

# OSHA 7845

## *Recordkeeping Rules Seminar*

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Completion of this course does not fulfill the training requirements contained in 29 CFR 1910, nor does it certify the student as a “competent person.”

These materials were developed and compiled by the OSHA Training Institute Education Center at the University of Washington and are intended to assist employers, workers, and others as they strive to improve workplace health and safety. While we attempt to thoroughly address specific topics, it is not possible to include discussion of everything necessary to ensure a healthy and safe working environment in a presentation of this nature. Thus, this information must be understood as a tool for addressing workplace hazards, rather than an exhaustive statement of an employer’s legal obligations, which are defined by statute, regulations, and standards. Likewise, to the extent that this information references practices or procedures that may enhance health or safety, but which are not required by a statute, regulation, or standard, it cannot, and does not, create additional legal obligations. Finally, over time, OSHA may modify rules and interpretations in light of new technology, information, or circumstances; to keep apprised of such developments, or to review information on a wide range of occupational safety and health topics, you can visit OSHA’s website at [www.osha.gov](http://www.osha.gov).



**OSHA 7845 Course Goal:**

Upon completion of this course, students will have the ability to identify OSHA requirements for recordkeeping, posting and reporting and to complete OSHA Form 300 Log of Work-Related Injuries and Illnesses, OSHA Form 300A Summary of Work Related Injuries and Illnesses, and OSHA Form 301 Injury and Illness Incident Report.

*In support of this goal, objectives are established for each module as:*

**TLO's:** Course Terminal Learning Objectives



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## Section 1: Presentation:



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## OSHA 7845 Recordkeeping Rules Seminar




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DEPARTMENT OF ENVIRONMENTAL & OCCUPATIONAL HEALTH SCIENCES  
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**W**


## Objectives







At the end of this session,  
participants will be able to

- Identify the OSHA requirements for recordkeeping, posting and reporting
- Correctly complete each of the three forms required by OSHA - the 300, 300A, and 301

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## Lesson 1 - Recordkeeping


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### Purpose and Scope




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## Purpose (of the rule)

- To require employers to record and report work-related fatalities, injuries and illnesses
  - Note: Recording or reporting a work-related injury, illness, or fatality does not mean the employer or employee was at fault, an OSHA rule has been violated, or that the employee is eligible for workers' compensation or other benefits.
- OSHA injury and illness recordkeeping and Workers' Compensation are independent of each other

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## Subpart B - Scope

- 1904.1 – Small employer partial exemptions
- 1904.2 – Industry partial exemptions (see Appendix A to Subpart B for complete list)
- 1904.3 – Keeping records for other Federal agencies



## Partial Exemption

- Employers that are partially exempt from the recordkeeping requirements because of their size or industry must continue to comply with:
  - 1904.39, Reporting fatalities, hospitalizations, amputations, and loss of an eye as a result of work-related incidents
  - 1904.41, Annual OSHA injury and illness survey (if specifically requested to do so by OSHA)
  - 1904.42, BLS Annual Survey (if specifically requested to do so by BLS)



## 1904.1 - Size Exemption

- 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 unless surveyed by OSHA or BLS
- The size exemption is based on the number of employees in the entire company
- Include temporary employees who you supervised on a day to day basis in the count



## 1904.2 - Industry Exemption

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



<https://www.osha.gov/recordkeeping/ppt1/RK1exempttable.html>



## 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



## 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



## Lesson 2 - Recordkeeping Forms and Recording Criteria



- OSHA 300
- OSHA 300A
- OSHA 301

## 1904.29 - Forms

- OSHA Form 300, Log of Work-Related Injuries and Illnesses
- OSHA Form 300A, Summary of Work-Related Injuries and Illnesses
- OSHA Form 301, Injury and Illness Incident Report

# 1904.29 - Forms



- Complete 300 & 301 for each recordable case within 7 calendar days of receiving information that a recordable case occurred
- An equivalent form has the same information, is as readable and understandable, and uses the same instructions as the OSHA form it replaces
- Forms can be kept on a computer or at another location as long as they can be produced when they are needed (i.e., meet the access provisions of 1904.35 and 1904.40)

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**OSHA's Form 300** (Rev. 01/2004)  
**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 OSHA no. 1218-0176

Establishment name \_\_\_\_\_  
 City \_\_\_\_\_ State \_\_\_\_\_

Identify the person		Describe the case			Classify the case				Enter the number of days the injured or ill worker was:		Check the "injury" column or check one type of illness								
(A) Case no.	(B) Employee's name	(C) Job title (e.g., Miller)	(D) Date of injury or onset of illness	(E) Where the event occurred (e.g., Loading dock north end)	(F) Describe the injury or illness, parts of body affected, and object/substance that directly injured or made person ill (e.g., Second degree burn on right forearm from airborne sparks)	Restricted at Work Check ONLY ONE box for each case based on the most serious outcome for that case.				Away from work (K)		On job transfer or restriction (L)		(M) Injury or Illness					
						Death (G)	Days away from work (H)	Job transfer or restriction (I)	Other recordable cases (J)	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
			month/day			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	days	days	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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			month/day			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	days	days	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			month/day			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	days	days	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			month/day			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	days	days	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Page total

Be sure to transfer this data to the Summary page (Form 300A) before posting it.

