SECTIONS 1904.8 THROUGH 1904.12

These include issues regarding needlestick and sharps injury cases, tuberculosis cases, hearing loss cases, medical removal cases, and musculoskeletal disorder cases. See §1904.8 through §1904.12.

Recording Criteria for Needlestick and Sharps Injuries, Section 1904.8

You must record all work-related needlestick injuries and cuts from sharp objects that are contaminated with another person's blood or other potentially infectious materials (refer to the bloodborne pathogens rule, 29 CFR 1910.1030). You must enter the case on the OSHA 300 Log as an injury. To protect the employee's privacy, you may not enter the employee's name on the OSHA 300 Log (see the requirements for privacy cases in paragraphs 1904.29(b)(6) through 1904.29(b)(9); see 1904.8(a), FR p. 6128; also Appendix D, Question 8-1, p. 304). See Figure 2-46 for OSHA's opinion on needlestick injuries.

Q: What does *other potentially infectious materials* mean?

A: The term *other potentially infectious materials* is defined in the OSHA Bloodborne Pathogens standard at §1910.1030(b). These materials include

- Human bodily fluids, tissues and organs.

OSHA recognizes that needlestick injuries are different from most workplace cuts and lacerations, whose seriousness depends largely on the size, location, jaggedness, or degree of contamination of the cut, which determines the need for medical treatment, restricted work, or time away for recuperation and the recordability of the incident. All injuries from contaminated needles and sharps are serious because of the risk of contracting a potentially fatal bloodborne disease that is associated with them.[1(p. 5959)]

OSHA requires recording only of lacerations and puncture wounds that involve contact with another employee's blood or other potentially infectious materials (OPIM). Exposure incidents involving exposure of the eyes, mouth, other mucous membranes, or nonintact skin to another employee's blood or other potentially infectious material need not be recorded unless they meet one or more of the general recording criteria, result in a positive blood test (seroconversion) or the diagnosis of a significant illness by a health care professional. Otherwise, these exposure incidents are considered to involve only exposure and not to constitute an injury or illness. In contrast, a needlestick laceration or puncture wound is clearly an injury and, if it involves exposure to human blood or other potentially infectious materials, it rises to the level of seriousness that requires recording. For splashes and other exposure incidents, the case does not rise to this level any more than a chemical exposure does. If an employee who has been exposed via a splash in the eye from the blood or OPIM of an employee with a bloodborne disease actually contracts an illness, or seroconverts, the case would be recorded (provided that it meets one or more of the general recording criteria).[1(p. 6002)]

Figure 2-46 Needlestick Injuries. Source: *Federal Register*, Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Preamble, pp. 5916–6122, public domain.

- Other materials infected with the HIV or hepatitis B (HBV) virus such as laboratory cultures or tissues from experimental animals (1904.8(b)(i)–(ii), FR p. 6128).

Q: Does this mean that I must record all cuts, lacerations, punctures, and scratches?

A: No, you need to record cuts, lacerations, punctures, and scratches only if they are work related and involve contamination with another employee's blood or other potentially infectious material. If the cut, laceration, or scratch involves a clean object or a contaminant other than blood or other potentially infectious material, you need to record the case only if it meets one or more of the recording criteria in §1904.7 (1904.8(b)(2), FR p. 6128).

Q: If I record an injury and the employee is later diagnosed with an infectious bloodborne disease, do I need to update the OSHA 300 Log?

A: Yes, you must update the classification of the injury if the injury results in death, days away from work, restricted work, or job transfer. You must also update the description to identify the infectious disease and change the classification of the case from an injury to an illness (1904.8(b)(3), FR p. 6128).

Q: What if one of my employees is splashed or exposed to blood or other potentially infectious material without being cut or scratched? Do I need to record this incident?

A: You need to record such an incident on the OSHA 300 Log as an illness if

- It results in the diagnosis of a bloodborne illness, such as HIV, hepatitis B, or hepatitis C.
- It meets one or more of the recording criteria in section 1904.7 (1904.8(4)(i)–(ii), FR pp. 6128–6129; see also Appendix D, Question 8-2, p. 305 for examples).

Recording Criteria for Cases Involving Medical Removal under OSHA Standards, Section 1904.9

If an employee is medically removed under the medical surveillance requirements of an OSHA standard, you must record the case on the OSHA 300 Log (1904.9(a), FR p. 6129).

Q: How do I classify medical removal cases on the OSHA 300 Log?

A: You must enter each medical removal case as either a case involving days away from work or a case involving restricted work activity, depending on how you decide to comply with the medical removal requirement. If the medical removal is the result of a

chemical exposure, you must enter the case on the log by checking the "poisoning" column (1904.9(b), FR p. 6129).

Q: Do all of OSHA's standards have medical removal provisions?

A: No, some OSHA standards, such as the standards covering bloodborne pathogens and noise, do not have medical removal provisions. Many OSHA standards that cover specific chemical substances have medical removal provisions. These standards include, but are not limited to, lead, cadmium, methylene chloride, formaldehyde, and benzene (1904.7(b)(2), FR p. 6129).

Q: Do I have to record a case where I voluntarily removed the employee from exposure before the medical removal criteria in an OSHA standard are met?

A: No, if the case involves voluntary medical removal before the medical removal levels required by an OSHA standard, you do not need to record the case on the OSHA 300 Log (1904.9(b)(3), FR p. 6129). Figure 2-47 examines removal of an employee from assigned activities.

Recording Criteria for Cases Involving Occupational Hearing Loss, Section 1904.10

The original rule is cited here for consistency because OSHA delayed this section of the rule.[2] Figures 2-48 and 2-49 have the new section. See Appendix I.

If an employee's hearing test (audiogram) reveals that a standard threshold shift (STS) has occurred, you must record the case on the OSHA 300 Log by checking the "hearing loss" column (1904.10(a), FR p. 6129).

Q: What is a standard threshold shift?

> Removal (job transfer) of an asymptomatic employee for administrative exposure control reasons does not require the case to be recorded because there is no injury or illness, the first step in the recordkeeping process. Paragraph 1904.9(b)(3) applies only to those substances with OSHA mandated medical removal criteria. For injuries or illnesses caused by exposure to other substances or hazards, the employer must look to the general requirements of paragraphs 1910.7(b)(3) and (4) to determine how to record the days away or days of restricted work.[1(p. 5959)]

Figure 2-47 Removal of an Employee from Assigned Activities. Source: *Federal Register*, Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Preamble, pp. 5916–6122, public domain.

Section 1904.10 was amended by adding a note to the section and by adding a new paragraph (c), as follows:

(c) *Recording criteria for calendar year 2002.* From January 1, 2002 until December 31, 2002, you are required to record a work-related hearing loss averaging 25 dB or more at 2,000, 3,000, and 4,000 hertz in either ear on the OSHA 300 Log. You must use the employee's original baseline audiogram for comparison. You may make a correction for presbycusis (aging) by using the tables in Appendix F of 29 CFR 1910.95. The requirement of §1904.37(b)(1) that states with OSHA-approved state plans must have the same requirements for determining which injuries and illnesses are recordable and how they are recorded shall not preclude the states from retaining their existing criteria with regard to this section during calendar year 2002. (Note to §1904.10: Paragraphs (a) and (b) of this section are effective on January 1, 2003. Paragraph (c) of this section applies from January 1, 2002, until December 31, 2002.)

Section 1904.12 was amended by adding a note to the section as follows:

Note to §1904.12: This section is effective January 1, 2003. From January 1, 2002, until December 31, 2002, you are required to record work-related injuries and illnesses involving muscles, nerves, tendons, ligaments, joints, cartilage and spinal discs in accordance with the requirements applicable to any injury or illness under §1904.5, §1904.6, §1904.7, and §1904.29. For entry (M) on the OSHA 300 Log, you must check either the entry for "injury" or "all other illnesses."

Section 1904.29(b)(7)(vi) was revised to read as follows:

(vi) Other illnesses, if the employee independently and voluntarily requests that his or her name not be entered on the log. Musculoskeletal disorders (MSDs) are not considered privacy concern cases. (Note: The first sentence of this §1904.29(b)(7)(vi) is effective on January 1, 2002. The second sentence is effective beginning on January 1, 2003.)

Figure 2-48 Changes to the New Rule in the October 12, 2001, *Federal Register* Notice (66 FR 52031) Changes to Hearing Loss and MSD. Source: OSHA Instruction, *Recordkeeping Policies and Procedures Manual* (RKM), directive number: CPL 2-0.131, effective date: January 1, 2002, public domain.

In light of the decision to reconsider the 10-dB criterion, OSHA delayed the effective date of Section 1904.10 until January 1, 2003, and removed the "Hearing Loss" column from the 2002 calendar year version of the OSHA Log. OSHA believes that this proposed action is appropriate for several reasons. If OSHA decides to change the hearing loss criterion beginning in 2003, records of hearing loss cases based on the 10-dB level for 2002 will be of little value, since they could not be compared to records maintained either under the former rule's 25-dB level or any new level effective in 2003. On the other hand, continuing the 25-dB recording requirement for 2002 will yield data comparable to that for earlier years, even if OSHA implements a new requirement for 2003. Furthermore, the delay of the effective date would avoid the confusion and additional paperwork burden that would result if employers were required to implement the 10-dB requirement for 2002, only to change over to a new requirement in 2003. These factors appear to outweigh any potential benefit to be gained by permitting Section 1904.10 to become effective while OSHA is reconsidering the 10-dB criterion.[6(p. 35114)]

Figure 2-49 New Decision on Hearing Loss. Source: *Federal Register*, Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Preamble, pp. 5916–6122, public domain.

A: A *standard threshold shift* is defined in the occupational noise exposure standard at 29 CFR 1910.95(c)(10)(i) as a change in hearing threshold, relative to the most recent audiogram for that employee, of an average of 10 dB or more at 2,000, 3,000, and 4,000 Hz in one or both ears (1904.10(b)(1), FR p. 6129). As discussed in the current rule, this has been changed (see Figures 2-48 and 2-49).

Q: How do I determine if an STS has occurred?

A: If the employee has never previously experienced a recordable hearing loss, you must compare the employee's current audiogram with the employee's baseline audiogram. If the employee has previously experienced a recordable hearing loss, you must compare the employee's current audiogram with the employee's revised baseline audiogram (the audiogram reflecting the employee's previous recordable hearing loss case) (1904.10(b)(2), FR p. 6129).

Q: May I adjust the audiogram results to reflect the effects of aging on hearing?

A: Yes, when comparing audiogram results, you may adjust the results for the employee's age when the audiogram was taken using Table F-1 or F-2, as appropriate, in Appendix F of 29 CFR 1910.95 (1904.10(b)(3), FR p. 6129).

Q: Do I have to record the hearing loss if I am going to retest the employee's hearing?

A: No, if you retest the employee's hearing within 30 days of the first test and the retest does not confirm the STS, you are not required to record the hearing loss case on the OSHA 300 Log. If the retest confirms the STS, you must record the hearing loss illness within seven (7) calendar days of the retest (1904.7(b)(4), FR p. 6129).

Q: Are there any special rules for determining if a hearing loss case is work related?

A: Yes, hearing loss is presumed to be work related if the employee is exposed to noise in the workplace at an eight-hour time-weighted average of 85 dBA or greater or to a total noise dose of 50%, as defined in 29 CFR 1910.95. For hearing loss cases where the employee is not exposed to this level of noise, you must use the rules in §1904.5 to determine if the hearing loss is work related (1904.10(b)(5), FR p. 6129).

Q: If a physician or other licensed health care professional determines the hearing loss is not work related, do I still need to record the case?

A: If a physician or other licensed health care professional determines that the hearing loss is not work related or has not been significantly aggravated by occupational noise exposure, you are

not required to consider the case work related or to record the case (1904.10(b)(6), FR p. 6129). See Appendix I.

Recording Criteria for Work-Related Tuberculosis Cases, Section 1904.11

If any of your employees has been occupationally exposed to anyone with a known case of active tuberculosis (TB) and that employee subsequently develops a tuberculosis infection, as evidenced by a positive skin test or diagnosis by a physician or other licensed health care professional, you must record the case on the OSHA 300 Log by checking the "respiratory condition" column (1904.11(a), FR p. 6129).

Q: Do I have to record a positive TB skin test result obtained at a preemployment physical?

A: No, you do not have to record it because the employee was not occupationally exposed to a known case of active tuberculosis in your workplace (1904.11(b)(1), FR p. 6129).

Q: May I line out or erase a recorded TB case if I obtain evidence that the case was not caused by occupational exposure?

A: Yes, you may line out or erase the case from the log under the following circumstances:

- The employee is living in a household with an employee who has been diagnosed with active TB.
- The Public Health Department has identified the employee as a contact of an employee with a case of active TB unrelated to the workplace.
- A medical investigation shows that the employee's infection was caused by exposure to TB away from work or proves that the case was not related to the workplace TB exposure (1904.11(b)(2)(i)–(iii), FR p. 6129).

Recording Criteria for Cases Involving Work-Related Musculoskeletal Disorders, Section 1904.12

The original rule is cited here to keep the rule consistent how OSHA delayed this section of the rule.[2] See Figure 2-49 for the new section. See Appendix I.

If any of your employees experiences a recordable work-related musculoskeletal disorder (MSD), you must record it on the OSHA 300 Log by checking the "musculoskeletal disorder" column (1904.12(a), FR p. 6129).

Q: What is a musculoskeletal disorder?

A: Musculoskeletal disorders are disorders of the muscles, nerves, tendons, ligaments, joints, cartilage and spinal discs. MSDs do not include disorders caused by slips, trips, falls, motor vehicle accidents, or other similar accidents. Some examples of MSDs include

- Carpal tunnel syndrome
- Rotator cuff syndrome
- De Quervain's disease
- Trigger finger
- Tarsal tunnel syndrome
- Sciatica, epicondylitis
- Tendinitis
- Raynaud's phenomenon
- Carpet layer's knee
- Herniated spinal disc
- Low back pain (1904.12(b)(1), FR p. 6129)

Q: How do I decide which musculoskeletal disorders to record?

A: There are no special criteria for determining which musculoskeletal disorders to record. An MSD case is recorded using the same process you would use for any other injury or illness. If a musculoskeletal disorder is work related, a new case, and meets one or more of the general recording criteria, you must record the musculoskeletal disorder. Table 2-7 will guide you to the appropriate section of the rule for guidance on recording MSD cases (1904.12(b)(1), FR p. 6129). Note that this has been changed (see Figure 2-48).

Q: If a work-related MSD case involves only subjective symptoms like pain or tingling, do I have to record it as a musculoskeletal disorder?

A: The symptoms of an MSD are treated the same as symptoms for any other injury or illness. If an employee has pain, tingling,

Table 2-7
Summary of Determining Status of MSD (stayed)

Determining if the MSD is work related	1904.5(i)
Determining if the MSD is a new case	1904.6(ii)
Determining if the MSD meets one or more of the general recording criteria:	
Days away from work	1904.7(b)(3)
Restricted work or transfer to another job	1904.7(b)(4)
Medical treatment beyond first aid	1904.7(b)(5). See Figure 1-1.

Source: See 29 CFR §1904.12(b)(2)(i)–(iii)(A)–(C), public domain.[1]

burning, numbness, or any other subjective symptom of an MSD, the symptoms are work related, and the case is a new case that meets the recording criteria, you must record the case on the OSHA 300 Log as a musculoskeletal disorder (1904.12(b)(3), FR pp. 6129–6130). See Appendix I.

RESERVED, SECTIONS 1904.13 THROUGH 1904.28

These sections are reserved to take into account any changes that might occur to the new rule. Stay tuned.

OSHA 300 FORMS, SECTION 1904.29

The final rule includes no requirement that certain questions on an equivalent form be asked in the same order and phrased in language identical to that used on the OSHA 301 Form. Instead, OSHA decided, based on a review of the record evidence, that employers may use any substitute form that contains the same information and follows the same recording directions as the OSHA 301 Form. The final rule clearly allows this. Although the consistency of the data on the OSHA 301 Form might be improved somewhat if those questions asking for further details were phrased and positioned in an identical way on all employers' forms, OSHA concluded that the additional burden such a requirement would impose on employers and employees' compensation agencies outweighs this consideration.[1(p. 6024)]

In the final rule, OSHA eliminated the term *lost workdays* on the forms and in the regulatory text. The use of the term has been confusing for many years, because many people equated the terms *lost workdays* with *days away from work* and failed to recognize that the former OSHA term included restricted days. OSHA thinks that deleting this term from the final rule and the forms will improve clarity and the consistency of the data.[1(p. 6026)]

In the final rule, OSHA decided to require employers to record the number of days of restriction or transfer on the OSHA 300 Log.[1(p. 6028)]

The basic requirement of §1904.30(a) of the final rule states that employers are required to keep separate OSHA 300 Logs for each establishment expected to be in business for one year or longer.

Paragraph 1904.30(b)(1) states that, for short-term establishments (for example, those that will exist for less than a year), employers are required to keep injury and illness records but are not required to keep separate OSHA 300 Logs. They may keep one OSHA 300 Log covering all short-term establishments or may include the short-term establishment records in logs that cover employee company divisions or geographic regions. For example, a construction company with multistate operations might have separate OSHA 300 Logs for each state to show the injuries and illnesses of its employees engaged in short-term projects, as well as a separate OSHA 300 Log for each construction project expected to last for more than one year. If the same company had only one office location and none of its projects lasted for more than one year, the company would be required to have only one OSHA 300 Log.[1(p. 6036)]

You must use the OSHA 300, 300-A, and 301 Forms, or equivalent forms, for recordable injuries and illnesses. The OSHA 300 Form is called the *Log of Work-Related Injuries and Illnesses*, the 300A is the *Summary of Work-Related Injuries and Illnesses*, and the OSHA 301 Form is called the *Injury and Illness Incident Report* (1904.29(a), FR p. 6130); see also Appendix D, Questions 2 (p. 294), 3 (p. 295), 29-1 (p. 305), 29-4 (p. 305), and 29-5 (p. 306).

The final rule requires employers to use three forms to track occupational injuries and illnesses, the OSHA 300, 300A, and 301 Forms, which replace the OSHA 200 and 101 Forms called for under the former recordkeeping rule.[1(p. 5959)]

Q: What do I need to do to complete the OSHA 300 Log?

A: You must enter information about your business at the top of the OSHA 300 Log, enter a one- or two-line description for each recordable injury or illness, and summarize this information on the OSHA 300A at the end of the year (1904.29(b)(1), FR p. 6130). A copy of the OSHA 300 Log appears in Appendix G.

Q: What do I need to do to complete the OSHA 301 Incident Report?

A: You must complete an OSHA 301 Incident Report Form, or an equivalent form, for each recordable injury or illness entered on the OSHA 300 Log (1904.29(b)(2), FR p. 6130). A copy of the OSHA 301 Incident Report appears in Appendix G.

Q: How quickly must each injury or illness be recorded?

A: You must enter each recordable injury or illness on the OSHA 300 Log and 301 Incident Report within seven (7) calendar days of receiving information that a recordable injury or illness has occurred (1904.29(b)(3), FR p. 6130). Figure 2-50 states an exception for the seven-day recording period.

The final rule contains one exception to the seven-day recording period: If an employee experiences a recordable hearing loss and the employer elects to retest the employee's hearing within 30 days, the employer can wait for the results of the retest before recording.

Figure 2-50 Exception to the Seven-Day Recording Period. Source: *Federal Register*, Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Preamble, p. 5959, public domain.

Q: What is an equivalent form?

A: An equivalent form is one that has the same information, is as readable and understandable, and is completed using the same instructions as the OSHA Form it replaces. Many employers use an insurance form instead of the OSHA 301 Incident Report or supplement an insurance form by adding any additional information required by OSHA (1904.29(b)(4), FR p. 6130).

Q: May I keep my records on a computer?

A: Yes, if the computer can produce equivalent forms when they are needed, as described under section 1904.35 and 1904.40, you may keep your records using the computer system (1904.29(b)(5), FR p. 6130).

Q: Are there situations where I do not put the employee's name on the forms for privacy reasons?

A: Yes, if you have a "privacy concern case," you may not enter the employee's name on the OSHA 300 Log. Instead, enter "privacy case" in the space normally used for the employee's name. This will protect the privacy of the injured or ill employee when another employee, a former employee, or an authorized employee representative is provided access to the OSHA 300 Log under §1904.35(b)(2). You must keep a separate, confidential list of the case numbers and employee names for your privacy concern cases, so you can update the cases and provide the information to the government if asked to do so (1904.29(b)(6), FR p. 6130). See Figure 2-51 for OSHA's view on privacy concern cases.

This separate listing is needed to allow a government representative to obtain the employee's name during a workplace inspection where further investigation is warranted and also to assist employers to keep track of such cases in the event that future revisions to the entry become necessary.[1(p. 5959)]

Figure 2-51 Privacy Concern. Source: *Federal Register*, Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Preamble, pp. 5916–6122, public domain.

Q: How do I determine if an injury or illness is a privacy concern case?

A: You must consider the following injuries or illnesses to be privacy concern cases:

- An injury or illness to an intimate body part or the reproductive system.
- An injury or illness resulting from a sexual assault.
- Mental illness.
- HIV infection, hepatitis, or tuberculosis.
- Needlestick injuries and cuts from sharp objects contaminated with another employee's blood or other potentially infectious material (see §1904.8 for definitions).
- Other illnesses, if the employee independently and voluntarily requests that his or her name not be entered on the log. Musculoskeletal disorders (MSDs) are not considered privacy concern cases (1904.29(7)(i)–(vi), FR p. 6130); see also Appendix D, Question 29-2, p. 305. See Appendix I.

Q: May I classify any other types of injuries and illnesses as privacy concern cases?

A: No, this is a complete list of all injuries and illnesses considered privacy concern cases for Part 1904 purposes (1904.29(b)(8), FR p. 6130).

Q: If I have removed the employee's name but still believe that the employee may be identified from the information on the forms, is there anything else that I can do to further protect the employee's privacy?

A: Yes, if you have a reasonable basis to believe that information describing the privacy concern case may be employee identifiable even though the employee's name has been omitted, you may use discretion in describing the injury or illness on both the OSHA 300 and 301 Forms. You must enter enough information to identify the cause of the incident and the general severity of the injury or illness, but you need not include details of an intimate or private nature. For example, a sexual assault case could be described as an "injury from assault," or an injury to a reproductive organ could be described as a "lower abdominal injury" (1904.29(b)(9), FR p. 6130). Figure 2-52 has some examples of privacy concern cases.

Q: What must I do to protect employee privacy if I wish to provide access to the OSHA 300 and 301 Forms to employees other than government representatives, employees, and former employees or authorized representatives?

A: If you decide to voluntarily disclose the forms to employees other than government representatives, employees, former employees,

> If knowing the department where the employee works would inadvertently divulge the employee's identity or recording the gender of the injured employee would identify that employee (for example, only one woman works at the location), the employer has discretion to mask or withhold this information both on the log and incident report.[1(p. 5959)]
>
> Likewise, a work-related diagnosis of posttraumatic stress disorder could be described as "emotional difficulty." Reproductive disorders, certain cancers, contagious diseases, and other disorders that are intimate and private in nature may also be described in a general way to avoid privacy concerns. This will allow the employer to avoid overly graphic descriptions that may be offensive, without sacrificing the descriptive value of the recorded information.[1(p. 5959)]

Figure 2-52 Examples of Privacy Concern Cases. Source: *Federal Register*, Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Preamble, pp. 5916–6122, public domain.

or authorized representatives (as required by §§1904.35 and 1904.40), you must remove or hide the employees' names and other employee identifying information, except for the following cases. You may disclose the forms with employee identifying information only

- To an auditor or consultant hired by the employer to evaluate the safety and health program.
- To the extent necessary for processing a claim for employees' compensation or other insurance benefits.
- To a public health authority or law enforcement agency for uses and disclosures for which consent, an authorization, or opportunity to agree or object is not required under Department of Health and Human Services Standards for Privacy of Employee Identifiable Health Information, 45 CFR 164.512 (1904.29(b)(10)(i)–(iii), FR p. 6130).

Figure 2-53 presents OSHA's opinion on privacy concern cases.

> The final rule requires that the employer withhold the employee's name from the OSHA 300 Log for each "privacy concern case" and maintain a separate confidential list of employee names and case numbers. In all other respects, the final rule ensures full access to the OSHA log by employees, former employees, employee representatives, and authorized employee representatives.[1(p. 5959)]

Figure 2-53 More on Privacy Concern Cases. Source: *Federal Register*, Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Preamble, pp. 5916–6122, public domain.

OTHER OSHA INJURY AND ILLNESS RECORDKEEPING REQUIREMENTS—SUBPART D

MULTIPLE BUSINESS ESTABLISHMENTS, SECTION 1904.30

You must keep a separate OSHA 300 Log for each establishment that is expected to be in operation for one year or longer (1904.30(a), FR p. 6130).

Q: Do I need to keep OSHA injury and illness records for short-term establishments (i.e., establishments that will exist for less than a year)?

A: Yes, however, you do not have to keep a separate OSHA 300 Log for each such establishment. You may keep one OSHA 300 Log that covers all of your short-term establishments. You may also include the short-term establishments' recordable injuries and illnesses on an OSHA 300 Log that covers short-term establishments for employee company divisions or geographic regions (1904.30(b)(1), FR pp. 6130–6131).

Q: May I keep the records for all of my establishments at my headquarters location or at some other central location?

A: Yes, you may keep the records for an establishment at your headquarters or other central location if you can:

- Transmit information about the injuries and illnesses from the establishment to the central location within seven calendar days of receiving information that a recordable injury or illness has occurred.
- Produce and send the records from the central location to the establishment within the time frames required (four hours) by §§1904.35 and 1904.40 when you are required to provide records to a government representative, employees, former employees, or employee representatives (1904.30(b)(2)(i)–(ii), FR p. 6131).

Q: Some of my employees work at several different locations or do not work at any of my establishments at all. How do I record cases for these employees?

A: You must link each of your employees with one of your establishments for recordkeeping purposes. You must record the injury and illness on the OSHA 300 Log of the injured or ill employee's establishment or on an OSHA 300 Log that covers that employee's short-term establishment (1904.30(b)(3), FR p. 6131).

Q: How do I record an injury or illness when an employee of one of my establishments is injured or becomes ill while visiting or working at another of my establishments or while working away from any of my establishments?

A: If the injury or illness occurs at one of your establishments, you must record the injury or illness on the OSHA 300 Log of the establishment at which the injury or illness occurred. If the employee is injured or becomes ill and is not at one of your establishments, you must record the case on the OSHA 300 Log at the establishment at which the employee normally works (1904.30(b)(4), FR p. 6131).

COVERED EMPLOYEES, SECTION 1904.31

You must record on the OSHA 300 Log the recordable injuries and illnesses of all employees on your payroll, whether they are labor, executive, hourly, salary, part-time, seasonal, or migrant employees. You also must record the recordable injuries and illnesses that occur to employees who are not on your payroll if you supervise these employees on a day-to-day basis. If your business is organized as a sole proprietorship or partnership, the owner or partners are not considered employees for recordkeeping purposes (1904.31(a), FR p. 6131).

Because OSHA is using the common law concepts to determine which employees are to be included in the records, an employee who is covered in terms of recording an injury or illness is also covered for counting purposes and for the annual summary. If a given employee is an employee under the common law test, he or she is an employee for all OSHA recordkeeping purposes. Therefore, an employer must consider all of its employees when determining its eligibility for the small employer exemption and must provide reasonable estimates for hours worked and average employment on the annual summary. OSHA has included instructions on the back of the annual summary to help with these calculations.[1(p. 5959)] These instructions appear in Appendix G.

Q: If a self-employed employee is injured or becomes ill while doing work at my business, do I need to record the injury or illness?

A: No, self-employed employees are not covered by the OSHA Act or this regulation (1904.31(b)(1), FR p. 6131).

Q: If I obtain employees from a temporary help service, employee leasing service, or employee supply service, do I have to record an injury or illness occurring to one of those employees?

A: You must record these injuries and illnesses if you supervise these employees on a day-to-day basis (1904.31(b)(2), FR p. 6131).

Q: If an employee in my establishment is a contractor's employee, must I record an injury or illness occurring to that employee?

A: If the contractor's employee is under the day-to-day supervision of the contractor, the contractor is responsible for recording the injury or illness. If you supervise the contractor employee's work on a day-to-day basis, you must record the injury or illness (1904.31(b)(3), FR p. 6131).

Q: Must the employee supply service, temporary help service, employee leasing service, or contractor also record the injuries or illnesses occurring to temporary, leased, or contract employees that I supervise on a day-to-day basis?

A: No, you and the temporary help service, employee leasing service, employee supply service, or contractor should coordinate your efforts to make sure that each injury and illness is recorded only once: either on your OSHA 300 Log (if you provide day-to-day supervision) or on the other employer's OSHA 300 Log (if that company provides day-to-day supervision) (1904.31(b)(4), FR p. 6131); see also Appendix D, Questions 31-1 and 31-2, p. 306. Figure 2-54 has OSHA's opinion concerning "leased" or "temporary" employees.

ANNUAL SUMMARY, SECTION 1904.32

At the end of each calendar year, you must

- Review the OSHA 300 Log to verify that the entries are complete and accurate, and correct any deficiencies identified.
- Create an annual summary of injuries and illnesses recorded on the OSHA 300 Log.
- Certify the summary.
- Post the annual summary (1904.32(a)(1)–(4), FR p. 6131).

Although the final rule's requirements for preparing the annual summary are generally similar to those of the former rule, the final rule incorporates four important changes that OSHA believes strengthen the recordkeeping process by ensuring greater completeness and accuracy of the log and summary, providing employers and employees with better information to understand and evaluate the injury and illness data on the annual summary, and facilitating greater employer and employee

The final rule makes it clear that, when a "leased" or "temporary" employee is supervised on a day-to-day basis by the using firm, the firm must enter the employee's injuries and illnesses on the using firm's establishment log. Injuries and illnesses occurring to a given employee should only be recorded once, either by the temporary staffing firm or the using firm, depending on which firm actually supervises the temporary employee on a day-to-day basis.[1(p. 5943)]

Requiring the controlling (host) employer to record injuries and illnesses for employees that they control has several advantages. First, it assigns the injuries and illnesses to the employee workplace with the greatest amount of control over the working conditions that led to the employee's injury or illness. Although both the host employer and the payroll employer have safety and health responsibilities, the host employer generally has more control over the safety and health conditions where the employee is working. To the extent that the records connect the occupational injuries and illnesses to the working conditions in a given workplace (establishment), the host employer must include these cases to provide a full and accurate safety and health record for that workplace.

If this policy were not in place, industrywide statistics would be skewed. Two workplaces (establishment) with identical numbers of injuries and illnesses would report different statistics if one relied on temporary help services to provide employees, while the other did not. Under OSHA's policy, when records are collected to generate national injury and illness statistics, the cases are properly assigned to the industry where they occurred. Assigning these injuries and illnesses to temporary help services would not accurately reflect the type of workplace that produced the injuries and illnesses. It would also be more difficult to compare industries.

The policy also makes it easier to use an industry's data to measure differences that occur in that industry over time. Over the last 20 years, the business community has relied increasingly on employees from temporary help services, employee-leasing companies, and other temporary employees. If an industry sector as a whole changed its practices to include either more or fewer temporary employees over time, comparisons of the statistics over several years might show trends in injury and illness experience that simply reflected changing business practices rather than real changes in safety and health conditions.[1(p. 5959)]

Figure 2-54 "Leased" or "Temporary" Employees. Source: *Federal Register*, Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Preamble, pp. 5916–6122, public domain.

awareness of the recordkeeping process. See also Appendix D, Question 32-1.

Q: How extensively do I have to review the OSHA 300 Log entries at the end of the year?

A: You must review the entries as extensively as necessary to make sure that they are complete and correct 1904.32(b)(11).

Q: How do I complete the annual summary?

A: You must

- Total the columns on the OSHA 300 Log (if you had no recordable cases, enter zeros for each column total).

- Enter the calendar year covered, the company's name, establishment name, establishment address, annual average number of employees covered by the OSHA 300 Log, and the total hours worked by all employees covered by the OSHA 300 Log.
- If you are using an equivalent form other than the OSHA 300A Summary Form, as permitted under §1904.6(b)(4), the summary you use must also include the employee access and employer penalty statements found on the OSHA 300A Summary Form (1904.32(b)(2)(i)–(iii), FR p. 6131).

Q: How do I certify the annual summary?

A: A company executive must certify that he or she has examined the OSHA 300 Log and that he or she reasonably believes, based on his or her knowledge of the process by which the information was recorded, that the annual summary is correct and complete (1904.32(b)(3), FR p. 6131).

Q: Who is considered a company executive?

A: The company executive who certifies the log must be one of the following employees:

- An owner of the company (only if the company is a sole proprietorship or partnership).
- An officer of the corporation.
- The highest ranking company official working at the establishment (see Figure 2-55).

The final rule carries forward the proposed rule's requirement for certification by a higher-ranking company official, with minor revisions. OSHA concludes that the company executive certification process will ensure greater completeness and accuracy of the summary by raising accountability for OSHA recordkeeping to a higher managerial level than existed under the former rule. OSHA believes that senior management accountability is essential if the log and annual summary are to be accurate and complete. The integrity of the OSHA recordkeeping system, which is relied on by the BLS for national injury and illness statistics, by OSHA and employers to understand hazards in the workplaces, by employees to assist in the identification and control of the hazards identified, and by safety and health professionals everywhere to analyze trends, identify emerging hazards, and develop solutions is essential to these objectives. Because OSHA cannot oversee the preparation of the log and summary at each establishment and cannot audit more than a small sample of all covered employers' records, this goal is accomplished by requiring employers or company executives to certify the accuracy and completeness of the log and summary.

Figure 2-55 Certification by a Higher-Ranking Company Official. Source: *Federal Register*, Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Preamble, pp. 5916–6122, public domain.

The company executive certification requirement imposes different obligations depending on the structure of the company. If the company is a sole proprietorship or partnership, the certification may be made by the owner. If the company is a corporation, the certification may be made by a corporate officer. For any management structure, the certification may be made by the highest-ranking company official working at the establishment covered by the log (for example, the plant manager or site supervisor) or the latter official's supervisor (for example, a corporate or regional director who works at a different establishment, such as company headquarters).

The company executive certification is intended to make sure that a high-ranking company official with responsibility for the recordkeeping activity and the authority to ensure that the recordkeeping function is performed appropriately has examined the records and has a reasonable belief, based on his or her knowledge of that process, that the records are accurate and complete.

The final rule does not specify how employers are to evaluate their recordkeeping systems to ensure their accuracy and completeness or what steps an employer must follow to certify the accuracy and completeness of the log and summary with confidence. However, to be able to certify that one has a reasonable belief that the records are complete and accurate would suggest, at a minimum, that the certifier is familiar with OSHA's recordkeeping requirements and the company's recordkeeping practices and policies, has read the log and summary, and has obtained assurance from the staff responsible for maintaining the records that all of OSHA's requirements have been met and all practices and policies followed. In most if not all cases, the certifier will be familiar with the details of some of the injuries and illnesses that have occurred at the establishment and will be able to spot check the OSHA 300 Log to see if those cases have been entered correctly. In many cases, especially in small to medium establishments, the certifier will be aware of all of the injuries and illnesses that have been reported at the establishment and will therefore be able to inspect the forms to make sure all of the cases that should have been entered have in fact been recorded.

The certification required by the final rule may be made by signing and dating the certification section of the OSHA 300A Form, which replaces the summary portion of the former OSHA 200 Form, or by signing and dating a separate certification statement and appending it to the OSHA 300A Form. A separate certification statement must contain the identical penalty warnings and employee access information as found on the OSHA 300A Form. See Appendix G for a copy of the OSHA 300A Summary. A separate statement may be needed when the certifier works at another location and the certification is mailed or faxed to the location where the summary is posted.

Note: There may be a question from a compliance officer concerning posting the 300A Form. How do you prove that it was posted? You have your copy, but employees say that they do not know that it exists. I can suggest several ways to help you meet the posting requirements. The first is employee involvement. You could discuss the form at one of your safety meetings during the posting period. If you have your employees sign a training form, you have some documentation that they are at least aware of it and have been presented the information. Some compliance officers want to verify whether the posting was done, and on one occasion, I had a compliance officer feel the corners of the Form to see if there were pinholes. When you post the summary on a bulletin board you will likely use push pins. In this case, the best suggestion is to keep the posted copy of each 300A Form with the original copy. In this way, you can show that you have extra copies.

Figure 2-55 *Continued.*

- The immediate supervisor of the highest ranking company official working at the establishment (1904.32(b)(4)(i)–(iv), FR p. 6131).

Q: How do I post the annual summary?

A: You must post a copy of the annual summary in each establishment in a conspicuous place or places where notices to employees are customarily posted. You must make sure that the posted annual summary is not altered, defaced, or covered by other material (1904.32(b)(5), FR p. 6131). Figure 2-56 has an overview of these posting requirements.

Q: When do I have to post the annual summary?

A: You must post the summary no later than February 1 of the year following the year covered by the records and keep the posting in place until April 30 (1904.32(b)(6), FR p. 6131).

RETENTION AND UPDATING, SECTION 1904.33

You must save the OSHA 300 Log, the privacy case list (if one exists), the annual summary, and the OSHA 301 Incident Report forms for five

> The final rule's requirement increasing the summary Form 300A posting period from one month to three months is intended to raise employee awareness of the recordkeeping process (especially that of new employees hired during the posting period) by providing greater access to the previous year's summary without having to request it from management. The additional two months of posting triples the time employees have to observe the data without imposing additional burdens on the employer. The importance of employee awareness of and participation in the recordkeeping process is discussed in the preamble to sections 1904.35 and 1904.36.
>
> The provisions of the final rule requiring the employer to review the log entries before totaling them for the annual summary are intended as an additional quality control measure to improve the accuracy of the information in the annual summary, which is posted to provide information to employees and used as a data source by OSHA and the BLS. Depending on the size of the establishment and the number of injuries and illnesses on the OSHA 300 Log, the employer may wish to cross-check with any other relevant records to make sure that all the recordable injuries and illnesses have been included on the summary. These records may include workers' compensation injury reports, medical records, company accident reports, and/or time and attendance records.[1(p. 5959)]

Figure 2-56 Overview of Posting Requirements. Source: *Federal Register*, Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Preamble, pp. 5916–6122, public domain.

years following the end of the calendar year that these records cover (1904.33(a), FR p. 6131).

Q: Do I have to update the OSHA 300 Log during the five-year storage period?

A: Yes, during the retention period, you must update your OSHA 300 Logs to include newly discovered recordable injuries or illnesses and to show any changes that have occurred in the classification of previously recorded injuries and illnesses. If the description or outcome of a case changes, you must remove or line out the original entry and enter the new information (1904.7(b)(1), FR p. 6131).

Q: Do I have to update the annual summary?

A: No, you are not required to update the annual summary, but you may do so if you wish (1904.33(b)(2), FR p. 6132).

Q: Do I have to update the OSHA 301 Incident Reports?

A: No, you are not required to update the OSHA 301 Incident Reports, but you may do so if you wish (1904.33(b)(3), FR p. 6132).

CHANGE IN BUSINESS OWNERSHIP, SECTION 1904.34

If your business changes ownership, you are responsible for recording and reporting work-related injuries and illnesses only for that period of the year during which you owned the establishment. You must transfer the Part 1904 records to the new owner. The new owner must save all records of the establishment kept by the prior owner, as required by §1904.33 of this part but need not update or correct the records of the prior owner (1904.34, FR p. 6132).

Closing an establishment does not, however, relieve an employer of the obligation to prepare and certify the summary for whatever portion of the calendar year the establishment was operating, retain the summary, and make the summary accessible to employees and government officials.[1(p. 5959)]

EMPLOYEE INVOLVEMENT (PARTICIPATION), SECTION 1904.35

Your employees and their representatives must be involved in the recordkeeping system in several ways (1904.35(a), FR p. 6132):

- You must inform each employee of how he or she is to report an injury or illness to you. See Figure 2-57 for a discussion on employee participation and Figure 2-58 for a discussion on §11(c) of the Act.
- You must provide limited access to your injury and illness records for your employees and their representatives (1904.35(a)(1)–(2), FR p. 6132); see also Appendix D, Question 35-1, p. 307.

Employee involvement also requires that employees and their representatives have access to the establishment's injury and illness records. Employee involvement is further enhanced by other parts of the final rule, such as the extended posting period provided in section 1904.32 and the access statements on the new 300 and 301 Forms.[1(p. 5959)]

Q: What must I do to make sure that employees report work-related injuries and illnesses to me?

A: You must set up a way for employees to report work-related injuries and illnesses promptly; and you must tell each employee how to report work-related injuries and illnesses to you (1904.35(b)(1)(i)–(ii), FR p. 6132). Also see Figure 2-58.

> Section 1904.36 of the final rule makes clear that §11(c) of the Act prohibits employers from discriminating against employees for reporting work-related injuries and illnesses. Section 1904.36 does not create a new obligation on employers. Instead, it clarifies that the Act's antidiscrimination protection applies to employees who seek to participate in the recordkeeping process.[1(p. 5959)]

Figure 2-57 Section 11(c) of the Act. Source: *Federal Register*, Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Preamble, pp. 5916–6122, public domain.

> Under the employee involvement provisions of the final rule, employers are required to let employees know how and when to report work-related injuries and illnesses. This means that the employer must establish a procedure for the reporting of work-related injuries and illnesses and train its employees to use that procedure. The rule does not specify how the employer must accomplish these objectives. The size of the workforce, employees' language proficiency and literacy levels, the workplace culture, and other factors will determine what will be effective for any particular workplace.[1(p. 5959)]

Figure 2-58 Employee Involvement. Source: *Federal Register*, Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Preamble, pp. 5916–6122, public domain.

Q: Do I have to give my employees and their representatives access to the OSHA injury and illness records?

A: Yes, your employees, former employees, their employee representatives, and their authorized employee representatives have the right to access the OSHA injury and illness records, with some limitations, as discussed in the next few questions and answers (1904.35(b)(2), FR p. 6132).

Q: Who is an authorized employee representative?

A: An authorized employee representative is an authorized collective bargaining agent of employees (FR p. 6132).

Q: Who is an "employee representative" of an employee or former employee?

A: An employee representative is

- Any employee that the employee or former employee designates as such, in writing.
- The legal representative of a deceased or legally incapacitated employee or former employee (1904.35(b)(2)(i)–(ii)(A)–(B), FR p. 6132).

Q: If an employee or representative asks for access to the OSHA 300 Log, when do I have to provide it?

A: When an employee, former employee, employee representative, or authorized employee representative asks for copies of your current or stored OSHA 300 Log(s) for an establishment the employee or former employee has worked in, you must give the requester a copy of the relevant OSHA 300 Log(s) by the end of the next business day (1904.35(b)(2)(iii), FR p. 6132).

Q: May I remove the names of the employees or any other information from the OSHA 300 Log before I give copies to an employee, former employee, or employee representative?

A: No, you must leave the names on the 300 Log. However, to protect the privacy of injured and ill employees, you may not record the employee's name on the OSHA 300 Log for certain "privacy concern cases," as specified in paragraphs 1904.29(b)(6) through 1904.29(b)(9) (1904.35(b)(2)(iv), FR p. 6132).

The final rule requires that the employer withhold the employee's name from the OSHA 300 Log for each "privacy concern case" and maintain a separate confidential list of employee names and case numbers. In all other respects, the final rule ensures full access to the OSHA log by employees, former employees, employee representatives and authorized employee representatives.[1(p. 5959)]

Q: If an employee or representative asks for access to the OSHA 301 Incident Report, when do I have to provide it?

A: When an employee, former employee, or employee representative asks for a copy of the OSHA 301 Incident Report describing an injury or illness to that employee or former employee, you must give the requester a copy of the OSHA 301 Incident Report containing that information by the end of the next business day. (1904.35(b)(2)(vi), FR p. 6132); see also Figure 2-60.

When an authorized employee representative asks for a copy of the OSHA 301 Incident Report for an establishment where the agent represents employees under a collective bargaining agreement, you must give copies of those forms to the authorized employee representative within seven calendar days. You are required to give the authorized employee representative information from only the OSHA 301 Incident Report section titled "Tell Us About the Case." You must remove all other information from the copy of the OSHA 301 Incident Report or the equivalent substitute form that you give to the authorized employee representative (1904.35(b)(2)(vi), FR p. 6132).

Q: May I charge for the copies?

A: No, you may not charge for these copies the first time they are provided. However, if one of the designated employees asks for additional copies, you may assess a reasonable charge for retrieving and copying the records (see Figure 2-59) (1904.35(b)(2)(vi), FR p. 6132).

> While there may be instances where employees share the data with third parties that normally would not be allowed to access the data directly, the final rule contains no enforceable restrictions on use by employees or their representatives. Employees and their representatives might reasonably fear that they could be found liable for violation of such restrictions. This would have a chilling effect on employees' willingness to use the records for safety and health purposes, since few employees would voluntarily risk such liability. Moreover, despite the concerns of commenters about abuse problems, OSHA has not noted any significant problems of this type in the past. This suggests that, if such problems exist, they are infrequent. In addition, as noted in the privacy discussion, a prohibition on the use of the data by employees or their representatives is beyond the scope of OSHA's enforcement authority. For these reasons, the employer may not require an employee, former employee, or designated employee representative to agree to limit the use of the records as a condition for viewing or obtaining copies of records.[1(p. 5959)]

Figure 2-59 Providing the Form to Employees. Source: *Federal Register*, Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Preamble, pp. 5916–6122, public domain.

PROHIBITION AGAINST DISCRIMINATION, SECTION 1904.36

Section 11(c) of the Act prohibits you from discriminating against an employee for reporting a work-related fatality, injury, or illness. That provision of the Act also protects the employee who files a safety and health complaint, asks for access to the Part 1904 records, or otherwise exercises any rights afforded by the OSHA Act (1904.36, FR p. 6132).

State Recordkeeping Regulations

Some states operate their own OSHA programs under the authority of a state plan approved by OSHA. States operating OSHA-approved state plans must have occupational injury and illness recording and reporting requirements that are substantially identical to the requirements in this Part (see 29 CFR 1902.3(k), 29 CFR 1952.4, and 29 CFR 1956.10(i)) (1904.37 (a), FR p. 6132).

State-plan states must have the same requirements as federal OSHA for determining which injuries and illnesses are recordable and how they are recorded (1904.37(b)(1), FR p. 6132).

For other Part 1904 provisions (for example, industry exemptions, reporting of fatalities and hospitalizations, record retention, or employee involvement), state-plan state requirements may be more stringent than or supplemental to the federal requirements, but because of the unique nature of the national recordkeeping program, states must consult with and obtain approval of any such requirements (1904.37(b)(2), FR p. 6132); see also Appendix D, Questions 37-1 (p. 307), and 37-2, 37-3, and 37-4 (p. 308).

Although state and local government employees are not covered federally, all state-plan states must provide coverage and must develop injury and illness statistics for these employees. State-plan recording and reporting requirements for state and local government entities may differ from those for the private sector but must meet the requirements of paragraphs 1904.37(b)(1) and (b)(2) (1904.37(b)(3), FR p. 6132).

A state-plan state may not issue a variance to a private sector employer and must recognize all variances issued by federal OSHA (1904.37(b)(4), FR p. 6132); see also Appendix D, Question 2-2, p. 297.

A state-plan state may grant an injury and illness recording and reporting variance to a state or local government employer within the state only after obtaining approval to grant the variance from federal OSHA (1904.37(b)(5), FR p. 6132).

VARIANCES FROM THE RECORDKEEPING RULE, SECTION 1904.38

If you wish to keep records in a different manner from the manner prescribed by the Part 1904 regulations, you may submit a variance petition to the Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, Washington, DC 20210. You can obtain a variance only if you can show that your alternative recordkeeping system:

- Collects the same information as this Part requires.
- Meets the purposes of the Act.
- Does not interfere with the administration of the Act (1904.38(a)(1)–(3), FR pp. 6132–6133).

Q: What do I need to include in my variance petition?

A: You must include the following items in your petition:

- Your name and address.
- A list of the state(s) where the variance would be used.
- The address(es) of the business establishment(s) involved.
- A description of why you are seeking a variance.
- A description of the different recordkeeping procedures you propose to use.
- A description of how your proposed procedures will collect the same information as would be collected by this Part and achieve the purpose of the Act.
- A statement that you have informed your employees of the petition by giving them or their authorized representative a copy of the petition and by posting a statement summarizing the petition in the same way as notices are posted under §1903.2(a) (1904.38(b)(1)(i)–(vii), FR p. 6133).

Q: How will the Assistant Secretary handle my variance petition?

A: The Assistant Secretary will take the following steps to process your variance petition (FR p. 6133):

- The Assistant Secretary will offer your employees and their authorized representatives an opportunity to submit written data, views, and arguments about your variance petition (FR p. 6133).
- The Assistant Secretary may allow the public to comment on your variance petition by publishing the petition in the *Federal Register*. If the petition is published, the notice will establish a public comment period and may include a schedule for a public meeting on the petition (FR p. 6133).

- After reviewing your variance petition and any comments from your employees and the public, the Assistant Secretary will decide whether or not your proposed recordkeeping procedures meet the purposes of the Act, do not otherwise interfere with the Act, and provide the same information as the Part 1904 regulations provide. If your procedures meet these criteria, the Assistant Secretary may grant the variance subject to such conditions as he or she finds appropriate (FR p. 6133).
- If the Assistant Secretary grants your variance petition, OSHA will publish a notice in the *Federal Register* to announce the variance. The notice will include the practices the variance allows you to use, any conditions that apply, and the reasons for allowing the variance (1904.38(b)(2)(i)–(iv), FR p. 6133).

Q: If I apply for a variance, may I use my proposed recordkeeping procedures while the Assistant Secretary is processing the variance petition?

A: No, alternative recordkeeping practices are allowed only after the variance is approved. You must comply with the Part 1904 regulations while the Assistant Secretary is reviewing your variance petition (1904.38(b)(3), FR p. 6133).

Q: If I have already been cited by OSHA for not following the Part 1904 regulations, will my variance petition have any effect on the citation and penalty?

A: No, in addition, the Assistant Secretary may elect not to review your variance petition if it includes an element for which you have been cited and the citation is still under review by a court, an administrative law judge (ALJ), or the OSH Review Commission. (1904.38(b)(4), FR p. 6133).

Q: If I receive a variance, may the Assistant Secretary revoke the variance at a later date?

A: Yes, the Assistant Secretary may revoke your variance if he or she has good cause. The procedures revoking a variance follow the same process as OSHA uses for reviewing variance petitions, as outlined in paragraph 1904.38(b)(2). Except in cases of willfulness or where necessary for public safety, the Assistant Secretary will (1904.38(b)(5)):

- Notify you in writing of the facts or conduct that may warrant revocation of your variance.
- Provide you, your employees, and authorized employee representatives with an opportunity to participate in the revocation procedures (1904.38(b)(3)(i)–(ii), FR p. 6133).

PROVIDING RECORDS TO GOVERNMENT REPRESENTATIVES, SECTION 1904.40

When an authorized government representative asks for the records you keep under Part 1904, you must provide copies of the records within four business hours (1904.40(a), FR p. 6133).

OSHA believes that it is essential for employers to have systems and procedures that can produce the records within the four-hour time. However, the agency realizes that there may be unusual or unique circumstances where the employer cannot comply. For example, if the records are kept by a health care professional and that employee is providing emergency care to an injured employee, the employer may need to delay production of the records. In such a situation, the OSHA inspector may allow the employer additional time.[1(p. 5959)]

Q: What government representatives have the right to get copies of my Part 1904 records?

A: The government representatives authorized to receive the records are (1904.40(b)):

- A representative of the Secretary of Labor conducting an inspection or investigation under the Act.
- A representative of the Secretary of Health and Human Services (including the National Institute for Occupational Safety and Health, NIOSH) conducting an investigation under section 20(b) of the Act.
- A representative of a state agency responsible for administering a state plan approved under section 18 of the Act (1904.40(b)(i)–(iii), FR p. 6133).

Q: Do I have to produce the records within four (4) hours if my records are kept at a location in a different time zone?

A: OSHA will consider your response to be timely if you give the records to the government representative within four business hours of the request. If you maintain the records at a location in a different time zone, you may use the business hours of the establishment at which the records are located when calculating the deadline (1904.40(2), FR p. 6133).

TRANSITION FROM THE FORMER RULE—SUBPART F

SUMMARY AND POSTING OF THE 2001 DATA, SECTION 1904.43

If you were required to keep OSHA 200 Logs in 2001, you must post a 2000 annual summary from the OSHA 200 Log of occupational injuries and illnesses for each establishment (1904.43(a), FR p. 6134).

Q: What do I have to include in the summary?

A: You must include a copy of the totals from the 2001 OSHA 200 Log and the following information from that form:

- The calendar year covered.
- Your company name.
- The name and address of the establishment.
- The certification signature, title, and date (FR p. 6134).

If no injuries or illnesses occurred at your establishment in 2001, you must enter zeros on the totals line and post the 2001 summary (1904.33(b)(1)(i)(A)–(D)).

Q: When am I required to summarize and post the 2001 information?

A: You must complete the summary by February 1, 2002; and you must post a copy of the summary in each establishment in a conspicuous place or places where notices to employees are customarily posted. You must post the 2001 summary from February 1, 2002, to March 1, 2002. You must ensure that the summary is not altered, defaced or covered by other material (1904.33(2)(i)–(ii)).

RETENTION AND UPDATING OF OLD FORMS, SECTION 1904.44

You must save your copies of the OSHA 200 and 101 Forms for five years following the year to which they relate and continue to provide access to the data as though these forms were the OSHA 300 and 301 Forms. You are not required to update your old 200 and 101 Forms (1904.44, FR p. 6133).

AMENDED, PART 1952

The authority citation for Part 1952 is revised to read as follows:

Authority: 29 U.S.C. 667; 29 CFR Part 1902, Secretary of Labor's Order No. 1-90 (55 FR 9033) and 6-96 (62 FR 111).

Injury and Illness Recording and Reporting Requirements, Section 1952.4

Injury and illness recording and reporting requirements promulgated by state-plan states must be substantially identical to those in 29 CFR Part 1904 "Recording and Reporting Occupational Injuries and Illnesses." State-plan states must promulgate recording and reporting requirements that are the same as the federal requirements for determining which injuries and illnesses will be entered into the records and how they are entered. All other injury and illness recording and reporting requirements that are promulgated by state-plan states may be more stringent than, or supplemental to, the federal requirements, but, because of the unique nature of the national recordkeeping program, states must consult with OSHA and obtain approval of such additional or more stringent reporting and recording requirements to ensure that they will not interfere with uniform reporting objectives. State-plan states must extend the scope of their regulation to state and local government employers (1952.4(a), FR p. 6135).

A state may not grant a variance to the injury and illness recording and reporting requirements for private sector employers. Such variances may be granted only by federal OSHA to assure nationally consistent workplace injury and illness statistics. A state may grant a variance to the injury and illness recording and reporting requirements for state or local government entities in that state only after obtaining approval from federal OSHA (1952.4(b), FR p. 6135).

A state must recognize any variance issued by federal OSHA (1952.4(c), FR p. 6135).

A state may, but is not required, to participate in the Annual OSHA Injury/Illness Survey as authorized by 29 CFR 1904.41. A participating state may either adopt requirements identical to 1904.41 in its recording and reporting regulation as an enforceable state requirement or may defer to the federal regulation for enforcement. Nothing in any state plan shall affect the duties of employers to comply with 1904.41, when surveyed, as provided by section 18(c)(7) of the Act (1952.4(d), FR p. 6135).

REPORTING FATALITY, INJURY, AND ILLNESS INFORMATION TO THE GOVERNMENT—SUBPART E

REPORTING FATALITIES AND MULTIPLE HOSPITALIZATION INCIDENTS TO OSHA, SECTION 1904.39

Within eight (8) hours after the death of any employee from a work-related incident or the in-patient hospitalization of three or more employees as a result of a work-related incident, you must orally report the fatality or multiple hospitalization by telephone or to the Area Office of the Occupational Safety and Health Administration (OSHA), U.S. Department of Labor, that is nearest to the site of the incident. You may also use the OSHA toll-free central telephone number, 1-800-321-OSHA (1-800-321-6742) (1904.39(a), FR p. 6133). Figure 2-60 states OSHA's view on this matter.

Q: If the area office is closed, may I report the incident by leaving a message on OSHA's answering machine, faxing the area office, or sending an e-mail?

A: No, if you cannot talk to an employee at the area office, you must report the fatality or multiple hospitalization incident using the 800 number (1904.39(b)(1), FR p. 6133).

Prompt reporting enables OSHA to inspect the site of the incident and interview employees while their recollections are immediate, fresh, and untainted by other events, thus providing more timely and accurate information about the possible causes of the incident. The eight-hour reporting time also makes it more likely that the incident site will be undisturbed, affording the investigating compliance officer a better view of the work site as it appeared at the time of the incident. Further, from its enforcement experience, OSHA is not aware that employers have had difficulty complying with the eight-hour reporting requirement.[1(p. 5959)]

If three or more employees are hospitalized overnight, whether for treatment or observation, the accident is clearly of a catastrophic nature, and OSHA needs to learn about it promptly.[1(p. 5959)]

Figure 2-60 Reporting Injuries to OSHA. Source: *Federal Register*, Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Preamble, pp. 5916–6122, public domain.

Q: What information do I need to give to OSHA about the incident?

A: You must give OSHA the following information for each fatality or multiple hospitalization incident:

- The establishment name.
- The location of the incident.
- The time of the incident.
- The number of fatalities or hospitalized employees.
- The names of any injured employees.
- Your contact employee and his or her phone number.
- A brief description of the incident (1904.39(b)(2)(i)–(vii), FR p. 6133).

Q: Do I have to report every fatality or multiple hospitalization incident resulting from a motor vehicle accident?

A: No, you do not have to report all of these incidents. If the motor vehicle accident occurs on a public street or highway and does not occur in a construction work zone, you do not have to report the incident to OSHA. However, these injuries must be recorded on your OSHA injury and illness records, if you are required to keep such records (1904.39(b)(3), FR p. 6133); see also Appendix D, Question 39-2.

Q: Do I have to report a fatality or multiple hospitalization incident that occurs on a commercial or public transportation system?

A: No, you do not have to call OSHA to report a fatality or multiple hospitalization incident if it involves a commercial airplane, train, subway, or bus accident. However, these injuries must be recorded on your OSHA injury and illness records, if you are required to keep such records (1904.39(b)(4), FR pp. 6133).

Q: Do I have to report a fatality caused by a heart attack at work?

A: Yes, your local OSHA area office director will decide whether to investigate the incident, depending on the circumstances of the heart attack (1904.39(b)(5), FR p. 6133); see also Appendix D, Question 39-1, p. 308.

Q: Do I have to report a fatality or hospitalization that occurs long after the incident?

A: No, you must report only each fatality or multiple hospitalization incident that occurs within 30 days of an incident (1904.39(b)(6), FR p. 6133).

Q: What if I do not learn about an incident right away?

A: If you do not learn of a reportable incident at the time it occurs and the incident would otherwise be reportable under paragraphs (a) and (b) of this section, you must make the report within eight hours of the time the incident is reported to you or to any of your agent(s) or employee(s) (1904.39(b)(7), FR p. 6133).

ANNUAL OSHA INJURY AND ILLNESS SURVEY OF EMPLOYERS OF 10 OR MORE EMPLOYEES, SECTION 1904.41

Section 1904.41 of this final rule replaces section 1904.17, "Annual OSHA Injury and Illness Survey of Ten or More Employers," of the former rule issued on February 11, 1997. The final rule does not change the contents or policies of the corresponding section of the former rule in any way. Instead, the final rule simply rephrases the language of the former rule in the plain-language, question-and-answer format used in the rest of this rule. Table 2-8 shows the text of section 1904.17 of the former rule, followed by the text of section 1904.41 of the final rule.

Table 2-8
Comparison of New versus Former Sections Annual Survey, Section 1904.41, Final Rule

New Section 1904.41	Former Section 1904.17
"Annual OSHA Injury and Illness Survey of Ten or More Employers" 1904.41(a) Basic Requirement. If you receive OSHA's annual survey form, you must fill it out and send it to OSHA or OSHA's designee, as stated on the survey form. You must report the following information for the year described on the form: (1) the number of workers you employed; (2) the number of hours worked by your employees; and (3) the requested information from the records that you keep under Part 1904.	"Annual OSHA Injury and Illness Survey of Ten or More Employers" 1904.17(a). Each employer shall, upon receipt of OSHA's Annual Survey Form, report to OSHA or OSHA's designee the number of workers it employed and number of hours worked by its employees for periods designated in the survey form and such information as OSHA may request from records required to be created and maintained pursuant to 29 CFR Part 1904.
1904.41(b)(1). Does every employer have to send data to OSHA? No. Each year, OSHA sends injury and illness survey forms to employers in certain industries. In any year, some employers will receive an OSHA survey form and others will not. You do not have to send injury and illness data to OSHA unless you receive a survey form.	No comparable provision

Table 2-8
Continued

New Section 1904.41	Former Section 1904.17
1904.41(b)(2). How quickly do I need to respond to an OSHA survey form? You must send the survey reports to OSHA, or OSHA's designee, by mail or other means described in the survey form, within 30 calendar days or by the date stated in the survey form, whichever is later.	1904.17(b). Survey reports shall be transmitted to OSHA by mail or other remote transmission authorized by the survey form within the time period specified in the survey form or 30 calendar days, whichever is longer.
1904.41(b)(3). Do I have to respond to an OSHA survey form if I am normally exempt from keeping OSHA injury and illness records? Yes. Even if you are exempt from keeping injury and illness records under §§1904.1–1904.3, OSHA may inform you in writing that it will be collecting injury and illness information from you in the following year. If you receive such a survey form, you must keep the injury and illness records required by §§1904.5–1904.15 and make survey reports for the year covered by the survey.	1904.17(c). Employers exempted from keeping injury and illness records under §§1904.15 and 1904.16 shall maintain injury and illness records required by §§1904.2 and 1904.4, and make survey reports pursuant to this section, upon being notified in writing by OSHA, in advance of the year for which injury and illness records will be required, that the employer has been selected to participate in an information collection.
1904.41(b)(4). Do I have to answer the OSHA survey form if I am located in a state-plan state? Yes. All employers who receive survey forms must respond to the survey, even those in state-plan states.	1904.17(d). Nothing in any state plan approved under Section 18 of the Act shall affect the duties of employers to comply with this section. 1904.17(e). Nothing in this section shall affect OSHA's exercise of its statutory authorities to investigate conditions related to occupational safety and health.

Source: *Federal Register*, Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Preamble, pp. 5916–6122, public domain.

Thus, Section 1904.41 of the final rule merely restates, in a plain language question-and-answer format, the requirements of former rule section 1904.17, with one minor change. The final rule adds paragraph 1904.4(b)(1), which contains no requirements or prohibitions but simply informs the employer that there is no need to send in the Part 1904 injury and illness data until the government asks for it.

If you receive OSHA's annual survey form, you must fill it out and send it to OSHA or OSHA's designee, as stated on the survey form. You must report the following information for the year described on the form:

- The number of employees you employed.
- The number of hours worked by your employees.
- The requested information from the records that you keep under Part 1904 (1904.41(a)(1)–(3), FR p. 6133).

Q: Does every employer have to send data to OSHA?

A: No, each year, OSHA sends injury and illness survey forms to employers in certain industries. In any year, some employers will receive an OSHA survey form and others will not. You do not have to send injury and illness data to OSHA unless you receive a survey form (1904.41(b)(1), FR p. 6133).

Q: How quickly do I need to respond to an OSHA survey form?

A: You must send the survey reports to OSHA, or OSHA's designee, by mail or other means described in the survey form, within 30 calendar days or by the date stated in the survey form, whichever is later (1904.41(b)(2), FR p. 6133).

Q: Do I have to respond to an OSHA survey form if I am normally exempt from keeping OSHA injury and illness records?

A: Yes, even if you are exempt from keeping injury and illness records under §§1904.1–1904.3, OSHA may inform you in writing that it will be collecting injury and illness information from you in the following year. If you receive such a letter, you must keep the injury and illness records required by §§1904.5–1904.15 and make a survey report for the year covered by the survey (1904.41(b)(3), FR p. 6133).

Q: Do I have to answer the OSHA survey form if I am located in a state-plan state?

A: Yes, all employers who receive survey forms must respond to the survey, even those in state-plan states (1904.41(b)(4), FR p. 6133).

Q: Does this section affect OSHA's authority to inspect my workplace?

A: No, nothing in this section affects OSHA's statutory authority to investigate conditions related to occupational safety and health (1904.41(b)(5), FR p. 6133).

REQUESTS FROM THE BUREAU OF LABOR STATISTICS FOR DATA, SECTION 1904.42

If you receive a Survey of Occupational Injuries and Illnesses Form from the Bureau of Labor Statistics or a BLS designee, you must promptly complete the form and return it following the instructions contained on the survey form (1904.42(a), FR p. 6134).

Q: Does every employer have to send data to the BLS?

A: No, each year, the BLS sends injury and illness survey forms to randomly selected employers and uses the information to create the nation's occupational injury and illness statistics. In any year, some employers will receive a BLS survey form and others will not. You do not have to send injury and illness data to the BLS unless you receive a survey form (1904.42(b)(1), FR p. 6134).

Q: If I get a survey form from the BLS, what do I have to do?

A: If you receive a Survey of Occupational Injuries and Illnesses Form from the Bureau of Labor Statistics or a BLS designee, you must promptly complete the form and return it, following the instructions contained on the survey form (1904.42(b)(2), FR p. 6134).

Q: Do I have to respond to a BLS survey form if I am normally exempt from keeping OSHA injury and illness records?

A: Yes, even if you are exempt from keeping injury and illness records under §§1904.1–1904.3, the BLS may inform you in writing that it will be collecting injury and illness information from you in the coming year. If you receive such a letter, you must keep the injury and illness records required by §§1904.5–1904.15 and make a survey report for the year covered by the survey (1904.42(b)(3), FR p. 6134).

Q: Do I have to answer the BLS survey form if I am located in a state-plan state?

A: Yes, all employers who receive a survey form must respond to the survey, even those in state-plan states (1904.42(b)(4), FR p. 6134).

OMB CONTROL NUMBER UNDER THE PAPERWORK REDUCTION ACT, SECTION 1904.45

The following sections each contain a collection of information requirement that has been approved by the Office of Management and Budget under the control numbers listed in Table 2-9.

Table 2-9
Summary of Posting Requirements

Date	Activity
2001	Employers keep injury and illness information on the OSHA 200 Form
January 1, 2002	Employers begin keeping data on the OSHA 300 Form
February 1, 2002	Employers post the 2001 data on the OSHA 200 Form
March 1, 2002	Employers may remove the 2001 posting
February 1, 2003	Employers post the 2002 data on the OSHA 300A Form
May 1, 2003	Employers may remove the 2002 posting

Source: *Federal Register*, Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording an Reporting Requirements, Preamble, p. 6071, public domain. See Appendix D for additional questions and answers that may not be referenced in this chapter.

REFERENCES

1. *Federal Register*, Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Preamble. FR pp. 5916–6122, public domain.
2. OSHA Instruction, *Recordkeeping Policies and Procedures Manual* (RKM), directive number: CPL 2-0.131, effective date: January 1, 2002 OSHA website http://www.osha-slc.gov/OshDoc/Directive_data/CPL_2-0_131.html, public domain.
3. Plan English Network website, http://www.plainlanguage.gov/, public domain.
4. *Federal Register,* Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Final Rule. FR pp. 6122–6135, public domain.
5. OSHA website, Index of /OshDoc/Directive_pdf, http://www.osha-slc.gov/OshDoc/Directive_pdf/, public domain.
6. *Federal Register,* Vol. 66, No. 198, Friday, October 12, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Final Rule. FR pp. 52031–52034, public domain.

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Part II
Programs That Support the Recordkeeping Rule

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3

Conducting Effective Incident Investigations

Thousands of incidents occur every day in the workplace. The failure of people, equipment, the environment, and management to behave or react as expected causes most of the incidents. Investigating incidents is important because it determines how and why failures in the management system may have occurred.[1]

Investigations must be approached as fact-finding efforts, where there is an analysis and account of what actually happened based on collected information. Effective investigations include the objective evaluation of all the facts, opinions, statements, related information, and the identification of the root cause(s) and actions that can be taken to prevent recurrence. It is not merely a repetition of the employee's explanation of the incident. Facts should be reported without regard to personalities, individual responsibilities, or actions.[2]

In addition, an incident investigation helps identify hazards that either may have been missed earlier or may have slipped out of control during the normal process. It is useful only when conducted with the aim of identifying the contributing factor to the incident, the condition, or activity and prevents future occurrences.[3]

When reviewing the new recordkeeping rule, how can you determine work relatedness if you are not doing an effective investigation? The intent of this chapter is to help you make an informed decision based on facts.

ROOT CAUSE DEFINED

We start with defining the *root cause*, a basic, misunderstood concept that will help to foster an effective incident investigation. The root cause,

if identified, could help to prevent recurrence of similar occurrences. The root cause does not apply only to a specific occurrence but has generic implications to a broad group of possible occurrences. It is the most fundamental aspect of the cause that can logically be identified and corrected. A series of causes might be identified, one leading to another.[4] We must use the "five whys" to get to the root cause (see Figure 3-1).

BENEFITS OF ROOT CAUSE ANALYSIS

Before we discuss incident investigations, you must understand the many benefits a good investigation provides:

- Increased awareness that all incidents should be reported and investigated promptly.
- The identification of the basic causes of an incident.
- Prevention of recurrence of similar incidents.
- Identification of an incident prevention program that highlights the needs and opportunities for improvement in the management system.
- Reduction in employee and family suffering.
- Reduction in workers' compensation costs due to reduced frequency of incidents.
- Increased productivity.[3]

An incident can be due to a failure in the management system because something fails. Alternatively, an incident could be a combina-

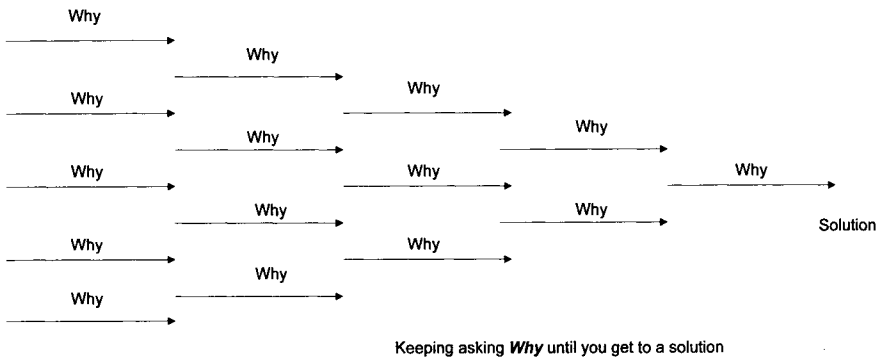

Figure 3-1 Root Cause Analysis Getting to the Solution, the Five Whys. Source: Roughton, James, and Jim Mercuro. *Developing an Effective Safety Culture: A Leadership Approach.* Boston: Butterworth–Heinemann, 2002, p. 230.

tion of work errors that have gone unnoticed or uncontrolled for a period of time.[2]

INCIDENT PREVENTION

An incident may have many more events than causes. A detailed analysis of an incident will normally reveal three cause levels: basic, indirect, and direct. The direct cause is usually the result of one or more unsafe acts (at-risk behavior), unsafe conditions, or both. At-risk behaviors and conditions are the indirect causes or symptoms. In turn, indirect causes are usually found to emanate from poor management policies and decisions or personal or environmental factors. These are the basic causes. Figure 3-2 graphically shows the basic causes of an incident.[1]

Most incidents can be prevented by eliminating one or more causes. Incident investigations determine not only what happened but also how and why. The information gained from investigations can prevent

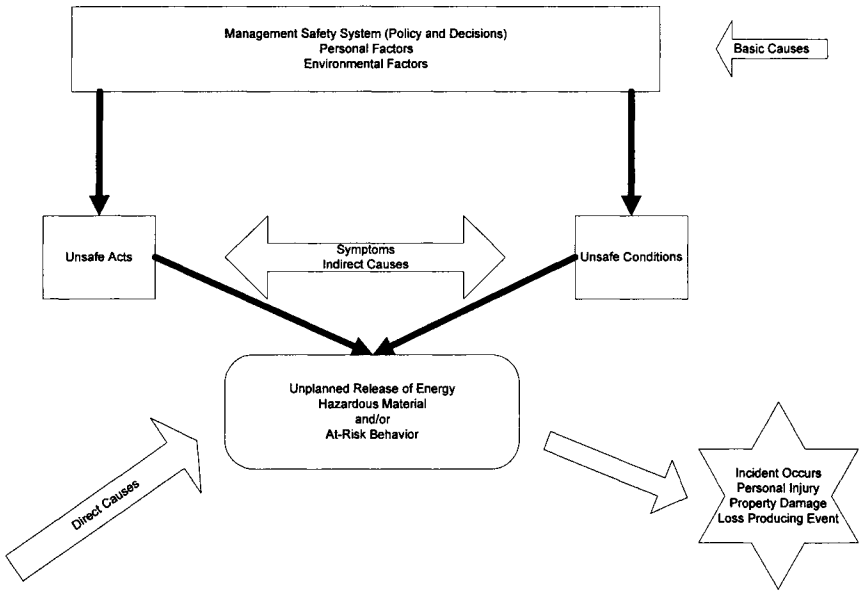

Figure 3-2 The Three Basic Causes of an Incident. Source: OSHA's Small Business Outreach training Program Instructional Guide, website, Accident Investigation, http://www.osha-slc.gov/SLTC/small business/sec6.html, public domain; Roughton, James, and Jim Mercuro. *Developing an Effective Safety Culture: A Leadership Approach.* Boston: Butterworth–Heinemann, 2002, p. 231.

recurrence of similar incidents. Investigators are interested in each event and the sequence of events that led to the incident.[1] The new rule revises the incident investigation form from the OSHA 101 to the OSHA 301. A copy of the OSHA 301 Form can be found in Appendix G.

WHAT CAUSES INCIDENTS?

We must ask many questions when trying to determine incident causes. Some people will say that "acts of God" account for a very small percentage of work-related incidents. The remaining 98% of incidents can be thought of as resulting from the at-risk behaviors (employee behaviors) or conditions.[1] We are led to believe that being unsafe includes not knowing, not caring, and not thinking about the real and potential safety hazards and exposures of a particular job task.

If an incident occurs that results in damage to a person, property, equipment, or the like, we often find that the employees had been doing a particular job task the same way for a long time. This time the "luck ran out."[3]

ELEMENTS OF THE SAFETY SYSTEM

When we look at the reason why an incident occurs, we focus on some key elements and the interaction among these elements:

- *Equipment.* The types of equipment the employee was working with, the production and maintenance requirements of the equipment, the layout of the equipment in the work area, the hazards of the equipment, and the methods of controlling hazards are all clues to an investigation.
- *Environment.* Environmental aspects may include elements for considerations about noise, lighting, housekeeping, working inside versus outside, fumes or vapors, exhaust systems, production pressures, job stresses such as manual versus office work, night versus day work, weekends, or long work days.
- *People* (employees, contractors, temporary employees, visitors, etc.). We must explore the physical task demands of the job, such as lifting, bending, twisting; the level of training and skill of the employee; the current emotional state; and so forth.

- *Management.* When we investigate an incident, the purpose is to identify the root cause of the incident as it relates to as many of the key elements as possible. We are looking at the adequacy and effectiveness of the management system.[1]

Investigations are a barometer that can be used to measure the management system and the safety (culture) climate of an organization. If we investigate only incidents that result in an injury, illness, or property damage and ignore near misses and minor first aid incidents, then we miss many valuable opportunities.[5]

Solely reacting to incidents can be costly to your system. The key is to make sure that you are proactive in your management system, and if there is a series of incidents, you must review each case. If your management system is working, you should stay the course. In the worst case, you may need to change your management system slightly. Most important is to stay the course and keep your safety process moving in the right direction. Table 3-1 summarizes some key points in investigating an incident.

WHAT SHOULD BE INVESTIGATED?

Promptness is the most important element when investigating incidents. Delays usually result in a failure to collect the facts. Table 3-2 and Figure 3-3 provide an overview of the investigation process we discuss in this chapter.

Incidents should be investigated as soon as possible for a number of reasons:

- You want to make sure that if the cause of the incident is still present, you want to try to prevent other employees from being injured.

Table 3-1
Incident Investigation Key Points

- Set up procedures before incidents occur.
- Use a systematic approach.
- Address both surface and root causes.
- Investigate near misses.
- Focus on fact finding, not fault finding.

Source: OR OSHA 100o, Incident Investigation Key Points, http://www.cbs.state.or.us/external/osha/educate/training/pages/materials.html, public domain.

Table 3-2
Investigation Procedures

The procedure used in an investigation depends on the nature and results of the incident. The following steps can be used to get to the root cause:

1. Define the scope of the investigation.
2. Select trained investigators.
3. Present a preliminary briefing to the investigating team:
   - Description of the incident and damage estimates.
   - Normal operating procedures.
   - Maps (local and general).
   - Location of the incident site.
   - List of witnesses.
   - Events that preceded the accident.
4. Visit the incident site to get update information.
5. Inspect the incident site:
   - Secure the area
   - Prepare the sketches and photographs. Label each and keep accurate records.
6. Interview each employee and witness. Also, interview those who were present before the incident and those who arrived at the site after the incident. Keep accurate records of each interview.
7. Determine the following:
   - What was not normal before the incident.
   - Where the abnormality occurred.
   - When it was first noted.
   - How it occurred.
8. Analyze the data obtained in step 7. Repeat any of the prior steps, as necessary.
9. Determine
   - Why the incident occurred.
   - A likely sequence of events and probable causes (direct, indirect, basic).
   - Alternative sequences.
10. Check each sequence against the data from step 7.
11. Determine the most likely sequence of events and most probable causes.
12. Conduct a postinvestigation briefing.
13. Prepare a summary report including the recommended actions to prevent a recurrence.

An investigation is not complete until all data are analyzed and a final report is completed. In practice, the investigative work, data analysis, and report preparation proceed simultaneously over much of the time spent on the investigation.

Figure 3-3 presents an overview of this process.

Source: OSHA's Small Business Outreach Training Program, Investigation Procedures, http://www.osha-slc.gov/SLTC/smallbusiness/sec6.html, public domain.

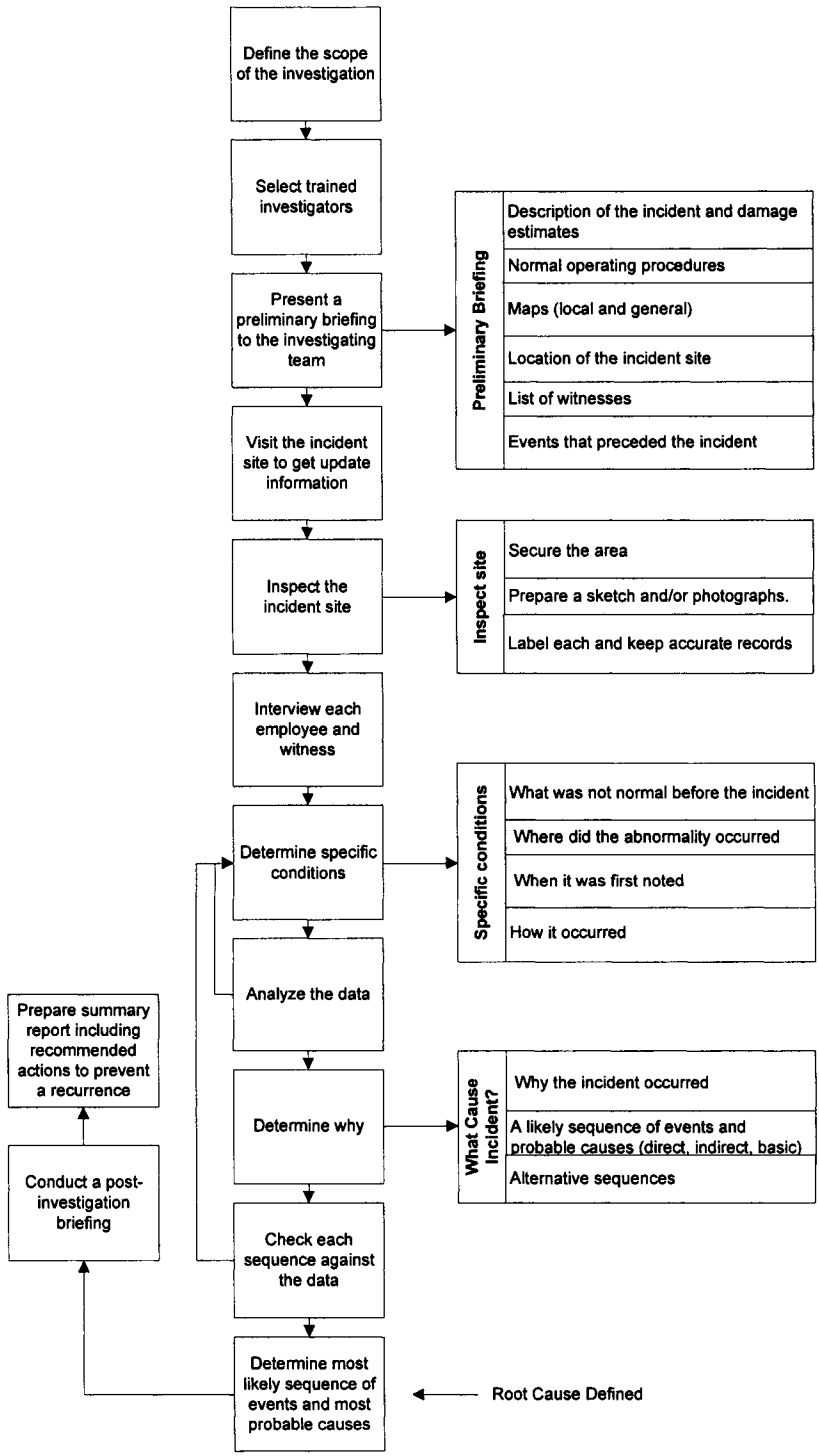

Figure 3-3 Investigation Process.

- The scene can change after an incident and valuable clues may be lost if the area is cleaned up. Changes in operations, shift and employee changes, weather, and lighting are some factors that could affect the quality of the investigation and reconstruction of the events.[3] The scene of the incident should be evaluated promptly, before any changes that may interfere with the fact finding. In the event of a serious incident, photographs should be taken before returning the area to normal use.
- You want to make sure that you can gather the facts while the information and impressions are still fresh in witnesses' minds. As time passes, what originally may have been a critical piece of evidence becomes lost or obscured. Employees begin to form their own opinions or can be influenced by the opinions of others, turning some facts into fiction. Any employees involved in the incident may change their story after having time to think about what occurred, fearing that, if they contributed to the incident, they may be blamed or disciplined. In some cases, they may want to protect themselves or coworkers.[3]

One note to consider is that "near misses" are incidents where there was a possibility of an injury but no property was damaged and no personal injury sustained; however, given a slight shift in time or position, damage or injury easily could have occurred.[3]

WHO SHOULD INVESTIGATE AN INCIDENT?

The success or failure of any incident investigation processes can frequently be traced directly to the actions of management or failure of the management system.

The responsibility for investigating incidents could be assigned to any level of management. Workplace rules should be established and communicated requiring employees to report all incidents immediately to their supervisors. Once reported, the immediate supervisor should initiate the investigation as soon as possible, by the end of the shift when the incident occurred or no more than 24 hours after the incident is reported. Written statements should be obtained from the injured employee and witnesses as promptly as possible following the incident.

The responsibilities of management, at every level, should include the following:

- Prompt review and analysis of all reports.

- Prompt and positive assistance to make sure that there are proper corrective actions.
- Review all major injuries or property damage incidents by meeting with the affected supervisor and the injured employee.
- Provide constructive, purposeful, and timely criticism on incident reports.
- Demonstrate interest and support by active participation.[3]

In some cases, injuries should be immediately reported to the individual who files the workers' compensation claims. Most of the time, the results of the investigation are critical in determining compensability of the injury.[3]

Follow-up investigations may be requested either by the affected supervisors or the safety professional to verify facts and obtain more information about an incident. In either case, the immediate supervisor should lead the initial investigation and take full responsibility for making all necessary arrangements.

Many companies use a team to investigate incidents involving serious injuries or extensive property damage. This may supplement the supervisor's investigation or serve as a second-level investigation and peer review. When a team investigates, the team leader must have enough authority and status in the organization to do whatever is necessary to correct the condition.[3] Those individuals who investigate incidents (supervisors, employees, teams, etc.) should be held accountable for describing causes carefully and clearly. When reviewing investigation reports, the safety professional should review the report for catch phrases; for example, "Employee did not plan the job properly" or "The employee was not trained properly." While such statements may suggest an underlying problem with this employee, it is not conducive to identifying all possible causes, prevention, and controls.[3] Table 3-3 lists things you need to do to be ready if an injury occurs and Table 3-4 examines the fact-finding process.

ANALYSIS OF PATTERNS

A review of the OSHA 300 Log and the OSHA 301 Form is one of the common methods to determine a pattern of incidents. However, remember that these are only recordable injuries and do no reflect first aid cases, near misses, property damage, and so on. These logs are not the only useful source of information. Records of hazard analysis can be

Table 3-3
Be Ready If an Incident Occurs

- Write a clear policy statement.
- Identify those authorized to notify outside agencies (fire, police, etc.).
- Designate those responsible to investigate incidents.
- Train all incident investigators.
- Establish timetables for conducting the investigation and taking corrective action.
- Identify those who will receive the report and take corrective action.

Source: OR OSHA 100o, Be Ready When Incidents Happen: http://www.cbs.state.or.us/external/osha/educate/training/pages/materials.html, public domain.

Table 3-4
Fact Finding

Gather evidence from many sources during an investigation. Get information from witnesses, other reports, and observation. Get copies of all reports (documents containing normal operating procedures, flow diagrams, maintenance charts, or reports of difficulties or abnormalities). Keep complete and accurate notes. Record preincident conditions, the incident sequence, and postincident conditions. In addition, document the location of the employee, witnesses, equipment, energy sources, and hazardous materials.

In some investigations, a particular physical or chemical exposure, principle, or property may explain the sequence of events.

