

## Recording and Reporting Occupational Injuries and Illnesses

29 CFR Part 1904

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## Reportable vs. Recordable

- **Reportable** – BWC...report claims ASAP – there are only two reasons to report injuries to OSHA
- **Recordable** – OSHA term – record the incident on your OSHA log

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## Why Track Injuries?

- Compliance
- Fines
- Trend analysis
- Create / Update audits
- Safety council semi – annual reports

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## Why is OSHA issuing this rule?

- Behavioral economics tells us that making injury information publicly available will “nudge” employers to focus on safety.
- Improve accuracy of data by ensuring that workers will not fear retaliation for reporting injuries or illnesses

## When does this Rule take effect?

- The new rule, which takes effect Jan. 1, 2017
- Requires certain employers to electronically submit injury and illness data that they are already required to record on their onsite OSHA Injury and Illness forms.

## What does the rule require?

- Establishments with 250 or more submit:
  - 300A Summary
  - 300 log
  - and 301's

## What does the rule require?

- o Establishments with 20-249 employees in certain high-risk industries must submit:
- o 300A Summary

## "Certain Industries"

- o **66 "High Risk Industries"**
- o Manufacturing
- o Construction
- o Wholesale Trade and Warehousing
- o Many types of Stores
- o Many types of Transportation
- o Many types of Medical

## Data

- o It is the intent of OSHA to post the data visible for public access
- o Interested parties will be able to search and download the data
- o No personal identifying data will be posted

## What is an "establishment"?

- o An establishment is defined as a single physical location and can include campus and complex type locations
- o A separately incorporated business is evaluated as a unique company

## Anti-retaliation protections

- o Prohibits employers from discouraging workers from reporting an injury or illness.
- o Requires employers to inform employees of their right to report work-related injuries and illnesses free from retaliation;

## How to INFORM employees?

- o One way for employers to meet this requirement is by posting the OSHA "It's The Law" worker rights poster from April 2015 or later (<http://www.osha.gov/Publications/poster.html>). Employers also must establish a reporting procedure that does not deter or discourage an employee from reporting work-related injuries and illnesses.
- o Meeting / posting/ sign off sheet

## Anti-retaliation protections

- o Employer's procedure for reporting work-related injuries and illnesses must be reasonable and not deter or discourage employees from reporting;
- o No retaliation against employees for reporting work-related injuries or illnesses.
- o Effective August 10, 2016. (extended until Dec 1, 2016)

## Drug Testing

- o The rule does not prohibit drug testing of employees.
- o It only prohibits employers from using drug testing, or the threat of drug testing, as a form of retaliation against employees who report injuries or illnesses.
- o If an employer conducts drug testing to comply with the requirements of a state or federal law or regulation, the employer's motive would not be retaliatory and this rule would not prohibit such testing. (BWC DFSP)

## Drug Testing

- o At a minimum, employers' policies must be amended from mandatory post-accident testing, to testing only under those circumstances in which drugs are "likely" to be a contributing factor.
- o Methods of testing will become critical.
- o If the tests must measure "impairment"

## Incentive Programs

- o This rule does not prohibit incentive programs.
- o However, employers must not create incentive programs that deter or discourage an employee from reporting an injury or illness.
- o Incentive programs should encourage safe work practices and promote worker participation in safety-related activities.
- o OSHA can site on improper programs

## 1904.1 – Size Exemption

- o If your company had 10 or fewer employees at all times during the last calendar year, you do not need to keep the injury and illness records.
- o The size exemption is based on the number of employees in the entire company.
- o Include temporary employees who you supervised on a day to day basis in the count.

## 1904.2 - Industry Exemption

- o All industries in agriculture, construction, manufacturing, transportation, utilities and wholesale trade sectors are covered.
- o In the retail and service sectors, some industries are partially exempt.
- o Appendix A to Subpart B lists partially exempt industries.