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## Recording Criteria



- Subpart C: Recordkeeping forms and recording criteria
  - 1904.4 Recording criteria
  - 1904.5 Work-relatedness
  - 1904.6 New case
  - 1904.7 General recording criteria
  - 1904.8 Needlesticks and sharps
  - 1904.9 Medical removal
  - 1904.10 Hearing loss
  - 1904.11 Tuberculosis
  - 1904.29 Forms

## 1904.4 - Recording Criteria



- Covered employers must record each fatality, injury or illness that:
  - Is work-related, and
  - Is a new case, and
  - Meets one or more of the criteria contained in sections 1904.7 through 1904.11



## 1904.5 - Work-Relatedness

- Work-relatedness is presumed for injuries and illnesses resulting from events or exposures occurring in the work environment
- 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 pre-existing condition. The work event or exposure need only be one of the discernable causes; it need not be the sole or predominant cause.



## 1904.5 - Work Environment

- The work environment is defined as the establishment and other locations where one or more employees are working or present as a condition of employment
- The work environment includes not only physical locations, but also the equipment or materials used by employees during the course of their work

## 1904.5 - Significant Aggravation

- A pre-existing injury or illness is *significantly* aggravated when an event or exposure in the work environment results in any of the following (which otherwise would not have occurred):
  - Death
  - Loss of consciousness
  - Days away, days restricted or job transfer
  - Medical treatment

## 1904.5 - Exceptions

- Present as a member of the general public
- Symptoms arising in work environment that are solely due to non-work-related event or exposure (Regardless of where signs or symptoms surface, a case is work-related only if a work event or exposure is a discernable cause of the injury or illness or of a significant aggravation to a pre-existing condition.)
- Voluntary participation in wellness program, medical, fitness or recreational activity
- Eating, drinking or preparing food or drink for personal consumption





## 1904.5 - 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 employee voluntarily provides a medical opinion from a physician or licensed health care professional (PLHCP) having appropriate qualifications and experience that affirms work-relatedness

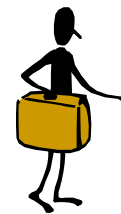


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## 1904.5 - Travel Status

- An injury or illness that occurs while an employee is on travel status is 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

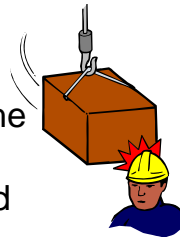
- Injuries and illnesses that occur while an employee is working at home are work-related if they:
  - occur while the employee is performing work for pay or compensation in the home, and
  - they are directly related to the performance of work rather than the general home environment



W

## 1904.6 - New Case

- A case is new if:
  - The employee has not previously experienced a recordable injury or illness of the same type that affects the same part of the body; or
  - The employee previously experienced a recordable injury or illness of the same type that affects the same part of the body, but had recovered completely and an event or exposure in the work environment caused the signs and symptoms to reappear





## 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)

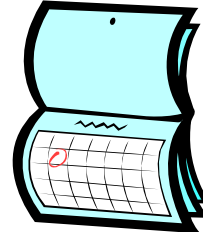


## 1904.7 - General Recording Criteria

- 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

## 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



## 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

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

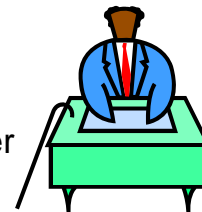


- Record if the case involves one or more days of restricted work or job transfer
- Check the box for restricted/transfer cases and count the number of days
- Do not include the day of injury/illness



## 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



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

- Restricted work activity occurs when:
  - An employee is kept from performing one or more routine functions (work activities the employee regularly performs at least once per week) of his or her job; or
  - An employee is kept from working a full workday; or
  - A PLHCP recommends either of the above

## 1904.7(b)(4) - Job Transfer

- Job transfer
  - An injured or ill employee is assigned to a job other than his or her regular job for part of the day
  - A case is recordable if the injured or ill employee performs his or her routine job duties for part of a day and is assigned to another job for the rest of the day



## 1904.7(b)(5) - Medical Treatment

- Medical treatment is the management and care of a patient to combat disease or disorder
- It does not include:
  - Visits to a PLHCP solely for observation or counseling
  - Diagnostic procedures
  - First aid



## 1904.7(b)(5) - First Aid

- Using nonprescription medication at nonprescription strength
- Tetanus immunizations
- Cleaning, flushing, or soaking surface wounds
- Wound coverings, butterfly bandages, Steri-Strips
- Hot or cold therapy
- Non-rigid means of support
- Temporary immobilization device used to transport accident victims