Source: OSHA's Small Business Outreach Training Program, Fact-Finding, http://www.osha-slc.gov/SLTC/smallbusiness/sec6.html, public domain.

analyzed for patterns: for example, inspection records, employee hazard reporting records, and job hazard analysis (JHA; see Chapter 4).[3]

Records being analyzed must contain enough information to allow for a specific pattern to emerge. A workplace with few employees or very little hazardous work may require a review of three to five years of information. Because a site is small or has few hazardous work activities does not mean that pattern analysis is useless. Even if an office area has only one or two injuries each year, a five-year review may indicate uncontrolled cumulative trauma disorder or lack of attention to tripping hazards. Larger sites will find useful information in monthly, quarterly, or yearly reviews.[3]

Repetitions of the same type of injury or illness indicate that hazard controls are not working properly. Injuries need not be identical. For example, the same part of the body could be injured. Any clue that

suggests a previously unnoticed connection among several injuries is worth further investigation.[3]

INTERVIEWING INJURED EMPLOYEES

Before interviewing the injured employee, the supervisor should explain briefly that the purpose of the interview is to learn what happened and how it happened so that recurrence of similar incidents can be prevented. Reassurance should be given that the purpose of the interview is not to blame the injured employee. The following questions should be asked to establish some facts:

- What was the employee doing when the injury occurred?
- How was the employee performing the task?
- What happened?

Such questions as to why the employee did what he or she did should be deferred until after agreement on what happened is established. Do not phrase questions so they are antagonistic and do not try to corner the employee, even though his or her version may contradict itself. If so, explain the point of conflict tactfully.

Injured employees should be asked to complete an incident investigation report, describing what happened, why it happened, and what could have been done to prevent recurrence of the incident.

To bring an interview to a close, discuss how to prevent recurrence of the incident. Get the employee's ideas and discuss them. Emphasis should be placed on the precautions that prevent recurrence and close the interview on a friendly note.

INTERVIEWING WITNESSES

Witnesses are an important source of information. Several categories of witnesses could have information helpful in determining the causes of an incident:

- Those who saw the incident happen or were involved in the incident.
- Those who came on the scene immediately following the incident.
- Those who saw events leading up to the incident.

One important element is to establish if the witness saw the incident. Be sure to gather facts as distinguished from speculation and conjecture on what might have happened. Circumstantial evidence is also important. If a witness saw the incident site immediately before it occurred, this evidence may be of value.

Interview witnesses as promptly as possible after the incident. As time passes, witnesses could forget important details or change their stories after having had time to talk with other employees. Never interview witnesses in a group. Witnesses should be interviewed in private. Explain how knowing the full story may prevent a serious injury to another employee, and explain the purpose of the interview. Make sure that the witnesses know they are doing a service by providing an honest account of what they saw and what they know.

Use an incident witness statement to collect statements. Be sure to gather the witness's input regarding possible at-risk behaviors they know of or had seen that may have contributed to the incident, as well as information regarding other possible causes.

No questions should be asked that imply answers wanted or not wanted. Refrain from asking questions or saying anything that blames or threatens the employee who had the incident. Do not badger witnesses or give them a bad time and do not resort to sarcasm, open skepticism, or accusation. Handle all discrepancies with tact and let the witnesses feel that they are partners in the investigation.[2]

The following are some key points to remember during the interview process:

- Use an informal setting for the interview. If you sit across a desk from the employees being interviewed, they will be more intimidated than if you sit beside them.
- Explain to each witness that the investigation is being conducted to try to understand the cause of the incident so that it does not happen again. Let the witnesses know that the information they provide will aid in understanding what happened.
- Use open-ended questions. Ask questions that cannot be answered by a "Yes" or "No"; for example, "Tell me what you saw" is much more likely to uncover valuable details that the witness might have temporarily forgotten or think is not important. Do not try to finish witnesses' sentences or interrupt them during the interview. Wait until they are finished before asking any questions. Let the witnesses proceed at their own pace, without interfering in the conversation. Tell them you are taking notes to document specific details. Keep the witness talking about the sequence of events and do not allow them to begin drawing conclusions. Allow the

witnesses to read your notes to see if they are accurate. This will let them see that you are interested in reducing incidents.[2,3]

Conclude the interview with a "Thank you." Encourage the employees to call you if they later remember any other pertinent information. Give them some feedback on specifics of the information that they provided that you found to be particularly valuable. Table 3-5 lists some more interviewing techniques.

Table 3-5
Interview Techniques

Experienced individuals should conduct interviews. In some cases, the team assigned should include an individual from a legal or human resources department. The following are recommended steps in interviewing:

- Appoint a speaker for the group.
- Get preliminary statements as soon as possible from all witnesses.
- Locate the position of each witness on a master chart (including the direction of view).
- Arrange for a convenient time and place to talk to each witness.
- Explain the purpose of the investigation (incident prevention) and put each witness at ease.
- Let each witness speak freely. Listen to the employee. Be courteous and considerate.
- Take notes without distracting the witness.
- Use sketches and diagrams to help the witness remember any important facts.
- Emphasize areas of direct observation. Label hearsay accordingly (stick to the facts).
- Be sincere and do not argue with the witness.
- Record the exact words used by the witness to describe each observation. Do not "put words into a witness' mouth."
- Word each question carefully and make sure that the witness understands what is being asked.
- Identify the qualifications of each witness.
- Supply each witness with a copy of his or her statements. Signed statements are desirable.

After interviewing all witnesses, the team should analyze each statement. In some cases, the team may wish to reinterview one or more witnesses to confirm or verify key points. While there may be inconsistencies in statements, investigators should assemble the available testimony into a logical order. Analyze this information along with data from the incident site.

Source: OSHA's Small Business Outreach Training Program, Interview Techniques, http://www.osha-slc.gov/SLTC/smallbusiness/sec6.html, public domain.

RE-CREATING THE INCIDENT

When additional information is required or when some facts must be verified, you may need to re-create the incident. There is one caution to consider: If this re-creation takes place, you must make sure that the investigation techniques do not result in another incident.

DETERMINING CAUSE

Emphasis must be focused on correcting the identified issues so the incident will not be repeated. The following criteria help ensure the viability of corrective actions:

- Will these corrective actions prevent recurrence of the condition?
- Is the corrective action within the capability of the organization to implement?
- Have assumed risks been clearly stated?

The corrective actions should address any specific circumstances of the event that occurred and any management system improvements aimed at the root cause. They should address options for reducing the frequency, minimizing the personnel exposures, or lessening the consequences of one or more of the root causes.[3]

The following steps outline the fact analysis process:

- Identify the facts and list them in order of occurrence. One method is to use a storyboard to outline the facts.
- For each fact, develop a list of questions that you would like answered. Use questions that ask who, what, where, when, why, and how. Keep in mind the five elements of the safety system: people, machines, materials, methods, and environment.
- List the answers to each question. If you have done a thorough job of interviewing and gathering information, you should have many of the answers to your questions. Other unanswered questions may require that you go back and dig for some more information.
- Identify those answers to your fact-based questions that you feel expose some root causes behind the sequence.[3]

Once all the possible causes of the incident have been identified, it is time to develop the recommended solutions that will help prevent a recurrence of similar incidents.

All facts identified should lead to conclusions. These conclusions should lead to recommendations. Recommendation leads to action planning. It is important that the corrective action plan is based on the conclusions from the investigation analysis. Action planning leads to prevention. Any facts that do not add to the sequence of events or that do not support a conclusion should not be included in the incident investigation report.[3]

CORRECTIVE ACTION PLANS

When developing and implementing a corrective action plan, the following questions should be considered:

- Is at least one corrective action plan with assigned responsibilities associated to each root cause?
- What are the consequences of implementing or not implementing the corrective action plan?
- What is the cost of implementing the corrective action plan?
- Will training be required as part of implementing the corrective action plan?
- What period is required for the corrective action plan to be implemented?
- What resources are required for implementation and continued effectiveness of the corrective action?
- What impact will the development and implementation of the corrective action plan have on employees or other work areas?
- Can implementation of the corrective action plan be measured?[3]

In some cases, implementation of the recommendation may be outside a supervisor's responsibility. Top management has the responsibility to locate the resource and provide the funding. This is another reason why top management should review the investigation reports. Management has the authority to assign the necessary resources to achieve some of the more complex corrective actions.

We must make sure that the solutions are implemented and are effective. By following through on corrective actions, investigations are "opportunities for improvement." In this way, we can continuously improve our management system. Holding employees responsible and accountable for completing their assigned tasks is essential. Close the loop on the continuous improvement process by monitoring the effectiveness of the solutions after they have been implemented. What

may have seemed like the best solution at the time of the investigation may not be the ultimate best solution.

PROBLEM-SOLVING TECHNIQUES

Incidents represent problems that must be solved through investigation. Several formal procedures solve problems of any degree of complexity. This section discusses two of the most common procedures: change analysis and job hazard analysis. We discuss these procedures in more detail in Chapter 4.

Change Analysis

As the name implies, change analysis emphasizes change. Consider all problems to result from some unanticipated change. Make an analysis of the change to determine its causes. Use the following steps in this method:

- Define the problem. What happened?
- Establish the norm. What should have happened?
- Identify, locate, and describe the change (what, where, when, and to what extent).
- Specify what was and was not affected.
- Identify the distinctive features of the change.
- List the possible causes.
- Select the most likely causes.

Anytime something new is brought into the workplace, no matter whether it is a piece of equipment, different materials, a new process, or a new building, new hazards may unintentionally be introduced into the environment. Before considering a change for a work site, it should be analyzed thoroughly. Change analysis helps head off problems before they develop. Chapter 4 has an overview of the change analysis. You may find change analysis useful when

- Building or leasing a new facility.
- Installing new equipment.
- Using new materials.
- Starting up new processes.
- Staffing changes occur.[2]

To solve a problem, an investigator must look for deviations from the norm.

INVESTIGATION REPORT

Results of the investigation, including the identification of the root causes and the preventive and corrective actions, should be shared with all employees in the workplace affected by the findings. The following outline can be useful in developing the information to be included in the incident report:

- Background information:
  Where and when the incident occurred.
  Who and what were involved.
  Operating personnel and other witnesses.
- Account of the incident (what happened?):
  Sequence of events.
  Extent of damage.
  Accident type.
  Agency or source (of energy or hazardous material).
- Discussion (analysis of the incident—how? why?):
  Direct causes (energy sources; hazardous materials).
  Indirect causes (at-risk behavior and conditions).
  Basic causes (management policies, personal or environmental factors).
- Recommendations (to prevent a recurrence) for immediate and long-range action to remedy:
  Basic causes.
  Indirect causes.
  Direct causes (such as reduced quantities or protective equipment or structures).[4]

SUMMARY

Investigations are often thought of as a burdensome process that requires a lot of time and effort. Generally, the time and effort does not seem to produce the expected results of reduction in incidents. This can be the case if the investigator and top management do not fully

appreciate the value and benefits of a good, thorough investigation process.[1] A successful incident investigation process determines not only what happened but also finds how and why the incident occurred.

Incident investigation is another tool for identifying hazards missed earlier or that slipped by the planned controls. However, it is useful only when the process is positive and focuses on finding the root cause, not someone to blame.

All incidents should be investigated. Near-misses are considered incidents, because given a slight change in time or position, injury or damage could have occurred.

Remember the six key questions that should be answered in the incident investigation and report: who, what, when, where, why, and how. Thorough interviews with everyone involved are necessary.

The primary purpose of the incident investigation is to prevent future occurrences. Therefore, the results of the investigation should be used to initiate corrective action.[1]

When the benefits are recognized and management's commitment is visibly demonstrated, the time spent will pay for itself many times over.

All incidents, no matter whether a near miss or an actual injury-related event, should be investigated. Near-miss reporting and incident investigations allow you to identify and control hazards before they cause a more serious incident.

The investigator for all incidents should be the supervisor in charge of the involved area or activity. Incident investigations represent a good way to involve employees in the safety process. Employee participation not only gives you additional expertise and insight but, in the eyes of the employees, lends credibility to the results. Employee participation also benefits the involved employees by educating them on potential hazards, and the experience usually makes them believers in the importance of safety, thus strengthening the safety culture of the organization. Employee participation will be discussed in more detail in Chapter 6. The safety professional should participate in the investigation or review the investigative findings and recommendations. Many companies use a team, a subcommittee, or a joint employee-management committee to investigate incidents involving serious injury or extensive property damage.

All those who investigate incidents should be held accountable for describing causes carefully and clearly. When reviewing incident investigation reports, the safety professional should be on the lookout for catch phrases such as "Employee did not plan job properly." While such a statement may suggest an underlying problem with this employee, it is not conducive to identifying all possible causes, preventions, and controls. It is too late to plan a job when the employee is about to do it. Further-

more, it is unlikely that safe work will always result when each employee is expected to plan procedures alone.

Recommended preventive actions should make it very difficult, if not impossible, for the incident to recur. The investigative report should list all the ways to "foolproof" the condition or activity. Considerations of cost or engineering should not enter at this stage. The primary purpose of incident investigations is to prevent future occurrences. Beyond this immediate purpose, the information obtained through the investigation should be used to update and revise the inventory of hazards and the program for hazard prevention and control. For example, the job safety analysis should be revised and employees retrained to the extent that it fully reflects the recommendations made by an incident report. Implications from the root causes of the accident need to be analyzed for their impact on all other operations and procedures.[1]

REFERENCES

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4

The Benefits of Job Hazard Analysis

If you refer to the new rule, Section 1904.7, you find the question, "What is meant by 'Routine Functions'?" The answer is "work activities the employee regularly performs at least once per week." This question leads me to another question, How do you know what all of the tasks are if they are not documented? This is one reason why this chapter was developed, to help you understand and quantify the answer and have proof of the reasoning why or why not a case is recordable using the definition of routine function.

You may ask what is a job hazard analysis (JHA)? Why is it important? Will it work for me? Another aspect of the rule, Section 1904.35, Employee Involvement Participation (see Chapter 6), discusses how you should get employees involved in reporting an injury or illness. The best answer that I can provide is that a JHA is a documented procedure that can be used to review job methods and identify hazards that may have been overlooked during initial task design, process changes, and the like. What is the best way of getting employees involved? A JHA is a systematic method of identifying jobs and tasks to help pinpoint hazards associated with them and to develop procedures to help reduce or eliminate identified risks. You can also use JHAs to document changes in a workplace and provide consistent training.

WHY DO A JHA?

The main reason for identifying the benefits in the beginning stages of the process is to help management understand the expectations of the process. This is an opportunity to outline and provide the positive impact

that developing JHAs will have on the organization. This system ties in employee participation very well. As the process moves forward, these benefits will become more evident because hazards will be identified that are usually overlooked in the normal course of inspections.[1]

One thing to remember is that the benefits of a JHA go beyond safety. As noted in OSHA's training model, you conduct a job analysis to understand what training is needed. The JHA provides step-by-step safety procedures for performing each task.[2]

Another benefit of developing a JHA is that it provides a consistent message to each new employee on the specific task or for seasoned employees who need safety awareness training or review of their specific or nonroutine tasks.[3]

In addition, a properly designed JHA is a good learning tool that you can use to investigate and evaluate incidents. Incidents often occur because employees are not trained in the proper job procedures. One way to reduce these incidents is to develop proper job procedures and train all employees in safer and more efficient work methods or procedures.

The JHA allows you to identify opportunities for improvement in the system. Once you discover the opportunity, you can update the JHA to reflect the needed changes.

Establishing clear job procedures is one of the benefits of conducting a JHA, carefully reviewing and recording each step of a job or related task that makes up a job, identifying existing or potential job safety hazards, and determining the best method to perform the job or minimize or eliminate the associated hazards. Table 4-1 summarizes these points.

However, with all of the benefits, there is one drawback. A JHA program takes time, both to document and implement effectively and as

Table 4-1
Why Are JHAs Important?

JHAs are important because they help

- Detect hazards.
- Develop training plan.
- Supervisors understand what each employee knows.
- Recognize changes in equipment or procedures.
- Improve employee participation.

Source: OR OSHA 103o, Why JHAs Are Important, pp. 5: http://www.cbs.state.or.us/external/osha/educate/training/pages/materials.html, public domain; Roughton and Mercurio, Developing an Effective Safety Culture: A Leadership Approach, p. 297.[2]

a continuous improvement process through a "living document." As you go through the process, you will see that the process is time consuming but the results outweight this drawback.[2]

ASSIGNING RESPONSIBILITY

Assigning the responsibilities to a specific individual or group of individuals reinforces management's commitment to safety. In addition, it provides a central person or group of employees who serve as a clearinghouse for development of all JHAs. The individual or group selected should be respected by their peers, understand the concept and value of developing JHAs, understand the relationship of incidents, and be able to help overcome barriers that may occur during implementation. It is suggested that someone in a management role be part of the group,[4] to help facilitate the JHA process.

Before training the individual or group, top management must define its expectations and show its commitment. This should address such issues as

- How much time will be allowed for developing the JHA?
- What is expected in terms of document quality?
- What resources will be provided in training and skill development?
- What are the long-term objectives and time requirements for completing selected JHAs?[1]

These expectations must be communicated to other managers and the JHA developers.

CONDUCTING A JHA

The process for conducting a JHA is simple. Before beginning the JHA, one objective is to observe the general work area. Since each job involves a different sequence of activity or task, observe how the job is performed. It is important to list each task being performed before going any further. Table 4-2 has some sample questions you might ask when you are conducting a JHA.

The list in Table 4-2 is only a sample of some of the hazards that you may encounter when conducting a JHA. The items on the list are by no

Table 4-2
Sample Questions You Might Ask When Conducting a JHA

Are there materials on the floor that could cause a tripping hazard? Is there adequate lighting? Are there any live electrical hazards? Are any chemical, physical, biological, or radiation hazards associated with the job? Are any of these hazards likely to develop? Are tools—for example, hand tools, machines, and equipment—in need of repair? Is there excessive noise that may hinder communication or likely to cause hearing loss? Are job procedures understood and followed or modified as applicable? Are emergency exits clearly marked? Are industrial trucks or motorized vehicles properly equipped with brakes, overhead guards, backup signals, horns, steering gear, seat belts, and the like? Are they properly maintained? Are all employees that operate vehicles and equipment authorized and properly trained? Are employees wearing proper personal protective equipment? Have any employees complained of headaches, breathing problems, dizziness, or strong odors? Have tests been made for oxygen deficiency, toxic vapors, or flammable materials in confined spaces before entry? Is ventilation adequate, especially in confined or enclosed spaces? Are workstations and tools designed to prevent twisting motions? Are employees trained in the event of a fire, explosion, or toxic gas release?

Source: OSHA 3071 Job Hazard Analysis,[6] public domain; Roughton and Mercurio, *Developing an Effective Safety Culture*, p. 298.[2]

means complete. Each workplace has its own unique requirements and conditions. Be sure to add your own questions.

It is important that management understand the need to look at the overall objective of the JHA and develop a strategy to integrate JHAs into the safety process.

BREAKING DOWN THE JOB

The essence of a JHA is to break down every job into its basic components (tasks or steps). You can do this by listing each step in the order of occurrence as you watch the employees perform the activity. You may have a tendency to not document simple tasks. However, no basic step should be omitted. Make sure you record enough information to describe each action. When completed, review each step with the employees. Figure 4-1 is a sample JHA worksheet that should be used to list the task in a logical order.

Brief Job Description		
Task Description	Existing and Potential Hazards	Recommended Corrective Actions
Task Description	Existing and Potential Hazards	Recommended Corrective Actions
Task Description	Existing and Potential Hazards	Recommended Corrective Actions
Task Description	Existing and Potential Hazards	Recommended Corrective Actions
Task Description	Existing and Potential Hazards	Recommended Corrective Actions
Supervisor:		Date:
Analysis Conducted by:		Date:
Other:		Date:
Other:		Date:

Figure 4-1 Sample Job Hazard Analysis Worksheet. Source: Roughton and Mercurio. *Developing an Effective Safety Culture: A Leadership Approach*, p. 299.[2]

As stated, one key point is to be careful not to omit any steps. On the other hand, care should be taken not to make the job hazards analysis too detailed. Too much detail makes a JHA ineffective and unenforceable. A common mistake is to mix work elements with job hazards. A JHA is not intended to document work process instructions, although some people believe that these should be included.[4]

Talk to as many employees as possible: new, experienced, transferred (seasoned), and temporary employees as well as managers, maintenance personnel, safety professionals, and so forth. Common problems soon become apparent. You will start to see a consistent message. Not only can you base your decision on better information, but employees are pleased at being consulted. Discuss potential solutions with each employee and other technical specialists. Figure 4-2 is a flow diagram detailing the process of conducting a JHA.

JHAs may exist in some form or another for some or all jobs. If they do exist, you need to determine if they are effective. For example, is the facility experiencing incidents that result in recordable cases or workers' compensation losses, quality or productivity problems, and so on? If incidents occur, work procedures or processes may not be effective or the management system may not provide the necessary support.

After you record the steps (tasks) of the job, review each step to determine the hazards that exist or that might occur. There are several ways to identify job hazards: Evaluate the ways human error (at-risk behavior) might contribute to the hazard, record the types of potential incidents and the physical agents involved, make sure that the procedure is clearly written.

Once the job task has been identified and the basic steps outlined, the hazards can be identified. Evaluate each step as often as possible to identify all real hazards, both physical and mechanical. Review the actions and positions of the employees. Table 4-3 is a sample checklist.

Note equipment that is difficult to operate and could be used incorrectly. Make sure that all equipment is in proper working condition. Determine the level of employee stress operating the equipment.[3]

DEVELOPING A PRIORITY LIST OF TASKS

Developing specific priorities will help you understand the tasks that have the highest potential for hazard. There are several advantages to having a group establish these priorities. The first advantage is that knowing the higher priority task helps target specific management

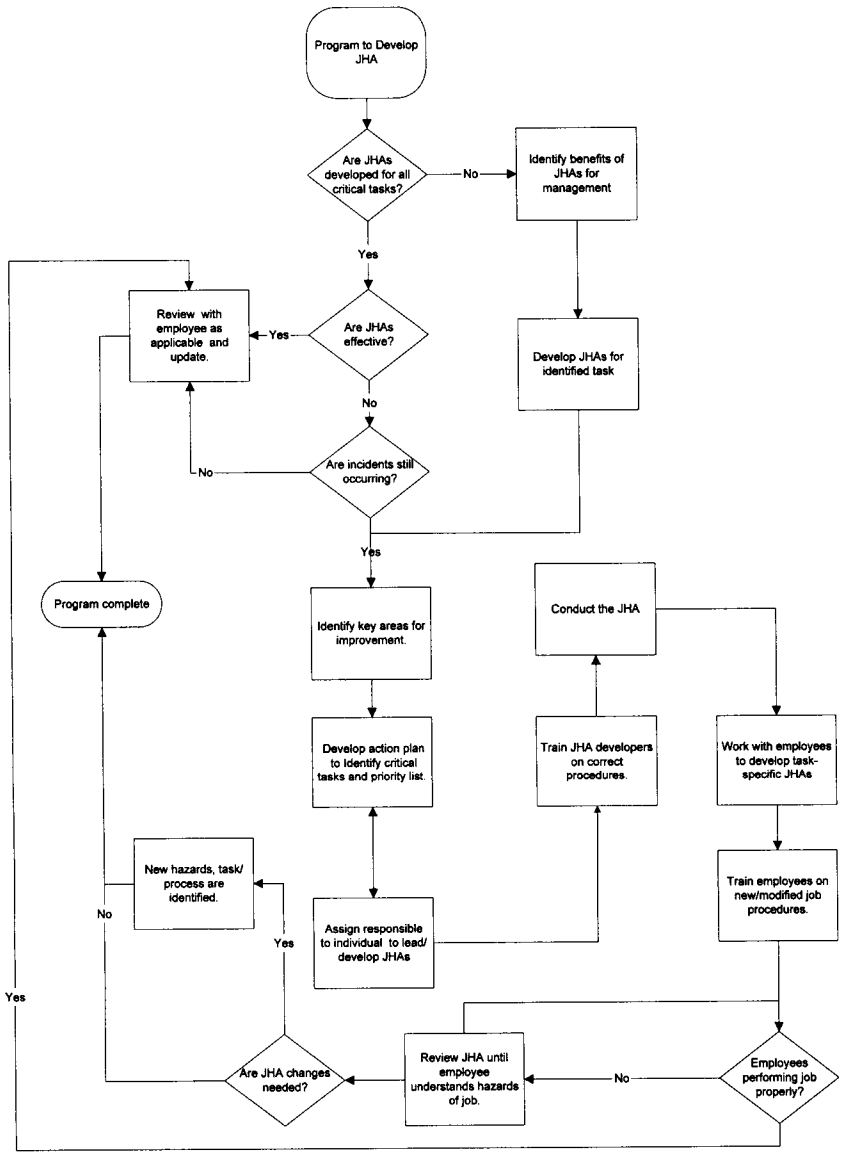

Figure 4-2 Conducting a JHA. Source: Roughton and Mercurio. *Developing an Effective Safety Culture: A Leadership Approach*, p. 301.[2]

responsibilities. The second advantage is that it reduces the amount of time needed to train the JHA developers. Developers who are expected to select the tasks must be trained in incident data analysis and trending techniques. Chapter 3, on incident investigation, describes these techniques. Table 4-4 lists factors typical of high-priority jobs.

Table 4-3
Sample Checklist for Evaluating Each Job Step

Yes	No	
		Is the employee wearing proper personal protective equipment?
		Are work positions, machinery, pits or holes, and hazardous operations adequately guarded?
		Are lockout procedures used for machinery deactivation during maintenance?
		Are there fixed objects that may cause injury, such as sharp edges on equipment?
		Is the flow of work properly organized; for example, is the employee required to make rapid movements?
		Can reaching over moving machinery parts or materials injure the employee?
		Is the employee at any time in an off-balance position?
		Is the employee positioned at a machine in a way that is potentially dangerous?
		Is the employee required to make movements that could lead to or cause hand or foot injuries, strain from lifting, or the hazards of repetitive motions?
		Do environmental hazards, such as dust, chemicals, radiation, welding rays, heat, or excessive noise, result from the performance of the job?
		Is there danger of striking against, being struck by, or contacting a harmful object? Employees can be injured if they are forcefully struck by an object or contact a harmful material?
		Can employees be caught in, on, by, or between objects? Can employees be injured if their body or part of their clothing or equipment is caught on an object that is either stationary or moving? Can they be pinched, crushed, or caught between either a moving object and a stationary object, or two moving objects?
		Is there a potential for a slip, trip, or fall? Can employees fall from the same level or a different level?
		Can employees strain themselves by pushing, pulling, lifting, bending, or twisting? Can the employees overextend or strain themselves while doing a task? Can the employees strain their backs by twisting and bending?
		What other hazards, not discussed, have the potential to cause an incident? Repeat the job observations as often as necessary until all hazards have been identified.

Source: OSHA 3071 Job Hazard Analysis,[6] public domain; Roughton and Mercurio, *Developing an Effective Safety Culture*.[2]

Table 4-4
High-Priority Jobs

If a task includes any two or more of the following elements, consider developing a JHA:

- High frequency
- High duration
- High force
- Posture
- Point of operation
- Mechanical pressure
- Vibration
- Environmental exposure

Source: OR OSHA 103o, What Jobs Need JHAs? p. 6: http://www.cbs.state.or.us/external/osha/educate/training/pages/materials.html, public domain.

To evaluate a job effectively, you should have some experience and training on the intended purpose of the JHA, an open mind, and examples of correct methods. To determine which jobs should be analyzed first, review injury and illness reports, such as the OSHA log, medical case histories, first aid cases, and workers' compensation claims. First, conduct a JHA for jobs with the highest rates of disabling injuries and illnesses. Do not forget jobs that have had "close calls" or "near misses." Give these incidents a high priority. Analyses of new jobs and jobs where changes have been made in processes and procedures should be next in priority.[1]

In addition when selecting the job for analysis, the following points can be useful in establishing priorities:

- *Injury and occupational illness severity.* Those tasks that have involved serious incidents may harbor a basic problem in the work environment or in the job performance itself.
- *Accident frequency.* The higher the frequency rate of incidents, the greater is the reason for developing and implementing a JHA.
- *Task potential.* The potential for illness or injury should be considered, even if no such incident has occurred.
- *Novelty.* A new task provides no history or information about its potential for incidents. For example, many incidents occur in a job or task where the employee is not accustomed to the job.

To be effective, the creation of a task or modification of a task through the introduction of new processes or equipment should automatically require you to develop a new or revised JHA. Jobs with many steps are

usually good candidates. As stated, you should assign each job selected a priority based on the potential for injury and the severity of potential hazards.

After developing a list of hazards or potential hazards and reviewing them with the employees, determine if the employees can perform the job another way to eliminate the hazards, such as combining steps or changing the sequence. Be aware whether safety equipment and precautions are needed to control the hazards.

If safer and better job methods can be used, list each new step, such as describing a new method for disposing of material. List exactly, similar to a training objective, what the employee needs to know to perform the job using a new method. Do not make general statements about the procedure, such as "be careful" or "make sure that you are trained." Be as specific as you can in your recommendations.

USING EMPLOYEE PARTICIPATION TO DEVELOP TASK-SPECIFIC JHAS

As noted earlier, a key concept usually overlooked is to make sure that the specific employee who performs the task participates in the discussion of the JHA. The worst thing that you want to happen is to develop the JHA, make it final, and then communicate it to the employee.

JHAs allow managers and employees to identify risks together. The manager works with the employee to record each step of the job as it is performed, consulting with the employee to identify any hazards involved in each step, and finally, enlisting the employee's help on how to eliminate any hazards noted. When you develop a JHA collectively, you create a sense of ownership that encourages teamwork between the manager and the employee. This systematic gathering of information and teamwork is essential to avoid snap judgments.[1]

Once you select the job for analysis, discuss the procedure with the employee who performs the job and explain the intended purpose. Point out that you are evaluating the job task itself and not checking on the employee's job performance. Involve the employee in all phases of the analysis, from reviewing the job steps and procedures to discussing potential hazards and recommended solutions. Also talk to other employees who have performed that job in the past.

Employees are the best source for identifying job hazards, and they appreciate you consulting with them on matters that affect them.

Employees become more receptive to changes in their job procedures when you give them an opportunity to help develop the change.

REVIEWING THE JHA UNTIL EMPLOYEES UNDERSTAND THE HAZARDS OF THE JOB

With the completion of JHA documents, the employees conducting these tasks may need to be trained in the new procedure. The extent of this training varies, depending on the complexity of the task. In some cases, it is more of an informal communication effort with a work group; in others, it involves formal on-the-job training. The extent of training depends on how different the JHA procedure is from what the employees were doing before.

On completing the training, each employee should sign an acknowledgment, stating that he or she understands the identified hazards. A form like that in Figure 4-3 should be signed off prior to performing any nonroutine or new task. Figure 4-4 provides a comparative analysis of this type of training.

By signing the form, the employee verifies reviewing the JHA for the specific task that he or she is performing or about to perform and agrees with the JHA as it relates to the job steps (tasks), the hazard associated with the tasks, and the recommended corrective measures. At this point in time, the employee can bring up any questions concerning the hazards of the job. You may ask, What have I gained from this action? Think about it, you have now placed some responsibility on the employee to understand the hazards of the job.

DEVELOPING AN ACTION PLAN TO IDENTIFY INCIDENTS

If hazards are still present, try to reduce the necessity for performing the job or the frequency of performing it. Go over the recommendations with all employees performing the job. Their ideas about the hazards and proposed recommendations are valuable. Be sure that they understand what they are required to do and the reasons for the changes in the job procedures.

Employee Name	Date Reviewed

This form should be signed off prior to performing any nonroutine task or any new task. In addition, I understand that I must review this JHA with my supervisor periodically. By signing this form, I am verifying that I have reviewed this Job Hazard Analysis for the specific task that I am performing or about to perform. I agree with the JHA as it relates to the job steps (task), the hazard associated with the task, and the recommended corrective measures. I also understand that if I have any questions concerning the hazards of this task that I can stop the job and notify my supervisor for resolution.

Figure 4-3 Sample JHA Review and Acknowledgement Form. Source: Roughton and Mercurio. *Developing an Effective Safety Culture: A Leadership Approach*, p. 307.[2]

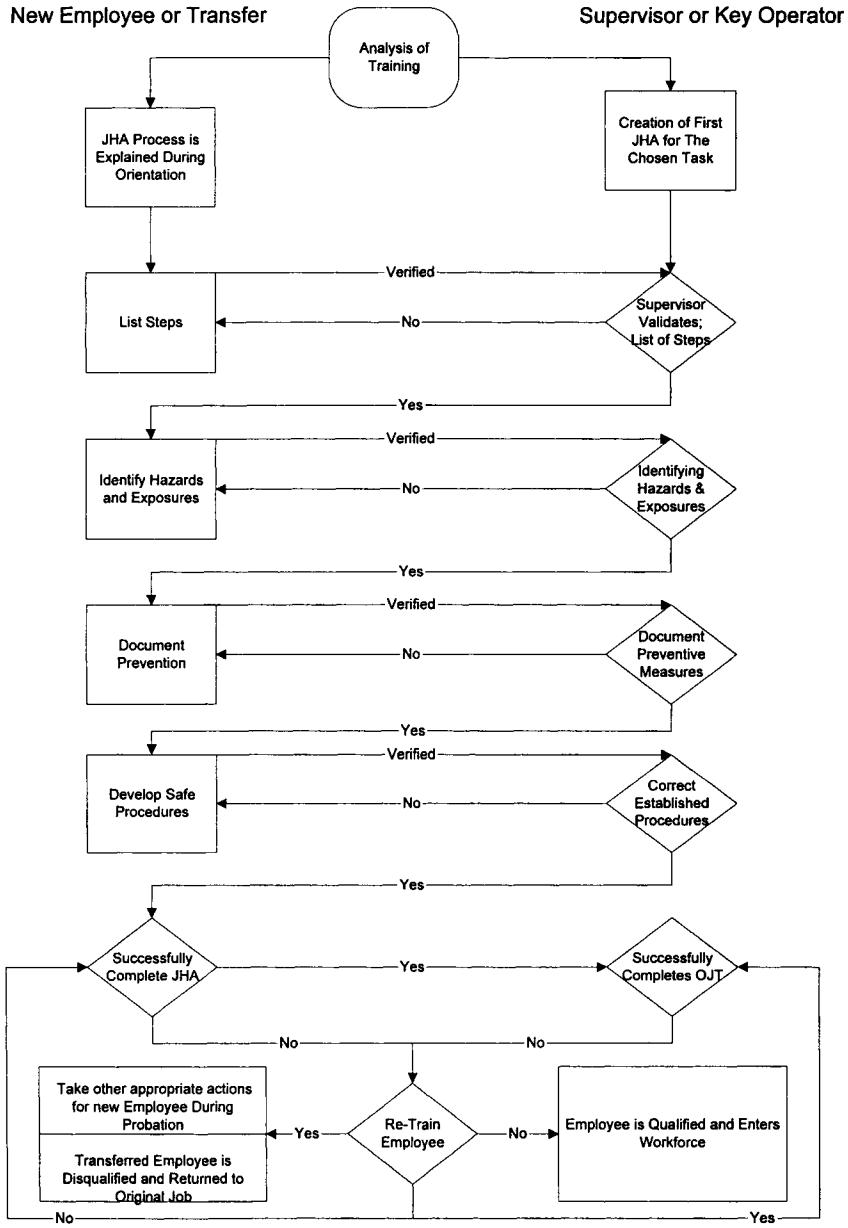

Figure 4-4 Comparative Analysis of Training. Source: OR OSHA 103, Comparative Analysis, p. 14, http://www.cbs.state.or.us/external/osha/educate/training/pages/materials.html, public domain.

SUMMARY

A JHA is one component of an overall strategy. Those who manage or work in the facility need to understand other components of a safety management system that can affect the quality of the job procedures. A program should be developed to evaluate if employees are consistently following the documented procedures. The action planning process is the preferred method to help accomplish this goal.

A JHA documents procedures that can be used to review job methods and identify hazards that may exist in the workplace. JHAs can also be used to document changes in work tasks. Some solutions to potential hazards may be physical changes that eliminate or control the hazard or a modified job procedure to help eliminate or minimize the hazard.

All employees should be trained in how to use the JHA. Managers are in the best position to do the training by observing the job as it is being performed to determine if the employee is doing the job in accordance with the job procedures.

A JHA should be monitored to determine its effectiveness in reducing or eliminating hazards. Also find out if the employee is following the JHA when performing the job. If so, evaluate the effectiveness. If not, try to find out the reason.

It is important to assign both authority and specific responsibility to implement each protective measure. A safety engineer may need to provide the training; the manager should provide safe tools and equipment; and the employees should inspect their tools to ensure that they are in safe condition.

Everyone has seen the demonstration where you start off by telling a story to the first person in a group. The story is then passed on to the next person and down the line. By the time the story gets back to the original storyteller, the message has changed. In this case, if a written script similar to a JHA had been used, the story would have been the same message around the room.

We need to remember that JHAs should be easily readable and the hazards need to be easily understood. For readability, JHAs need to be typed. They should be placed at the workstation. It is important to highlight the most critical hazards for special attention. The objective is to make the JHA a user-friendly document that everyone can read and understand the hazards of the identified task.

The bottom line: A JHA is not mandatory requirements or a standard and you are not required to use the recommended methods. It is considered a management tool and a best management practice, going beyond the OSHA standard.

This chapter was written as a guide only and is based on the U.S. Department of Labor, Occupational Safety and Health Administration OSHA 3071 Job Hazard Analysis, 1998 (Revised)[6] found on the OSHA website: www.OSHA.gov, under publications. For a more detailed review of the JHA, see Roughton and Mercurio, *Developing an Effective Safety Culture: A Leadership Approach*, Chapter 15.[2]

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5

Developing and Administering a Medical Surveillance Program

Sections 1904.6 and 1904.7 specifically discuss professional status of the person providing treatment for injured employees. To enhance your process you should have a medical provider that you can trust.

A medical surveillance program is a system put in place to make sure that the level of health expertise identified in the safety program is sufficient. If you have a medical surveillance program, it does not mean that you have to hire a physician to work at your facility. There are many ways you can use a medical health expertise.[1]

Establishing a comprehensive medical surveillance program is more than an after-the-fact response to work-related injuries or illnesses. It can include activities that identify safety hazards and help you develop an action plan for prevention or control of identified hazards. You may find it more difficult to establish the goals and objectives for your medical provider than for the other parts of your safety program. Illnesses may not appear obvious at first. For example, an employee experiencing hand pain may seem to have a less serious problem than the employee who has a severe cut or broken bone.[1] This chapter provides some guidance to help you decide what will work best for your operation and how you can effectively manage a medical provider.

WHY DO YOU NEED A MEDICAL SURVEILLANCE PROGRAM?

In an effort to be proactive, you identify hazards and involve employees in the identification of hazards to help prevent injuries. The

reality is that, despite your best planning prevention efforts, some level of injuries will occur. How will you manage these injuries? In some cases, you must be prepared to deal with medical emergencies. If you have no nurse or physician on staff at your facility then you have to be prepared to make other arrangements for emergency care.[2]

A medical surveillance program may include activities that cover safety hazards in your workplace and help you to formulate a plan to minimize or control related hazards.

A medical program can consist of many elements, from basic first aid and CPR to sophisticated approaches for the diagnosis and resolution of ergonomic issues. The nature and extent of your medical program depends on a number of factors. If the use of a nearby medical provider appears to be the best solution for your operation, make sure that you meet with representatives of the facility to discuss your medical needs. It is a good practice to have the medical provider visit your facility to get familiar with your process. The medical provider should also be asked to visit your facility and conduct periodic visits and walkthroughs to maintain familiarity with the job tasks being performed. In addition, the provider can participate in a job hazard analysis of each job.[2]

An effective medical surveillance program will help reduce safety hazards and the related injuries, as discussed. The positive results from such a program can be measured by a decrease in lost workdays and workers' compensation costs. You can also expect the medical program to help increase worker productivity and morale.[2]

WHO SHOULD MANAGE THE MEDICAL PROVIDER?

In some cases, you may find that your medical surveillance program works best when managed by a health or human resources professional. A physician or a registered nurse with specialized training, experience, and knowledge in occupational health works with you but not as your employee. This arrangement works best because safety professionals, industrial hygienists, physicians, and nurses all have their own areas of specialized knowledge. You cannot expect to get all the information and service your safety program needs with one type of specialist. If you tried, you might overlook or misidentify a dangerous hazard in your business.[1,2]

No matter what type of medical surveillance program you decide to use, it is important to use a medical specialist with occupational health or medical experience and training. Not every medical provider is trained to understand the relationships of the work environment; the

task performed, and related medical symptoms to the process. The size and complexity of the medical surveillance program depends on the size of the workplace, its location in relation to the medical provider, and the nature of the hazards that exist.

WHAT SERVICES DO YOU NEED FROM A MEDICAL PROVIDER?

There is no such thing as a standard medical provider. Furthermore, there is no substitute for examining your business' special characteristics and developing a medical provider right for you. These special characteristics may include

- The actual processes and how your employees are engaged in them.
- The type of materials handled by your employees.
- The type of facilities where your employees work.
- The number of employees at each work site.
- The characteristics of your workforce; for example, age, gender, ethnic group, and education level.
- The location of each operation and the distance from health care facilities.[1,2]

As you look at the characteristics of your employees and workplace, you should ask yourself the following questions:

- Are there hazards in the process, materials used, or facilities that make it likely that employees will get hurt or will suffer abnormal health effects from their work environments?
- Do the numbers of employees at your facility require occupational health services on-site or is it less practical than off-site contract services?
- Are there enough employees that time and funds will be saved by implementing an on-site service?
- Would any specific hazards or conditions in the workplace warrant a medical provider near the facility?
- Do any special characteristics of the employees make them more vulnerable to illness or injury or less likely to understand the safety hazards of the workplace?[2]

One thing to take into consideration as you set up your program is the Americans with Disabilities Act (ADA). Under this act, employers may require employees to submit to medical examination only when justified by business necessity. The results of any medical examination

are subject to certain disclosure and record retention requirements (29 CFR 1910.20) and subject to the confidentiality requirements of the ADA. The ADA's employment-related provisions are enforced primarily by the U.S. Equal Employment Opportunity Commission.[1,2]

The answers to these questions will put you in a better position to decide what type of medical provider services you need. The range of services are described next.[1]

THE RANGE OF MEDICAL PROVIDER FUNCTIONS

Three types of basic medical provider activities can be performed:

- Provide recommendation for prevention of hazards that could cause illnesses.
- Provide early recognition and treatment of work-related illnesses and injury.
- Limit the severity of work-related illness and injury by working with local doctors and hospitals.[1]

No matter the service you choose, it is still your responsibility to determine if you have employees who fall in the scope of the specific requirements, to make arrangements for the appropriate training for all affected employees, and to provide professional occupational health expertise as a resource to your safety and health committee.

EARLY RECOGNITION AND TREATMENT

The following are some suggestions on how to use a medical provider effectively for early recognition and treatment of employee injuries and illnesses:

- Use your medical provider to help you decide when and if you need to conduct baseline and periodic testing of your employees and new hires for potential exposure. This depends on your workplace and the associated hazards; for example, if you have a welding or plating operation.
- Use your medical provider to do the testing needed to accomplish medical surveillance as outlined by specific requirements.

- Make sure records are kept of all visits for first aid cases. The medical provider should review the symptoms reported and the diagnoses to see if there is a pattern of any health-related issues.
- Provide first aid and CPR assistance through properly trained employees on every shift. Make sure that employees keep their certifications current and that they receive adequate training in specific hazards specifically associated with the workplace.
- Involve the medical provider in alcohol and drug abuse interventions, smoking cessation programs, and any other company programs geared toward helping employees to recognize and obtain treatment for any substance abuse problems.
- Make sure that the medical providers hold current credentials, had recent continuing education, and understand the hazards of your workplace. These standards help ensure their ability to recognize early symptoms of health issues and begin prompt and appropriate treatment to prevent disability.
- Make sure that standardized procedures (protocols) are used throughout the medical surveillance program, particularly if you are using more than one contractor for health services.
- Have your medical providers keep your employee injury and illness records, where feasible. Make sure your recordkeeping system effectively protects the confidentiality of individual employee medical records.[1]

The following are some methods on how to develop and deliver health care in accordance with federal and state regulations:

- Coordinate the emergency response between your facility and all external emergency organizations, such as the fire department, any contractual organization, or nearby community hospital. Everyone needs to know exactly what to do and what to expect from others.[1,2]
- Maintain contact through your medical provider by discussing any transitional duty and job assignments with any employee who is out of work due to an injury. Keep in contact with the medical provider that provides treatment and care to make sure that the treatment is appropriate and the employee is responding as expected.
- Use a registered nurse or physician to help advise an employee off work for an extended period about workers' compensation rights and benefits and ongoing care.
- Use your medical providers to provide evaluations aimed at determining whether an employee can resume full duty after missing work or if work duties need to be modified to fit any transitional duties.
- Consult your physician or registered nurse for help in developing transitional duties, to make sure that the employee can perform the work and benefit from feeling productive again.[1]

- Develop and deliver health care in accordance with federal and state regulations; for example, applicable OSHA standards, workers' compensation laws, public health regulations, and company policies.

PROTOCOLS AND ESTABLISHED STANDARDIZED PROCEDURES

Specific medical protocols and standardized (work) plans for providing medical treatment to employees have been written. They are comparable to the standardized procedures you may already use in some areas of your business; for example, your system for maintaining accounts or servicing company equipment. You must provide your medical provider a set of protocols for treatment of work-related injuries, response to emergency situations, collection of data from medical surveillance programs, and all the other activities listed in your medical program.

These procedures are not designed to interfere with the medical provider's treatment of any work-related injuries. Instead they are designed to help ensure early detection of work-related issues through consistent and thorough evaluation of employee health complaints.

Standardized procedures also promote the use of the most up-to-date treatments. They are particularly important if you use several contractors to provide your medical services, because they help ensure that all your employees receive the same type of care. Even if company employees provide their own medical services, standardized procedures still should be written for the medical surveillance programs, health care, and first aid. These procedures should be communicated to all medical providers who provide treatment for your employees. *A Comprehensive Guide for Establishing an Occupational Health Service*, published by the American Association of Occupational Health Nurses (AAOHN), includes information on developing protocols. To obtain a copy of this guide, contact AAOHN, 50 Lenox Point, NE, Atlanta, Georgia 30324, telephone (404) 262-1162.

MEDICAL PROVIDER QUALIFICATIONS

Once you have decided which safety and health services you need for your facility, you can decide who will provide these services. Several factors should be considered before contracting a medical provider:

- Your medical provider must be organized so that the individuals providing the services are not working alone. Most state laws require that a registered nurse or physician supervise these individuals.
- The occupational health professionals you use should have specialized, up-to-date training or experience in the methods of occupational health care.
- You must decide if you are going to hire a physician for your own employees or if you want to contract to an outside medical provider.
- It is important to understand the different levels of medical providers. This understanding can help you with the recordkeeping requirements. Note that, in the new rule, you need to use the best-documented, best-reasoned, or most-authoritative opinion when using more than one physician.

EVALUATING THE QUALIFICATIONS OF A MEDICAL PROVIDER

Whether you choose to employ a professional physician or contract with an outside medical provider, it is important to evaluate specific qualifications. Medical providers are individuals selling a service, just like any other vendor, and must be evaluated as such. However, it is important to understand that you must contract the service that will best fit your needs. In some cases, this may not be the cheapest method. You should use bidding procedures like those you would for any service; for example, subcontractors and vendors. The only exception is that you can use the following sample protocols to evaluate a prospective medical provider:

- What type of training does he or she have?
- In what type of industries has the provider had experience?
- What does the provider know about OSHA recordkeeping requirements?
- What could the medical provider contribute to the improvement of your safety program?
- Can the medical provider provide references?
- Has there ever been an OSHA inspection in a facility when the medical provider was associated? What was the outcome of the inspection?

On the other hand, a prospective medical provider should ask questions concerning the following:

- Your work processes.
- Your known or potential hazards.
- Your facilities, type, and location.
- Number of employees.
- Standards and regulations that apply in your business.
- Medical surveillance programs, current or past.
- Collective bargaining contracts.
- Any previously issued OSHA citations.
- Existence and specifics of a safety and health policy.
- Current method of providing medical provider services.
- Other health care providers involved in providing services.

SUMMARY

Your medical surveillance program is an important part of your safety program. It can help to deliver services aimed at evaluating hazards that can cause injuries, recognizing and treating injuries, and limiting their severity.

To determine the appropriate services, you need to consider your site's specific needs, such as the type of process and materials your employees work with and the resulting or potential hazards, the type of facilities where employees work, the number of workers at each site, and the characteristics of the workforce including age, gender, cultural background, and educational level. In addition, consider the location of each operation and its proximity to a medical provider.[2]

No matter whether you hire a full time professional or contract with a medical provider, make sure that the individual has specialized training, experience, and up-to-date credentials. The medical provider should be trained, experienced, and certified in the identification, treatment, and rehabilitation of injuries.[1,2] In addition, the medical provider must be familiar with applicable OSHA regulations and recordkeeping requirements.

An early-return-to-work program should be in place at the facility. The job descriptions must be complete for all tasks that include the physical requirements of the job. Transitional duties must be identified that are productive, creative, and not overly demanding to the employee.

The employer should follow a prescribed protocol for early contact and close communication with injured employees and the medical providers who help facilitate return to regular or modified work at the earliest possible date.[2]

Finally, all employees must be aware of and fully support the early-return-to-work program.

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6

Employee Participation

In section 1904.35(a)(1)–(2), p. 6132, the new recordkeeping rule discusses simple ways to get employees involved in the safety process. The rule states:

> Your employees and their representatives must be involved in the recordkeeping system in several ways:
>
> - You must inform each employee of how he or she is to report an injury or illness to you.
> - You must provide limited access to your injury and illness records for your employees and their representatives.

This is fundamental to the success of any safety process, second to management commitment and leadership. You must understand that the success of any business depends on its employees. Protecting employees from hazards not only makes good business sense, it is the right thing to do.[1]

This chapter takes a look at some reasons behind employee participation and some ways to implement a successful process.[1] Implementing this type of process can help you better understand the recordkeeping standard. By getting employees involved in the process, you start to create a trusting atmosphere.

One word of caution is that telling employees what to do and how to do it, without listening and communicating with the employees, is not employee involvement. This chapter provides some guidance on methods to create a successful process.

WHY SHOULD EMPLOYEES BE INVOLVED?

Getting all employees involved in the management system is one of the most effective approaches you can take to develop an effective safety

culture. The advantage to employee participation is that it promotes awareness, instills an understanding of the comprehensive nature of a management system, and allows employees to "own" a part of this system. Employees make valuable problem solvers because they are closest to the action. No one knows the job better than the employee who does it. Table 6-1 has guidelines to encourage employee participation.[1]

Many of the activities listed in Table 6-1 require training to make sure that each employee can perform these functions proficiently. The training need not be elaborate and can be conducted at the workplace by employees who are appropriately trained.[1]

Table 6-1
Guidelines for Employee Participation

Employee participation provides the means for everyone to help develop and express his or her commitment to safety, personally and for their coworkers.

The value of employee participation should be apparent, and the increasing number and variety of employee participation arrangements can raise legal concerns. It makes good sense to consult with your human relations or legal department to make sure that any employee participation program implemented conforms to all legal requirements.

The question is, Why should I have my employees involved in the process? The obvious answer should be, Because it is the right thing to do:

- Employees are the individuals most in contact with potential safety hazards. They have a vested interest in an effective management system that supports the process.
- Group decisions have the advantage of the group's wider range of experience.
- Employees are more likely to support and use programs in which they have input (buy-in).
- Employees who are encouraged to offer their ideas and whose contributions are taken more seriously are more satisfied and productive.

What can employees do to get involved? The following are some examples of employee participation:

- Participating on joint labor-management committees and other advisory or specific purpose committees.
- Conducting workplace inspections.
- Analyzing routine hazards in each step of a job or process (JHA) and preparing safe work practices or controls to eliminate or reduce exposure.
- Developing and revising the workplace safety rules.
- Training current, newly hired or transferred, and seasoned employees.
- Providing programs and presentations at safety meetings.

Table 6-1
Continued

- Conducting and participating in incident investigations.
- Reporting hazards and fixing hazards under their control.
- Supporting coworkers by providing feedback on risks and assisting them in eliminating hazards.
- Performing a preuse or prechange analysis for new equipment or processes to identify hazards up front, before use.

Source: OSHA website: http://www.osha-slc.gov/SLTC/safetyhealth_ecat/comp1_empl_envolv.htm,[2] public domain; Roughton and Mercurio, *Developing an Effective Safety Culture: A Leadership Approach*, p. 118.[3]

Close Contact with Hazards

As a manager, you understand how your overall business works, you provide the vision and the resources. Employees who work in the organization have a more detailed knowledge of each operation and task than anyone else because they perform these tasks day in and day out. No matter how educated you think you are, unless you have performed a particular task over and over, your employees will know the job much better than anyone else.[1]

More Participation, More Awareness

Using safety committees may not always be the best approach to reach a decision. However, group decisions are often the best buy-in from employees. The benefits from many viewpoints with varied experiences can help produce better-informed decisions.[3]

Employee participation can be used to help identify and solve safety issues. Employees who participate enjoy their work much more than those who simply do what they are told or instructed. Employees who enjoy their work take greater pride and responsibility in their jobs and tend to produce a better-quality product. Reduced turnover is a side benefit of employee participation.[1]

Committee Participation

Joint labor-management committees are a popular method of employee participation, but other types of committees also have been used successfully to allow employee participation. At many unionized

facilities, employee safety committees (with members selected by the union or elected by employees) work alone, with little direct management participation, on various tasks. In other workplaces, employees participate on a central safety committee.[1] Some work sites use employees or joint committees for specific purposes, such as conducting workplace surveys, investigating incidents, training new employees, and implementing behavioral-based safety systems.[3]

GETTING EMPLOYEE PARTICIPATION STARTED

A key in getting employees involved is to meet with employees. The following list provides some proven techniques of employee participation:

- Meet with employees in one large group, as appropriate (shift, department, one on one) depending on the nature of the business.
- Explain the safety policy and the goals and objectives you want to achieve.
- Explain how you want your employees to help with the safety efforts. Ask for their input and suggestions. Try to use as many of the reasonable suggestions as possible[1] in some visible way that shows you are interested in the suggestions.[3]

Developing a Safety Committee

Develop a committee suited for your business. It should be large enough to represent different parts of the organization. Try to integrate various committees. For example, a committee designed for one part of a facility should be integrated with those from other parts of the facility. Integration brings a cohesion of efforts between different departments.[3]

Try to have equal numbers of management and nonsupervisory employees on the committee. Choose middle management members who can get things done. One method is to pick one employee and have that employee pick another employee and so forth. With this method employees are picked at random and there is no perceived bias from management.[3] Make sure that the safety professional serves as a resource for the committee and is not the leader.[3]

If your workplace is unionized, allow the union to choose nonsupervisory members. Let the union be part of the process. If your workplace

is not unionized, you may want to consult with a qualified labor relations professional on the best way to obtain employee participation when developing a committee.[1]

One word of caution: Each committee must have a clearly defined written description of its intended charter, defining what the committee exactly does and how it will do it. This description provides a clear direction. In addition, it allows you some level of measurement on the work that is accomplished.[3]

Using Employees in the Process

You can involve employees in the management system and safety program by having them conduct regularly scheduled specific activities; for example, routine physical surveys using a checklist. In these situations, you must make sure that employees have adequate and appropriate training. In addition, they should be expected to help with decisions about hazard correction as well as hazard identification.[3]

Once a committee is established and functioning, it will be in a better position to suggest other ways to involve your employees in the safety program. For example, you may ask the committee to study one or two difficult safety problems that management has been unable to resolve.

Always remember that the employer has ultimate legal responsibility for making sure that the workplace is safe for all employees.[1]

Joint Labor-Management Committees

Joint labor-management committees usually have equal representation of labor and management. The chairperson may alternate between an employee representative and a management representative, as appropriate. There usually are quorum requirements and formal voting. The power of this committee is worked out through negotiation. Although tasks depend on the outcome of these negotiations, the committees typically conduct the following activities:

- Site evaluations with oversight of hazard recognition.
- Investigating hazards reported by employees.
- Incident investigations.
- Safety awareness program development.[1]

Sometimes the committees only receive reports from other committees on selected activities and monitor hazard correction and program effectiveness.[1] This will depend on your workplace.

Employee Safety Committees

Employee safety committees are usually union safety committees, with membership determined by the union. Workplaces with more than one union may have more than one union safety committee. The committee operates without management representation and meets regularly with management to discuss safety issues. At these meetings, the committee raises concerns, and management provides the necessary responses to help fix the identified hazard. The committee may conduct inspections, investigate hazards reported by employees, and bring safety issues to management for correction. The committee also may design and present safety awareness programs to employees.[1]

Central Safety Committee

At nonunion sites, the central safety committee many consist of the site manager and a member of the top management. In recent years, some companies discovered that it is helpful to have employees on the committee. Some sites rotate employees on this committee, so that all employees can participate in safety planning. At other sites, management selects the employees for their experience and achievement in other safety management systems.[1]

The central safety committee is an oversight committee with an interest in every part of the safety program. It sometimes tracks as the hazard-correction management system. It may be a follow-up committee, receiving reports of all inspections, incident investigations (discussed in Chapter 3), and hazards reported by employees and making sure that all reported hazards are tracked until resolved.[1]

Specific-Function Committees

Some companies use single-function standing committees. In these committees, employees volunteer for membership. These committees may consist of employees only, with management support or there may be a joint membership with some members of management or the safety professional (including the on-site nurse, doctor, or medical provider, as applicable). Each committee has a single responsibility, such as incident investigation, site safety inspections, development of safety rules, providing training, JHA development, or creating safety awareness programs. The company provides committee members with the necessary training and resources.[1]

Members of the committee usually work with the area supervisor to get hazards corrected. Normally, they do their inspection alone. Some

companies periodically bring together the safety observers to brainstorm problems or look for ideas that extend beyond the individual work areas. For your safety observers' participation to be fully effective, they should also be involved in correcting the hazards that they spot.[1]

Conducting Site Inspections

Employee participation is common in workplace inspections. A joint committee, an employee committee that performs several functions, or a single-function inspection committee can conduct inspections or an individual employee can act as safety observer, as discussed.[1]

Whatever method you choose, employees must be trained to recognize hazards. They also should have access to a safety professional and written reference. For meaningful participation, the committee or safety observer should be able to suggest methods of correcting hazards and track corrections to completion.[1]

Routine Hazard Analysis

Employees can be helpful in analyzing jobs, processes, or activities for hidden hazards and in helping to design improved hazard controls, as detailed in Chapter 4 on JHA. Employees and supervisors frequently are teamed up to accomplish these activities. For complicated processes, an engineer probably will lead the team.[1]

Employees are more likely to accept the changes that result from these analyses if they are involved in the decisions that revise practices and processes.

Developing or Revising Site-Specific Safety Rules

Consider assigning employees some responsibility for developing or updating the site's safety rules. Employees who help develop workplace safety rules are more likely to adhere to them and remind others of the importance of working safely. Employees possess an in-depth knowledge of the work environment and their coworkers and can contribute significantly in improving and strengthening the overall safety rules.[1]

Training Other Employees

Qualified employees can be used to train other employees on safety matters, such as rules and procedures, and other topics. This technique

can be effective and help to improve any ongoing training efforts. Many companies have seen excellent results from assigning responsibility for training to employees.[1]

In many cases, specific employees make excellent trainers for new employees. Someone in management should present the personnel and employee relations portions of the orientation but trained safety committee members can handle other topics. The trainer who provides this introduction to the job can follow up by acting as a "buddy," watching over the new employee, providing advice, and answering questions that a new employee might be afraid to ask a supervisor.[1] One problem that must be addressed at this time: Seasoned employees may train new employees using old procedures or techniques that have been used over the years. These procedures may not be correct and could cause injuries, some due to shortcuts the employee learned through many years on the job. You need to be careful that you are not training employees on the "bad habits" that may exist in your workplace.[3]

USUAL FORMS OF EMPLOYEE PARTICIPATION

At many nonunion facilities, employee participation is rotated through the entire employee population. Programs receive the benefit of a broad range of employee experience. Other employee benefits include increased safety knowledge and awareness. At other nonunion facilities, employee participation relies on volunteers or supervisors may appoint employees to safety committees.[1]

The best method for employee participation will depend on what you want to achieve and the direction that you want your program to go. If improved employee awareness is a major objective, rotational programs are a good choice. If high levels of skill and knowledge are required to achieve your safety objectives, volunteers or appointees who possess this knowledge may be preferable.[1]

WHAT MANAGEMENT MUST DO

Management sets the tone. If management does not support getting employees involved or your employees do not believe you want their participation, participation will be difficult and unsuccessful.[3]

Employees often do not believe management actually wants their input on serious matters, so the participation is minimal. Sometimes, this is because managers claim that safety committees want to talk about only trivial things like cafeteria menus. They may decide from this evidence that employees are either unwilling or unable to address the serious issues of the work site. It is essential that mistrust and miscommunication between management and employees are corrected. You can accomplish this by demonstrating visible management commitment and support and providing positive feedback.[1]

Table 6-2 recommends some ways to encourage employee participation.

SUMMARY

The objective of employee participation is to provide for and encourage employees to help in the structure and operation of the safety program and in decisions that affect their safety. If this is done properly, employees will commit their insight and energy to achieving the safety program's goal and objectives.

Table 6-2
Recommended Solutions

- Show your commitment through management support and leadership. This will help your employees believe that you want a safe workplace, whatever it takes.
- Communicate clearly to your employees that a safe workplace is a condition of their employment.
- Tell your employees what you expect. Communicate to all employees specific responsibilities in the safety program, appropriate training, and adequate resources for performing specific activities that were assigned.
- Get as many employees involved as possible: brainstorming, inspecting, detecting, and correcting.
- Make sure that employee participation is expected as part of the job during normal working hours or part of their assigned normal jobs.
- Take your employees seriously. Implement their safety suggestions in a timely manner, or take time to explain why they cannot be implemented.
- Make sure coworkers hear about it when other employee ideas are successful.

Source: U.S. Department of Labor, *Managing Worker Safety and Health*,[1] public domain; Roughton and Mercurio, *Developing an Effective Safety Culture*, Chapter 7.[3]

Employee participation has been shown to improve the quality of safety programs. Your employees are equipped to provide assistance in a wide variety of areas. What employees need are opportunities to participate. This can be shown by clear signals from management of commitment and leadership, specific training, and providing the necessary resources.

Employee participation differs at union and nonunion sites. No matter what forms of participation you choose to establish your program, you have the opportunity and responsibility to set a management tone that communicates your commitment to safety, thereby providing a high-quality response from your employees. Remember, no matter what recommendations are gleaned by management from employee participation groups, make sure safety always remains the legal and moral obligation.[1]

The following are some general guidelines for forming committees and making them successful:

- Include equal numbers of management and nonsupervisory employees.
- Choose management members who can get things done.
- If your workplace is not unionized, you may wish to solicit employee suggestions on how to select nonsupervisory members of the committee.
- Consider consulting with your human resources professionals before holding an election for safety committee members. The employees on the committee may volunteer and be put on a rotational basis to extract as much information and knowledge from as many employees as possible. If you are not sure where you stand on this issue, it would be advisable to consult with your company attorney. Table 6-3 has some general guidelines on developing a successful safety committee.
- There are multiple avenues for employee participation; and these avenues are well known, understood, and utilized by employees. The avenues and mechanisms for involvement are effective at reducing accidents and enhancing safe behavior.
- The key is to take employees seriously and communicate that a safe environment is a condition of employment.

Table 6-3
General Guidelines on Developing a Safety Committee

The following are general guidelines for involving employees. The key is to provide employees

- The opportunity to participation.
- A clear signal from management.
- Needed training and resources.
- The assurance of being taken seriously and knowledge that a safe environment is a condition of employment.
- Implementation of their suggestions in a timely manner or an explanation why they cannot be implemented.
- A policy statement that ensures employees are protected from reprisal resulting from safety program participation.
- Assurance that all employees will hear about the success of other employees' ideas.
- Opportunities and mechanism(s) for them to influence safety program design and operation and evidence of management support of employee safety interventions.

Employees have a substantial impact on the design and operation of the safety program.

Source: Oklahoma Department of Labor, Safety and Health Management: Safety Pays,[4] public domain; Roughton and Mercurio, *Developing an Effective Safety Culture*, Chapter 7.[3]

REFERENCES

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3. Roughton, James, and James Mercurio. Developing an Effective Safety Culture: A Leadership Approach. Boston: Butterworth–Heinemann, 2002, Chapter 7.
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7

Overview of How OSHA Works

Whether you are new to the safety profession, new to recordkeeping, or a seasoned professional, this review will help you understand how OSHA works.

Think about the following statement for a second: "more than 90 million employees spend their days on the job." We often forget that employees are our most valuable asset and national resource. Without employees, we could not provide any services, build or produce any product, construct any new buildings, and so forth. Yet, until 1970, no uniform and comprehensive provisions protected employees from workplace safety and health hazards.

In 1970, the Congress considered annual figures such as these:

- Job-related accidents accounted for more than 14,000 employee deaths.
- Nearly 2.5 million employees were disabled.
- Ten times as many days were lost from job-related disabilities as from strikes.
- Estimated new cases of occupational disease totaled 300,000.[1]

In terms of lost productivity and wages, medical expenses, and workers' compensation (disability insurance), the burden on the nation's commerce was staggering. The human cost was beyond calculation. Therefore, the Occupational Safety and Health (OSH) Act of 1970 was passed by a bipartisan Congress "to assure so far as possible every working man and woman in the Nation safe and healthful working conditions and to preserve our human resources."[1]

Today, providing employees a safer place to work has reduced employee injuries. Many companies have developed a safety culture that says, "Management will provide the commitment and leadership to provide employees a safe place to work." In addition, "We will let our

employee participate in the safety process." This chapter is not intended to discuss how to develop a safety culture. Instead, it is designed to discuss how OSHA works in relation to the process of inspections.

OSHA SUCCESS STORIES

Since OSHA opened its doors in 1971, workplace fatalities have been cut in half and occupational injury and illness rates have dropped 40%. At the same time, U.S. employment nearly doubled at the country's nearly 6.9 million work sites.[2]

These statistics do not fully convey the magnitude of OSHA's success over the past 30 years. Each percentage point in reduced fatalities and injuries and illnesses means fewer employees injured or disabled on the job and fewer families left to grieve over the loss of a loved one. This means more employees return home whole and healthy every day. There can be no better measure of success.[2]

At the same time, companies large and small, in a variety of industries, have come to recognize that safety and health pay. A reduction in lost workdays and workers' compensation costs translates into big savings for employers. Companies also benefit from improved employee morale and productivity, an important but often unanticipated reward that frequently comes from providing employees a safe and healthful workplace.[2]

Working together, OSHA, employers, and employees are helping to make big improvements in workplace safety and health.[2] For the most recent statistics, refer to the Bureau of Labor Statistics (BLS) website Most Requested Statistics from Bureau of Labor Statistics.[3]

OSHA'S COOPERATIVE PROGRAMS

OSHA provides consultation assistance at no cost to employers who request help in establishing and maintaining a safe workplace. Comprehensive assistance includes an appraisal of all mechanical physical work practices and environmental hazards of the workplace and all aspects of the employer's present job safety and health program.[2]

According to OSHA, in hundreds of cases around the country, the numbers show the results. For example, an Alabama company requested

a consultation in 1993. At that time, its workers compensation premiums were $162,000. The company had no safety and health management program and one of every five employees had experienced an injury that required at least a day away from work. After working with the Consultation Program for five years, eliminating hazards and implementing a safety and health management program, the company's workers compensation premium was reduced to $28,000 and injuries dropped to 1 in 67 employees.[2]

VOLUNTARY PROTECTION PROGRAMS

OSHA's voluntary protection programs (VPPs) recognize outstanding achievements by companies that successfully integrate a comprehensive safety and health program into their total management system. Overall, participants in VPPs have substantially lower worker injury rates and incur lower workers' compensation costs than those paid by similar firms that do not participate in the programs.[2,4]

According to OSHA, in the year 2000, of the 554 companies in the program, 87 had no injury and illness cases. Overall, the companies' total case injury and illness incidence rates were 59% below the expected average for similar industries. In addition, 141 of the 554 VPP sites had no days away from work or restricted-activity injuries. Overall, the work sites were 62% below the expected average for days away from work or restricted-activity injuries in similar industries.[2]

PROGRESS AND CHALLENGES AHEAD

Today, fewer employees are being injured on the job, in part thanks to OSHA standards, outreach training, education, and partnerships with employers. Yet, despite this progress, more than 6,000 employees still die each year on the job, more than 6 million are injured, and almost 500,000 experience occupational illnesses. The challenge that remains is to find effective ways to leverage OSHA's resources to help employees and their employers reduce the toll of incidents. Today, OSHA continues to explore innovative ways to meet the challenge of the next quarter century.[2]

What is missing here is a demonstrated safety culture. If you want to understand how to develop a successful safety culture, many good books

are on the market, including my own *Developing an Effective Safety Culture: A Leadership Approach*,[4] a handy reference to developing and sustaining a safety culture.

THE PURPOSE OF THE OSH ACT

To complete this discussion on the OSH Act, we look at its various aspects. Under the act, the Occupational Safety and Health Administration was created within the Department of Labor to

- Encourage employers and employees to reduce workplace hazards and implement new or improve existing safety and health programs.
- Provide for research in safety and health and develop innovative ways of dealing with these issues.
- Establish "separate but dependent responsibilities and rights" for employers and employees to achieve better working conditions.
- Maintain a reporting and recordkeeping system to monitor job-related injuries and illnesses, as discussed in Chapter 2.
- Establish training programs to increase the number and competence of safety and health professionals.
- Develop mandatory job safety and health standards and enforce them effectively.
- Provide for the development, analysis, evaluation, and approval of state safety and health programs.[1]

While OSHA continually reviews and redefines specific standards and practices, the basic purposes remain constant. OSHA strives to implement its mandate fully and firmly with fairness. In all its procedures, from standards development through implementation and enforcement, OSHA guarantees employers and employees the right to be fully informed, to participate actively, and to appeal actions.

Setting Standards

OSHA is responsible for promulgating legally enforceable standards that may require conditions or the adoption or use of one or more practices, means, methods, or processes reasonably necessary and appropriate to protect employees on the job. It is the responsibility of all employers covered by the act to become familiar with the standards specific to

their establishments and to make sure that employees are provided and use the appropriate equipment as applicable. In addition, employees must comply with all rules and regulations that are applicable to their own actions and conduct.

Where OSHA has not promulgated specific requirements, employers are responsible for following the general duty clause that reads in part: "each employer shall furnish . . . a place of employment, which is free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees."[1]

States with OSHA-approved occupational safety and health programs must set standards that are at least as effective as the federal standards. Many state-plan states adopt standards identical to the federal ones.

How Are Standards Developed?

OSHA can begin standards-setting procedures on its own initiative or in response to petitions from other parties, including the Secretary of Health and Human Services (HHS), National Institute for Occupational Safety and Health (NIOSH), U.S. Environmental Protection Agency (EPA), state and local governments, any nationally recognized standards-producing organization, employers or labor representatives, or any other interested person.[1] For a quick summary of what we discuss in this section, see Appendix A.

Advisory Committees

If OSHA determines that a specific standard is needed, any of several advisory committees may be called on to help develop the specific recommendations. In addition, ad hoc committees may be appointed to examine special areas of concern to OSHA. All advisory, standing, or ad hoc committees must have members representing management, labor, state agencies, and one or more designees of the Secretary of HHS. Safety and health professionals and the general public also may be represented. There are two standing advisory committees:

- National Advisory Committee on Occupational Safety and Health (NACOSH), which advises, consults with, and makes recommendations to the Secretary of HHS and the Secretary of Labor on matters regarding administration of the act.
- Advisory Committee on Construction Safety and Health, which advises the Secretary of Labor on formulation of construction safety and health standards and other regulations.[5]

NIOSH

Recommendations for standards also may come from the National Institute of Occupational Safety and Health, which was established by the act as an agency of the Department of HHS. NIOSH conducts research on various safety and health issues, provides technical assistance to OSHA, and recommends standards for adoption. During the time NIOSH is conducting its research, its representatives may make workplace investigations and gather testimony from employers and employees. In addition, they may require that employers measure and report employee exposure to potentially hazardous materials. NIOSH also may require employers to provide medical examinations and tests to determine the incidence of occupational illness among employees. When such examinations and tests are required by NIOSH for research purposes, they may be paid for by NIOSH rather than the employer.

Adoption of Standards

Once OSHA has developed plans to propose, amend, or revoke a standard, it publishes these intentions in the *Federal Register* as a "Notice of Proposed Rulemaking" or often as an earlier "Advance Notice of Proposed Rulemaking."[5]

An "Advance Notice" or a "Request for Information" is used, when necessary, to solicit information that can be used in drafting a proposal. The "Notice of Proposed Rulemaking" will include the terms of the new rule and provide a specific time (at least 30 days from the date of publication, usually 60 days or more) for the public to respond.

Interested parties who submit written arguments and pertinent evidence may request a public hearing on the proposal when none has been announced in the notice. When such a hearing is requested, OSHA will schedule one and publish, in advance, the time and place for it in the *Federal Register*.

After the close of the comment period and public hearing, if one is held, OSHA must publish in the *Federal Register* the full, final text of any standard amended or adopted and the date it becomes effective, along with an explanation of the standard and the reasons for implementing it. OSHA may also publish a determination that no standard or amendment needs to be issued.[5]

Emergency Temporary Standards

Under certain limited conditions, OSHA is authorized to set emergency temporary standards that take effect immediately. First, OSHA

must determine that employees are in grave danger due to exposure to toxic substances or agents determined to be toxic or physically harmful or to new hazards and that an emergency standard is needed to protect them. Then, OSHA publishes the emergency temporary standard in the *Federal Register*, where it also serves as a proposed permanent standard. It is then subject to the usual procedure for adopting a permanent standard, except that a final ruling must be made within six months. The validity of an emergency temporary standard may be challenged in an appropriate U.S. Court of Appeals.

Appealing a Standard

No decision on a permanent standard is ever reached without due consideration of the arguments and data received from the general public in written submissions and at hearings. Any person who may be adversely affected by a final or emergency standard may file a petition (within 60 days of the rule's promulgation) for judicial review of the standard with the U.S. Court of Appeals for the circuit where the objector lives or has his or her principal place of business. Filing an appeals petition does not delay the enforcement of a standard, unless the Court of Appeals specifically orders it.

Variances

Employers may ask OSHA for a variance from a standard or regulation if they cannot fully comply by the effective date due to shortages of materials, equipment, or professional or technical personnel or if they can prove their facilities or methods of operation provide employee protection "at least as effective" as that required by OSHA.

Employers located in states with their own occupational safety and health programs should apply to the state for a variance. However, if an employer operates facilities in states under federal OSHA jurisdiction and also in state-plan states, the employer may apply directly to federal OSHA for a single variance applicable to all the establishments in question. OSHA will then work with the state-plan states involved to determine if a variance can be granted that will satisfy state as well as federal OSHA requirements. See Section 1904.38 of the new rule for further details.

Public Petitions

OSHA continually reviews its standards to keep pace with developing and changing industrial technology. Therefore, employers and employees

should be aware that, just as they may petition OSHA for the development of standards, they may also petition OSHA for modification or revocation of standards.

CITATIONS AND PENALTIES

If a compliance officer inspects your facility and reports findings, the area director determines what citations, if any, will be issued and what penalties, if any, will be proposed.

Citations inform the employer and employees of the regulations and standards alleged to have been violated and the proposed length of time set for their abatement. The employer will receive citations and notices of proposed penalties by certified mail. The employer must post a copy of each citation at or near the place a violation occurred for three days or until the violation is abated, whichever is longer.

Penalties

On January 1, 1992, OSHA released a new civil penalty policy that announced a sevenfold increase in the maximum limits for OSHA civil monetary penalties as stipulated in the Budget Reconciliation Act passed by the 101st Congress.

The maximum allowable penalty is $70,000 for each willful or repeated violation, $7,000 for each serious or other-than-serious violation, and $7,000 for each day beyond a stated abatement date for failure to correct a violation.

According to OSHA, "The amounts are ceilings, not floors." However, to make sure that the most flagrant violators are fined at an effective level, a minimum penalty of $5,000 was adopted for a willful violation of the OSHA Act.

The new penalty policy is applicable to all citations issued as a result of inspections initiated after March 1, 1991, for violations occurring after November 5, 1990, the effective date of the Budget Reconciliation Act.

The new policy also applies to those states that have OSHA-approved state safety and health programs. Under congressional direction these state plans must be "at least as effective" as the national plan. The participating states were given a reasonable period to implement the new penalty structure.

The basic penalty process did not change. It still follows the criteria set forth in the OSHA Act, which is to determine penalties based on the

gravity of the violation and the size, good faith, and history of the employer. Gravity determines the base amount. The other factors determine appropriate reductions.

As in the past, all penalty amounts are proposed penalties issued with the citation. The employer may contest the penalty amount as well as the citation in the statutory 15-day contest period. Thereafter, the penalty may be adjudicated by the independent Occupational Safety and Health Review Commission (OSHRC), or OSHA may negotiate with the employer to settle for a reduced penalty amount if this will lead to speedy abatement of the hazard.[6]

The following are types of violations that may be cited and the associated penalties that may be proposed.

Other-than-Serious Violation

If an employer is cited for an other-than-serious violation that has a low probability of resulting in an injury or illness, no penalty is proposed. However, the violation must still be corrected. If the other-than-serious violation has a greater probability of resulting in an injury or illness, then a base penalty of $1,000 is used, to which appropriate adjustment factors are applied. The OSHA regional administrator may use a base penalty of up to $7,000 if circumstances warrant.

For a violation that has a direct relationship to job safety and health but probably would not cause death or serious physical harm, a discretionary proposed penalty of up to $7,000 for each violation is used. A penalty for an other-than-serious violation may be adjusted downward by as much as 95%, depending on the employer's good faith (demonstrated efforts to comply with the act), history of previous violations, and size of business. When the adjusted penalty amounts to less than $100, no penalty is proposed.

Serious Violation

A serious violation is one where there is substantial probability that death or serious physical harm could result and that the employer knew, or should have known, of the hazard. A mandatory penalty of up to $7,000 for each violation is used. A penalty for a serious violation may be adjusted downward, based on the employer's good faith, history of previous violations, the gravity of the alleged violation, and size of business.

The typical range of proposed penalties for serious violations will be $1,500 to $5,000, before adjustment factors are applied. However, the

regional administrator may propose up to $7,000 for a serious violation when warranted.

Serious violations are categorized in terms of the severity (high, medium, or low) and the probability of an injury or illness occurring (greater or lesser).

The base penalties are assessed as listed in Table 7-1.

Penalties for serious violations that are classified as high in both severity and greater in probability will be adjusted only for size and history.

Table 7-1
OSHA's Penalty Structure Summary

Type of Violation	Purpose of Citations	Penalties
Other-than-serious violation	A violation that has a direct relationship to job safety and health but probably would not cause death or serious physical harm	$7,000
Serious violation	A violation where there is substantial probability that death or serious physical harm could result and that the employer knew or should have known of the hazard	Mandatory penalty up to $7,000 for each violation is proposed
Willful violation	A violation that the employer knowingly commits or commits with plain indifference to the law. The employer either knows that what he or she is doing constitutes a violation or is aware that a hazardous condition existed and made no reasonable effort to eliminate it.	Up to $70,000 may be proposed for each willful violation, with a minimum penalty of $5,000 for each violation. If an employer is convicted of a willful violation that has resulted in the death of an employee, the offense is punishable by a court-imposed fine or imprisonment for up to six months or both. A fine of up to $250,000 for an individual or $500,000 for a corporation may be imposed for a criminal conviction.

Table 7-1
Continued

Type of Violation	Purpose of Citations	Penalties
Repeated violation	A violation of any standard, regulation, rule, or order where, on reinspection, a substantially similar violation is found	Up to $70,000 for each such violation
Failure to abate	Failure to abate a prior violation	Up to $7,000 for each day the violation continues beyond the prescribed abatement date
De minimis violation	Violations of standards that have no direct or immediate relationship to safety or health	$0

Source: U.S. Department of Labor, Construction Safety and Health Outreach Program, public domain.[1]

Willful Violation

A willful violation is one that the employer knowingly commits or commits with plain indifference to the law. The employer either knows that what he or she is doing constitutes a violation, or is aware that a hazardous condition existed and made no reasonable effort to eliminate it.

Penalties of up to $70,000 may be proposed for each willful violation, with a minimum penalty of $5,000 for each violation. A proposed penalty for a willful violation may be adjusted downward, depending on the size of the business and its history of previous violations. Usually, no credit is given for good faith.

If an employer is convicted of a willful violation of a standard that has resulted in the death of an employee, the offense is punishable by a court-imposed fine or imprisonment for up to six months or both. A fine of up to $250,000 for an individual, or $500,000 for a corporation, may be imposed for a criminal conviction.

Repeated Violation

A repeat violation is a violation of any standard, regulation, rule or order where, on reinspection, a substantially similar violation is found.

Repeat violations will be adjusted only for size, and the adjusted penalties are multiplied by 2, 5, or 10. The multiplier for small employers, with 250 employees or fewer, is 2 for the first instance of a repeat violation and 5 for the second instance. However, the OSHA regional administrator has the authority to use a multiplication factor of up to 10 on a case involving a repeat violation by a small employer to achieve the necessary deterrent effect.

The multiplier for large employers, with 250 or more employees, is 5 for the first instance of repeat violation and 10 for the second instance.

If the initial violation was other than serious with no penalty being assessed, then the penalty will be $200 for the first repetition of that violation, $500 for the second, and $1,000 for the third.

A violation of any standard, regulation, rule, or order, where on reinspection a substantially similar violation is found, can bring a fine of up to $70,000 for each such violation. To be the basis of a repeated citation, the original citation must be final; a citation under contest may not serve as the basis for a subsequent repeated citation.

Failure to Abate Prior Violation

Failure to correct a prior violation within the prescribed abatement period could result in a penalty for each day the violation continues beyond the abatement date. In these failure-to-abate cases, the daily penalty is equal to the amount of the initial penalty (up to $7,000) with an adjustment for size only.

This failure to abate penalty may be assessed for a maximum of 30 days by the OSHA area office. In cases of partial abatement of the violation, the OSHA regional administrator has authority to reduce the penalty by 25–75%.

If the failure to abate is more than 30 days, it may be referred to the OSHA national office in Washington, where a determination may be made to assess a daily penalty beyond the initial 30 days.

Failure to abate a prior violation may bring a civil penalty of up to $7,000 for each day the violation continues beyond the prescribed abatement date.

De Minimis Violations

De minimis violations are violations of standards that have no direct or immediate relationship to safety or health. Whenever de minimis conditions are found during an inspection, they are documented in the same way as any other violation but are not included on the citation.

Additional Violations

Additional violations for which citations and proposed penalties may be issued if convicted include the following:

- Falsifying records, reports, or applications can bring a fine of $10,000 or up to six months in jail or both.
- Violations of posting requirements can bring a civil penalty of up to $7,000.
- Assaulting a compliance officer or otherwise resisting, opposing, intimidating, or interfering with compliance officers while they are engaged in the performance of their duties is a criminal offense, subject to a fine of no more than $5,000 and imprisonment for no more than three years.

Citation and penalty procedures may differ somewhat in states with their own occupational safety and health programs.

Adjustment Factors

The size of the adjustment factor affects the following: For an employer with only 1–25 workers, the penalty is reduced 60%; with 26–100 workers, the reduction is 40%; with 101–250 workers, a 20% reduction; and with more than 250 workers, no reduction in the penalty. Table 7-2 lists base penalties for serious violations and Table 7-3 shows the penalty reduction amounts.

An additional 25% reduction is possible for evidence that the employer is making a good faith effort to provide good workplace safety and health, and an additional 10% reduction if the employer has not been cited by OSHA for any serious, willful, or repeat violations in the past three years.

Table 7-2
Base Penalties for Serious Violations

Severity	Probability	Penalty
High	Greater	$5,000
Medium	Greater	$3,500
Low	Greater	$2,500
High	Lesser	$2,500
Medium	Lesser	$2,000
Low	Lesser	$1,500

Source: OSHA Civil Penalty Policy, public domain.[6]

Table 7-3
Penalty Reduction Strategy

No. of Employees	Percent Reduction
1–25	60%
26–100	40%
101–250	20%
>250	No reduction

Source: OSHA Civil Penalty Policy, public domain.[6]

To qualify for the 25% good-faith reduction, an employer must have a written and implemented safety and health program such as given in OSHA's voluntary Safety and Health Management Guidelines (*Federal Register*, Vol. 54, No. 16 [January 26, 1989], pp. 3904–3916) and that includes programs required under the OSHA standards, such as Hazard Communication, Lockout/Tagout, or safety and health programs for construction required in CFR 29 1926.20.

Regulatory Violations

Regulatory violations involve violations of posting, injury and illness reporting and recordkeeping, and not telling employees about advance notice of an inspection. OSHA applies adjustments only for the size and history of the establishments.

Here are the base penalties to be proposed for posting requirement violation, before adjustments: OSHA notice, $1,000; annual summary, $1,000; and failure to post citations, $3,000.

Base reporting and recordkeeping penalties are as follows: failure to maintain OSHA 300 Logs and OSHA 301 Forms, $1,000; failure to report a fatality or catastrophe within 48 hours, $5,000 (with a provision that the OSHA regional administrator could adjust up to $7,000, in exceptional circumstances); denying access to records, $1,000; and not telling employees about advance notice of an inspection, $2,000.

HOW DOES OSHA DETERMINE CITATIONS BASED ON THE NEW RULE?

This section is a summary of OSHA's intent for recordkeeping compliance. To understand the full compliance strategy that OSHA is thinking refer to Appendix H for the OSHA instructions.

For all inspections, except for construction, as part of the compliance officer case preparation, the officer must obtain any OSHA Data Initiative (ODI). During an inspection, the compliance officer will compare such data with the OSHA 300 Logs and the older OSHA 200 Logs for the three prior calendar years. Note: The first ODI for construction establishments will collect the 2001 injury and illness data in 2002; the data will be available in 2003.[7]

To assess how well an employer is doing on the recordkeeping requirements, specific tools have been developed to assist the compliance officer in inspections: See Figure 7-1 for a compliance officer checklist; Figure 7-2 for a completed sample Optional Violation Documentation Worksheet that OSHA uses to assess the recordkeeping compliance; Table 7-4 for the health care practitioners' abbreviations that help the compliance officer understand physician reports; Chapter 2, Figure 2-1 for a Sample OSHA Incident Rate Worksheet, which is optional; and Figure 7-3 for a worksheet to calculate injury and illness incident rates.