## 1904.5 – Work-Relatedness

- Work-relatedness = work environment
- A case is presumed work-related if,
  - discernable cause of the injury or
  - illness or of a significant aggravation to a pre-existing condition.

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## 1904.5 – Work Environment Definition

- Establishment and other locations where one or more employees are working or present as a condition of employment
- Includes not only physical locations, but also the equipment or materials used by employees while working

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## Work Related Exceptions

- Present as a member of the general public
- Symptoms arising in work environment that are solely due to non-work-related event
- Voluntary participation in wellness program, medical, fitness or recreational activity
- Eating, drinking or preparing food or drink for personal consumption

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## Work Related Exceptions

- Personal tasks outside assigned working hours
- Personal grooming, self medication for non-work-related condition, or intentionally self-inflicted
- Motor vehicle accident in parking lot/access road during commute
- Common cold or flu
- Mental illness, unless medical opinion affirms work-relatedness

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## 1904.5 – Travel Status

- Work-related if it occurred while the employee was engaged in work activities in the interest of the employer
- Home away from home
- Detour for personal reasons is not work-related

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## 1904.5 – Work at Home

- Work-related if they:
  - occur while the employee is performing work for pay or compensation in the home;
  - are directly related to the performance of work rather than the general home environment.

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## 1904.6 – New Case

- A case is new if the employee:
  - No previous recordable injury or illness (same type & same body part);
  - Completely recovered injury, re-injured.

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## 1904.6 – New Case

- If there is a medical opinion regarding resolution of a case, the employer must follow that opinion
- If an exposure triggers the recurrence, it is a new case (e.g., asthma, rashes)
- If signs and symptoms recur even in the absence of exposure, it is not a new case (e.g., silicosis, tuberculosis, asbestosis)

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## 1904.7 – General Recording Criteria

- An injury or illness is recordable if it results in one or more of the following:
  - Death;
  - Days away from work;
  - Restricted work activity;
  - Transfer to another job;
  - Medical treatment beyond first aid;
  - Loss of consciousness;
  - Significant injury or illness diagnosed by a PLHCP.

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## 1904.7(b)(3) - Days Away Cases

- Record if the case involves one or more days away from work
- Check the box for days away cases and count the number of days
- Do not include the day of injury/illness

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## 1904.7(b)(3) – Days Away Cases

- Day counts (days away or days restricted)
  - Count the number of calendar days the employee was unable to work (include weekend days, holidays, vacation days, etc.)
  - Cap day count at 180 days away and/or days restricted
  - May stop day count if employee leaves company for a reason unrelated to the injury or illness
  - If a medical opinion exists, employer must follow that opinion

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## 1904.7(b)(4) - Restricted Work Cases

- Record if the case involves one or more days of restricted work or job transfer
- Check the box for restricted/transfer cases and count the number of days
- Do not include the day of injury/illness

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### 1904.7(b)(4) - Restricted Work Cases

- Restricted work activity exists if the employee is:
  - Unable to work the full workday he or she would otherwise have been scheduled to work; or
  - Unable to perform one or more routine job functions
- An employee's routine job functions are those activities the employee regularly performs at least once per week

### 1904.7(b)(4) – Job Transfer

- Job transfer
  - Assigned to a job other than his or her regular job for part of the day
  - Performs his or her routine job duties for part of a day and is assigned to another job for the rest of the day

### Medical Treatment Beyond First Aid Criteria

See Handout

### 1904.7(b)(6) – Loss of Consciousness

- All work-related cases involving loss of consciousness must be recorded

### 1904.7(b)(7) – Significant Diagnosed Injury or Illness

- The following work-related conditions must always be recorded at the time of diagnosis by a PLHCP:
  - Cancer;
  - Chronic irreversible disease;
  - Punctured eardrum;
  - Fractured or cracked bone or tooth.