## 1904.7(b)(5) - First Aid

- Drilling of fingernail or toenail, draining fluid from blister
- Eye patches
- Removing foreign bodies from eye using irrigation or cotton swab
- Removing splinters or foreign material from areas other than the eye by irrigation, tweezers, cotton swabs or other simple means
- Finger guards
- Massages
- Drinking fluids for relief of heat stress



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

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



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## 1904.7(b)(7) - General Criteria

- Significant diagnosed injuries and illnesses:
  - Cancer
  - Chronic irreversible disease
  - Fractured or cracked bone
  - Punctured eardrum

## 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 (includes human bodily fluids, tissues and organs; other materials infected with HIV or HBV such as laboratory cultures)
- Record splashes or other exposures to blood or other potentially infectious material if they result in diagnosis of a bloodborne disease or meets the general recording criteria



## W

# 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 either one involving 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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## W

# 1904.10 – Hearing Loss

- Must record all work-related hearing loss cases where:
  - Employee has experienced a Standard Threshold Shift (STS)<sup>1</sup>, and
  - 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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## 1904.10 – Hearing Loss (cont'd)

- Must compute the STS in accordance with OSHA's noise standard, 1910.95
- Compare employee's current audiogram to the original baseline audiogram or the revised baseline audiogram allowed by 1910.95(g)(9)
- May adjust for aging to determine whether an STS has occurred using tables in Appendix F of 1910.95
- May not adjust for aging to determine whether or not hearing level is 25 dB or more above audiometric zero



## 1904.11 - Tuberculosis

- Record a case where an employee is exposed to someone with a known case of active tuberculosis, and subsequently develops a TB infection
- A case is not recordable when:
  - The worker is living in a household with a person who is diagnosed with active TB
  - The Public Health Department has identified the worker as a contact of an individual with active TB
  - A medical investigation shows the employee's infection was caused by exposure away from work





## Forms Completion

- Medical or first aid treatment
- Days away from work, restricted work or job transfer
- Counting the days
- Privacy cases



## 1904.29 - Privacy Protection

- Do not enter the name of an employee on the OSHA Form 300 for “privacy concern cases”
- Enter “privacy case” in the name column
- Keep a separate confidential list of the case numbers and employee names



## 1904.29 - Privacy Protection

- Privacy concern cases are:
  - 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
  - Needlestick 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

## 1904.29 - Privacy Protection

- Employer may use discretion in describing the case if employee can be identified
- If you give the forms to people not authorized by the rule, you must remove the names first
  - Exceptions for:
    - Auditor/consultant,
    - Workers' compensation or other insurance
    - Public health authority or law enforcement agency

OSHA's Form 300A (Rev. 01/2004)

## Summary of Work-Related Injuries and Illnesses

Year 20   

**U.S. Department of Labor**  
Occupational Safety and Health Administration  
Form approved OMB no. 1218-0174

*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 302 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
(C)	(D)	(E)	(F)

Number of Days	
Total number of days away from work	Total number of days of job transfer or restriction
(G)	(H)

Injury and Illness Types			
Total number of . . . (I)			
(1) Injuries	(4) Poisonings		
(2) Skin disorders	(5) Hearing loss		
(3) Respiratory conditions	(6) All other illnesses		

**Establishment information**

Year at establishment name \_\_\_\_\_

Street \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ ZIP \_\_\_\_\_

Industry description (e.g., *Manufacturer of motor truck trailers*) \_\_\_\_\_

Standard Industrial Classification (SIC), if known (e.g., 3711) \_\_\_\_\_

CR \_\_\_\_\_

North American Industrial Classification (NAICS), if known (e.g., 336212) \_\_\_\_\_

**Employment information** (If you don't have these figures, see the *Illustration* on the back of this page or contact:)

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 \_\_\_\_\_

Date \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

**Post this Summary page from February 1 to April 30 of the year following the year covered by the form.**

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Washington, DC 20503. Do not send the completed forms to this office.

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OSHA's Form 301

## Injury and Illness Incident Report

**U.S. Department of Labor**  
Occupational Safety and Health Administration  
Form approved OMB no. 1218-0175

**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.

**Information about the employee**

1) Full name \_\_\_\_\_

2) Street \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ ZIP \_\_\_\_\_

3) Date of birth \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

4) Sex listed \_\_\_\_\_ / \_\_\_\_\_

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 \_\_\_\_\_ (Transfer 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 keyentry."

15) **What happened?** Tell us how the injury occurred. Examples: "When ladder slipped on wet floor, worker fell 10 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 "injury," "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, check  blank.

18) **If the employee died, when did death occur?** Date of death \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

Completed by \_\_\_\_\_

Title \_\_\_\_\_

Phone (\_\_\_\_) \_\_\_\_\_-\_\_\_\_\_ Date \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

Public reporting burden for this collection of information is estimated to average 27 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Washington, DC 20503. Do not send the completed forms to this office.