OSHA 300 and OSHA 301 Forms

The employer must record cases on the OSHA 300 Log of Work-Related Injuries and Illnesses and on the OSHA 301 Incident Report (or equivalent form), as prescribed in Subpart C of Section 1904. Where no records are kept and there have been injuries or illnesses that meet the requirements for recordability, as determined by other records or by employee interviews, a citation for failure to keep records normally is issued.[7] When the required records are kept but no entry is made for a specific injury or illness that meets the requirements for recordability, a citation for failure to record the case normally is issued. But, where no records are kept and there have been no injuries or illnesses, as determined by employee interviews, no citation is issued.

When the required records are kept but have not been completed with the detail required by the requirements or the records contain minor inaccuracies, the records will be reviewed to determine if there are deficiencies that materially impair the understandability of the nature of hazards, injuries, and illnesses in the workplace. If the defects in the records materially impair the understandability of the nature of the hazards, injuries, or illnesses at the workplace, an other-than-serious citation normally is issued.

Incompletely Recorded Cases on the OSHA 300 or 301

If the deficiencies do not materially impair the understandability of the information, normally no citation is issued. For example, an

This following list, from data in the new OSHA instructions manual, provides guidance for a records evaluation for inspections that do not follow a specific records evaluation protocol of another directive, such as in the Site Specific Targeting Inspection program or the ODI Audit and Verification program.

Preinspection Prep

- Check ODI data for establishment.
- Obtain any OSHA data initiative (ODI) survey information available. If needed, contact the OSHA regional recordkeeping coordinator for assistance. During the inspection, compare the establishment's ODI data with the OSHA 200 or OSHA 300 Logs for the five prior years or for as many years as there is ODI data.

Note: This is for non-construction industry use data from 1996 forward. For construction establishments the first ODI will collect the 2001 injury and illness data, which will not be available until 2003.

Obtaining Administrative Subpoena/Medical Access Orders

If it is anticipated that after review of the history of the establishment that a subpoena or medical access orders will be needed, review the following directives for guidance: OSHA Instruction ADM 4.4, Administrative Subpoenas, August 19, 1991; OSHA Instruction CPL 2-2.30; 29 CFR 1913.10(b)(6), Authorization of Review of Medical Opinions, November 14, 1980; OSHA Instruction CPL 2-2.32; 29 CFR 1913.10(b)(6), Authorization of Review of Specific Medical Information, January 19, 1981; OSHA Instruction CPL 2-2.33; 29 CFR 1913.10, Rules of Agency Practice and Procedure Concerning OSHA Access to Employee Medical Records; Procedures Covering Enforcement Activities, February 8, 1982; OSHA Instruction CPL 2-2.46; 29 CFR 1913.10(b)(6), Authorization and Procedures for Reviewing Medical Records, January 5, 1989.

On-Site

- Verify SIC code.
- Verify the accuracy of the establishment's SIC code and enter the correct SIC code on OSHA 1.
- Ask for the OSHA Logs, the total hours worked, and the number of employees worked for each year and for a roster of current employees. If you have questions regarding a specific case on the log, request the OSHA 301s or equivalent forms for that case.
- Check whether the establishment has an on-site medical facility, where the nearest emergency room is located where employees may be treated. Ask your regional recordkeeping coordinator for assistance. If significant recordkeeping deficiencies are suspected, you and your area director may request assistance from the regional recordkeeping coordinator. In some situations, the CSHO may need to make a referral for a recordkeeping inspection.

Procedures for a Recordkeeping Inspection

For recorded cases, initially do a random review of the OSHA 301s and medical records that pertain to the current employees. Randomly select employees from the office roster, for example, every tenth employee. For those randomly selected employees, obtain the name and address of the medical provider(s).

If random sample shows sufficient deficiencies, expand the review. If the review will be expanded, early on, contact the regional recordkeeping coordinator for guidance or assistance. Early contact should be within the first month.

Figure 7-1 Compliance Officer Checklist. Source: OSHA Instruction, *Recordkeeping Policies and Procedures Manual*, public domain.[7]

Table 7-4
Health Care Practitioners' Abbreviations

General/Diagnostic Information

Pt	Patient	IPPB	Intermittent positive pressure breathing
Dx	Diagnosis	LBP	Low back pain
Tx	Therapy	CTS	Carpal tunnel syndrome
Hx	History	VS	Vital signs
Sx	Symptom	BP	Blood pressure
Sz	Seizure	P	Pulse
fx	Fracture	HR	Heart rate
wt	Weight	T	Temperature
		RR	Respiratory rate

Test Type/ Body Part Information

PE	Physical exam	CXR	Chest X ray
EKG	Electrocardiogram	PA	Posterior-anterior (X-ray view)
ECG	Electrocardiogram	Lat	Lateral (X-ray view)
EEG	Electroencephalogram	RUQ	Right upper quadrant
CBC	Complete blood count	LUQ	(abdomen)
UA	Urinalysis	RLQ	Left upper quadrant (abdomen)
		LLQ	Right lower quadrant (abdomen)
			Left lower quadrant (abdomen)

Treatment/Prescription Information

Rx	Prescription/treatment	b.i.d.	Twice daily
QOD	Every other day	t.i.d.	Three times a day
q.h.	Every hour	q.i.d	Four times a day
q.i.d.	Four times a day	p.r.n	As necessary
pc	Postprandial (after meals)	q.s.	As sufficient
mg	Milligram	q.d.	Per day
p.o.	By mouth	c	With
IV	Intravenous	p	After
p.r.	Per rectum		

SMA Chemistry Test (sequential multiple analysis method of testing for chemicals or impurities in the body)

Alb	Albumin	Glu	Glucose
Alk phos	Alkaline phosphatase	K	Potassium
Bili	Bilirubin	Na	Sodium
BUN	Blood urea nitrogen	P	Phosphate
Ca	Calcium	SGOT	Liver enzyme
Chol	Cholesterol	SGPT	Liver enzyme
Cl	Chloride	GGTP	Liver enzyme
Cr	Creatinine		

Source: OSHA Instruction, *Recordkeeping Policies and Procedures Manual*, public domain.[8]

1. Unique Case Number: OSHA-02-1
   (Designate a number that will stay the same at all times. Example: OSHA-98-1, where OSHA means it was discovered by us, 98 is the year, and the numbers will be in sequence.)

2. Date of Injury/Illness: ____05/25/02_____

3. Was Case Recorded On Log? (Please check one)
   [ ] Yes (If yes, enter log case number here _____; continue to **Table 1** then to **Table 2**)
   [X] No (If no, then continue to **Table 2**)

Table 1. If yes, copy information from columns **G** through **M** of the employer's 300 Log entry.						**Table 2.** If recorded incorrectly in Table 1 or not recorded at all correctly record here.					
G	H	I	J	K	L	G	H	I	J	K	L
							X				

4. Injury/Illness Information: (From 300 Log, Items 1–5 of Column M)
   1) If Injury Check here [X]
   If Illness, Check type 2) Skin Disorder [ ] 3) Poisonings [ ]
   4) Respiratory Condition [ ] 5) All Other Illnesses [ ]

5. Work Relationship: Describe event or exposure including placement of employee on or off premises; OSHA 301 equivalent or company accident report often provides this information.
   Example: Cut finger while loading scrap metal at work; broke arm in auto accident while driving to customer's office, develops dermatitis from cleaning parts with solvent on premises.
   Employee was standing on a ladder in the steel mill, welding pipes. A fork lift passed through the area causing a vibration which caused the ladder to shake. The employee fell to the floor fracturing the left arm and left leg.

6. Basis for Recordability: (Check all that apply and provide details in comments section below)

Death (**D**)	[ ]	Medical Treatment beyond First Aid (**MT**)	[ ]
Days away from work (**DA**)	[X]	A significant injury or illness diagnosed by a physician	[ ]
Loss of consciousness (**LC**)	[ ]	or other health care professional (**SI**)	[ ]
Restricted work or transfer to another job (**RT**)	[X]	Recordable condition under 1904.8 through 1904.12 (needlestick, TB, hearing loss, etc.)	[ ]

7. Comments: (Be specific and show all relevant information)
   Examples: MT-Naprosyn 440 mg b.i.d. (twice a day); DAWRWT—give dates (9/14/02–9/21/02); SI—Aplastic Anemia from Benzene exposure

Figure 7-2 Sample Recordkeeping Violation Documentation Worksheet. (This form is optional. It became effective January 1, 2002). Source: OSHA Instruction, *Recordkeeping Policies and Procedures Manual*, public domain.[7]

Employee was away from work 15 calendar days from 5/26/02 through 6/9/02, and subsequently returned to work on a restricted basis for 12 days from 6/10/02 through 6/21/02. Employee was released to full duty on 6/22/02.

OSHA 300 Form	[X]	Employee roster (payroll)	[X]
Medical Records/Files	[X]	Nurse/Doctor/Clinic Logs	[X]
Insurers' accident reports	[ ]	Company Accident Reports	[X]
Absentee Records	[ ]	Company First Aid Reports	[ ]
Union Records	[ ]	Accident and Health Benefit Insurance	[ ]
OSHA 301 Form or Workers' Comp. Equivalent	[X]	State Workers' Compensation Form	[ ]
Other (Specify)	[ ]		

Figure 7-2 *Continued.*

Total number of recordable injuries in your establishment

[ ]

÷

[ ]

Hours worked by all employees

× 200,000 =

Total recordable cases incident rate

[ ]

Total number of recordable injuries with a check mark in column H and column I

[ ]

÷

[ ]

Hours worked by all employees

× 200,000 =

DART incident rate

[ ]

Figure 7-3 Calculating Injury and Illness Incident Rates Worksheet. Source: OSHA Instruction, *Recordkeeping Policies and Procedures Manual*, public domain.[7]

employer should not be cited for misclassifying an injury as an illness or vice versa. The employer is provided information on keeping the records for the employer's analysis of workplace injury trends and on the means to keep the records accurately. The employer's promised actions to correct the deficiencies are recorded and no citation is issued.[5]

One Citation Item per Form

Except for violation-by-violation citations pursuant to OSHA Instruction CPL 2.80,[8] recordkeeping citations for improper recording of a case are limited to a maximum of one citation item per form per year. This applies to both the OSHA 300 and the OSHA 301. Where the conditions for citation are met, an employer's failure to accurately complete the OSHA 300 Log for a given year normally results in one citation item. Similarly, an employer's failure to accurately complete the OSHA 301, or its equivalent, would result in one citation item. Multiple cases that are unrecorded or inaccurately recorded on the OSHA 300 or 301s during a particular year normally are reflected as instances of the violation under that citation item.[7]

For example, a single citation item for an OSHA 300 violation would result from a case where the employer did not properly count the days away, checked the wrong column, and did not adequately describe the injury or illness, or where the employer in several cases checked the wrong columns or did not adequately describe the injury or illness, and these errors materially impair the understandability of the nature of the hazards, injuries, or illnesses at the workplace.[7]

Note: As stated, an employer should not be cited solely for misclassifying injuries as illnesses or vice versa. For example, a single citation item for an OSHA 301 violation would result where OSHA 301s had not been completed or where so little information had been put on the 301s for multiple cases as to make the 301s materially deficient.

Penalties

When a penalty is appropriate, there will be an unadjusted penalty of $1,000 for each year the OSHA 300 was not properly kept; an unadjusted penalty of $1,000 for each OSHA 301 that was not filled out at all (up to a maximum of $7,000); and an unadjusted penalty of $1,000 for each OSHA 301 that was not accurately completed (up to a maximum of $3,000).[7]

Where citations are issued, penalties will be proposed only in the following cases:

- Where OSHA can document that the employer was previously informed of the requirements to keep records.
- Where the employer's deliberate decision to deviate from the recordkeeping requirements or the employer's plain indifference to the requirements can be documented.[7]

Posting Annual Summary Requirements

An other-than-serious citation normally is issued if an employer fails to post the OSHA 300A Summary by February as required by Section 1904.32(a)(1) or fails to certify the summary as required by Section 1904.32(b)(3) or fails to keep it posted for three months, until May 1, as required by Section 1904.32(b)(6). The unadjusted penalty for this violation is $1,000.[7]

A citation is not issued if the summary that is not posted or certified reflects no injuries or illnesses and no injuries or illnesses actually occurred. A compliance officer will verify that there were no recordable injuries or illnesses by interviews or by review of workers' compensation or other records, including medical records.

Reporting

In accordance with §1904.39, an employer is required to report to OSHA within eight hours of the time the employer learns of the death of any employee or the inpatient hospitalization of three or more employees from a work-related incident. This includes fatalities at work caused by work-related heart attacks. An exception is made for certain work-related motor vehicle accidents or public transportation accidents. The employer must orally report the fatality or multiple hospitalizations by telephone or in person to the OSHA area office (or state-plan office) that is nearest to the site of the incident. See Appendix F. OSHA's toll-free telephone number may be used: 1-800-321-OSHA (1-800-321-6742). An other-than-serious citation normally is issued for failure to report such an occurrence. The unadjusted penalty is $5,000.[7]

If an area director determines that it is appropriate to achieve the necessary deterrent effect, the unadjusted penalty may be $7,000. If the area director becomes aware of an incident required to be reported under §1904.39 through some means other than an employer report, prior to the elapse of the eight-hour reporting period and an inspection of the incident is made, a citation for failure to report normally is not issued.[7]

Access to Records by Employees

If on request the employer fails to provide copies of records required in §1904.29(a) to any employee, former employee, personal representative, or authorized employee representative by the end of the next

business day, a citation for violation of §1904.35(b)(2) normally is issued. The unadjusted penalty is $1,000 for each form not made available.[7]

For example, if the OSHA 300 or the OSHA 300A for the current year and the three preceding years is not made available, the unadjusted penalty is $4,000.

If the employer does not make available the OSHA 301s, the unadjusted penalty is $1,000 for each OSHA 301 not provided, up to a maximum of $7,000.[7]

If the employer is to be cited for failure to keep records (OSHA 300, OSHA 300A, or OSHA 301) under Section 1904.4, no citation for failure to give access under §1904.35(b)(2) is issued.

Willful, Significant, and Egregious Cases

If a compliance officer determines that there may be significant recordkeeping deficiencies, it may be appropriate to make a referral for a recordkeeping inspection, or to contact the region's recordkeeping coordinator for guidance and assistance.[7]

In the case of willful serious violations, the initially proposed penalties are between $5,000 and $70,000. OSHA calculates the penalty for the underlying serious violation, adjusts it for size and history, and multiplies it by 7. If circumstances warrant, the multiplier of 7 can be adjusted upward or downward at the OSHA regional administrator's discretion. The minimum willful serious penalty is $5,000.

Willful violations are those committed with an intentional disregard of or plain indifference to the requirements of the OSHA Act and regulations.

Willful and Significant Cases

All willful recordkeeping cases and all significant cases with major recordkeeping violations are initially reviewed by the region's recordkeeping coordinator.[7]

Egregious Cases

When willful violations are apparent, violation-by-violation citations and penalties may be proposed in accordance with OSHA's egregious policy as stated in OSHA Instruction CPL 2.80.[8]

Enforcement Procedures for Occupational Exposure to Bloodborne Pathogens

Compliance guidance given in paragraph X of OSHA Instruction CPL 2-2.44D[9] is superseded by 29 CFR 1904.8 (Recording Criteria for Needlestick and Sharps Injuries) of the new recordkeeping rule.[7]

In addition, the term *contaminated* under 29 CFR 1904.8, Recording Criteria for Needlestick and Sharps Injuries, incorporates the definition of *contaminated* from the Bloodborne Pathogens Standard at 29 CFR 1910.1030(b). Hence, *contaminated* means the presence or the reasonably anticipated presence of blood or other potentially infectious materials on an item or surface.[7]

Employers may use the OSHA 300 and 301 Forms to meet the sharps injury log requirement of §1910.1030(h)(5), if the employer enters the type and brand of the device causing the sharps injury on the log and maintains the records in a way that segregates sharps injuries from other types of work-related injuries and illnesses or allows sharps injuries to be easily separated.

Enforcement Procedures for Occupational Exposure to Tuberculosis

Compliance guidance provided in paragraph L.5 of OSHA Instruction CPL 2.106[10] is superseded by 29 CFR 1904.11 (Recording Criteria for Work-Related Tuberculosis Cases) of the new recordkeeping rule.

Clarification of Recordkeeping Citation Policy in the Construction Industry

Compliance guidance given in paragraph E.6 of OSHA Instruction STD 3-1.1[11] is superseded by CFR 1904.30 (Multiple Business Establishments) and 1904.31(Covered Employees) of the new recordkeeping rule.[7]

THE APPEALS PROCESS

Appeals by Employees

If an inspection was initiated due to an employee complaint, the employee or authorized employee representative may request an informal review of any decision not to issue a citation.

Employees may not contest citations, amendments to citations, penalties, or lack of penalties. They may contest the time in the citation for abatement of a hazardous condition. They also may contest an employer's Petition for Modification of Abatement (PMA), which requests an extension of the abatement period. Employees must contest the PMA within 10 working days of its posting or within 10 working days after an authorized employee representative has received a copy of the citation. The employee (within 15 working days of receipt of the citation) may submit a written objection to OSHA. The OSHA area director forwards the objection to the Occupational Safety and Health Review Commission, which operates independently of OSHA.

Employees may request an informal conference with OSHA to discuss any issues raised by an inspection, citation, notice of proposed penalty, or employer's notice of intention to contest.[1]

Appeals by Employers

When issued a citation or notice of a proposed penalty, an employer may request an informal meeting with OSHA's area director to discuss the case. Employee representatives may be invited to attend the meeting. The area director is authorized to enter into settlement agreements that revise citations and penalties to avoid prolonged legal disputes.[1]

Petition for Modification of Abatement

On receiving a citation, the employer must correct the cited hazard by the prescribed date unless he or she contests the citation or abatement date. Factors beyond the employer's reasonable control may prevent the completion of corrections by that date.

The written petition should specify all steps taken to achieve compliance, the additional time needed to achieve complete compliance, the reasons such additional time is needed, all temporary steps being taken to safeguard employees against the cited hazard during the intervening period, that a copy of the PMA was posted in a conspicuous place at or near each place where a violation occurred, and that the employee representative (if there is one) received a copy of the petition.[1]

Notice of Contest

If the employer decides to contest either the citation, the time set for abatement, or the proposed penalty, he or she has 15 working days from

the time the citation and proposed penalty are received to notify the OSHA area director in writing. An orally expressed disagreement does not suffice. This written notification is called a Notice of Contest.[1]

There is no specific format for the Notice of Contest; however, it must clearly identify the employer's basis for filing the citation, notice of proposed penalty, abatement period, or notification of failure to correct violations.

A copy of the Notice of Contest must be given to the employees' authorized representative. If any affected employees are not represented by a recognized bargaining agent, a copy of the notice must be posted in a prominent location in the workplace or else served personally on each unrepresented employee.

Review Procedure

If the written Notice of Contest has been filed within the required 15 working days, the OSHA area director forwards the case to the Occupational Safety and Health Review Commission. OSHRC is an independent agency, not associated with OSHA or the Department of Labor. The commission assigns the case to an administrative law judge.[1]

The judge may disallow the contest if it is found to be legally invalid, or a hearing may be scheduled for a public place near the employer's workplace. The employer and the employees have the right to participate in the hearing; OSHRC does not require that they be represented by attorneys.

Once the administrative law judge has ruled, any party to the case may request a further review by OSHRC. Any of the three OSHRC commissioners also may, at his or her own motion, bring a case before the commission for review. Commission rulings may be appealed to the appropriate U.S. Court of Appeals.[1]

SUMMARY

This chapter provides a lot of detail. However, you should understand the many employer and employee responsibilities and rights. The following outlines these rights.

Employers have certain responsibilities and rights under the Occupational Safety and Health Act of 1970. The following lists provide a review of many of these elements. Employer responsibilities and rights

in states with their own occupational safety and health programs are generally the same as in federal OSHA states.

As an employer, you have the right to conform to the following:

- Meet your general duty responsibility to provide a workplace free from recognized hazards that are causing or are likely to cause death or serious physical harm to employees, and comply with standards, rules, and regulations issued under the act.
- Be familiar with mandatory OSHA standards and make copies available to employees for review upon request.
- Inform all employees about OSHA.
- Examine workplace conditions to make sure they conform to applicable standards.
- Minimize or reduce hazards.
- Make sure employees have and use safe tools and equipment (including appropriate personal protective equipment) and that such equipment is properly maintained.
- Use color codes, posters, labels, or signs as applicable to warn employees of potential hazards.
- Establish or update operating procedures and communicate them so that employees follow safety and health requirements.
- Provide training required by OSHA standards (e.g., hazard communication and other applicable standards).
- Report to the nearest OSHA office within eight hours any fatal accident or one that results in the hospitalization of three or more employees.
- Keep OSHA-required records of work-related injuries and illnesses and post a copy of OSHA No. 300-A. This is discussed in Chapter 2.
- Post, at a prominent location within the workplace, the OSHA poster (OSHA 3165 informing employees of their rights and responsibilities. (In states operating OSHA-approved job safety and health programs, the state's equivalent poster or OSHA 3165 or both may be required.) Refer to the OSHA website, http://www.osha-slc.gov/Publications/poster.html, for a copy of the poster.
- Provide employees, former employees, and their representatives access to the log and Summary of Occupational Injuries and Illnesses (OSHA 300) at a reasonable time and in a reasonable manner.
- Provide access to employee medical records and exposure records to employees or their authorized representatives.
- Cooperate with a compliance officer by furnishing names of authorized employee representatives who may be asked to accompany the compliance officer during an inspection. (If none, the com-

pliance officer will consult with a reasonable number of employees concerning safety and health in the workplace.)
- Not discriminate against employees who properly exercise their rights under the act.
- Post OSHA citations at or near the work site involved. Each citation, or copy thereof, must remain posted until the violation has been abated or for three working days, whichever is longer.
- Abate cited violations within the prescribed period.[1]

As an employer, you have the right to the following:

- Seek advice and off-site consultation as needed by writing, calling, or visiting the nearest OSHA office.
- Be active in your industry association's involvement in job safety and health.
- Request and receive proper identification of the OSHA compliance officer prior to inspection.
- Be advised by the compliance officer of the reason for an inspection.
- Have an opening and closing conference with the compliance officer.
- Accompany the compliance officer on the inspection.
- File a Notice of Contest with the OSHA area director within 15 working days of receipt of a notice of citation and proposed penalty.
- Apply to OSHA for a temporary variance from a standard if unable to comply because of the unavailability of materials, equipment, or personnel needed to make necessary changes within the required time.
- Apply to OSHA for a permanent variance from a standard if you can furnish proof that your facilities or method of operation provide employee protection at least as effective as that required by the standard.
- Take an active role in developing safety and health standards through participation in OSHA Standard Advisory Committees, through nationally recognized standards-setting organizations, and through evidence and views presented in writing or at hearings.
- Be assured of the confidentiality of any trade secrets observed by an OSHA compliance officer during an inspection.
- Submit a written request to NIOSH for information on whether any substance in your workplace has potentially toxic effects in the concentrations being used.[1]

Employees also have responsibilities and rights. The following paragraphs summarize those rights.

Although OSHA does not cite employees for violations of their responsibilities, each employee "shall comply with all occupational safety and health standards and all rules, regulations, and orders issued under the Act" that are applicable.

Employee responsibilities and rights in states with their own occupational safety and health programs are generally the same as for workers in federal OSHA states.

Employees should

- Read the OSHA poster at the job site.
- Comply with all applicable OSHA standards.
- Follow all employer safety and health rules and regulations and wear or use prescribed protective equipment while engaged in work.
- Report hazardous conditions to the supervisor.
- Cooperate with the OSHA compliance officer conducting an inspection if he or she inquires about safety and health conditions in your workplace.
- Exercise your rights under the act in a responsible manner.[1]

Protection for Using Rights—11(c) Rights

As discussed in Chapter 2, under Section 11(c) of the act, employees have a right to seek safety and health on the job without fear of punishment. The law states that employers shall not punish or discriminate against workers for exercising rights, such as

- Complaining to an employer, union, OSHA, or any other government agency about job safety and health hazards.
- Filing safety or health grievances.
- Participating on a workplace safety and health committee or in union activities concerning job safety and health.
- Participating in OSHA inspections, conferences, hearings, or other OSHA-related activities.[1]

If an employee exercises these or other OSHA rights, the employer is not allowed to discriminate against that worker in any way, such as through firing, demotion, taking away seniority or other earned benefits, transferring the worker to an undesirable job or shift, or threatening or harassing the worker.

Employees believing they have been punished for exercising safety and health rights must contact the nearest OSHA office within 30 days of the time they learn of the alleged discrimination. A union representative can file the 11(c) complaint for the worker.

The worker does not have to complete any forms. An OSHA staff member completes the forms, asking what happened and who was involved. This information can be found on the OSHA website at http://www.osha.gov/as/opa/worker/index.html.

Following a complaint, OSHA will investigate. If an employee has been illegally punished for exercising safety and health rights, OSHA asks the employer to restore that employee's job earning and benefits. If necessary and if it can prove discrimination, OSHA will take the employer to court. In such cases, the employee does not pay any legal fees.

If a state agency has an OSHA-approved state program, employees may file their complaint with either federal OSHA or a state agency under its laws.

Other Employee Rights

Employees have the right to

- Review copies of the appropriate OSHA standards, rules, regulations, and requirements that the employer should have available at the workplace.
- Request information from the employer on safety and health hazards in the area, on precautions that may be taken, and on procedures to be followed if an employee is involved in an accident or is exposed to toxic substances.
- Receive adequate training and information on workplace safety and health hazards.
- Request the OSHA area director to investigate if they believe hazardous conditions or violations of standards exist in their workplace.
- Have their names withheld from their employer, on request to OSHA, if they file a written and signed complaint.
- Be advised of OSHA actions regarding their complaint and have an informal review, if requested, of any decision not to inspect or to issue a citation.
- Have an authorized employee representative accompany the OSHA compliance officer during the inspection tour.
- Respond to questions from a compliance officer, particularly if there is no authorized employee representative accompanying the compliance officer.
- Observe any monitoring or measuring of hazardous materials and have the right to see these records, and their medical records, as specified under the act.

- Have an authorized representative, or themselves, review the Log and Summary of Occupational Injuries (OSHA 300) at a reasonable time and in a reasonable manner.
- Request a closing discussion with the compliance officer following an inspection.
- Submit a written request to NIOSH for information on whether any substance in the workplace has potentially toxic effects in the concentration being used and have their names withheld from the employer if so requested.
- Object to the abatement period set in the citation issued to the employer by writing to the OSHA area director within 15 working days of the issuance of the citation.
- Participate in hearings conducted by the Occupational Safety and Health Review Commission.
- Be notified by the employer if he or she applies for a variance from an OSHA standard and testify at a variance hearing and appeal the final decision.
- Submit information or comments to OSHA on the issuance, modification, or revocation of OSHA standards and request a public hearing.[1]

Appendix H provides more details on inspection.

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2. Update to OSHA Success Stories, OSHA website: http://www.osha.gov/prevwutsnew/august01.html, August 28, 2001, public domain.
3. Bureau of Labor Statistics, BLS website: http://www.bls.gov/iif/home.htm, public domain.
4. Roughton, James, and James Mercurio. *Developing an Effective Safety Culture: A Leadership Approach.* Boston: Butterworth–Heinemann, 2002.
5. Roughton, James, and Nancy Whiting. *Safety Training Basics: A Handbook for Safety Training Program Development.* Baltimore: Government Institutes, 2000.

6. OSHA Civil Penalty Policy, OSHA website: http://www.osha-slc.gov/OshDoc/Fact_data/FSNO92-36.html, public domain.

7. OSHA Instruction, *Recordkeeping Policies and Procedures Manual* (RKM), directive number: CPL 2-0.131, effective date: January 1, 2002, pp. 2–20, OSHA website: http://osha.gov/pls/oshaweb/owadisp.show_document?p_table=DIRECTIVE&p_id=2574, public domain.

8. OSHA Instruction CPL 2.80, Handling of Cases to be Proposed for Violation-by-Violation Penalties, October 21, 1990, public domain.

9. Paragraph X of OSHA Instruction CPL 2-2.44D, Enforcement Procedures for the Occupational Exposure to Bloodborne Pathogens, November 5, 1999, public domain.

10. Paragraph L.5 of OSHA Instruction CPL 2.106, Enforcement Procedures and Scheduling for Occupational Exposure to Tuberculosis, February 9, 1996, public domain.

11. Paragraph E.6 of OSHA Instruction STD 3-1.1, Clarification of Citation Policy, June 22, 1987, public domain.

8

Final Words

Some of the chapters of this book were added to provide some additional tools to help you in your recordkeeping issues. As I have heard over and over in my many years as a safety professional, we have to "play the game." Some people view playing the game with any regulatory guidelines as trying to "beat the system." They look at the gray area only trying to find a "loophole" that will benefit their efforts.

Some may say, What can I do to make this not a recordable case? Instead, they should be focusing on what to do to prevent incidents, so that they need not worry about cases being recordable. They must stop reacting to each situation and develop a process that will reduce the frequency of incidents.

Often, more research goes into trying to not record cases than into solving the issues at hand. We need to start thinking globally and shift our focus on what we can do to prevent incidents. One approach is to take each incident and think of it, not in terms of recordability, but as a challenge, preventing similar incidents in the future. Looking at the root cause, as discussed in Chapter 3, will help prevent more incidents.

This view has one fundamental problem. We need to look beyond the immediate problem, in this case, recordkeeping, and think long term. This is the same for all regulatory requirements. In my view, we need to forget just complying with the OSHA rules and do what is right for the employees and the business. This can be done by developing a safety culture that supports doing the right thing.

In Section 1904.35 of the rule, OSHA discusses employee involvement, as discussed in Chapter 6. Employee participation is a powerful tool. This tool and the other programs that were discussed form the right step to prevent injuries.

On another thought I want to leave you with is a basic causation model that will help you in your quest to have a company with a safety vision of no incidents. This chapter provides an overview of an incident causation model that I believe will help you understand the investigation concepts to establish the root cause of an incident.

When the original models of incident causation were developed, employees were the center of the accident triangle. To some degree, employees are still being blamed for most incidents based on the new term employee behavior. The model depicts a sequence of events that lead to accidents. The Heinrich theory (1931)[1] is credited with one of the first accident models.[2] Heinrich designed a mode, called the *domino theory*, based on assumptions that accident causation can be described as a chain of sequence of events leading to an accident and its consequences.[2] Figure 8-1 shows the domino accident sequence model, adapted from Heinrich and other resources.[1–4] In this theory, events are tied together in a sequence of causes and effects. As Heinrich noted, if the first domino falls it knocks down the second domino and so forth until all dominos are knocked down. Removal of any domino (causation factor) breaks the chain of events (causation factors) so that an injury will not occur.[4]

Heinrich detailed his model using five factors that show sequence of events: Hereditary and social environmental factors lead to a fault of the employee, constituting the proximate reason for either an unsafe act or an unsafe condition (or both) that results in the accident that leads to the injury.[2]

In 1986, Frank Bird and George Germain[3] used the Heinrich's[4] model to develop another accident causation model, shown in Figure 8-2. This model used the same domino theory to show its key concepts of loss control.

The most obvious losses are deemed to include harm to employees, property, or process.[3] Implied and related losses include loss-producing events; for example, business interruption and profit reductions. Bird and Germain argue that, once the sequence has occurred, the exact

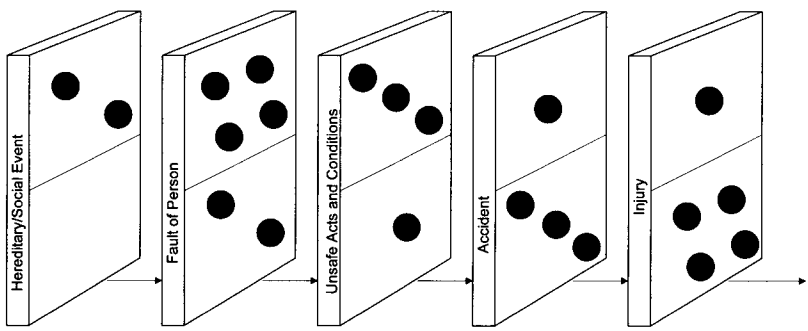

Figure 8-1 Domino Accident Sequence Model. Source: Cox and Cox, *Safety Systems and People*,[2] Figure 3.1 (adapted from Heinrich[4]), p. 51, modified with permission. See also Roughton and Mercurio,[5] p. 235.

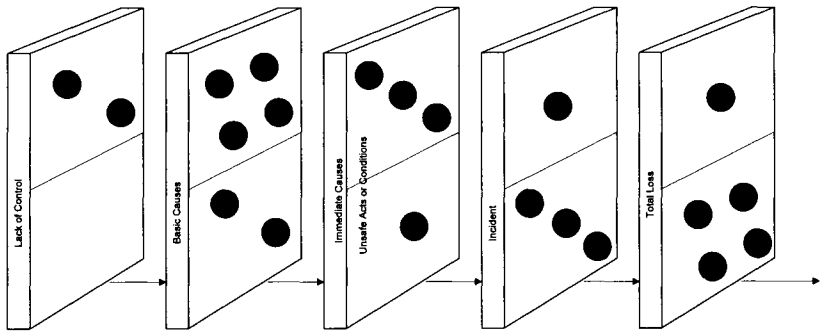

Figure 8-2 "Loss-Causation" Accident Sequence Model. Source: Cox and Cox, *Safety Systems and People*,[2] Figure 3.2 (adapted from Bird and Loftus,[3] 1931), p. 52, modified with permission. See also Roughton and Mercurio,[5] p. 235.

nature and type of loss incurred is a matter of change, ranging from significant to catastrophic.[3]

According to them, the first domino focuses on management and describes controls of the four essential management functions (planning, organizing, leadership or direction, and control).[3]

Bird and German continue to state that the lack of control (management system) is perceived to be a major factor in the incident or loss sequence (Figure 8-3) and elimination of the "defect" is seen to be central and the key to accident prevention.[2,3]

Expediency linked with a linear causation model therefore restricts many investigations.[2] It has been further noted[1] that, by narrowing down the possible combination of substandard acts and specific situations to a single stage, the identification and control of contributing causes has been severely limited.[2]

In my opinion, all these domino theories have some merit but fall short of the practice of looking at the incident, starting at the bottom

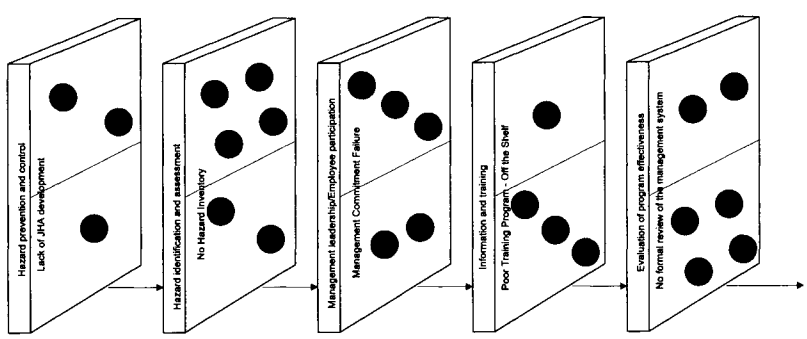

Figure 8-3 Management System Failure. Source: Roughton and Mercurio, *Developing an Effective Safety Culture: A Leadership Approach*,[5] p. 236.

and working up. Some people use a triangle to represent the same information (Figure 8-4). I use an hourglass to represent this theory (Figure 8-5). In my opinion, the hourglass is a more realistic representation because employees can visualize how it works. In addition, it helps them understand how the incident cycle works: Time running out. If you do not solve the safety issues at the top, incidents will filter to the bottom.

I want to leave you with several final thoughts. When I was in Australia a couple of years ago on a business trip, I had the opportunity to walk around a town outside of Sydney. As I began to cross a street, I

Figure 8-4 Safety Accident Pyramid. Source: Bird and Germain, *Loss Control Management: Practical Loss Control Leadership*,[3] Figure 1-3, adapted for use, designed by Damon Carter. See also Roughton and Mercurio,[5] p. 70.

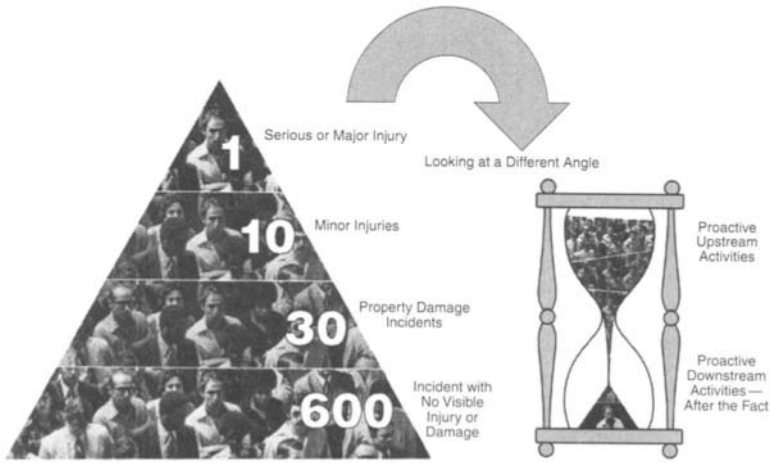

Figure 8-5 Understanding the Pyramid. Source: Roughton and Mercurio, *Developing an Effective Safety Culture*,[5] p. 237.

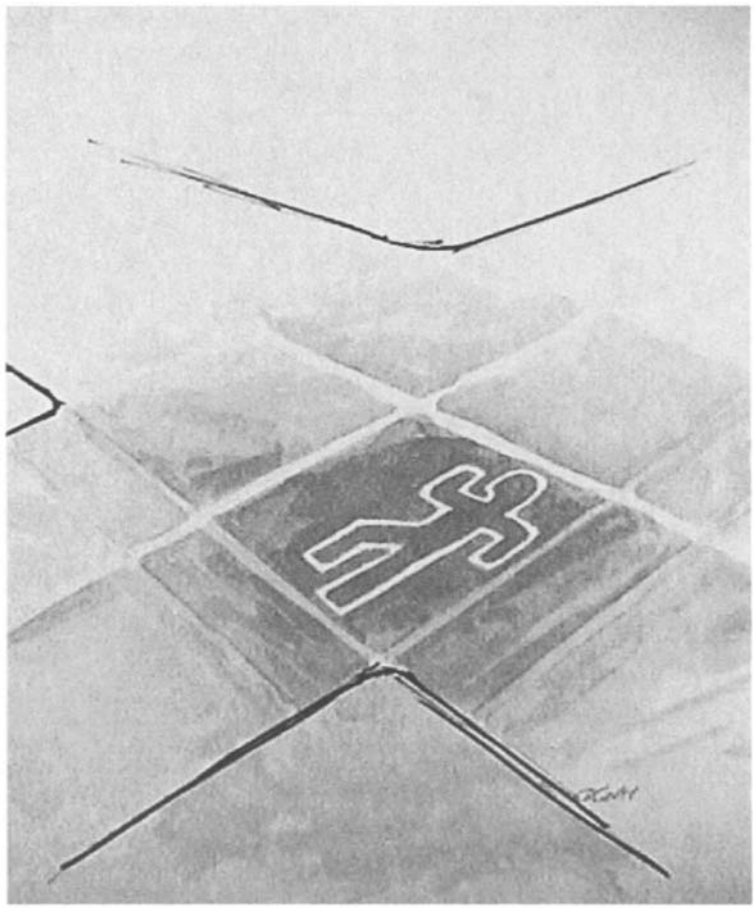

Figure 8-6 Do Not Let This Be Your Safety Program. Source: Roughton and Mercurio, *Developing an Effective Safety Culture*,[5] p. 387.

spotted a mark on the pavement (Figure 8-6) that took me by surprise. I was told that this is the way that the township creates safety awareness for people that cross the street, after a few people had been hit by cars.

On another note, we have a tendency to write a program, put it in place, and hope that it will work. Some individuals like discipline because blaming the employee is the easy way out. A recent conference had a presentation on how to sell safety to management. There was a powerful message to the presentation. One feature centered on not "putting the cart before the horse" (Figure 8-7). If the horse is not before the cart, who is in the drivers seat?

I equate this to riding down a highway and coming upon a serious accident. At first, you feel bad and think, "Am I glad that was not me."

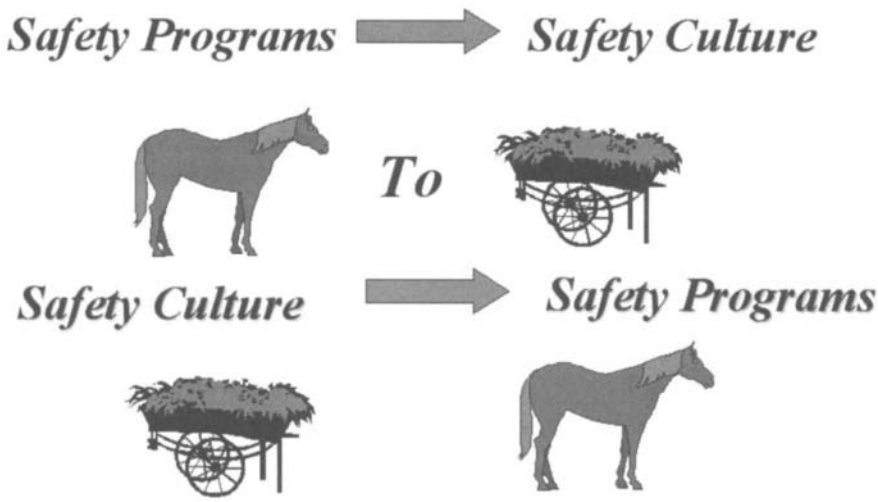

Figure 8-7 Reversing the Action: Putting the Cart before the Horse. Source: Nathan Crutifield and B. Weir. "How to Sell Safety to Management." Presentation, Georgia Safety, Health, and Environmental Conference, Savannah, November 2001. Reprinted with permission.

However, as you continue down the road, you soon forget the accident and are back to your normal self, top speed. Some managers think that showing graphic pictures of fingers and hands being cut off prevents incidents. Many vendors make good money producing these low-budget movies. Do not fall into this trap. The message here, and I mention it in the same context that I discussed posters, is do not let your program come to this. This is not awareness.

We need to get past this and learn how to develop a culture that will support your effort to sustain a safety process without resorting to these types of visual aids. This type of awareness only hurts the process. Now, you know what you want to do and how you will approach the safety culture process. If you do not get employees involved or find the root cause of incidents, then you are just painting by the numbers. Anyone can paint a picture given a tracing and the right colors.

For a more detailed approach to developing an effective safety culture pick up a book on the subject, such as *Developing an Effective Safety Culture: A Leadership Approach*,[5] which walks you through the approach to building a safety culture.

Good luck on your recordkeeping effort. Try to develop a culture so that this does not become an issue. Good luck in your process, no matter what you do.

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3. Bird, Frank, and George Germain. *Loss Control Management: Practical Loss Control Leadership*, revised ed. Atlanta: Det Norske Veritas (U.S.A.) Inc., 1996.
4. Henrich, H. W. *Industrial Accident Prevention*, 4th ed., with Dan Petersen and N. Ross. New York: McGraw-Hill, 1969 [1931].
5. Roughton, James, and James Mercurio. *Developing an Effective Safety Culture: A Leadership Approach.* Boston: Butterworth–Heinemann, 2002.

Appendix A

Regulatory Requirements

This is a collection of all public domain regulatory requirements published on the OSHA website: http://www.osha-slc.gov/recordkeeping/index.html.

UNDERSTANDING THE FEDERAL REGULATORY PROCESS: HOW REGULATIONS COME TO EXIST

Part 1904—Recording and Reporting Occupational Injuries and Illnesses, websites:

- *The Final Rule.* 1904 Recording and Reporting Occupational Injuries and Illnesses, *Federal Register*, Vol. 66, No. 13, Friday, January 19, 2001, pp. 6122–6135, OSHA website: http://www.osha-slc.gov/FedReg_osha_pdf/FED20010119.pdf, public domain.
- *Proposed Delay.* 1904 Recording and Reporting Occupational Injuries and Illnesses, *Federal Register*, Vol. 66, No. 128, Tuesday, July 3, 2001, pp. 3513–3515, OSHA website: http://www.osha-slc.gov/FedReg_osha_pdf/FED20010703.pdf, public domain.
- *Final Rule.* 1904 Recording and Reporting Occupational Injuries and Illnesses, *Federal Register*, Vol. 66, No. 13, Friday, October 12, 2001, pp. 52031–52034, OSHA website: http://www.osha-slc.gov/FedReg_osha_pdf/FED20011012.pdf, public domain.
- *OSHA National News Release.* U.S. Department of Labor Office of Public Affairs National News Release USDL: 01-25, Thursday, January 18, 2001, OSHA website: http://www.osha.gov/media/oshnews/jan01/national-20010118.html, public domain.
- *OSHA National News Release.* U.S. Department of Labor, Office of Public Affairs, National News Release, USDL: 01-202, June 29, 2001

OSHA website: http://www.osha.gov/media/oshnews/june01/national-20010629.html, public domain.

- *OSHA National News Release.* U.S. Department of Labor, Office of Public Affairs National News Release, Friday, October 12, 2001, OSHA website: http://www.osha.gov/media/oshnews/oct01/national-20011012.html, public domain.

TABLE OF CONTENTS, PART 1904—RECORDING AND REPORTING OCCUPATIONAL INJURIES AND ILLNESSES

Signed in Washington, D.C., this 5th day of January, 2001.

Charles N. Jeffress,

Assistant Secretary of Labor.

1. 29 CFR Part 1904 is revised to read as follows:

Part 1904—Recording and Reporting Occupational Injuries and Illnesses

Sec.

Authority: 29 U.S.C. 657, 658, 660, 666, 669, 673, Secretary of Labor's Order No. 1–90 (55 FR 9033), and 5 U.S.C. 553.

Subpart A—Purpose

§ 1904.0 Purpose.

The purpose of this rule (Part 1904) is to require employers to record and report work-related fatalities, injuries and illnesses.

Note to § 1904.0: Recording or reporting a work-related injury, illness, or fatality does not mean that the employer or employee was at fault, that an OSHA rule has been violated, or that the employee is eligible for workers' compensation or other benefits.

Subpart B—Scope

Note to Subpart B: All employers covered by the Occupational Safety and Health Act (OSH Act) are covered by these Part 1904 regulations. However, most employers do not have to keep OSHA injury and illness records unless OSHA or the Bureau of Labor Statistics (BLS) informs them in writing that they must keep records. For example, employers with 10 or fewer employees and business establishments in certain industry classifications are partially exempt from keeping OSHA injury and illness records.

§ 1904.1 Partial exemption for employers with 10 or fewer employees.

(a) *Basic requirement.* (1) If your company had ten (10) or fewer employees at all times during the last calendar year, you do not need to keep OSHA injury and illness records unless OSHA or the BLS informs you in writing that you must keep records under § 1904.41 or § 1904.42. However, as required by § 1904.39, all employers covered by the OSH Act must report to OSHA any workplace incident that results in a fatality or the hospitalization of three or more employees.

(2) If your company had more than ten (10) employees at any time during the last calendar year, you must keep OSHA injury and illness records unless your establishment is classified as a partially exempt industry under § 1904.2.

(b) *Implementation.* (1) *Is the partial exemption for size based on the size of my entire company or on the size of an individual business establishment?* The partial exemption for size is based on the number of employees in the entire company.

(2) *How do I determine the size of my company to find out if I qualify for the partial exemption for size?* To determine if you are exempt because of size, you need to determine your company's peak employment during the last calendar year. If you had no more than 10 employees at any time in the last calendar year, your company qualifies for the partial exemption for size.

§ 1904.2 Partial exemption for establishments in certain industries.

(a) *Basic requirement.* (1) If your business establishment is classified in a specific low hazard retail, service, finance, insurance or real estate industry listed in Appendix A to this Subpart B, you do not need to keep OSHA injury and illness records unless the government asks you to keep the records under § 1904.41 or § 1904.42. However, all employers must report to OSHA any workplace incident that results in a fatality or the hospitalization of three or more employees (see § 1904.39).

(2) If one or more of your company's establishments are classified in a non-exempt industry, you must keep OSHA injury and illness records for all of such establishments unless your company is partially exempted because of size under § 1904.1.

(b) *Implementation.* (1) *Does the partial industry classification exemption apply only to business establishments in the retail, services, finance, insurance or real estate industries (SICs 52–89)?* Yes, business establishments classified in agriculture; mining; construction; manufacturing; transportation; communication, electric, gas and sanitary services; or wholesale trade are not eligible for the partial industry classification exemption.

(2) *Is the partial industry classification exemption based on the industry classification of my entire company or on the classification of individual business establishments operated by my company?* The partial industry classification exemption applies to individual business establishments. If a company has several business establishments engaged in different classes of business activities, some of the company's establishments may be required to keep records, while others may be exempt.

(3) *How do I determine the Standard Industrial Classification code for my company or for individual establishments?* You determine your Standard Industrial Classification (SIC) code by using the Standard Industrial Classification Manual, Executive Office of the President, Office of Management and Budget. You may contact your nearest OSHA office or State agency for help in determining your SIC.

§ 1904.3 Keeping records for more than one agency.

If you create records to comply with another government agency's injury and illness recordkeeping requirements, OSHA will consider those records as meeting OSHA's Part 1904 recordkeeping requirements if OSHA accepts the other agency's records under a memorandum of understanding with that agency, or if the other agency's records contain the same information as this Part 1904 requires you to record. You may contact your nearest OSHA office or State agency for help in determining whether your records meet OSHA's requirements.

Non-Mandatory Appendix A to Subpart B—Partially Exempt Industries

Employers are not required to keep OSHA injury and illness records for any establishment classified in the following Standard Industrial Classification (SIC) codes, unless they are asked in writing to do so by OSHA, the Bureau of Labor Statistics (BLS), or a state agency operating under the authority of OSHA or the BLS. All employers, including those partially exempted by reason of company size or industry classification, must report to OSHA any workplace incident that results in a fatality or the hospitalization of three or more employees (see § 1904.39).

SIC code	Industry description	SIC code	Industry description
525	Hardware Stores	725	Shoe Repair and Shoeshine Parlors.
542	Meat and Fish Markets	726	Funeral Service and Crematories.
544	Candy, Nut, and Confectionery Stores	729	Miscellaneous Personal Services.
545	Dairy Products Stores	731	Advertising Services.
546	Retail Bakeries	732	Credit Reporting and Collection Services.
549	Miscellaneous Food Stores	733	Mailing, Reproduction, & Stenographic Services.
551	New and Used Car Dealers	737	Computer and Data Processing Services.
552	Used Car Dealers	738	Miscellaneous Business Services.
554	Gasoline Service Stations	764	Reupholstery and Furniture Repair.
557	Motorcycle Dealers	78	Motion Picture.
56	Apparel and Accessory Stores	791	Dance Studios, Schools, and Halls.
573	Radio, Television, & Computer Stores	792	Producers, Orchestras, Entertainers.
58	Eating and Drinking Places	793	Bowling Centers.
591	Drug Stores and Proprietary Stores	801	Offices & Clinics Of Medical Doctors.
592	Liquor Stores	802	Offices and Clinics Of Dentists.
594	Miscellaneous Shopping Goods Stores	803	Offices Of Osteopathic.
599	Retail Stores, Not Elsewhere Classified	804	Offices Of Other Health Practitioners.
60	Depository Institutions (banks & savings institutions)	807	Medical and Dental Laboratories.
61	Nondepository	809	Health and Allied Services, Not Elsewhere Classified.
62	Security and Commodity Brokers	81	Legal Services.
63	Insurance Carriers	82	Educational Services (schools, colleges, universities and libraries).
64	Insurance Agents, Brokers & Services	832	Individual and Family Services.
653	Real Estate Agents and Managers	835	Child Day Care Services.
654	Title Abstract Offices	839	Social Services, Not Elsewhere Classified.
67	Holding and Other Investment Offices	841	Museums and Art Galleries.
722	Photographic Studios, Portrait	86	Membership Organizations.
723	Beauty Shops	87	Engineering, Accounting, Research, Management, and Related Services.
724	Barber Shops	899	Services, not elsewhere classified.

Subpart C—Recordkeeping Forms and Recording Criteria

Note to Subpart C: This Subpart describes the work-related injuries and illnesses that an employer must enter into the OSHA records and explains the OSHA forms that employers must use to record work-related fatalities, injuries, and illnesses.

§ 1904.4 Recording criteria.

(a) *Basic requirement.* Each employer required by this Part to keep records of fatalities, injuries, and illnesses must record each fatality, injury and illness that:

(1) Is work-related; and

(2) Is a new case; and

(3) Meets one or more of the general recording criteria of § 1904.7 or the application to specific cases of § 1904.8 through § 1904.12.

(b) *Implementation.* (1) *What sections of this rule describe recording criteria for recording work-related injuries and illnesses?* The table below indicates which sections of the rule address each topic.

(i) Determination of work-relatedness. See § 1904.5.

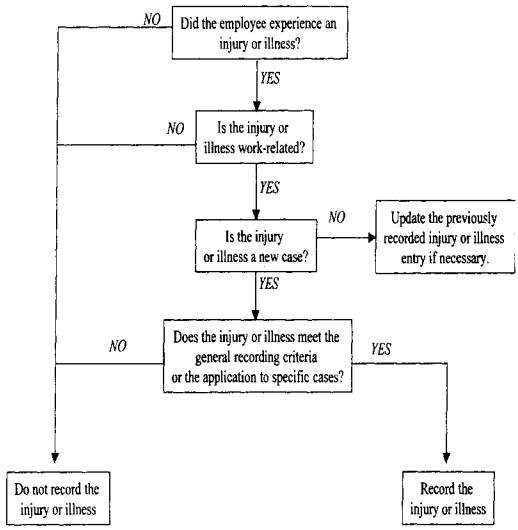
(ii) Determination of a new case. See § 1904.6.

(iii) General recording criteria. See § 1904.7.

(iv) Additional criteria. (Needlestick and sharps injury cases, tuberculosis cases, hearing loss cases, medical removal cases, and musculoskeletal disorder cases). See § 1904.8 through § 1904.12.

(2) *How do I decide whether a particular injury or illness is recordable?* The decision tree for recording work-related injuries and illnesses below shows the steps involved in making this determination.

BILLING CODE 4510-26-P



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§ 1904.5 Determination of work-relatedness.

(a) *Basic requirement.* You must consider an injury or illness to be work-related if an event or exposure in the work environment either caused or contributed to the resulting condition or significantly aggravated a pre-existing injury or illness. Work-relatedness is presumed for injuries and illnesses resulting from events or exposures occurring in the work environment, unless an exception in § 1904.5(b)(2) specifically applies.

(b) *Implementation.* (1) What is the "work environment"? OSHA defines the work environment as "the establishment and other locations where one or more employees are working or are present as a condition of their employment. The work environment includes not only physical locations, but also the equipment or materials used by the employee during the course of his or her work."

(2) *Are there situations where an injury or illness occurs in the work environment and is not considered work-related?* Yes, an injury or illness occurring in the work environment that falls under one of the following exceptions is not work-related, and therefore is not recordable.

1904.5(b)(2)	You are not required to record injuries and illnesses if . . .
(i)	At the time of the injury or illness, the employee was present in the work environment as a member of the general public rather than as an employee.
(ii)	The injury or illness involves signs or symptoms that surface at work but result solely from a non-work-related event or exposure that occurs outside the work environment.
(iii)	The injury or illness results solely from voluntary participation in a wellness program or in a medical, fitness, or recreational activity such as blood donation, physical examination, flu shot, exercise class, racquetball, or baseball.
(iv)	The injury or illness is solely the result of an employee eating, drinking, or preparing food or drink for personal consumption (whether bought on the employer's premises or brought in). For example, if the employee is injured by choking on a sandwich while in the employer's establishment, the case would not be considered work-related. **Note:** If the employee is made ill by ingesting food contaminated by workplace contaminants (such as lead), or gets food poisoning from food supplied by the employer, the case would be considered work-related.
(v)	The injury or illness is solely the result of an employee doing personal tasks (unrelated to their employment) at the establishment outside of the employee's assigned working hours.
(vi)	The injury or illness is solely the result of personal grooming, self medication for a non-work-related condition, or is intentionally self-inflicted.
(vii)	The injury or illness is caused by a motor vehicle accident and occurs on a company parking lot or company access road while the employee is commuting to or from work.
(viii)	The illness is the common cold or flu (Note: contagious diseases such as tuberculosis, brucellosis, hepatitis A, or plague are considered work-related if the employee is infected at work).

1904.5(b)(2)	You are not required to record injuries and illnesses if . . .
(ix)	The illness is a mental illness. Mental illness will not be considered work-related unless the employee voluntarily provides the employer with an opinion from a physician or other licensed health care professional with appropriate training and experience (psychiatrist, psychologist, psychiatric nurse practitioner, etc.) stating that the employee has a mental illness that is work-related.

(3) *How do I handle a case if it is not obvious whether the precipitating event or exposure occurred in the work environment or occurred away from work?* In these situations, you must evaluate the employee's work duties and environment to decide whether or not one or more events or exposures in the work environment either caused or contributed to the resulting condition or significantly aggravated a pre-existing condition.

(4) *How do I know if an event or exposure in the work environment "significantly aggravated" a preexisting injury or illness?* A preexisting injury or illness has been significantly aggravated, for purposes of OSHA injury and illness recordkeeping, when an event or exposure in the work environment results in any of the following:

(i) Death, provided that the preexisting injury or illness would likely not have resulted in death but for the occupational event or exposure.

(ii) Loss of consciousness, provided that the preexisting injury or illness would likely not have resulted in loss of consciousness but for the occupational event or exposure.

(iii) One or more days away from work, or days of restricted work, or days of job transfer that otherwise would not have occurred but for the occupational event or exposure.

(iv) Medical treatment in a case where no medical treatment was needed for the injury or illness before the workplace event or exposure, or a change in medical treatment was necessitated by the workplace event or exposure.

(5) *Which injuries and illnesses are considered pre-existing conditions?* An injury or illness is a preexisting condition if it resulted solely from a non-work-related event or exposure that occured outside the work environment.

(6) *How do I decide whether an injury or illness is work-related if the employee is on travel status at the time the injury or illness occurs?* Injuries and illnesses that occur while an employee is on travel status are work-related if, at the time of the injury or illness, the employee was engaged in work activities "in the interest of the employer." Examples of such activities include travel to and from customer contacts, conducting job tasks, and entertaining or being entertained to transact, discuss, or promote business (work-related entertainment includes only entertainment activities being engaged in at the direction of the employer).

Injuries or illnesses that occur when the employee is on travel status do not have to be recorded if they meet one of the exceptions listed below.

1904.5 (b)(6)	If the employee has . . .	You may use the following to determine if an injury or illness is work-related
(i)	checked into a hotel or motel for one or more days.	When a traveling employee checks into a hotel, motel, or into a other temporary residence, he or she establishes a "home away from home." You must evaluate the employee's activities after he or she checks into the hotel, motel, or other temporary residence for their work-relatedness in the same manner as you evaluate the activities of a non-traveling employee. When the employee checks into the temporary residence, he or she is considered to have left the work environment. When the employee begins work each day, he or she re-enters the work environment. If the employee has established a "home away from home" and is reporting to a fixed worksite each day, you also do not consider injuries or illnesses work-related if they occur while the employee is commuting between the temporary residence and the job location.
(ii)	taken a detour for personal reasons.	Injuries or illnesses are not considered work-related if they occur while the employee is on a personal detour from a reasonably direct route of travel (*e.g.*, has taken a side trip for personal reasons).

(7) *How do I decide if a case is work-related when the employee is working at home?* Injuries and illnesses that occur while an employee is working at home, including work in a home office, will be considered work-related if the injury or illness occurs while the employee is performing work for pay or compensation in the home, and the injury or illness is directly related to the performance of work rather than to the general home environment or setting. For example, if an employee drops a box of work documents and injures his or her foot, the case is considered work-related. If an employee's fingernail is punctured by a needle from a sewing machine used to perform garment work at home, becomes infected and requires medical treatment, the injury is considered work-related. If an employee is injured because he or she trips on the family dog while rushing to answer a work phone call, the case is not considered work-related. If an employee working at home is electrocuted because of faulty home wiring, the injury is not considered work-related.

§ 1904.6 Determination of new cases.

(a) *Basic requirement.* You must consider an injury or illness to be a "new case" if:

(1) The employee has not previously experienced a recorded injury or illness of the same type that affects the same part of the body, or

(2) The employee previously experienced a recorded injury or illness of the same type that affected the same part of the body but had recovered completely (all signs and symptoms had disappeared) from the previous injury or illness and an event or exposure in the work environment caused the signs or symptoms to reappear.

(b) *Implementation.* (1) *When an employee experiences the signs or symptoms of a chronic work-related illness, do I need to consider each recurrence of signs or symptoms to be a new case?* No, for occupational illnesses where the signs or symptoms may recur or continue in the absence of an exposure in the workplace, the case must only be recorded once. Examples

may include occupational cancer, asbestosis, byssinosis and silicosis.

(2) *When an employee experiences the signs or symptoms of an injury or illness as a result of an event or exposure in the workplace, such as an episode of occupational asthma, must I treat the episode as a new case?* Yes, because the episode or recurrence was caused by an event or exposure in the workplace, the incident must be treated as a new case.

(3) *May I rely on a physician or other licensed health care professional to determine whether a case is a new case or a recurrence of an old case?* You are not required to seek the advice of a physician or other licensed health care professional. However, if you do seek such advice, you must follow the physician or other licensed health care professional's recommendation about whether the case is a new case or a recurrence. If you receive recommendations from two or more physicians or other licensed health care professionals, you must make a decision as to which recommendation is the most authoritative (best documented, best reasoned, or most authoritative), and record the case based upon that recommendation.

§ 1904.7 General recording criteria.

(a) *Basic requirement.* You must consider an injury or illness to meet the general recording criteria, and therefore to be recordable, if it results in any of the following: death, days away from work, restricted work or transfer to another job, medical treatment beyond first aid, or loss of consciousness. You must also consider a case to meet the general recording criteria if it involves a significant injury or illness diagnosed by a physician or other licensed health care professional, even if it does not result in death, days away from work, restricted work or job transfer, medical treatment beyond first aid, or loss of consciousness.

(b) *Implementation.* (1) *How do I decide if a case meets one or more of the general recording criteria?* A work-related injury or illness must be recorded if it results in one or more of the following:

(i) Death. See § 1904.7(b)(2).

(ii) Days away from work. See § 1904.7(b)(3).

(iii) Restricted work or transfer to another job. See § 1904.7(b)(4).

(iv) Medical treatment beyond first aid. See § 1904.7(b)(5).

(v) Loss of consciousness. See § 1904.7(b)(6).

(vi) A significant injury or illness diagnosed by a physician or other licensed health care professional. See § 1904.7(b)(7).

(2) *How do I record a work-related injury or illness that results in the employee's death?* You must record an injury or illness that results in death by entering a check mark on the OSHA 300 Log in the space for cases resulting in death. You must also report any work-related fatality to OSHA within eight (8) hours, as required by § 1904.39.

(3) *How do I record a work-related injury or illness that results in days away from work?* When an injury or illness involves one or more days away from work, you must record the injury or illness on the OSHA 300 Log with a check mark in the space for cases involving days away and an entry of the number of calendar days away from work in the number of days column. If the employee is out for an extended period of time, you must enter an estimate of the days that the employee will be away, and update the day count when the actual number of days is known.

(i) *Do I count the day on which the injury occurred or the illness began?* No, you begin counting days away on the day after the injury occurred or the illness began.

(ii) *How do I record an injury or illness when a physician or other licensed health care professional recommends that the worker stay at home but the employee comes to work anyway?* You must record these injuries and illnesses on the OSHA 300 Log using the check box for cases with days away from work and enter the number of calendar days away recommended by the physician or other licensed health care professional. If a physician or other licensed health care professional recommends days away, you should encourage your employee to follow that recommendation. However, the days away must be recorded whether the injured or ill employee follows the physician or licensed health care professional's recommendation or not. If you receive recommendations from two or more physicians or other licensed health care professionals, you may make a decision as to which recommendation is the most authoritative, and record the case based upon that recommendation.

(iii) *How do I handle a case when a physician or other licensed health care professional recommends that the worker return to work but the employee stays at home anyway?* In this situation, you must end the count of days away from work on the date the physician or other licensed health care professional recommends that the employee return to work.

(iv) *How do I count weekends, holidays, or other days the employee would not have worked anyway?* You must count the number of calendar days the employee was unable to work as a result of the injury or illness, regardless of whether or not the employee was scheduled to work on those day(s). Weekend days, holidays, vacation days or other days off are included in the total number of days recorded if the employee would not have been able to work on those days because of a work-related injury or illness.

(v) *How do I record a case in which a worker is injured or becomes ill on a Friday and reports to work on a Monday, and was not scheduled to work on the weekend?* You need to record this case only if you receive information from a physician or other licensed health care professional indicating that the employee should not have worked, or should have performed only restricted work, during the weekend. If so, you must record the injury or illness as a case with days away from work or restricted work, and enter the day counts, as appropriate.

(vi) *How do I record a case in which a worker is injured or becomes ill on the day before scheduled time off such as a holiday, a planned vacation, or a temporary plant closing?* You need to record a case of this type only if you receive information from a physician or other licensed health care professional indicating that the employee should not have worked, or should have performed only restricted work, during the scheduled time off. If so, you must record the injury or illness as a case with days away from work or restricted work, and enter the day counts, as appropriate.

(vii) *Is there a limit to the number of days away from work I must count?* Yes, you may "cap" the total days away at 180 calendar days. You are not required to keep track of the number of calendar days away from work if the injury or illness resulted in more than 180 calendar days away from work and/or days of job transfer or restriction. In such a case, entering 180 in the total days away column will be considered adequate.

(viii) *May I stop counting days if an employee who is away from work because of an injury or illness retires or leaves my company?* Yes, if the employee leaves your company for some reason unrelated to the injury or illness, such as retirement, a plant closing, or to take another job, you may stop counting days away from work or days of restriction/job transfer. If the employee leaves your company because of the injury or illness, you must estimate the

total number of days away or days of restriction/job transfer and enter the day count on the 300 Log.

(ix) *If a case occurs in one year but results in days away during the next calendar year, do I record the case in both years?* No, you only record the injury or illness once. You must enter the number of calendar days away for the injury or illness on the OSHA 300 Log for the year in which the injury or illness occurred. If the employee is still away from work because of the injury or illness when you prepare the annual summary, estimate the total number of calendar days you expect the employee to be away from work, use this number to calculate the total for the annual summary, and then update the initial log entry later when the day count is known or reaches the 180-day cap.

(4) *How do I record a work-related injury or illness that results in restricted work or job transfer?* When an injury or illness involves restricted work or job transfer but does not involve death or days away from work, you must record the injury or illness on the OSHA 300 Log by placing a check mark in the space for job transfer or restriction and an entry of the number of restricted or transferred days in the restricted workdays column.

(i) *How do I decide if the injury or illness resulted in restricted work?* Restricted work occurs when, as the result of a work-related injury or illness:

(A) You keep the employee from performing one or more of the routine functions of his or her job, or from working the full workday that he or she would otherwise have been scheduled to work; or

(B) A physician or other licensed health care professional recommends that the employee not perform one or more of the routine functions of his or her job, or not work the full workday that he or she would otherwise have been scheduled to work.

(ii) *What is meant by "routine functions"?* For recordkeeping purposes, an employee's routine functions are those work activities the employee regularly performs at least once per week.

(iii) *Do I have to record restricted work or job transfer if it applies only to the day on which the injury occurred or the illness began?* No, you do not have to record restricted work or job transfers if you, or the physician or other licensed health care professional, impose the restriction or transfer only for the day on which the injury occurred or the illness began.

(iv) *If you or a physician or other licensed health care professional recommends a work restriction, is the injury or illness automatically recordable as a "restricted work" case?* No, a recommended work restriction is recordable only if it affects one or more of the employee's routine job functions. To determine whether this is the case, you must evaluate the restriction in light of the routine functions of the injured or ill employee's job. If the restriction from you or the physician or other licensed health care professional keeps the employee from performing one or more of his or her routine job functions, or from working the full workday the injured or ill employee would otherwise have worked, the employee's work has been restricted and you must record the case.

(v) *How do I record a case where the worker works only for a partial work shift because of a work-related injury or illness?* A partial day of work is recorded as a day of job transfer or restriction for recordkeeping purposes, except for the day on which the injury occurred or the illness began.

(vi) *If the injured or ill worker produces fewer goods or services than he or she would have produced prior to the injury or illness but otherwise performs all of the routine functions of his or her work, is the case considered a restricted work case?* No, the case is considered restricted work only if the worker does not perform all of the routine functions of his or her job or does not work the full shift that he or she would otherwise have worked.

(vii) *How do I handle vague restrictions from a physician or other licensed health care professional, such as that the employee engage only in "light duty" or "take it easy for a week"?* If you are not clear about the physician or other licensed health care professional's recommendation, you may ask that person whether the employee can do all of his or her routine job functions and work all of his or her normally assigned work shift. If the answer to both of these questions is "Yes," then the case does not involve a work restriction and does not have to be recorded as such. If the answer to one or both of these questions is "No," the case involves restricted work and must be recorded as a restricted work case. If you are unable to obtain this additional information from the physician or other licensed health care professional who recommended the restriction, record the injury or illness as a case involving restricted work.

(viii) *What do I do if a physician or other licensed health care professional recommends a job restriction meeting OSHA's definition, but the employee does all of his or her routine job functions anyway?* You must record the injury or illness on the OSHA 300 Log as a restricted work case. If a physician or other licensed health care professional recommends a job restriction, you should ensure that the employee complies with that restriction. If you receive recommendations from two or more physicians or other licensed health care professionals, you may make a decision as to which recommendation is the most authoritative, and record the case based upon that recommendation.

(ix) *How do I decide if an injury or illness involved a transfer to another job?* If you assign an injured or ill employee to a job other than his or her regular job for part of the day, the case involves transfer to another job. Note: This does not include the day on which the injury or illness occurred.

(x) *Are transfers to another job recorded in the same way as restricted work cases?* Yes, both job transfer and restricted work cases are recorded in the same box on the OSHA 300 Log. For example, if you assign, or a physician or other licensed health care professional recommends that you assign, an injured or ill worker to his or her routine job duties for part of the day and to another job for the rest of the day, the injury or illness involves a job transfer. You must record an injury or illness that involves a job transfer by placing a check in the box for job transfer.

(xi) *How do I count days of job transfer or restriction?* You count days of job transfer or restriction in the same way you count days away from work, using § 1904.7(b)(3)(i) to (viii), above. The only difference is that, if you permanently assign the injured or ill employee to a job that has been modified or permanently changed in a manner that eliminates the routine functions the employee was restricted from performing, you may stop the day count when the modification or change is made permanent. You must count at least one day of restricted work or job transfer for such cases.

(5) *How do I record an injury or illness that involves medical treatment beyond first aid?* If a work-related injury or illness results in medical treatment beyond first aid, you must record it on the OSHA 300 Log. If the injury or illness did not involve death, one or more days away from work, one or more days of restricted work, or one or more days of job transfer, you enter a check mark in the box for cases where the employee received medical treatment but remained at work and was not transferred or restricted.

(i) *What is the definition of medical treatment?* "Medical treatment" means the management and care of a patient to

combat disease or disorder. For the purposes of Part 1904, medical treatment does not include:

(A) Visits to a physician or other licensed health care professional solely for observation or counseling;

(B) The conduct of diagnostic procedures, such as x-rays and blood tests, including the administration of prescription medications used solely for diagnostic purposes (*e.g.*, eye drops to dilate pupils); or

(C) "First aid" as defined in paragraph (b)(5)(ii) of this section.

(ii) *What is "first aid"?* For the purposes of Part 1904, "first aid" means the following:

(A) Using a non-prescription medication at nonprescription strength (for medications available in both prescription and non-prescription form, a recommendation by a physician or other licensed health care professional to use a non-prescription medication at prescription strength is considered medical treatment for recordkeeping purposes);

(B) Administering tetanus immunizations (other immunizations, such as Hepatitis B vaccine or rabies vaccine, are considered medical treatment);

(C) Cleaning, flushing or soaking wounds on the surface of the skin;

(D) Using wound coverings such as bandages, Band-Aids™, gauze pads, etc.; or using butterfly bandages or Steri-Strips™ (other wound closing devices such as sutures, staples, etc., are considered medical treatment);

(E) Using hot or cold therapy;

(F) Using any non-rigid means of support, such as elastic bandages, wraps, non-rigid back belts, etc. (devices with rigid stays or other systems designed to immobilize parts of the body are considered medical treatment for recordkeeping purposes);

(G) Using temporary immobilization devices while transporting an accident victim (*e.g.*, splints, slings, neck collars, back boards, etc.).

(H) Drilling of a fingernail or toenail to relieve pressure, or draining fluid from a blister;

(I) Using eye patches;

(J) Removing foreign bodies from the eye using only irrigation or a cotton swab;

(K) Removing splinters or foreign material from areas other than the eye by irrigation, tweezers, cotton swabs or other simple means;

(L) Using finger guards;

(M) Using massages (physical therapy or chiropractic treatment are considered medical treatment for recordkeeping purposes); or

(N) Drinking fluids for relief of heat stress.

(iii) *Are any other procedures included in first aid?* No, this is a complete list of all treatments considered first aid for Part 1904 purposes.

(iv) *Does the professional status of the person providing the treatment have any effect on what is considered first aid or medical treatment?* No, OSHA considers the treatments listed in § 1904.7(b)(5)(ii) of this Part to be first aid regardless of the professional status of the person providing the treatment. Even when these treatments are provided by a physician or other licensed health care professional, they are considered first aid for the purposes of Part 1904. Similarly, OSHA considers treatment beyond first aid to be medical treatment even when it is provided by someone other than a physician or other licensed health care professional.

(v) *What if a physician or other licensed health care professional recommends medical treatment but the employee does not follow the recommendation?* If a physician or other licensed health care professional recommends medical treatment, you should encourage the injured or ill employee to follow that recommendation. However, you must record the case even if the injured or ill employee does not follow the physician or other licensed health care professional's recommendation.

(6) *Is every work-related injury or illness case involving a loss of consciousness recordable?* Yes, you must record a work-related injury or illness if the worker becomes unconscious, regardless of the length of time the employee remains unconscious.

(7) *What is a "significant" diagnosed injury or illness that is recordable under the general criteria even if it does not result in death, days away from work, restricted work or job transfer, medical treatment beyond first aid, or loss of consciousness?* Work-related cases involving cancer, chronic irreversible disease, a fractured or cracked bone, or a punctured eardrum must always be recorded under the general criteria at the time of diagnosis by a physician or other licensed health care professional.

Note to § 1904.7: OSHA believes that most significant injuries and illnesses will result in one of the criteria listed in § 1904.7(a): death, days away from work, restricted work or job transfer, medical treatment beyond first aid, or loss of consciousness. However, there are some significant injuries, such as a punctured eardrum or a fractured toe or rib, for which neither medical treatment nor work restrictions may be recommended. In addition, there are some significant progressive diseases, such as byssinosis, silicosis, and some types of cancer, for which medical treatment or work restrictions may not be recommended at the time of diagnosis but are likely to be recommended as the disease progresses. OSHA believes that cancer, chronic irreversible diseases, fractured or cracked bones, and punctured eardrums are generally considered significant injuries and illnesses, and must be recorded at the initial diagnosis even if medical treatment or work restrictions are not recommended, or are postponed, in a particular case.

§ 1904.8 Recording criteria for needlestick and sharps injuries.

(a) *Basic requirement.* You must record all work-related needlestick injuries and cuts from sharp objects that are contaminated with another person's blood or other potentially infectious material (as defined by 29 CFR 1910.1030). You must enter the case on the OSHA 300 Log as an injury. To protect the employee's privacy, you may not enter the employee's name on the OSHA 300 Log (see the requirements for privacy cases in paragraphs 1904.29(b)(6) through 1904.29(b)(9)).

(b) *Implementation.* (1) *What does "other potentially infectious material" mean?* The term "other potentially infectious materials" is defined in the OSHA Bloodborne Pathogens standard at § 1910.1030(b). These materials include:

(i) Human bodily fluids, tissues and organs, and

(ii) Other materials infected with the HIV or hepatitis B (HBV) virus such as laboratory cultures or tissues from experimental animals.

(2) *Does this mean that I must record all cuts, lacerations, punctures, and scratches?* No, you need to record cuts, lacerations, punctures, and scratches only if they are work-related and involve contamination with another person's blood or other potentially infectious material. If the cut, laceration, or scratch involves a clean object, or a contaminant other than blood or other potentially infectious material, you need to record the case only if it meets one or more of the recording criteria in § 1904.7.

(3) *If I record an injury and the employee is later diagnosed with an infectious bloodborne disease, do I need to update the OSHA 300 Log?* Yes, you must update the classification of the case on the OSHA 300 Log if the case results in death, days away from work, restricted work, or job transfer. You must also update the description to identify the infectious disease and change the classification of the case from an injury to an illness.

(4) *What if one of my employees is splashed or exposed to blood or other*

potentially infectious material without being cut or scratched? Do I need to record this incident? You need to record such an incident on the OSHA 300 Log as an illness if:

(i) It results in the diagnosis of a bloodborne illness, such as HIV, hepatitis B, or hepatitis C; or

(ii) It meets one or more of the recording criteria in § 1904.7.

§ 1904.9 Recording criteria for cases involving medical removal under OSHA standards.

(a) *Basic requirement.* If an employee is medically removed under the medical surveillance requirements of an OSHA standard, you must record the case on the OSHA 300 Log.

(b) *Implementation.* (1) *How do I classify medical removal cases on the OSHA 300 Log?* You must enter each medical removal case on the OSHA 300 Log as either a case involving days away from work or a case involving restricted work activity, depending on how you decide to comply with the medical removal requirement. If the medical removal is the result of a chemical exposure, you must enter the case on the OSHA 300 Log by checking the "poisoning" column.

(2) *Do all of OSHA's standards have medical removal provisions?* No, some OSHA standards, such as the standards covering bloodborne pathogens and noise, do not have medical removal provisions. Many OSHA standards that cover specific chemical substances have medical removal provisions. These standards include, but are not limited to, lead, cadmium, methylene chloride, formaldehyde, and benzene.

(3) *Do I have to record a case where I voluntarily removed the employee from exposure before the medical removal criteria in an OSHA standard are met?* No, if the case involves voluntary medical removal before the medical removal levels required by an OSHA standard, you do not need to record the case on the OSHA 300 Log.

§ 1904.10 Recording criteria for cases involving occupational hearing loss.

(a) *Basic requirement.* If an employee's hearing test (audiogram) reveals that a Standard Threshold Shift (STS) has occurred, you must record the case on the OSHA 300 Log by checking the "hearing loss" column.

(b) *Implementation.* (1) *What is a Standard Threshold Shift?* A Standard Threshold Shift, or STS, is defined in the occupational noise exposure standard at 29 CFR 1910.95(c)(10)(i) as a change in hearing threshold, relative to the most recent audiogram for that employee, of an average of 10 decibels (dB) or more at 2000, 3000, and 4000 hertz in one or both ears.

(2) *How do I determine whether an STS has occurred?* If the employee has never previously experienced a recordable hearing loss, you must compare the employee's current audiogram with that employee's baseline audiogram. If the employee has previously experienced a recordable hearing loss, you must compare the employee's current audiogram with the employee's revised baseline audiogram (the audiogram reflecting the employee's previous recordable hearing loss case).

(3) *May I adjust the audiogram results to reflect the effects of aging on hearing?* Yes, when comparing audiogram results, you may adjust the results for the employee's age when the audiogram was taken using Tables F–1 or F–2, as appropriate, in Appendix F of 29 CFR 1910.95.

(4) *Do I have to record the hearing loss if I am going to retest the employee's hearing?* No, if you retest the employee's hearing within 30 days of the first test, and the retest does not confirm the STS, you are not required to record the hearing loss case on the OSHA 300 Log. If the retest confirms the STS, you must record the hearing loss illness within seven (7) calendar days of the retest.

(5) *Are there any special rules for determining whether a hearing loss case is work-related?* Yes, hearing loss is presumed to be work-related if the employee is exposed to noise in the workplace at an 8-hour time-weighted average of 85 dBA or greater, or to a total noise dose of 50 percent, as defined in 29 CFR 1910.95. For hearing loss cases where the employee is not exposed to this level of noise, you must use the rules in § 1904.5 to determine if the hearing loss is work-related.

(6) *If a physician or other licensed health care professional determines the hearing loss is not work-related, do I still need to record the case?* If a physician or other licensed health care professional determines that the hearing loss is not work-related or has not been significantly aggravated by occupational noise exposure, you are not required to consider the case work-related or to record the case on the OSHA 300 Log.

§ 1904.11 Recording criteria for work-related tuberculosis cases.

(a) *Basic requirement.* If any of your employees has been occupationally exposed to anyone with a known case of active tuberculosis (TB), and that employee subsequently develops a tuberculosis infection, as evidenced by a positive skin test or diagnosis by a physician or other licensed health care professional, you must record the case on the OSHA 300 Log by checking the "respiratory condition" column.

(b) *Implementation.* (1) *Do I have to record, on the Log, a positive TB skin test result obtained at a pre-employment physical?* No, you do not have to record it because the employee was not occupationally exposed to a known case of active tuberculosis in your workplace.

(2) *May I line-out or erase a recorded TB case if I obtain evidence that the case was not caused by occupational exposure?* Yes, you may line-out or erase the case from the Log under the following circumstances:

(i) The worker is living in a household with a person who has been diagnosed with active TB;

(ii) The Public Health Department has identified the worker as a contact of an individual with a case of active TB unrelated to the workplace; or

(iii) A medical investigation shows that the employee's infection was caused by exposure to TB away from work, or proves that the case was not related to the workplace TB exposure.

§ 1904.12 Recording criteria for cases involving work-related musculoskeletal disorders.

(a) *Basic requirement.* If any of your employees experiences a recordable work-related musculoskeletal disorder (MSD), you must record it on the OSHA 300 Log by checking the "musculoskeletal disorder" column.

(b) *Implementation.* (1) *What is a "musculoskeletal disorder" or MSD?* Musculoskeletal disorders (MSDs) are disorders of the muscles, nerves, tendons, ligaments, joints, cartilage and spinal discs. MSDs do not include disorders caused by slips, trips, falls, motor vehicle accidents, or other similar accidents. Examples of MSDs include: Carpal tunnel syndrome, Rotator cuff syndrome, De Quervain's disease, Trigger finger, Tarsal tunnel syndrome, Sciatica, Epicondylitis, Tendinitis, Raynaud's phenomenon, Carpet layers knee, Herniated spinal disc, and Low back pain.

(2) *How do I decide which musculoskeletal disorders to record?* There are no special criteria for determining which musculoskeletal disorders to record. An MSD case is recorded using the same process you would use for any other injury or illness. If a musculoskeletal disorder is work-related, and is a new case, and meets one or more of the general recording criteria, you must record the musculoskeletal disorder. The following table will guide you to the appropriate

section of the rule for guidance on recording MSD cases.

(i) Determining if the MSD is work-related. See § 1904.5.

(ii) Determining if the MSD is a new case. See § 1904.6.

(iii) Determining if the MSD meets one or more of the general recording criteria:

(A) Days away from work, see § 1904.7(b)(3).

(B) Restricted work or transfer to another job, or see § 1904.7(b)(4).

(C) Medical treatment beyond first aid. See § 1904.7(b)(5).

(3) *If a work-related MSD case involves only subjective symptoms like pain or tingling, do I have to record it as a musculoskeletal disorder?* The symptoms of an MSD are treated the same as symptoms for any other injury or illness. If an employee has pain, tingling, burning, numbness or any other subjective symptom of an MSD, and the symptoms are work-related, and the case is a new case that meets the recording criteria, you must record the case on the OSHA 300 Log as a musculoskeletal disorder.

§§ 1904.13–1904.28 [Reserved]

§ 1904.29 Forms

(a) *Basic requirement.* You must use OSHA 300, 300–A, and 301 forms, or equivalent forms, for recordable injuries and illnesses. The OSHA 300 form is called the Log of Work-Related Injuries and Illnesses, the 300–A is the Summary of Work-Related Injuries and Illnesses, and the OSHA 301 form is called the Injury and Illness Incident Report.

(b) *Implementation.* (1) *What do I need to do to complete the OSHA 300 Log?* You must enter information about your business at the top of the OSHA 300 Log, enter a one or two line description for each recordable injury or illness, and summarize this information on the OSHA 300–A at the end of the year.

(2) *What do I need to do to complete the OSHA 301 Incident Report?* You must complete an OSHA 301 Incident Report form, or an equivalent form, for each recordable injury or illness entered on the OSHA 300 Log.

(3) *How quickly must each injury or illness be recorded?* You must enter each recordable injury or illness on the OSHA 300 Log and 301 Incident Report within seven (7) calendar days of receiving information that a recordable injury or illness has occurred.

(4) *What is an equivalent form?* An equivalent form is one that has the same information, is as readable and understandable, and is completed using the same instructions as the OSHA form it replaces. Many employers use an insurance form instead of the OSHA 301 Incident Report, or supplement an insurance form by adding any additional information required by OSHA.

(5) *May I keep my records on a computer?* Yes, if the computer can produce equivalent forms when they are needed, as described under §§ 1904.35 and 1904.40, you may keep your records using the computer system.

(6) *Are there situations where I do not put the employee's name on the forms for privacy reasons?* Yes, if you have a "privacy concern case," you may not enter the employee's name on the OSHA 300 Log. Instead, enter "privacy case" in the space normally used for the employee's name. This will protect the privacy of the injured or ill employee when another employee, a former employee, or an authorized employee representative is provided access to the OSHA 300 Log under § 1904.35(b)(2). You must keep a separate, confidential list of the case numbers and employee names for your privacy concern cases so you can update the cases and provide the information to the government if asked to do so.