### 1904.8 – Bloodborne Pathogens

- Record all work-related needlesticks and cuts from sharp objects that are contaminated with another person's blood or other potentially infectious material
- Record splashes or other exposures to blood or other potentially infectious material if it results in diagnosis of a bloodborne disease or meets the general recording criteria

Ohio Bureau of Workers' Compensation

## 1904.9 – Medical Removal

- If an employee is medically removed under the medical surveillance requirements of an OSHA standard, you must record the case
- The case is recorded as days away from work or days of restricted work activity
- If the case involves voluntary removal below the removal levels required by the standard, the case need not be recorded

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Ohio Bureau of Workers' Compensation

## 1904.10 – Hearing Loss

- Must record all work-related hearing loss cases where:
  - Employee has experienced a Standard Threshold Shift STS<sup>1</sup>:
  - Employee's hearing level is **25** decibels (dB) or more above audiometric zero [averaged at 2000, 3000, and 4000 hertz (Hz)] in the same ears as the STS.

<sup>1</sup> An STS is defined in OSHA's noise standard at 29 CFR 1910.95(g)(10)(i) as a change in hearing threshold, relative to the baseline audiogram, of an average of 10 dB or more at 2000, 3000, and 4000 Hz in one or both ears.

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Ohio Bureau of Workers' Compensation

## 1904.29 - Forms

- Employers must enter each recordable case on the forms within seven calendar days of receiving information that a recordable case occurred.

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Ohio Bureau of Workers' Compensation

## Where to Find?

- R for recordkeeping
- Recordkeeping forms

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Ohio Bureau of Workers' Compensation

UNITED STATES DEPARTMENT OF LABOR

Occupational Safety & Health Administration

Worker Rights Anti-Retaliation Regulations - Employers - Data & Statistics - Enforcement - Training - Publications Hazards En Español

Filing a Complaint

How to File a Complaint with OSHA

FOCUS

4,405 workers died on the job in 2013

7/10/14 TX: Worker performing demolition crushed by falling debris

Fatality Reports

"No one should have to sacrifice their life for their livelihood, because a nation built on the dignity of work must provide safe working conditions for its people."

HOW TO...

- File a complaint
- Get a FREE OSHA poster
- Get information on reporting severe work-related injuries, illnesses and fatalities to OSHA
- Get information on recordkeeping & reporting requirements

Ohio Bureau of Workers' Compensation

## 1904.29 – Privacy Protection

- Privacy concern cases
  - An injury or illness to an intimate body part or reproductive system
  - An injury or illness resulting from sexual assault
  - Mental illness
  - HIV infection, hepatitis, tuberculosis
  - Needle stick and sharps injuries that are contaminated with another person's blood or other potentially infectious material
  - Employee voluntarily requests to keep name off for other illness cases

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## 1904.30 – Multiple Business Establishments

- Keep a separate OSHA Form 300 for each establishment that is expected to be in operation for more than a year
- May keep one OSHA Form 300 for all short-term establishments
- Each employee must be linked with one establishment

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## 1904.31 – Covered Employees

- Employees on payroll
- Employees not on payroll who are supervised on a day-to-day basis
- Exclude self-employed and partners
- Temporary help agencies should not record the cases experienced by temp workers who are supervised by the using firm

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## 1904.32 – Annual Summary

- Review OSHA Form 300 for completeness and accuracy, correct deficiencies
- Complete OSHA Form 300A
  - Certify summary (highest ranking official in company)
  - Post summary (Feb 1 – Apr 30)



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## 1904.33 – Retention and Updating

- Retain forms for five years following the year that they cover
- Update the OSHA Form 300 during that period
- Need not update the OSHA Form 300A or OSHA Form 301

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## 1904.39 – Fatality/ Catastrophe Reporting

- Report orally within eight hours any work-related fatality or incident involving three or more in-patient hospitalizations
- Do not need to report highway or public street motor vehicle accidents (outside of a construction work zone)
- Do not need to report commercial airplane, train, subway or bus accidents

**1-800-321-OSHA**

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## Jan 2015 Reporting Requirements