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## 1904.35 - Employee Involvement

- Must inform each employee of how to report an injury or illness
  - 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

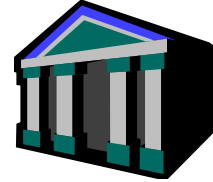


## 1904.35 - Employee Involvement

- Must provide limited access to injury and illness records to employees, former employees and their personal and authoritative representatives
  - Provide copy of OSHA Form 300 by end of next business day
  - Provide copy of OSHA Form 301 to employee, former employee or *personal* representative by end of next business day
  - Provide copies of OSHA Form 301 to *authorized* representative within 7 calendar days. Provide only “Information about the case” section of form.

## 1904.40 - Providing Records to Government Representatives

- Must provide copies of the records within 4 business hours
- Use the business hours of the establishment where the records are located



## 1904.33 - Retention and Updating

- Retain forms for 5 years following the year that they cover
- Update the OSHA Form 300 during that period
- Do not need to update the OSHA Form 300A or OSHA Form 301



## 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
- Section 11(c) 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



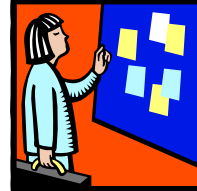
## 1904.37 - State Plans

- State-Plan States must have the same requirements as Federal OSHA for determining which injuries and illnesses are recordable and how they are recorded
- For other Part 1904 requirements, State-Plan requirements may be more stringent
- 1952.4 reflects these concepts



## Lesson 3 - Posting

- Annual summary, OSHA 300A
- Job safety/health poster
- Citations and corresponding documents



## 1904.32 - Annual Summary

- Review OSHA Form 300 for completeness and accuracy, correct deficiencies
- Complete OSHA Form 300A
- Certify summary
- Post summary



## 1904.32 - Annual Summary

- A company executive must certify the summary:
  - An owner of the company
  - An officer of the corporation
  - The highest ranking company official working at the establishment, or
  - His or her supervisor
- Must post for 3 month period from February 1 to April 30 of the year following the year covered by the summary



## New: Electronic Reporting

- If > 250 employees, and required to keep records, must submit 300A, 300 and 301 once per year.
- If >20 and < 250 employees, submit 300A once per year.

W

## Electronic Reporting Compliance Dates

Submission Year	> 250 Employees	>20 and < 250 Employees	Submission Deadline
2017	300A	300A	July 1, 2017
2018	300A 300 301	300A	July 1, 2018
2019 and after	300A 300 301	300A	March 2, 20XX

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## Lesson 4 - Reporting

W

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- Reporting fatalities, hospitalizations, amputations, loss of an eye - 1904.39
- Annual OSHA injury and illness surveys 1904.41
- BLS annual survey 1904.42
- Providing records to NIOSH/OSHA 1904.40

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## 1904.39 - Reporting work-related fatalities, hospitalizations, amputations, loss of an eye **W**

- Report fatality within 8 hours
- Report all work-related in-patient hospitalizations, amputations and loss of an eye with 24 hours
- 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

## How to Report **W**

- Call the nearest OSHA office.  
<https://www.osha.gov/html/RAmap.html>
- Call the OSHA 24-hour hotline at 1-800-321-6742 (OSHA).
- Report online  
<https://www.osha.gov/pls/ser/serform.html>
- Be prepared to supply: Business name; names of employees affected; location and time of the incident, brief description of the incident; contact person and phone number.

## Alaska Reporting Requirements



Occupational accidents that result in the **death or overnight hospitalization** of one or more employees must be reported to AKOSH within **8 hours**. Immediately report accidents to:

- **1-800-770-4940**  
or **(907) 269-4940**  
(8 am to 5 pm M-F; AK time)
- **1-800-321-6742**  
(After 5 pm or on weekends and holiday)

## Oregon Reporting Requirements



### Report within eight hours

You must report the **death** of any employee or a **catastrophe** within **eight** hours of when it happened or when it was reported to you or your agents.

A catastrophe occurs when **two or more employees are fatally injured, or three or more employees are admitted to a hospital or clinic** as a result of the same incident.

## Oregon Requirements Continued



- **Report within 24 hours**
- You must report an in-patient hospitalization, loss of an eye, and either an amputation **or avulsion that results in bone loss** within 24 hours of when it happened or when it was reported to you or your agents.

## Oregon Requirements Continued



### Temporary employees

A staffing agency or host employer must follow the same reporting rules. They should also establish a procedure by which both are informed if a temporary worker is injured.