(7) *How do I determine if an injury or illness is a privacy concern case?* You must consider the following injuries or illnesses to be privacy concern cases:

(i) An injury or illness to an intimate body part or the reproductive system;

(ii) An injury or illness resulting from a sexual assault;

(iii) Mental illnesses;

(iv) HIV infection, hepatitis, or tuberculosis;

(v) Needlestick injuries and cuts from sharp objects that are contaminated with another person's blood or other potentially infectious material (see § 1904.8 for definitions); and

(vi) Other illnesses, if the employee independently and voluntarily requests that his or her name not be entered on the log. Musculoskeletal disorders (MSDs) are not considered privacy concern cases.

(8) *May I classify any other types of injuries and illnesses as privacy concern cases?* No, this is a complete list of all injuries and illnesses considered privacy concern cases for Part 1904 purposes.

(9) *If I have removed the employee's name, but still believe that the employee may be identified from the information on the forms, is there anything else that I can do to further protect the employee's privacy?* Yes, if you have a reasonable basis to believe that information describing the privacy concern case may be personally identifiable even though the employee's name has been omitted, you may use discretion in describing the injury or illness on both the OSHA 300 and 301 forms. You must enter enough information to identify the cause of the incident and the general severity of the injury or illness, but you do not need to include details of an intimate or private nature. For example, a sexual assault case could be described as "injury from assault," or an injury to a reproductive organ could be described as "lower abdominal injury."

(10) *What must I do to protect employee privacy if I wish to provide access to the OSHA Forms 300 and 301 to persons other than government representatives, employees, former employees or authorized representatives?* If you decide to voluntarily disclose the Forms to persons other than government representatives, employees, former employees or authorized representatives (as required by §§ 1904.35 and 1904.40), you must remove or hide the employees' names and other personally identifying information, except for the following cases. You may disclose the Forms with personally identifying information only:

(i) to an auditor or consultant hired by the employer to evaluate the safety and health program;

(ii) to the extent necessary for processing a claim for workers' compensation or other insurance benefits; or

(iii) to a public health authority or law enforcement agency for uses and disclosures for which consent, an authorization, or opportunity to agree or object is not required under Department of Health and Human Services Standards for Privacy of Individually Identifiable Health Information, 45 CFR 164.512.

Subpart D—Other OSHA Injury and Illness Recordkeeping Requirements

§ 1904.30 Multiple business establishments.

(a) *Basic requirement.* You must keep a separate OSHA 300 Log for each establishment that is expected to be in operation for one year or longer.

(b) *Implementation.* (1) *Do I need to keep OSHA injury and illness records for short-term establishments (i.e., establishments that will exist for less than a year)?* Yes, however, you do not have to keep a separate OSHA 300 Log for each such establishment. You may keep one OSHA 300 Log that covers all of your short-term establishments. You may also include the short-term establishments' recordable injuries and illnesses on an OSHA 300 Log that

covers short-term establishments for individual company divisions or geographic regions.

(2) *May I keep the records for all of my establishments at my headquarters location or at some other central location?* Yes, you may keep the records for an establishment at your headquarters or other central location if you can:

(i) Transmit information about the injuries and illnesses from the establishment to the central location within seven (7) calendar days of receiving information that a recordable injury or illness has occurred; and

(ii) Produce and send the records from the central location to the establishment within the time frames required by § 1904.35 and § 1904.40 when you are required to provide records to a government representative, employees, former employees or employee representatives.

(3) *Some of my employees work at several different locations or do not work at any of my establishments at all. How do I record cases for these employees?* You must link each of your employees with one of your establishments, for recordkeeping purposes. You must record the injury and illness on the OSHA 300 Log of the injured or ill employee's establishment, or on an OSHA 300 Log that covers that employee's short-term establishment.

(4) *How do I record an injury or illness when an employee of one of my establishments is injured or becomes ill while visiting or working at another of my establishments, or while working away from any of my establishments?* If the injury or illness occurs at one of your establishments, you must record the injury or illness on the OSHA 300 Log of the establishment at which the injury or illness occurred. If the employee is injured or becomes ill and is not at one of your establishments, you must record the case on the OSHA 300 Log at the establishment at which the employee normally works.

§ 1904.31 Covered employees.

(a) *Basic requirement.* You must record on the OSHA 300 Log the recordable injuries and illnesses of all employees on your payroll, whether they are labor, executive, hourly, salary, part-time, seasonal, or migrant workers. You also must record the recordable injuries and illnesses that occur to employees who are not on your payroll if you supervise these employees on a day-to-day basis. If your business is organized as a sole proprietorship or partnership, the owner or partners are not considered employees for recordkeeping purposes.

(b) *Implementation.* (1) *If a self-employed person is injured or becomes ill while doing work at my business, do I need to record the injury or illness?* No, self-employed individuals are not covered by the OSH Act or this regulation.

(2) *If I obtain employees from a temporary help service, employee leasing service, or personnel supply service, do I have to record an injury or illness occurring to one of those employees?* You must record these injuries and illnesses if you supervise these employees on a day-to-day basis.

(3) *If an employee in my establishment is a contractor's employee, must I record an injury or illness occurring to that employee?* If the contractor's employee is under the day-to-day supervision of the contractor, the contractor is responsible for recording the injury or illness. If you supervise the contractor employee's work on a day-to-day basis, you must record the injury or illness.

(4) *Must the personnel supply service, temporary help service, employee leasing service, or contractor also record the injuries or illnesses occurring to temporary, leased or contract employees that I supervise on a day-to-day basis?* No, you and the temporary help service, employee leasing service, personnel supply service, or contractor should coordinate your efforts to make sure that each injury and illness is recorded only once: either on your OSHA 300 Log (if you provide day-to-day supervision) or on the other employer's OSHA 300 Log (if that company provides day-to-day supervision).

§ 1904.32 Annual summary.

(a) *Basic requirement.* At the end of each calendar year, you must:

(1) Review the OSHA 300 Log to verify that the entries are complete and accurate, and correct any deficiencies identified;

(2) Create an annual summary of injuries and illnesses recorded on the OSHA 300 Log;

(3) Certify the summary; and

(4) Post the annual summary.

(b) *Implementation.* (1) *How extensively do I have to review the OSHA 300 Log entries at the end of the year?* You must review the entries as extensively as necessary to make sure that they are complete and correct.

(2) *How do I complete the annual summary?* You must:

(i) Total the columns on the OSHA 300 Log (if you had no recordable cases, enter zeros for each column total); and

(ii) Enter the calendar year covered, the company's name, establishment name, establishment address, annual average number of employees covered by the OSHA 300 Log, and the total hours worked by all employees covered by the OSHA 300 Log.

(iii) If you are using an equivalent form other than the OSHA 300-A summary form, as permitted under § 1904.6(b)(4), the summary you use must also include the employee access and employer penalty statements found on the OSHA 300-A Summary form.

(3) *How do I certify the annual summary?* A company executive must certify that he or she has examined the OSHA 300 Log and that he or she reasonably believes, based on his or her knowledge of the process by which the information was recorded, that the annual summary is correct and complete.

(4) *Who is considered a company executive?* The company executive who certifies the log must be one of the following persons:

(i) An owner of the company (only if the company is a sole proprietorship or partnership);

(ii) An officer of the corporation;

(iii) The highest ranking company official working at the establishment; or

(iv) The immediate supervisor of the highest ranking company official working at the establishment.

(5) *How do I post the annual summary?* You must post a copy of the annual summary in each establishment in a conspicuous place or places where notices to employees are customarily posted. You must ensure that the posted annual summary is not altered, defaced or covered by other material.

(6) *When do I have to post the annual summary?* You must post the summary no later than February 1 of the year following the year covered by the records and keep the posting in place until April 30.

§ 1904.33 Retention and updating.

(a) *Basic requirement.* You must save the OSHA 300 Log, the privacy case list (if one exists), the annual summary, and the OSHA 301 Incident Report forms for five (5) years following the end of the calendar year that these records cover.

(b) *Implementation.* (1) *Do I have to update the OSHA 300 Log during the five-year storage period?* Yes, during the storage period, you must update your stored OSHA 300 Logs to include newly discovered recordable injuries or illnesses and to show any changes that have occurred in the classification of previously recorded injuries and illnesses. If the description or outcome of a case changes, you must remove or line out the original entry and enter the new information.

(2) *Do I have to update the annual summary?* No, you are not required to update the annual summary, but you may do so if you wish.

(3) *Do I have to update the OSHA 301 Incident Reports?* No, you are not required to update the OSHA 301 Incident Reports, but you may do so if you wish.

§ 1904.34 Change in business ownership.

If your business changes ownership, you are responsible for recording and reporting work-related injuries and illnesses only for that period of the year during which you owned the establishment. You must transfer the Part 1904 records to the new owner. The new owner must save all records of the establishment kept by the prior owner, as required by § 1904.33 of this Part, but need not update or correct the records of the prior owner.

§ 1904.35 Employee involvement.

(a) *Basic requirement.* Your employees and their representatives must be involved in the recordkeeping system in several ways.

(1) You must inform each employee of how he or she is to report an injury or illness to you.

(2) You must provide limited access to your injury and illness records for your employees and their representatives.

(b) *Implementation.* (1) *What must I do to make sure that employees report work-related injuries and illnesses to me?*

(i) You must set up a way for employees to report work-related injuries and illnesses promptly; and

(ii) You must tell each employee how to report work-related injuries and illnesses to you.

(2) *Do I have to give my employees and their representatives access to the OSHA injury and illness records?* Yes, your employees, former employees, their personal representatives, and their authorized employee representatives have the right to access the OSHA injury and illness records, with some limitations, as discussed below.

(i) *Who is an authorized employee representative?* An authorized employee representative is an authorized collective bargaining agent of employees.

(ii) *Who is a "personal representative" of an employee or former employee?* A personal representative is:

(A) Any person that the employee or former employee designates as such, in writing; or

(B) The legal representative of a deceased or legally incapacitated employee or former employee.

(iii) *If an employee or representative asks for access to the OSHA 300 Log, when do I have to provide it?* When an employee, former employee, personal representative, or authorized employee representative asks for copies of your current or stored OSHA 300 Log(s) for an establishment the employee or former employee has worked in, you must give the requester a copy of the relevant OSHA 300 Log(s) by the end of the next business day.

(iv) *May I remove the names of the employees or any other information from the OSHA 300 Log before I give copies to an employee, former employee, or employee representative?* No, you must leave the names on the 300 Log. However, to protect the privacy of injured and ill employees, you may not record the employee's name on the OSHA 300 Log for certain "privacy concern cases," as specified in paragraphs 1904.29(b)(6) through 1904.29(b)(9).

(v) *If an employee or representative asks for access to the OSHA 301 Incident Report, when do I have to provide it?*

(A) When an employee, former employee, or personal representative asks for a copy of the OSHA 301 Incident Report describing an injury or illness to that employee or former employee, you must give the requester a copy of the OSHA 301 Incident Report containing that information by the end of the next business day.

(B) When an authorized employee representative asks for a copies of the OSHA 301 Incident Reports for an establishment where the agent represents employees under a collective bargaining agreement, you must give copies of those forms to the authorized employee representative within 7 calendar days. You are only required to give the authorized employee representative information from the OSHA 301 Incident Report section titled "Tell us about the case." You must remove all other information from the copy of the OSHA 301 Incident Report or the equivalent substitute form that you give to the authorized employee representative.

(vi) *May I charge for the copies?* No, you may not charge for these copies the first time they are provided. However, if one of the designated persons asks for additional copies, you may assess a reasonable charge for retrieving and copying the records.

§ 1904.36 Prohibition against discrimination.

Section 11(c) of the Act prohibits you from discriminating against an employee for reporting a work-related fatality, injury or illness. That provision of the Act also protects the employee who files a safety and health complaint, asks for access to the Part 1904 records, or otherwise exercises any rights afforded by the OSH Act.

§ 1904.37 State recordkeeping regulations.

(a) *Basic requirement.* Some States operate their own OSHA programs, under the authority of a State Plan approved by OSHA. States operating OSHA-approved State Plans must have occupational injury and illness recording and reporting requirements that are substantially identical to the requirements in this Part (see 29 CFR 1902.3(k), 29 CFR 1952.4 and 29 CFR 1956.10(i)).

(b) *Implementation.* (1) State-Plan States must have the same requirements as Federal OSHA for determining which injuries and illnesses are recordable and how they are recorded.

(2) For other Part 1904 provisions (for example, industry exemptions, reporting of fatalities and hospitalizations, record retention, or employee involvement), State-Plan State requirements may be more stringent than or supplemental to the Federal requirements, but because of the unique nature of the national recordkeeping program, States must consult with and obtain approval of any such requirements.

(3) Although State and local government employees are not covered Federally, all State-Plan States must provide coverage, and must develop injury and illness statistics, for these workers. State Plan recording and reporting requirements for State and local government entities may differ from those for the private sector but must meet the requirements of paragraphs 1904.37(b)(1) and (b)(2).

(4) A State-Plan State may not issue a variance to a private sector employer and must recognize all variances issued by Federal OSHA.

(5) A State Plan State may only grant an injury and illness recording and reporting variance to a State or local government employer within the State after obtaining approval to grant the variance from Federal OSHA.

§ 1904.38 Variances from the recordkeeping rule.

(a) *Basic requirement.* If you wish to keep records in a different manner from the manner prescribed by the Part 1904 regulations, you may submit a variance petition to the Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, Washington, DC 20210. You can obtain

a variance only if you can show that your alternative recordkeeping system:

(1) Collects the same information as this Part requires;

(2) Meets the purposes of the Act; and

(3) Does not interfere with the administration of the Act.

(b) *Implementation.* (1) *What do I need to include in my variance petition?* You must include the following items in your petition:

(i) Your name and address;

(ii) A list of the State(s) where the variance would be used;

(iii) The address(es) of the business establishment(s) involved;

(iv) A description of why you are seeking a variance;

(v) A description of the different recordkeeping procedures you propose to use;

(vi) A description of how your proposed procedures will collect the same information as would be collected by this Part and achieve the purpose of the Act; and

(vii) A statement that you have informed your employees of the petition by giving them or their authorized representative a copy of the petition and by posting a statement summarizing the petition in the same way as notices are posted under § 1903.2(a).

(2) *How will the Assistant Secretary handle my variance petition?* The Assistant Secretary will take the following steps to process your variance petition.

(i) The Assistant Secretary will offer your employees and their authorized representatives an opportunity to submit written data, views, and arguments about your variance petition.

(ii) The Assistant Secretary may allow the public to comment on your variance petition by publishing the petition in the **Federal Register**. If the petition is published, the notice will establish a public comment period and may include a schedule for a public meeting on the petition.

(iii) After reviewing your variance petition and any comments from your employees and the public, the Assistant Secretary will decide whether or not your proposed recordkeeping procedures will meet the purposes of the Act, will not otherwise interfere with the Act, and will provide the same information as the Part 1904 regulations provide. If your procedures meet these criteria, the Assistant Secretary may grant the variance subject to such conditions as he or she finds appropriate.

(iv) If the Assistant Secretary grants your variance petition, OSHA will publish a notice in the **Federal Register** to announce the variance. The notice will include the practices the variance allows you to use, any conditions that apply, and the reasons for allowing the variance.

(3) *If I apply for a variance, may I use my proposed recordkeeping procedures while the Assistant Secretary is processing the variance petition?* No, alternative recordkeeping practices are only allowed after the variance is approved. You must comply with the Part 1904 regulations while the Assistant Secretary is reviewing your variance petition.

(4) *If I have already been cited by OSHA for not following the Part 1904 regulations, will my variance petition have any effect on the citation and penalty?* No, in addition, the Assistant Secretary may elect not to review your variance petition if it includes an element for which you have been cited and the citation is still under review by a court, an Administrative Law Judge (ALJ), or the OSH Review Commission.

(5) *If I receive a variance, may the Assistant Secretary revoke the variance at a later date?* Yes, the Assistant Secretary may revoke your variance if he or she has good cause. The procedures revoking a variance will follow the same process as OSHA uses for reviewing variance petitions, as outlined in paragraph 1904.38(b)(2). Except in cases of willfulness or where necessary for public safety, the Assistant Secretary will:

(i) Notify you in writing of the facts or conduct that may warrant revocation of your variance; and

(ii) Provide you, your employees, and authorized employee representatives with an opportunity to participate in the revocation procedures.

Subpart E—Reporting Fatality, Injury and Illness Information to the Government

§ 1904.39 Reporting fatalities and multiple hospitalization incidents to OSHA.

(a) *Basic requirement.* Within eight (8) hours after the death of any employee from a work-related incident or the in-patient hospitalization of three or more employees as a result of a work-related incident, you must orally report the fatality/multiple hospitalization by telephone or in person to the Area Office of the Occupational Safety and Health Administration (OSHA), U.S. Department of Labor, that is nearest to the site of the incident. You may also use the OSHA toll-free central telephone number, 1–800–321–OSHA (1–800–321–6742).

(b) *Implementation.* (1) *If the Area Office is closed, may I report the incident by leaving a message on OSHA's answering machine, faxing the area office, or sending an e-mail?* No, if you can't talk to a person at the Area Office, you must report the fatality or multiple hospitalization incident using the 800 number.

(2) *What information do I need to give to OSHA about the incident?* You must give OSHA the following information for each fatality or multiple hospitalization incident:

(i) The establishment name;

(ii) The location of the incident;

(iii) The time of the incident;

(iv) The number of fatalities or hospitalized employees;

(v) The names of any injured employees;

(vi) Your contact person and his or her phone number; and

(vii) A brief description of the incident.

(3) *Do I have to report every fatality or multiple hospitalization incident resulting from a motor vehicle accident?* No, you do not have to report all of these incidents. If the motor vehicle accident occurs on a public street or highway, and does not occur in a construction work zone, you do not have to report the incident to OSHA. However, these injuries must be recorded on your OSHA injury and illness records, if you are required to keep such records.

(4) *Do I have to report a fatality or multiple hospitalization incident that occurs on a commercial or public transportation system?* No, you do not have to call OSHA to report a fatality or multiple hospitalization incident if it involves a commercial airplane, train, subway or bus accident. However, these injuries must be recorded on your OSHA injury and illness records, if you are required to keep such records.

(5) *Do I have to report a fatality caused by a heart attack at work?* Yes, your local OSHA Area Office director will decide whether to investigate the incident, depending on the circumstances of the heart attack.

(6) *Do I have to report a fatality or hospitalization that occurs long after the incident?* No, you must only report each fatality or multiple hospitalization incident that occurs within thirty (30) days of an incident.

(7) *What if I don't learn about an incident right away?* If you do not learn of a reportable incident at the time it occurs and the incident would otherwise be reportable under paragraphs (a) and (b) of this section, you must make the report within eight (8) hours of the time the incident is reported to you or to any of your agent(s) or employee(s).

§ 1904.40 Providing records to government representatives.

(a) *Basic requirement.* When an authorized government representative asks for the records you keep under Part 1904, you must provide copies of the records within four (4) business hours.

(b) *Implementation.* (1) *What government representatives have the right to get copies of my Part 1904 records?* The government representatives authorized to receive the records are:

(i) A representative of the Secretary of Labor conducting an inspection or investigation under the Act;

(ii) A representative of the Secretary of Health and Human Services (including the National Institute for Occupational Safety and Health—NIOSH) conducting an investigation under section 20(b) of the Act, or

(iii) A representative of a State agency responsible for administering a State plan approved under section 18 of the Act.

(2) *Do I have to produce the records within four (4) hours if my records are kept at a location in a different time zone?* OSHA will consider your response to be timely if you give the records to the government representative within four (4) business hours of the request. If you maintain the records at a location in a different time zone, you may use the business hours of the establishment at which the records are located when calculating the deadline.

§ 1904.41 Annual OSHA injury and illness survey of ten or more employers.

(a) *Basic requirement.* If you receive OSHA's annual survey form, you must fill it out and send it to OSHA or OSHA's designee, as stated on the survey form. You must report the following information for the year described on the form:

(1) the number of workers you employed;

(2) the number of hours worked by your employees; and

(3) the requested information from the records that you keep under Part 1904.

(b) *Implementation.* (1) *Does every employer have to send data to OSHA?* No, each year, OSHA sends injury and illness survey forms to employers in certain industries. In any year, some employers will receive an OSHA survey form and others will not. You do not have to send injury and illness data to OSHA unless you receive a survey form.

(2) *How quickly do I need to respond to an OSHA survey form?* You must send the survey reports to OSHA, or OSHA's designee, by mail or other means described in the survey form, within 30 calendar days, or by the date stated in the survey form, whichever is later.

(3) *Do I have to respond to an OSHA survey form if I am normally exempt from keeping OSHA injury and illness records?* Yes, even if you are exempt from keeping injury and illness records under § 1904.1 to § 1904.3, OSHA may inform you in writing that it will be collecting injury and illness information from you in the following year. If you receive such a letter, you must keep the injury and illness records required by § 1904.5 to § 1904.15 and make a survey report for the year covered by the survey.

(4) *Do I have to answer the OSHA survey form if I am located in a State-Plan State?* Yes, all employers who receive survey forms must respond to the survey, even those in State-Plan States.

(5) *Does this section affect OSHA's authority to inspect my workplace?* No, nothing in this section affects OSHA's statutory authority to investigate conditions related to occupational safety and health.

§ 1904.42 Requests from the Bureau of Labor Statistics for data.

(a) *Basic requirement.* If you receive a Survey of Occupational Injuries and Illnesses Form from the Bureau of Labor Statistics (BLS), or a BLS designee, you must promptly complete the form and return it following the instructions contained on the survey form.

(b) *Implementation.* (1) *Does every employer have to send data to the BLS?* No, each year, the BLS sends injury and illness survey forms to randomly selected employers and uses the information to create the Nation's occupational injury and illness statistics. In any year, some employers will receive a BLS survey form and others will not. You do not have to send injury and illness data to the BLS unless you receive a survey form.

(2) *If I get a survey form from the BLS, what do I have to do?* If you receive a Survey of Occupational Injuries and Illnesses Form from the Bureau of Labor Statistics (BLS), or a BLS designee, you must promptly complete the form and return it, following the instructions contained on the survey form.

(3) *Do I have to respond to a BLS survey form if I am normally exempt from keeping OSHA injury and illness records?* Yes, even if you are exempt from keeping injury and illness records under § 1904.1 to § 1904.3, the BLS may inform you in writing that it will be collecting injury and illness information from you in the coming year. If you receive such a letter, you must keep the injury and illness records required by § 1904.5 to § 1904.15 and make a survey report for the year covered by the survey.

(4) *Do I have to answer the BLS survey form if I am located in a State-Plan State?* Yes, all employers who receive a survey form must respond to the survey, even those in State-Plan States.

Subpart F—Transition From the Former Rule

§ 1904.43 Summary and posting of the 2001 data.

(a) *Basic requirement.* If you were required to keep OSHA 200 Logs in 2001, you must post a 2000 annual summary from the OSHA 200 Log of occupational injuries and illnesses for each establishment.

(b) *Implementation.* (1) *What do I have to include in the summary?*

(i) You must include a copy of the totals from the 2001 OSHA 200 Log and the following information from that form:

(A) The calendar year covered;

(B) Your company name;

(C) The name and address of the establishment; and

(D) The certification signature, title and date.

(ii) If no injuries or illnesses occurred at your establishment in 2001, you must enter zeros on the totals line and post the 2001 summary.

(2) *When am I required to summarize and post the 2001 information?*

(i) You must complete the summary by February 1, 2002; and

(ii) You must post a copy of the summary in each establishment in a conspicuous place or places where notices to employees are customarily posted. You must ensure that the summary is not altered, defaced or covered by other material.

(3) You must post the 2001 summary from February 1, 2002 to March 1, 2002.

§ 1904.44 Retention and updating of old forms.

You must save your copies of the OSHA 200 and 101 forms for five years following the year to which they relate and continue to provide access to the data as though these forms were the OSHA 300 and 301 forms. You are not required to update your old 200 and 101 forms.

§ 1904.45 OMB control numbers under the Paperwork Reduction Act

The following sections each contain a collection of information requirement which has been approved by the Office of Management and Budget under the control number listed

29 CFR citation	OMB Control No.
1904.4–35	1218–0176
1904.39–41	1218–0176
1904.42	1220–0045
1904.43–44	1218–0176

Subpart G—Definitions

§ 1904.46 Definitions

The Act. The Act means the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 *et seq.*). The definitions contained in section 3 of the Act (29 U.S.C. 652) and related interpretations apply to such terms when used in this Part 1904.

Establishment. An establishment is a single physical location where business is conducted or where services or industrial operations are performed. For activities where employees do not work at a single physical location, such as construction; transportation; communications, electric, gas and sanitary services; and similar operations, the establishment is represented by main or branch offices, terminals, stations, etc. that either supervise such activities or are the base from which personnel carry out these activities.

(1) *Can one business location include two or more establishments?* Normally, one business location has only one establishment. Under limited conditions, the employer may consider two or more separate businesses that share a single location to be separate establishments. An employer may divide one location into two or more establishments only when:

(i) Each of the establishments represents a distinctly separate business;

(ii) Each business is engaged in a different economic activity;

(iii) No one industry description in the Standard Industrial Classification Manual (1987) applies to the joint activities of the establishments; and

(iv) Separate reports are routinely prepared for each establishment on the number of employees, their wages and salaries, sales or receipts, and other business information. For example, if an employer operates a construction company at the same location as a lumber yard, the employer may consider each business to be a separate establishment.

(2) *Can an establishment include more than one physical location?* Yes, but only under certain conditions. An employer may combine two or more physical locations into a single establishment only when:

(i) The employer operates the locations as a single business operation under common management;

(ii) The locations are all located in close proximity to each other; and

(iii) The employer keeps one set of business records for the locations, such as records on the number of employees, their wages and salaries, sales or receipts, and other kinds of business information. For example, one manufacturing establishment might include the main plant, a warehouse a few blocks away, and an administrative services building across the street.

(3) *If an employee telecommutes from home, is his or her home considered a separate establishment?* No, for employees who telecommute from home, the employee's home is not a business establishment and a separate 300 Log is not required. Employees who telecommute must be linked to one of your establishments under § 1904.30(b)(3).

Injury or illness. An injury or illness is an abnormal condition or disorder. Injuries include cases such as, but not limited to, a cut, fracture, sprain, or amputation. Illnesses include both acute and chronic illnesses, such as, but not limited to, a skin disease, respiratory disorder, or poisoning. (Note: Injuries and illnesses are recordable only if they are new, work-related cases that meet one or more of the Part 1904 recording criteria.)

Physician or Other Licensed Health Care Professional. A physician or other licensed health care professional is an individual whose legally permitted scope of practice (*i.e.*, license, registration, or certification) allows him or her to independently perform, or be delegated the responsibility to perform, the activities described by this regulation.

You. "You" means an employer as defined in Section 3 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 652).

PART 1952—[AMENDED]

2. The authority citation for Part 1952 is revised to read as follows:

Authority: 29 U.S.C. 667; 29 CFR part 1902, Secretary of Labor's Order No. 1–90 (55 FR 9033) and 6–96 (62 FR 111).

3. Section 1952.4 is revised to read as follows:

§ 1952.4 Injury and illness recording and reporting requirements.

(a) Injury and illness recording and reporting requirements promulgated by State-Plan States must be substantially identical to those in 29 CFR part 1904 "Recording and Reporting Occupational Injuries and Illnesses." State-Plan States must promulgate recording and reporting requirements that are the same as the Federal requirements for determining which injuries and illnesses will be entered into the records and how they are entered. All other injury and illness recording and reporting requirements that are promulgated by State-Plan States may be more stringent than, or supplemental to, the Federal requirements, but, because of the unique nature of the national recordkeeping program, States must consult with OSHA and obtain approval of such additional or more stringent reporting and recording requirements to ensure that they will not interfere with uniform reporting objectives. State-Plan States must extend the scope of their regulation to State and local government employers.

(b) A State may not grant a variance to the injury and illness recording and reporting requirements for private sector employers. Such variances may only be granted by Federal OSHA to assure nationally consistent workplace injury and illness statistics. A State may only grant a variance to the injury and illness recording and reporting requirements for State or local government entities in that State after obtaining approval from Federal OSHA.

(c) A State must recognize any variance issued by Federal OSHA.

(d) A State may, but is not required, to participate in the Annual OSHA Injury/Illness Survey as authorized by 29 CFR 1904.41. A participating State may either adopt requirements identical to 1904.41 in its recording and reporting regulation as an enforceable State requirement, or may defer to the Federal regulation for enforcement. Nothing in any State plan shall affect the duties of employers to comply with 1904.41, when surveyed, as provided by section 18(c)(7) of the Act.

[FR Doc. 01–725 Filed 1–18–01; 8:45 am]
BILLING CODE 4510–26–P

for accuracy. If the historic absorption ratio is found to be materially inaccurate, the ratio could no longer be used. The proposed regulations defined an historic absorption ratio as being materially inaccurate when (1) the taxpayer's actual absorption ratio deviates by more than 50 percent from the taxpayer's historic absorption ratio, (2) the taxpayer's actual absorption ratio deviates by more than one-half of one percentage point from the taxpayer's historic absorption ratio, and (3) the amount of additional section 263A costs capitalizable to items on hand at year-end using the actual absorption ratio deviates by more than $100,000 from the amount of additional section 263A costs capitalizable to items on hand at year-end using the historic absorption ratio. In response to the written comments received and the oral comments presented at a public hearing held on September 1, 1999, and based on an internal IRS survey, it has been determined that the potential for abuse using the current regulations' rule of reviewing a historic absorption ratio every six years is small. Further, this potential for abuse is outweighed by the burden that would be placed on taxpayers by requiring an annual review of the accuracy of their ratios. Accordingly, these proposed regulations are being withdrawn.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Withdrawal of Notice of Proposed Rulemaking

Accordingly, under the authority of 26 U.S.C. 7805, the notice of proposed rulemaking (REG–113910–98) that was published in the **Federal Register** on May 24, 1999 (64 FR 27936) is withdrawn.

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue Service.

[FR Doc. 01–16717 Filed 7–2–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1904

[Docket No. R–02A]

RIN 1218–AC00

Occupational Injury and Illness Recording and Reporting Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), U.S. Department of Labor.

ACTION: Proposed delay of effective date; request for comments.

SUMMARY: The Occupational Safety and Health Administration (OSHA) issued a final rule on Occupational Injury and Illness Recording and Reporting Requirements (66 FR 5916, January 19, 2001), which is scheduled to become effective on January 1, 2002. Following a careful review conducted pursuant to White House Chief of Staff Andrew Card's memorandum (66 FR 7702), the Agency has determined that all but a few of the provisions of the final rule should take effect as scheduled.

OSHA has also determined that it will reconsider the provisions in the final rule for: recording occupational hearing loss based on the occurrence of a Standard Threshold Shift (STS) in hearing acuity (Section 1904.10); and defining "musculoskeletal disorder" (MSD) and checking the column on the OSHA 300 Log identifying a recordable MSD (Section 1904.12). Accordingly, OSHA proposes to delay the effective date of Sections 1904.10 and 1904.12 until January 1, 2003. Employers should read carefully Section II. of this document, Effect of Proposal Delay on Employer Recordkeeping Obligations in Calendar Year 2002, to understand what their recordkeeping obligations would be during the period January 1, 2002 through January 1, 2003 if the proposed delay takes effect. OSHA is also asking for comment on the appropriate criteria for recording hearing loss cases. See Section III.

DATES: Written comments must be postmarked by September 4, 2001.

ADDRESSES: Comments are to be submitted in writing in triplicate. All comments shall be submitted to: Docket Officer, Docket No. R–02A, Occupational Safety and Health Administration, Room N–2625, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, telephone (202) 693–2350 (OSHA's TTY number is (877) 889–5627). Comments of 10 pages or less may be faxed to (202) 693–1648. You may also submit your comments electronically through OSHA's home page at *www.osha.gov*. Please note that you may not attach materials such as studies or journal articles to your electronic statement. If you wish to include such materials, you must submit three copies to the OSHA Docket Office at the address listed above. When submitting such materials to the OSHA Docket Office, you must clearly identify your electronic statement by name, date, and subject, so that we can attach the materials to your electronically submitted statement.

FOR FURTHER INFORMATION CONTACT: Jim Maddux, Occupational Safety and Health Administration, U.S. Department of Labor, Directorate of Safety Standards Programs, Room N–3609, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION: Because OSHA's final recordkeeping rule was published on January 19, 2001, with an effective date of January 1, 2002, it was subject to the regulatory review required by the Andrew Card memorandum. The Agency has carefully considered the rulemaking record and the submissions of interested parties, and has had several meetings with business and labor representatives. As a result of this process, the Secretary has determined that the final recordkeeping rule should be implemented in large part, on January 1, 2002, as scheduled. The final rule is the result of an effort begun in the 1980s, involving businesses, labor organizations, health professionals and others, to improve the quality of the injury and illness records maintained under the Occupational Safety and Health Act. The new rule simplifies the recordkeeping process by making the record requirements more logical and coherent, by explaining the requirements in plain language, by consolidating the interpretations and guidance previously found in a host of secondary sources, and by providing new recordkeeping forms that are easier to understand and complete. However, the Agency's review has identified grounds for reconsidering two elements of the final rule, and for delaying the effective date of the requirements related to these elements, as explained below.

I. Why OSHA Is Proposing To Delay the Effective Date of the Final Rule Requirements on Hearing Loss and the MSD Definition and Column

A. Recording occupational hearing loss cases: Section 1904.10 of the final rule requires employers to record, by

checking the "hearing loss" column on the OSHA 300 Log (Log), a case in which an employee's hearing test (audiogram) reveals that a Standard Threshold Shift (STS) in hearing acuity has occurred. An STS is defined as "a change in hearing threshold, relative to the most recent audiogram for that employee, of an average of 10 decibels (dB) or more at 2000, 3000 and 4000 hertz in one or both ears." Section 1904.10(b)(1). The final rule itself does not require testing of employees' hearing. However, OSHA's occupational noise standard (29 C.F.R. 1910.95) requires employers in general industry to conduct periodic audiometric testing of employees when employees' noise exposures are equal to, or more than, an 8-hour time-weighted average 85dB. If such testing reveals that an employee has sustained hearing loss equal to an STS, the employer must take protective measures, including requiring the use of hearing protectors, to prevent further hearing loss.

The current recordkeeping rule, which remains in effect until January 1, 2002, contained no specific threshold for recording hearing loss cases. In 1991, OSHA issued an enforcement policy on the criteria for recording occupational hearing loss, to remain in effect until new criteria were established by rulemaking. The 1991 policy stated that OSHA would cite employers for failing to record work related shifts in hearing of an average of 25dB or more at 2000, 3000, and 4000 Hertz in either ear.

One of the major issues in the recordkeeping rulemaking was to quantify the level of hearing loss that should be recorded as a "significant" health condition. This was critical because OSHA determined that minor or insignificant health conditions should no longer be recordable. See, e.g., 66 FR 5931. OSHA proposed a requirement to record hearing loss averaging 15dB at 2000, 3000 and 4000 Hertz in one or both ears. The agency asked for comment on several alternative criteria, including, 10, 20 and 25dB. The final rule used the STS criterion of 10dB instead of the proposed 15dB level.

In selecting an STS as the appropriate criterion for recording hearing loss, OSHA relied heavily on evidence submitted by the Coalition to Preserve OSHA and NIOSH and Protect Workers' Hearing that a 10dB loss in hearing acuity represents a serious health problem. "OSHA [was] particularly persuaded by the Coalition's argument that 'An age-corrected STS is a large hearing change that can affect communicative competence' because an age-corrected STS represents a significant amount of cumulative hearing change from baseline hearing levels." 66 FR 6008. Based on this and other evidence, OSHA found that an STS "represents a non-minor injury or illness of the type Congress identified as appropriate for recordkeeping purposes." 66 FR 6009.

Following publication of the final rule in January 2001, OSHA received submissions from interested parties criticizing the finding that an STS represents a significant health condition. Exhibits 1–2, 1–3, 1–4, 1–5, 1–6, 1–7. These parties argue that an STS is not necessarily considered a serious health problem by the medical community, by State workers compensation systems, or by the occupational noise standard (29 CFR 1910.95). The American Iron and Steel Institute noted that, "According to the AMA, a person has suffered material impairment when testing reveals a 25dB average hearing loss from audiometric zero at 500, 1000, 2000, and 3000 hertz." AISI and other commenters assert that an STS is merely a precursor event indicating the need for follow-up actions, not a material health impairment standing alone.

OSHA has reviewed the record and agrees that reconsideration of the criteria for recording hearing loss is warranted. There is evidence in the record suggesting that an STS can constitute a serious health problem for individuals with pre-existing hearing loss. See 66 FR 6008 ("For an individual with pre-existing high frequency hearing loss on the baseline, STS usually involves substantial progression into the critical speech frequencies.") There is also evidence that an STS is not necessarily a serious condition, and some commenters have questioned whether it is even a reliable criterion under real-world testing conditions. See, e.g., Exhibit 1–2. Finally, NIOSH notes in its Criteria for a Recommended Standard—Noise Exposure, "the incipient permanent threshold shift may manifest itself with the same order of magnitude as typical audiometric measurement variability; about a 10-dB change in hearing thresholds." In view of this uncertainty, OSHA believes that the record should be reopened to permit consideration of additional medical and other relevant evidence, and to explore alternative approaches. For example, Organization Resources Counselors, Inc. (ORC) in its post-promulgation submissions urged the Agency to consider a sliding scale which would take account of an individual's existing level of impairment in determining whether further occupational hearing loss warrants recording. (Exhibits 1–6, 1–7). ORC's suggested approach, which was not addressed in the rulemaking, also deserves careful consideration.

In light of the decision to reconsider the 10dB criterion, OSHA is proposing to delay the effective date of Section 1904.10 until January 1, 2003, and to remove the "Hearing loss" column from the version of the Log to be used during calendar year 2002. OSHA believes that this proposed action is appropriate for several reasons. If OSHA decides to change the hearing loss criterion beginning in 2003, records of hearing loss cases based on the 10dB level for 2002 will be of little value since they could not be compared to records maintained either under the former rule's 25dB level or any new level effective in 2003. On the other hand, continuing the 25dB recording requirement for 2002 will yield data comparable to that for earlier years even if OSHA implements a new requirement for 2003. Furthermore, the proposed delay of the effective date would avoid the confusion and additional paperwork burden that would result if employers were required to implement the 10dB requirement for 2002, only to change over to a new requirement in 2003. These factors appear to outweigh any potential benefit to be gained by permitting Section 1904.10 to become effective while OSHA is reconsidering the 10dB criterion. If implementation of Section 1904.10 is delayed as proposed in this document, OSHA will provide new forms to be used for calendar year 2002 that do not contain a "Hearing loss" column.

B. Defining an MSD and checking the MSD column: Section 1904.12 of the final rule states that if an employee experiences a recordable musculoskeletal disorder (MSD), the employer must record it on the OSHA Log and must check the MSD column. For recordkeeping purposes, the rule defines MSDs as disorders of the muscles, nerves, tendons, ligaments, joints, cartilage and spinal discs that are not caused by slips, trips, falls, motor vehicle accidents or other similar accidents (see Section 1904.12(b)(1)). The Section also explains that in determining whether an MSD is recordable, the employer must use the same criteria that apply to other injuries or illnesses. To be recordable, the disorder must be work-related, must be a new case, and must meet one or more of the general recording criteria. Section 1904.12(b)(2) states that "[t]here are no special criteria for determining which musculoskeletal disorders to record," and refers the reader to other sections of the rule in which the basic recording criteria are found.

OSHA's purpose in including an MSD column on the Log was to gather data on "musculoskeletal disorders" as that term is defined in Section 1904.12. Following Congressional disapproval of OSHA's ergonomics standard (PL 107.5, Mar. 20, 2001), the Secretary announced that she intends to develop a comprehensive plan to address ergonomic hazards and scheduled a series of forums to consider basic issues related to ergonomics (66 FR 31694, 66 FR 33578). One of the key issues to be considered in connection with the Secretary's comprehensive plan is the approach to defining an ergonomic injury.

Based on these developments, the Secretary believes that it is premature to define an MSD for recordkeeping purposes. Any definition of "musculoskeletal disorder" or other term for soft tissue injuries in the recordkeeping rule should be informed by the views of business, labor and the public health community on the problem of ergonomic hazards in the workplace, which the Secretary's forums are intended to elicit. Furthermore, to require employers to implement a new definition of MSD while the Agency is considering the issue in connection with the comprehensive ergonomics plan could create unnecessary confusion and uncertainty. Therefore, OSHA is proposing to delay the effective date of § 1904.12. Accordingly, the Log to be used for calendar year 2002 would not contain a definition for MSD or an MSD column. When the Department has progressed further in developing its comprehensive approach to ergonomic hazards, it will be in a better position to consider how employers will be required to report work-related ergonomics injuries.

This proposed action does not affect the employer's obligation to record all injuries and illnesses that meet the criteria set out in Sections 1904.4–1904.7, regardless of whether a particular injury or illness meets the definition of MSD found in Section 1904.12. Employers will be required to record soft-tissue disorders, including those involving subjective symptoms such as pain, as injuries or illnesses if they meet the general recording criteria that apply to all injuries and illnesses. The proposed delay of the effective date of Section 1904.12 does not affect this basic requirement. It simply means that employers will not have to determine which injuries should be classified under the category of "MSDs" or "ergonomic injuries" during the calendar year 2002.

II. Effect of the Proposed Delay of the Effective Date on Employer's Recordkeeping Obligations in Calendar Year 2002

A one-year delay of the effective date of the specified recordkeeping provisions would have the following effect on an employer's recordkeeping obligations during the 2002 calendar year:

Hearing loss cases: Employers would continue to record work-related shifts of an average of 25 dB or more at 2000, 3000, and 4000 hertz (Hz) in either ear on the OSHA 300 Log. When a recordable hearing loss occurs, the audiogram indicating the hearing loss would become the new baseline for determining whether future additional hearing loss by the individual must be recorded. Employers would check either the "injury" or the "all other illness"column, as appropriate.

Soft-tissue disorder: Employers would record disorders affecting the muscles, nerves, tendons, ligaments and other soft tissue areas of the body in accordance with the general criteria in Sections 1904.4–1904.7 applicable to any injury or illness. Employers would also treat the symptoms of soft-tissue disorders the same as symptoms of any other injury or illness. Soft-tissue cases would be recordable only if they are work-related (Sec. 1904.5), are a new case (Sec. 1904.6), and meet one or more of the general recording criteria (Sec. 1904.7). Employers would check either the "injury" or the "all other illness" column, as appropriate.

III. Issues for Public Comment

OSHA particularly invites comment on the following issues. Issue 1. What is the appropriate criterion for recording cases of occupational hearing loss? OSHA is particularly interested in comments on the advantages and disadvantages of various hearing loss levels, including 10, 15, 20 and 25 dB, on alternative approaches such as the use of a sliding scale in which smaller incremental shifts would be recordable for employees with significant pre-existing hearing loss, and on the frequency of "false positive" results or other errors in audiometric measurements associated with each of these levels and approaches. Issue 2. What is the variability of audiometric testing equipment and how should this variability be taken into account, if at all, in the recordkeeping rule? Issue 3. What is the appropriate benchmark against which to measure hearing loss, e.g., the employee's baseline audiogram, audiometric zero, or some other measure? Issue 4. Should the recordkeeping rule treat subsequent hearing losses in the same employee as a new case for recording purposes?

Paperwork Reduction Act

On January 22, 2001, the Office of Management and Budget (OMB) received OSHA's request under the Paperwork Reduction Act of 1995 for approval of the information collection requirements in the final recordkeeping rule. This request for approval was withdrawn by the Agency on March 26, 2001, before OMB acted on it. OSHA will resubmit a request for OMB approval of the information collection requirements in the final rule, including appropriate changes in such requirements resulting from this proposal.

Regulatory Flexibility Certification

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601), the Acting Assistant Secretary certifies that the proposed rule will not have a significant adverse impact on a substantial number of small entities.

Executive Order

This document has been deemed significant under Executive Order 12866 and has been reviewed by OMB.

Authority

This document was prepared under the direction of R. Davis Layne, Acting Assistant Secretary for Occupational Safety and Health. It is issued under Section 8 of the Occupational Safety and Health Act (29 U.S.C. 657), and 5 U.S.C. 553.

Issued at Washington, DC this 28th day of June, 2001.

R. Davis Layne,

Acting Assistant Secretary of Labor.

[FR Doc. 01–16669 Filed 6–29–01; 9:53 am]

BILLING CODE 4510ñ26ñM

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 61 and 63

[FRLñ7006ñ7]

Proposed Approval of the Clean Air Act, Section 112(l), Delegation of Authority to Washington Department of Ecology and Four Local Air Agencies in Washington

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Pursuant to the authority of Clean Air Act (CAA), section 112(l), EPA proposes to approve the State of

Master Minimum Equipment List (MMEL)

(l) The dispatch relief conditions specified in paragraphs (l)(1) and (l)(2) of this AD are considered to be acceptable for continued operations if either the ice detection system or the low speed alarm system is inoperative:

(1) The airplane may be operated for a period of three days with the ice detection system inoperative, provided that, whenever operating in visible moisture at temperatures below 10 degrees C (50 degrees F):

(i) All ice protection systems are turned on (except leading edge deicing during takeoff), and

(ii) AFM limitations and normal procedures for operating in icing conditions are complied with.

(2) The airplane may be operated for a period of three days with the icing condition low speed alarm system inoperative, provided:

(i) It is not operated in known or forecast icing conditions, and

(ii) If icing conditions are inadvertently encountered, the autopilot must be disconnected and steps must be taken to exit icing conditions.

Note 2: Refer to MMEL/MEL system for complete dispatch requirements. Where a difference exists between this AD and the MMEL, the provisions of this AD prevail.

Alternative Methods of Compliance

(m) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Atlanta Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta ACO.

Special Flight Permits

(n) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(o) Except for the actions specified in paragraphs (a), (f), (g), (h), (i), (j), and (k) of this AD the actions shall be done in accordance with EMBRAER Service Bulletin 120–25–0258, dated May 14, 2001; EMBRAER Service Bulletin 120–30–0032, Change 01, dated June 13, 2001; EMBRAER Service Bulletin 120–25–0258, Change 01, dated August 30, 2001; EMBRAER Service Bulletin 120–30–0033, Change 01, dated September 6, 2001; and EMBRAER Service Bulletin 120–30–0033, Change 02, dated September 14, 2001; as applicable.

(1) The incorporation by reference of EMBRAER Service Bulletin 120–25–0258, Change 01, dated August 30, 2001; EMBRAER Service Bulletin 120–30–0033, Change 01, dated September 6, 2001; and EMBRAER Service Bulletin 120–30–0033, Change 02, dated September 14, 2001, is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) The incorporation by reference of EMBRAER Service Bulletin 120–25–0258, dated May 14, 2001; and EMBRAER Service Bulletin 120–30–0032, Change 01, dated June 13, 2001, was approved previously by the Director of the Federal Register as of July 12, 2001 (66 FR 34083, June 27, 2001).

(3) Copies may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 4: The subject of this AD is addressed in Brazilian airworthiness directive 2001–05–02R1, effective date of September 30, 2001.

Effective Date

(p) This amendment becomes effective on October 22, 2001.

Issued in Renton, Washington, on October 3, 2001.

Charles Huber,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

FR Doc. 01–25395 Filed 10–11–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1904

[Docket No. R–02A]

RIN 1218–AC00

Occupational Injury and Illness Recording and Reporting Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), U.S. Department of Labor.

ACTION: Final rule.

SUMMARY: The Occupational Safety and Health Administration (OSHA) is delaying the effective date of three provisions of the Occupational Injury and Illness Recording and Reporting Requirements rule published January 19, 2001 (66 FR 5916–6135) and is establishing interim criteria for recording cases of work-related hearing loss. The provisions being delayed are §§ 1904.10(a) and (b), which specify recording criteria for cases involving occupational hearing loss, § 1904.12, which defines "musculoskeletal disorder (MSD)" and requires employers to check the MSD column on the OSHA Log if an employee experiences a work-related musculoskeletal disorder, and § 1904.29(b)(7)(vi), which states that MSDs are not considered privacy concern cases. The effective date of these provisions is delayed from January 1, 2002 until January 1, 2003. OSHA will continue to evaluate §§ 1904.10 and 1904.12 over the next year.

OSHA is also adding a new paragraph (c) to §1904.10, establishing criteria for recording cases of work-related hearing loss during calendar year 2002. Section 1904.10(c) codifies the enforcement policy in effect since 1991, under which employers must record work related shifts in hearing of an average of 25dB or more at 2000, 3000 and 4000 hertz in either ear.

DATES: The amendments in this rule will become effective on January 1, 2002.

FOR FURTHER INFORMATION CONTACT: Jim Maddux, Occupational Safety and Health Administration, U.S. Department of Labor, Directorate of Safety Standards Programs, Room N–3609, 200 Constitution Avenue, N.W., Washington, DC 20210. Telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

In January, 2001 (66 FR 5916–6135), OSHA published revisions to its rule on recording and reporting occupational injuries and illnesses (29 CFR parts 1904 and 1952) to take effect on January 1, 2002. On July 3, 2001, the agency proposed to delay the effective date of Sections 1904.10 *Recording criteria for cases involving occupational hearing loss,* and 1904.12 *Recording criteria for cases involving work-related musculoskeletal disorders,* until January 1, 2003 (66 FR 35113–35115). In that notice, OSHA explained that, as a result of the regulatory review required by the Andrew Card memorandum (66 FR 7702), it was reconsidering the requirement in Section 1904.10 to record a case involving an occupational hearing loss averaging 10dB, or more. OSHA found that there were reasons to question the appropriateness of 10dB as the recording criterion, and asked for comment on other approaches and criteria, including recording losses averaging 15, 20 or 25dB. In view of the uncertainty concerning the appropriate criteria, OSHA preliminarily concluded that it should delay implementing the 10dB requirement for a year while it reconsidered the question. The proposal stated that if implementation of Section

1904.10 were delayed for a year, employers would continue to record hearing loss cases during that year using the 25dB criterion articulated in OSHA's 1991 enforcement policy (See 66 FR 35114–35115).

OSHA also stated that it was reconsidering the requirement in Section 1904.12 that employers check the MSD column on the OSHA Log for a case involving a "musculoskelal disorder" as defined in that Section. This action was taken in light of a the Secretary's decision to develop a comprehensive plan to address ergonomic hazards, and to schedule a series of forums to consider key issues relating to the plan, including the approach to defining an ergonomic injury. OSHA preliminarily found that it would be premature to define a musculoskeletal disorder for recordkeeping purposes before further progress has been made in developing the comprehensive ergonomics plan, and that a delay in the effective date of Section 1904.12 was therefore appropriate. 66 FR 35115. The Agency noted that the proposed delay would not affect the employer's obligation to record all injuries and illnesses, including musculoskeletal injuries and illnesses, that meet the criteria in Sections 1904.4–1904.7, regardless of whether a particular injury or illness would meet the definition of MSD found in Section 1904.12. *Id.*

The period for submission of comments on the proposed rule closed on September 4, 2001. After considering the views of interested parties, OSHA has determined that the effective date of Sections 1904.10(a) and 1904.12(a) and (b) should be delayed until January 1, 2003, and that a new paragraph (c) should be added to Section 1904.10 re-establishing a 25dB recording criterion for hearing loss cases for calendar year 2002.

II. Summary and Explanation of Final Rule

A. Recording Occupational Hearing Loss Cases

Section 1904.10 of the final recordkeeping rule requires employers to record, by checking the "hearing loss" column on the OSHA 300 Log, a case in which an employee's hearing test (audiogram) reveals that a Standard Threshold Shift (STS) in hearing acuity has occurred. An STS is defined as "a change in hearing threshold, relative to the most recent audiogram for that employee, of an average of 10 decibels (dB) or more at 2000, 3000 and 4000 hertz in one or both ears." The recordkeeping rule itself does not require the employer to test employee's hearing. However, OSHA's occupational noise standard (29 CFR 1910.95), requires employers in general industry to conduct periodic audiometric testing of employees when employees' noise exposures are equal to, or exceed, an 8-hour time-weighted average of 85dB. If such testing reveals that an employee has sustained hearing loss equal to an STS, the employer must take protective measures, including requiring the use of hearing protectors, to prevent further hearing loss.

The old recordkeeping rule, which remains in effect until January 1, 2001, contained no specific threshold for recording hearing loss cases. In 1991, OSHA issued an enforcement policy on the criteria for recording hearing loss cases, to remain in effect until new criteria were established by rulemaking. The 1991 policy stated that OSHA would cite employers for failing to record work related shifts in hearing of an average of 25dB or more at 2000, 3000 and 4000 hertz in either ear. Subsequently, OSHA released interpretations stating that the employer could adjust the audiogram for aging using the tables in Appendix F of the Noise Standard, and that the employer was to use the employee's pre-employment audiogram as the baseline reference audiogram for determining a recordable hearing loss.

One of the major issues in the recordkeeping rulemaking was to determine the level of occupational hearing loss that constitutes a health condition serious enough to warrant recording. This was necessary because the final rule no longer requires recording of minor or insignificant health conditions. See, *e.g.*, 66 FR 5931. OSHA proposed a requirement to record hearing loss averaging 15dB at 2000, 3000 and 4000 hertz in one or both ears. OSHA adopted the lower 10dB threshold in the final rule based in large part upon comments submitted by the Coalition to Preserve OSHA and NIOSH and Protect Workers' Hearing, asserting that "[a]n age-corrected STS is a large hearing change that can affect communicative competence." 66 FR 6008.

In its July 3 proposal to delay implementation of Section 1904.10, OSHA expressed reservations about whether 10dB is the appropriate threshold for recording hearing loss. The agency acknowledged that there is evidence that an STS may not be a serious health problem, particularly for employees who have not previously sustained hearing loss, and that a 10dB shift may not be a reliable criterion for recording purposes because of normal variations in audiometric measurement (66 FR 35114). For these and other reasons, OSHA reopened the record to permit consideration of additional evidence and to explore alternative approaches (*Id.*).

Most commenters supported the proposed delay in implementation of Section 1940.10 (see, *e.g.*, Exs. 3–1, 3–6, 3–14, 3–22, 3–25, 3–26, 3–29, 3–34, 3–49, 3–50, 3–54). The view expressed by Organization Resources Counselors, Inc. is representative. ORC (Ex. 3–49, p. 3) argued:

> [T]he finding of a Standard Threshold Shift (STS) [is][a 'flag' for the implementation of a series of actions required by the OSHA standard on exposure to occupational noise. It was not intended, by itself, to be an indicator of illness, or impairment, but, rather, a sentinel event that triggers a series of actions that will prevent illness or impairment from occurring. As such a tool, it has been an effective protector of employee hearing, but does not, by itself, rise to the level of recordability. See also, e.g., Ex. 3–54 (American Iron and Steel Institute), Ex. 3–50 (National Association of Manufacturers and Can Manufacturers Institute).

Several commenters opposed the delay, with most citing the protective purposes served by recordkeeping requirements (see, e.g., Exs. 3–3, 3–4, 3–8, 3–9, 3–10, 3–11, 3–12, 3–17, 3–31). In a representative comment, the AFL–CIO argued that the requirement to record a 10dB hearing loss on the Log would aid in the early detection and prevention of occupational hearing loss. It stated (Ex. 3–24–1, p.3) that,

> [r]ecording a 10 dB STS on Form 300 is a practical and reasonable means to assist in the early detection of a loss in hearing so that workplace intervention measures can be implemented to protect workers from the hazards of noise. Having employers continue to record shifts in hearing of an average of 25 dB * * * is too high a threshold of loss in hearing acuity to be sufficiently proactive in preventing worker hearing loss.

OSHA is not persuaded by this argument. As the AFL–CIO concedes (Ex. 3–24–1, p.6), Congress intended the recordkeeping system to capture non-minor injuries and illnesses. OSHA is reconsidering the finding that a 10dB shift in hearing acuity represents such a health condition, and intends to resolve this issue based on all the available evidence. In the meantime, there is sufficient question concerning the appropriateness of 10dB as a recording threshold to justify a limited delay in implementing Section 1904.10(a) and (b).

Delaying implementation of the 10dB threshold for a year while OSHA reconsiders the criteria for recording hearing loss cases will not deprive employers and employees of

information about noise hazards. The occupational noise exposure standard requires that employees in general industry be tested for hearing loss when noise exposure exceeds an 8-hour time-weighted average of 85dB, and that employees be informed, in writing, if a 10dB shift has occurred. The audiometric test records must be retained for the duration of the affected employee's employment. See 29 CFR 1910.95 (g), (m). The noise standard also specifies the protective measures to be taken to prevent further hearing loss for employees who have experience a 10dB shift, including the use of hearing protectors and referral for audiological evaluation where appropriate. See 29 CFR 1910.95 (g)(8). These requirements, which apply without regard to the recording criteria in the recordkeeping rule, will protect workers against the hazards of noise. The one-year delay in implementing Section 1904.10(a) and (b) will therefore not deprive employers and workers of the means to detect and prevent hearing loss.

Several commenters supported a requirement to record a hearing loss averaging 25 dB or more while OSHA reconsidered the 10dB criterion (see, *e.g.*, Exs. 3–49, 3–54), The American Iron and Steel Institute (AISI) argued that the 25dB criterion should be included in the regulatory text to avoid any confusion about employers' compliance responsibilities during calendar year 2002. OSHA agrees with AISI on this point, and has added a new paragraph (c) to Section 1904.10 specifying the criteria to be used for the 2002 recording year. The AISI also recommended that OSHA continue its policy of allowing employers to correct employee's audiograms for aging (presbycusis) using the age correction tables in the occupational noise standard (Ex. 3–54). Since this was OSHA's policy in the past, the Agency has also included language to this effect in the new paragraph, 1904.10(c).

A few commenters urged OSHA to make sure that the State Plan States have the same recording criteria as federal OSHA (see, *e.g.*, Exs. 3–22, 3–49). When OSHA issues a final determination for the recording of occupational hearing loss for calendar years 2003 and beyond, the states will be required to have identical criteria. However, the purpose of this notice is to maintain the status quo regarding the recording of occupational hearing loss for the year 2002, while OSHA reconsiders what the appropriate recording criteria should be. Therefore, the State Plan States will be allowed to maintain their policies for the recording of hearing loss during 2002.

B. Defining an MSD and Checking the MSD Column

Section 1904.12 provides that if an employee experiences a recordable musculoskeletal disorder (MSD), the employer must record it on the OSHA Log and must check the MSD column. For recordkeeping purposes, the rule defines MSDs as disorders of the muscles, nerves, tendons, ligaments, joints, cartilage and spinal discs that are not caused by slips, trips, falls, motor vehicle accidents or other similar accidents (see Section 1904.12(b)(1)). The Section also explains that in determining whether an MSD is recordable, the employer must use the same criteria that apply to other injuries and illnesses. To be recordable, the disorder must be work related, must be a new case, and must meet one or more of the general recording criteria. Section 1904.12 states that "[t]here are no special criteria for determining which musculoskeletal disorders to record," and refers the reader to other sections of the rule in which the basic recording criteria are found.

OSHA's purpose in including an MSD column on the Log was to gather data on "musculoskeletal disorders" as that term is defined in Section 1904.12. Two months after publication of the new recordkeeping rule, Congress disapproved OSHA's ergonomics standard under the Congressional Review Act (Pub. L. 107.5 Mar. 20, 2001). Following Congressional disapproval of the ergonomics standard, the Secretary announced that she intends to develop a comprehensive plan to address ergonomics hazards and scheduled a series of forums to consider basic issues related to ergonomics (66 FR 31694, 66 FR 33578). One of the key issues to be considered in connection with the Secretary's comprehensive plan is the approach to defining an ergonomic injury.

In the July proposal, OSHA preliminarily found that it would be premature to implement the new definition of MSD in Section 1904.12 before considering the views of business, labor and the public health community on the problem of ergonomic hazards. It also preliminarily found that it would create confusion and uncertainty to require employers to implement the new MSD definition while the Secretary was considering how to define an ergonomic injury under the comprehensive plan. 66 FR 35115. Many commenters supported the delay, citing reasons similar to those in the July 3 proposal (*see*, e.g., Exs. 3–1, 3–6, 3–14, 3–19, 3–20, 3–25, 3–26, 3–27, 3–29, 3–32, 3–35, 3–37, 3–38, 3–43, 3–44, 3–49, 3–50, 3–54, 3–59, 3–61). OSHA continues to believe a delay is justified for these reasons.

Several commenters opposed a delay in implementing the recordkeeping rule's definition of MSD and the requirement to check the MSD column (*see*, e.g., Exs. 3–3, 3–8, 3–9, 3–10, 3–11, 3–12, 3–17, 3–21, 3–24, 3–28, 3–31, 3–36, 3–40, 3–42, 3–52). In a representative comment, the AFL–CIO argued that delayed implementation of Section 1904.12 will make it more difficult for employers, workers and OSHA to address workplace ergonomic hazards, and will seriously undermine OSHA's ability to enforce the general duty clause for ergonomic hazards (*see* Ex. 3–24–1, pp. 15–22).

OSHA does not agree with this assessment. Employers are required to record all injuries and illnesses meeting the criteria established in Sections 1904.4 through 1904.7 of the recordkeeping rule regardless of whether a particular injury or illness meets the definition of MSD in Section 1904.12. Thus, the delay in implementing Section 1904.12 will not reduce the number of cases recorded or affect the narrative description of the injury or illness that must be provided for each case. Employers who use the Log and injury reports to discover ergonomic hazards will be able to continue to do so, relying on the description-of-injury information and other data to identify soft-tissued disorders in their workplaces (Ex. 3–24–1, p. 15). Employees will continue to have access to the information provided in the Log and, under the new rule, to the information in the part of the Incident Report explaining how the incident occurred. Employers and employees will be able to categorize this injury and illness information in any manner they find useful.

The delay need not lead to the elimination of useful statistical data on MSDs, as the AFL–CIO suggests (Ex. 3–24–1, p. 16). The definition of MSD in Section 1904.12 is a new one. The Secretary is currently considering approaches to defining ergonomic injuries in connection with her comprehensive plan, and it is premature to say, at this point, what definition would be appropriate to produce useful data. To require employers to implement a new definition of MSD while the agency is considering the issue in connection with the comprehensive ergonomics plan could create unnecessary confusion which would not, in OSHA's view, be balanced by improvements in the national statistics.

Finally, OSHA notes that the delay in the implementation of Section 1904.12 will have no effect on the Department's enforcement of the general duty clause. The definition of MSD in that section has never been in effect, and has not been a factor in enforcement of the clause. The sole effect of the delay is that employers need not use the definition to categorize cases on the OSHA Recordkeeping Log for calendar year 2002. This recordkeeping issue does not affect an employer's obligation under the general duty clause. The employer remains obligated to free its workplace from recognized hazards that are likely to cause serious physical harm.

OSHA is adding a note following the introduction to Section 1904.12 to inform employers of the policy that will be in effect during 2002. The note also informs the employer that, instead of checking the column on the 300 Log for musculoskeletal disorders (since this column is being removed from the log), the employer is to check the column for "injury" or "all other illness," depending on the circumstances of the case.

In a related matter, paragraph 1904.29(b)(7)(vi) of the rule states that employers must consider an illness case to be a privacy concern case, and withhold the employee's name from the forms, if the employee independently and voluntarily requests that his or her name not be entered on the Log. The second sentence of the paragraph states that "[m]usculoskeletal disorders (MSDs) are not considered privacy concern cases." OSHA will be unable to enforce this requirement during the period of time that the definition of MSD in the rule is delayed. Accordingly, OSHA is adding a note to section 1904.29(b)(7)(vi) stating that the first sentence of that section takes effect on January 1, 2002, and the second sentence takes effect on January 1, 2003.

C. The 1904 Forms

Consistent with the above decisions, OSHA will issue new recordkeeping forms that have been modified to remove the MSD and hearing loss columns from the OSHA 300 Log of Work-Related Injuries and Illnesses and the OSHA 300A Summary of Work-Related Injuries and Illnesses. The instructions accompanying the forms have also been modified to reflect the decisions for the 1904 requirements that will be in effect during calendar year 2002.

Employers may obtain copies of the forms from OSHA's Internet homepage at *www.osha.gov*, or by contacting the OSHA publications office at (202) 693–1888.

Paperwork Reduction Act

OSHA has submitted to OMB a request for approval of the information collection requirements of the final recordkeeping rule, including the effect on the rule's paperwork burden of the delay in implementation of Sections 1904.10 and 1904.12 until January 1, 2003, and the adoption of an interim 25dB recording criterion for hearing loss cases for calendar year 2002. OSHA will publish a subsequent Federal Register document when OMB takes further action on the information collection requirements in the recordkeeping rule.

Regulatory Flexibility Certification

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601), the Assistant Secretary certifies that the final rule will not have a significant economic impact on a substantial number of small entities. The rule does not add any new requirements, but merely delays the effective date of two sections of the rule. The delay will not impose any additional costs on the regulated public.

Executive Order

This document has been deemed significant under Executive Order 12866 and has been reviewed by OMB.

Authority

This document was prepared under the direction of John Henshaw, Assistant Secretary for Occupational Safety and Health. It is issued under Section 8 of the Occupational Safety and Health Act (29 U.S.C. 657) and 5 U.S.C. 553.

John Henshaw,

Assistant Secretary of Labor.

29 CFR part 1904 is hereby amended as set forth below:

PART 1904[6] [AMENDED]

1. The authority citation for 29 CFR part 1904 is revised to read as follows:

Authority: 29 U.S.C. 657, 658, 660, 666, 669, 673, Secretary of Labor's Order No. 3–2000 (65 FR 50017), and 5 U.S.C. 533.

2. Section 1904.10 of 29 CFR is amended by adding a note to the section, and by adding a new paragraph (c), to read as follows:

§1904.10 Recording criteria for cases involving occupational hearing loss.

* * * * *

(c) *Recording criteria for calendar year 2002.* From January 1, 2002 until December 31, 2002, you are required to record a work-related hearing loss averaging 25dB or more at 2000, 3000, and 4000 hertz in either ear on the OSHA 300 Log. You must use the employee's original baseline audiogram for comparison. You may make a correction for presbycusis (aging) by using the tables in Appendix F of 29 CFR 1910.95. The requirement of § 1904.37(b)(1) that States with OSHA-approved state plans must have the same requirements for determining which injuries and illnesses are recordable and how they are recorded shall not preclude the states from retaining their existing criteria with regard to this section during calendar year 2002.

Note to § 1904.10: Paragraphs (a) and (b) of this section are effective on January 1, 2003. Paragraph (c) of this section applies from January 1, 2002 until December 31, 2002.

3. Section 1904.12 is amended by adding a note to the section, to read as follows:

§1904.12 Recording criteria for cases involving work-related musculoskeletal disorders.

* * * * *

Note to § 1904.12: This section is effective January 1, 2003. From January 1, 2002 until December 31, 2002, you are required to record work-related injuries and illnesses involving muscles, nerves, tendons, ligaments, joints, cartilage and spinal discs in accordance with the requirements applicable to any injury or illness under § 1904.5, § 1904.6, § 1904.7, and § 1904.29. For entry (M) on the OSHA 300 Log, you must check either the entry for "injury" or "all other illneses."

4. Section 1904.29(b)(7)(vi) is revised to read as follows:

§1904.29 Forms.

* * * * *

(6) * * *

(7) * * *

(vi) Other illnesses, if the employee independently and voluntarily requests that his or her name not be entered on the log. Musculoskeletal disorders (MSDs) are not considered privacy concern cases. (**Note:** The first sentence of this § 1904.29(b)(7)(vi) is effective on January 1, 2002. The second sentence is effective beginning on January 1, 2003.)

* * * * *

[FR Doc. 01–25552 Filed 10–10–01; 8:45 am]

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OSHA REVISES RECORDKEEPING REGULATIONS (OSHA NATIONAL NEWS RELEASE, U.S. DEPARTMENT OF LABOR, OFFICE OF PUBLIC AFFAIRS, NATIONAL NEWS RELEASE USDL: 01-25, THURSDAY, JANUARY 18, 2001, CONTACT: BILL WRIGHT, PHONE: (202) 693-1999)

The Occupational Safety and Health Administration today issued a revised rule to improve the system employers use to track and record workplace injuries and illnesses.

OSHA's recordkeeping requirements, in place since 1971, were designed to help employers recognize workplace hazards and correct hazardous conditions by keeping track of work-related injuries and illnesses and their causes. The revised rule will produce better information about occupational injuries and illnesses while simplifying the overall recordkeeping system for employers. The rule will also better protect employees' privacy.

"Recordkeeping is a critical part of safety and health efforts in every workplace," said Secretary of Labor Alexis M. Herman. "The revision we are announcing today will not lessen an employer's recordkeeping responsibilities, but it will make it easier to successfully meet the requirements."

The final rule becomes effective on Jan. 1, 2002, and will affect approximately 1.3 million establishments. OSHA is publishing the rule now to give employers ample time to learn the new requirements and to revise computer systems they may be using for recordkeeping. (During this transition period, employers must adhere to requirements of the original rule.)

Like the former rule, employers with 10 or fewer employees are exempt from most requirements of the new rule, as are a number of industries classified as low-hazard—retail, service, finance, insurance, and real estate sectors. The new rule updates the list of exempted industries to reflect recent industry data. (All employers covered by the Occupational Safety and Health Act must continue to report any workplace incident resulting in a fatality or the hospitalization of three or more employees.)

"After three decades of what many employers considered complicated recordkeeping requirements with cumbersome forms and limited technological assistance, OSHA is revising this rule to address some of these concerns. This rulemaking completes a larger agency effort to revise, update and simplify requirements that many considered too

lengthy and complex," said OSHA Administrator Charles N. Jeffress. "The new rule combines previous regulatory requirements and interpretations into one clear and precise document that will aid an employer's ability to increase workplace safety."

The revised rule includes a provision for recording needlestick and sharps injuries that is consistent with recently passed legislation requiring OSHA to revise its bloodborne pathogens standard to address such injuries. This provision is expected to result in a significant increase in recordable cases annually.

The recordkeeping rule also conforms with OSHA's ergonomics standard published last November. It simplifies the manner in which employers record musculoskeletal disorders (MSDs), replacing a cumbersome system in which MSDs were recorded using criteria different from those for other injuries or illnesses. The revised forms have a separate column for recording MSDs, which will improve the compilation of national data on these disorders.

One of the least understood concepts of recordkeeping has been restricted work; the new rule clarifies the definition of restricted work or light duty and makes it easier to record those cases. Work-related injuries are also better defined to ensure the recording only of appropriate cases while excluding cases clearly unrelated to work.

The revised rule also promotes improved employee awareness and involvement in the recordkeeping process, providing workers and their representatives access to the information on recordkeeping forms and increasing awareness of potential hazards in the workplace. Privacy concerns of employees have also been addressed; the former rule had no privacy protections covering the log used to record work-related injuries and illnesses.

Written in plain language using a question and answer format, the regulation for the first time uses checklists and flowcharts to provide easier interpretations of recordkeeping requirements. Finally, employers are given more flexibility in using computers and telecommunications technology to meet their recordkeeping requirements.

OSHA's recordkeeping requirements provide the source data for the Bureau of Labor Statistics (BLS) Occupational Injury and Illness Survey, the primary source of statistical information concerning workplace injuries and illnesses. BLS collects the data and publishes the statistics, while OSHA interprets and enforces the regulation.

The recordkeeping rule is scheduled to appear in the Jan. 19, 2001, *Federal Register*. A fact sheet providing highlights of the rule follows this release. For detailed information on the final recordkeeping rule, view OSHA's website at: http://www.osha.gov.

HIGHLIGHTS OF OSHA'S RECORDKEEPING RULE (OSHA WEBSITE: HTTP://WWW.OSHA.GOV/MEDIA/OSHNEWS/JAN01/NATIONAL-20010118.HTML)

OSHA's rule addressing the recording and reporting of occupational injuries and illnesses affects approximately 1.3 million establishments. The revision improves employee involvement, creates simpler forms, provides clearer regulatory requirements, and allows employers more flexibility for using computers to meet OSHA regulatory requirements. The final rule becomes effective on Jan. 1, 2002. The following is a brief summary of some of the key provisions of the recordkeeping rule.

- Updates three recordkeeping forms:
  - OSHA Form 300 (Log of Work-Related Injuries and Illnesses); simplified and printed on smaller legal sized paper.
  - OSHA Form 301 (Injury and Illness Incident Report); includes more data about how the injury or illness occurred.
  - OSHA Form 300A (Summary of Work-Related Injuries and Illnesses); a separate form updated to make it easier to calculate incidence rates.
- Eliminates different criteria for recording work-related injuries and work-related illnesses; one set of criteria will be used for both. (The former rule required employers to record all illnesses, regardless of severity.)
- Requires records to include any work-related injury or illness resulting in one of the following: death; days away from work; restricted work or transfer to another job; medical treatment *beyond* first aid; loss of consciousness; or diagnosis of a significant injury/illness by a physician or other licensed health care professional.
- Includes new definitions of medical treatment, first aid, and restricted work to simplify recording decisions.
- Requires a *significant* degree of aggravation before a preexisting injury or illness becomes recordable.
- Adds additional exemptions to the definition of work-relationship to limit recording of cases involving the eating and drinking of food and beverages, common colds and flu, blood donations, exercise programs, mental illnesses, etc.
- Clarifies the recording of "light duty" or restricted work cases. Requires employers to record cases when the injured or ill employee is restricted from their "normal duties" which are defined as work activities the employee regularly performs at least once weekly.

- Requires employers to record all needlestick and sharps injuries involving contamination by another person's blood or other bodily fluids.
- Requires employers to record standard threshold shifts (STS) in employees' hearing. (An STS is an adverse change in an employee's hearing threshold, relative to his/her most recent audiogram.) Provides a separate column on the OSHA Form 300 to capture statistics on hearing loss. See Appendix I.
- Applies the *same* recording criteria to musculoskeletal disorders (MSDs) as to all other injuries or illnesses. Employer retains flexibility to determine whether an event or exposure in the work environment caused or contributed to the MSD. Forms include columns dedicated to MSD cases. See Appendix I.
- Includes separate provisions describing the recording criteria for cases involving the work-related transmission of tuberculosis or medical removal under OSHA standards.
- Eliminates the term "lost workdays" and focuses on days away or days restricted or transferred. Also includes new rules for counting that rely on calendar days instead of workdays.
- Requires employers to establish a procedure for employees to report injuries and illnesses and tell their employees how to report. Employers are *prohibited* from discriminating against employees who do report. For the first time, employee representatives will have access to those parts of the OSHA 301 form relevant to the employees they represent.
- Protects employee privacy by (1) prohibiting employers from entering an individual's name on Form 300 for certain types of injuries/illnesses (e.g., sexual assaults, HIV infections, mental illnesses, etc.); (2) providing employers the right not to describe the nature of sensitive injuries where the employee's identity would be known; (3) giving employee representatives access only to the portion of Form 301 which contains no personal identifiers; and (4) requiring employers to remove employees' names before providing the data to persons not provided access rights under the rule.
- Requires the annual summary to be posted for three months instead of one. Requires certification of the summary by a company executive.
- Changes the reporting of fatalities and catastrophes to exclude some motor carrier and motor vehicle accidents.

OSHA RULE ON RECORD KEEPING FOR WORKPLACE INJURIES TO GO INTO EFFECT AS SCHEDULED (OSHA NATIONAL NEWS RELEASE, U.S. DEPARTMENT OF LABOR, OFFICE OF PUBLIC AFFAIRS, NATIONAL NEWS RELEASE USDL: 01-202, JUNE 29, 2001, CONTACT: STUART ROY, PHONE: (202) 693-4650)

WASHINGTON—Secretary of Labor Elaine L. Chao announced today that an Occupational Safety and Health Administration (OSHA) rule on recordkeeping would largely go into effect as scheduled on January 1, 2002.

"This rule is a big step forward in making workplaces safer for employees, which is our goal," Chao said. "It is written in plain language and simplifies the employer's decision-making process."

The final recordkeeping rule is the culmination of an effort that began in the 1980s to improve how the government tracks occupational injuries and illnesses. The rule increases employee involvement, creates simpler forms and gives employers more flexibility to use computers to meet OSHA regulatory requirements.

The Department will seek comment on two proposed modifications to the rule's recordkeeping requirements. First, the Department will propose that the criteria for recording work-related hearing loss not be implemented for one year pending further investigation into the level of hearing loss that should be recorded as a "significant" health condition. The Department had received comments pointing out that the medical community and State worker compensation systems do not support the current rule's hearing loss standard.

Second, the Department will propose to delay for one year the recordkeeping rule's definition of "musculoskeletal disorder" (MSD) and the requirement that employers check the MSD column on the OSHA Log. The Department has announced its intention to develop a comprehensive plan to address ergonomic hazards and has scheduled a series on ergonomics. The issues to be decided as a result of these forums include the appropriate definitions of the terms "ergonomic injury" and MSD.

Chao said, "Until a definition is agreed upon, the data collected will not help us target the injuries that need to be eliminated."

(Editor's Note: Information on OSHA's proposal to delay the effective date regarding hearing loss and MSD issues will be published in the July 3, 2001, *Federal Register*. See Appendix I.)

OSHA DELAYS PROVISIONS OF RECORDKEEPING RULE (OSHA NATIONAL NEWS RELEASE, U.S. DEPARTMENT OF LABOR, OFFICE OF PUBLIC AFFAIRS, NATIONAL NEWS RELEASE, FRIDAY, OCT. 12, 2001, CONTACT: FRANK MEILINGER, PHONE: (202) 693-1999)

OSHA today announced that it will delay for one year the effective date of three provisions of its recordkeeping rule and establish interim criteria for recording cases of work-related hearing loss.

The provisions, postponed until January 1, 2003, are: the criteria for recording work-related hearing loss; the rule's definition of "musculoskeletal disorder" (MSD); and the requirement that employers check the MSD column on the OSHA log. All other provisions of the rule become effective on January 1, 2002.

"We want to make it as easy as possible for employers to accurately document workplace injuries and illnesses," said OSHA Administrator John L. Henshaw. "In order to do that, we have to evaluate these criteria and determine the best way to identify and record these particular cases."

The final recordkeeping rule is the culmination of an effort that began in the 1980s to improve how the government tracks occupational injuries and illnesses. The rule increases employee involvement, creates simpler forms and gives employers more flexibility to use computers to meet OSHA regulatory requirements.

OSHA will issue new recordkeeping forms that have been modified to remove the MSD and hearing loss columns from the OSHA 300 Log of Work-Related Injuries and Illnesses and the OSHA 300A Summary of Work-Related Injuries and Illnesses. The instructions accompanying the forms have also been modified to reflect the requirements that will take effect in calendar year 2002. Copies of the forms can be obtained on OSHA's website at http://www.osha.gov or from the OSHA publications office. See Appendix I.

The agency will carry out a major outreach effort to help employers and workers understand the new changes, while providing assistance in complying with new recordkeeping requirements. To aid in that effort, OSHA launched a new page on its website that highlights key provisions and major changes of the new recordkeeping rule. The page, at http://www.osha-slc.gov/recordkeeping/index.html, details training programs and provides various materials designed to aid employers and workers alike.

Information on OSHA's decision to delay the effective date regarding hearing loss and MSD issues is published in the Friday, October 12, *Federal Register*. A fact sheet highlighting the recordkeeping rule is available on OSHA's website at the new recordkeeping page noted above. See Appendix I.

Appendix B

Side-by-Side Comparison

INTRODUCTION

Some of the specific changes in the new rule include (a) changes in coverage; (b) the OSHA Forms; (c) the Recording Criteria in determination of work-relationship, elimination of different recording criteria for injuries and illnesses, days away and job restriction/transfer, definition of medical treatment and first aid, recording of needlestick and sharps injuries, and recording of tuberculosis; (d) change in ownership; (e) employee involvement; (f) privacy protections; and (g) computerized and centralized records.

This listing is not comprehensive of an employer's obligations under OSHA's recordkeeping rule. Please reference 29 CFR Part 1904 and other parts of this Instruction for all details pertaining to all recordkeeping obligations.

Old Rule	New Rule
Forms §1904.29	
OSHA 200—Log and Summary OSHA 101—Supplemental Record	OSHA 300—Log OSHA 300A—Summary OSHA 301—Incident Report
Work-Related §1904.5	
Any aggravation of a preexisting condition by a workplace event or exposure makes the case work related	Significant aggravation of a preexisting condition by a workplace event or exposure makes the case work related
Exceptions to presumption of work relationship: 1) Member of the general public 2) Symptoms arising on premises totally due to outside factors	Exceptions to presumption of work relationship: 1) Member of the general public 2) Symptoms arising on premises totally due to outside factors

Old Rule	New Rule
3) Parking lot/Recreational facility	3) Voluntary participation in wellness program 4) Eating, drinking and preparing one's own food 5) Personal tasks outside working hours 6) Personal grooming, self-medication, self-infliction 7) Motor vehicle accident in parking lot/access road during commute 8) Cold or flu 9) Mental illness unless employee voluntarily presents a medical opinion stating that the employee has a metal illness that is work related.
New Case §1904.6	
New event or exposure, new case	Aggravation of a case where signs or symptoms have not resolved is a continuation of the original case
30-day rule for CTDs	No such criteria
General Recording Criteria §1904.7	
All work-related illnesses are recordable	Work-related illnesses are recordable if they meet the general recording criteria
Restricted work activity occurs if the employee: 1) Cannot work a full shift 2) Cannot perform all of his or her normal job duties, defined as any duty he or she would be expected to do throughout the calendar year.	Restricted work activity occurs if the employee: 1) Cannot work a full shift 2) Cannot perform all of his or her routine job functions, defined as any duty he or she regularly performs at least once a week
Restricted work activity limited to the day of injury makes case recordable	Restricted work activity limited to the day of injury does not make case recordable
Day counts: Count workdays No cap on count	Day counts: Count calendar days 180 day cap on count
Medical treatment does not include: 1) Visits to MD for observation only 2) Diagnostic procedures	Medical treatment does not include: 1) Visits to MD for observation and counseling only

Old Rule	New Rule
3) First aid	2) Diagnostic procedures (including administration of prescription medication for diagnostic purposes) 3) First aid
First Aid list in Bluebook was a list of examples and not comprehensive	First Aid list in regulation is comprehensive. Any other procedure is medical treatment.
2 doses prescription med—Medical Treatment (MT)	1 dose prescription med—MT
Any dosage of OTC med—First Aid (FA)	OTC med at prescription strength—MT
2 or more hot/cold treatments—MT	Any number of hot/cold treatments—FA
Drilling a nail—MT	Drilling a nail—FA
Butterfly bandage/Steri-Strip—MT	Butterfly bandage/Steri-Strip—FA
Nonminor injuries recordable: 1) Fractures 2) 2nd- and 3rd-degree burns	Significant diagnosed injury or illness recordable: 1) Fracture 2) Punctured ear drum 3) Cancer 4) Chronic irreversible disease
Specific Disorders	
Hearing loss—Federal enforcement for 25-dB shift in hearing from original baseline (see Appendix I)	Hearing loss—From 1/1/02 until 12/31/02 record shift in hearing averaging 25 dB or more from the employee's original baseline (see Appendix I)
Needlesticks and "sharps injuries"—Record only if case results in med treatment, days away, days restricted or sero-conversion	Needlesticks and "sharps injuries"—Record all needlesticks and injuries that result from sharps potentially contaminated with another person's blood or other potentially infectious material
Medical removal under provisions of other OSHA standards—all medical removal cases recordable	Medical removal under provisions of other OSHA standards—all medical removal cases recordable
TB—Positive skin test recordable when known workplace exposure to active TB disease. Presumption of work relationship in 5 industries	TB—Positive skin test recordable when known workplace exposure to active TB disease. No presumption of work relationship in any industry

Old Rule	New Rule
Other Issues	
Must enter the employee's name on all cases	Must enter "Privacy Cases" rather than the employee's name, and keep a separate list of the case number and corresponding names
Access—Employee access to entire log, including names; No access to supplementary form (OSHA 101)	Access—Employee and authorized representative access to entire log, including names; Employee access to individual's Incident Report (OSHA 301); Authorized Representative access to portion of all OSHA 301s
Fatality reporting—Report all work-related fatalities to OSHA	Fatality reporting—Do not need to report fatalities resulting from motor vehicle accident on public street or highway that do not occur in construction zone
Certification—The employer, or the employee who supervised the preparation of the Log and Summary, can certify the annual summary	Certification—Company executive must certify annual summary
Posting—Post annual summary during month of February	Posting—Post annual summary from Feb 1 to April 30
No such requirement	You must inform each employee how he or she is to report an injury or illness

Source: OSHA website: http://www.osha-slc.gov/recordkeeping/RKside-by-side.html, public domain.

Appendix C

Fact Sheets from OSHA Website

- Recording Fact Sheet OSHA 3169, It's New, It's Improved, and It's Easier (http://www.osha-slc.gov/Publications/osha3169.pdf), public domain.
- OSHA Fact Sheet, Highlights of OSHA's Recordkeeping Rule (http://www.osha-slc.gov/OshDoc/data_RecordkeepingFacts/RKfactsheet1.pdf), public domain.
- OSHA Fact Sheet, OSHA Recordkeeping Help Is on Its Way (http://www.osha-slc.gov/OshDoc/data_RecordkeepingFacts/RKfactsheet2.pdf), public domain.
- Major Changes to OSHA's Recordkeeping Rule (http://www.osha-slc.gov/recordkeeping/RKmajorchanges.html), public domain.
- Reporting Fatalities and Multiple Hospitalization Incidents to OSHA—1904.39 (NEW), public domain.

How can I get more information on recordkeeping?

The full preamble and text of the new rule is available online. You can find it by searching the Index on OSHA's website at http://www.osha.gov. You can also receive a copy of the regulation from OSHA's Office of Publications, P.O. Box 37535, Washington, DC 20013-7535; phone (202) 693-1888.

If your workplace is in a state operating under an OSHA-approved plan, state plan recordkeeping regulations, although similar to federal ones, may have some more stringent or supplemental requirements such as reporting fatalities and catastrophes. Industry exemptions may also differ. For further information and assistance, you may call OSHA at 1-800-321-OSHA, Teletypewriter (TTY) number is 1-877-889-5627. Also visit OSHA's website at www.osha.gov to get contact information for the following states: Alaska, Arizona, California, Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Virgin Islands, Washington, Wyoming.