- Changes to partially exempt industries
- All fatalities – Report within 8 hours
- Work related inpatient hospitalization (1+ employee), all amputation, all loss of an eye within 24 hours

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## Partially Exempt Industries

- OSHA switched from SIC to NAICS
- Still have to report fatalities, hospitalizations, amputation and loss of eye to OSHA
- Still have to provide information/ and or keep records if requested from OSHA

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## Fatalities

- 8 hour report to OSHA
- Occur with in 30 days of the work related incident
  
- Same as the current regulation

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## Hospitalization

- Definition – a formal admission to the in-patient service of a hospital or clinic for care or treatment
  - Not observation or diagnostic testing
- Admission with in 24 hour of the work-related incident
- REPORT within 24 HOURS

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## Amputation

- Definition – the traumatic loss of a limb or other external body part. Amputations include a part, such as a limb or appendage, that has been severed, cut off, amputated (either completely or partially), fingertip amputation with or without bone loss, medical amputation resulting from irreparable damage, amputation of body parts that have been attached,

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## Amputation – DO NOT INCLUDE

- Avulsions – layers or skin torn away exposing underlying structure
- Enucliations – eye popping out
- Degloving – loosing the skin
- Scalping – loosing the hair or scalp
- Severed ears
- Broken or chipped teeth

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## Amputation

- Amputate with in 24 hour of the work-related incident
- REPORT within 24 HOURS

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## Loss of an eye

- o Lose eye within 24 hour of the work-related incident
- o REPORT within 24 HOURS
- o Does not include Enucleation –(eye popping out)

## Increased Inspections

- o Since Jan 2015 OSHA has received 200-250 reports a week
- o 37% lead to inspections
- o 49% employers were contacted for more info and preventions activities
- o 14% OSHA did not pursue
- o Good reason to have an internal inspection program in place

## How to Report to OSHA

- o Call OSHA's free and confidential number
- o 1-800-321-OSHA (6742)
- o Call your closest OSHA Area office during normal business hours
- o Use \*NEW\* online form

## Semi-Annual Reports

SAFETY COUNCIL  
Co-sponsored by BWC's Division of Safety and Hygiene

### Semi-Annual Report

1st [ ] due by July 15 (for current period January 1 – June 30, 2008)      2nd [ ] due by January 15 (for current period July 1 – December 31, 2008)

Safety Council Account Number \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

Company Name \_\_\_\_\_ Phone \_\_\_\_\_  
Address \_\_\_\_\_ Fax \_\_\_\_\_  
City / State / Zip \_\_\_\_\_  
Submitted By \_\_\_\_\_ Date \_\_\_\_\_

Please check here if information provided above has been updated on this report.

1.) DATE OF MOST RECENT INJURY OR ILLNESS RESULTING IN DAY(S) AWAY FROM WORK

\_\_\_\_ / \_\_\_\_ / \_\_\_\_  
Month Day Year

## Semi-Annual Reports

Report All Information Below For **CURRENT SIX MONTH PERIOD ONLY** (corresponds with period identified above)

- Average Number of Employees.....
- Total Hours Worked (entire six month period, all employees) .....
- Number of Deaths . . . (column G in OSHA 300 Log)....
- Number of occupational injuries and/or illnesses resulting in days away from work (column H in the OSHA 300 Log)....
- Number of days away from work as a result of occupational injuries and/or illnesses (column K in the OSHA 300 Log)....

Note: If you report a death, injury or illness resulting in days away from work in the current six month period (item 4 or 5), the most recent date of death, injury or illness must correspond with item 1.

Please return this form to: \_\_\_\_\_ Safety Council

## So where do you Rank?

o  $(\# \text{ Injuries} / \# \text{ Hours}) * 200,000 = \text{Injury Rate}$

o To determine for NAICS code go to:  
<http://www.census.gov/epcd/naics02/>

o For BIs numbers go to:  
<http://www.bls.gov/iif/home.htm>

click on "Current Injury, Illness and Fatality Data"