## How to Report in Oregon

- in person, or
- by calling **800-922-2689**, or
- contact your nearest Oregon OSHA office:
  - Bend: 541-388-6066
  - Eugene: 541-686-7562
  - Medford: 541-776-6030
  - Pendleton: 541-276-9175
  - Portland: 503-229-5910
  - Salem: 503-378-3274



## Washington Reporting Requirements

- A workplace fatality or in-patient hospitalization of any employee within eight (8) hours of the incident.
- A non-hospitalized amputation or loss of an eye(s) of any employee within twenty-four (24) hours of the incident.

## How to Report in Washington:

- Call 1-800-423-7233
- Visit an L&I Office to report in person

## For More Help

- [OSHA's Recordkeeping Page](http://www.osha.gov/recordkeeping2014/)  
[www.osha.gov/recordkeeping2014/](http://www.osha.gov/recordkeeping2014/)
- Regional Recordkeeping Coordinators
- State Plans and State Consultation





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## Section 2: Rules Updates



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## Rules Updates

### 29 CFR 1904.2 (b)

SIC codes have been replaced with NAICS Codes:

#### **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 North American Industry Classification System (NAICS) 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 employee's fatality, in-patient hospitalization, amputation, or loss of an eye (see § 1904.39).

<b>NAICS Code</b>	<b>Industry</b>
4412 .....	Other Motor Vehicle Dealers.
4431 .....	Electronics and Appliance Stores.
4461 .....	Health and Personal Care Stores.
4471 .....	Gasoline Stations.
4481 .....	Clothing Stores.
4482 .....	Shoe Stores.
4483 .....	Jewelry, Luggage, and Leather Goods Stores.
4511 .....	Sporting Goods, Hobby, and Musical Instrument Stores.
4512 .....	Book, Periodical, and Music Stores.
4531 .....	Florists.
4532 .....	Office Supplies, Stationery, and Gift Stores.



<b>NAICS Code</b>	<b>Industry</b>
4812 .....	Nonscheduled Air Transportation.
4861 .....	Pipeline Transportation of Crude Oil.
4862 .....	Pipeline Transportation of Natural Gas.
4869 .....	Other Pipeline Transportation.
4879 .....	Scenic and Sightseeing Transportation, Other.
4885 .....	Freight Transportation Arrangement.
5111 .....	Newspaper, Periodical, Book, and Directory Publishers.
5112 .....	Software Publishers.
5121 .....	Motion Picture and Video Industries.
5122 .....	Sound Recording Industries.
5151 .....	Radio and Television Broadcasting.
5172 .....	Wireless Telecommunications Carriers (except Satellite).
5173 .....	Telecommunications Resellers.
5179 .....	Other Telecommunications.
5181 .....	Internet Service Providers and Web Search Portals.



<b>NAICS Code</b>	<b>Industry</b>
5182 .....	Data Processing, Hosting, and Related Services.
5191 .....	Other Information Services.
5211 .....	Monetary Authorities&Central Bank.
5221 .....	Depository Credit Intermediation.
5222 .....	Nondepository Credit Intermediation.
5223 .....	Activities Related to Credit Intermediation.
5231 .....	Securities and Commodity Contracts Intermediation and Brokerage.
5232 .....	Securities and Commodity Exchanges.
5239 .....	Other Financial Investment Activities.
5241 .....	Insurance Carriers.
5242 .....	Agencies, Brokerages, and Other Insurance Related Activities.
5251 .....	Insurance and Employee Benefit Funds.
5259 .....	Other Investment Pools and Funds.
5312 .....	Offices of Real Estate Agents and Brokers.
5331 .....	Lessors of Nonfinancial Intangible Assets (except Copyrighted Works).



<b>NAICS Code</b>	<b>Industry</b>
5411 .....	Legal Services.
5412 .....	Accounting, Tax Preparation, Bookkeeping, and Payroll Services.
5413 .....	Architectural, Engineering, and Related Services.
5414 .....	Specialized Design Services.
5415 .....	Computer Systems Design and Related Services
5416 .....	Management, Scientific, and Technical Consulting Services.
5417 .....	Scientific Research and Development Services.
5418 .....	Advertising and Related Services.
5511 .....	Management of Companies and Enterprises.
5611 .....	Office Administrative Services.
5614 .....	Business Support Services.
5615 .....	Travel Arrangement and Reservation Services.
5616 .....	Investigation and Security Services.
6111 .....	Elementary and Secondary Schools.
6112 .....	Junior Colleges.



<b>NAICS Code</b>	<b>Industry</b>
6113 .....	Colleges, Universities, and Professional Schools.
6114 .....	Business Schools and Computer and Management Training.
6115 .....	Technical and Trade Schools.
6116 .....	Other Schools and Instruction.
6117 .....	Educational Support Services.
6211 .....	Offices of Physicians.
6212 .....	Offices of Dentists.
6213 .....	Offices of Other Health Practitioners.
6214 .....	Outpatient Care Centers.
6215 .....	Medical and Diagnostic Laboratories.
6244 .....	Child Day Care Services.
7114 .....	Agents and Managers for Artists, Athletes, Entertainers, and Other Public Figures.
7115 .....	Independent Artists, Writers, and Performers.
7213 .....	Rooming and Boarding Houses.
7221 .....	Full-Service Restaurants.