In other states, contact the nearest OSHA Regional Office listed here and ask for the recordkeeping coordinator:

Atlanta	(404) 562-2300
Boston	(617) 565-9860
Chicago	(312) 353-2220
Dallas	(214) 767-4731
Denver	(303) 844-1600
Kansas City	(816) 426-5861
New York	(212) 337-2378
Philadelphia	(215) 861-4900
San Francisco	(415) 975-4310
Seattle	(206) 553-5930

U.S. Department of Labor
Occupational Safety and Health Administration
OSHA 3159
2001

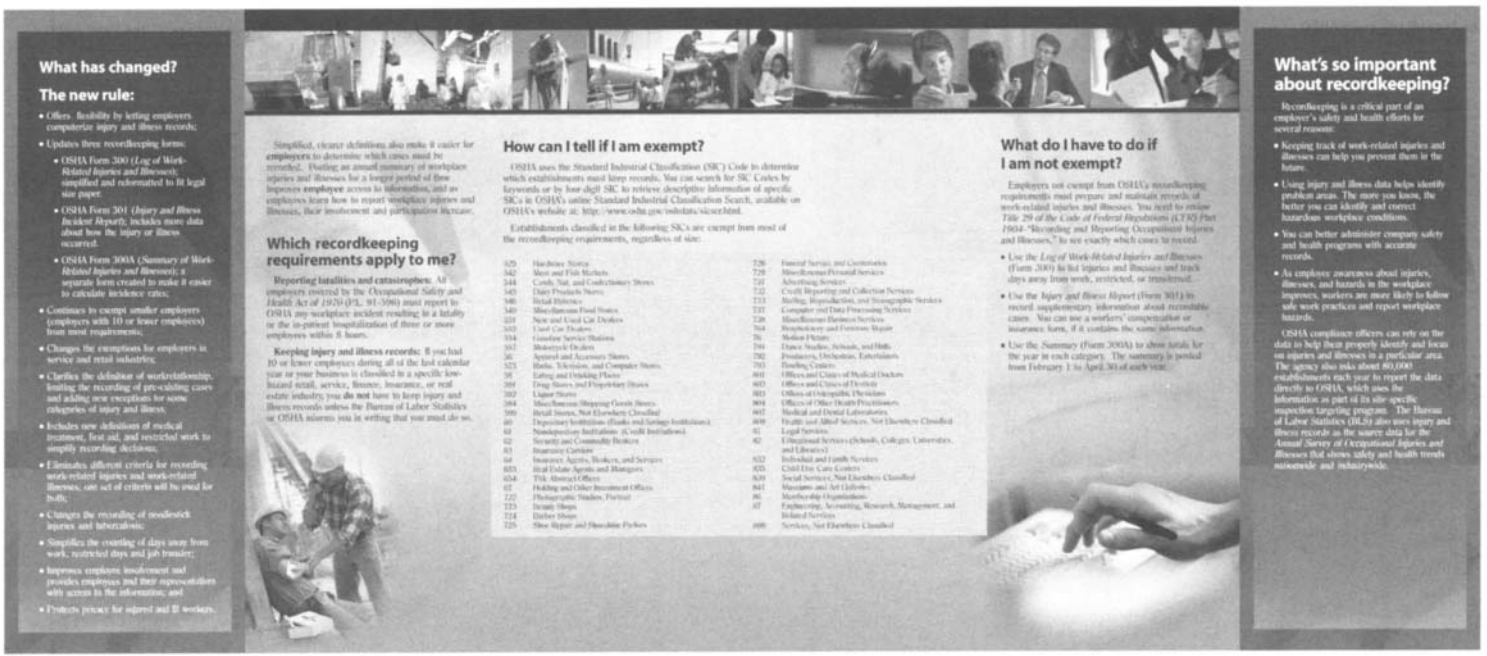
RECORDKEEPING

It's new, it's improved, and it's easier . . . .

RECORDKEEPING

It's new, it's improved, and it's easier . . . .

Employers now have a **new system** for tracking workplace injuries and illnesses. OSHA's new recordkeeping log is easier to understand and to use. Written in plain language using a **question and answer format**, the revised recordkeeping rule answers questions about recording occupational injuries and illnesses and **explains how to classify particular cases**. Flowcharts and checklists **make it easier to follow the recordkeeping requirements.**



What has changed?

The new rule:

- Offers flexibility by letting employers computerize injury and illness records;
- Updates three recordkeeping forms:
  - OSHA Form 300 (*Log of Work-Related Injuries and Illnesses*); simplified and reformatted to fit legal size paper.
  - OSHA Form 301 (*Injury and Illness Incident Report*); includes more data about how the injury or illness occurred.
  - OSHA Form 300A (*Summary of Work-Related Injuries and Illnesses*); a separate form created to make it easier to calculate incidence rates;
- Continues to exempt smaller employers (employers with 10 or fewer employees) from most requirements;
- Changes the exemptions for employers in service and retail industries;
- Clarifies the definition of workrelationship, limiting the recording of pre-existing cases and adding new exceptions for some categories of injury and illness;
- Includes new definitions of medical treatment, first aid, and restricted work to simplify recording decisions;
- Eliminates different criteria for recording work-related injuries and work-related illnesses; one set of criteria will be used for both;
- Changes the recording of needlestick injuries and tuberculosis;
- Simplifies the counting of days away from work, restricted days and job transfer;
- Improves employee involvement and provides employees and their representatives with access to the information; and
- Protects privacy for injured and ill workers.

Simplified, clearer definitions also make it easier for **employers** to determine which cases must be recorded. Posting an annual summary of workplace injuries and illnesses for a longer period of time improves **employee** access to information, and as employees learn how to report workplace injuries and illnesses, their involvement and participation increase.

Which recordkeeping requirements apply to me?

Reporting fatalities and catastrophes: All employers covered by the *Occupational Safety and Health Act of 1970* (P.L. 91-596) must report to OSHA any workplace accident resulting in a fatality or the in-patient hospitalization of three or more employees within 8 hours.

Keeping injury and illness records: If you had 10 or fewer employees during all of the last calendar year or your business is classified in a specific low-hazard retail, service, finance, insurance, or real-estate industry, you **do not** have to keep injury and illness records unless the Bureau of Labor Statistics or OSHA informs you in writing that you must do so.

How can I tell if I am exempt?

OSHA uses the Standard Industrial Classification (SIC) Code to determine which establishments must keep records. You can search for SIC Codes by keywords or by four-digit SIC to retrieve descriptive information of specific SICs in OSHA's online Standard Industrial Classification Search, available on OSHA's website at: http://www.osha.gov/oshstats/sicser.html.

Establishments classified in the following SICs are exempt from most of the recordkeeping requirements, regardless of size:

525	Hardware Stores	726	Funeral Service and Crematories
542	Meat and Fish Markets	728	Miscellaneous Personal Services
544	Candy, Nut, and Confectionery Stores	731	Advertising Services
545	Dairy Products Stores	732	Credit Reporting and Collection Services
546	Retail Bakeries	733	Mailing, Reproduction, and Stenographic Services
549	Miscellaneous Food Stores	737	Computer and Data Processing Services
551	New and Used Car Dealers	738	Miscellaneous Business Services
553	Used Car Dealers	764	Reupholstery and Furniture Repair
554	Gasoline Service Stations	76	Motion Pictures
557	Motorcycle Dealers	791	Dance Studios, Schools, and Halls
56	Apparel and Accessory Stores	792	Producers, Orchestras, Entertainers
573	Radio, Television, and Computer Stores	793	Bowling Centers
58	Eating and Drinking Places	801	Offices and Clinics of Medical Doctors
589	Drug Stores and Proprietary Stores	803	Offices and Clinics of Dentists
592	Liquor Stores	804	Offices of Osteopathic Physicians
594	Miscellaneous Shopping Goods Stores	806	Offices of Other Health Practitioners
599	Retail Stores, Not Elsewhere Classified	807	Medical and Dental Laboratories
60	Depository Institutions (Banks and Savings Institutions)	809	Health and Allied Services, Not Elsewhere Classified
61	Nondepository Institutions (Credit Institutions)	81	Legal Services
62	Security and Commodity Brokers	82	Educational Services (Schools, Colleges, Universities, and Libraries)
63	Insurance Carriers		
64	Insurance Agents, Brokers, and Services	832	Individual and Family Services
653	Real Estate Agents and Managers	835	Child Day Care Centers
654	Title Abstract Offices	839	Social Services, Not Elsewhere Classified
67	Holding and Other Investment Offices	841	Museums and Art Galleries
722	Photographic Studios, Portrait	86	Membership Organizations
723	Beauty Shops	87	Engineering, Accounting, Research, Management, and Related Services
724	Barber Shops		
725	Shoe Repair and Shoeshine Parlors	899	Services, Not Elsewhere Classified

What do I have to do if I am not exempt?

Employers not exempt from OSHA's recordkeeping requirements must prepare and maintain records of work-related injuries and illnesses. You need to review *Title 29 of the Code of Federal Regulations (CFR) Part 1904* "Recording and Reporting Occupational Injuries and Illnesses," to see exactly which cases to record.

- Use the *Log of Work-Related Injuries and Illnesses* (Form 300) to list injuries and illnesses and track days away from work, restricted, or transferred.
- Use the *Injury and Illness Report* (Form 301) to record supplementary information about recordable cases. You can use a workers' compensation or insurance form, if it contains the same information.
- Use the *Summary* (Form 300A) to show totals for the year in each category. The summary is posted from February 1 to April 30 of each year.

What's so important about recordkeeping?

Recordkeeping is a critical part of an employer's safety and health efforts for several reasons:

- Keeping track of work-related injuries and illnesses can help you prevent them in the future.
- Using injury and illness data helps identify problem areas. The more you know, the better you can identify and correct hazardous workplace conditions.
- You can better administer company safety and health programs with accurate records.
- As employee awareness about injuries, illnesses, and hazards in the workplace improves, workers are more likely to follow safe work practices and report workplace hazards.

OSHA compliance officers can rely on the data to help them properly identify and focus on injuries and illnesses in a particular area. The agency also asks about 80,000 establishments each year to report the data directly to OSHA, which uses the information as part of its site-specific inspection targeting program. The Bureau of Labor Statistics (BLS) also uses injury and illness records as the source data for the *Annual Survey of Occupational Injuries and Illnesses* that shows safety and health trends nationwide and industrywide.

OSHA FACT Sheet

Recordkeeping

Highlights of OSHA's Recordkeeping Rule

OSHA's rule addressing the recording and reporting of occupational injuries and illnesses affects approximately 1.4 million establishments. A number of specific industries in the retail, service, finance, insurance, and real estate sectors that are classified as low hazard are exempt from most requirements of the rule as are small businesses with 10 or fewer employees.

The revised rule takes effect January 1, 2002, except for provisions covering hearing loss and musculoskeletal disorders, which OSHA is delaying for 1 year — until January 1, 2003 — while the agency reconsiders these issues. The new rule improves employee involvement, calls for greater employee privacy protection, creates simpler forms, provides clearer regulatory requirements, and allows employers more flexibility to use computers to meet OSHA regulatory requirements. Following is a brief summary of key provisions of the rule.

- Updates three recordkeeping forms:
  - OSHA Form 300 (*Log of Work-Related Injuries and Illnesses*); simplified and printed on smaller, legal size paper.
  - OSHA Form 301 (*Injury and Illness Incident Report*); includes more data about how the injury or illness occurred.
  - OSHA Form 300A (*Summary of Work-Related Injuries and Illnesses*); a new form created to make it easier to post and calculate incidence rates.
- Provides a single set of recording criteria for both work-related injuries and work-related illnesses. (The former rule required employers to record all illnesses, regardless of severity.)
- Requires records to include a work-related injury or illness resulting in one of the following: death, days away from work, restricted work or transfer to another job, medical treatment **beyond** first aid, loss of consciousness, or diagnosis of a significant injury or illness by a physician or other licensed health care professional.
- Includes new definitions of medical treatment, first aid, and restricted work to simplify recording decisions.
- Requires a **significant** degree of aggravation before a preexisting injury or illness is considered work related.
- Adds further exceptions to the definition of work-relatedness to limit recording of cases involving eating and drinking of food and beverages, common colds and flu, blood donations, exercise programs, mental illnesses, etc.
- Clarifies the recording of "light duty" or restricted work cases. Requires employers to record cases when the injured or ill employee is restricted from "routine job functions," which are defined as work activities the employee regularly performs at least once weekly.
- Requires employers to record all needlestick and sharps injuries involving contamination by another person's blood or other potentially infectious materials.

Recordkeeping

- Includes separate provisions describing the recording criteria for cases involving the work-related transmission of tuberculosis.
- Eliminates the term "lost workdays" and requires recording of days away from work or days restricted or days transferred to another job. Calls for employers to count calendar days rather than workdays.
- Requires employers to establish a procedure for employees to report injuries and illnesses and tell their employees how to report. (Employers are **prohibited** from discriminating against employees who do report by Section 11(c) of the *Occupational Safety and Health Act of 1970.*)
- For the first time, employees and former employees will be guaranteed access to their individual OSHA 301 forms. Employee representatives will be provided access to the "information about the case" section of the OSHA 301 form in establishments where they represent employees.
- Protects employee privacy by (1) prohibiting employers from entering an individual's name on Form 300 for certain types of injuries or illnesses (e.g., sexual assaults, HIV infections, mental illnesses); (2) allowing employers not to describe the nature of sensitive injuries where the employee's identity would be known; (3) giving employee representatives access only to the portion of Form 301 that contains no personal information; and (4) requiring employers to remove employees' names before providing the data to persons not provided access rights under the rule.
- Requires the annual summary to be posted for 3 months instead of 1. Requires certification of the summary by a company executive.
- Excludes some public transportation and motor vehicle accidents from the reporting of fatalities and catastrophes.
- States that operate their own job safety and health programs will be adopting comparable recordkeeping rules that will also be effective January 1, 2002. States must have the same requirements for which injuries and illnesses are recordable and how they are recorded. However, other provisions, such as industry exemptions, may be different as long as they are as stringent as the federal requirements.

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OSHA FACT Sheet

Recordkeeping

OSHA Recordkeeping Help Is on the Way

Beginning January 1, 2002, employers will be following updated, easier requirements for recording on-the-job injuries and illnesses. They'll also be using OSHA's new recordkeeping forms designed to fit on legal-size paper. OSHA has planned a major outreach effort to help employers and workers understand the changes and comply with the new requirements.

Many of OSHA's materials and specialized training will be available through trade associations, professional groups, and unions. OSHA written materials are available directly from the agency's publications office by dialing 1-800-321-OSHA or can be accessed on the agency's website at www.osha.gov under "Recordkeeping" along with software and information on some training sessions. Local and regional OSHA offices and states operating their own OSHA programs will also have publications, provide training and answer questions. Teletypewriter (TTY) number is 1-877-889-5627.

Below is a listing of materials and training and the dates these will be available.

WHAT	WHEN
On the Web	
Recordkeeping rule (*Federal Register* January 19, 2001)	Now
Notice of possible changes to the standard involving hearing loss and musculoskeletal disorders (*Federal Register* July 3, 2001)	Now
Recordkeeping forms (and instructions for completing them)	Now
OSHA 300 *Log of Work-Related Injuries and Illnesses*	
OSHA 300A *Summary of Work-Related Injuries and Illnesses*	
OSHA 301 *Injury and Illness Incident Report*	
Frequently Asked Questions	November
Fact sheets highlighting key provisions, major changes	Now
Recordkeeping brochure to help employers determine if thestandard applies to their workplaces	Now
News releases announcing new standard, possible changes	Now, more to come
Compliance directive for OSHA inspectors	Mid-November
E-Tool–interactive software (will help employers determine if they are covered and whether an injury/illness is recordable)	Early December
PowerPoint Presentations	
▪ Brief highlights, including instructor's guide	Now
▪ Recordkeeping overview, with guide	Now
▪ Detailed rule discussion, with guide	Now

Recordkeeping

WHAT	WHEN
In Print	
Recordkeeping brochure to help employers determine if the standard applies to their workplaces	Late October
Recordkeeping forms package (includes 300, 300-A and 301) (and instructions for completing them)	Mid-November
In the Mail	
Recordkeeping forms package with all three forms, instructions (mailed to more than one million employers)	Early December
In the Classroom	
Satellite training a 2-hour class developed by the OSHA Training Institute, including question and answer session	November 29
Local training sessions produced by local OSHA offices, trade, professional and union groups	October-March
Training classes at 12 OSHA Education Centers (see www.osha.gov under "Training" for class listing)	Starting Late October

Need more information? Call 1-800-321-OSHA, visit www.osha.gov or contact your state or regional OSHA recordkeeping expert:

Region I (CT, ME, MA, NH, RI, VT*)
Shirley Boulware
617-565-9856

Region II (NJ, NY, PR*)
Kevin Brennan
212-337-2339

Region III (DE, DC, MD,* PA, VA,* WV)
Jim Johnston
215-861-4900

Region IV (AL, FL, GA, KY,* MS, NC,* SC,* TN*)
Sven Rundman
404-562-2281

Region V (IN,* IL, MI,* MN,* OH, WI)
Leslie Ptak
312-886-7034

Region VI (AR, LA, NM,* OK, TX)
Brenda Mitchell
214-767-4736 ext. 238

Region VII (IA, KS, MO, NE)
Mark Banden
816-426-5861 ext 255

Region VIII (CO, MT, ND, SD, UT,* WY*)
Dave Herstedt
303-844-1600 ext. 309

Region IX (AZ,* CA,* HI,* NV*)
Technical Assistance Line
800-475-4019

Region X (AK,* ID, OR,* WA*)
Lynda Glaspey
206-553-5932 ext 8081

*States operating their own OSHA programs covering private sector employers.

U.S. Department of Labor
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MAJOR CHANGES TO OSHA'S RECORDKEEPING RULE (http://www.osha-slc.gov/recordkeeping/RKmajorchanges.html)

This document provides a list of the major changes from OSHA's old 1904 recordkeeping rule to the new rule employers will begin using in 2002. This list summarizes the major differences between the old and new recordkeeping rules to help people who are familiar with the old rule to learn the new rule quickly.

Scope

- The list of service and retail industries that are partially exempt from the rule has been updated. Some establishments that were covered under the old rule will not be required to keep OSHA records under the new rule and some formerly exempted establishments will now have to keep records. (§1904.2)
- The new rule continues to provide a partial exemption for employers who had 10 or fewer workers at all times in the previous calendar year. (§1904.1)

Forms

- The new OSHA 300 Form (Log of Work-Related Injuries and Illnesses) has been simplified and can be printed on smaller legal-sized paper.
- The new OSHA 301 Form (Injury and Illness Incident Report) includes more data about how the injury or illness occurred.
- The new OSHA 300A Form (Summary of Work-Related Injuries and Illnesses) provides additional data to make it easier for employers to calculate incidence rates.
- Maximum flexibility has been provided so employers can keep all the information on computers, at a central location, or on alternative forms, as long as the information is compatible and the data can be produced when needed. (§1904.29 and §1904.30)

Work Related

- A "significant" degree of aggravation is required before a pre-existing injury or illness becomes work-related. (§1904.5(a))

- Additional exceptions have been added to the geographic presumption of work relationship; cases arising from eating and drinking of food and beverages, blood donations, exercise programs, etc. no longer need to be recorded. Common cold and flu cases also no longer need to be recorded. (§1904.5(b)(2))
- Criteria for deciding when mental illnesses are considered work-related have been added. (§1904.5(b)(2))
- Sections have been added clarifying work relationship when employees travel or work out of their home. (§1904.5(b)(6) and §1904.5(b)(7))

Recording Criteria

- Different criteria for recording work-related injuries and work-related illnesses are eliminated; one set of criteria is used for both. (The former rule required employers to record all illnesses, regardless of severity.) (§1904.4)
- Employers are required to record work-related injuries or illnesses if they result in one of the following: death; days away from work; restricted work or transfer to another job; medical treatment beyond first aid; loss of consciousness; or diagnosis of a significant injury/illness by a physician or other licensed health care professional. (§1904.7(a))
- New definitions are included for medical treatment and first aid. First aid is defined by treatments on a finite list. All treatment not on this list is medical treatment. (§1904.7(b)(5))
- The recording of "light duty" or restricted work cases is clarified. Employers are required to record cases as restricted work cases when the injured or ill employee only works partial days or is restricted from performing their "routine job functions" (defined as work activities the employee regularly performs at least once weekly). (§1904.7(b)(4))
- Employers are required to record all needlestick and sharps injuries involving contamination by another person's blood or other potentially infectious material. (§1904.8)
- Musculoskeletal disorders (MSDs) are treated like all other injuries or illnesses: they must be recorded if they result in days away, restricted work, transfer to another job, or medical treatment beyond first aid. (§1904.12)
- Special recording criteria are included for cases involving the work-related transmission of tuberculosis or medical removal under OSHA standards. (§1904.9 and §1904.11)

Day Counts

- The term "lost workdays" is eliminated and the rule requires recording of days away, days of restricted work, or transfer to another job. Also, new rules for counting that rely on calendar days instead of workdays are included. (§1904.7(b)(3))
- Employers are no longer required to count days away or days of restriction beyond 180 days. (§1904.7(b)(3))
- The day on which the injury or illness occurs is not counted as a day away from work or a day of restricted work. (§1904.7(b)(3) and §1904.7(b)(4))

Annual Summary

- Employers must review the 300 Log information before it is summarized on the 300A Form. (§1904.32(a))
- The new rule includes hours worked data to make it easier for employers to calculate incidence rates. (§1904.32(b)(2))
- A company executive is required to certify the accuracy of the summary. (§1904.32(b)(3))
- The annual summary must be posted for three months instead of one. (§1904.32(b)(6))

Employee Involvement

- Employers are required to establish a procedure for employees to report injuries and illnesses and to tell their employees how to report. (§1904.35(a))
- The new rule informs employers that the OSH Act prohibits employers from discriminating against employees who do report. (§1904.36)
- Employees are allowed to access the 301 Forms to review records of their own injuries and illnesses. (§1904.35(b)(2))
- Employee representatives are allowed to access those parts of the OSHA 301 Form relevant to workplace safety and health. (§1904.35(b)(2))

Protecting Privacy

- Employers are required to protect employee's privacy by withholding an individual's name on 300 Form for certain types of sensitive

injuries/illnesses (e.g., sexual assaults, HIV infections, mental illnesses, etc.). (§1904.29(b)(6) to §1904.29(b)(8))
- Employers are allowed to withhold descriptive information about sensitive injuries in cases where not doing so would disclose the employee's identity. (§1904.29(b)(9))
- Employee representatives are given access only to the portion of Form 301 that contains information about the injury or illness, while personal information about the employee and his or her health care provider is withheld. (§1904.35(b)(2))
- Employers are required to remove employees' names before providing injury and illness data to persons who do not have access rights under the rule. (§1904.29(b)(10))

Reporting Information to the Government

- Employers must call in all fatal heart attacks occurring in the work environment. (§1904.39(b)(5))
- Employers do not need to call in public street motor vehicle accidents except those in a construction work zone. (§1904.39(b)(3))
- Employers do not need to call in commercial airplane, train, subway, or bus accidents. (§1904.39(b)(4))
- Employers must provide records to an OSHA compliance officer who requests them within four hours. (§1904.40(a))

REGULATIONS (STANDARDS—29 CFR): REPORTING FATALITIES AND MULTIPLE HOSPITALIZATION INCIDENTS TO OSHA—1904.39 (NEW) (http://www.osha-slc.gov/OshStd_data/1904_New/1904_0039.html)

Table of Contents

- Standard Number: 1904.39 (NEW)
- Standard Title: Reporting Fatalities and Multiple Hospitalization Incidents to OSHA
- Subpart Number: E
- Subpart Title: Reporting Fatality, Injury and Illness Information to the Government

(a) Basic Requirement

Within eight (8) hours after the death of any employee from a work-related incident or the in-patient hospitalization of three or more employees as a result of a work-related incident, you must orally report the fatality/multiple hospitalization by telephone or in person to the Area Office of the Occupational Safety and Health Administration (OSHA), U.S. Department of Labor, that is nearest to the site of the incident. You may also use the OSHA toll-free central telephone number, 1-800-321-OSHA (1-800-321-6742).

(b) Implementation

1. If the Area Office is closed, may I report the incident by leaving a message on OSHA's answering machine, faxing the area office, or sending an e-mail? No, if you can't talk to a person at the Area Office, you must report the fatality or multiple hospitalization incident using the 800 number.

2. What information do I need to give to OSHA about the incident? You must give OSHA the following information for each fatality or multiple hospitalization incident:

i. The establishment name;
ii. The location of the incident;
iii. The time of the incident;
iv. The number of fatalities or hospitalized employees;
v. The names of any injured employees;
vi. Your contact person and his or her phone number; and
vii. A brief description of the incident.

3. Do I have to report every fatality or multiple hospitalization incident resulting from a motor vehicle accident? No, you do not have to report all of these incidents. If the motor vehicle accident occurs on a public street or highway, and does not occur in a construction work zone, you do not have to report the incident to OSHA. However, these injuries must be recorded on your OSHA injury and illness records, if you are required to keep such records.

4. Do I have to report a fatality or multiple hospitalization incident that occurs on a commercial or public transportation system? No, you do not have to call OSHA to report a fatality or multiple hospitalization incident if it involves a commercial airplane, train, subway, or bus accident. However, these injuries must be recorded on your OSHA injury and illness records, if you are required to keep such records.

5. Do I have to report a fatality caused by a heart attack at work? Yes, your local OSHA Area Office director will decide whether to

investigate the incident, depending on the circumstances of the heart attack.

6. Do I have to report a fatality or hospitalization that occurs long after the incident? No, you must only report each fatality or multiple hospitalization incident that occurs within thirty (30) days of an incident.

7. What if I don't learn about an incident right away? If you do not learn of a reportable incident at the time it occurs and the incident would otherwise be reportable under paragraphs (a) and (b) of this section, you must make the report within eight (8) hours of the time the incident is reported to you or to any of your agent(s) or employee(s).

[66 FR 6133, Jan. 19, 2001]

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Appendix D

Frequently Asked Questions

(http://www.osha-slc.gov/recordkeeping/entryfaq.html)

Table D-1
Frequently Asked Questions (FAQ) Summary, by Reference

This table provides a reference to specific questions and selected references from the rule. Review this website periodically to make sure that you have the most current version.

Standard	Question Title	FAQ	Section Reference
1904	General Guidance	1-6	
1904.0	Purpose	0-1, 0-2	66 FR 6122, Jan. 19, 2001
1904.1	Partial exemption for employers with 10 or fewer employees		59 FR 15600, April 1, 1994; 62 FR 6434, Feb. 11, 1997; 62 FR 44552, Aug. 22, 1997; 66 FR 6122, Jan. 19, 2001
1904.2	Partial exemption for establishments in certain industries	2-1, 2-2	37 FR 736, Jan. 18, 1972, as amended at 42 FR 65165, Dec. 30, 1977; 47 FR 145, Jan. 5, 1982; 62 FR 44552, Aug. 22, 1997; 66 FR 6122, Jan. 19, 2001
1904.3	Keeping records for more than one agency		42 FR 65165, Dec. 30, 1977; 66 FR 6123, Jan. 19, 2001
1904.4	Recording criteria	4-1	66 FR 6123, Jan. 19, 2001

Standard	Question Title	FAQ	Section Reference
1904.5	Determination of work-relatedness	5-1–5-9	37 FR 736, Jan. 18, 1972, as amended at 42 FR 65165, Dec. 30, 1977; 47 FR 145, Jan. 5, 1982; 62 FR 44552, Aug. 22, 1997; 66 FR 6124-6125, Jan. 19, 2001
1904.6	Determination of new cases	6-1	42 FR 65166, Dec. 30, 1977, as amended at 47 FR 145, Jan. 5, 1982; 47 FR 14706, Apr. 6, 1982; 62 FR 44552, Aug. 22, 1997; 66 FR 6125-6126, Jan. 19, 2001
1904.7	General recording criteria	7-1–7-16	43 FR 31329, July 21, 1978; 62 FR 44552, Aug. 22, 1997; 66 FR 6126-6128, Jan. 19, 2001
1904.8	Recording criteria for needlestick and sharp injuries	8-1, 8-2	36 FR 12612, July 2, 1971, as amended at 49 FR 50718, Dec. 31, 1984; 59 FR 15600, April 1, 1994; 62 FR 44552, Aug. 22, 1997; 66 FR 6128-6129, Jan. 19, 2001
1904.9	Recording criteria for cases involving medical removal under OSHA standards		37 FR 737, Jan. 18, 1972; 66 FR 6129, Jan. 19, 2001
1904.10	Recording criteria for cases involving occupational hearing loss (delayed)		Refer to Note 1, 166 FR 6129, Jan. 19, 2001; 66 FR 52034, Oct. 12, 2001
1904.11	Recording criteria for work-related tuberculosis cases		66 FR 6129, Jan. 19, 2001 (see Appendix I)
1904.12	Recording criteria for cases involving work-related musculoskeletal disorders		Refer to Note 2. 36 FR 12612, July 2, 1971, as amended at 37 FR 20822, Oct. 4, 1972; 47 FR 57702, Dec. 28, 1982; 66 FR 6129-6130, Jan. 19, 2001; 66 FR 52034, Oct. 12, 2001 (see Appendix I)
1904.29	Forms	29-1–29-5	66 FR 6130, Jan. 19, 2001; 66 FR 52034, Oct. 12, 2001

Standard	Question Title	FAQ	Section Reference
1904.30	Multiple business establishments		62 FR 44552, Aug. 22, 1997; 66 FR 6130-6131, Jan. 19, 2001
1904.31	Covered employees	31-1, 31-2	66 FR 6131, Jan. 19, 2001
1904.32	Annual summary	32-1	66 FR 6131, Jan. 19, 2001
1904.33	Retention and updating		66 FR 6131, Jan. 19, 2001
1904.34	Change in business ownership		66 FR 6132, Jan. 19, 2001
1904.35	Employee involvement	35-1	66 FR 6132, Jan. 19, 2001
1904.36	Prohibition against discrimination		66 FR 6132, Jan. 19, 2001
1904.37	State recordkeeping regulations	37-1–37-4	66 FR 6132, Jan. 19, 2001
1904.38	Variance from the recordkeeping rule		66 FR 6132, Jan. 19, 2001
1904.39	Reporting fatalities and multiple hospitalization incidents to OSHA	39-1, 39-2	66 FR 6133, Jan. 19, 2001
1904.40	Providing records to government representatives		66 FR 6134, Jan. 19, 2001
1904.41	Annual OSHA injury and illness survey of 10 or more employers		66 FR 6134, Jan. 19, 2001
1904.32	Request from the Bureau of Labor Statistics for data		66 FR 6134, Jan. 19, 2001 (see Appendix I)
1904.43	Summary and posting of year 2000 data		66 FR 6134, Jan. 19, 2001
1904.44	Retention and updating of old forms		66 FR 6134, Jan. 19, 2001
1904.45	OMB control numbers under the Paperwork Reduction Act		66 FR 6134-6135, Jan. 19, 2001
1904.46	Definitions		66 FR 6135, Jan. 19, 2001
1952.4	Injury and illness recording and reporting requirements		66 FR 6135, Jan. 19, 2001

Notes: Note 1 to §1904.10: Paragraphs (a) and (b) of this section are effective on January 1, 2003. Paragraph (c) of this section applies from January 1, 2002, until December 31, 2002. Note 2 to §1904.12: This section is effective January 1, 2003. From January 1, 2002, until December 31, 2002, you are required to record work-related injuries and illnesses involving muscles, nerves, tendons, ligaments, joints, cartilage and spinal discs in accordance with the requirements applicable to any injury or illness under §1904.5, §1904.6, §1904.7, and §1904.29. For entry (M) on the OSHA 300 Log, you must check either the entry for "injury" or "all other illnesses."

Source: *Federal Register*, Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Final Rule, pp. 6122–6135, public domain; and *Federal Register*, Vol. 66, No. 13, Friday, January 19, 2001, Part IV, Department of Labor, Occupational Safety and Health Administration, 29 CFR Parts 1904 and 1952, Occupational Injury and Illnesses Recording and Reporting Requirements; Preamble, pp. 5916–6122, public domain.

FREQUENTLY ASKED QUESTIONS, BY SPECIFIC QUESTION

This document provides general guidance about OSHA's revised recordkeeping rule and provides links to more detailed guidance. The questions and answers in the additional guidance portion of this document do not impose enforceable recordkeeping or reporting obligations; such obligations are imposed only by the regulation. This version was last updated on November 21, 2001. Review the OSHA website periodically to make sure that you have the most current version.

The following questions and answers have been prepared to address enforcement issues that may arise concerning the new recordkeeping rule.

General Guidance

Q 1: Why is OSHA changing the 1904 regulation?

A: OSHA is revising the rule to collect better information about the incidence of occupational injuries and illnesses, improve employee awareness and involvement in the recording and reporting of job-related injuries and illnesses, simplify the injury and illness recordkeeping system for employers, and permit increased use of computers and telecommunications technology.

Q 2: What recordkeeping actions will take place on January 1, 2002?

A: A number of actions will take place on January 1, 2002, including:

- The revised 29 CFR Part 1904, entitled Recording and Reporting Occupational Injuries and Illnesses, will be in effect.
- Three new recordkeeping forms will come into use:
  - OSHA 300 Form, Log of Work-Related Injuries and Illnesses.
  - OSHA 300A Form, Summary of Work-Related Injuries and Illnesses. (The 300 and 300A Forms will replace the former OSHA 200 Form, Log and Summary of Occupational Injuries and Illnesses.)
  - OSHA 301 Form, Injury and Illness Incident Report. (The

301 Form will replace the former OSHA 101 Form, Supplementary Record of Occupational Injuries and Illnesses.)

- The Bureau of Labor Statistics (BLS)/OSHA publications: *Recordkeeping Guidelines for Occupational Injuries and Illnesses*, 1986, and *A Brief Guide to Recordkeeping Requirements for Occupational Injuries and Illnesses*, 1986, will be withdrawn.
- All letters of interpretation regarding the former rule's injury and illness recordkeeping requirements will be withdrawn and removed from the OSHA CD-ROM and put into the OSHA Archive Set.

Q 3: How can I get copies of the new forms?

A: Copies of the forms can be obtained on OSHA's website[1] or from the OSHA publications office at (202) 693-1888.

Q 4: Can I start using a 300 Log prior to January 1, 2002?

A: No. You must continue to keep a 200 Log for the remainder of 2001. Employers may not start using a 300 Log until January 1, 2002, because this is the effective date of the new regulation.

Q 5: Can I compare injury and illness rates generated from my OSHA 300 Form, and the new regulation, to injury and illness rates generated from my OSHA 200 Log under the old rule (i.e., compare 2001 data with 2002 data)?

A: The new recordkeeping rule changes some of the criteria used to determine which injuries and illnesses will be entered into the records and how they will be entered. Therefore, employers should use reasonable caution when comparing data produced under the old 1904 regulation with data produced under the new rule.

Q 6: Are the recordkeeping requirements the same in all of the States?

A: The States operating OSHA-approved State Plans must adopt occupational injury and illness recording and reporting requirements that are substantially identical to the requirements in Part 1904 and which should also be in effect on January 1, 2002. For more information, see the discussion under "States Requirements," §1904.37.

Detailed Guidance

Most of the questions that OSHA has received about the detailed provisions of the new rule are answered in the regulation itself. However, other questions arise that are not directly answered, and OSHA has developed additional guidance to help employers comply with the recordkeeping requirements. Table D-1 provides an overview of the recordkeeping sections.

Section 1904.0—Purpose

Q 0-1: Why are employers required to keep records of work-related injuries and illnesses?

A: The OSH Act of 1970 requires the Secretary of Labor to produce regulations that require employers to keep records of occupational deaths, injuries, and illnesses. The records are used for several purposes.

Injury and illness statistics are used by OSHA. OSHA collects data through the OSHA Data Initiative (ODI) to help direct its programs and measure its own performance. Inspectors also use the data during inspections to help direct their efforts to the hazards that are hurting workers.

The records are also used by employers and employees to implement safety and health programs at individual workplaces.

Analysis of the data is a widely recognized method for discovering workplace safety and health problems and for tracking progress in solving those problems.

The records provide the base data for the BLS Annual Survey of Occupational Injuries and Illnesses, the Nation's primary source of occupational injury and illness data.

Q 0-2: What is the effect of workers' compensation reports on the OSHA records?

A: The purpose section of the rule includes a note to make it clear that recording an injury or illness neither affects a person's entitlement to workers' compensation nor proves a violation of an OSHA rule. The rules for compensability under workers' compensation differ from state to state and do not have any effect on whether or not a case needs to be recorded on the OSHA 300 Log. Many cases will be OSHA recordable and compensable under workers' compensation. However, some cases will be compensable but not OSHA recordable, and some cases will be OSHA recordable but not compensable under workers' compensation.

The Exemption for Establishments in Certain Industry Classifications

Section 1904.2—Partial Exemption for Establishments in Certain Industries

Q 2-1: How can I get help to find my SIC code and determine if I'm partially exempt from the recordkeeping rule.

A: You can access the statistics section of OSHA's Internet home

page.[2] Go to the website and choose SIC Manual and follow the directions. If you still cannot determine your SIC code, you can call an OSHA area office, or, if you are in a state with an OSHA-approved state plan, call your State Plan office.[3]

Q 2-2: Do States with OSHA-approved State plans have the same industry exemptions as Federal OSHA?

A: States with OSHA-approved plans[4] may require employers to keep records for the State, even though those employers are within an industry exempted by the Federal rule.

Section 1904.4—Recording Criteria

Q 4-1: Does an employee report of an injury or illness establish the existence of the injury or illness for recordkeeping purposes?

A: No. In determining whether a case is recordable, the employer must first decide whether an injury or illness, as defined by the rule, has occurred. If the employer is uncertain about whether an injury or illness has occurred, the employer may refer the employee to a physician or other health care professional for evaluation and may consider the health care professional's opinion in determining whether an injury or illness exists. [Note: If a physician or other licensed health care professional diagnoses a significant injury or illness within the meaning of §1904.7(b)(7) and the employer determines that the case is work related, the case must be recorded.]

Deciding If an Injury or Illness Is Work Related

Section 1904.5—Determination of Work-Relatedness

Q 5-1: If a maintenance employee is cleaning the parking lot or an access road and is injured as a result, is the case work related?

A: Yes, the case is work related because the employee is injured as a result of conducting company business in the work environment. If the injury meets the general recording criteria of Section 1904.7 (death, days away, etc.), the case must be recorded.

Q 5-2: Are cases of workplace violence considered work related under the new Recordkeeping rule?

A: The Recordkeeping rule contains no general exception, for purposes of determining work-relationship, for cases involving acts of violence in the work environment. However, some cases involving violent acts might be included within one of the excep-

tions listed in section 1904.5(b)(2). For example, if an employee arrives at work early to use a company conference room for a civic club meeting and is injured by some violent act, the case would not be work related under the exception in section 1904.5(b)(2)(v).

Q 5-3: What activities are considered "personal grooming" for purposes of the exception to the geographic presumption of work-relatedness in section 1904.5(b)(2)(vi)?

A: Personal grooming activities are activities directly related to personal hygiene, such as combing and drying hair, brushing teeth, clipping fingernails, and the like. Bathing or showering at the workplace when necessary because of an exposure to a substance at work is not within the personal grooming exception in section 1904.5(b)(2)(vi). Thus, if an employee slips and falls while showering at work to remove a contaminant to which he has been exposed at work, and sustains an injury that meets one of the general recording criteria listed in section 1904.7(b)(1), the case is recordable.

Q 5-4: What are "assigned working hours" for purposes of the exception to the geographic presumption in section 1904.5(b)(2)(v)?

A: "Assigned working hours," for purposes of section 1904.5(b)(2)(v), means those hours the employee is actually expected to work, including overtime.

Q 5-5: What are "personal tasks" for purposes of the exception to the geographic presumption in section 1904.5(b)(2)(v)?

A: "Personal tasks" for purposes of section 1904.5(b)(2)(v) are tasks that are unrelated to the employee's job. For example, if an employee uses a company break area to work on his child's science project, he is engaged in a personal task.

Q 5-6: If an employee stays at work after normal work hours to prepare for the next day's tasks and is injured, is the case work related? For example, if an employee stays after work to prepare air-sampling pumps and is injured, is the case work related?

A: A case is work related any time an event or exposure in the work environment either causes or contributes to an injury or illness or significantly aggravates a preexisting injury or illness, unless one of the exceptions in section 1904.5(b)(2) applies. The work environment includes the establishment and other locations where one or more employees are working or are present as a condition of their employment. The case in question would be work related if the employee was injured as a result of an event or exposure at work, regardless of whether the injury occurred after normal work hours.

Q 5-7: If an employee voluntarily takes work home and is injured while working at home, is the case recordable?

A: No. Injuries and illnesses occurring in the home environment are only considered work related if the employee is being paid or compensated for working at home and the injury or illness is directly related to the performance of the work rather than to the general home environment.

Q 5-8: If an employee's preexisting medical condition causes an incident which results in a subsequent injury, is the case work related? For example, if an employee suffers an epileptic seizure, falls, and breaks his arm, is the case covered by the exception in section 1904.5(b)(2)(ii)?

A: Neither the seizures nor the broken arm are recordable. Injuries and illnesses that result solely from non-work-related events or exposures are not recordable under the exception in section 1904.5(b)(2)(ii). Epileptic seizures are a symptom of a disease of non-occupational origin, and the fact that they occur at work does not make them work related. Because epileptic seizures are not work related, injuries resulting solely from the seizures, such as the broken arm in the case in question, are not recordable.

Q 5-9: This question involves the following sequence of events: Employee A drives to work, parks her car in the company parking lot and is walking across the lot when she is struck by a car driven by employee B, who is commuting to work. Both employees are seriously injured in the accident. Is either case work related?

A: Neither employee's injuries are recordable. While the employee parking lot is part of the work environment under section 1904.5, injuries occurring there are not work related if they meet the exception in section 1904.5(b)(2)(vii). Section 1904.5(b)(2)(vii) excepts injuries caused by motor vehicle accidents occurring on the company parking lot while the employee is commuting to and from work. In the case in question, both employees' injuries resulted from a motor vehicle accident in the company parking lot while the employees were commuting. Accordingly, the exception applies.

Deciding If a Case Is New

Section 1904.6—Determination of New Cases

Q 6-1: How is an employer to determine whether an employee has "recovered completely" from a previous injury or illness such

that a later injury or illness of the same type affecting the same part of the body resulting from an event or exposure at work is a "new case" under section 1904.6(a)(2)? If an employee's signs and symptoms disappear for a day and then resurface the next day, should the employer conclude that the later signs and symptoms represent a new case?

A: An employee has "recovered completely" from a previous injury or illness, for purposes of section 1904.6(a)(2), when he or she is fully healed or cured. The employer must use his best judgment based on factors such as the passage of time since the symptoms last occurred and the physical appearance of the affected part of the body. If the signs and symptoms of a previous injury disappear for a day only to reappear the following day, that is strong evidence the injury has not properly healed. The employer may, but is not required to, consult a physician or other licensed health care provider (PLHCP). Where the employer does consult a PLHCP to determine whether an employee has recovered completely from a prior injury or illness, it must follow the PLHCP's recommendation. In the event the employer receives recommendations from two or more PLHCPs, the employer may decide which recommendation is the most authoritative and record the case based on that recommendation.

What Are the General Recording Criteria

Section 1904.7—General Recording Criteria

Q 7-1: The old rule required the recording of all occupational illnesses, regardless of severity. For example, a work-related skin rash was recorded even if it didn't result in medical treatment. Does the rule still capture these minor illness cases?

A: No. Under the new rule, injuries and illnesses are recorded using the same criteria. As a result, some minor illness cases are no longer recordable. For example, a case of work-related skin rash is now recorded only if it results in days away from work, restricted work, transfer to another job, or medical treatment beyond first aid.

Q 7-2: Does the size or degree of a burn determine recordability?

A: No, the size or degree of a work-related burn does not determine recordability. If a work-related first, second, or third degree burn results in one or more of the outcomes in section 1904.7 (days away, work restrictions, medical treatment, etc.), the case must be recorded.

Q 7-3: If an employee dies during surgery made necessary by a work-related injury or illness, is the case recordable? What if the surgery occurs weeks or months after the date of the injury or illness?

A: If an employee dies as a result of surgery or other complications following a work-related injury or illness, the case is recordable. If the underlying injury or illness was recorded prior to the employee's death, the employer must update the Log by lining out information on less severe outcomes, e.g., days away from work or restricted work, and checking the column indicating death.

Q 7-4: An employee hurts his or her left arm and is told by the doctor not to use the left arm for one week. The employee is able to perform all of his or her routine job functions using only the right arm (though at a slower pace and the employee is never required to use both arms to perform his or her job functions). Would this be considered restricted work?

A: No. If the employee is able to perform all of his or her routine job functions (activities the employee regularly performs at least once per week), the case does not involve restricted work. Loss of productivity is not considered restricted work.

Q 7-5: Are surgical glues used to treat lacerations considered "first aid"?

A: No, surgical glue is a wound closing device. All wound closing devices except for butterfly and Steri-Strips are by definition "medical treatment," because they are not included on the first aid list.

Q 7-6: Item N on the first aid list is "drinking fluids for relief of heat stress." Does this include administering intravenous (IV) fluids?

A: No. Intravenous administration of fluids to treat work-related heat stress is medical treatment.

Q 7-7: Is the use of a rigid finger guard considered first aid?

A: Yes, the use of finger guards is always first aid.

Q 7-8: For medications such as Ibuprofen that are available in both prescription and non-prescription form, what is considered to be prescription strength? How is an employer to determine whether a non-prescription medication has been recommended at prescription strength for purposes of section 1904.7(b)(5)(i)(C)(ii)(A)?

A: The prescription strength of such medications is determined by the measured quantity of the theraputic agent to be taken at one time, i.e., a single dose. The single dosages that are considered prescription strength for four common over-the-counter drugs are:

- Ibuprofen (such as Advil™)—Greater than 467 mg
- Diphenhydramine (such as Benadryl™)—Greater than 50 mg
- Naproxen Sodium (such as Aleve™)—Greater than 220 mg
- Ketoprofen (such as Orudus KT™)—Greater than 25 mg

To determine the prescription-strength dosages for other drugs that are available in prescription and non-prescription formulations, the employer should contact OSHA, the United States Food and Drug Administration, their local pharmacist or their physician.

Q 7-9: If an employee who sustains a work-related injury requiring days away from work is terminated for drug use based on the results of a post-accident drug test, how is the case recorded? May the employer stop the day count upon termination of the employee for drug use under section 1904.7(b)(3) (vii)?

A: Under section 1904.7(b)(3)(vii), the employer may stop counting days away from work if an employee who is away from work because of an injury or illness leaves the company for some reason unrelated to the injury or illness, such as retirement or a plant closing. However, when the employer conducts a drug test based on the occurrence of an accident resulting in an injury at work and subsequently terminates the injured employee, the termination is related to the injury. Therefore, the employer must estimate the number of days that the employee would have been away from work due to the injury and enter that number on the 300 Log.

Q 7-10: Once an employer has recorded a case involving days away from work, restricted work or medical treatment and the employee has returned to his regular work or has received the course of recommended medical treatment, is it permissible for the employer to delete the Log entry based on a physician's recommendation, made during a year-end review of the Log, that the days away from work, work restriction or medical treatment were not necessary?

A: The employer must make an initial decision about the need for days away from work, a work restriction, or medical treatment based on the information available, including any recommendation by a physician or other licensed health care professional. Where the employer receives contemporaneous recommendations from two or more physicians or other licensed health care professionals about the need for days away, a work restriction, or medical treatment, the employer may decide which recommendation is the most authoritative and record the case based on that recommendation. Once the days away from work or work

restriction have occurred or medical treatment has been given, however, the employer may not delete the Log entry because of a physician's recommendation, based on a year-end review of the Log, that the days away, restriction or treatment were unnecessary.

Q 7-11: Section 1904.7(b)(5)(ii) of the rule defines first aid, in part, as "removing splinters or foreign material from areas other than the eye by irrigation, tweezers, cotton swabs or other simple means." What are "other simple means" of removing splinters that are considered first aid?

A: "Other simple means" of removing splinters, for purposes of the first-aid definition, means methods that are reasonably comparable to the listed methods. Using needles, pins or small tools to extract splinters would generally be included.

Q 7-12: How long must a modification to a job last before it can be considered a permanent modification under section 1904.7(b)(4)(xi)?

A: Section 1904.7(b)(4)(xi) of the rule allows an employer to stop counting days of restricted work or transfer to another job if the restriction or transfer is made permanent. A permanent restriction or transfer is one that is expected to last for the remainder of the employee's career. Where the restriction or transfer is determined to be permanent at the time it is ordered, the employer must count at least one day of the restriction or transfer on the Log. If the employee whose work is restricted or who is transferred to another job is expected to return to his or her former job duties at a later date, the restriction or transfer is considered temporary rather than permanent.

Q 7-13: If an employee loses his arm in a work-related accident and can never return to his job, how is the case recorded? Is the day count capped at 180 days?

A: If an employee never returns to work following a work-related injury, the employer must check the "days away from work" column, and enter an estimate of the number of days the employee would have required to recuperate from the injury, up to 180 days.

Q 7-14: If an employee who routinely works 10 hours a day is restricted from working more than 8 hours following a work-related injury, is the case recordable?

A: Generally, the employer must record any case in which an employee's work is restricted because of a work-related injury. A work restriction, as defined in section 1904.7(b)(4)(i)(A), occurs when the employer keeps the employee from performing one or more routine functions of the job, or from working the full

workday the employee would otherwise have been scheduled to work. The case in question is recordable if the employee would have worked 10 hours had he or she not been injured.

Q 7-15: If an employee is exposed to chlorine or some other substance at work and oxygen is administered as a precautionary measure, is the case recordable?

A: If oxygen is administered as a purely precautionary measure to an employee who does not exhibit any symptoms of an injury or illness, the case is not recordable. If the employee exposed to a substance exhibits symptoms of an injury or illness, the administration of oxygen makes the case recordable.

Q 7-16: Is the employer subject to a citation for violating section 1904.7(b)(4)(viii) if an employee fails to follow a recommended work restriction?

A: Section 1904.7(b)(4)(viii) deals with the recordability of cases in which a physician or other health care professional has recommended a work restriction. The section also states that the employer "should ensure that the employee complies with the [recommended] restriction." This language is purely advisory and does not impose an enforceable duty upon employers to ensure that employees comply with the recommended restriction. [Note: In the absence of conflicting opinions from two or more health care professionals, the employer ordinarily must record the case if a health care professional recommends a work restriction involving the employee's routine job functions.]

Recording Needlestick and Sharps Injuries

Section 1904.8—Recording Criteria for Needlestick and Sharps Injuries

Q 8-1: Can you clarify the relationship between the OSHA recordkeeping requirements and the requirements in the Bloodborne Pathogens standard to maintain a sharps injury log?

A: The OSHA Bloodborne Pathogens Standard states: "The requirement to establish and maintain a sharps injury log shall apply to any employer who is required to maintain a log of occupational injuries and illnesses under 29 CFR 1904." Therefore, if an employer is exempted from the OSHA recordkeeping rule, the employer does not have to maintain a sharps log. For example, dentists' offices and doctors' offices are not required to keep a sharps log after January 1, 2002.

Q 8-2: Can I use the OSHA 300 Log to meet the Bloodborne Pathogen Standard's requirement for a sharps injury log?

A: Yes. You may use the 300 Log to meet the requirements of the sharps injury log provided you enter the type and brand of the device causing the sharps injury on the Log and you maintain your records in a way that segregates sharps injuries from other types of work-related injuries and illnesses, or allows sharps injuries to be easily separated.

How to Enter a Recordable Injury or Illness on the Forms

Section 1904.29—Forms

Q 29-1: How do I determine whether or not a case is an occupational injury or one of the occupational illness categories in Section M of the OSHA 300 Log?

A: The instructions that accompany the OSHA 300 Log contain examples of occupational injuries and the various types of occupational illnesses listed on the Log. If the case you are dealing with is on one of those lists, then check that injury or illness category. If the case you are dealing with is not listed, then you may check the injury or illness category that you believe best fits the circumstances of the case.

Q 29-2: Does the employer decide if an injury or illness is a privacy concern case?

A: Yes. The employer must decide if a case is a privacy concern case, using 1904.29(b)(7), which lists the six types of injuries and illnesses the employer must consider privacy concern cases. If the case meets any of these criteria, the employer must consider it a privacy concern case. This is a complete list of all injury and illnesses considered privacy concern cases.

Q 29-3: Under paragraph 1904.29(b)(9), the employer may use some discretion in describing a privacy concern case on the log so the employee cannot be identified. Can the employer also leave off the job title, date, or where the event occurred?

A: Yes. OSHA believes that this would be an unusual circumstance and that leaving this information off the log will rarely be needed. However, if the employer has reason to believe that the employee's name can be identified through this information, these fields can be left blank.

Q 29-4: May employers attach missing information to their accident investigation or workers' compensation forms to make them an

acceptable substitute form for the OSHA 301 for recordkeeping purposes?

A: Yes, the employer may use a workers' compensation form or other form that does not contain all the required information, provided the form is supplemented to contain the missing information and the supplemented form is as readable and understandable as the OSHA 301 Form and is completed using the same instructions as the OSHA 301 Form.

Q 29-5: If an employee reports an injury or illness and receives medical treatment this year, but states that the symptoms first arose at some unspecified date last year, on which year's Log do I record the case?

A: Ordinarily, the case should be recorded on the Log for the year in which the injury or illness occurred. Where the date of injury or illness cannot be determined, the date the employee reported the symptoms or received treatment must be used. In the case in question, the injury or illness would be recorded on this year's Log because the employee cannot specify the date when the symptoms occurred.

Covered Employees

Section 1904.31—Covered Employees

Q 31-1: How is the term "supervised" in section 1904.31 defined for the purpose of determining whether the host employer must record the work-related injuries and illnesses of employees obtained from a temporary help service?

A: The host employer must record the recordable injuries and illnesses of employees not on its payroll if it supervises them on a day-to-day basis. Day-to-day supervision occurs when "in addition to specifying the output, product or result to be accomplished by the person's work, the employer supervises the details, means, methods and processes by which the work is to be accomplished."

Q 31-2: If a temporary personnel agency sends its employees to work in an establishment that is not required to keep OSHA records, does the agency have to record the recordable injuries and illnesses of these employees?

A: A temporary personnel agency need not record injuries and illnesses of those employees that are supervised on a day-to-day basis by another employer. The temporary personnel agency must

record the recordable injuries and illnesses of those employees it supervises on a day-to-day basis, even if these employees perform work for an employer who is not covered by the recordkeeping rule.

Section 1904.32—Annual Summary

Q 32-1: How do I calculate the "total hours worked" on my annual summary when I have both hourly and temporary workers?

A: To calculate the total hours worked by all employees, include the hours worked by salaried, hourly, part-time and seasonal workers, as well as hours worked by other workers you supervise (e.g., workers supplied by a temporary help service). Do not include vacation, sick leave, holidays, or any other non-work time even if employees were paid for it. If your establishment keeps records of only the hours paid or if you have employees who are not paid by the hour, you must estimate the hours that the employees actually worked.

Section 1904.35—Employee Involvement

Q 35-1: How does an employer inform each employee on how he or she is to report an injury or illness?

A: Employers are required to let employees know how and when to report work-related injuries and illnesses. This means that the employer must set up a way for the employees to report work-related injuries and illnesses and tell its employees how to use it. The Recordkeeping rule does not specify how the employer must accomplish these objectives, so employers have flexibility to set up systems that are appropriate to their workplace. The size of the workforce, employee's language proficiency and literacy levels, the workplace culture, and other factors will determine what will be effective for any particular workplace.

Section 1904.37—State Recordkeeping Regulations

Q 37-1: Do I have to follow these rules if my State has an OSHA-approved State Plan?

A: If your workplace is located in a State that operates an OSHA-approved State Plan, you must follow the regulations of the State. However, these States must adopt occupational injury and illness recording and reporting requirements that are substan-

tially identical to the requirements in Part 1904. State Plan States must have the same requirements as Federal OSHA for determining which injuries and illnesses are recordable and how they are recorded.

Q 37-2: How may state regulations differ from the Federal requirements?

A: For Part 1904 provisions other than recording and reporting, State requirements may be more stringent than or supplemental to the Federal requirements. For example, a State Plan could require employers to keep records for the State, even though those employers have 10 or fewer employees (1904.1) or are within an industry exempted by the Federal rule. A State Plan could also require employers to keep additional supplementary injury and illness information, require employers to report fatality and multiple hospitalization incidents within a shorter time frame than Federal OSHA does (1904.39), require other types of incidents to be reported as they occur, require hearing loss to be recorded at a lower threshold level during CY 2002 (1904.10(c)), or impose other requirements.

Q 37-3: Are State and local government employers covered by this rule?

A: No, but they are covered under the equivalent State rule in States that operate OSHA-approved State Plans. State rules must cover these workplaces and require the recording and reporting of work-related injuries and illnesses.

Q 37-4: How can I find out if my State has an OSHA-approved plan?

A: The following States have OSHA-approved plans: Alaska, Arizona, California, Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Virgin Islands, Washington, and Wyoming. Connecticut, New Jersey, and New York have plans that cover State and local government employees only.

Section 1904.39—Reporting Fatalities and Multiple Hospitalization Incidents to OSHA

Q 39-1: When a work-related heart attack occurs in the workplace and the employee dies one or more days later, how should the case be reported to OSHA?

A: The employer must orally report a work-related fatality by telephone or in person to the OSHA Area Office nearest to the site of the incident. The employer must report the fatality within eight hours of the employee's death in cases where the death

occurs within 30 days of the incident. The employer need not report a death occurring more than 30 days after a work-related incident.

Q 39-2: What is considered a "construction work zone" for purposes of section 1904.39(b)(3)?

A: A "construction work zone" for purposes of §1904.39(b)(3) is an area of a street or highway where construction activities are taking place, and is typically marked by signs, channeling devices, barriers, pavement markings, and/or work vehicles. The work zone extend from the first warning sign or rotating/strobe lights on a vehicle to the "END ROAD WORK" sign or the last temporary traffic control device.

REFERENCES

1. OSHA website: http://www.osha.gov, public domain.
2. OSHA website, BLS Information: http://www.osha.gov/oshstats/, public domain.
3. OSHA website, OSHA Office Directory: http://www.osha-slc.gov/html/Ramap.html, public domain.
4. OSHA website, States with OSHA-approved plans: http://www.osha-slc.gov/fso/ops/, public domain.

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Appendix E

Recordkeeping Training Presentations

OSHA notes that, due to the size of the presentations, it is recommended that you save the PowerPoint files directly to your hard disk, rather than viewing them through your browser or plug-in viewer. You can "Right-Click" on the hypertext links and select "Save Link As" or "Save Target As" to save the files directly to your local disk, then open them directly. See Figure E-1.

Figure E-1

We begin with a brief list of the contents of this appendix:

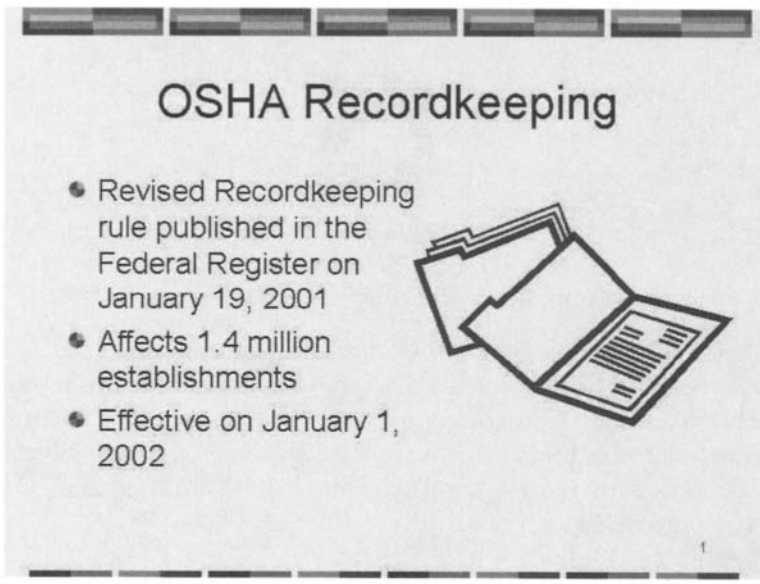
- Recordkeeping Highlights (PowerPoint presentation, 22 slides, can be found at the OSHA website: http://www.osha-slc.gov/recordkeeping/RKpresentations.html). This presentation is intended to assist a presenter in providing an overview of the new rule to audiences with a broad knowledge of OSHA's former rule.
  Presentation Script
  Presenter's Guide
  Decision Flowchart
  Partially Exempt Industries
- Brief Recordkeeping Overview (PowerPoint presentation, 10 slides, 299 kB). This presentation is intended to assist a presenter in providing a brief overview of the new rule to audiences that are affected by the regulation.
  Presentation
  Script

Presenter's
Guide
Partially Exempt Industries

- Comprehensive Presentation (PowerPoint presentation, 60 slides, 2 MB). This presentation is an in-depth discussion of OSHA's new recordkeeping rule intended for audiences that require a thorough understanding of the regulation.
  Presentation
  Script
  Instructor's Guide

RECORDKEEPING HIGHLIGHTS PRESENTATION SCRIPT

Slide 1. OSHA Recordkeeping



Notes

Note to Presenter: Prior to the presentation, it is suggested that presenters review the latest information on the recordkeeping rule,

which will be posted on OSHA's website, http://www.osha.gov. In addition, presenters should print copies of OSHA's main Recordkeeping page as a handout to inform audience members of the latest information available on the website.

(See first Note to Presenter for Slide 22.)

Note to Presenter: States that operate their own job safety and health programs will be adopting comparable recordkeeping regulations that will also be effective January 1, 2002. States must have the same requirements for which injuries and illnesses are recordable and how they are recorded. Other provisions may be different as long as they are as stringent as the Federal requirements. Employers in some state plan states may be subject to more stringent reporting requirements (e.g., California requires every case of "serious injury or illness" to be reported).

Note to Presenter: Provide handout on Partially Exempt Industries.

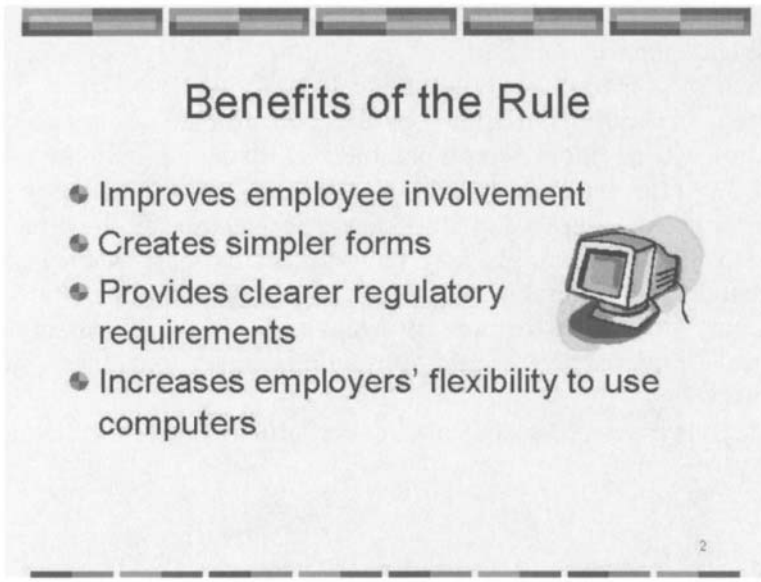
Script

The Occupational Safety and Health Administration (OSHA) has a new, improved set of rules for recordkeeping. This presentation presents a summary of some of the key provisions of the new rule. It also highlights the major changes from OSHA's former recordkeeping regulation. While this presentation does not describe the new regulation in detail, it is intended to focus on the improvements in the rule and provide an overview of the new requirements.

OSHA's new recordkeeping rule, 29 CFR 1904, takes effect on January 1, 2002 and affects 1.4 million establishments in the United States. A proposal for one-year delays on two issues (recording hearing loss and musculoskeletal disorders) appeared in the Federal Register on July 3rd. On October 12th, the Department announced decisions about hearing loss and musculoskeletal disorders (MSDs) recording for calendar year 2002. These issues will be discussed later in this presentation.

Like the former rule, employers with 10 or fewer employees are exempt from most requirements of the new rule, as are establishments classified in a number of industries in the low-hazard retail, service, finance, insurance, and real estate sectors. The new rule updates the list of exempted industries to reflect recent industry data. However, all employers covered by the OSH Act must continue to report any workplace incident resulting in a fatality or the hospitalization of three or more employees.

Slide 2. Benefits of the Rule



Script

The major goal of the recordkeeping revision is to improve the quality of workplace injury and illness records.

Improves employee involvement: The rule promotes improved employee awareness and involvement in the recordkeeping process, providing workers and their representatives access to the information on recordkeeping forms and increasing awareness of potential hazards in the workplace. Privacy concerns of employees have also been addressed; the former rule had no privacy protections covering the log used to record work-related injuries and illnesses.

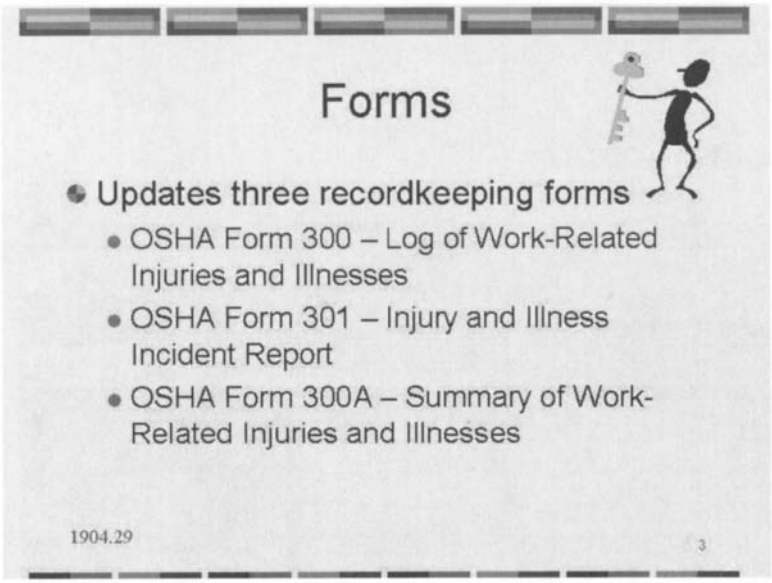
Creates simpler forms: The new forms—the OSHA 300 Log, the OSHA 301, Injury and Illness Incident Report, and the OSHA 300A Summary—include formatting and editorial changes that simplify the forms, make them easier to understand and complete, and facilitate use of the data. The forms have been incorporated into an information package that provides individual employers with several copies of each form; general instructions for completing them; definitions of key terms; an example showing how to fill out the 300 Log; and instructions telling employers how to obtain additional assistance from OSHA.

Provides clearer regulatory requirements: The new rule is written in plain language using a question and answer format. For the first time, a

flowchart and tables are included to provide easier interpretations of recordkeeping requirements.

Increases employers' flexibility to use computers: The final rule makes clear that employers are permitted to record the required information on electronic media, provided the electronic records are equivalent to the OSHA forms. This provision allows employers to take full advantage of modern technology and computers to meet their recordkeeping obligations.

Slide 3. Forms



Note

Note to Presenter: Provide OSHA forms package or individual OSHA Forms 300, 301, and 300A so that audience members can see the detail of the forms referred to in the following slides. Now, let's talk about the recordkeeping forms.

Script

OSHA has put the forms employers need to use into a "forms package" that includes enough copies of the forms to last for three years for a typical small business. The package also includes instructions and

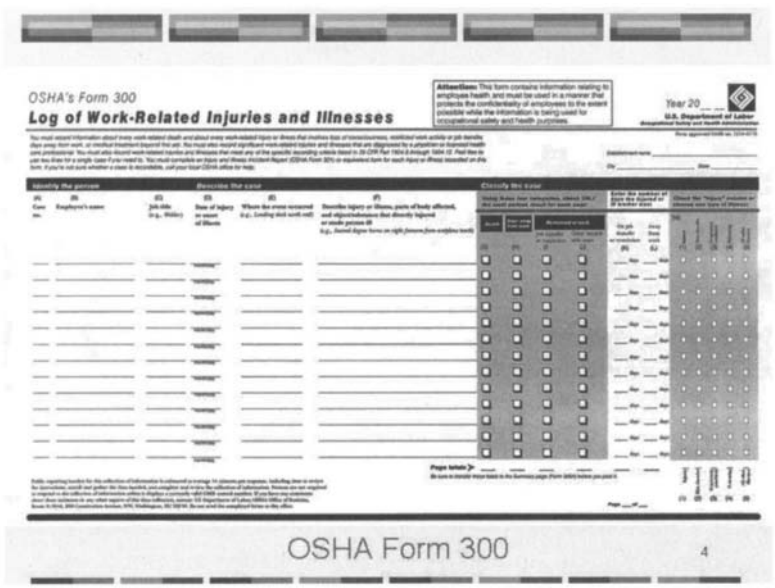
examples, a worksheet to help the company compute its injury and illness rates, a worksheet to help the employer complete the summary, and information about where to get assistance.

OSHA's 300 Form, the Log of Work-Related Injuries and Illnesses, replaces the OSHA 200 Form. The Log presents information on injuries and illnesses in a condensed format. It has been simplified and printed on smaller, legal size paper.

The 301 Form replaces the former OSHA 101 Form. This form is the individual record of each work-related injury or illness recorded on the 300 Form. It includes more data about how the injury or illness occurred.

Form 300A is the summary of work-related injuries and illnesses. This is the form that is posted every year. It replaces the summary portion of the former OSHA 200 Log and is now a separate form, updated to make it easier to calculate incidence rates.

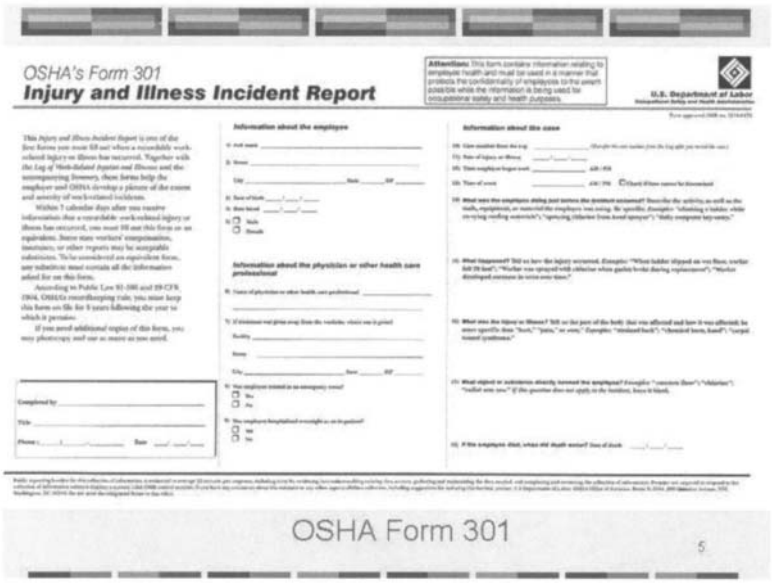
Slide 4. Form 300



Script

The 300 Log is simpler and smaller. It now fits on legal-size paper, so you can download it directly from OSHA's website and print it in your office. The log can be maintained on a computer or at another location, as long as a copy can be produced at the workplace when it's needed.

Slide 5. Form 301



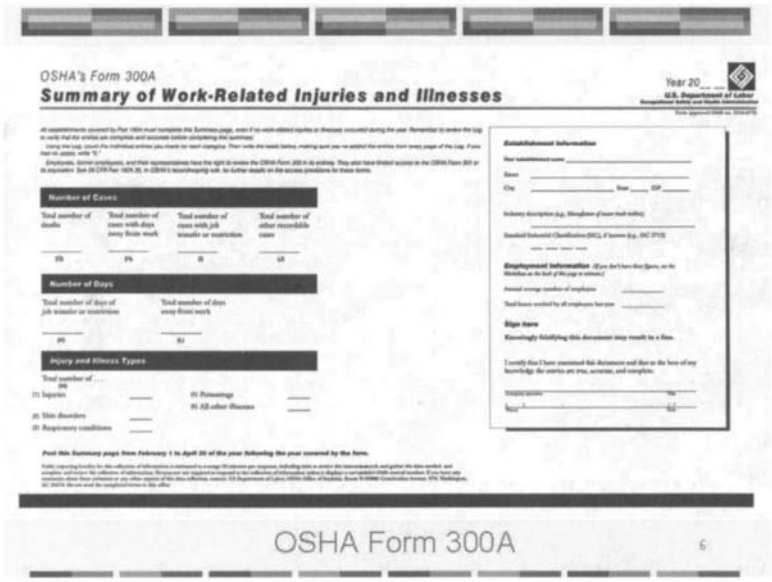
Script

The final OSHA 301 Injury and Illness Incident Report allows space for employers to provide more detailed information about the affected worker, the injury or illness, the workplace factors associated with the accident, and a brief description of how the injury or illness occurred.

Many employers use an equivalent workers' compensation form or internal reporting form for the purpose of recording more detailed information on each case. It's perfectly okay to do this.

The OSHA 301 Form differs in several ways from the former OSHA 101. The form has been reworded and reformatted for clarity. The new form eliminates redundant data and adds several items that will provide important information regarding the occurrence of occupational injuries and illnesses. New questions relate to the date the employee was hired, the time the employee began work, the time of the event, and whether the employee was treated at an emergency room or hospitalized overnight.

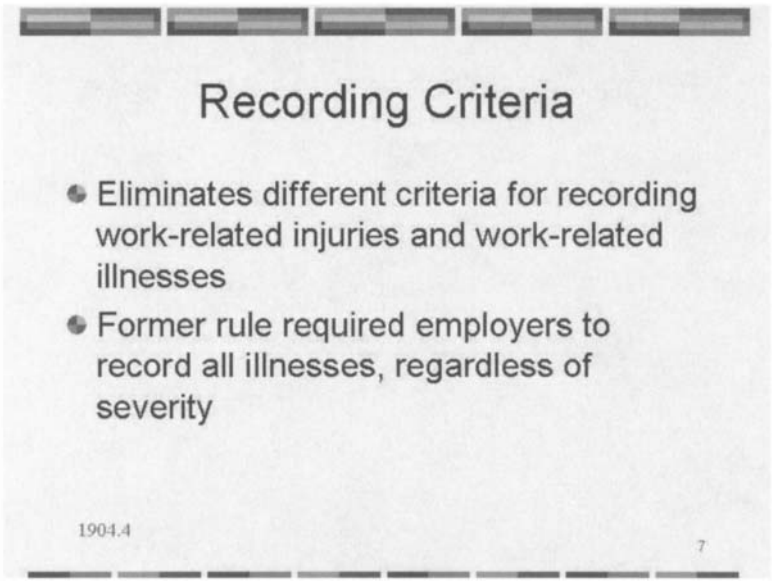
Slide 6. OSHA Form 300A



Script

Form 300A is used to summarize the entries from the Form 300 Log at the end of the year and is then posted from February 1 through April 30 of the following year. Posting makes employees aware of the occupational injury and illness experience of the establishment in which they work. The form contains space for entries for each of the columns from the Form 300, along with information about the establishment. It also includes the average number of employees who worked there the previous year and total hours worked by all employees. Certification of the accuracy of the recorded data by a company executive is required.

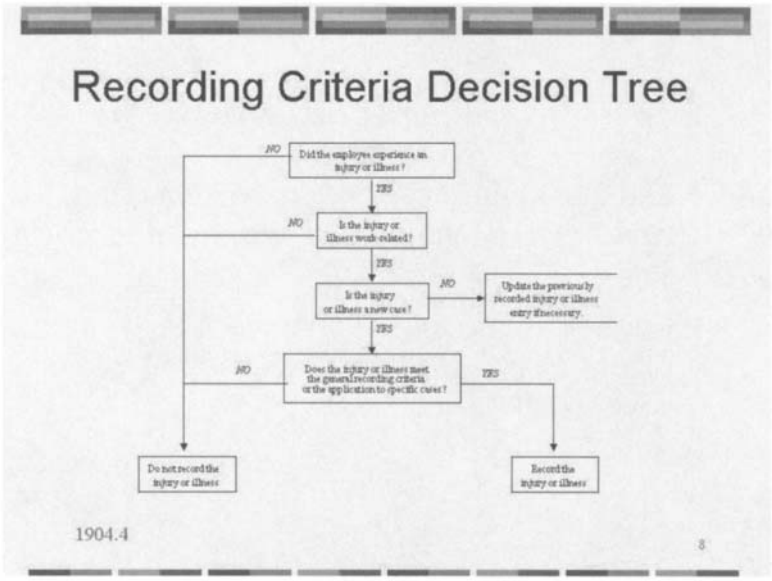
Slide 7. Recording Criteria



Script

The final rule mandates that each employer who is required to keep records must record every fatality, injury or illness that is work-related, is a new case, and meets one of the recording criteria found in the regulation. The different criteria for recording injuries and illnesses have been eliminated. The same requirements now apply to both injuries and illnesses, which will result in fewer minor illnesses being recorded.

Slide 8. Recording Criteria Decision Tree



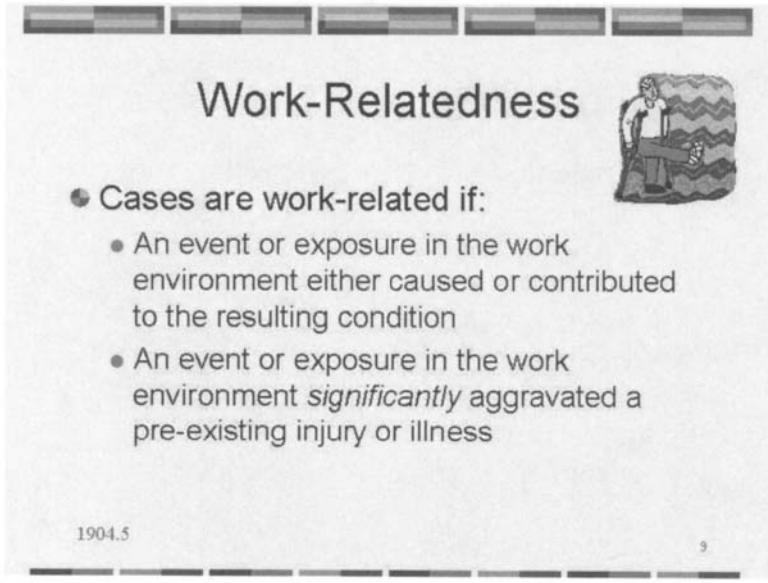
Note

Note to Presenter: Provide handout on Decision Tree for Recording Work-Related Injuries and Illnesses.

Script

The regulation contains a table that points employers and their recordkeepers to the various sections of the rule that determine which work-related injuries and illnesses are to be recorded. In addition, a decision tree, or flowchart, is provided that shows the steps involved in determining whether or not a particular case must be recorded.

Slide 9. Work-Relatedness



Script

The concepts of work-relatedness are very similar to the old rule. The difference is that the directions from the 1986 Guidelines are now in the regulatory text, and the requirements for workplace aggravation of a non-work injury have been changed. Previously, any amount of aggravation was considered sufficient for recording purposes. Now, the amount of aggravation must be significant or non-minor.

This decision is consistent with OSHA's efforts to require recording only of non-minor injuries and illnesses.

Significant aggravation of a preexisting condition occurs when an event or exposure in the work environment causes the injury or illness to result in greater consequences, including:

- Death.
- Loss of consciousness.
- A day or days away from work, restricted work, or job transfer.
- Medical treatment or a change in the course of medical treatment.

Work-relatedness is presumed for injuries and illnesses resulting from events or exposures occurring in the work environment, unless an exception specifically applies. We'll cover the exceptions next.

Slide 10. Work-Related Exceptions

Script

There are nine exceptions to the definition of work relationship. They are intended to exclude those injuries or illnesses that occur or manifest themselves in the work environment, but have been identified as cases that do not provide information useful to the identification of occupational injuries and illnesses and tend to skew national statistics.

Let's discuss some of the major exceptions. Injuries and illnesses will not be considered work related if they are solely the result of an employee eating, drinking or preparing food or drink for personal consumption. Common colds and flu will not be considered work related.

Injuries and illnesses will not be work related if they result solely from voluntary participation in a wellness program or in a medical, fitness, or recreational activity such as physical fitness activities and voluntary blood donations.

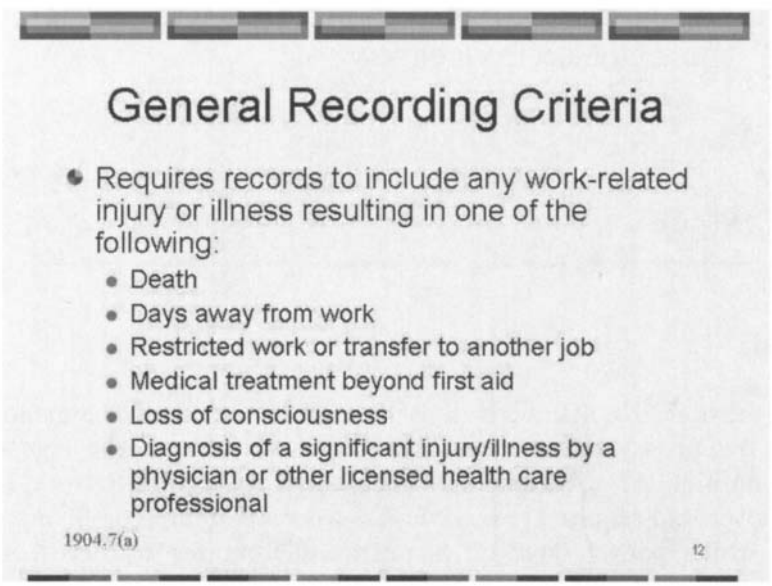
If the injury or illness is a result solely from the employee doing personal tasks at the establishment outside normal work hours, it is not considered work related.

Other exceptions where an injury or illness is not considered work related include:

- When the employee is present in the work environment as a member of the general public rather than as an employee.

- If the injury or illness involves symptoms that surface at work but result solely from a non-work-related event or exposure.
- If the injury or illness is solely the result of personal grooming, self-medication, or intentionally self-inflicted.
- If the injury or illness is caused by a motor vehicle accident and occurs on a company parking lot or company access road while the employee is commuting to or from work.
- Mental illness will not be considered work related unless the employee voluntarily provides the employer with an opinion from a physician or other licensed health care professional with appropriate training and experience stating the illness is work related.

Slide 11. General Recording Criteria



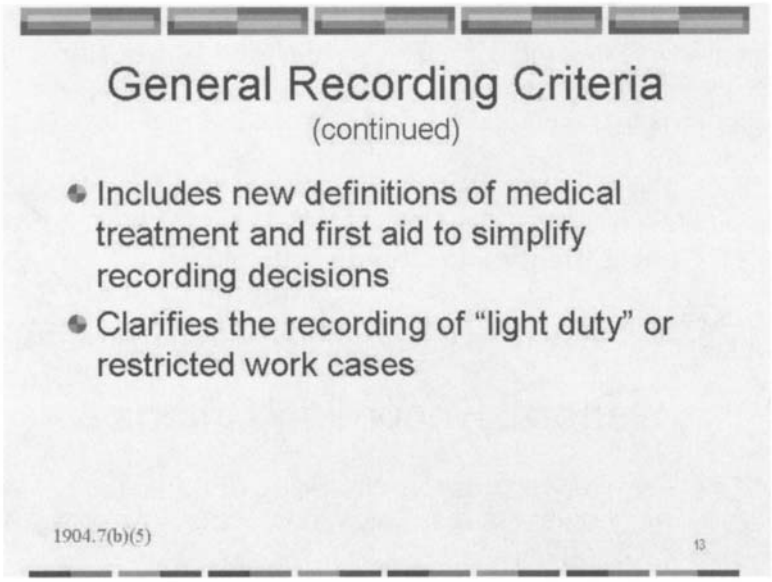
Script

Employers must record any work-related injury or illness that meets one or more of the final rule's six general recording criteria, which are:

- Death.
- Days away from work.
- Restricted work or job transfer.
- Medical treatment beyond first aid.

- Loss of consciousness.
- Diagnosis by a physician or other licensed health care professional as a significant injury or illness.

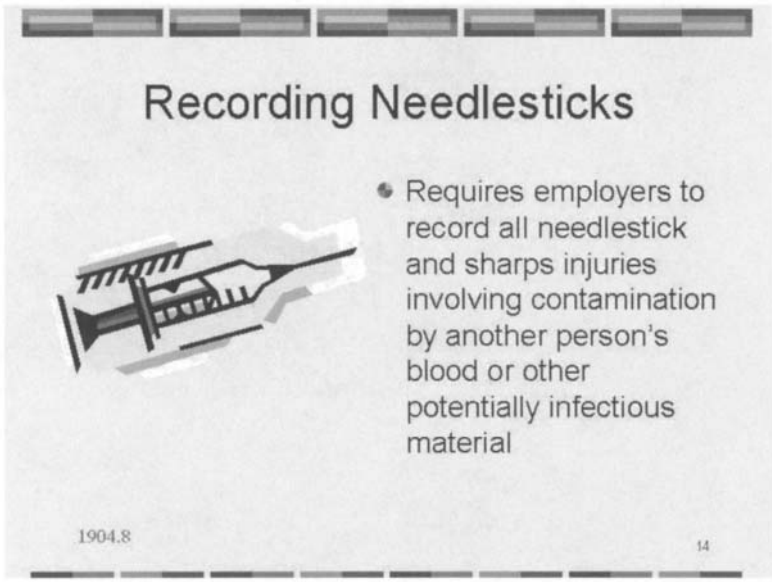
Slide 12. General Recording Criteria (continued)



Script

In the new rule, first aid is defined using a finite list of treatments. All other treatment is now considered medical treatment. The regulation also clarifies the recording of "light duty" or restricted work cases. Employers are required to record cases when the injured or ill employee only works partial days or is restricted from his or her "routine functions." "Routine functions" are defined as work activities the employee regularly performs at least once weekly.

Slide 13. Recording Needlesticks

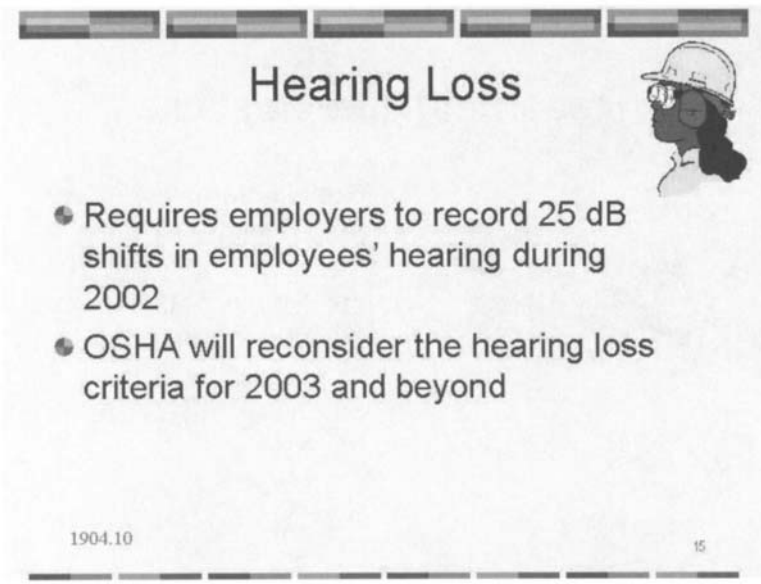


Script

This provision deals with the recording of a specific class of occupational injuries involving punctures, cuts and lacerations caused by needles or other sharp objects contaminated (or reasonably anticipated to be contaminated) with blood or other potentially infectious materials that may lead to bloodborne diseases. These diseases include Acquired Immunodeficiency Syndrome (AIDs), hepatitis B, and hepatitis C.

Although the final rule requires the recording of all workplace cut and puncture injuries resulting from an event involving contaminated sharps, it does not require the recording of all cuts and punctures. For example, a cut made by a knife or other sharp instrument that was not contaminated by blood or OPIM would not be recordable if only first aid was used to treat it.

Slide 14. Hearing Loss



Notes

Note to Presenter: The 25-dB shifts recorded during 2002 use the employee's original baseline audiogram as the reference audiogram. Audiograms may be adjusted for aging (presbycusis) using the tables in Appendix F of the noise standard (1910.95).

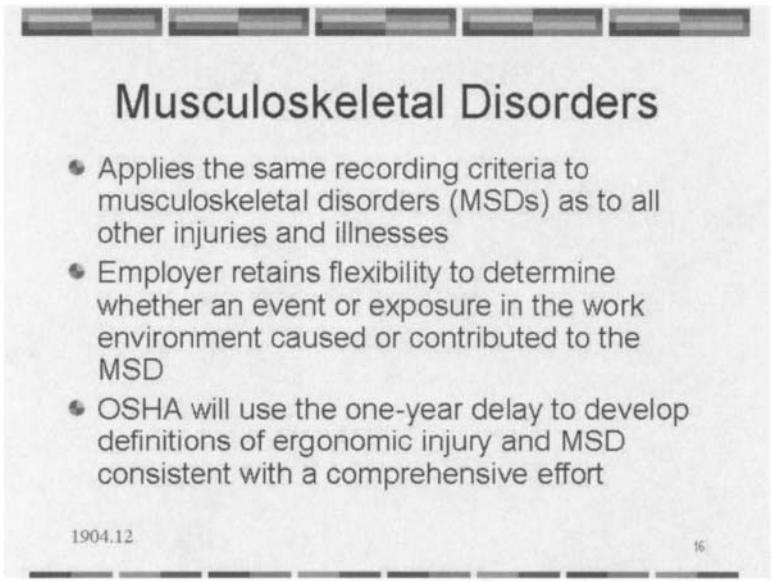
Note to Presenter: The forms have been revised as a result of comments received from the July 3rd Federal Register Notice. The October 12th Federal Register Notice announced the delays and the changes to the forms.

Script

As discussed at the beginning of this presentation, the recording of standard threshold shifts in hearing loss was one of the two provisions that was delayed for one year as a result of the July 3rd and October 12th Federal Register notices. Employers are required to record 25-dB shifts during 2002.

OSHA will use the one-year delay to reconsider what level of hearing loss should be recorded as a "significant" health condition.

Slide 15. Musculoskeletal Disorders



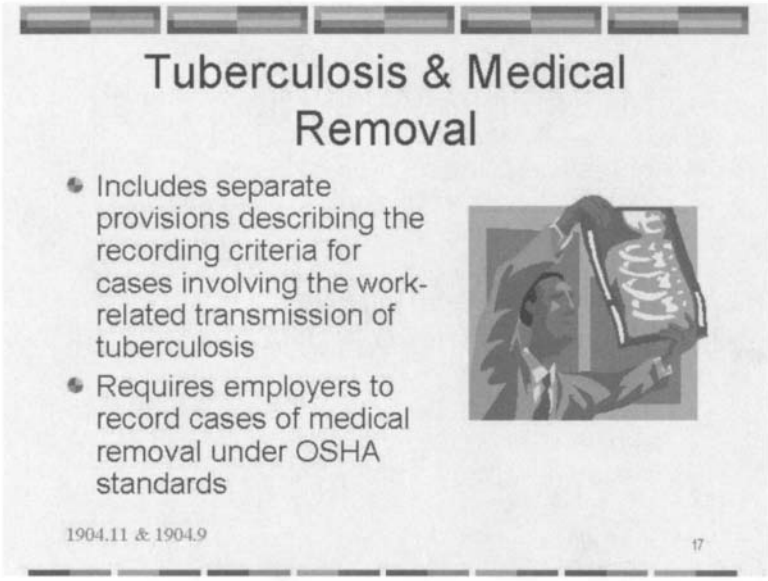
Note

Note to Presenter: See Note for Slide 14 regarding the forms.

Script

The new rule applies the same criteria to MSDs as to any injury or illness. The one-year delay (discussed previously) in the definition of an MSD and the separate recording column are in line with the Secretary of Labor's plan to develop a comprehensive approach to ergonomics. One of the issues to be resolved is the appropriate definition for "ergonomic injury" and "musculoskeletal disorder." The delay will enable the agency to develop appropriate definitions consistent with those chosen for the ergonomics effort. However, the delay will not affect the recordability of these cases. If they meet the general recording criteria of the revised rule, they must be recorded.

Slide 16. Tuberculosis and Medical Removal

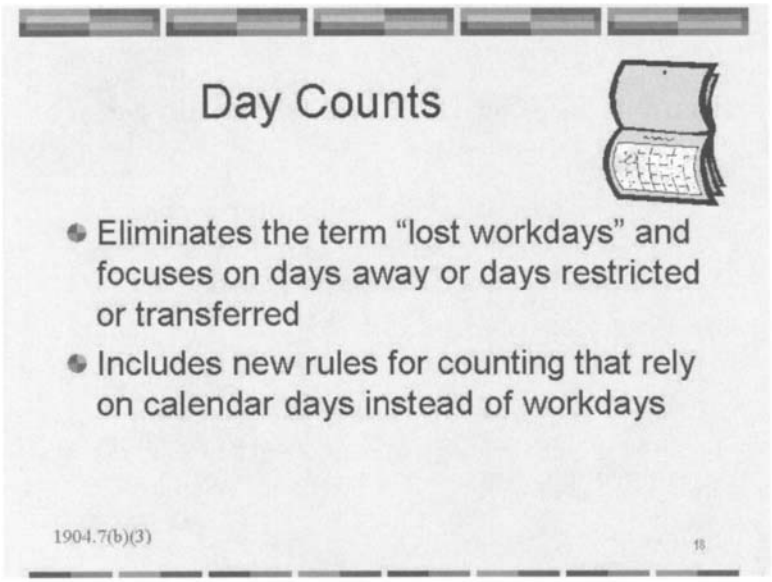


Script

Employers must now record a case when an employee is exposed to someone with a known case of tuberculosis, and that employee subsequently develops a tuberculosis infection.

In addition, the new rule requires an employer to record an injury or illness case on the OSHA 300 Log when the employee is medically removed under the medical surveillance requirements of any OSHA standard. Each such case is to be recorded as a case involving days away from work or as a case involving restricted work activity.

Slide 17. Day Counts



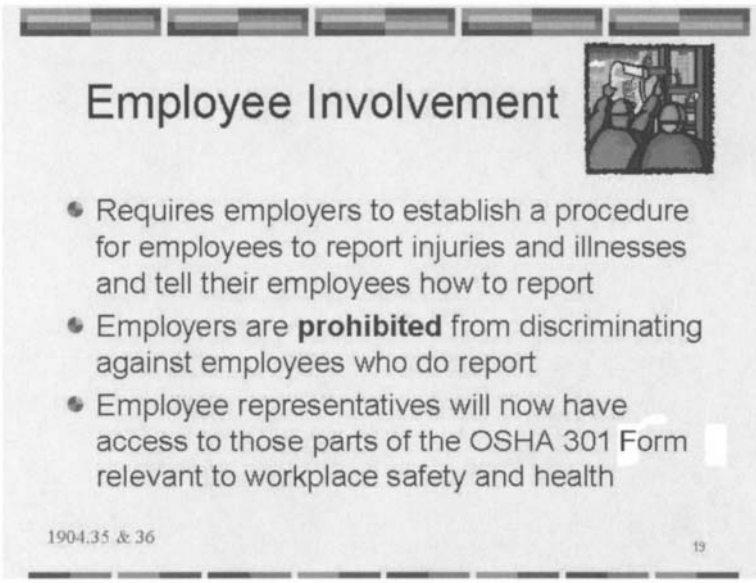
Script

Rather than "lost workdays," days away from work or days of restricted work activity or job transfer are required to be recorded. As before, the day of injury or illness is not counted.

A major change is that calendar days are now counted instead of the previous use of scheduled workdays. Counting calendar days provides a more accurate and consistent measure of disability duration and will generate more reliable data.

Under the new rule, there is a limit on how long employers are required to track cases. Days away or days of restriction do not have to be counted beyond 180 days.

Slide 18. Employee Involvement



Script

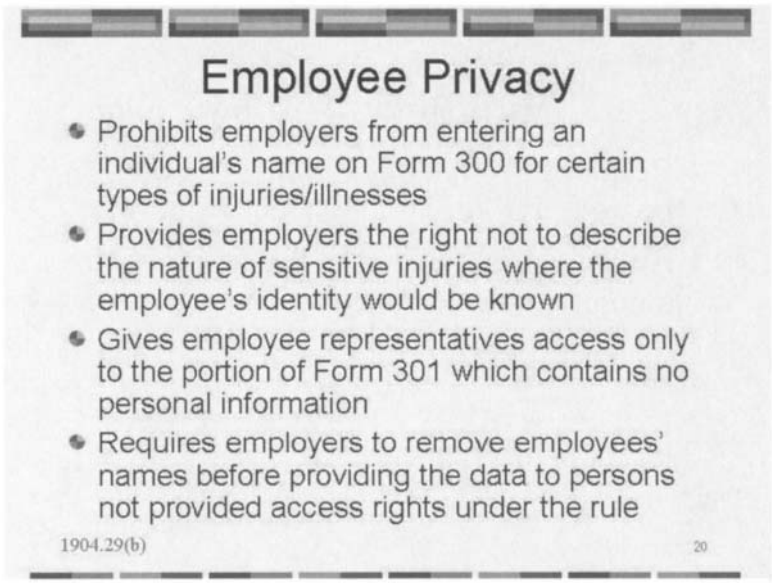
One of the goals of the new rule is to enhance employee involvement in the recordkeeping process. There is a new requirement that employers inform each employee of how to report an injury or illness. This means that employers must establish a procedure for the reporting of work-related injuries and illnesses and train the employees to use that procedure.

The rule now makes it clear that Section 11(c) of the OSH Act prohibits employers from discriminating against employees for reporting injuries and illnesses. This is not a new obligation; rather, it is a clarification of OSHA's anti-discrimination provisions.

Employee involvement is further enhanced by allowing employees to access the 301 Forms (Injury and Illness Incident Record) for their own injuries and illnesses. In addition, employee representatives now have a right to access those parts of the OSHA 301 Form relevant to workplace safety and health.

Employees, former employees, and employee representatives have a right to a copy of the Log, just as they have in the past.

Slide 19. Employee Privacy



Script

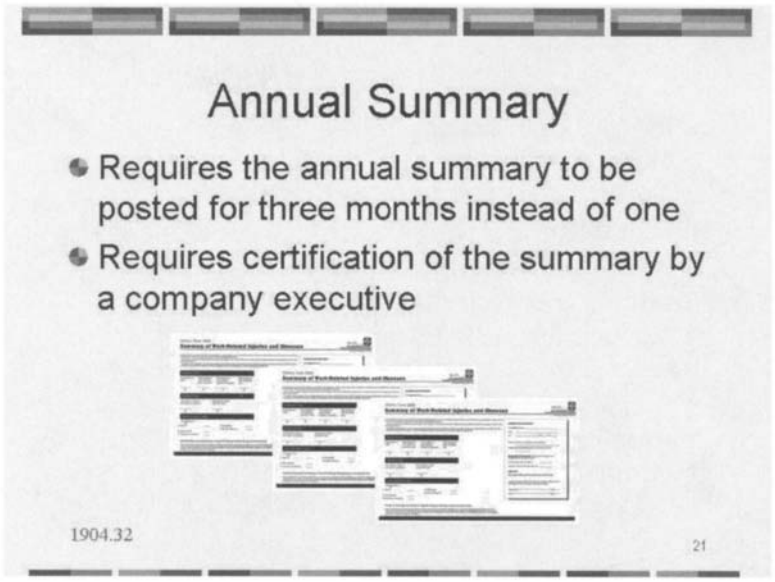
These new protections are designed to address privacy concerns raised by many who commented on the rule. Employers must withhold the injured or ill employee's name from the OSHA Log for injuries and illnesses defined by the rule as "privacy concern cases." This approach will allow the employer to provide OSHA 300 data to employees, former employees, and employee representatives, while still protecting the privacy of workers when necessary.

A separate list of case numbers and employee names must be provided to OSHA upon request.

Privacy concern cases include:

- An injury or illness to an intimate body part or reproductive system.
- An injury or illness resulting from a sexual assault.
- Mental illness.
- HIV infection, hepatitis, tuberculosis.
- Needlestick and sharps injuries that are contaminated with another person's blood or other potentially infectious material.
- Employee request to keep name off Log for other illness cases.

Slide 20. Annual Summary



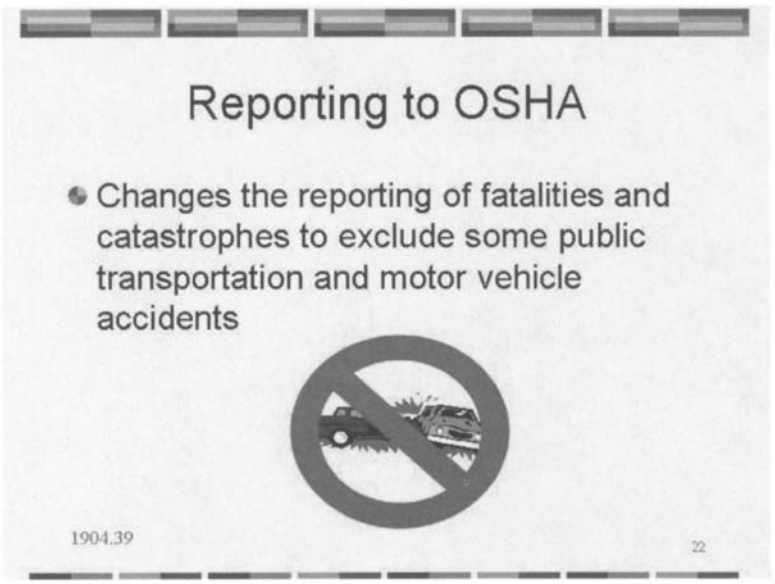
Script

At the end of each calendar year, OSHA Form 300A, Summary of Work-Related Injuries and Illnesses, must be certified for completeness and accuracy, and be posted from February 1 until April 30.

The longer posting period (previously, posting was for one month) is intended to raise employee awareness of the recordkeeping process by providing greater access to the previous year's summary.

The company executive certification process will encourage more accurate records by raising accountability for OSHA recordkeeping to a higher managerial level than under the former rule.

Slide 21. Reporting to OSHA



Note

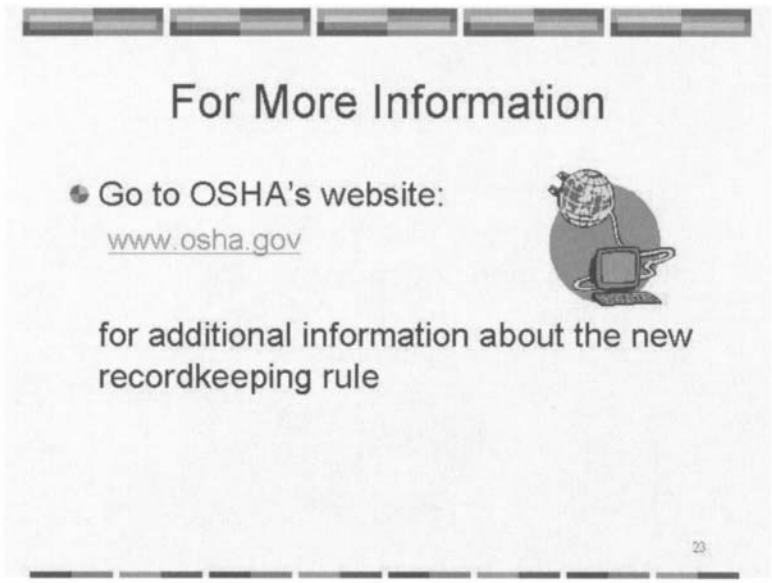
Note to Presenter: The basic requirement to report fatalities and the hospitalization of three of more employees to OSHA within eight hours has not changed. The report must be made orally to the OSHA area office near the incident site or by using the toll free number, 1-800-321-6742 (OSHA).

Script

Clarifications in the new rule relating to reporting information to the government include:

- Employers must report fatal heart attacks that occur at work to OSHA.
- Employers do not have to report motor vehicle accidents that occur in a public street outside of a construction work zone.
- Employers do not have to report commercial airplane, train, subway or bus accidents.
- Although employers do not have to report these incidents to OSHA under the eight-hour reporting requirement, any fatalities and hospitalizations caused by motor vehicle accidents, as well as commercial or public transportation accidents are *recordable* if they meet OSHA's recordability criteria.

Slide 22. For More Information



Notes

Note to Presenter: Provide handout on most recent OSHA Recordkeeping Page from the OSHA website. (Because recordkeeping information is being updated frequently on the website, presenters should print copies of the main Recordkeeping page shortly before a presentation.)

Note to Presenter: Refer to the back of the forms package for recordkeeping points of contact in your local area. If you are not using this package, provide name, telephone number, and e-mail of local contact.

Script

For more information, go to OSHA's website. From the Home Page, you can link to OSHA's Recordkeeping Page for the latest information concerning OSHA Recordkeeping.

Highlights of OSHA's New Recordkeeping Rule Presenter's Guide

The Highlights presentation contains a Microsoft PowerPoint® Presentation, a script and handout materials which provide an overview

of OSHA's new recordkeeping regulation. The objective of this slide presentation is to present an awareness of some of the key provisions of the new rule and to highlight the major changes from OSHA's former rule. At the end of the training session, the audience should be familiar with major elements of the new regulation.

Instructions for Use: This presentation is intended to assist a presenter in providing an overview of the new rule to audiences with a broad knowledge of OSHA's former rule. It does not discuss the rule in detail and does not describe all the requirements or changes in the new regulation. For those audiences requiring a more in-depth presentation on the recordkeeping requirements (e.g., recordkeepers), OSHA is developing a longer program that covers each paragraph of the new rule.

Note: Prior to the presentation, it is suggested that presenters review the latest information on OSHA's recordkeeping page.

In addition, presenters should print copies of OSHA's main Recordkeeping page as a handout to inform audience members of the latest information available on the website.

This package contains a PowerPoint presentation, a script and handouts.

- The PowerPoint presentation requires PowerPoint 2000 or the PowerPoint Viewer.
- The script is labeled with blue bold typeface. For consistency of the message on recordkeeping, it is recommended that this script be followed. The script shows a copy of the PowerPoint slide. Presenter notes associated with that particular slide are referenced in green. For example, it is recommended that the presenter refer the audience to specific handouts at certain times since they will most likely not be able to see the detail on that slide and the handout provides that detail.
- There are five handouts, detailed below, that are recommended for use with this presentation. Each is referred to during the presentation.

Although time requirements vary, this presentation should take approximately one hour.

Required Software: PowerPoint® 2000 or PowerPoint® Viewer

Handouts: Suggested handouts for this presentation include:

- OSHA forms package. A copy of the OSHA forms package or the individual OSHA Forms 300, 301, and 300A should be provided to audience members, as it is difficult to see the detail of the forms from the presentation.
- Partially Exempt Industries—Non-Mandatory Appendix A to Subpart B.

- Decision Tree for Recording Work-Related Injuries and Illnesses.
- OSHA Fact Sheet on Recordkeeping.
- Most recent OSHA Recordkeeping Page from the OSHA website. (Because recordkeeping information is being updated frequently on the website, presenters should print copies of the main Recordkeeping page shortly before a presentation.)

These materials are intended to be a resource document for presenters and are not a substitute for any of the provisions of the Occupational Safety and Health Act of 1970 or for any regulations or standards issued by the U.S. Department of Labor. It is expected that presenters wishing to use these materials will review the 29 CFR 1904 regulation and all handouts prior to any training session.

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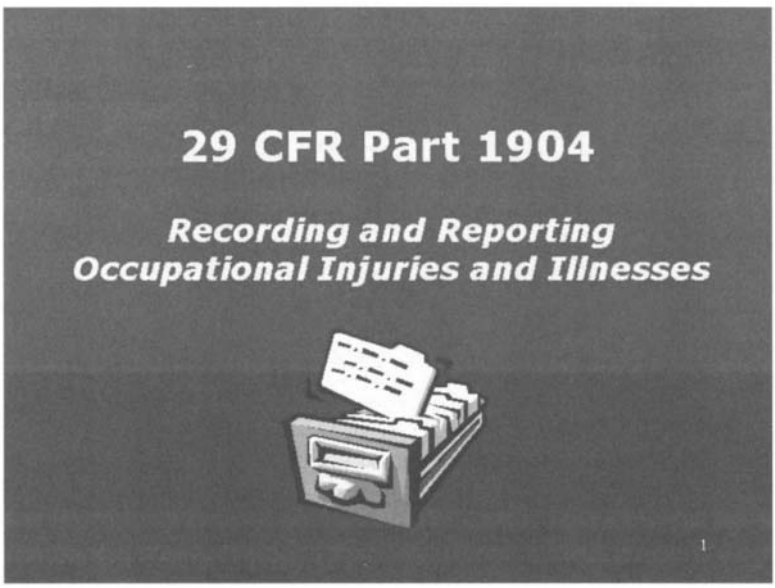
Non-Mandatory Appendix A to Subpart B—Partially Exempt Industries

Employers are not required to keep OSHA injury and illness records for any establishment classified in the Standard Industrial Classification (SIC) codes [in Table I-2 of this book's Introduction], unless they are asked in writing to do so by OSHA, the Bureau of Labor Statistics (BLS), or a state agency operating under the authority of OSHA or the BLS. All employers, including those partially exempted by reason of company size or industry classification, must report to OSHA any workplace incident that results in a fatality or the hospitalization of three or more employees (see §1904.39).

COMPREHENSIVE PRESENTATION ON OSHA'S NEW RECORDKEEPING RULE PRESENTATION SCRIPT (OCTOBER 26, 2001), RECORDING AND REPORTING OCCUPATIONAL INJURIES AND ILLNESSES

Slide 1



Note

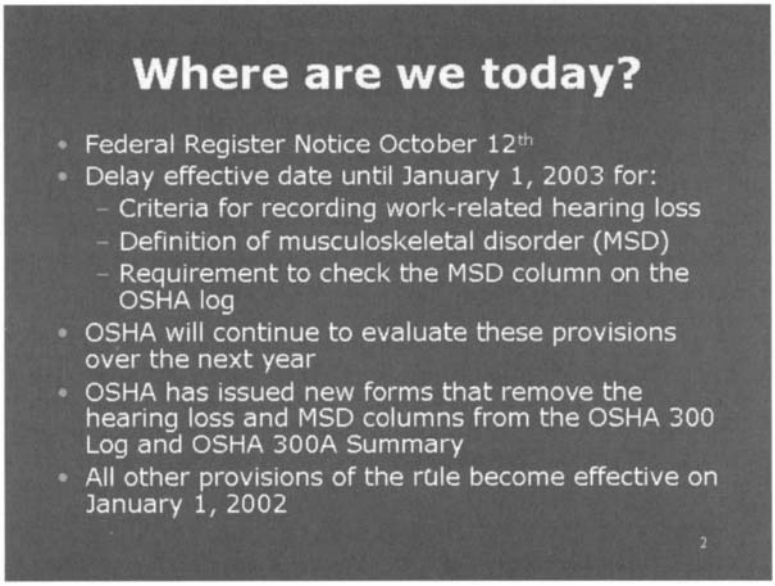
Note to Instructor: Prior to the presentation, it is suggested that instructors review the latest information on the recordkeeping rule at OSHA's Recordkeeping page. In addition, instructors should print copies of this page as a handout to inform audience members of the latest information available on the website.

Script

The back of the forms package contains recordkeeping points of contact in your local area. If you are not using this package in your presentation, be prepared to provide the name, telephone number, and e-mail of local contacts.

This program discusses the provisions of OSHA's new Recordkeeping Rule.

Slide 2



Script

Following publication in January, the rule was reviewed by the new administration, and the results of that review were announced in the Federal Register on July 3, 2001.

The Secretary of Labor decided to implement most of the rule, but proposed to delay the effective dates of sections 1904.10 and 1904.12 dealing with the recording of hearing loss cases and ergonomics injuries.

The final decision was announced in the Federal Register on October 12, 2001. OSHA will delay the effective date of the following provisions until January 1, 2003: the criteria for recording work-related hearing loss; the rule's definition of "musculoskeletal disorder" (MSD); and the requirement that employers check the MSD column on the OSHA log. OSHA will continue to evaluate these provisions over the next year.

OSHA has issued new forms that remove the hearing loss and MSD columns from the 300 Log and 300A Summary. All other provisions of the rule become effective on January 1, 2002. (Note: The second sentence of §1904.29(b)(7)(vi) ["Musculoskeletal disorders (MSDs) are not considered privacy concern cases."] is effective beginning on January 1, 2003.)

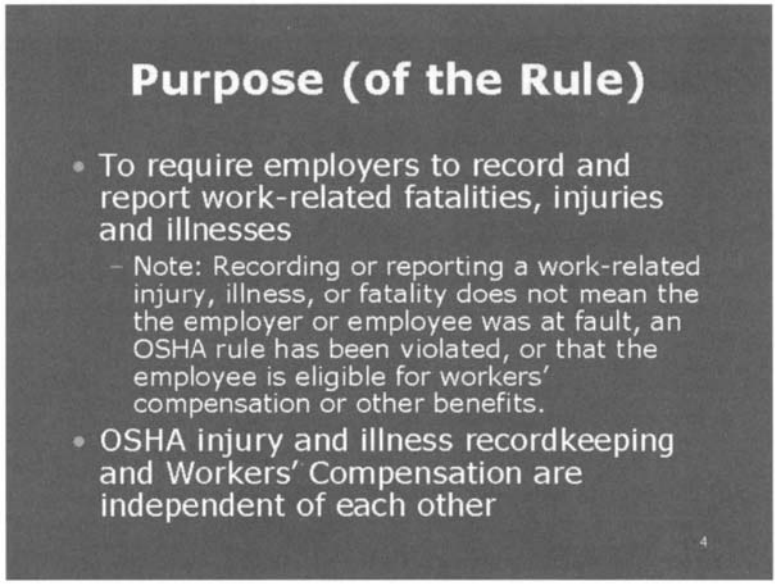
Slide 3

Script

The new rule is organized into seven sections, or subparts.

The rule is written in a question and answer format to make it easier for people to understand and follow. The definitions section contains only a few terms because most definitions are included where the terms are used. However, three important terms: establishment, injury or illness, and physician or other licensed health care professional (referred to as a PLHCP) are included in Subpart G.

Slide 4



Script

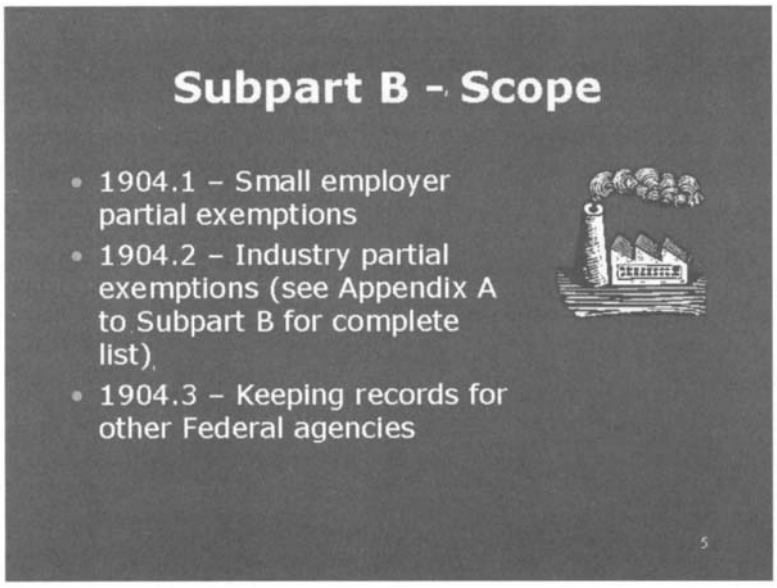
The "purpose" section states the basic purpose of the rule: to require employers to collect injury and illness data and report it to the government, but it doesn't tell how the data are used or why they are important. The records provide the base data for the BLS survey of occupational injuries and illnesses, the Nation's primary source of occupational injury and illness statistics.

The records are also used by employers and employees to manage safety and health programs at individual workplaces. Analysis of the data is a widely recognized method for discovering workplace safety and health problems, and for tracking progress in solving those problems.

Finally, the data are used by OSHA. We collect the data to help us direct our programs and measure our own performance, and our inspectors use the data during inspections to help direct their efforts to the hazards that are hurting workers.

The purpose section also includes a note to make it clear that recording an injury or illness does not have any effect on workers' compensation nor prove violation of an OSHA rule. Hopefully, this will reduce the stigma some employers feel accompanies the recording of a work-related injury or illness.

Slide 5

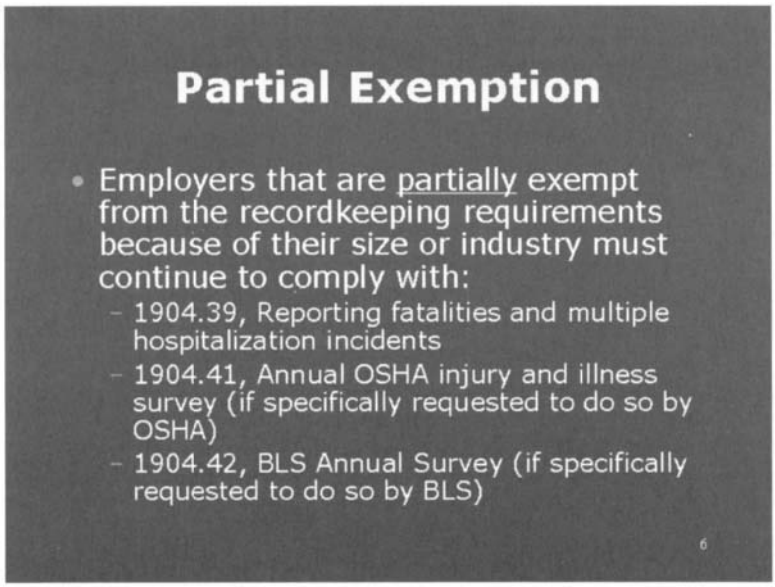


Script

The "scope" section includes an exemption for smaller employers and for establishments in certain industrial classifications. The scope section also deals with injury and illness recordkeeping requirements from multiple government agencies.

Out of 7 million U.S. establishments, about 1.4 million are required to keep records. This means that about 20% of American workplaces must keep OSHA records, and about 80% are partially exempt.

Slide 6

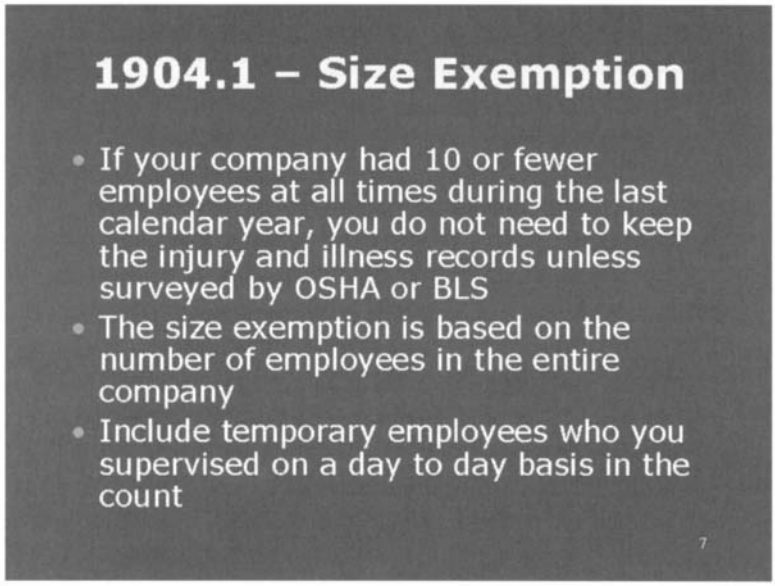


Script

While the 1904 regulation exempts many employers from keeping records at all times, these employers are not exempted from all of the 1904 requirements.

All employers are required to report fatalities and the in-patient hospitalization of three or more employees within eight hours. Partially exempt employers may need to keep injury and illness records when the government asks them to do so.

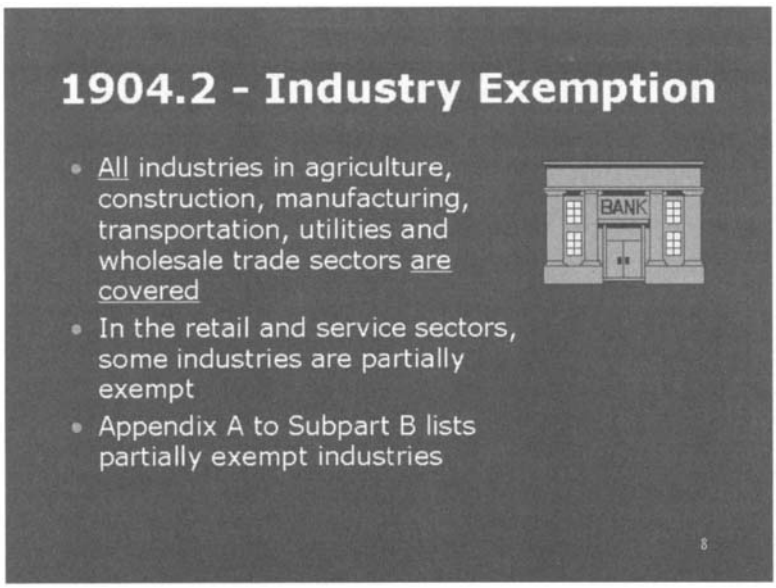
Slide 7



Script

The size exemption is based on the company's peak employment during the last calendar year. If, at any time last year, the company reached 11 or more workers, the company is not size exempt. However, the company, or some of its individual establishments, may still be exempt because of industry classification.

Slide 8



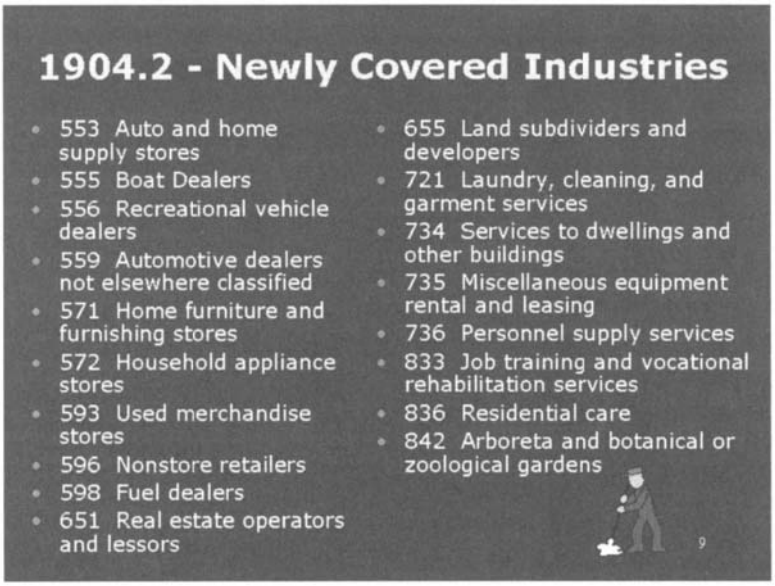
Script

Appendix A to Subpart B lists the partially exempt service and retail industries. Establishments in these industries are exempt even if they are very large. For example, a very large chain of shoe stores or a very large bank is exempt. Some of the State Plan States have different industry exemptions.

The exempt retail and service industries were chosen by comparing the lost workday injury and illness experience of the industry with the national average. If the industry's lost workday case rate for the last 3 years was below 75% of the national average, the industry was exempted. The new rule looks at more well defined industries, those classified at the "3-digit" SIC level, while the old rule looked at the "2-digit" level.

The industry exemption applies to individual establishments, so a company that is engaged in several lines of business could have some establishments that keep records, and others that do not.

Slide 9

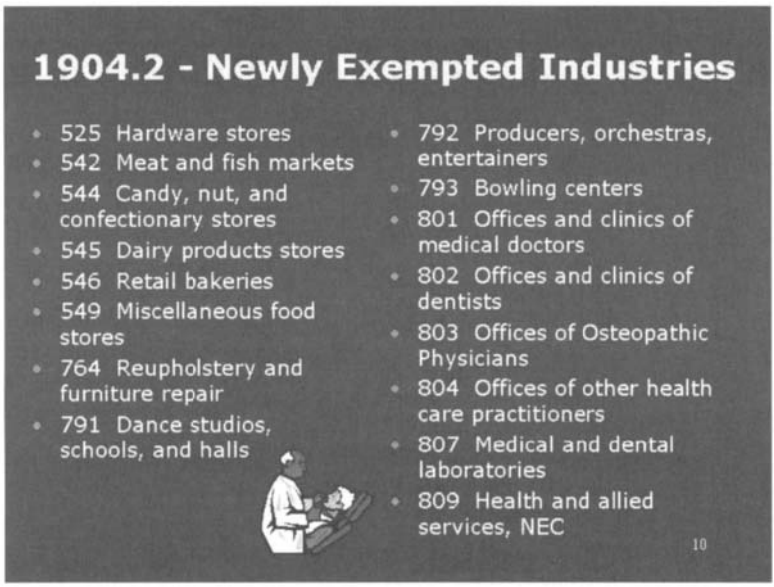


Script

About 180,000 establishments that were exempted by the old rule will now have to keep records. These establishments are classified in industries that now have a lost workday case rate above 75% of the national average.

Some industries of interest are laundry and dry cleaning services, janitorial services, and personnel supply services.

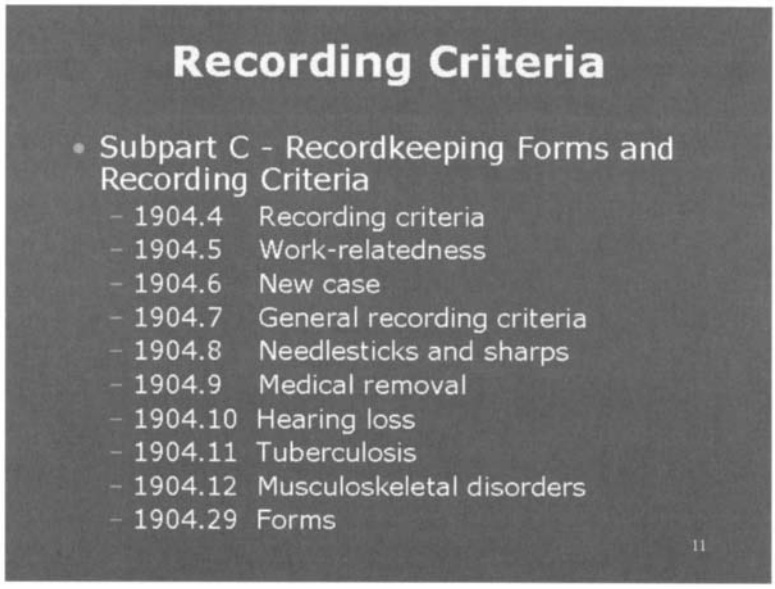
Slide 10



Script

About 120,000 establishments that were covered by the old rule will now be exempt from most of the 1904 requirements. A large sector that will be exempted are doctors' and dentists' offices.

Slide 11



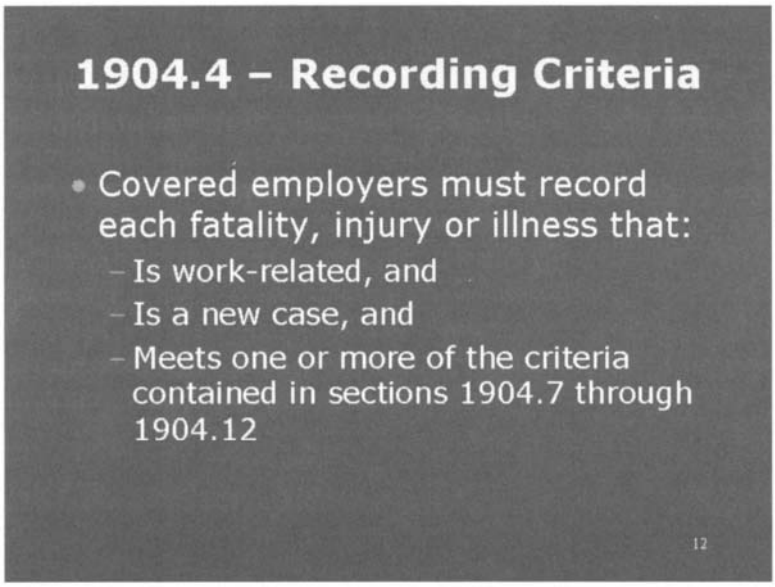
Script

For the injury and illness statistics, Subpart C is the most important section of the rule, because it defines which cases should be recorded on the OSHA 300 Log and which should not be recorded.

The sections of the rule follow the process for deciding if a case is recordable: determining work-relatedness, if it is a new case, if it meets the general recording criteria, and whether it has special criteria for a specific injury/illness type.

You may notice the gap between 1904.12 and 1904.29. These sections are being left blank so space is available to create special criteria for other conditions that may come up in future years.

Slide 12

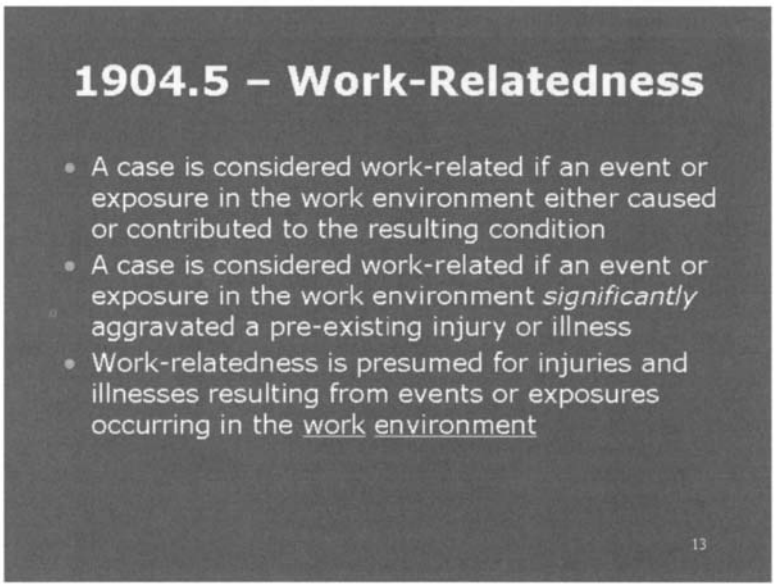


Script

Paragraph 1904.4 explains the overall process for deciding whether or not to record a case. This process is changed from the old rule. The old rule had different criteria for the recording of injuries and illnesses. Now the system is simpler because all cases (both injury and illness cases) are analyzed using the same criteria. This is a significant change from the old rule, which required that work-related illness cases be automatically recorded. Under the new system, illness cases are only recorded if they meet the same criteria as injury cases. For example, under the old rule, if an employee was working with a cleaning chemical, and got a rash, the case was recordable, regardless of what treatment was provided. Under the new rule, the case would only be recordable if it resulted in medical treatment, restricted work, etc.

1904.4 also includes a flowchart that provides a visual representation of the overall process for deciding whether or not to record an injury or illness.

Slide 13

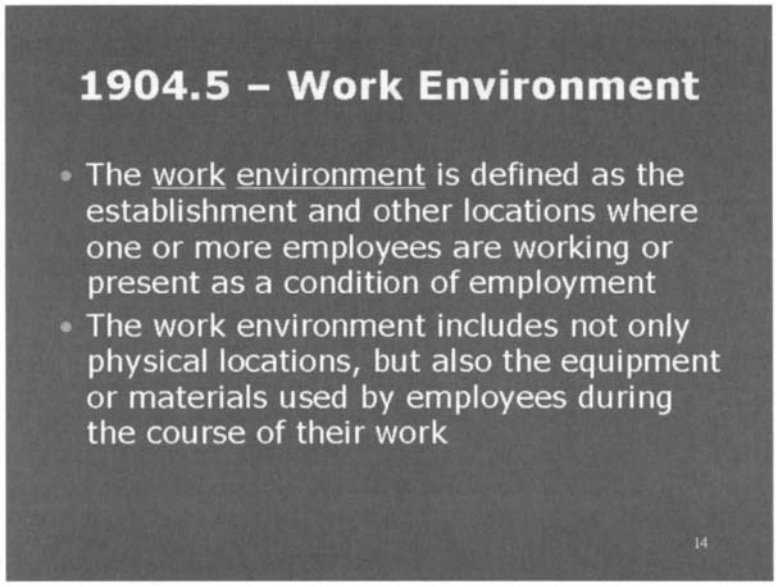


Script

The concepts of work-relatedness are very similar to the old rule. A case is considered work related if events or exposures at work either cause or contribute to the injury or illness, and cases that result from an event or exposure at work are presumed to be work related.

The difference is that the directions from the 1986 Guidelines are now in the regulatory text, and the requirements for workplace aggravation of a non-work injury have been reduced, which will result in fewer recordable cases.

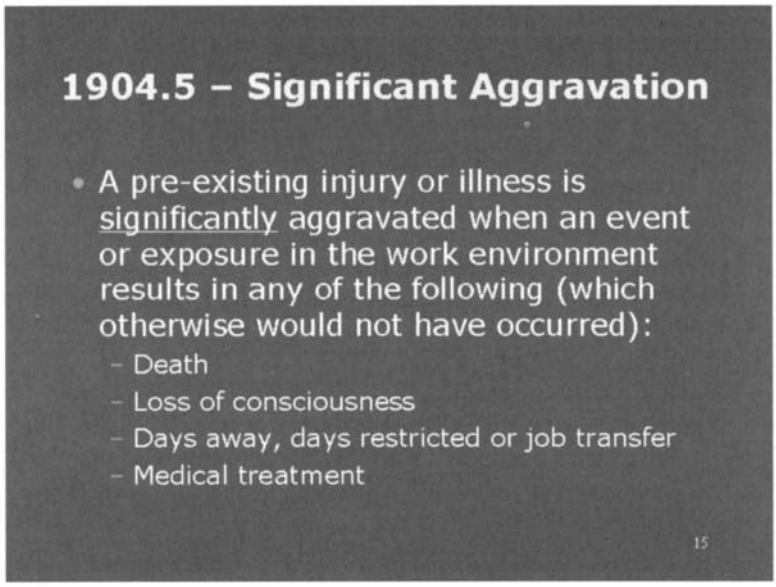
Slide 14



Script

When employees are at the establishment, they are in the work environment. When employees are working away from the establishment, they carry a "bubble" of work environment wherever they go.

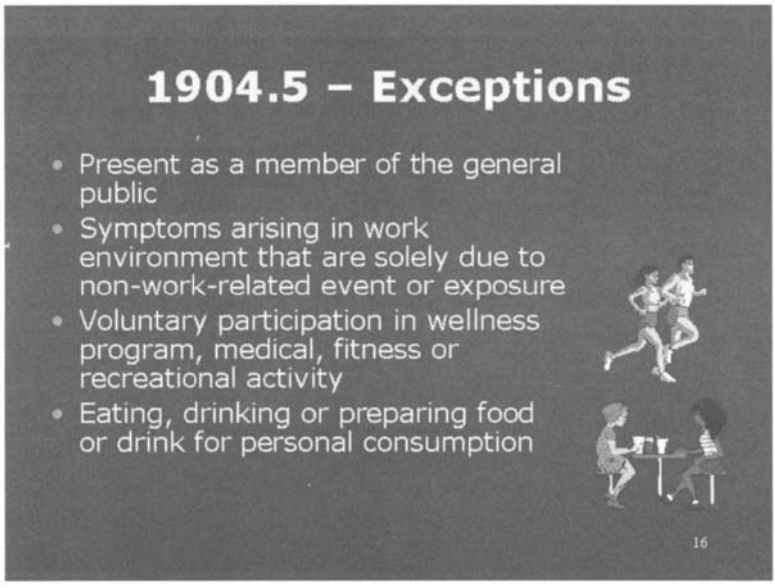
Slide 15



Script

Under the old rule, any workplace aggravation was enough to establish the work-relatedness of an injury of illness. Now the aggravation must be significant. The workplace event or exposure must aggravate a preexisting injury or illness enough that it results in greater consequences than what would have occurred but for that event or exposure. This means that the preexisting condition requires more medical treatment than otherwise needed; more restrictions, more days away, etc.

Slide 16



Script

Cases meeting the conditions of the listed exceptions to work relationship in the rule are not considered work related and are, therefore, not recordable.

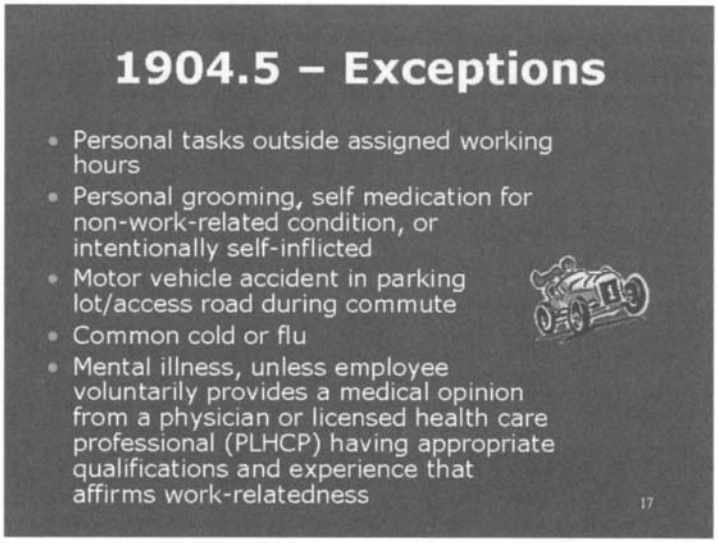
For example, if a grocery store employee is shopping in the store after work, falls and is injured, the employee is present as a member of the general public and the case is not work related.

Likewise, if an employee has a diabetic episode and must be given prescription medications, the diabetes is solely due to a non-work-related event or exposure, and is not work related.

If an employee passes out giving blood or is injured playing basketball—the case is due to voluntary participation in a wellness or fitness program and is not work related.

If an employee burns his lip on a cup of coffee or chokes on a sandwich—the case is due to eating food or drink for personal consumption, and is not work related.

Slide 17



Script

If an employee uses the employer's sewing machine to make tents for the Girl Scouts after the shift has ended, this is a personal task outside of assigned working hours and any injury that would occur during that task is not work related.

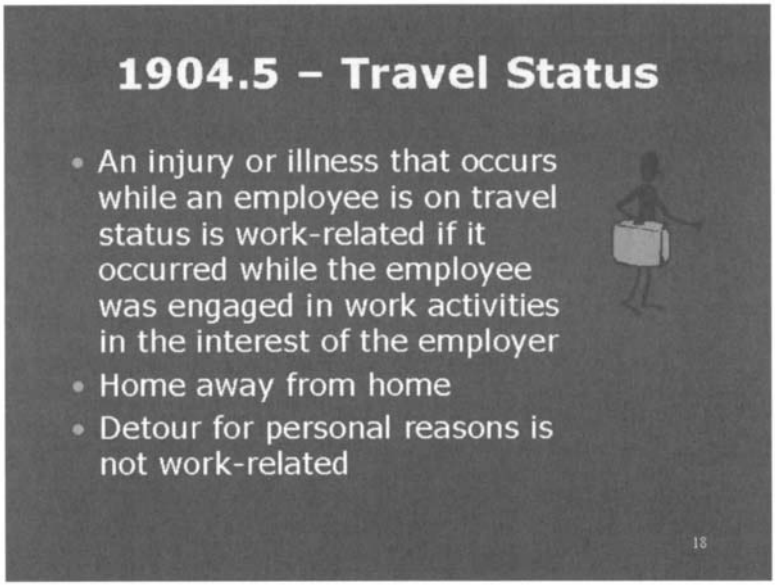
If an employee has a negative reaction to asthma medication for personal allergies, gets mascara in the eye, or commits suicide—the cases are from self-medication for a non-work-related condition, personal grooming, or intentionally self-inflicted and are not work related.

If an employee is injured in a motor vehicle accident going to or leaving work at the beginning or end of the shift, or for a personal errand—the case is not work related. However, if the employee slips on the ice in the parking lot, or is in a car wreck doing business—the case is work related. This is a change from the old rule. In the old rule, parking lots were simply not considered part of the establishment.

If an employee catches a cold or the flu, the case is not work related.

Mental illness is work related only if the employee voluntarily provides the employer with a written opinion from a PLHCP with appropriate qualifications and experience that affirms a work-related mental illness. The employer is under no responsibility to seek out mental illnesses. In addition, the employer may also get a second opinion from another PLHCP and accept the opinion of the most qualified PLHCP.

Slide 18



Script

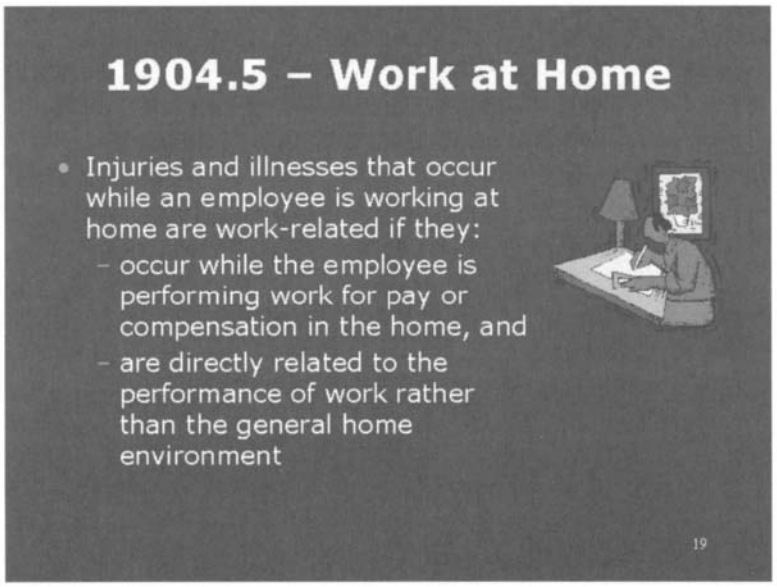
When employees are traveling, an injury or illness that occurs while the employee is engaged in work activities for the employer is considered work related.

Travel to and from customer contacts and entertaining or being entertained at the direction of the employer are work related. For example, if an employee falls in the airport while on a business trip, the case is work related.

When an employee checks into a hotel or motel, he/she establishes a "home away from home." While they're in that "home away from home" status, cases that occur are not work related. For example, if an employee slips in the hotel shower and is injured, the case is not work related.

Likewise, if the employee takes a side trip while in transit for a vacation, to go sightseeing or shopping, etc., and is injured, the case is not work related.

Slide 19



Script

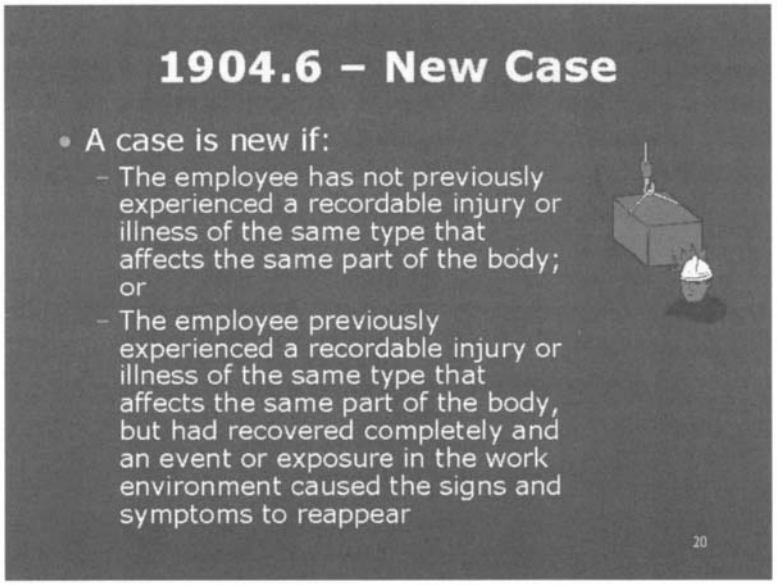
When employees are working at home, a case is work related when an employee is injured or becomes ill while working for pay or compensation. Cases are not work related if they are related to the general home environment.

For example, if an employee drops a box of work documents and injures her foot, the case would be considered work related. If an employee's fingernail was punctured and became infected by a needle from a sewing machine used to perform garment work at home, the injury would be considered work related.

If an employee was injured because he tripped on the family dog while rushing to answer a work phone call, the case would not be considered work related. If an employee working at home is electrocuted because of faulty home wiring, the injury would not be considered work related.

OSHA Directive CPL 2-0.125 gives guidance on OSHA's policy for employees who are working at home and explains that OSHA will not conduct inspections at home offices.

Slide 20



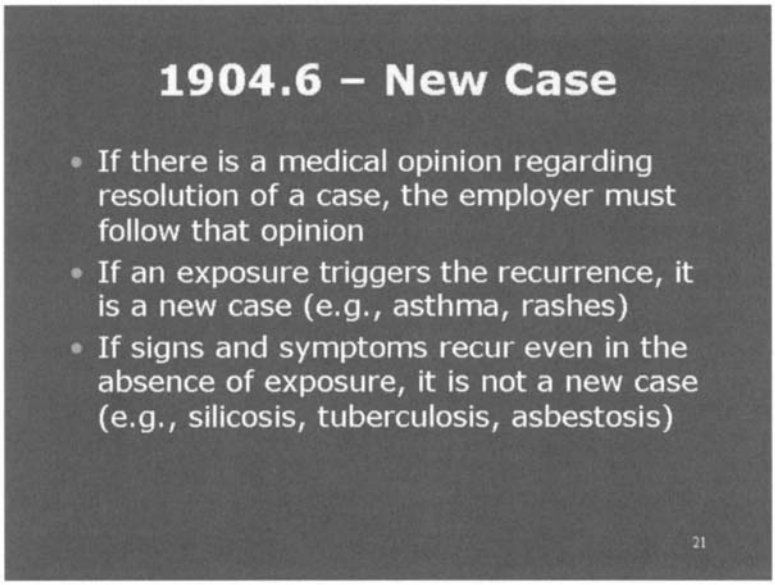
Script

The issue of whether a case is new or recurring is not a problem for most injury cases. A burn, cut, fracture, or bruise is clearly a new case.

The new case decision is more difficult for long-term illnesses and injuries that tend to recur, like back cases. Obviously, if the employee has never had a recordable case like the one now causing problems, the case is new.

If the employee has had a like case in the past, the new case decision involves two questions: 1. Has the employee recovered from the old case? and 2. Did events or exposures at work cause the signs and symptoms to reappear?

Slide 21



Script

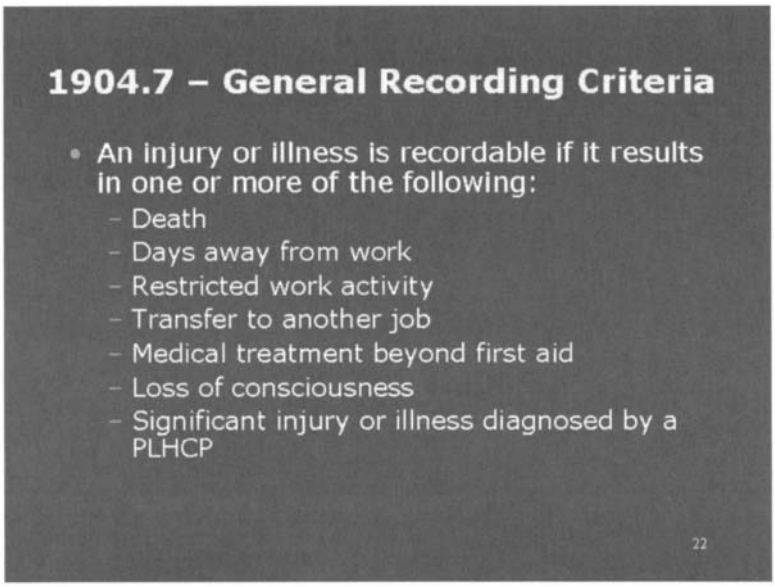
If there's a medical opinion regarding resolution of a case, the employer must follow that opinion.

If two or more PLHCPs make conflicting recommendations the employer is required to base the decision on the best documented and most well reasoned evidence.

Generally, if an exposure triggers the recurrence, it's a new case. This is generally the case in asthma or occupational dermatitis cases.

If signs and symptoms recur even in the absence of exposure, it is not a new case. This is commonly the case for silicosis or tuberculosis.

Slide 22

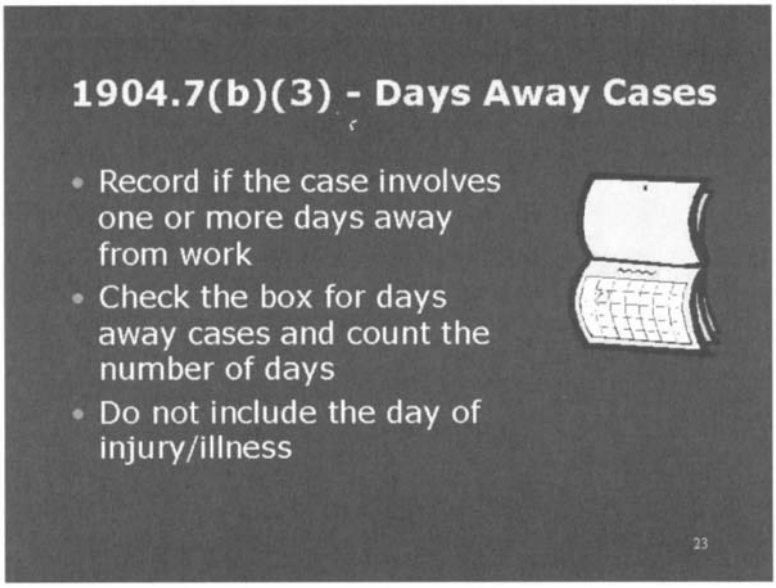


Script

The general recording criteria are nearly the same as we've always had, and that are articulated in the OSH Act. Of course, all occupational deaths are recordable, as are cases with days away from work, restricted work, transfer to another job, medical treatment beyond first aid, and loss of consciousness.

A new category is a significant injury or illness diagnosed by a physician or other licensed health care professional. These are significant injuries and illnesses that are not always captured by the general recording criteria. This is intended to be a very limited criterion that includes cancer, chronic irreversible disease (such as chronic beryllium disease), a fractured or cracked bone, or a punctured eardrum.

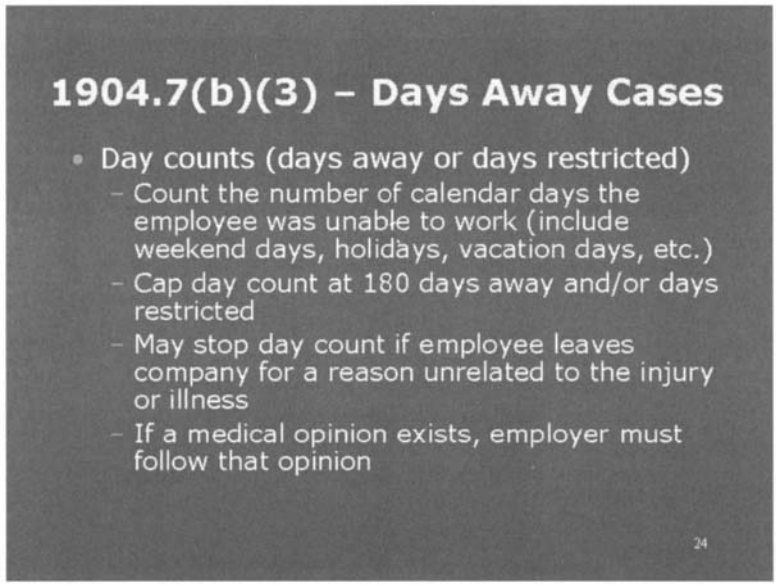
Slide 23



Script

Cases that result in days away from work are recordable in the new rule, just as they were under the old rule. The employer is to check the box for days away cases and count the number of days away. The day of the injury or illness is not counted as a day away.

Slide 24



Script

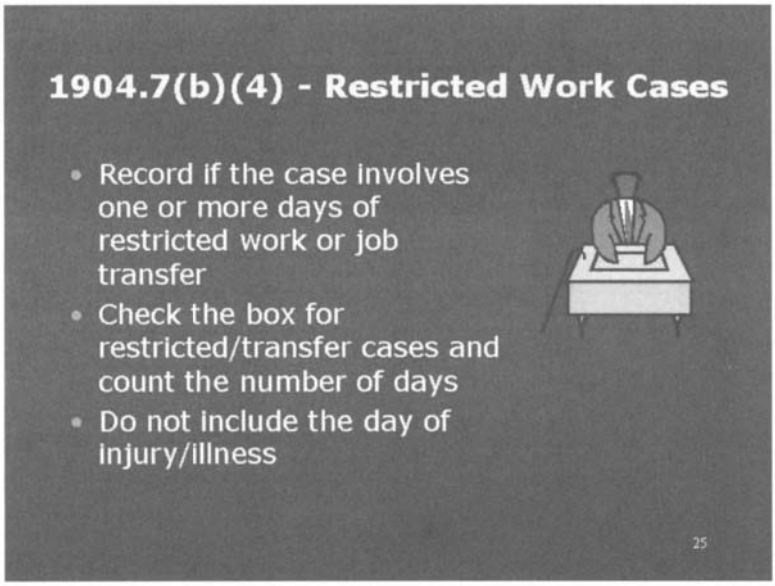
While the old rule required the employer to count scheduled workdays, the new rule requires the counting of calendar days.

Under this system, a special case arises when an employee is injured on a Friday or right before a vacation, and returns on the next scheduled day. If a PLHCP gives information that the employee should not have worked during those days off, then the days should be counted.

The employer may stop counting days when they reach 180 days away from work or days of restricted work or both. We then know that this was a serious case. The employer may also stop counting days if the employee leaves the company for some reason not related to the injury or illness—for example, a plant shutdown.

If the employee is away from work for an extended time, the employer must record the case within seven days with an estimate of the days away and then must update the day count when the actual number of days away or restricted becomes known.

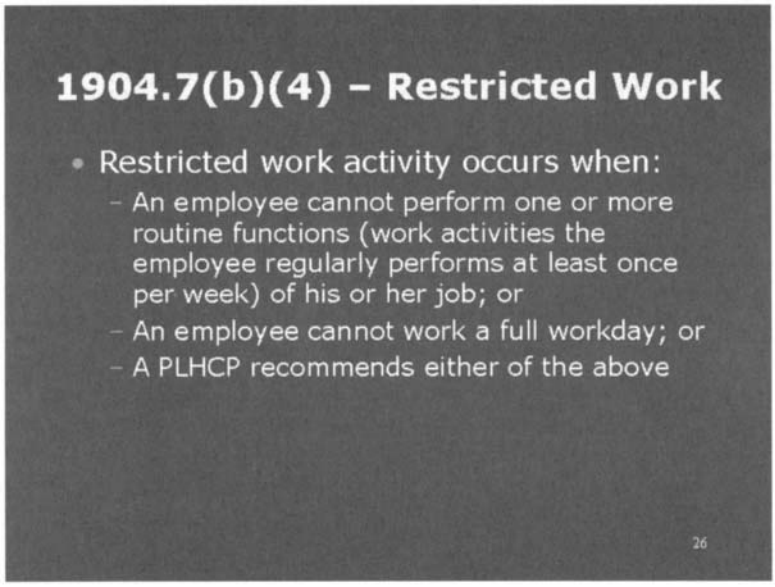
Slide 25



Script

Cases that result in days of restricted work or job transfer are recordable in the new rule, just as they were under the old rule. The employer is to check the box for restricted work cases and count the number of days restricted or transferred. The day of injury/illness is not counted as a day of restriction. The change from the former rule is that now a restriction that is limited only to the day of injury or illness does not make a case recordable.

Slide 26



Script

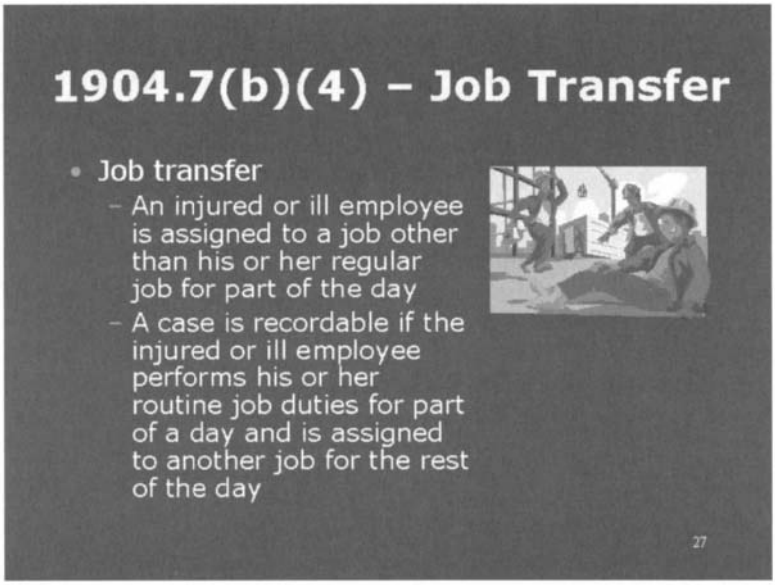
The most common restriction occurs when the employee cannot perform one or more of his or her routine functions, activities the employee regularly performs at least once per week.

This is a change from the old rule, which included all activities the employee would have performed during the course of a year.

An employee who normally works eight hours a day but can only work four hours a day (or some other partial day) due to the injury or illness has a day of restricted work activity.

It is important to remember that restrictions can be imposed by a PLHCP, or by the employer.

Slide 27

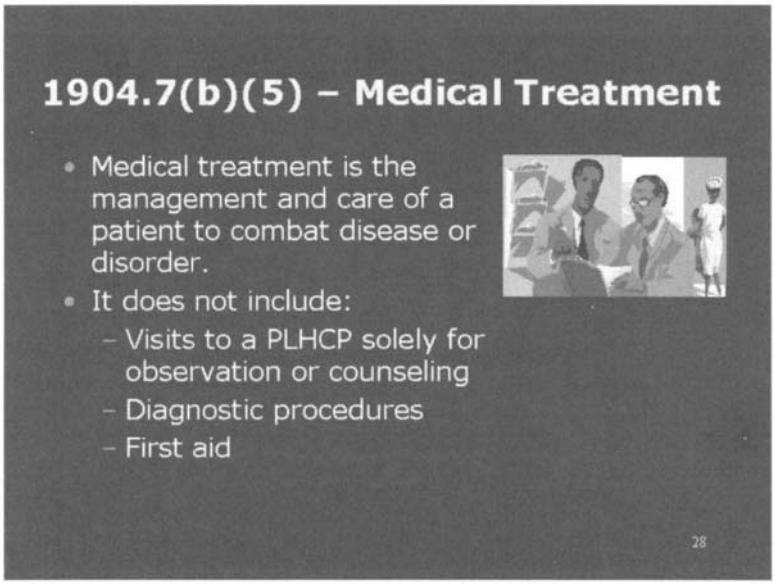


Script

Most job transfers involve some type of restriction. Even if they don't, job transfers due to an injury or illness are recordable events. If an injured or ill employee is transferred to another job for half days, this is also a job transfer.

If a permanent job transfer is made immediately, that is, on the day of injury or illness, at least one day of restricted work activity must be recorded.

Slide 28



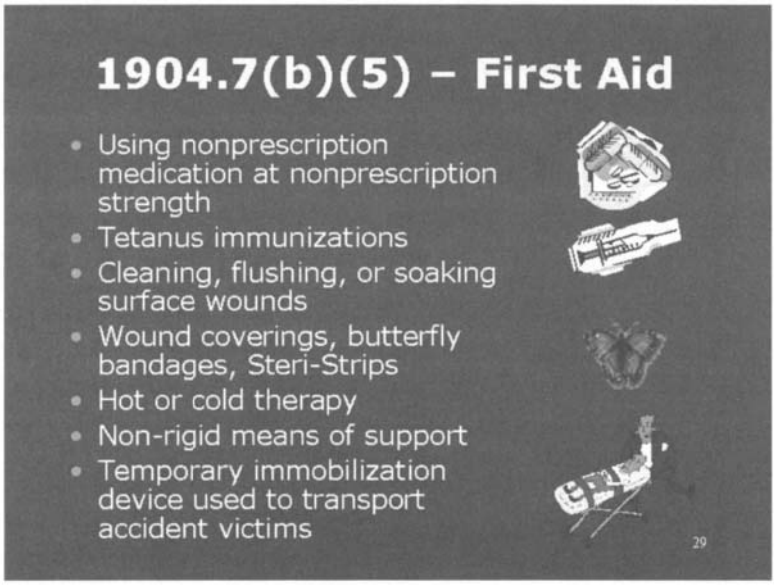
Script

Medical treatment is the management and care of a patient to combat disease or disorder. Medical treatment does not include visits to a PLHCP solely for observation and counseling, including follow-up visits.

Medical treatment also does not include diagnostic procedures, such as X rays, blood tests, or MRIs. Use of prescription medications for diagnostic purposes is also not considered medical treatment; for example, prescription eye drops used to dilate the pupils.

Finally, medical treatment does not include first aid procedures.

Slide 29



Script

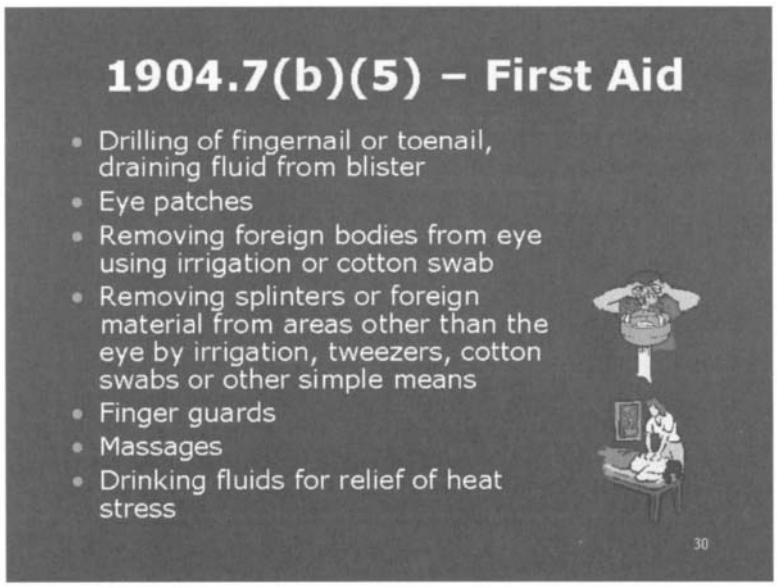
First aid is now defined using a list of procedures that are all-inclusive. If a procedure is not on the list, it is not considered first aid for recordkeeping purposes.

The first item in the list is using nonprescription medication at nonprescription strength. This means that if an employee is provided prescription medications or nonprescription medications at prescription strength, it is considered medical treatment.

The new rule also makes it clear that wound coverings, butterfly bandages, and Steri-Strips are first aid. Use of wound closure methods such as sutures, medical glues, or staples is considered medical treatment.

The new rule also makes it clear that hot or cold therapy is first aid regardless of how many times it is used.

Slide 30



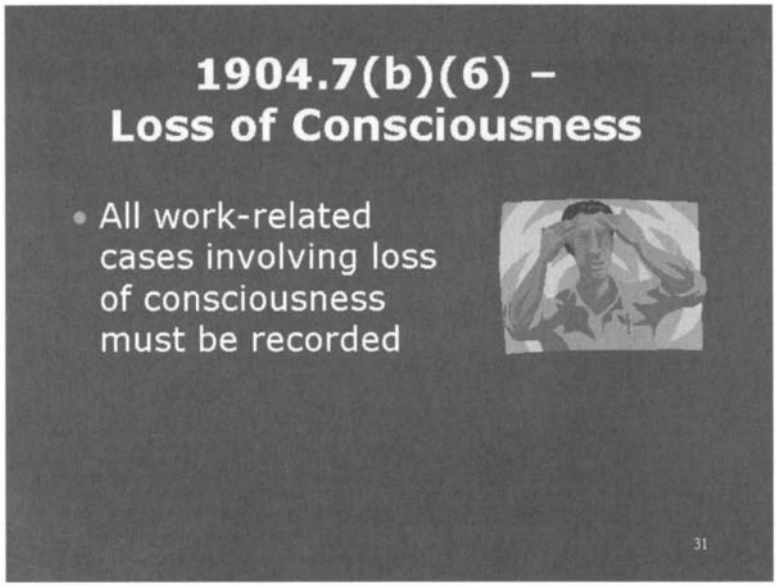
Script

Removing foreign bodies from the eye using irrigation or a cotton swab is first aid. Using other methods to remove materials from the eye is medical treatment.

Massage therapy is first aid. Physical therapy or chiropractic treatment is considered medical treatment.

Drinking fluids for relief of heat stress is first aid, but administering fluids through an IV is medical treatment.

Slide 31

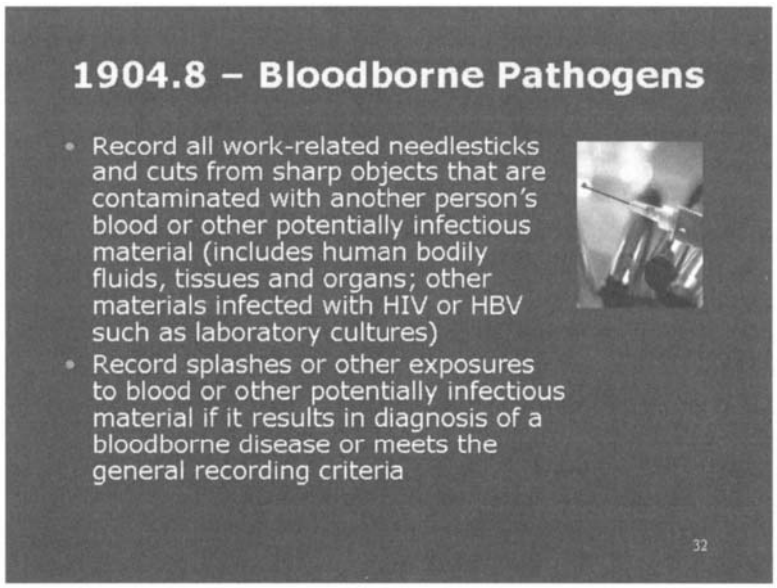


Script

All work-related cases involving loss of consciousness must be recorded.

The length of time the person is unconscious is irrelevant.

Slide 32



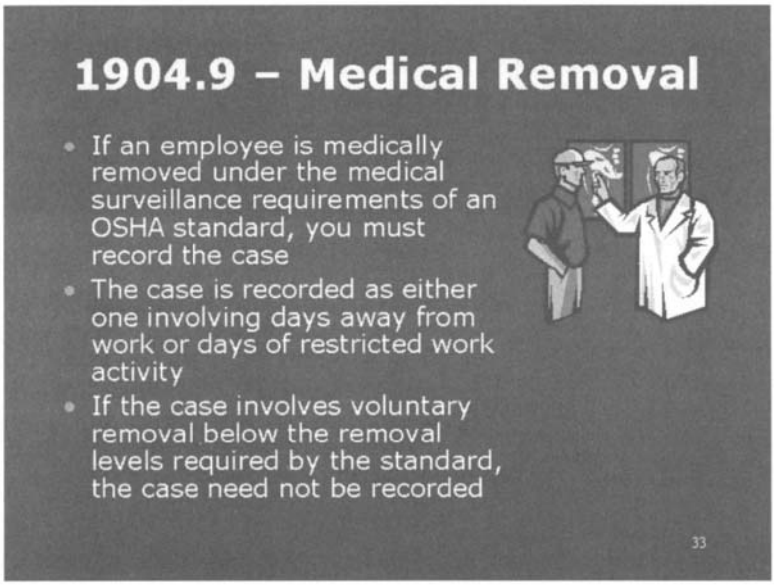
Script

The rule requires the recording of all work-related needlesticks and cuts from contaminated sharp objects. This provision has the greatest effect on the health care sector, especially hospitals and nursing homes.

The new requirements of the bloodborne pathogen standard for sharps injury logs are linked to the recordkeeping rule. If the establishment is exempted from the 1904 requirements, it is also exempted from the sharps injury log requirements of 1910.1030.

An employer can use the 300 Log to meet the requirements for a sharps log. To do so, the employer must be able to segregate the sharps injury data and must include information on the type and brand of device that caused the injury.

Slide 33



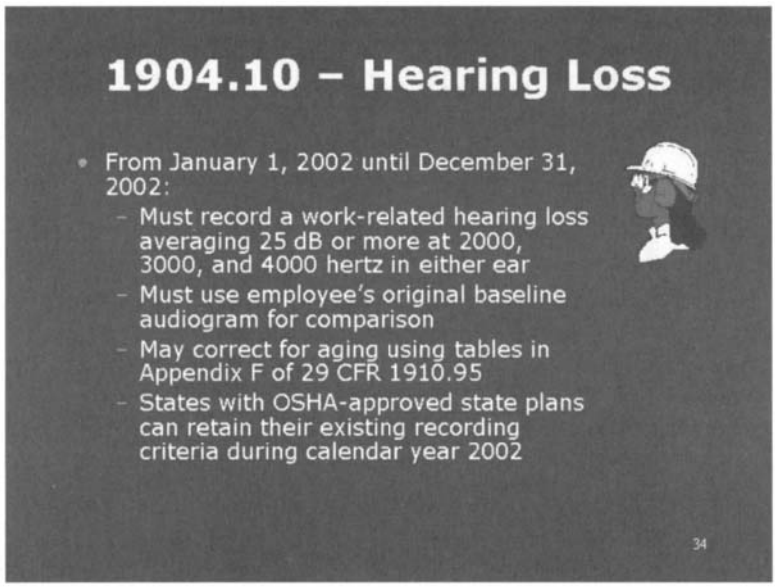
Script

1904.9 requires the employer to record cases where an employee is medically removed under an OSHA standard. Several OSHA standards have medical removal criteria, including the lead, cadmium, and benzene standards.

The case is recorded as a days-away or restricted work case depending on how the employer deals with the removal.

If employers voluntarily remove employees below the thresholds in the standards, the case does not need to be recorded under this paragraph.

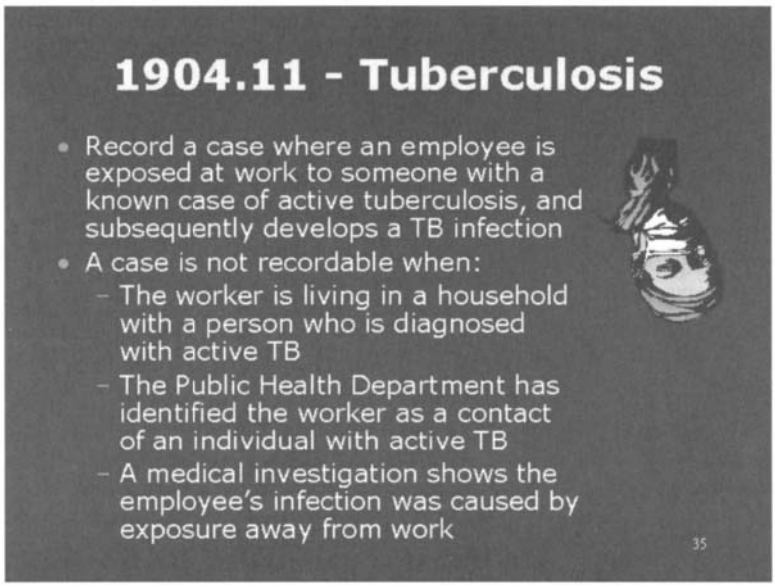
Slide 34



Script

OSHA has established interim criteria for recording cases of work-related hearing loss. From January 1, 2002 until December 31, 2002, employers must record a work-related hearing loss averaging 25 dB or more at 2,000, 3,000, and 4,000 hertz in either ear on the 300 Log. You must use the employee's original baseline audiogram for comparison. You may make a correction for presbycusis (aging) by using the tables in Appendix F of 29 CFR 1910.95. States with OSHA-approved state plans can retain their existing recording criteria for hearing loss during calendar year 2002.