<b>NAICS Code</b>	<b>Industry</b>
7222 .....	Limited-Service Eating Places.
7224 .....	Drinking Places (Alcoholic Beverages).
8112 .....	Electronic and Precision Equipment Repair and Maintenance.
8114 .....	Personal and Household Goods Repair and Maintenance.
8121 .....	Personal Care Services.
8122 .....	Death Care Services.
8131 .....	Religious Organizations.
8132 .....	Grantmaking and Giving Services.
8133 .....	Social Advocacy Organizations.
8134 .....	Civic and Social Organizations.
8139 .....	Business, Professional, Labor, Political, and Similar Organizations

[66 FR 6122, Jan. 19, 2001; 79 FR 56186-56187, September 18, 2014]



## 29 CFR 1904.41: Electronic Submission of Injury and Illness records to OSHA

- **Part Number:** 1904
  - **Part Title:** Recording and Reporting Occupational Injuries and Illness
  - **Subpart:** E
  - **Subpart Title:** Reporting Fatality, Injury and Illness Information to the Government
  - **Standard Number:** [1904.41](#)
  - **Title:** Electronic submission of injury and illness records to OSHA.
  - **Applicable Standards:** 01/01/2017
  - **Appendix:** [A](#)
  - **GPO Source:** [e-CFR](#)
- 

### 1904.41(a)

#### *Basic requirements*

#### **1904.41(a)(1)**

*Annual electronic submission of part 1904 records by establishments with 250 or more employees. If your establishment had 250 or more employees at any time during the previous calendar year, and this part requires your establishment to keep records, then you must electronically submit information from the three recordkeeping forms that you keep under this part (OSHA Form 300A Summary of Work-Related Injuries and Illnesses, OSHA Form 300 Log of Work-Related Injuries and Illnesses, and OSHA Form 301 Injury and Illness Incident Report) to OSHA or OSHA's designee. You must submit the information once a year, no later than the date listed in paragraph (c) of this section of the year after the calendar year covered by the forms.*

#### **1904.41(a)(2)**

*Annual electronic submission of OSHA Form 300A Summary of Work-Related Injuries and Illnesses by establishments with 20 or more employees but fewer than 250 employees in designated industries. If your establishment had 20 or more employees but fewer than 250 employees at any time during the previous calendar year, and your establishment is classified in an industry listed in appendix A to subpart E of this part, then you must electronically submit information from OSHA Form 300A Summary of Work-Related Injuries and Illnesses to OSHA or OSHA's designee. You must submit the information once a year, no later than the date listed in paragraph (c) of this section of the year after the calendar year covered by the form.*

#### **1904.41(a)(3)**



*Electronic submission of part 1904 records upon notification.* Upon notification, you must electronically submit the requested information from your part 1904 records to OSHA or OSHA's designee.

**1904.41(b)**

*Implementation*

**1904.41(b)(1)**

*Does every employer have to routinely submit information from the injury and illness records to OSHA?* No, only two categories of employers must routinely submit information from their injury and illness records. First, if your establishment had 250 or more employees at any time during the previous calendar year, and this part requires your establishment to keep records, then you must submit the required Form 300A, 300, and 301 information to OSHA once a year. Second, if your establishment had 20 or more employees but fewer than 250 employees at any time during the previous calendar year, and your establishment is classified in an industry listed in appendix A to subpart E of this part, then you must submit the required Form 300A information to OSHA once a year. Employers in these two categories must submit the required information by the date listed in paragraph (c) of this section of the year after the calendar year covered by the form or forms (for example, 2017 for the 2016 forms). If you are not in either of these two categories, then you must submit information from the injury and illness records to OSHA only if OSHA notifies you to do so for an individual data collection.

**1904.41(b)(2)**

*If I have to submit information under paragraph (a)(1) of this section, do I have to submit all of the information from the recordkeeping form?* No, you are required to submit all of the information from the form except the following:

**1904.41(b)(2)(i)**

Log of Work-Related Injuries and Illnesses (OSHA Form 300): Employee name (column B).

**1904.41(b)(2)(ii)**

Injury and Illness Incident Report (OSHA Form 301): Employee name (field 1), employee address (field 2), name of physician or other health care professional (field 6), facility name and address if treatment was given away from the worksite (field 7).

**1904.41(b)(3)**

*Do part-time, seasonal, or temporary workers count as employees in the criteria for number of employees in paragraph (a) of this section?* Yes, each individual employed in the establishment at any time during the calendar year counts as one employee, including full-time, part-time, seasonal, and temporary workers.