Slide 35



Script

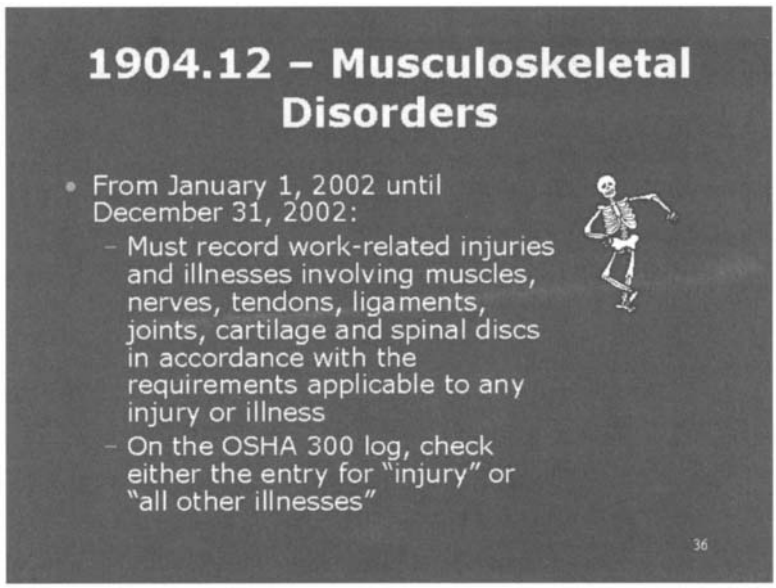
This is another change that affects the health care sector more than other industries.

The old system included a presumption of work-relatedness for certain high risk industries. Now, tuberculosis must be recorded wherever it is found, using consistent criteria.

If an employee is exposed to an active case of tuberculosis at work, and then has a positive TB skin test or becomes an active case, then it must be recorded.

The case does not have to be recorded if there is evidence that the case did not arise from a workplace exposure.

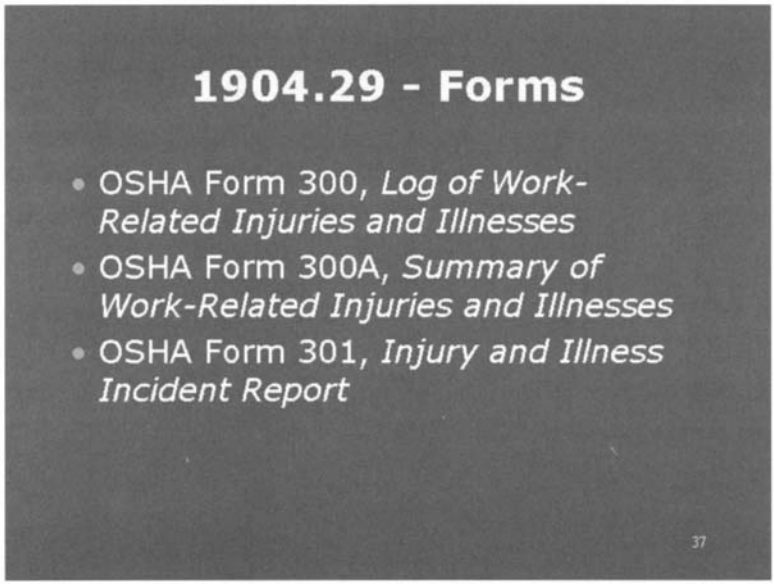
Slide 36



Script

From January 1, 2002 until December 31, 2002, employers are required to record work-related injuries and illnesses involving muscles, nerves, tendons, ligaments, joints, cartilage, and spinal discs in accordance with the requirements applicable to any injury or illness. For entry on the 300 Log, you must check either the entry for "injury" or "all other illnesses."

Slide 37



Note

Note to Presenter: Provide OSHA forms package or individual OSHA Forms 300, 301, and 300A so that audience members can see the detail of the forms referred to in the following slides.

Script

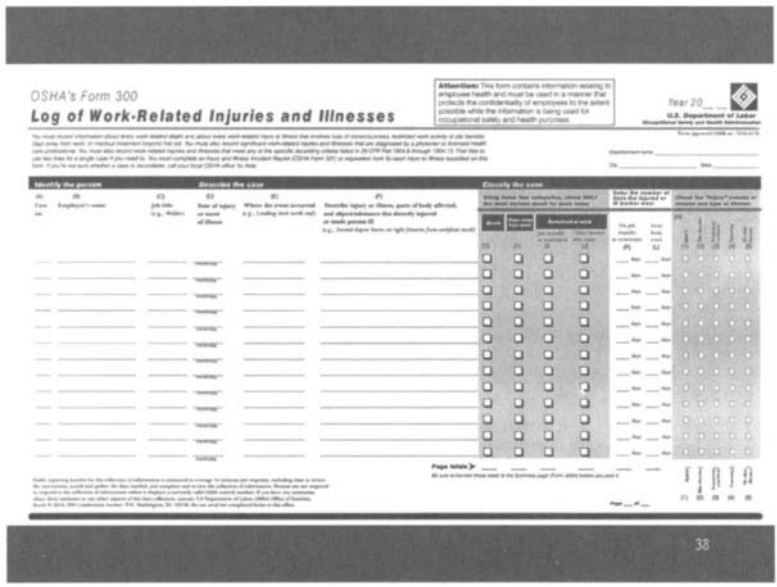
The rule now requires employers to keep three forms: a 300 Log, a 300A Summary Form, and a 301 Incident Report.

The forms are included in a forms package which contains:

- Enough 300 and 300A Forms for the average employer to keep records for three years.
- Instructions and examples.
- A worksheet for calculating injury and illness rates.
- A worksheet to help employers fill out the summary.

The package also includes references to tell employers where they can get more help.

Slide 38

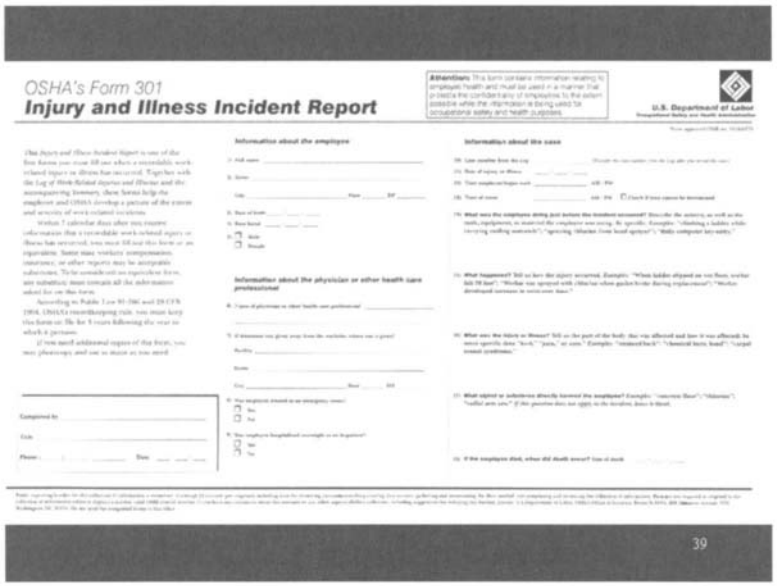


Script

The 300 Log is quite similar to the 200 Log but it's smaller and with fewer columns. It combines injuries and illnesses to make a simpler form. The form also does away with the confusing term "lost workdays."

The employer checks one and only one of the outcome columns for each case, the one representing the most serious outcome of the case. If the status of the case changes, then the entry must be changed. For example, if the injured employee is experiencing days away from work, then dies, the employer must remove (or line out) the days away entry and the day count and check the box for a fatality.

Slide 39



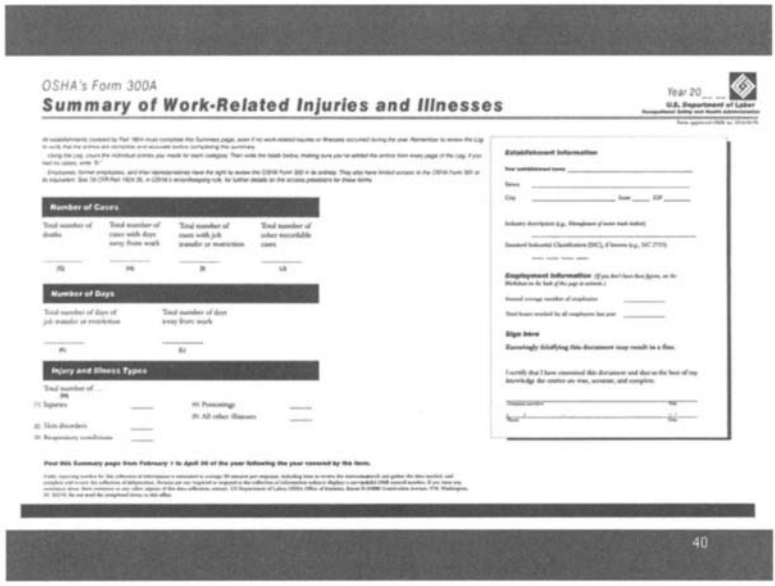
Script

The new 301 Form captures more data on each injury and illness (the length of service, what time the injury occurred, what time the employee started work, etc.), and the questions are designed to obtain more descriptive responses.

The questions about how the person was injured or became ill are identical to the BLS survey questions, which makes it easier for employers to complete the survey forms when they receive them.

Many employers use a Workers' Compensation Report, a First Report of Injury or a Company Accident Report as an equivalent form, and they can continue to do this. They just need to make sure that their form includes all of the same data that is found on the 301 Form or can be supplemented so that that data is attached to it.

Slide 40



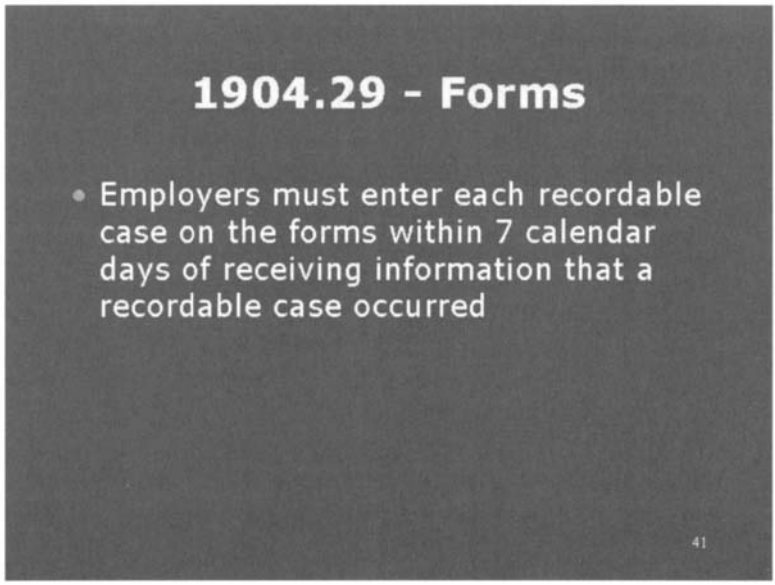
Script

There is now a separate form for the summary, the 300A. This makes it easier to protect the privacy of injured or ill workers.

The form asks for additional data on the average number of employees and hours worked to make it easier to calculate rates.

Incidence rates are the best way to compare an establishment or an individual company's data to the national statistics and to their prior performance.

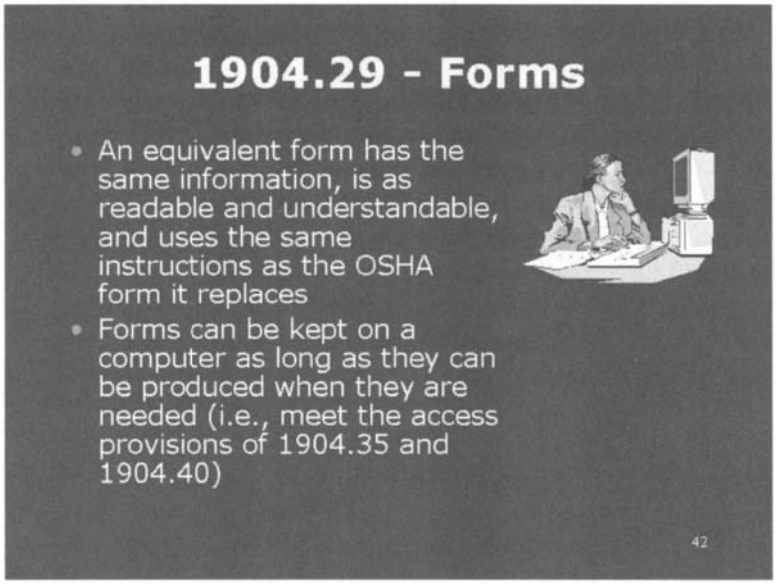
Slide 41



Script

The employer is now required to record a case within seven calendar days. This is a small change from the old rule, which required recording within six workdays.

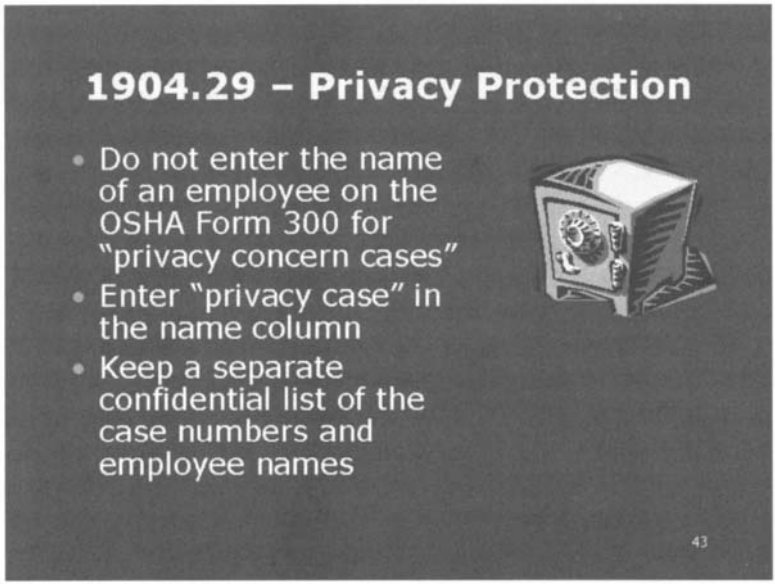
Slide 42



Script

Employers can keep their records on equivalent forms, on a computer, or at a central location provided that they can get information into the system within seven calendar days after an injury or illness occurs, and they can produce the data at the establishment when required.

Slide 43



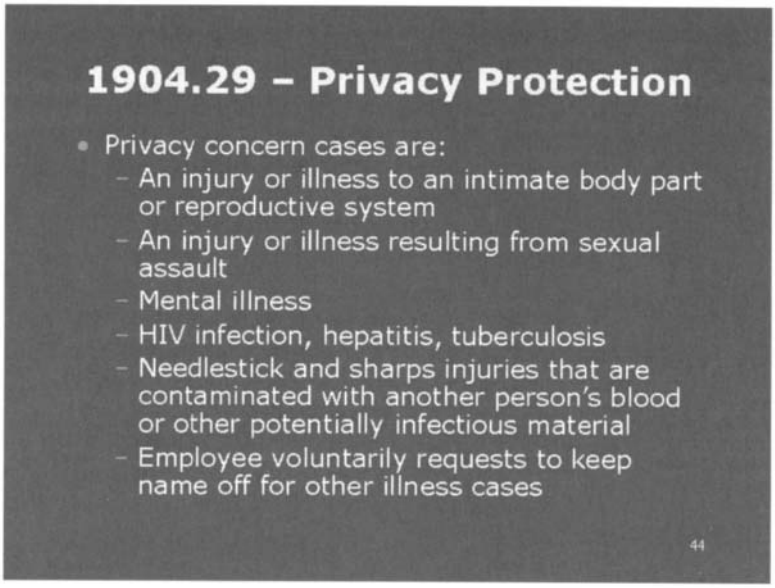
Script

The new rule does a lot more to protect the privacy of injured and ill employees.

For certain "privacy concern cases," employers must not enter the employee's name on the 300 Form. Instead, they are to enter "privacy case."

A separate, confidential list of the employee's names and case numbers must be kept by the employer and provided to an OSHA inspector upon request.

Slide 44

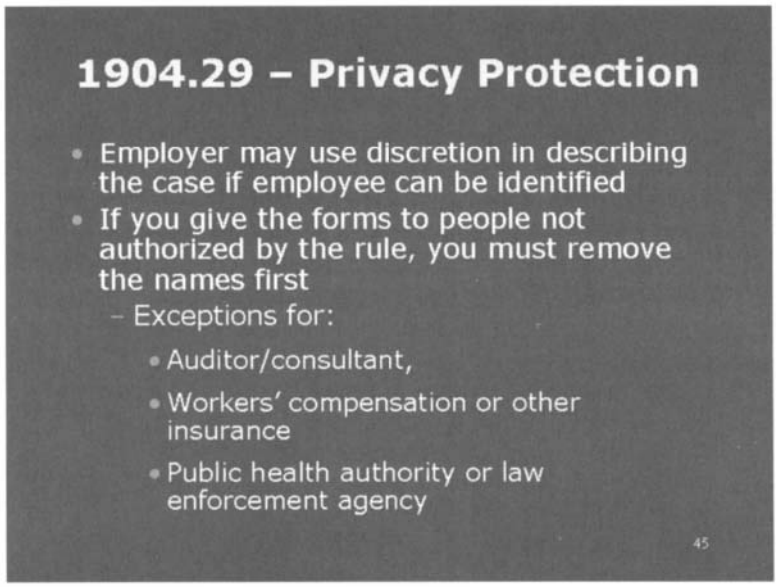


Script

Privacy concern cases are defined very specifically in the new rule. Privacy concern cases are:

- An injury or illness to an intimate body part or the reproductive system,
- An injury or illness resulting from sexual assault,
- Mental illness,
- HIV infection, hepatitis, or tuberculosis,
- Needlestick and sharps injuries that are contaminated with another person's blood or other potentially infectious material, or
- Illness cases where employees independently and voluntarily request that their names not be entered on the log.

Slide 45



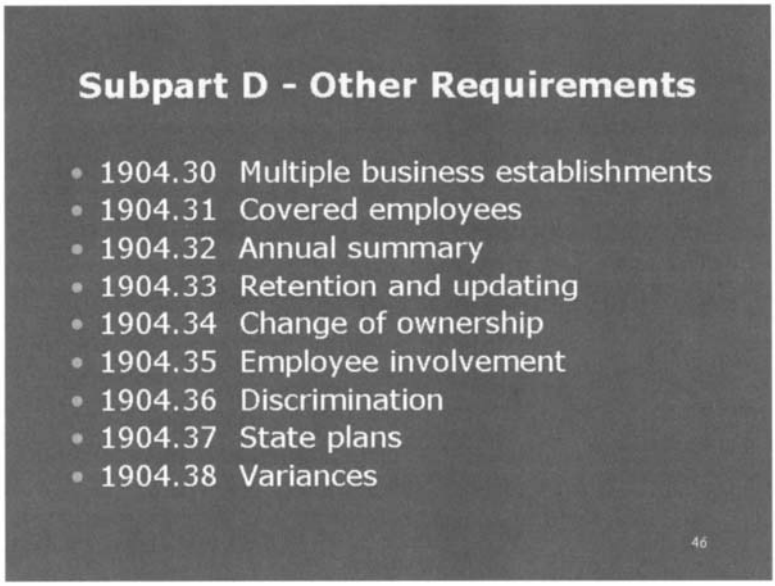
Script

For a privacy concern case, if the employee's identity can still be implied, the employer may use some discretion in describing the case.

The rule requires that enough information be entered to identify the cause and general severity of the incident. For example, a sexual assault can be entered as "assault" or an injury to a reproductive organ can be entered as a "lower abdominal injury." The employer is not required to go into graphic detail in these types of cases.

If the employer gives out the forms to the public, the names must be removed first. There are exceptions for employee access, OSHA access, auditors, insurance, or law enforcement personnel.

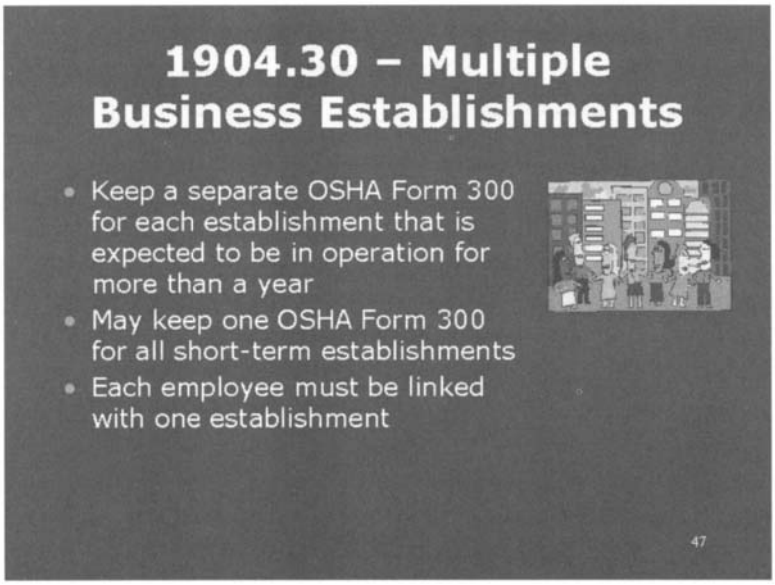
Slide 46



Script

Subpart D includes other requirements, telling the employer how to handle multiple business establishments and temporary employees, how to summarize and store the data, what to do if the business is sold, employee involvement, state plans, and variances.

Slide 47



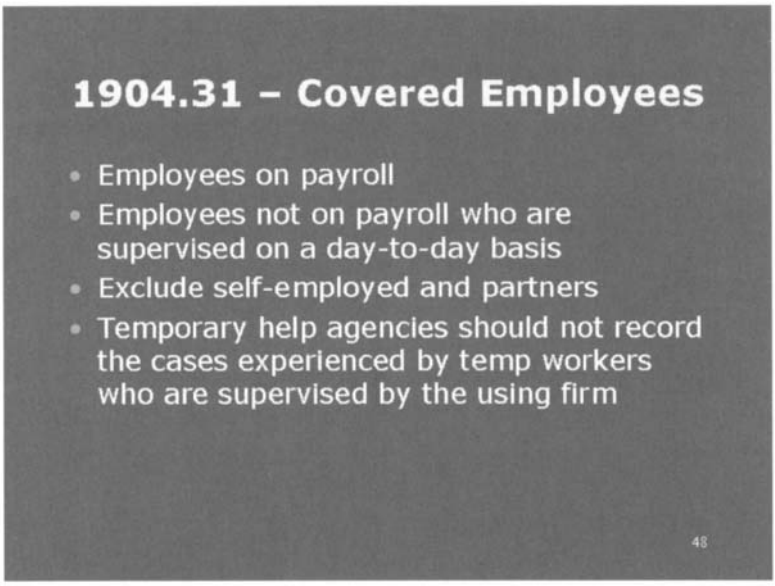
Script

When the employer has more than one establishment, a separate log must be kept for each establishment expected to be in operation for more than a year.

For the short-term establishments (those expected to be in operation for less than a year), the employer may keep one log that includes all of the injuries and illnesses at the short-term establishments, or keep logs by state or district.

An employer with multiple lines of business may have some exempt and some covered establishments, and each employee must be linked to an establishment for recordkeeping purposes.

Slide 48



Script

Employees on the payroll must be included in the employer's records, unless the company is acting as a temporary help service.

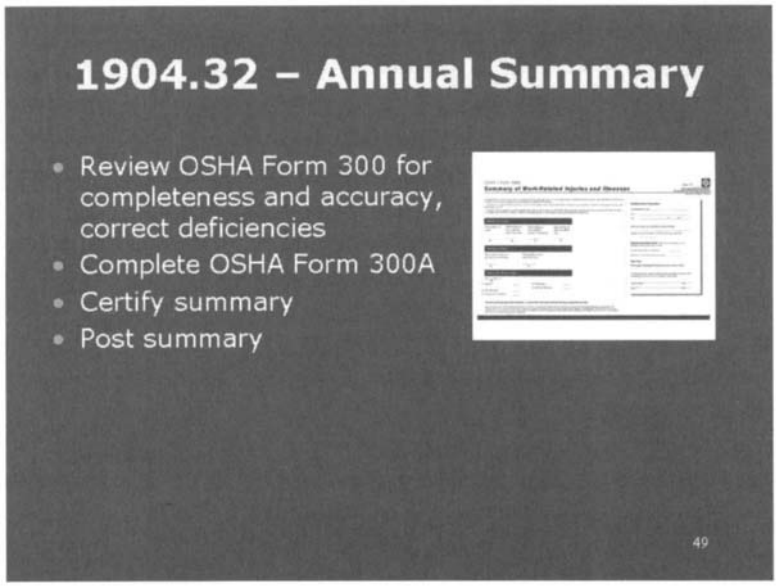
Employees not covered in the OSH Act are also not included in the OSHA records.

These include unpaid volunteers, sole proprietors, family members on family farms, and domestic workers in residential settings.

Temporary workers will be the employees of the party exercising day-to-day control over them, and the supervising party will record their injuries and illnesses.

The employer and the temporary help service can discuss each case to see who is recording it. We do not want a case to be recorded twice if it can be avoided.

Slide 49



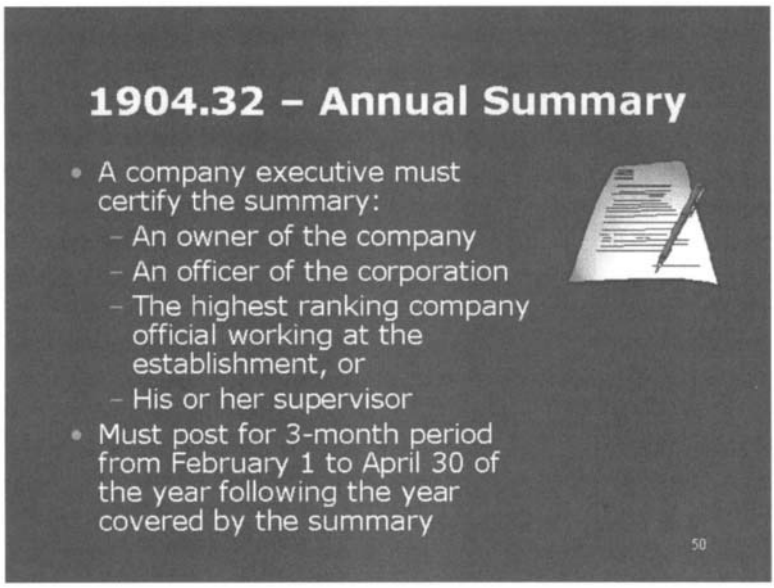
Script

The annual summary requirements now lay out a process for completing the end-of-year processing.

The employer must first review the records and correct them if necessary, then complete the form, certify the form, and post it for three months.

The form now includes data on average employment and hours worked to make it easier to calculate incidence rates. The employer may estimate these figures using the optional worksheet provided in the forms package.

Slide 50



Script

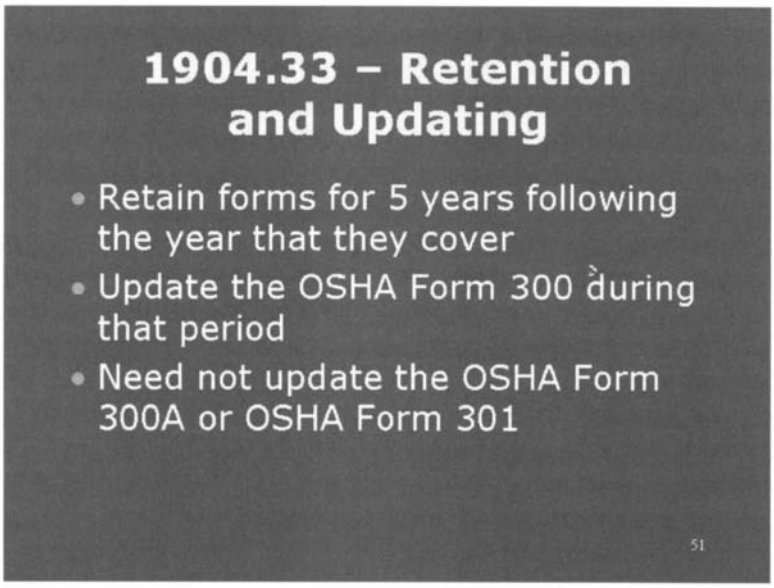
The new rule requires certification by a company executive to help improve management involvement in the records.

A company executive is narrowly defined as:

- An owner of the company,
- An officer of the corporation,
- The highest ranking person at the establishment, or
- His or her boss.

The records must now be posted for three months instead of the one month required under the old rule.

Slide 51

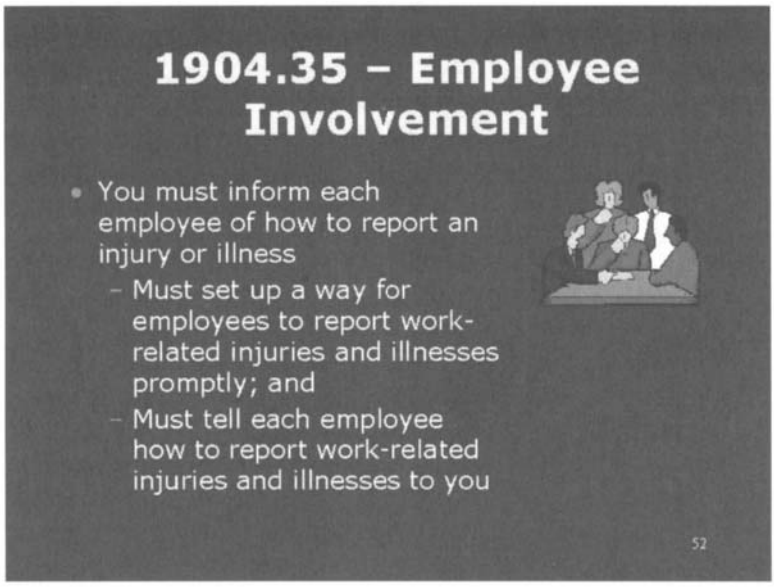


Script

The records must be retained for five years, just as the old rule required.

During the retention period, the employer must update the 300 Form to include any cases that are newly discovered or whose status has changed, but does not have to change the summary or the 301 Form.

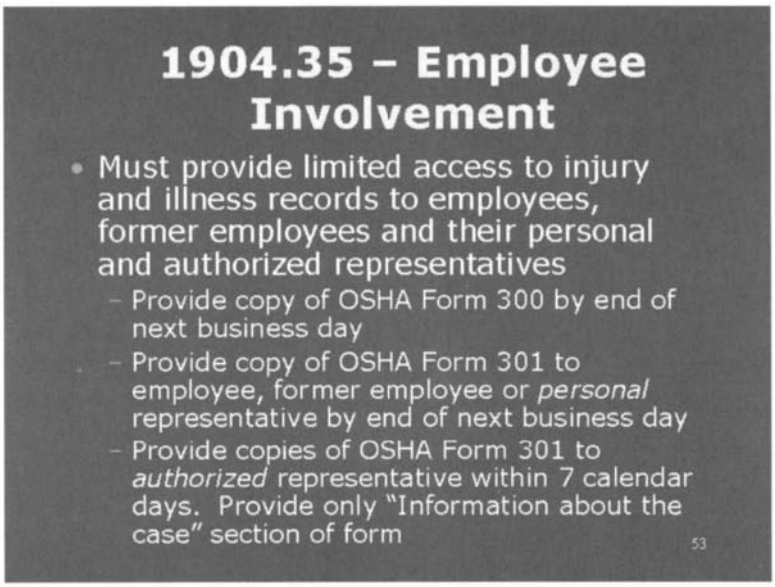
Slide 52



Script

The new rule requires each employer to set up a way for employees to report injuries and illnesses. Employers also must tell each employee how to report. This is a very basic step to make sure employees report cases so they can get into the records.

Slide 53



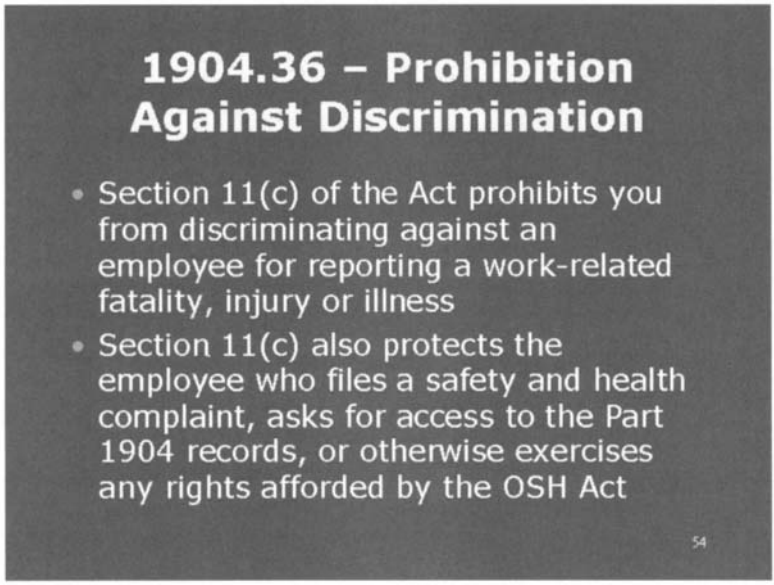
Script

Employers are also required to provide the records to employees. The 300 Log is available to employees, former employees, or employee representatives by the end of the next business day.

An employee, former employee or personal representative is now allowed to receive a copy of his or her own 301 Form.

The biggest change in the new rule is that an authorized representative can get 301 information for all the injuries and illnesses at the establishment, but only the information about the injury or illness. That information is provided on the right side of the 301 Form.

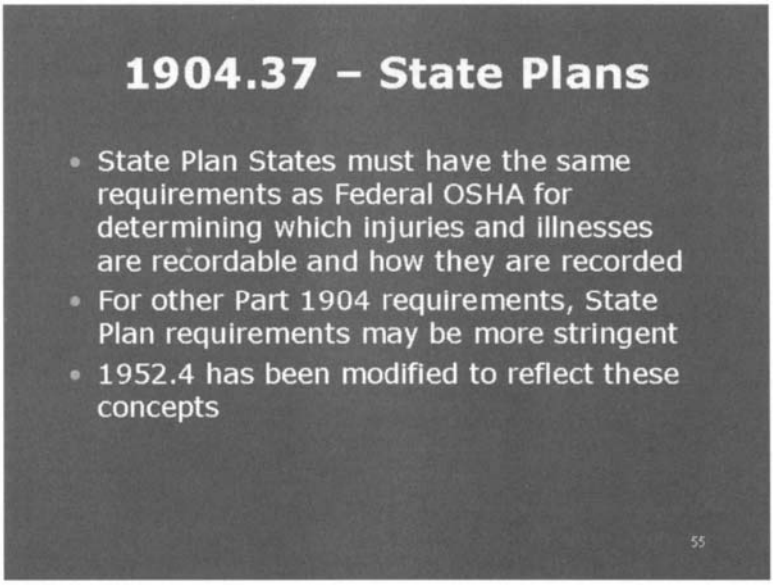
Slide 54



Script

The new rule reminds employers about the anti-discrimination provisions of the OSH Act. Employers may not discriminate against an employee for reporting a work-related injury or illness case.

Slide 55



Script

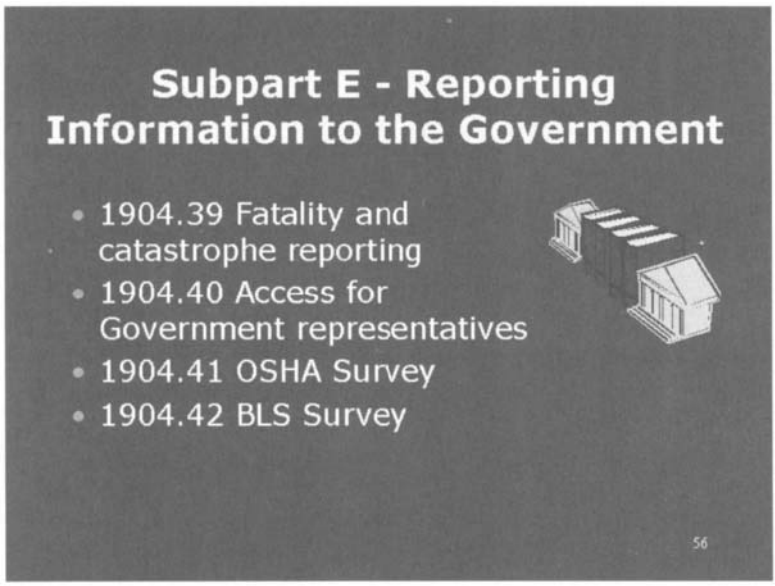
The State Plan States must collect the same information as federal OSHA.

However, the States may have more stringent or supplemental requirements on other matters, such as industry and size exemptions, the reporting of fatalities and catastrophes, and the access provisions.

The State Plan States must cover public sector employees, so in these states records are kept by state and local government agencies.

The effective date of revised State regulations must be the same as the federal effective date, January 1, 2002.

Slide 56

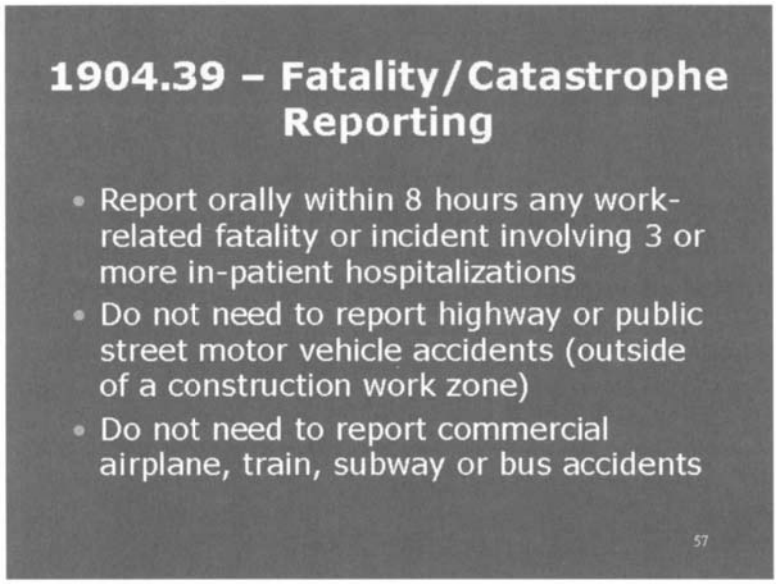


Script

Subpart E includes the requirements for providing information to the government.

The federal government conducts two surveys of 1904 information—one by OSHA and one by the Bureau of Labor Statistics. If employers receive a form for either survey in the mail, they must complete and return the form using the instructions on the form.

Slide 57

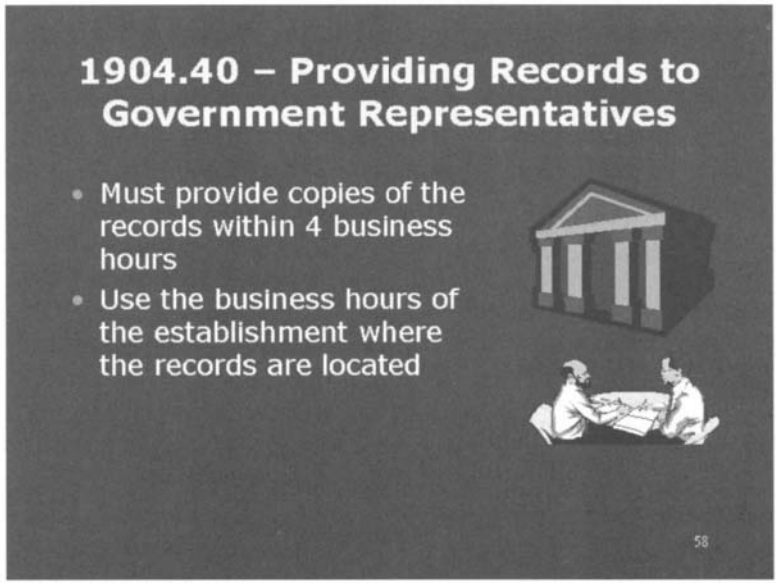


Script

Employers must report fatality and catastrophe incidents to OSHA within eight hours, verbally discussing the case with OSHA. The case can be called in to the local area office or phoned in to 1-800-321-OSHA.

Cases may be recordable but not reportable, for example, a fatality due to a motor vehicle accident on a public highway does not have to be reported within eight hours, but it is a recordable fatality on the 300 Log.

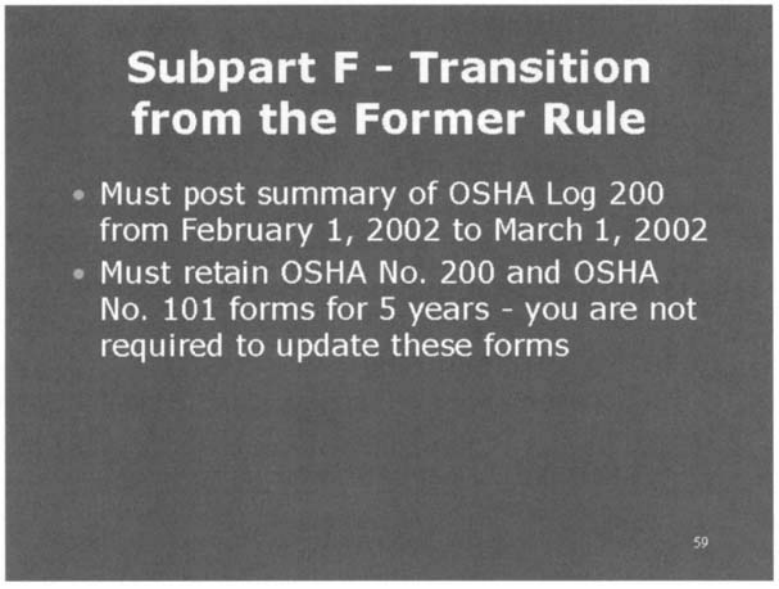
Slide 58



Script

Employers must provide the records within four business hours of a request by an OSHA or NIOSH official. If an inspection is in Texas and the records are in New York, use the business hours of New York.

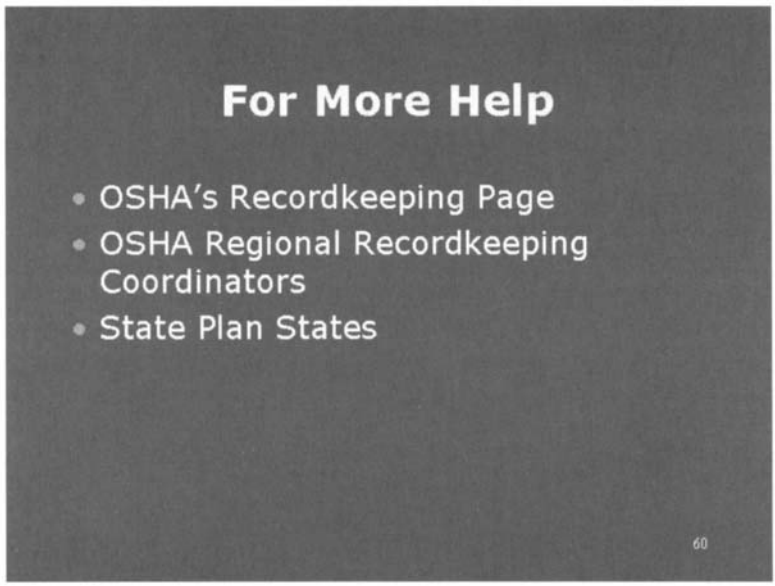
Slide 59



Script

Subpart F tells the employer how to handle the 2001 data. The log will be posted for one month, and the old records must be retained for the five-year period, just as though the old rule were still in effect.

Slide 60



Script

The best source of current information on OSHA recordkeeping requirements is OSHA's Recordkeeping page. Here you will find regulatory and compliance information, frequently asked questions, forms, contact information and training materials.

You may also contact the recordkeeping coordinator at your OSHA Regional Office or call your State Plan Office.

Comprehensive Presentation on OSHA's New Recordkeeping Rule Instructor Guide

The objective of this presentation is to provide an in-depth discussion of OSHA's new recordkeeping rule. This presentation is intended for audiences that require a thorough understanding of the regulation. At the end of the training session, participants should be able to explain the requirements of the regulation.

Instructions for Use: Prior to the training session, it is suggested that instructors review the latest information on the recordkeeping rule, including the January 19, 2001, July 3, 2001, and October 12, 2001 Federal Register Notices and the Compliance Directive for OSHA Inspectors.

Instructors should be prepared to take questions from the audience during this presentation. OSHA has compiled a list of frequently asked questions to provide assistance.

The back of the forms package contains recordkeeping points of contact in your local area. If you are not using this package in your presentation, be prepared to provide the name, telephone number, and e-mail of local contacts.

Although time requirements vary, this training session should be approximately four hours long in order to fully cover all the material.

Required Software: Microsoft PowerPoint® 2000 or PowerPoint® Viewer

Handouts: Suggested handouts for this training session include:

- Printout of presentation (handout—two slides per page)
- OSHA Fact Sheet on Recordkeeping
- OSHA Recordkeeping forms package or individual OSHA 300, 301, and 300A Forms
- Decision Tree for Recording Work-Related Injuries and Illnesses
- Partially Exempt Industries—Non-Mandatory Appendix A to Subpart B
- Most recent OSHA Recordkeeping Web Page (Because record-keeping information is being updated frequently, instructors should print copies of this page shortly before the training session.)

These materials are intended to be a resource for instructors and are not a substitute for any of the provisions of the Occupational Safety and Health Act of 1970 or for any regulations or standards issued by the U.S. Department of Labor. These materials are in the public domain and may be reproduced, fully or partially, without permission of the Federal Government. Source credit is requested but not required.

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Appendix F

Federal Jurisdiction State Plan States

Call your OSHA Regional office and ask for the recordkeeping coordinator or call your state plan office.

Federal Jurisdiction State Plan States

Region	States	Telephone
1	Connecticut; Massachusetts; Maine; New Hampshire; Rhode Island	617-565-9860
2	New York; New Jersey	212-337-2378
3	DC; Delaware; Pennsylvania; West Virginia	215-596-1201
4	Alabama; Florida; Georgia; Mississippi	404-562-2300
5	Illinois; Ohio; Wisconsin	312-353-2220
6	Arkansas; Louisiana; Oklahoma; Texas	214-767-4731
7	Kansas; Missouri; Nebraska	816-426-5861
8	Colorado; Montana; North Dakota; South Dakota	303-844-1600
9	Honolulu, HI	415-975-4310
10	Idaho	206-533-5930

State Plan States

State	Website	Telephone
Alaska	http://www.labor.state.ak.us/lss/oshhome.htm	907-269-4957
Arizona	http://www.ica.state.az.us/ADOSH/oshatop.htm	602-542-5795
California	http://www.dir.ca.gov/occupational_safety.html	415-703-5100
Connecticut*	http://www.ctdol.state.ct.us/	860-566-4380
Hawaii	http://www.state.hi.us/dlir/hiosh/	808-586-9100
Indiana	http://www.state.in.us/labor/iosha/iosha.html	317-232-3325
Iowa	http://www.state.ia.us/iwd/labor/index.html	515-281-3606
Kentucky	http://www.kylabor.net/kyosh/index.htm	502-564-3070

State	Website	Telephone
Maryland	http://www.dllr.state.md.us/labor/mosh.html	410-767-2371
Michigan	http://www.cis.state.mi.us/bsr/	517-322-1851
Minnesota	http://www.doli.state.mn.us/mnosha.html	651-296-2116
Nevada	http://dirweb.state.nv.us/	702-687-3250
New Jersey*	http://www.state.nj.us/labor/wps/psosh/peosh.htm	609-292-2313
New Mexico	http://www.nmenv.state.nm.us/Ohsb/oshahome.htm	505-827-4230
New York*	http://www.labor.state.ny.us/html/safety/saf_hlth.htm	518-457-2574
North Carolina	http://www.dol.state.nc.us/osha/osh.htm	919-807-2875
Oregon	http://www.orosha.org/	503-378-3272
Puerto Rico	http://dtrh.prstar.net/osho%20english.htm	787-754-2171
South Carolina	http://www.llr.state.sc.us/osha.asp	803-734-9632
Tennessee	http://www.state.tn.us/labor-wfd/	615-741-2793
Utah	http://www.labor.state.ut.us/Utah_Occupational_Safety___Hea/utah_occupational_safety___hea.html	801-530-6901
Vermont	http://www.state.vt.us/labind/vosha.htm	802-828-2765
Virgin Islands	None Available	340-772-1315
Virginia	http://www.doli.state.va.us/	804-786-6613
Washington	http://www.lni.wa.gov/wisha/	360-902-5554
Wyoming	http://wydoe.state.wy.us/	307-777-7786

*The Connecticut, New Jersey, and New York plans cover public sector (state and local government) employment only.
Source: OSHA website: http://www.osha-slc.gov/fso/osp/, public domain.

OSHA Recordkeeping Coordinators

Region 1
Shirley Boulware
U.S. DOL/OSHA
JFK Federal Bldg., Room E340
Boston, MA 02203
617-565-9856
Fax: 617-565-9827

Region 2
Kevin Brennan
U.S. DOL/OSHA
201 Varick Street, Room 670
New York, NY 10014
212-337-2339
Fax: 212-337-2371

Region 3
Jim Johnston
U.S. DOL/OSHA
Gateway Building, Suite 2100
3535 Market Street
Philadelphia, PA 19104
215-861-4923
Fax: 215-861-4904

Region 4
Sven Rundman
U.S. DOL/OSHA
Sam Nunn Atlanta Federal Center
61 Forsyth Street, SW, Room 6T50
Atlanta, GA 30303
404-562-2281
Fax: 404-562-2295

Region 5
Leslie Ptak
U.S. DOL/OSHA
230 South Dearborn, Room 3244
Chicago, IL 60604
312-886-7034
Fax: 312-353-8478

Region 6
Brenda Mitchell
U.S. DOL/OSHA
525 Griffin Street, Room 602
Dallas, TX 75202
214-767-4736 Ext. 238
Fax: 214-767-4760

Region 7
Mark Banden
U.S. DOL/OSHA
1100 Main Street, Suite 800
Center City Square
Kansas City, MO 64105
816-426-5861
Fax: 816-426-2750

Region 8
Dave Herstedt
U.S. DOL/OSHA
1999 Broadway, Suite 1690
Denver, CO 80202-5716
303-844-1600 Ext. 309
Fax: 303-844-1616

Region 9
Barbara Goto
U.S. DOL/OSHA
300 Ala Moana Blvd., Room 5-146
Honolulu, HI 96850
808-541-2687
Fax: 808-541-3456

Region 10
Lynda Glaspey
U.S. DOL/OSHA
1111 Third Avenue, Suite 715
Seattle, WA 98101-3212
206-553-5930
Fax: 206-553-6499

Note: If your establishment is located in a state that operates its own job safety and health program, refer to the state plan states for contact information in your state.
Source: OSHA website: http://www.osha-slc.gov/recordkeeping/RKcontacts.html, public domain.

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Appendix G

Forms for Recording Occupational Injuries and Illnesses and Miscellaneous Information

What is inside the form packet received?

- Forms for Recording Occupational Injuries and Illnesses front cover, p. 1
- An Overview of Work-Related Injuries and Illnesses, pp. 2–4
- Calculating Injury and Illness Rates (optional), p. 5
- How to Fill out the Log, p. 6
- OSHA Form 300—Log of Work-Related Injuries and Illnesses, pp. 7–8
- OSHA Form 300A Summary of Work-Related Injuries and Illnesses, p. 9
- Work Sheet to Help Fill out the Summary (optional), p. 10
- OSHA Form 3001 Injury and Illness Incident Report, p. 11
- If You Need Help, p. 12
- Have Questions, p. 13

This appendix details the text found in the information packet sent to all employers.

WHAT'S INSIDE?

In this appendix, you will find everything that you need to complete OSHA's Log and the summary of work-related injuries and illnesses for

the next several years. In the packet that you received you will find the following:

- An Overview: Recording Work-Related Injuries and Illnesses: General instructions for completing the forms and definitions of terms you should use when you classify your cases as injuries or illnesses.
- How to Fill out the Log: An example to guide you in completing the *log* properly.
- Log of Work-Related Injuries and Illnesses: Several pages of the log notice that the *log* is separate from the *summary*
- Summary of Work-Related Injuries and Illnesses: Sample pages to understand posting requirements at the end of the year.
- Worksheet to Help You Fill out the Summary: A worksheet for calculating the average number of employees who worked for your establishment and the total number of hours worked.
- OSHA's 301: Injury and Illness Incident Report: Several copies of the OSHA 301 to provide details about the incident.

AN OVERVIEW: RECORDING WORK-RELATED INJURIES AND ILLNESSES

The Occupational Safety and Health (OSH) Act of 1970 requires certain employers to prepare and maintain records of work-related injuries and illnesses. Use these definitions when you classify cases on the log. OSHA's recordkeeping regulation (see 29 CFR Part 1904 Rule, Chapter 2, and Appendix A) provides more information about the definitions that follow.

The Log of Work-Related Injuries and Illnesses (Form 300) is used to classify work-related injuries and illnesses and to note the extent and severity of each case. If an incident occurs, use the log to record specific details about what happened and how it happened. The summary, a separate form (Form 300A), shows the totals for the year in each category. At the end of the year, post the summary in a visible location so that your employees can review the injuries and illnesses occurring in their workplace.

Employers must keep a log for each establishment or site. If you have more than one establishment, you must keep a separate log and summary for each physical location that is expected to be in operation for one year or longer.

Note that your employees have the right to review your injury and illness records. For more information, see 29 Code of Federal Regulations (CFR) Part 1904.35, Employee Involvement (participation).

Cases listed on the Log of Work-Related Injuries and Illnesses are not necessarily eligible for workers' compensation or other insurance benefits. Listing a case on the log does not mean that the employer or worker was at fault or that an OSHA standard was violated.

WHEN IS AN INJURY OR ILLNESS CONSIDERED WORK RELATED?

An injury or illness is considered work related if an event or exposure in the work environment caused or contributed to the condition or significantly aggravated a preexisting condition. Work-relatedness is presumed for injuries and illnesses resulting from events or exposures occurring in the workplace, unless an exception specifically applies (see 29 CFR Part 1904.5(b)(2) page 6124 of Appendix A for the exceptions). The work environment includes the establishment and other locations where one or more employees are working or are present as a condition of their employment (see 29 CFR Part 1904.5(b)(1), page 6124 of Appendix A).

Here are some questions and answers on how to handle the forms:

Q: Which work-related injuries and illnesses should you record?

A: Record those work-related injuries and illnesses that result in

- Death.
- Loss of consciousness.
- Days away from work.
- Restricted work activity or job transfer.
- Medical treatment beyond first aid.

You must also record work-related injuries and illnesses that are significant (as defined in the next paragraph) or meet any of the additional criteria found that follow.

You must record any significant work-related injury or illness that is diagnosed by a physician or other licensed health care professional. You must record any work-related case involving cancer, chronic irreversible disease, a fractured or cracked bone, or a punctured eardrum (see 29 CFR 1904.7, page 6126, Appendix A).

Q: What are the additional criteria?

A: You must record the following conditions when they are work related:

- Any needlestick injury or cut from a sharp object that is contaminated with another person's blood (bodily fluid) or other potentially infectious material.
- Any case requiring an employee to be medically removed under the requirements of an OSHA health standard.
- Tuberculosis infection as evidenced by a positive skin test or diagnosis by a physician or other licensed health care professional after exposure to a known case of active tuberculosis.

Q: What is medical treatment?

A: Medical treatment includes managing and caring for a patient for the purpose of combating disease or disorder. The following are not considered medical treatments and are *not* recordable:

- Visits to a doctor or health care professional solely for observation or counseling.
- Diagnostic procedures, including administering prescription medications that are used solely for diagnostic purposes.
- Any procedure that can be labeled first aid.

(Review the first aid section 1904.7 page 6128, Appendix A.)

Q: What do you need to do?

A: The following elements must be accomplished:

- Within seven calendar days after you receive information about a case, decide if the case is recordable.
- Determine if the incident is a new case or a recurrence of an existing one.
- Establish if the case was work related.
- If the case is recordable, decide which form you will fill out as the injury and illness incident report.

You may use OSHA's 301: Injury and Illness Incident Report or an equivalent form. Some state workers' compensation, insurance, or other reports may be acceptable substitutes, as long as they provide the same information as the OSHA 301.

Q: How do I work with the log?

A: The following explains how to work with the log:

- Identify the employee involved unless it is a privacy concern case as described later.
- Identify when and where the case occurred.
- Describe the case, as specifically as you can.
- Classify the seriousness of the case by recording the most serious outcome associated with the case, with column J (Other Recordable Cases) being the least serious and column G (Death) being the most serious.

- Identify if the case is an injury or illness. If the case is an injury, check the injury category. If the case is an illness, check the appropriate illness category.

Q: What is first aid?

A: If the incident required only the following types of treatment, consider it first aid. Do *not* record the case if it involves only:

- Using nonprescription medications at nonprescription strength.
- Administering tetanus immunizations.
- Cleaning, flushing, or soaking wounds on the skin surface.
- Using wound coverings, such as bandages, Bandaids™, gauze pads, etc., or using Steri Strips™ or butterfly bandages.
- Using hot or cold therapy.
- Using any totally nonrigid means of support, such as elastic bandages, wraps, nonrigid back belts, etc.
- Using temporary immobilization devices while transporting an accident victim (splints, slings, neck collars, or back boards).
- Drilling a fingernail or toenail to relieve pressure, or draining fluids from blisters.
- Using eye patches.
- Using simple irrigation or a cotton swab to remove foreign bodies not embedded in or adhered to the eye.
- Using irrigation, tweezers, cotton swab, or other simple means to remove splinters or foreign material from areas other than the eye.
- Using finger guards.
- Using massages.
- Drinking fluids to relieve heat stress.

Q: How do you decide if the case involved restricted work?

A: Restricted work activity occurs when, as the result of a work-related injury or illness, an employer or health care professional keeps, or recommends keeping, an employee from doing the routine functions of his or her job or from working the full work-day that the employee would have been scheduled to work before the injury or illness occurred.

Q: How do you count the number of days of restricted work activity or the number of days away from work?

A: Count the number of calendar days the employee was on restricted work activity or was away from work as a result of the recordable injury or illness. Do not count the day on which the injury or illness occurred in this number. Begin counting days from the day the incident occurs. If a single injury or illness involved both days away from work and days of restricted work activity, enter the total number of days for each. You may stop counting

days of restricted work activity or days away from work once the total of either or the combination of both reaches 180 days.

Q: Under what circumstances should you *not* enter the employee's name on the OSHA Form 300?

A: You must consider the following types of injuries or illnesses to be privacy concern cases:

- An injury or illness to an intimate body part or to the reproductive system.
- An injury or illness resulting from a sexual assault.
- A mental illness.
- A case of HIV infection, hepatitis, or tuberculosis.
- A needlestick injury or cut from a sharp object that is contaminated with blood or other potentially infectious material (see 29 CFR Part 1904.8 for the definition).
- Any other illnesses, if the employee independently and voluntarily requests that his or her name not be entered on the log. Musculoskeletal disorders (MSDs) are not considered privacy concern cases.

You must not enter the employee's name on the OSHA 300 for these cases. Instead, enter "privacy case" in the space normally used for the employee's name. You must keep a separate, confidential list of the case numbers and employee names for the establishment's privacy concern cases so that you can update the cases and provide information to the government if asked to do so.

If you have a reasonable basis to believe that information describing the privacy concern case may be personally identifiable even though the employee's name has been omitted, you may use discretion in describing the injury or illness on both the OSHA 300 and 301 Forms. You must enter enough information to identify the cause of the incident and the general severity of the injury or illness, but you do not need to include details of an intimate or private nature.

Q: What if the outcome changes after you record the case?

A: If the outcome or extent of an injury or illness changes after you have recorded the case, simply draw a line (suggest red-line) through the original entry or, if you wish, delete or white-out the original entry. (Note: Keep all logs lined out.) Then write the new entry where it belongs. Remember, you need to record the most serious outcome for each case.

CLASSIFYING INJURIES

An injury is any wound or damage to the body resulting from an event in the work environment. Examples include cut, puncture, laceration, abrasion, fracture, bruise, contusion, chipped tooth, amputation, insect bite, electrocution, or a thermal, chemical, electrical, or radiation burn. Sprain and strain injuries to muscles, joints, and connective tissues are classified as injuries when they result from a slip, trip, fall, or other similar accidents.

CLASSIFYING ILLNESSES

Skin Diseases or Disorders

Skin diseases or disorders are illnesses involving the employee's skin that are caused by work exposure to chemicals, plants, or other substances. Examples include contact dermatitis, eczema, or rash caused by primary irritants and sensitizers or poisonous plants; oil acne; friction blisters, chrome ulcers; inflammation of the skin.

Respiratory Conditions

Respiratory conditions are illnesses associated with breathing hazardous biological agents, chemicals, dust, gases, vapors, or fumes at work. Examples include silicosis, asbestosis, pneumonitis, pharyngitis, rhinitis, or acute congestion; farmer's lung, beryllium disease, tuberculosis, occupational asthma, reactive airways dysfunction syndrome (RADS), chronic obstructive pulmonary disease (COPD), hypersensitivity pneumonitis, toxic inhalation injury, such as metal fume fever, chronic obstructive bronchitis, and other pneumoconioses.

Poisoning

Poisoning includes disorders evidenced by abnormal concentrations of toxic substances in blood, other tissues, other bodily fluids, or the breath that are caused by the ingestion or absorption of toxic substances into the body. Examples include poisoning by lead, mercury, cadmium,

arsenic, or other metals; poisoning by carbon monoxide, hydrogen sulfide, or other gases; poisoning by benzene, benzol, carbon tetrachloride, or other organic solvents; poisoning by insecticide sprays, such as parathion or lead arsenate; poisoning by other chemicals, such as formaldehyde.

All Other Illnesses

Examples of other occupational illnesses include heatstroke, sunstroke, heat exhaustion, heat stress, and other effects of environmental heat; freezing, frostbite, and other effects of exposure to low temperatures; decompression sickness; effects of ionizing radiation (isotopes, X rays, radium); effects of nonionizing radiation (welding flash, ultraviolet rays, lasers); anthrax; bloodborne pathogenic diseases, such as AIDS, HIV, hepatitis B, or hepatitis C; brucellosis; malignant or benign tumors; histoplasmosis; coccidioidomycosis.

Q: When must you post the summary?
A: You must post the summary only, not the log, by February 1 of the year following the year covered by the form and keep it posted until April 30 of that year.
Q: How long must you keep the log and summary on file?
A: You must keep the log and summary for five years following the year to which they pertain.
Q: Do you have to send these forms to OSHA at the end of the year?
A: No. You do not have to send the completed forms to OSHA unless specifically asked to do so.
Q: How can OSHA help you?
A: If you have a question about how to fill out the log,
- Visit www.osha.gov.
- Call your local OSHA office.

OPTIONAL SECTIONS OF THE FORM

Calculating Injury and Illness Incidence Rates

Q: What is an incidence rate?
A: An incidence rate is the number of recordable injuries and illnesses occurring among a given number of full-time employees (usually 100 full-time workers) over a given period of time

(usually one year). To evaluate your firm's injury and illness experience over time or to compare your firm's experience with that of your industry as a whole, you need to compute your incidence rate. Because a specific number of employees and a specific period of time are involved, these rates can help you identify problems in your workplace or progress you may have made in preventing work-related injuries and illnesses.

Q: How do you calculate an incidence rate?

A: You can compute an occupational injury and illness incidence rate for all recordable cases or for cases that involved days away from work for your firm quickly and easily. The formula requires that you follow instructions in paragraph (a), which follows, for the total recordable cases or those in paragraph (b) for cases that involved days away from work; for both rates follow the instructions in paragraph (c).

- *Paragraph (a).* To find out the total number of recordable injuries and illnesses that occurred during the year, count the number of line entries on your OSHA Form 300 or refer to the OSHA Form 300A and sum the entries for columns (G), (H), (I), and (J).
- *Paragraph (b).* To find out the number of injuries and illnesses that involved days away from work, count the number of line entries on your OSHA Form 300 that received a check mark in column (H) or refer to the entry for column (H) on the OSHA Form 300A.
- *Paragraph (c).* The number of hours all employees actually worked during the year. Refer to OSHA Form 300A and optional worksheet to calculate this number.

You can compute the incidence rate for all recordable cases of injuries and illnesses using the following formula:

Total number of injuries and illnesses
÷ Number of hours worked by all employees × 200,000 hours
= Total recordable case rate

Note that the 200,000 figure in the formula represents the number of hours 100 employees working 40 hours per week, 50 weeks per year would work, and provides the standard base for calculating incidence rates.

You can also compute the incidence rate for recordable cases involving days away from work using the following formula:

The number of injuries and illnesses that involved days away from work
÷ Number of hours worked by all employees × 200,000 hours
= Incidence rate for cases involving days away from work

You can use the same formula to calculate incidence rates for other variables such as cases involving restricted work activity (column (I) on Form 300A), cases involving skin disorders (column (M-2) on Form 300A), and so on. Just substitute the appropriate total for these cases, from Form 300A, into the formula in place of the total number of injuries and illnesses.

Q: What can I compare my incidence rate to?

A: The Bureau of Labor Statistics conducts a survey of occupational injuries and illnesses each year and publishes incidence rate data by various classifications (e.g., by industry, by employer size). You can obtain these published data at www.bls.gov or by calling a BLS Regional Office.

HOW TO FILL OUT THE LOG

The Log of Work-Related Injuries and Illness is used to classify work-related injuries and illnesses and to note the extent and severity of each case. When an incident occurs, use the log to record specific details about what happened and how it happened.

If your company has more than one establishment or site, you must keep separate records for each physical location that is expected to remain in operation for one year or longer.

The summary, a separate form, shows the work-related injury and illness totals for the year in each category. At the end of the year, count the number of incidents in each category and transfer the totals from the to the log to the summary. Then post the summary in a visible location so that all employees can review the injuries and illnesses occurring in their workplace.

You do not post the log. You post only the summary at the end of the year.

For specific instructions on completing the OSHA Logs, refer to the actual examples, provided by OSHA, that follow.

U.S. Department of Labor
Occupational Safety and Health Administration

OSHA
Forms for Recording
Work-Related Injuries and Illnesses

What's Inside...

In this package, you'll find everything you need to complete OSHA's *Log* and the *Summary of Work-Related Injuries and Illnesses* for the next several years. On the following pages, you'll find:

- ***An Overview: Recording Work-Related Injuries and Illnesses*** — General instructions for filling out the forms in this package and definitions of terms you should use when you classify your cases as injuries or illnesses.
- ***How to Fill Out the Log*** — An example to guide you in filling out the *Log* properly.
- ***Log of Work-Related Injuries and Illnesses*** — Several pages of the *Log* (but you may make as many copies of the *Log* as you need.) Notice that the *Log* is separate from the *Summary*.

- ***Summary of Work-Related Injuries and Illnesses*** — Removable *Summary* pages for easy posting at the end of the year. Note that you post the *Summary* only, not the *Log*.

- ***Worksheet to Help You Fill Out the Summary*** — A worksheet for figuring the average number of employees who worked for your establishment and the total number of hours worked.
- ***OSHA's 301: Injury and Illness Incident Report*** — Several copies of the OSHA 301 to provide details about the incident. You may make as many copies as you need or use an equivalent form.

Take a few minutes to review this package. If you have any questions, ***visit us online at www.osha.gov*** or ***call your local OSHA office***. We'll be happy to help you.

U.S. Department of Labor
Occupational Safety and Health Administration

An Overview: Recording Work-Related Injuries and Illnesses

The Occupational Safety and Health (OSH) Act of 1970 requires certain employers to prepare and maintain records of work-related injuries and illnesses. Use these definitions when you classify cases on the Log. OSHA's recordkeeping regulation (see 29 CFR Part 1904) provides more information about the definitions below.

The *Log of Work-Related Injuries and Illnesses* (Form 300) is used to classify work-related injuries and illnesses and to note the extent and severity of each case. When an incident occurs, use the *Log* to record specific details about what happened and how it happened. The *Summary* — a separate form (Form 300A) — shows the totals for the year in each category. At the end of the year, post the *Summary* in a visible location so that your employees are aware of the injuries and illnesses occurring in their workplace.

Employers must keep a *Log* for each establishment or site. If you have more than one establishment, you must keep a separate *Log* and *Summary* for each physical location that is expected to be in operation for one year or longer.

Note that your employees have the right to review your injury and illness records. For more information, see 29 Code of Federal Regulations Part 1904.35, *Employee Involvement*.

Cases listed on the *Log of Work-Related Injuries and Illnesses* are not necessarily eligible for workers' compensation or other insurance benefits. Listing a case on the *Log* does not mean that the employer or worker was at fault or that an OSHA standard was violated.

When is an injury or illness considered work-related?

An injury or illness is considered work-related if an event or exposure in the work environment caused or contributed to the condition or significantly aggravated a preexisting condition. Work-relatedness is presumed for injuries and illnesses resulting from events or exposures occurring in the workplace, unless an exception specifically applies. See 29 CFR Part 1904.5(b)(2) for the exceptions. The work environment includes the establishment and other locations where one or more employees are working or are present as a condition of their employment. See 29 CFR Part 1904.5(b)(1).

Which work-related injuries and illnesses should you record?

Record those work-related injuries and illnesses that result in:

- death,
- loss of consciousness,
- days away from work,
- restricted work activity or job transfer, or
- medical treatment beyond first aid.

You must also record work-related injuries and illnesses that are significant (as defined below) or meet any of the additional criteria listed below.

You must record any significant work-related injury or illness that is diagnosed by a physician or other licensed health care professional. You must record any work-related case involving cancer, chronic irreversible disease, a fractured or cracked bone, or a punctured eardrum. See 29 CFR 1904.7.

What are the additional criteria?

You must record the following conditions when they are work-related:

- any needlestick injury or cut from a sharp object that is contaminated with another person's blood or other potentially infectious material;
- any case requiring an employee to be medically removed under the requirements of an OSHA health standard;
- tuberculosis infection as evidenced by a positive skin test or diagnosis by a physician or other licensed health care professional after exposure to a known case of active tuberculosis.

What is medical treatment?

Medical treatment includes managing and caring for a patient for the purpose of combating disease or disorder. The following are not considered medical treatments and are NOT recordable:

- visits to a doctor or health care professional solely for observation or counseling;
- diagnostic procedures, including administering prescription medications that are used solely for diagnostic purposes; and
- any procedure that can be labeled first aid. *(See below for more information about first aid.)*

What do you need to do?

1. Within 7 calendar days after you receive information about a case, decide if the case is recordable under the OSHA recordkeeping requirements.
2. Determine whether the incident is a new case or a recurrence of an existing one.
3. Establish whether the case was work-related.
4. If the case is recordable, decide which form you will fill out as the injury and illness incident report.

   You may use *OSHA's 301: Injury and Illness Incident Report* or an equivalent form. Some state workers compensation, insurance, or other reports may be acceptable substitutes, as long as they provide the same information as the OSHA 301.

How to work with the Log

1. Identify the employee involved unless it is a privacy concern case as described below.
2. Identify when and where the case occurred.
3. Describe the case, as specifically as you can.
4. Classify the seriousness of the case by recording the **most serious outcome** associated with the case, with column J (Other recordable cases) being the least serious and column G (Death) being the most serious.
5. Identify whether the case is an injury or illness. If the case is an injury, check the injury category. If the case is an illness, check the appropriate illness category.

U.S. Department of Labor
Occupational Safety and Health Administration

What is first aid?

If the incident required only the following types of treatment, consider it first aid. Do NOT record the case if it involves only:

- using non-prescription medications at non-prescription strength;
- administering tetanus immunizations;
- cleaning, flushing, or soaking wounds on the skin surface;
- using wound coverings, such as bandages, BandAids™, gauze pads, etc., or using SteriStrips™ or butterfly bandages.
- using hot or cold therapy;
- using any totally non-rigid means of support, such as elastic bandages, wraps, non-rigid back belts, etc.;
- using temporary immobilization devices while transporting an accident victim (splints, slings, neck collars, or back boards).
- drilling a fingernail or toenail to relieve pressure, or draining fluids from blisters;
- using eye patches;
- using simple irrigation or a cotton swab to remove foreign bodies not embedded in or adhered to the eye;
- using irrigation, tweezers, cotton swab or other simple means to remove splinters or foreign material from areas other than the eye;
- using finger guards;
- using massages;
- drinking fluids to relieve heat stress

How do you decide if the case involved restricted work?

Restricted work activity occurs when, as the result of a work-related injury or illness, an employer or health care professional keeps, or recommends keeping, an employee from doing the routine functions of his or her job or from working the full workday that the employee would have been scheduled to work before the injury or illness occurred.

How do you count the number of days of restricted work activity or the number of days away from work?

Count the number of calendar days the employee was on restricted work activity or was away from work as a result of the recordable injury or illness. Do not count the day on which the injury or illness occurred in this number. Begin counting days from the day after the incident occurs. If a single injury or illness involved both days away from work and days of restricted work activity, enter the total number of days for each. You may stop counting days of restricted work activity or days away from work once the total of either or the combination of both reaches 180 days.

Under what circumstances should you NOT enter the employee's name on the OSHA Form 300?

You must consider the following types of injuries or illnesses to be privacy concern cases:

- an injury or illness to an intimate body part or to the reproductive system,
- an injury or illness resulting from a sexual assault,
- a mental illness,
- a case of HIV infection, hepatitis, or tuberculosis,
- a needlestick injury or cut from a sharp object that is contaminated with blood or other potentially infectious material (see 29 CFR Part 1904.8 for definition), and
- other illnesses, if the employee independently and voluntarily requests that his or her name not be entered on the log.

You must not enter the employee's name on the OSHA 300 *Log* for these cases. Instead, enter "privacy case" in the space normally used for the employee's name. You must keep a separate, confidential list of the case numbers and employee names for the establishment's privacy concern cases so that you can update the cases and provide information to the government if asked to do so.

If you have a reasonable basis to believe that information describing the privacy concern case may be personally identifiable even though the employee's name has been omitted, you may use discretion in describing the injury or illness on both the OSHA 300 and 301 forms. You must enter enough information to identify the cause of the incident and the general severity of the injury or illness, but you do not need to include details of an intimate or private nature.

What if the outcome changes after you record the case?

If the outcome or extent of an injury or illness changes after you have recorded the case, simply draw a line through the original entry or, if you wish, delete or white-out the original entry. Then write the new entry where it belongs. Remember, you need to record the most serious outcome for each case.

Classifying injuries

An injury is any wound or damage to the body resulting from an event in the work environment.

Examples: Cut, puncture, laceration, abrasion, fracture, bruise, contusion, chipped tooth, amputation, insect bite, electrocution, or a thermal, chemical, electrical, or radiation burn. Sprain and strain injuries to muscles, joints, and connective tissues are classified as injuries when they result from a slip, trip, fall or other similar accidents.

U.S. Department of Labor
Occupational Safety and Health Administration

Classifying illnesses

Skin diseases or disorders

Skin diseases or disorders are illnesses involving the worker's skin that are caused by work exposure to chemicals, plants, or other substances.

Examples: Contact dermatitis, eczema, or rash caused by primary irritants and sensitizers or poisonous plants; oil acne; friction blisters, chrome ulcers; inflammation of the skin.

Respiratory conditions

Respiratory conditions are illnesses associated with breathing hazardous biological agents, chemicals, dust, gases, vapors, or fumes at work.

Examples: Silicosis, asbestosis, pneumonitis, pharyngitis, rhinitis or acute congestion; farmer's lung, beryllium disease, tuberculosis, occupational asthma, reactive airways dysfunction syndrome (RADS), chronic obstructive pulmonary disease (COPD), hypersensitivity pneumonitis, toxic inhalation injury, such as metal fume fever, chronic obstructive bronchitis, and other pneumoconioses.

Poisoning

Poisoning includes disorders evidenced by abnormal concentrations of toxic substances in blood, other tissues, other bodily fluids, or the breath that are caused by the ingestion or absorption of toxic substances into the body.

Examples: Poisoning by lead, mercury, cadmium, arsenic, or other metals; poisoning by carbon monoxide, hydrogen sulfide, or other gases; poisoning by benzene, benzol, carbon tetrachloride, or other organic solvents; poisoning by insecticide sprays, such as parathion or lead arsenate; poisoning by other chemicals, such as formaldehyde.

All other illnesses

All other occupational illnesses.

Examples: Heatstroke, sunstroke, heat exhaustion, heat stress and other effects of environmental heat; freezing, frostbite, and other effects of exposure to low temperatures; decompression sickness; effects of ionizing radiation (isotopes, x-rays, radium); effects of nonionizing radiation (welding flash, ultra-violet rays, lasers); anthrax; bloodborne pathogenic diseases, such as AIDS, HIV, hepatitis B or hepatitis C; brucellosis; malignant or benign tumors; histoplasmosis; coccidioidomycosis.

When must you post the Summary?

You must post the *Summary* only — not the *Log* — by February 1 of the year following the year covered by the form and keep it posted until April 30 of that year.

How long must you keep the Log and Summary on file?

You must keep the *Log* and *Summary* for 5 years following the year to which they pertain.

Do you have to send these forms to OSHA at the end of the year?

No. You do not have to send the completed forms to OSHA unless specifically asked to do so.

How can we help you?

If you have a question about how to fill out the *Log*,

- ❑ ***visit us online at www.osha.gov*** or
- ❑ ***call your local OSHA office.***

U.S. Department of Labor
Occupational Safety and Health Administration

Optional

Calculating Injury and Illness Incidence Rates

What is an incidence rate?

An incidence rate is the number of recordable injuries and illnesses occurring among a given number of full-time workers (usually 100 full-time workers) over a given period of time (usually one year). To evaluate your firm's injury and illness experience over time or to compare your firm's experience with that of your industry as a whole, you need to compute your incidence rate. Because a specific number of workers and a specific period of time are involved, these rates can help you identify problems in your workplace and/or progress you may have made in preventing work-related injuries and illnesses.

How do you calculate an incidence rate?

You can compute an occupational injury and illness incidence rate for all recordable cases or for cases that involved days away from work for your firm quickly and easily. The formula requires that you follow instructions in paragraph (a) below for the total recordable cases or those in paragraph (b) for cases that involved days away from work, *and* for both rates the instructions in paragraph (c).

(a) *To find out the total number of recordable injuries and illnesses that occurred during the year,* count the number of line entries on your OSHA Form 300, or refer to the OSHA Form 300A and sum the entries for columns (G), (H), (I), and (J).

(b) *To find out the number of injuries and illnesses that involved days away from work,* count the number of line entries on your OSHA Form 300 that received a check mark in column (H), or refer to the entry for column (H) on the OSHA Form 300A.

(c) *The number of hours all employees actually worked during the year.* Refer to OSHA Form 300A and optional worksheet to calculate this number.

You can compute the incidence rate for all recordable cases of injuries and illnesses using the following formula:

Total number of injuries and illnesses + Number of hours worked by all employees x 200,000 hours = Total recordable case rate

(The 200,000 figure in the formula represents the number of hours 100 employees working 40 hours per week, 50 weeks per year would work, and provides the standard base for calculating incidence rates.)

You can compute the incidence rate for recordable cases involving days away from work, days of restricted work activity or job transfer (DART) using the following formula:

(Number of entries in column H + Number of entries in column I) + Number of hours worked by all employees x 200,000 hours = DART incidence rate

You can use the same formula to calculate incidence rates for other variables such as cases involving restricted work activity (column (I) on Form 300A), cases involving skin disorders (column (M-2) on Form 300A), etc. Just substitute the appropriate total for these cases, from Form 300A, into the formula in place of the total number of injuries and illnesses.

What can I compare my incidence rate to?

The Bureau of Labor Statistics (BLS) conducts a survey of occupational injuries and illnesses each year and publishes incidence rate data by various classifications (e.g., by industry, by employer size, etc.). You can obtain these published data at www.bls.gov or by calling a BLS Regional Office.

Worksheet

Total number of recordable injuries and illnesses in your establishment

[ ] ÷ [ ] Hours worked by all your employees

X 200,000 =

Total recordable cases incidence rate

[ ]

Total number of recordable injuries and illnesses with a checkmark in column H or column I

[ ] ÷ [ ] Hours worked by all your employees

X 200,000 =

DART incidence rate

[ ]

How to Fill Out the Log

The *Log of Work-Related Injuries and Illnesses* is used to classify work-related injuries and illnesses and to note the extent and severity of each case. When an incident occurs, use the *Log* to record specific details about what happened and how it happened.

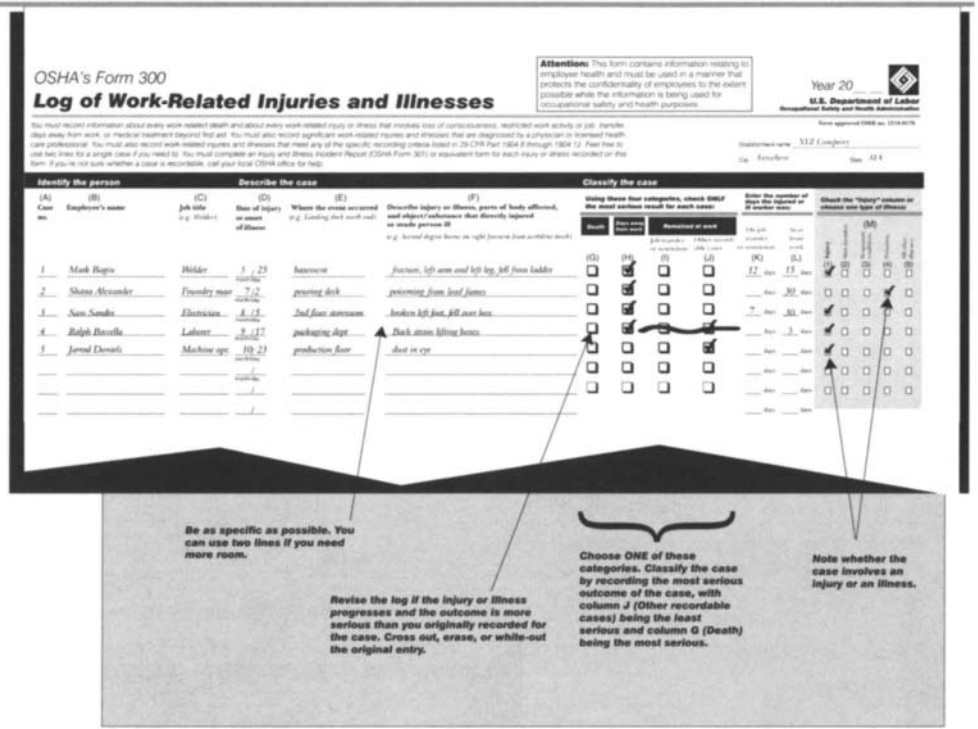
If your company has more than one establishment or site, you must keep separate records for each physical location that is expected to remain in operation for one year or longer.

We have given you several copies of the *Log* in this package. If you need more than we provided, you may photocopy and use as many as you need.

The *Summary* — a separate form — shows the work-related injury and illness totals for the year in each category. At the end of the year, count the number of incidents in each category and transfer the totals from the *Log* to the *Summary*. Then post the *Summary* in a visible location so that your employees are aware of injuries and illnesses occurring in their workplace.

You don't post the Log. You post only the Summary at the end of the year.

U.S. Department of Labor
Occupational Safety and Health Administration



OSHA's Form 300

Log of Work-Related Injuries and Illnesses

Attention: This form contains information relating to employee health and must be used in a manner that protects the confidentiality of employees to the extent possible while the information is being used for occupational safety and health purposes.

Year 20__ __

U.S. Department of Labor
Occupational Safety and Health Administration

Form approved OMB no. 1218-0176

You must record information about every work-related death and about every work-related injury or illness that involves loss of consciousness, restricted work activity or job transfer, days away from work, or medical treatment beyond first aid. You must also record significant work-related injuries and illnesses that are diagnosed by a physician or licensed health care professional. You must also record work-related injuries and illnesses that meet any of the specific recording criteria listed in 29 CFR Part 1904.8 through 1904.12. Feel free to use two lines for a single case if you need to. You must complete an Injury and Illness Incident Report (OSHA Form 301) or equivalent form for each injury or illness recorded on this form. If you're not sure whether a case is recordable, call your local OSHA office for help.

Establishment name ______________

City ______________ State ______________

Identify the person			Describe the case			Classify the case											
						Using these four categories, check ONLY the most serious result for each case:				Enter the number of days the injured or ill worker was:		Check the "Injury" column or choose one type of illness: (M)					
(A) Case no.	(B) Employee's name	(C) Job title (e.g., Welder)	(D) Date of injury or onset of illness	(E) Where the event occurred (e.g., Loading dock north end)	(F) Describe injury or illness, parts of body affected, and object/substance that directly injured or made person ill (e.g., Second degree burns on right forearm from acetylene torch)	Death (G)	Days away from work (H)	Remained at work: Job transfer or restriction (I)	Remained at work: Other recordable cases (J)	On job transfer or restriction (K)	Away from work (L)	Injury (1)	Skin disorder (2)	Respiratory condition (3)	Poisoning (4)	All other illnesses (5)
			/ month/day			☐	☐	☐	☐	__ days	__ days	☐	☐	☐	☐	☐
			/ month/day			☐	☐	☐	☐	__ days	__ days	☐	☐	☐	☐	☐
			/ month/day			☐	☐	☐	☐	__ days	__ days	☐	☐	☐	☐	☐
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					Page totals ➤	__	__	__	__	__	__	Injury (1)	Skin disorder (2)	Respiratory condition (3)	Poisoning (4)	All other illnesses (5)

Be sure to transfer these totals to the Summary page (Form 300A) before you post it.

Public reporting burden for this collection of information is estimated to average 14 minutes per response, including time to review the instructions, search and gather the data needed, and complete and review the collection of information. Persons are not required to respond to the collection of information unless it displays a currently valid OMB control number. If you have any comments about these estimates or any other aspects of this data collection, contact: US Department of Labor, OSHA Office of Statistics, Room N-3644, 200 Constitution Avenue, NW, Washington, DC 20210. Do not send the completed forms to this office.

Page __ of __

OSHA's Form 300A

Summary of Work-Related Injuries and Illnesses

Year 20 __ __

U.S. Department of Labor
Occupational Safety and Health Administration

Form approved OMB no. 1218-0176

All establishments covered by Part 1904 must complete this Summary page, even if no work-related injuries or illnesses occurred during the year. Remember to review the Log to verify that the entries are complete and accurate before completing this summary.

Using the Log, count the individual entries you made for each category. Then write the totals below, making sure you've added the entries from every page of the Log. If you had no cases, write "0."

Employees, former employees, and their representatives have the right to review the OSHA Form 300 in its entirety. They also have limited access to the OSHA Form 301 or its equivalent. See 29 CFR Part 1904.35, in OSHA's recordkeeping rule, for further details on the access provisions for these forms.