**1904.41(b)(3)**

*Do part-time, seasonal, or temporary workers count as employees in the criteria for number of employees in paragraph (a) of this section?* Yes, each individual employed in the establishment at any time during the calendar year counts as one employee, including full-time, part-time, seasonal, and temporary workers.



**1904.41(b)(4)**

*How will OSHA notify me that I must submit information from the injury and illness records as part of an individual data collection under paragraph (a)(3) of this section?* OSHA will notify you by mail if you will have to submit information as part of an individual data collection under paragraph (a)(3). OSHA will also announce individual data collections through publication in the **Federal Register** and the OSHA newsletter, and announcements on the OSHA Web site. If you are an employer who must routinely submit the information, then OSHA will not notify you about your routine submittal.

**1904.41(b)(5)**

*How often do I have to submit the information from the injury and illness records?* If you are required to submit information under paragraph (a)(1) or (2) of this section, then you must submit the information once a year, by the date listed in paragraph (c) of this section of the year after the calendar year covered by the form or forms. If you are submitting information because OSHA notified you to submit information as part of an individual data collection under paragraph (a)(3) of this section, then you must submit the information as often as specified in the notification.

**1904.41(b)(6)**

*How do I submit the information?* You must submit the information electronically. OSHA will provide a secure Web site for the electronic submission of information. For individual data collections under paragraph (a)(3) of this section, OSHA will include the Web site's location in the notification for the data collection.

**1904.41(b)(7)**

*Do I have to submit information if my establishment is partially exempt from keeping OSHA injury and illness records?* If you are partially exempt from keeping injury and illness records under §§ 1904.1 and/or 1904.2, then you do not have to routinely submit part 1904 information under paragraphs (a)(1) and (2) of this section. You will have to submit information under paragraph (a)(3) of this section if OSHA informs you in writing that it will collect injury and illness information from you. If you receive such a notification, then you must keep the injury and illness records required by this part and submit information as directed.

**1904.41(b)(8)**

*Do I have to submit information if I am located in a State Plan State?* Yes, the requirements apply to employers located in State Plan States.

**1904.41(b)(9)**

*May an enterprise or corporate office electronically submit part 1904 records for its establishment(s)?* Yes, if your enterprise or corporate office had ownership of or control over one or more establishments required to submit information under paragraph (a)(1) or (2) of this section, then the enterprise or corporate office may collect and electronically submit the information for the establishment(s).

**1904.41(c)**



Reporting dates.

**1904.41(c)(1)**

In 2017 and 2018, establishments required to submit under paragraph (a)(1) or (2) of this section must submit the required information according to the table in this paragraph (c)(1):

Submission year	Establishments submitting under paragraph (a)(1) of this section must submit the required information from this form/these forms:	Establishments submitting under paragraph (a)(2) of this section must submit the required information from this form:	Submission deadline
2017 .....	300A .....	300A .....	July 1, 2017.
2018 .....	300A, 300, 301 .....	300A .....	July 1, 2018.

**1904.41(c)(2)**

Beginning in 2019, establishments that are required to submit under paragraph (a)(1) or (2) of this section will have to submit all of the required information by March 2 of the year after the calendar year covered by the form or forms (for example, by March 2, 2019, for the forms covering 2018).

[66 FR 6134, Jan. 19, 2001; 81 FR 29692-29693 May 12, 2016]

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NAICS	Industry
11 .....	Agriculture, forestry, fishing and hunting.
22 .....	Utilities.
23 .....	Construction.
31-33 .....	Manufacturing.



NAICS	Industry
42 .....	Wholesale trade.
4413 .....	Automotive parts, accessories, and tire stores.
4421 .....	Furniture stores.
4422 .....	Home furnishings stores.
4441 .....	Building material and supplies dealers.
4442 .....	Lawn and garden equipment and supplies stores.
4451 .....	Grocery stores.
4452 .....	Specialty food stores.
4521 .....	Department stores.
4529 .....	Other general merchandise stores.
4533 .....	Used merchandise stores.
4542 .....	Vending machine operators.
4543 .....	Direct selling establishments.



NAICS	Industry
4811 .....	Scheduled air transportation.
4841 .....	General freight trucking.
4842 .....	Specialized freight trucking.
4851 .....	Urban transit systems.
4852 .....	Interurban and rural bus transportation.
4853 .....	Taxi and limousine service.
4854 .....	School and employee bus transportation.
4855 .....	Charter bus industry.
4859 .....	Other transit and ground passenger transportation.
4871 .....	Scenic and sightseeing transportation, land.
4881 .....	Support activities for air transportation.
4882 .....	Support activities for rail transportation.
4883 .....	Support activities for water transportation.