Number of Cases

Total number of deaths	Total number of cases with days away from work	Total number of cases with job transfer or restriction	Total number of other recordable cases
(G)	(H)	(I)	(J)

Number of Days

Total number of days of job transfer or restriction	Total number of days away from work
(K)	(L)

Injury and Illness Types

Total number of . . .

	(M)		
(1) Injuries		(4) Poisonings	
(2) Skin disorders		(5) All other illnesses	
(3) Respiratory conditions			

Establishment information

Your establishment name _____

Street _____

City _____ State _____ ZIP _____

Industry description *(e.g., Manufacture of motor truck trailers)*

_____

Standard Industrial Classification (SIC), if known *(e.g., SIC 4713)*

____ ____ ____ ____

Employment information *(If you don't have these figures, see the Worksheet on the back of this page to estimate.)*

Annual average number of employees _____

Total hours worked by all employees last year _____

Sign here

Knowingly falsifying this document may result in a fine.

I certify that I have examined this document and that to the best of my knowledge the entries are true, accurate, and complete.

_____ _____
Company executive Title

_____ _____
Phone Date

Post this Summary page from February 1 to April 30 of the year following the year covered by the form.

U.S. Department of Labor
Occupational Safety and Health Administration

Optional

Worksheet to Help You Fill Out the Summary

At the end of the year, OSHA requires you to enter the average number of employees and the total hours worked by your employees on the summary. If you don't have these figures, you can use the information on this page to estimate the numbers you will need to enter on the Summary page at the end of the year.

How to figure the average number of employees who worked for your establishment during the year:

❶ ***Add*** the total number of employees your establishment paid in all pay periods during the year. Include all employees: full-time, part-time, temporary, seasonal, salaried, and hourly.

The number of employees paid in all pay periods = ❶ _____

❷ ***Count*** the number of pay periods your establishment had during the year. Be sure to include any pay periods when you had no employees.

The number of pay periods during the year = ❷ _____

❸ ***Divide*** the number of employees by the number of pay periods.

❶ _____ / ❷ _____ = ❸ _____

❹ ***Round the answer*** to the next highest whole number. Write the rounded number in the blank marked *Annual average number of employees.*

The number rounded = ❹ _____

For example, Acme Construction figured its average employment this way:

For pay period...	Acme paid this number of employees...	
1	10	Number of employees paid = 830 ❶
2	0	
3	15	Number of pay periods = 26 ❷
4	30	
5	40	830 ÷ 31.92 ❸
▼	▼	26
24	20	31.92 rounds to 32 ❹
25	15	
26	+10	32 is the annual average number of employees
	830	

How to figure the total hours worked by all employees:

Include hours worked by salaried, hourly, part-time and seasonal workers, as well as hours worked by other workers subject to day to day supervision by your establishment (e.g., temporary help services workers).

Do not include vacation, sick leave, holidays, or any other non-work time, even if employees were paid for it. If your establishment keeps records of only the hours paid or if you have employees who are not paid by the hour, please estimate the hours that the employees actually worked.

If this number isn't available, you can use this optional worksheet to estimate it.

Optional Worksheet

_____ ***Find*** the number of full-time employees in your establishment for the year.

X _____ ***Multiply*** by the number of work hours for a full-time employee in a year.

_____ This is the number of full-time hours worked.

+ _____ ***Add*** the number of any overtime hours as well as the hours worked by other employees (part-time, temporary, seasonal)

_____ ***Round*** the answer to the next highest whole number. Write the rounded number in the blank marked *Total hours worked by all employees last year.*

OSHA's Form 301
Injury and Illness Incident Report

Attention: This form contains information relating to employee health and must be used in a manner that protects the confidentiality of employees to the extent possible while the information is being used for occupational safety and health purposes.

U.S. Department of Labor
Occupational Safety and Health Administration

Form approved OMB no. 1218-0176

This *Injury and Illness Incident Report* is one of the first forms you must fill out when a recordable work-related injury or illness has occurred. Together with the *Log of Work-Related Injuries and Illnesses* and the accompanying *Summary*, these forms help the employer and OSHA develop a picture of the extent and severity of work-related incidents.

Within 7 calendar days after you receive information that a recordable work-related injury or illness has occurred, you must fill out this form or an equivalent. Some state workers' compensation, insurance, or other reports may be acceptable substitutes. To be considered an equivalent form, any substitute must contain all the information asked for on this form.

According to Public Law 91-596 and 29 CFR 1904, OSHA's recordkeeping rule, you must keep this form on file for 5 years following the year to which it pertains.

If you need additional copies of this form, you may photocopy and use as many as you need.

Completed by _____

Title _____

Phone (____)____-____ Date ____/____/____

Information about the employee

1) Full name _____

2) Street _____

City _____ State _____ ZIP _____

3) Date of birth ____/____/____

4) Date hired ____/____/____

5) ☐ Male
☐ Female

Information about the physician or other health care professional

6) Name of physician or other health care professional _____

7) If treatment was given away from the worksite, where was it given?

Facility _____

Street _____

City _____ State _____ ZIP _____

8) Was employee treated in an emergency room?
☐ Yes
☐ No

9) Was employee hospitalized overnight as an in-patient?
☐ Yes
☐ No

Information about the case

10) Case number from the *Log* _____ *(Enter the case number from the Log after you record the case.)*

11) Date of injury or illness ____/____/____

12) Time employee began work _____ AM / PM

13) Time of event _____ AM / PM ☐ Check if time cannot be determined

14) ***What was the employee doing just before the incident occurred?*** Describe the activity, as well as the tools, equipment, or material the employee was using. Be specific. *Examples:* "climbing a ladder while carrying roofing materials"; "spraying chlorine from hand sprayer"; "daily computer key-entry."

15) ***What happened?*** Tell us how the injury occurred. *Examples:* "When ladder slipped on wet floor, worker fell 20 feet"; "Worker was sprayed with chlorine when gasket broke during replacement"; "Worker developed soreness in wrist over time."

16) ***What was the injury or illness?*** Tell us the part of the body that was affected and how it was affected; be more specific than "hurt," "pain," or sore." *Examples:* "strained back"; "chemical burn, hand"; "carpal tunnel syndrome."

17) ***What object or substance directly harmed the employee?*** *Examples:* "concrete floor"; "chlorine"; "radial arm saw." *If this question does not apply to the incident, leave it blank.*

18) ***If the employee died, when did death occur?*** Date of death ____/____/____

If You Need Help...

If you need help deciding whether a case is recordable, or if you have questions about the information in this package, feel free to contact us. We'll gladly answer any questions you have.

- **Visit us online at www.osha.gov**
- **Call your OSHA Regional office and ask for the recordkeeping coordinator**

  or

- **Call your State Plan office**

U.S. Department of Labor
Occupational Safety and Health Administration

Federal Jurisdiction

Region 1 - 617 / 565-9860
Connecticut; Massachusetts; Maine; New Hampshire; Rhode Island

Region 2 - 212 / 337-2378
New York; New Jersey

Region 3 - 215 / 861-4900
DC; Delaware; Pennsylvania; West Virginia

Region 4 - 404 / 562-2300
Alabama; Florida; Georgia; Mississippi

Region 5 - 312 / 353-2220
Illinois; Ohio; Wisconsin

Region 6 - 214 / 767-4731
Arkansas; Louisiana; Oklahoma; Texas

Region 7 - 816 / 426-5861
Kansas; Missouri; Nebraska

Region 8 - 303 / 844-1600
Colorado; Montana; North Dakota; South Dakota

Region 9 - 415 / 975-4310

Region 10 - 206 / 553-5930
Idaho

State Plan States

Alaska - 907 / 269-4957

Arizona - 602 / 542-5795

California - 415 / 703-5100

*Connecticut - 860 / 566-4380

Hawaii - 808 / 586-9100

Indiana - 317 / 232-3325

Iowa - 515 / 281-3661

Kentucky - 502 / 564-3070

Maryland - 410 / 767-2371

Michigan - 517 / 322-1851

Minnesota - 651 / 296-2116

Nevada - 702 / 687-3250

*New Jersey - 609 / 292-2313

New Mexico - 505 / 827-4230

*New York - 518 / 457-2574

North Carolina - 919 / 807-2875

Oregon - 503 / 378-3272

Puerto Rico - 787 / 754-2171

South Carolina - 803 / 734-9632

Tennessee - 615 / 741-2793

Utah - 801 / 530-6901

Vermont - 802 / 828-2765

Virginia - 804 / 786-6613

Virgin Islands - 340 / 772-1315

Washington - 360 / 902-5799

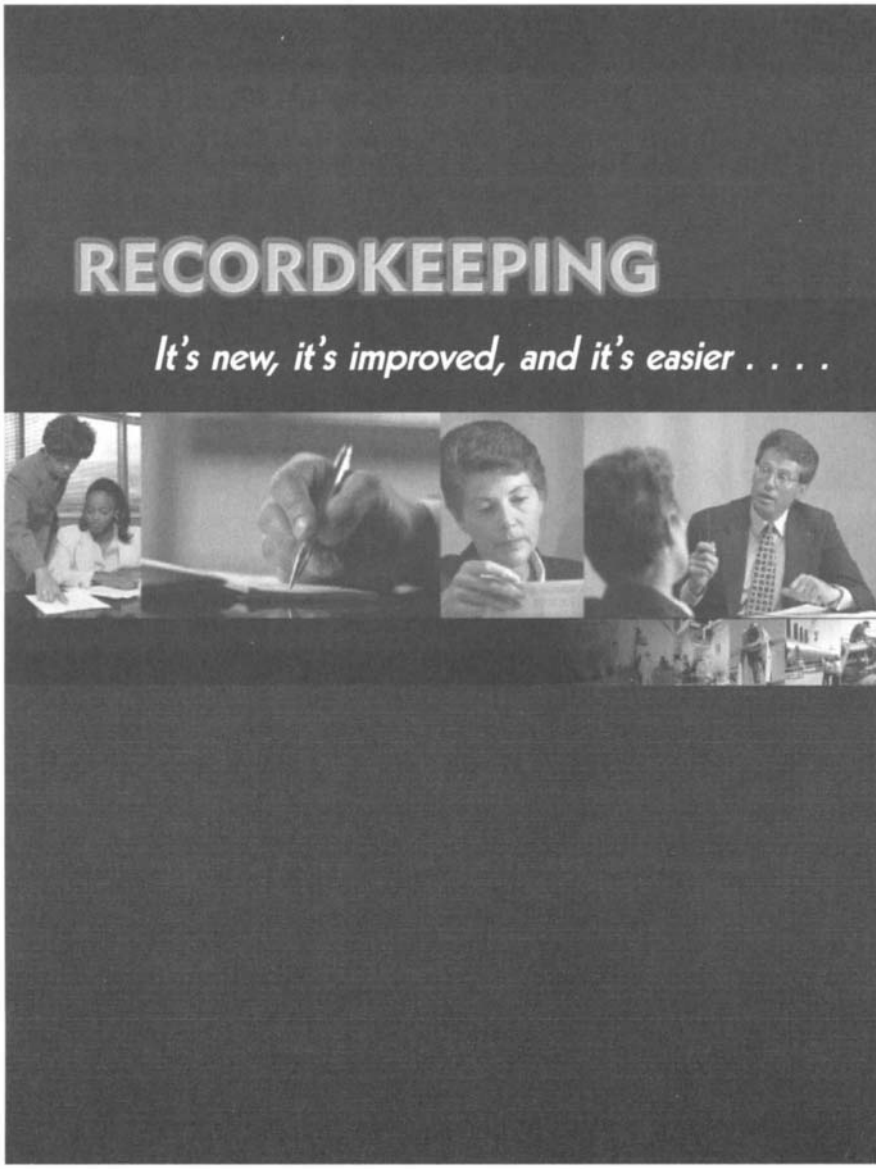
Wyoming - 307 / 777-7786

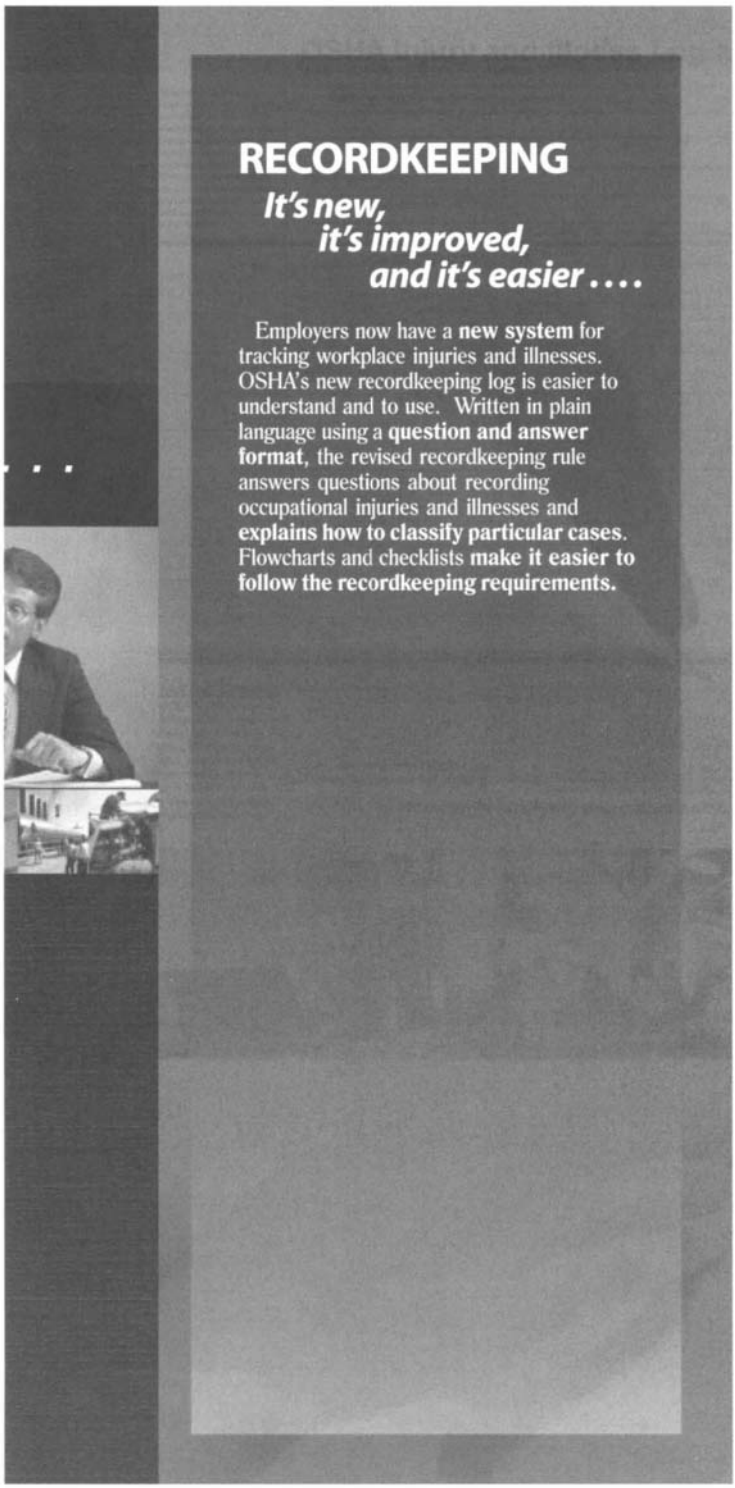
*Public Sector only

Have questions?

If you need help in filling out the *Log* or *Summary*, or if you have questions about whether a case is recordable, contact us. We'll be happy to help you. You can:

- Visit us online at: **www.osha.gov**
- Call your regional or state plan office. You'll find the phone number listed inside this cover.


RECORDKEEPING
It's new, it's improved, and it's easier . . . .


RECORDKEEPING
It's new,
it's improved,
and it's easier....
Employers now have a new system for tracking workplace injuries and illnesses. OSHA's new recordkeeping log is easier to understand and to use. Written in plain language using a question and answer format, the revised recordkeeping rule answers questions about recording occupational injuries and illnesses and explains how to classify particular cases. Flowcharts and checklists make it easier to follow the recordkeeping requirements.

What has changed?

The new rule:

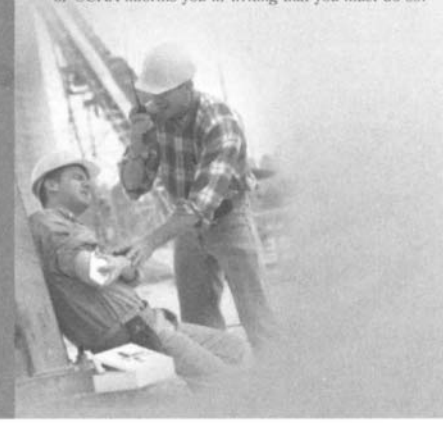
- Offers flexibility by letting employers computerize injury and illness records;
- Updates three recordkeeping forms:
  - OSHA Form 300 (*Log of Work-Related Injuries and Illnesses*); simplified and reformatted to fit legal size paper.
  - OSHA Form 301 (*Injury and Illness Incident Report*); includes more data about how the injury or illness occurred.
  - OSHA Form 300A (*Summary of Work-Related Injuries and Illnesses*); a separate form created to make it easier to calculate incidence rates;
- Continues to exempt smaller employers (employers with 10 or fewer employees) from most requirements;
- Changes the exemptions for employers in service and retail industries;
- Clarifies the definition of workrelationship, limiting the recording of pre-existing cases and adding new exceptions for some categories of injury and illness;
- Includes new definitions of medical treatment, first aid, and restricted work to simplify recording decisions;
- Eliminates different criteria for recording work-related injuries and work-related illnesses; one set of criteria will be used for both;
- Changes the recording of needlestick injuries and tuberculosis;
- Simplifies the counting of days away from work, restricted days and job transfer;
- Improves employee involvement and provides employees and their representatives with access to the information; and
- Protects privacy for injured and ill workers.

Simplified, clearer definitions also make it easier for **employers** to determine which cases must be recorded. Posting an annual summary of workplace injuries and illnesses for a longer period of time improves **employee** access to information, and as employees learn how to report workplace injuries and illnesses, their involvement and participation increase.

Which recordkeeping requirements apply to me?

Reporting fatalities and catastrophes: All employers covered by the *Occupational Safety and Health Act of 1970* (P.L. 91-596) must report to OSHA any workplace incident resulting in a fatality or the in-patient hospitalization of three or more employees within 8 hours.

Keeping injury and illness records: If you had 10 or fewer employees during all of the last calendar year or your business is classified in a specific low-hazard retail, service, finance, insurance, or real estate industry, you **do not** have to keep injury and illness records unless the Bureau of Labor Statistics or OSHA informs you in writing that you must do so.



How can I tell if I am exempt?

OSHA uses the Standard Industrial Classification (SIC) Code to determine which establishments must keep records. You can search for SIC Codes by keywords or by four-digit SIC to retrieve descriptive information of specific SICs in OSHA's online Standard Industrial Classification Search, available on OSHA's website at: http://www.osha.gov/oshstats/sicser.html.

Establishments classified in the following SICs are exempt from most of the recordkeeping requirements, regardless of size:

525	Hardware Stores
542	Meat and Fish Markets
544	Candy, Nut, and Confectionary Stores
545	Dairy Products Stores
546	Retail Bakeries
549	Miscellaneous Food Stores
551	New and Used Car Dealers
552	Used Car Dealers
554	Gasoline Service Stations
557	Motorcycle Dealers
56	Apparel and Accessory Stores
573	Radio, Television, and Computer Stores
58	Eating and Drinking Places
591	Drug Stores and Proprietary Stores
592	Liquor Stores
594	Miscellaneous Shopping Goods Stores
599	Retail Stores, Not Elsewhere Classified
60	Depository Institutions (Banks and Savings Institutions)
61	Nondepository Institutions (Credit Institutions)
62	Security and Commodity Brokers
63	Insurance Carriers
64	Insurance Agents, Brokers, and Services
653	Real Estate Agents and Managers
654	Title Abstract Offices
67	Holding and Other Investment Offices
722	Photographic Studios, Portrait
723	Beauty Shops
724	Barber Shops
725	Shoe Repair and Shoeshine Parlors
726	Funeral Service and Crematories
729	Miscellaneous Personal Services
731	Advertising Services
732	Credit Reporting and Collection Services
733	Mailing, Reproduction, and Stenographic Services
737	Computer and Data Processing Services
738	Miscellaneous Business Services
764	Reupholstery and Furniture Repair
78	Motion Picture
791	Dance Studios, Schools, and Halls
792	Producers, Orchestras, Entertainers
793	Bowling Centers
801	Offices and Clinics of Medical Doctors
802	Offices and Clinics of Dentists
803	Offices of Osteopathic Physicians
804	Offices of Other Health Practitioners
807	Medical and Dental Laboratories
809	Health and Allied Services, Not Elsewhere Classified
81	Legal Services
82	Educational Services (Schools, Colleges, Universities, and Libraries)
832	Individual and Family Services
835	Child Day Care Centers
839	Social Services, Not Elsewhere Classified
841	Museums and Art Galleries
86	Membership Organizations
87	Engineering, Accounting, Research, Management, and Related Services
899	Services, Not Elsewhere Classified

What do I have to do if I am not exempt?

Employers not exempt from OSHA's recordkeeping requirements must prepare and maintain records of work-related injuries and illnesses. You need to review *Title 29 of the Code of Federal Regulations (CFR) Part 1904*–"Recording and Reporting Occupational Injuries and Illnesses," to see exactly which cases to record.

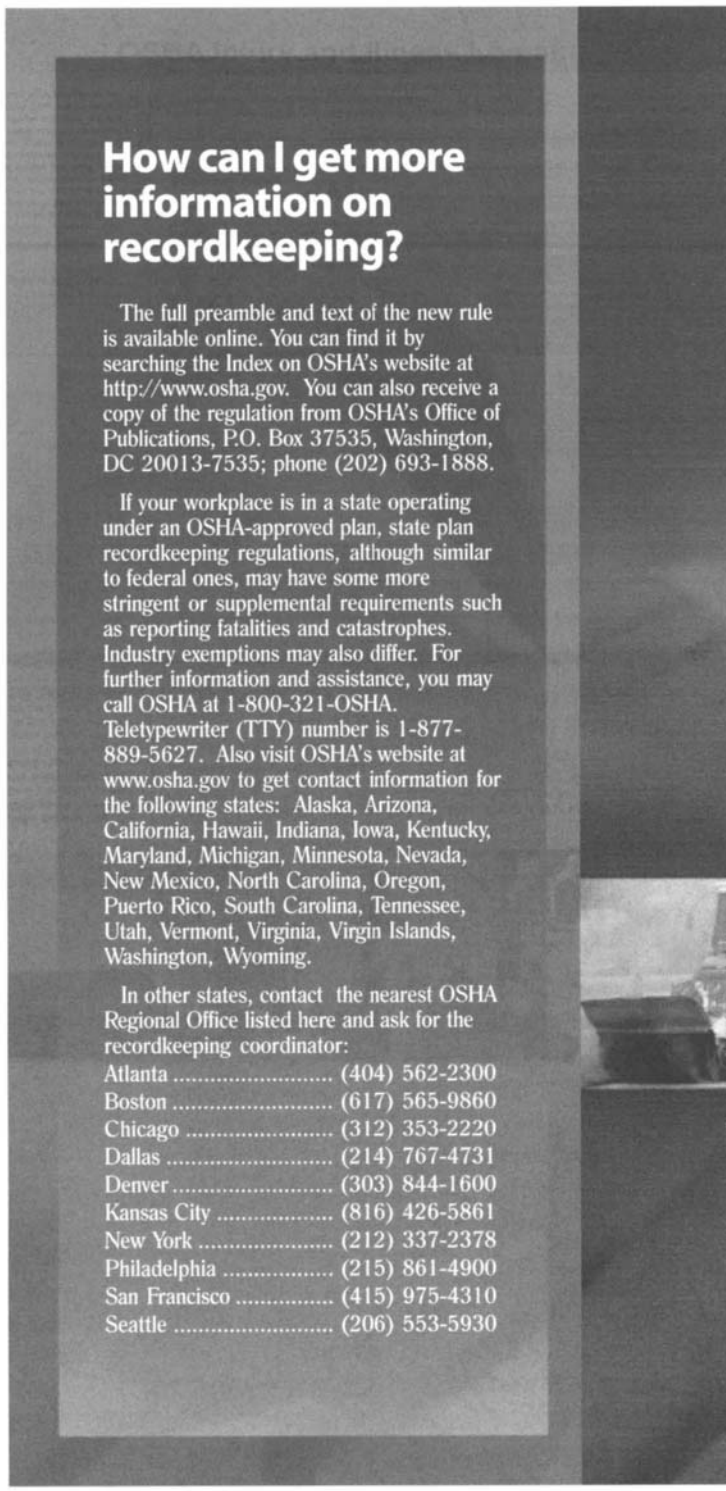
- Use the *Log of Work-Related Injuries and Illnesses* (Form 300) to list injuries and illnesses and track days away from work, restricted, or transferred.
- Use the *Injury and Illness Report* (Form 301) to record supplementary information about recordable cases. You can use a workers' compensation or insurance form, if it contains the same information.
- Use the *Summary* (Form 300A) to show totals for the year in each category. The summary is posted from February 1 to April 30 of each year.

What's so important about recordkeeping?

Recordkeeping is a critical part of an employer's safety and health efforts for several reasons:

- Keeping track of work-related injuries and illnesses can help you prevent them in the future.
- Using injury and illness data helps identify problem areas. The more you know, the better you can identify and correct hazardous workplace conditions.
- You can better administer company safety and health programs with accurate records.
- As employee awareness about injuries, illnesses, and hazards in the workplace improves, workers are more likely to follow safe work practices and report workplace hazards.

OSHA compliance officers can rely on the data to help them properly identify and focus on injuries and illnesses in a particular area. The agency also asks about 80,000 establishments each year to report the data directly to OSHA, which uses the information as part of its site-specific inspection targeting program. The Bureau of Labor Statistics (BLS) also uses injury and illness records as the source data for the *Annual Survey of Occupational Injuries and Illnesses* that shows safety and health trends nationwide and industrywide.



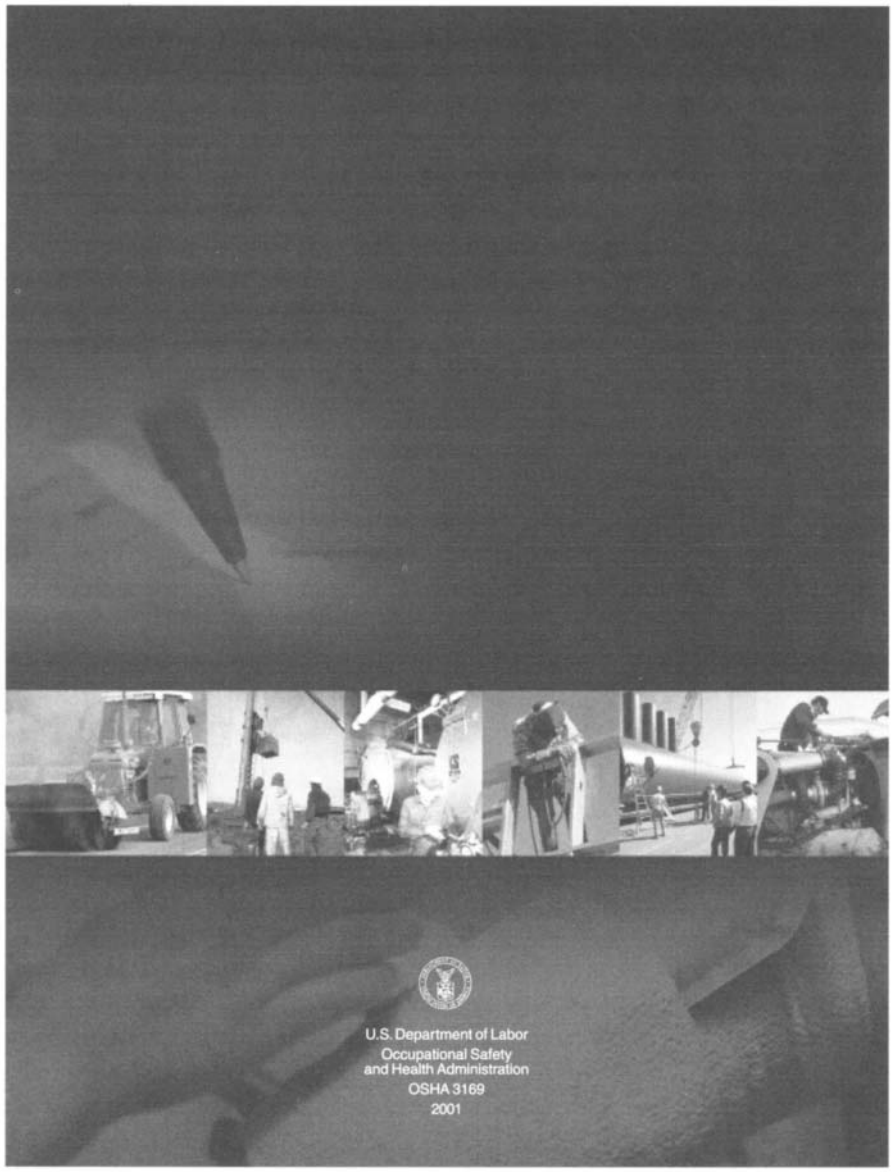
How can I get more information on recordkeeping?

The full preamble and text of the new rule is available online. You can find it by searching the Index on OSHA's website at http://www.osha.gov. You can also receive a copy of the regulation from OSHA's Office of Publications, P.O. Box 37535, Washington, DC 20013-7535; phone (202) 693-1888.

If your workplace is in a state operating under an OSHA-approved plan, state plan recordkeeping regulations, although similar to federal ones, may have some more stringent or supplemental requirements such as reporting fatalities and catastrophes. Industry exemptions may also differ. For further information and assistance, you may call OSHA at 1-800-321-OSHA. Teletypewriter (TTY) number is 1-877-889-5627. Also visit OSHA's website at www.osha.gov to get contact information for the following states: Alaska, Arizona, California, Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Virgin Islands, Washington, Wyoming.

In other states, contact the nearest OSHA Regional Office listed here and ask for the recordkeeping coordinator:

Atlanta	(404) 562-2300
Boston	(617) 565-9860
Chicago	(312) 353-2220
Dallas	(214) 767-4731
Denver	(303) 844-1600
Kansas City	(816) 426-5861
New York	(212) 337-2378
Philadelphia	(215) 861-4900
San Francisco	(415) 975-4310
Seattle	(206) 553-5930


U.S. Department of Labor
Occupational Safety
and Health Administration
OSHA 3169
2001

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Appendix H

OSHA Instructions

RECORDKEEPING POLICIES AND PROCEDURES MANUAL

Record Type: Instruction
Directive Number: CPL 2-0.131
Subject: Recordkeeping Policies and Procedures Manual (RKM)
Information Date: 01/01/2002
Directive Number: CPL 2-0.131
Effective Date: January 1, 2002

ABSTRACT

Purpose: This instruction gives enforcement information on OSHA's new recordkeeping regulations.
Scope: OSHA-wide.
Cancellations: Paragraph C.2.n.(2)(b), and Paragraphs C.2.n.(3), (4), and (5)(a) in Chapter IV of OSHA Instruction CPL 2.103, Field Inspection Reference Manual (FIRM), September 26, 1994; Paragraph L.5 of OSHA Instruction CPL 2.106, Enforcement Procedures and Scheduling for Occupational Exposure to Tuberculosis, February 9, 1996; Paragraph E.6 of OSHA Instruction STD 3-1.1, Clarification of Citation Policy, June 22, 1987; and OSHA Instruction STP 2-1.173, Final Rule on Reporting of Fatality or Multiple Hospitalization Incidents, June 7, 1994.

References: All 29 CFR Part 1904 SAVEs of OSHA Instruction CPL 2.35, CH-1 and CH-5, Regulatory and General Industry SAVEs, September 1, 1979; OSHA Instruction CPL 2.80, Handling of Cases to be Proposed for Violation-By-Violation Penalties, October 21, 1990; OSHA Instruction CPL 2.103, Field Inspection Reference Manual (FIRM), September 26, 1994; OSHA Instruction CPL 2.111, Citation Policy for Paperwork and Written Program Requirement Violations, November 27, 1995; and OSHA Instruction CPL 2-2.33, 29 CFR 1913.10, Rules of Agency Practice and Procedure Concerning OSHA Access to Employee Medical Records—Procedures Governing Enforcement Activities, February 8, 1982.
State Impact: State adoption is required in part. See Chapter 1, Paragraph V.
Action Offices: National, Regional, Area Office, and State Plan States.
Enforcement Date: See Chapter 1, Paragraph IX.
Originating Office: Directorate of Information Technology.
Contact: Bob Whitmore (202-693-1702), Directorate of Information Technology, Office of Statistics, Recordkeeping Division, 200 Constitution Avenue, NW N-3661, Washington, DC 20210. By and Under the Authority of John L. Henshaw, Assistant Secretary.

EXECUTIVE SUMMARY

This instruction is the *Recordkeeping Policies and Procedures Manual* (RKM) for the new recordkeeping rule that was published in the *Federal Register* on January 19, 2001. This manual is divided into five chapters: Chapter 1, Background; Chapter 2, Enforcement Policies and Procedures; Chapter 3, Standard Alleged Violation Elements (SAVEs); Chapter 4, Comparison of Old and New Rules; Chapter 5, Frequently Asked Questions.

SIGNIFICANT CHANGES

This instruction creates a recordkeeping manual for the new recordkeeping rule that assembles recordkeeping compliance policies and procedures from several existing OSHA instructions:

- State Plan States required to adopt interpretations.
- A Compliance Officer Checklist has been added.

TABLE OF CONTENTS

Section 1904.29—Forms
Section 1904.31—Covered Employees
Section 1904.32—Annual Summary
Section 1904.35—Employee Involvement
Section 1904.37—State Recordkeeping Regulations
Section 1904.39—Reporting Fatalities and Multiple Hospitalization Incidents to OSHA

CHAPTER 1. BACKGROUND

Purpose

This instruction gives enforcement guidance for the Occupational Safety and Health Administration's (OSHA's) new recordkeeping regulation, 29 Code of Federal Regulations Part 1904.

Scope

This instruction applies OSHA-wide.

Cancellations

Paragraph C.2.n.(2)(b), and Paragraphs C.2.n.(3), (4), and (5)(a) in Chapter IV of OSHA Instruction CPL 2.103, Field Inspection Reference Manual (FIRM), September 26, 1994.
Paragraph L.5 of OSHA Instruction CPL 2.106, Enforcement Procedures and Scheduling for Occupational Exposure to Tuberculosis, February 9, 1996.
Paragraph X of OSHA Instruction CPL 2-2.44D, Enforcement Procedures for the Occupational Exposure to Bloodborne Pathogens, November 5, 1999.
Paragraph E.6 of OSHA Instruction STD 3-1.1, Clarification of Citation Policy, June 22, 1987.
OSHA Instruction STP 2-1.173, Final Rule on Reporting of Fatality or Multiple Hospitalization Incidents, June 7, 1994.

References

All 29 CFR Part 1904 SAVEs of OSHA Instruction CPL 2.35, CH-1 and CH-5, Regulatory and General Industry SAVEs, September 1, 1979.

OSHA Instruction CPL 2.80, Handling of Cases to be Proposed for Violation-by-Violation Penalties, October 21, 1990.
OSHA Instruction CPL 2.103, Field Inspection Reference Manual (FIRM), September 26, 1994.
OSHA Instruction CPL 2.111, Citation Policy for Paperwork and Written Program Requirement Violations, November 27, 1995.
OSHA Instruction CPL 2-2.33, 29 CFR 1913.10, Rules of Agency Practice and Procedure Concerning OSHA Access to Employee Medical Records—Procedures Governing Enforcement Activities, February 8, 1982.
OSHA Instruction CPL 2-2.46, 29 CFR §1913.10(b)(6), Authorization and Procedures for Reviewing Medical Records, January 5, 1989.
OSHA Instruction STP 2.12B, State Program Requirements for Statistical Information on the Incidence of Occupational Injuries and Illnesses by Industry; on the Injured or Ill Worker; and on the Circumstances of the Injuries or Illnesses, May 4, 1992.
OSHA Instruction STP 2-1.12, State Statistical and Recordkeeping Program Under 18(b) Plans, October 30, 1978.
Memorandum to All Regional Administrators from Michael G. Connors, Deputy Assistant Secretary, FIRM Change: Mandatory Collection of OSHA 200 and Lost Workday Injury and Illness (LWDII) Data During Inspections, dated June 21, 1996.
Federal Register, Vol. 61, page 4030, February 2, 1996, Occupational Injury and Illness Recording and Reporting Requirements, Notice of Proposed Rulemaking.
Federal Register, Vol. 61, page 7758, February 29, 1996, Occupational Injury and Illness Recording and Reporting Requirements, Addendum to the Proposed Rule.
Federal Register, Vol. 66, page 5916, January 19, 2001, Occupational Injury and Illness Recording and Reporting Requirements, Final Rule.
Federal Register, Vol. 66, page 35113, July 3, 2001, Occupational Injury and Illness Recording and Reporting Requirements, Proposed delay of effective date; request for comments.
Federal Register, Vol. 66, page 52031, October 12, 2001, Occupational Injury and Illness Recording and Reporting Requirements, Final Rule.

Federal Program Changes

This instruction describes a Federal program change which requires State action.

Recordkeeping Regulations

The revised recordkeeping rule at 29 CFR §1904.37 and §1952.4 requires that States adopt occupational injury and illness recording and reporting requirements that are substantially identical to the requirements in the Federal revision of 29 CFR Part 1904, by January 1, 2002. The requirements for determining which injuries and illnesses are recordable and how they are recorded must be identical to those in Part 1904, so that national statistics are uniform. All other injury and illness recording and reporting requirements must be at least as effective as the Federal requirements. The States are expected to adopt a regulation equivalent to 29 CFR 1904 by January 1, 2002. States will also be required to adopt provisions corresponding to the Federal provisions on hearing loss and musculoskeletal disorders promulgated October 12, 2001. During CY 2002, States which have existing criteria for recording hearing loss which are stricter than the Federal 25-dB level may maintain those criteria.

The requirement that States participate in the BLS survey of work-related injuries and illnesses or provide equivalent data under an alternative system approved by OSHA and BLS are set out in OSHA Instruction STP 2.12B and OSHA Instruction STP 2-1.12.

Recording and Reporting Requirements

In order to ensure uniform national statistics, States must adopt the interpretations in this Instruction which relate to the determination of which injuries and illnesses are recordable and how they are recorded. (States must also adhere to any additional formal Federal interpretations regarding the recording and reporting of injuries and illnesses issued through formal letter or memorandum and/or posted on OSHA's website.)

Because the new recordkeeping rules will go into effect on January 1, 2002, States must implement these interpretations as soon as possible, but no later than six months from the date of issuance of this Instruction, and submit the cover page of the State's implementing guidance to the Regional Administrator.

Compliance Procedures

Adoption of the enforcement policies and procedures described in this instruction is not required; however, States are expected to have enforcement policies and procedures which are at least as effective as those of Federal OSHA.

Significant Changes

This Instruction creates a recordkeeping manual for the new rule that assembles recordkeeping compliance policies and procedures from several existing OSHA Instructions. The manual is divided into five chapters: Chapter 1—Background: Chapter 2—Enforcement Policies and Procedures; Chapter 3—Standard Alleged Violation Elements (SAVEs); Chapter 4—Comparison of Old and New Rule; Chapter 5—Frequently Asked Questions. State Plan States are required to adopt interpretations, and a Compliance Officer Checklist has been added.

Action Information

Responsible Office: Directorate of Information Technology (DIT).
Action Offices: Regional Offices, Area Offices, State Plan States.
Information Offices: Informational copies of this Instruction are provided to: Consultation Project Managers, Compliance Assistance Coordinator, and Compliance Assistant Specialists.

Action

Regional Administrators and Area Directors in Federal Enforcement States and State Designees in State Plan States will ensure that the policies and procedures established in this instruction, or their equivalent in State Plan States, are transmitted to and implemented in all field offices.

Enforcement Date

During the initial period the new recordkeeping rule is in effect OSHA compliance officers conducting inspections will focus on assisting employers to comply with the new rule rather than on enforcement. OSHA will not issue citations for violations of the recordkeeping rule during the first 120 days after January 1, 2002, provided the employer is attempting in good faith to meet its recordkeeping obligation and agrees to make corrections necessary to bring the records into compliance.

Background

On February 2, 1996 OSHA first published in the Federal Register the proposed rule for Occupational Injury and Illness Recording and

Reporting Requirements; on February 29, 1996 OSHA published an addendum to the proposed rule: the executive summary of the Preliminary Economic Analysis. On January 19, 2001 the final rule was published in the Federal Register with an effective date of January 1, 2002.

The new rule maintains the basic structure and recordkeeping practices of the old system, but it employs new forms and somewhat different requirements for recording, maintaining, posting, retaining and reporting occupational injury and illness information. Information collection and reporting under the new rule will continue to be done on a calendar year basis.

On July 3, 2001 OSHA issued a notice in the Federal Register announcing it was proceeding with implementation of the new Recordkeeping Rule effective January 1, 2002, with two exceptions. OSHA proposed delaying for one year implementing the criteria covering work-related hearing loss, and the definition of musculoskeletal disorders (MSDs), including the requirement to check the Hearing Loss and MSD columns on the OSHA 300 Log. Public comments were accepted on this proposal through September 4.

On October 12, 2001 OSHA issued a notice in the Federal Register delaying the effective date of three provisions of the final new rule published January 19, 2001. They are:

Sections 1904.10(a) and (b), which specify recording criteria for cases involving occupational hearing loss and requires employers to check the hearing loss column;
Section 1904.12, which defines "musculoskeletal disorder (MSD)" and requires employers to check the MSD column on the OSHA Log if an employee experiences a work-related musculoskeletal disorder; and
Section 1904.29(b)(7)(vi), which states that MSDs are not considered privacy concern cases.

The effective date of these provisions is delayed until January 1, 2003.

OSHA added a new paragraph (c) to §1904.10 establishing criteria for recording cases of work-related hearing loss during calendar year 2002. This section codified the enforcement policy in effect since 1991, under which employers must record work-related shifts in hearing of an average 25 dB or more at 2,000, 3,000 and 4,000 hertz in either ear. See Figure 2-49 for the changes to the rule.

Page 5921 of the January 19, 2001 Federal Register notice states that the following Bureau of Labor Statistics (BLS)/OSHA publications are withdrawn as of January 1, 2002: Recordkeeping Guidelines for Occupational Injuries and Illnesses, 1986; and A Brief Guide to Recordkeeping Requirements for Occupational Injuries and Illnesses, 1986. In addition,

the notice states that all letters of interpretation regarding the old rule's injury and illness recordkeeping requirements are to be withdrawn and removed from the OSHA CD-ROM and the OSHA Internet site.

Transition from the Old Rule

The transition from the old rule to the new rule includes training and outreach to familiarize employers and employees about the new forms and requirements, as well as informing employers in newly covered industries that they are now required to keep OSHA Part 1904 records. An additional transition issue for employers, who kept records under the old system and will also keep records under the new system, is how to handle the data collected under the old system during the transition year.

Sections 1904.43 and 1904.44 of the new rule address what employers must do to keep the required OSHA records during the first five years that the new system is in effect. This five-year period is called the transition period. The majority of the transition requirements apply only to the first year, when the data from the previous year (collected under the old rule) must be summarized and posted during the month of February. For the remainder of the transition period, the employer is required to retain the records created under the old rule for five years and provide access to those records for the government, the employer's employees, and employee representatives.

The new rule maintains the basic structure and recordkeeping practices of the old system, but uses new forms and somewhat different requirements for recording, maintaining, posting, retaining, and reporting occupational injury and illness information. Information collection and reporting under the new rule will continue to be done on a calendar year basis.

In the transition from the old rule to the new rule, OSHA intends employers to make a clean break with the old system. On January 1, 2002 the new rule will replace the old rule, and OSHA will discontinue the use of all previous forms, interpretations, and guidance. The following timetable shows the sequence of events and postings that will occur:

During 2001: Employers keep injury and illness information on the OSHA 200
January 1, 2002: Employers begin keeping data on the OSHA 300
February 1, 2002: Employers post the 2001 data on the OSHA 200
March 1, 2002: Employers may remove the 2001 posting
February 1, 2003: Employers post the 2002 data on the OSHA 300A
May 1, 2003: Employers may remove the 2002 posting

OSHA 200 Summary

The new rule's requirements for certification by a company executive and a three-month posting period will not apply to the posting of the OSHA 200 Log and Summary for the year 2001.

Retention and Updating Old Forms

Employers still must retain the OSHA records from 2001 and previous years for five years from the end of the year to which they refer. The employer must provide copies of the retained records to authorized government representatives, and to his or her employees and employee representatives, as required by the new rule.

OSHA will not require employers to update their old OSHA 200 and OSHA 101 Forms for years before 2002.

CHAPTER 2. ENFORCEMENT POLICIES AND PROCEDURES

Summary of the New Rule

The central requirements in OSHA's recordkeeping rule, 29 CFR 1904, are summarized below.

Coverage

The rule requires employers to keep records of occupational deaths, injuries, and illnesses, and to make certain reports to OSHA and the Bureau of Labor Statistics. Smaller employers (with 10 or fewer workers) and employers who have establishments in certain retail, service, finance, real estate, or insurance industries are not required to keep these records. However, they must report any occupational fatalities or catastrophes that occur in their establishments to OSHA, and they must participate in government surveys if they are asked to do so.

Forms

Employers who operate establishments that are required by the rule to keep injury and illness records are required to complete three forms:

the OSHA 300 Log of Work-Related Injuries and Illnesses, the annual OSHA 300A Summary of Work-Related Injuries and Illnesses, and the OSHA 301 Injury and Illness Incident Report. Employers are required to keep separate 300 Logs for each establishment that they operate that is expected to be in operation for one year or longer. The Log must include injuries and illnesses to employees on the employer's payroll as well as injuries and illnesses of other employees the employer supervises on a day-to-day basis, such as temporary workers or contractor employees who are subject to daily supervision by the employer. Within seven calendar days of the time the fatality, injury, or illness occurred, the employer must enter any case that is work-related, is a new case, and meets one or more of the recording criteria in the rule on the Log and Form 301.

Work-Relationship

Section 1904.5(a) states that "[the employer] must consider an injury or illness to be work-related if an event or exposure in the work environment either caused or contributed to the resulting condition. Work-relatedness is presumed for injuries and illnesses resulting from events or exposures occurring in the work environment. . . ." Under this language, a case is presumed work-related if, and only if, an event or exposure in the work environment is a discernable cause of the injury or illness or of a significant aggravation to a preexisting condition. The work event or exposure need only be one of the discernable causes; it need not be the sole or predominant cause.

Section 1904.5(b)(2)(ii) states that a case is not recordable if it "involves signs or symptoms that surface at work but result solely from a non-work-related event or exposure that occurs outside of the work environment." This language is intended as a restatement of the principle expressed in section 1904.5(a), described above. Regardless of where signs or symptoms surface, a case is recordable only if a work event or exposure is a discernable cause of the injury or illness or of a significant aggravation to a preexisting condition.

Section 1904.5(b)(3) states that if it is not obvious whether the precipitating event or exposure occurred in the work environment or elsewhere, the employer "must evaluate the employee's work duties and environment to decide whether or not one or more events or exposures in the work environment caused or contributed to the resulting condition or significantly aggravated a preexisting condition." This means that the employer must make a determination whether it is more likely than not that work events or exposures were a cause of the injury or illness, or of a significant aggravation to a preexisting condition. If the employer

decides the case is not work related, and OSHA subsequently issues a citation for failure to record, the Government would have the burden of proving that the injury or illness was work related.

New Case

Only new cases are recordable. Work-related injuries and illnesses are considered to be new cases when the employee has never reported similar signs or symptoms before, or when the employee has recovered completely from a previous injury or illness and workplace events or exposures have caused the signs or symptoms to reappear.

General Recording Criteria

Employers must record new work-related injuries and illnesses that meet one or more of the general recording criteria or meet the recording criteria for specific types of conditions. Recordable work-related injuries and illnesses are those that result in one or more of the following:

- Death
- Days away from work
- Restricted work
- Transfer to another job
- Medical treatment beyond first aid
- Loss of consciousness
- Diagnosis of a significant injury or illness

Employers must classify each case on the 300 Log in accordance with the most serious outcome associated with the case. The outcomes listed on the form are: death, days away, restricted work/transfer, and "other recordable." For cases resulting in days away or in a work restriction or transfer of the employee, the employer must count the number of calendar days involved and enter that total on the form. The employer may stop counting when the total number of days away, restricted or transferred reaches 180.

Restricted Work

An employee's work is considered restricted when, as a result of a work-related injury or illness, (A) the employer keeps the employee from performing one or more of the routine functions of his or her job (job functions that the employee regularly performs at least once per week), or from working the full workday that he or she would otherwise

have been scheduled to work, or (B) a physician or other licensed health care professional recommends that the employee not perform one or more of the routine functions of his or her job, or not work the full workday that he or she would otherwise have been scheduled to worked. The new rule continues the policy established under the old rule that a case is not recordable under section 1904.7(b)(4) as a restricted work case if the employee experiences minor musculoskeletal discomfort, a health care professional determines that the employee is fully able to perform all of his or her routine job functions, and the employer assigns a work restriction to that employee for the purpose of preventing a more serious condition from developing.

Medical Treatment

Medical treatment means any treatment not contained in the list of first aid treatments. Medical treatment does not include visits to a health care professional for observation and counseling or diagnostic procedures. First aid means only those treatments specifically listed in 1904.7. Examples of first aid include the use of non-prescription medications at non-prescription strength, the application of hot or cold therapy, eye patches or finger guards, and others.

Diagnosis of a Significant Injury or Illness

A work-related cancer, chronic irreversible disease such as silicosis or byssinosis, punctured eardrum, or fractured or cracked bone is a significant injury or illness that must be recorded when diagnosed by a physician or a licensed health care professional.

Recording Injuries and Illnesses to Soft Tissues

Work-related injuries and illnesses involving muscles, nerves, tendons, ligaments, joints, cartilage, and spinal discs are recordable under the same requirements applicable to any other type of injury or illness. There are no special rules for recording these cases: if the case is work related and involves medical treatment, days away, job transfer, or restricted work, it is recordable.

Employee Privacy

The employer must protect the privacy of injured or ill employees when recording cases. In certain types of cases, such as those involving

mental illness or sexual assault, the employer may not enter the injured or ill employee's name on the Log. Instead, the employer simply enters "privacy case," and keeps a separate, confidential list containing the identifying information. If the employer provides the OSHA records to anyone who is not entitled to access to the records under the rule, the names of all injured and ill employees generally must be removed before the records are turned over.

Certification, Summarization, and Posting

After the end of the year, employers must review the Log to verify its accuracy, summarize the 300 Log information on the 300A summary form, and certify the summary (a company executive must sign the certification). This information must then be posted for three months, from February 1 to April 30. The employer must keep the records for five years following the calendar year covered by them, and if the employer sells the business, he or she must transfer the records to the new owner.

Employee Involvement

Each employer must set up a way for employees to report work-related injuries and illnesses, and each employee must be informed about how he or she is to report an injury or illness. Employees, former employees, and employee representatives also have a right to access the records, and an employer must provide copies of certain records upon request.

Reporting

The employer must orally report within eight hours work-related fatalities and incidents involving the hospitalization of three or more employees to the nearest OSHA office, or the OSHA Hotline at 1-800-321-OSHA. There is an exception for certain motor vehicle or public transportation accidents. An employer also must participate in an OSHA or BLS injury and illness survey if he or she receives a survey form from OSHA or the BLS.

Inspection and Citation Procedures

Review Records and Collect Data

All CSHOs on all inspections must review and record the establishment's injury and illness records for the three prior calendar years in

accordance with the Deputy Assistant Secretary's Memorandum to Regional Administrators dated June 21, 1996 regarding FIRM Change: Mandatory Collection of OSHA 200 and Lost Workday Injury and Illness (LWDII) Data During Inspections. Following a records review, the CSHO may expand the inspection as described in Chapter II, paragraph A.1.b of the FIRM (CPL 2.103).

Selected tools have been provided [in this book] that are intended to assist the compliance officer: Figure 7-1 has a Compliance Officer Checklist; Figure 7-2 has a blank Optional Violation Documentation Worksheet; Figure H-1 has a completed sample Optional Violation Documentation Worksheet; and Table 7-4 has the Health Care Practitioners' Abbreviations. These tools are explained in Chapter 7.

For all inspections, except for construction, as part of the CSHO's case preparation, the CSHO must obtain any OSHA Data Initiative (ODI) survey information available on the establishment from www.ergweb3.com:8087 (site will require user name and password). During the inspection the CSHO will compare this data with the OSHA 200 or OSHA 300 Logs for the three prior calendar years at the establishment. Note: The first ODI for construction establishments will collect the 2001 injury and illness data in 2002; the data will be available in 2003.

Citations and Penalties for Violation of Part 1904 Requirements

The following incorporates paragraph G.2 of OSHA Instruction CPL 2.111, and supersedes and replaces Paragraph C.2.n(2)(b), and Paragraphs C.2.n(3), (4), and (5)(a) in Chapter IV of the FIRM (CPL 2.103).

OSHA 300 and OSHA 301 Forms

The employer must record cases on the OSHA 300 Log of Work-Related Injuries and Illnesses, and on the OSHA 301 Incident Report, (or equivalent form), as prescribed in Subpart C of §1904. Where no records are kept and there have been injuries or illnesses which meet the requirements for recordability, as determined by other records or by employee interviews, a citation for failure to keep records will normally be issued.

When the required records are kept but no entry is made for a specific injury or illness which meets the requirements for recordability, a citation for failure to record the case will normally be issued.

Where no records are kept and there have been no injuries or illnesses, as determined by employee interviews, a citation will not be issued. See II B.2 regarding OSHA 300A, Annual Summary.

OPTIONAL **RECORDKEEPING VIOLATION DOCUMENTATION WORKSHEET** **OPTIONAL**
(This Form Effective - January 1, 2002)

1. UNIQUE CASE NUMBER: OSHA-02-1
(Designate a number that will stay the same at all times. Example: OSHA-98-1, where OSHA means it was discovered by us, 98 is the year, and the numbers will be in sequence.)

2. DATE OF INJURY/ILLNESS: 05/25/02

3. WAS CASE RECORDED ON LOG? (Please check one)
[ ] Yes (If yes, enter log case number here _____; continue to **Table 1** then to **Table 2**)
[X] No (If no, then continue to **Table 2**)

Table 1. If yes, copy information from columns G through M of the employer's 300 log entry.

G	H	I	J	K	L

Table 2. If recorded incorrectly in Table 1, or not recorded at all, correctly record here.

G	H	I	J	K	L
	X			12	15

4. INJURY/ILLNESS INFORMATION: (From 300 Log, Items 1-5 of Column M)
If Illness, Check type:
1) If Injury Check here [X]
2) Skin Disorder [ ]
3) Poisonings [ ]
4) Respiratory Condition [ ]
5) All Other Illnesses [ ]

5. WORK RELATIONSHIP: Describe event or exposure including placement of employee on or off premises; OSHA 301 equivalent or company accident report often provides this information. Ex: Cut finger while loading scrap metal at work; Broke arm in auto accident while driving to customer's office, develops dermatitis from cleaning parts with solvent on premises.
Employee was standing on a ladder in the steel mill, welding pipes. A fork lift passed through the area causing a vibration which caused the ladder to shake. The employee fell to the floor fracturing the left arm and left leg.

6. BASIS FOR RECORDABILITY: (Check all that apply and provide details in comments section below)
☞ Death **(D)** ---------- [ ]
☞ Days away from work **(DA)** --- [X]
☞ Loss of consciousness **(LC)** ---- [ ]
☞ Restricted work or transfer to another job **(RT)** ---------- [X]
☞ Medical Treatment beyond First Aid **(MT)** ---------- [ ]
☞ A significant injury or illness diagnosed by a physician or other health care professional **(SI)** ---------- [ ]
☞ Recordable condition under 1904.8 thru 1904.12 (needlestick, TB, hearing loss, etc.) ---------- [ ]

7. COMMENTS: (Be specific and show all relevant information) Examples: MT-Naprosyn 440 mg BID (twice a day); DAW-RWT - give dates (9/14/02 through 9/21/02); SI - Aplastic Anemia from Benzene exposure
Employee was away from work 15 calendar days from 5/26/02 through 6/9/02, and subsequently returned to work on a restricted basis for 12 days from 6/10/02 through 6/21/02. Employee was released to full duty on 6/22/02.

8. SUPPORTING DOCUMENTATION OR EVIDENCE: (Check all documentation used for substantiating case recordability)
☞ OSHA 300 Form [X]
☞ Nurse/Doctor/Clinic logs [X]
☞ Absentee Records [ ]
☞ Accident and Health Benefit Insurance [ ]
☞ State Workers' Compensation Form [ ]
☞ Employee roster (payroll) [X]
☞ Insurers' accident reports [ ]
☞ Company First Aid Reports [ ]
☞ OSHA 301 Form or Workers' Comp. Equivalent [X]
☞ Other (Specify) _____ [ ]
☞ Medical Records/Files [X]
☞ Company Accident Reports [X]
☞ Union Records [ ]

Figure H-1 Recordkeeping Violation Documentation Worksheet (Sample).

When the required records are kept but have not been completed with the detail required by the regulation, or the records contain minor inaccuracies, the records will be reviewed to determine if there are deficiencies that materially impair the understandability of the nature of hazards, injuries, and illnesses in the workplace.

If the defects in the records materially impair the understandability of the nature of the hazards, injuries, and/or illnesses at the workplace, an other-than-serious citation will normally be issued.

Incompletely Recorded Cases on the OSHA 300 or 301

If the deficiencies do not materially impair the understandability of the information, normally no citation will be issued. For example, an employer should not be cited solely for misclassifying an injury as an illness or vice versa. The employer will be provided information on keeping the records for the employer's analysis of workplace injury trends and on the means to keep the records accurately. The employer's promised actions to correct the deficiencies will be recorded and no citation will be issued.

One Citation Item Per Form

Except for violation-by-violation citations pursuant to OSHA Instruction CPL 2.80, recordkeeping citations for improper recording of a case will be limited to a maximum of one citation item per form per year. This applies to both the OSHA 300 and the OSHA 301. Where the conditions for citation are met, an employer's failure to accurately complete the OSHA 300 Log for a given year would normally result in one citation item. Similarly, an employer's failure to accurately complete the OSHA 301, or equivalent, would normally result in one citation item. Multiple cases that are unrecorded or inaccurately recorded on the OSHA 300 or 301s during a particular year will normally be reflected as instances of the violation under that citation item.

For example: A single citation item for an OSHA 300 violation would result from a case where the employer did not properly count the days away, checked the wrong column, and did not adequately describe the injury or illness, or where the employer in several cases checked the wrong columns and/or did not adequately describe the injury or illness, and these errors materially impair the understandability of the nature of the hazards, injuries, and/or illnesses at the workplace. Note: As stated above, an employer should not be cited solely for misclassifying injuries as illnesses or vice versa.

For example: A single citation item for an OSHA 301 violation would result where OSHA 301s had not been completed, or where so little information had been put on the 301s for multiple cases as to make the 301s materially deficient.

Penalties

When a penalty is appropriate, there will be an unadjusted penalty of $1,000 for each year the OSHA 300 was not properly kept; an

unadjusted penalty of $1,000 for each OSHA 301 that was not filled out at all (up to a maximum of $7,000); and an unadjusted penalty of $1,000 for each OSHA 301 that was not accurately completed (up to a maximum of $3,000).

Where citations are issued, penalties will be proposed only in the following cases:

Where OSHA can document that the employer was previously informed of the requirements to keep records; or,
Where the employer's deliberate decision to deviate from the recordkeeping requirements, or the employer's plain indifference to the requirements, can be documented.

Posting Annual Summary Requirements

An other-than-serious citation will normally be issued if an employer fails to post the OSHA 300A Summary by February as required by §1904.32(a)(1); and/or fails to certify the Summary as required by §1904.32(b)(3); and/or fails to keep it posted for three months, until May 1, as required by §1904.32(b)(6). The unadjusted penalty for this violation will be $1,000.

A citation will not be issued if the Summary that is not posted or certified reflects no injuries or illnesses, and no injuries or illnesses actually occurred. The CSHO will verify that there were no recordable injuries or illnesses by interviews, or by review of workers' compensation or other records, including medical records.

Reporting

In accordance with §1904.39, an employer is required to report to OSHA within eight hours of the time the employer learns of the death of any employee or the inpatient hospitalization of three or more employees, from a work-related incident. This includes fatalities at work caused by work-related heart attacks. There is an exception for certain work-related motor vehicle accidents or public transportation accidents.

The employer must orally report the fatality or multiple hospitalization by telephone or in person to the OSHA Area Office (or State Plan office) that is nearest to the site of the incident. OSHA's toll-free telephone number may be used: 1-800-321-OSHA (1-800-321-6742).

An other-than-serious citation will normally be issued for failure to report such an occurrence. The unadjusted penalty will be $5,000.

If the Area Director determines that it is appropriate to achieve the necessary deterrent effect, the unadjusted penalty may be $7,000.

If the Area Director becomes aware of an incident required to be reported under §1904.39 through some means other than an employer report, *prior* to the elapse of the eight-hour reporting period and an inspection of the incident is made, a citation for failure to report will normally not be issued.

Access to Records for Employees

If the employer fails upon request to provide copies of records required in §1904.29(a) to any employee, former employee, personal representative, or authorized employee representative by the end of the next business day, a citation for violation of §1904.35(b)(2) will normally be issued. The unadjusted penalty will be $1,000 for each form not made available.

For example: If the OSHA 300 or the OSHA 300A for the current year and the three preceding years is not made available, the unadjusted penalty will be $4,000.

If the employer does not make available the OSHA 301s, the unadjusted penalty will be $1,000 for each OSHA 301 not provided, up to a maximum of $7,000.

If the employer is to be cited for failure to keep records (OSHA 300, OSHA 300A, or OSHA 301) under §1904.4, no citation for failure to give access under §1904.35(b)(2) will be issued.

Willful, Significant, and Egregious Cases

When a CSHO determines that there may be significant recordkeeping deficiencies, it may be appropriate to make a referral for a recordkeeping inspection, or to contact the Region's Recordkeeping Coordinator for guidance and assistance.

Willful and Significant Cases

All willful recordkeeping cases and all significant cases with major recordkeeping violations will be initially reviewed by the Region's Recordkeeping Coordinator.

Egregious Cases

When willful violations are apparent, violation-by-violation citations and penalties may be proposed in accordance with OSHA's egregious policy as stated in OSHA Instruction CPL 2.80.

Enforcement Procedures for Occupational Exposure to Bloodborne Pathogens

Compliance guidance given in paragraph X of OSHA Instruction CPL 2-2.44D is superseded by 29 CFR 1904.8 (Recording Criteria for Needlestick and Sharps Injuries) of the new Recordkeeping rule.

In addition, the term "contaminated" under 29 CFR 1904.8, Recording Criteria for Needlestick and Sharps Injuries, incorporates the definition of "contaminated" from the Bloodborne Pathogens Standard at 29 CFR 1910.1030(b) ("Definitions"). Thus, "contaminated" means the presence or the reasonably anticipated presence of blood or other potentially infectious materials on an item or surface.

Employers may use the OSHA 300 and 301 Forms to meet the sharps injury log requirement of §1910.1030(h)(5), if the employer enters the type and brand of the device causing the sharps injury on the Log, and maintains the records in a way that segregates sharps injuries from other types of work-related injuries and illnesses, or allows sharps injuries to be easily separated.

Enforcement Procedures for Occupational Exposure to Tuberculosis

Compliance guidance given in paragraph L.5 of OSHA Instruction CPL 2.106 is superseded by 29 CFR 1904.11 (Recording Criteria for Work-Related Tuberculosis Cases) of the new Recordkeeping rule.

Clarification of Recordkeeping Citation Policy in the Construction Industry

Compliance guidance given in paragraph E.6 of OSHA Instruction STD 3-1.1 is superseded by CFR 1904.30 (Multiple Business Establishments) and 1904.31 (Covered Employees) of the new Recordkeeping rule. Refer to Chapter 7 for a discussion on how OSHA works.

Recording Criteria for Cases Involving Medical Removal

Section 1904.9 requires the employer to record the case on the OSHA 300 Log if an employee is medically removed under the medical surveillance requirements of an OSHA standard. Currently the medical surveillance requirements of the following standards have medical removal requirements:

Benzene. General industry standard (§1910.1028(i)); Shipyard standard (§1915.1028); and Construction standard (§1926.1128)

Cadmium. General industry standard (§1910.1027(l)); Shipyard standard (§1915.1027); and Construction standard (§1926.1127)
Formaldehyde. General industry standard (§1910.1048(l)); Shipyard standard (§1915.1048); and Construction standard (§1926.1148)
Lead. General industry standard (§1910.1025); Shipyard standard (§1915.1025); and Construction standard (§1926.62)
Methylenedianiline. General industry standard (§1910.1050(m)); Shipyard standard (§1915.1050); and Construction standard (§1926.60(n))
Methylene Chloride. General industry standard (§1910.1052(j)); Shipyard standard (§1915.1052); Construction standard (§1926.1152)
Vinyl Chloride. General industry standard (§1910.1017(k)); Shipyard standard (§1915.1517); and Construction standard (§1926.1117)

Privacy Concern Cases

The new rule at §1904.29(b)(6) through (10) requires the employer to protect the privacy of the injured or ill employee. The employer must not enter an employee's name on the OSHA 300 Log when recording a privacy case. The employer must keep a separate, confidential list of the case numbers and employee names, and provide it to the government upon request. If the work-related injury involves any of the following, it is to be treated as a privacy case:

An injury or illness to an intimate body part or the reproductive system;
An injury or illness resulting from a sexual assault;
A mental illness;
HIV infection, hepatitis, or tuberculosis;
Needlestick and sharps injuries that are contaminated with another person's blood or other potentially infectious material as defined by §1910.1030; or
Other illnesses, if the employee independently and voluntarily requests that his or her name not be entered on the OSHA 300 Log. (This does not apply to injuries. See the definition of "Injury and Illness" in §1904.46.) Note: This is a complete list.

Physician or Other Licensed Health Care Provider's Opinion

In cases where two or more physicians or other licensed health care providers make conflicting or differing recommendations, the employer must make a decision as to which recommendation is the most

authoritative (best documented, best reasoned, or most persuasive), and record based on that recommendation.

Employers Exempt and Partially Exempt

Federal Agencies

Except for the United States Postal Service, federal agencies do not have to maintain OSHA injury and illness records under Part 1904. Federal Agencies have separate recordkeeping requirements under 29 CFR Part 1960.

OSHA and BLS Surveys

All employers who receive the OSHA Annual Survey Form, or the BLS Survey of Occupational Injuries and Illnesses Form, are required to complete and return the survey forms in accordance with §§1904.41 and 1904.42. This requirement also applies to those establishments under the small establishment exemption and the low hazard industry exemption.

Small Employer Exemption

Since 1977 the regulations have exempted employers with 10 or fewer employees at all times during the last calendar year from the regular recordkeeping requirements. The new rule at §1904.1 continues this small employer exemption.

Low-Hazard Industry Exemption

Since 1982, OSHA has exempted some low-hazard industries from maintaining injury and illness records on a regular basis. The new rule updates the old rule's listing of partially exempted low-hazard industries, which are those Standard Industrial Classification (SIC) code industries within SICs 52–89 that have an average Days Away, Restricted, or Transferred (DART) rate at or below 75% of the national average DART rate. The new rule at §1904.2 continues this low-hazard industry exemption.

See Table I-2 in the Introduction to this book for the list of Partially Exempt Industries. Note: In the new rule, the description of some industry groups is abridged in the chart in Appendix A. Industries that are not listed, such as Music Stores in SIC 573, are nevertheless intended

to be included in the list. Consult the Standard Industrial Classification Manual 1987 for a complete description of each industry included in each industry group. See also Table H-1 for a list of Newly Covered Industries, and Table H-2 for a list of Newly Partially Exempt Industries.

References to Old Forms and to the LWDI/LWDII

Beginning January 1, 2002, references in any OSHA directive, memorandum, or other publication to the recordkeeping forms will be considered as references to the OSHA 300, 301, and 300A, unless it is clear that the reference is to the forms used before January 1, 2002. Also, all references to the Lost Workday Injury (LWDI) rate or the Lost Workday Injury and Illness (LWDII) rate shall be considered to be a reference to the Days Away, Restricted, or Transferred (DART) rate, unless it is clear that the reference is to the rate in use prior to January 1, 2002.

Prohibition Against Discrimination

Section 1904.36 is informational only and is not a citable provision of the regulation. Any discrimination cases related to this rule are to be handled using the normal process under Section 11(c) of the OSH Act.

Table H-1
Newly Covered Industries

SIC Code	Industry Description	SIC Code	Industry Description
553	Auto and home supply stores	655	Land subdividers and developers
555	Boat dealers	721	Laundry, cleaning, and garment services
556	Recreational vehicle dealers	734	Services to dwellings and other buildings
559	Automotive dealers, not elsewhere classified	735	Miscellaneous equipment rental and leasing
571	Home furniture and furnishing stores	736	Personnel supply services
572	Household appliance stores	833	Job training and vocational rehabilitation services
593	Used merchandise stores	836	Residential care
596	Nonstore retailers	842	Arboreta and botanical or zoological gardens
598	Fuel dealers		
651	Real estate operators (except developers) and lessors		

Table H-2
Newly Partially Exempt Industries

SIC Code	Industry Description	SIC Code	Industry Description
525	Hardware stores	792	Theatrical producers (except motion picture), bands, orchestras, and entertainers
542	Meat and fish (seafood) markets, including freezer provisioners	793	Bowling centers
544	Candy, nut, confectionery stores	801	Offices and clinics of medical doctors
545	Dairy products stores	802	Offices and clinics of dentists
546	Retail bakeries	803	Offices and clinics of doctors of osteopathy
549	Miscellaneous food stores	804	Offices and clinics of other health practitioners
764	Reupholstery furniture	807	Medical and dental laboratories
791	Dance studios, schools, and halls	809	Miscellaneous health and allied services, not elsewhere classified

Definitions

Days Away, Restricted, or Transferred (DART) Rate

This includes cases involving days away from work, restricted work activity, and transfers to another job and is calculated based on $(N/EH) \times (200{,}000)$ where N is the number of cases involving days away and/or job transfer or restriction, EH is the total number of hours worked by all employees during the calendar year, and 200,000 is the base for 100 full-time equivalent employees. For example: Employees of an establishment (XYZ Company), including temporary and leased workers, worked 645,089 hours at XYZ Company. There were 22 injury and illness cases involving days away and/or restricted work activity and/or job transfer from the OSHA 300 Log (total of column H plus column I). The DART rate would be $(22/645{,}089) \times (200{,}000) = 6.8$.

Note: The DART rate will replace the Lost Workday Injury and Illness (LWDII) rate. See Figure 2-1 for an optional Incidence Rate Worksheet.

Establishment

An establishment is a single physical location where business is conducted or where services or industrial operations are performed. For activities where employees do not work at a single physical location, such as construction; transportation; communications, electric, gas, and sanitary services; and similar operations, the establishment is represented by main or branch offices, terminals, stations, etc., that either supervise such activities or are the base from which personnel carry out these activities.

Normally, one business location has only one establishment. Under limited conditions, the employer may consider two or more separate businesses that share a single location to be separate establishments. An employer may divide one location into two or more establishments when:

- Each of the establishments represents a distinctly separate business;
- Each business is engaged in a different economic activity;
- No one industry description in the Standard Industrial Classification Manual (1987) applies to the joint activities of the establishments; and
- Separate reports are routinely prepared for each establishment on the number of employees, their wages and salaries, sales or receipts, and other business information.

For example: If an employer operates a construction company at the same location as a lumberyard, the employer may consider each business to be a separate establishment.

An establishment can include more than one physical location, but only under certain conditions. An employer may combine two or more physical locations into a single establishment only when:

- The employer operates the locations as a single business operation under common management;
- The locations are all located in close proximity to each other; and
- The employer keeps one set of business records for the locations, such as records on the number of employees, their wages and salaries, sales or receipts, and other kinds of business information.

For example: One manufacturing establishment might include the main plant, a warehouse a few blocks away, and an administrative services building across the street.

For employees who telecommute from home, the employee's home is not a business establishment and a separate 300 Log is not required. Employees who telecommute shall be linked to one of the employer's establishments under §1904.30(b)(3).

Construction work sites that are:

Scheduled to continue for a year or more:

1. A separate OSHA 300 Log must be maintained for each establishment.
2. The log may be maintained either
   At the construction site, or
   At an established central location provided the employer can:
   - Transmit information about the injuries and illnesses from the establishment to the central location within seven (7) calendar days of receiving information that a recordable injury or illness has occurred, and
   - Produce and send records from the central location to the establishment within four business hours when the employer is required to provide to a government representative or by the end of the next business day when providing records to an employee, former employee, or employee representative.

Scheduled to continue for less than a year:

1. A Separate OSHA 300 Log need not be maintained for each establishment.
2. One OSHA 300 Log may be maintained to cover:
   All such short-term establishments or
   All such short-term establishments within company divisions or geographic regions.
3. The Log may be maintained at the establishment or at a central location under the given in 3.a(2), above.

First Aid

As stated in §1904.7(b)(5)(ii), first aid means only the following treatments (any treatment not included in this list is not considered first aid for recordkeeping purposes): (a) Using a nonprescription medication at nonprescription strength; (b) Administering tetanus immunizations; (c) Cleaning, flushing, or soaking wounds on the surface of the skin; (d) Using wound coverings such as bandages, Band-Aids™, gauze pads, etc.; or using butterfly bandages or Steri-Strips™; (e) Using hot or cold therapy; (f) Using any non-rigid means of support, such as elastic bandages, wraps, non-rigid back belts, etc.; (g) Using temporary immobilization devices while transporting an accident victim; (h) Drilling of a fingernail or toenail to relieve pressure, or draining fluid from a blister; (i) Using eye patches; (j) Removing foreign bodies from the eye using only irrigation

or a cotton swab; (k) Removing splinters or foreign material from areas other than the eye by irrigation, tweezers, cotton swabs, or other simple means; (l) Using finger guards; (m) Using massages; or (n) Drinking fluids for relief of heat stress.

Injuries and Illnesses

An injury or illness is an abnormal condition or disorder. Injuries include cases such as, but not limited to, a cut, fracture, sprain, or amputation. Illnesses include both acute and chronic illnesses, such as, but not limited to, a skin disease, respiratory disorder, or poisoning. (Note: Injuries and illnesses are recordable only if they are new, work-related cases that meet one or more of the Part 1904 recording criteria.)

Note: The distinction between injury and illness is no longer a factor for determining which cases are recordable.

Medical Treatment

Medical treatment means the management and care of a patient to combat disease or disorder. For recordkeeping purposes, it does *not* include (a) visits to a physician or other licensed health care professional solely for observation or counseling; (b) diagnostic procedures such as X rays and blood tests, including the administration of prescription medications used solely for diagnostic purposes (e.g., eye drops to dilate pupils); or (c) any treatment contained on the list of first-aid treatments.

Other Potentially Infectious Material (OPIM)

For purposes of 29 CFR Part 1904, this term has the same meaning as in OSHA's bloodborne pathogens standard at 29 CFR §1910.1030, which defines OPIM as: (1) The following human body fluids: semen, vaginal secretions, cerebrospinal fluid, synovial fluid, pleural fluid, pericardial fluid, peritoneal fluid, amniotic fluid, saliva in dental procedures, any body fluid that is visibly contaminated with blood, and all body fluids in situations where it is difficult or impossible to differentiate between body fluids; (2) Any unfixed tissue or organ (other than intact skin) from a human (living or dead); and (3) HIV-containing cell or tissue cultures, organ cultures, and HIV- or HBV-containing culture medium or other solutions; and blood, organ, or other tissues from experimental animals infected with HIV or HBV.

Physician or Other Licensed Health Care Professional

A physician or other licensed health care professional is an individual whose legally permitted scope of practice (i.e., license registration, or certification) allows him or her to independently perform, or be delegated the responsibility to perform, the activities described by this regulation.

CHAPTER 3. STANDARD ALLEGED VIOLATION ELEMENTS

Introduction

This chapter will contain the Standard Alleged Violation Elements (SAVEs) that are to be used to issue citations under the new recordkeeping rule. The SAVEs for 29 CFR Part 1904 (old rule) in OSHA Instruction CPL 2.35, CH-1 and CH-5, will not be used for the new rule. To avoid duplication, refer to Chapter 7 for details. In addition, the full text can be found on the OSHA website, http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=DIRECTIVES&p_id=2574.

CHAPTER 4. COMPARISON OF OLD AND NEW RULE

Introduction

Some of the specific changes in the new rule include (a) changes in coverage; (b) the OSHA Forms; (c) the Recording Criteria in determination of work-relationship, elimination of different recording criteria for injuries and illnesses, days away and job restriction/transfer, definition of medical treatment and first aid, recording of needlestick and sharps injuries, and recording of tuberculosis; (d) change in ownership; (e) employee involvement; (f) privacy protections; and (g) computerized and centralized records.

This listing is not comprehensive of an employer's obligations under OSHA's recordkeeping rule. Please reference 29 CFR Part 1904 and other parts of this Instruction for all details pertaining to all recordkeeping obligations. Refer to Table H-3.

See Appendix D for Frequently Asked Questions.

Table H-3
Comparison of the Old Rule versus the New Rule

Old Rule	New Rule
Forms §1904.29	
OSHA 200—Log and Summary OSHA 101—Supplemental Record	OSHA 300—Log OSHA 300A—Summary OSHA 301—Incident Report
Work Related §1904.5	
Any aggravation of a preexisting condition by a workplace event or exposure makes the case work related	*Significant* aggravation of a preexisting condition by a workplace event or exposure makes the case work related
Exceptions to presumption of work relationship: (1) Member of the general public (2) Symptoms arising on premises totally due to outside factors (3) Parking lot/Recreational facility	Exceptions to presumption of work relationship: (1) Member of the general public (2) Symptoms arising on premises totally due to outside factors (3) Voluntary participation in wellness program (4) Eating, drinking, and preparing one's own food (5) Personal tasks outside working hours (6) Personal grooming, self-medication, self infliction (7) Motor vehicle accident in parking lot/access road during commute (8) Cold or flu (9) Mental illness unless employee voluntarily presents a medical opinion stating that the employee has a metal illness that is work related
New Case §1904.6	
New event or exposure, new case	Aggravation of a case where signs or symptoms have not resolved is a continuation of the original case
30 day rule for CTDs	No such criteria

Table H-3
Continued

Old Rule	New Rule
General Recording Criteria §1904.7	
All work-related illnesses are recordable	Work-related illnesses are recordable if they meet the general recording criteria
Restricted work activity occurs if the employee: (1) Cannot work a full shift (2) Cannot perform all of his or her normal job duties, defined as any duty he or she would be expected to do throughout the calendar year	Restricted work activity occurs if the employee: (1) Cannot work a full shift (2) Cannot perform all of his or her routine job functions, defined as any duty he or she regularly performs at least once a week
Restricted work activity limited to the day of injury makes case recordable	Restricted work activity limited to the day of injury does not make case recordable
Day counts: Count workdays No cap on count	Day counts: Count calendar days 180 day cap on count
Medical treatment does not include: (1) Visits to MD for observation only (2) Diagnostic procedures (3) First aid	Medical treatment does not include: (1) Visits to MD for observation and counseling only (2) Diagnostic procedures (including administration of prescription medication for diagnostic purposes) (3) First aid
First Aid list in Bluebook was a list of examples and not comprehensive	First Aid list in regulation is comprehensive. Any other procedure is medical treatment.
2 doses prescription med—Medical Treatment (MT) Any dosage of OTC med—First Aid (FA) 2 or more hot/cold treatments—MA Drilling a nail—MT Butterfly bandage/Steri-Strip—MT	1 dose prescription med—MT OTC med at prescription strength—MT Any number of hot/cold treatments—FA Drilling a nail—FA Butterfly bandage/Steri-Strip—FA

Table H-3
Continued

Old Rule	New Rule
Non-minor injuries recordable: (1) fractures (2) 2nd and 3rd degree burns	Significant diagnosed injury or illness recordable: (1) fracture (2) punctured eardrum (3) cancer (4) chronic irreversible disease
Specific Disorders	
Hearing loss—Federal enforcement for 25-dB shift in hearing from original baseline	Hearing loss—From 1/1/02 until 12/31/02 record shift in hearing averaging 25 dB or more from the employee's original baseline
Needlesticks and "sharps injuries"—Record only if case results in med treatment, days away, days restricted or seroconversion	Needlesticks and "sharps injuries"—Record all needlesticks and injuries that result from sharps potentially contaminated with another person's blood or other potentially infectious material
Medical removal under provisions of other OSHA standards—All medical removal cases recordable	Medical removal under provisions of other OSHA standards—All medical removal cases recordable
TB—Positive skin test recordable when known workplace exposure to active TB disease. Presumption of work relationship in five industries	TB—Positive skin test recordable when known workplace exposure to active TB disease. No presumption of work relationship in any industry
Other Issues	
Must enter the employee's name on all cases	Must enter "Privacy Cases" rather than the employee's name, and keep a separate list of the case number and corresponding names
Access—Employee access to entire log, including names; No access to supplementary form (OSHA 101)	Access—Employee and authorized representative access to entire log, including names; Employee access to individual's Incident Report (OSHA 301); Authorized Representative access to portion of all OSHA 301s

Table H-3
Continued

Old Rule	New Rule
Fatality reporting—Report all work-related fatalities to OSHA	Fatality reporting—Do not need to report fatalities resulting from motor vehicle accident on public street or highway that do not occur in construction zone
Certification—The employer, or the employee who supervised the preparation of the Log and Summary, can certify the annual summary	Certification—Company executive must certify annual summary
Posting—Post annual summary during month of February	Posting—Post annual summary from February 1 to April 30
No such requirement	You must inform each employee how he or she is to report an injury or illness

Appendix I

Final Update to OSHA 300 Rule

NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM

Background

For over sixty years, the Standard Industrial Classification (SIC) system has served as the structure for the collection, aggregation, presentation, and analysis of the U.S. economy. An industry consists of a group of establishments primarily engaged in producing or handling the same product or group of products or in rendering the same services. Industry definitions used in BLS programs come from the 1987 SIC Manual. Because the SIC is used by many other federal government statistical programs, it is possible for users to assemble a comprehensive statistical picture of an industry.

The SIC system was developed in the 1930s at a time when manufacturing dominated the U.S. economic scene. Over the last sixty years, there have been numerous revisions to the SIC system, reflecting the economy's changing industrial composition. However, despite these revisions, the system has received increasing criticism about its ability to handle rapid changes in the U.S. economy. Recent developments in information services, new forms of health care provision, expansion of services, and high-tech manufacturing are examples of industrial changes that cannot be studied under the current SIC system.

Introducing NAICS

Developed in cooperation with Canada and Mexico, the North American Industry Classification System (NAICS; http://www.

census.gov/epcd/www/naics.html) represents one of the most profound changes for statistical programs focusing on emerging economic activities. NAICS, developed using a production-oriented conceptual framework, groups establishments into industries based on the activity in which they are primarily engaged. Establishments using similar raw material inputs, similar capital equipment, and similar labor are classified in the same industry. In other words, establishments that do similar things in similar ways are classified together.

NAICS provides a new tool that ensures that economic statistics reflect our Nation's changing economy. However, improved statistics will result in time series breaks. Every sector of the economy has been restructured and redefined: a new Information sector combines communications, publishing, motion picture and sound recording, and online services, recognizing our information-based economy. Manufacturing is restructured to recognize new high-tech industries. A new subsector is devoted to computers and electronics, including reproduction of software. Retail trade is redefined. In addition, eating and drinking places are transferred to a new Accommodation and Food Services sector. The difference between retail and wholesale is now based on how each store conducts business. For example, many computer stores are reclassified from wholesale to retail. Nine new service sectors and 250 new service industries are recognized.

NAICS Coding Structure

NAICS uses a six-digit hierarchical coding system to classify all economic activity into twenty industry sectors. Five sectors are mainly goods-producing sectors and fifteen are entirely services-producing sectors. This six-digit hierarchical structure allows greater coding flexibility than the four-digit structure of the SIC. NAICS allows for the identification of 1,170 industries compared to the 1,004 found in the SIC system.

HEARING LOSS

Revised: 1904.10 Recording Criteria for Cases Involving Occupational Hearing Loss. Effective date: January 1, 2003.

Summary: On July 1, 2002 OSHA revised the hearing loss recording provisions of the Injury/Illness Recording and Reporting Rule that went

into effect January 1, 2002. The final rule revises the criteria for recording hearing loss cases on the OSHA 300 Log to include those audiometric test results that indicate a work-related standard threshold shift (STS) of an average of 10 dB or more, only when the accumulated loss of hearing is at least 25 dB above audiometric zero averaged over the frequencies at 2,000, 3,000, and 4,000 Hz. This final rule becomes effective January 1, 2003.

The revisions address the following:

- Definition of STS.
- Evaluating current audiograms to determine if an employee has an STS and a 25-dB hearing level loss.
- Age adjustments to audiograms.
- Retest audiograms impacts on recordability decisions.
- Rules to determine if a hearing loss cases is work related.
- Hearing loss cases determined by a physician or licensed health care professional where determination is not work related are not recordable.
- Recording hearing loss cases on OSHA 300 Logs.

See http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=FEDERAL_REGISTER&p_id=17313 for further information.

MSD

Proposed revision: 1904.10 Revisions to Recordkeeping Requirements for Musculoskeletal Disorders (MSD). Effective date: Proposed delay to January 1, 2004.

In a separate action on July 1, 2002 OSHA is proposing to delay (until January 1, 2004) the effective dates of three provisions of the Occupational Injury and Illness Recording and Reporting Requirements that are presently scheduled to take effect on January 1, 2003. These provisions include:

- The definition of *musculoskeletal disorder* (MSD) and requirement that employers check the MSD column on the OSHA 300 Log when employees experience a recordable musculoskeletal disorder.
- The statement that MSDs are not considered "privacy concern cases."
- The requirement to enter a check mark in the hearing loss column on the Log for cases involving occupational hearing loss.

Additional information on each of these actions can be obtained by visiting the OSHA website at http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=FEDERAL_REGISTER&p_id=17314.

For additional information and updates to this Appendix, please go to http://www.bh.com/companions/0750675594.

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