NAICS	Industry
4884 .....	Support activities for road transportation.
4889 .....	Other support activities for transportation.
4911 .....	Postal service.
4921 .....	Couriers and express delivery services.
4922 .....	Local messengers and local delivery.
4931 .....	Warehousing and storage.
5152 .....	Cable and other subscription programming.
5311 .....	Lessors of real estate.
5321 .....	Automotive equipment rental and leasing.
5322 .....	Consumer goods rental.
5323 .....	General rental centers.
5617 .....	Services to buildings and dwellings.
5621 .....	Waste collection.



NAICS	Industry
5622 .....	Waste treatment and disposal.
5629 .....	Remediation and other waste management services.
6219 .....	Other ambulatory health care services.
6221 .....	General medical and surgical hospitals.
6222 .....	Psychiatric and substance abuse hospitals.
6223 .....	Specialty (except psychiatric and substance abuse) hospitals.
6231 .....	Nursing care facilities.
6232 .....	Residential mental retardation, mental health and substance abuse facilities.
6233 .....	Community care facilities for the elderly.
6239 .....	Other residential care facilities.
6242 .....	Community food and housing, and emergency and other relief services.
6243 .....	Vocational rehabilitation services.
7111 .....	Performing arts companies.



NAICS	Industry
7112 .....	Spectator sports.
7121 .....	Museums, historical sites, and similar institutions.
7131 .....	Amusement parks and arcades.
7132 .....	Gambling industries.
7211 .....	Traveler accommodation.
7212 .....	RV (recreational vehicle) parks and recreational camps.
7213 .....	Rooming and boarding houses.
7223 .....	Special food services.
8113 .....	Commercial and industrial machinery and equipment (except automotive and electronic) repair and maintenance.
8123 .....	Dry-cleaning and laundry services.

[81 FR 29693-29694 May 12, 2016]

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OSHA Memorandums on Updates

U.S. Department of Labor  
Occupational Safety and Health Administration  
Washington, D.C. 20210  
Reply to the attention of:

DOL Logo  
OCT 19 2016

MEMORANDUM FOR:  
REGIONAL ADMINISTRATORS  
FROM:  
DOROTHY DOUGHERTY  
Deputy Assistant Secretary  
SUBJECT:

Interpretation of 1904.35(b)(1)(i) and (iv)

On May 12, 2016, OSHA published a final rule that, among other things, amended 29 C.F.R. 1904.35 to add two new provisions: section 1904.35(b)(1)(i) makes explicit the longstanding requirement for employers to have a reasonable procedure for employees to report work-related injuries and illnesses, and (b)(1)(iv) incorporates explicitly into Part 1904 the existing prohibition on retaliating against employees for reporting work-related injuries or illnesses under section 11(c) of the OSH Act, 29 U.S.C. § 660(c). This memorandum explains these provisions in more detail.

I. Section 1904.35(b)(1)(i)

To establish a violation of section 1904.35(b)(1)(i), OSHA must show that the employer either lacked a procedure for reporting work-related injuries or illnesses, or that the employer had a procedure that was unreasonable. The employer must establish a reasonable procedure for employees to report work-related injuries and illnesses. As OSHA explained in the preamble to the final rule, this requirement was implicit in the previous version of the rule, which required employers to establish a "way" for employees to report work-related injuries and illnesses. An employer's reporting procedure is reasonable if it is not unduly burdensome and would not deter a reasonable employee from reporting.

For example, it would be reasonable to require employees to report a work-related injury or illness as soon as practicable after realizing they have the kind of injury or illness they are required to report to the employer, such as the same or next business day when possible. However, it would not be reasonable to discipline employees for failing to report before they realize they have a work-related injury they are required to report or for failing to report "immediately" when they are incapacitated because of the injury or illness. A rigid prompt-reporting requirement that results in employee discipline for late reporting even when the employee could not reasonably have reported the injury or illness earlier would violate section 1904.35(b)(1)(iv).

It would also be reasonable to require employees to report to a supervisor through reasonable means, such as by phone, email, or in person. However, it would not be reasonable to require ill or injured employees to report in person if they are unable to do so. Likewise, it would not be



reasonable to require employees to take unnecessarily cumbersome steps or an excessive number of steps to report.

While employers have an interest in maintaining accurate records and ensuring that employees are reporting work-related injuries and illnesses in a reasonably prompt manner, these interests must be balanced with the importance of accurate injury reporting and therefore employers' reporting policies must be designed so as not to discourage employees from reporting. For a reporting procedure to be reasonable, and not unduly burdensome, it must allow for reporting of work-related injuries and illnesses within a reasonable timeframe after the employee has realized that he or she has suffered a recordable work-related injury or illness and in a reasonable manner.

## II. Section 1904.35(b)(1)(iv)

Section 1904.35(b)(1)(iv) prohibits employers from retaliating against employees for reporting work-related injuries or illnesses. In the preamble to the final rule, OSHA explained that it promulgated section 1904.35(b)(1)(iv) to address concerns from commenters about three types of policies that can be used to retaliate against workers for reporting work-related injuries or illnesses and therefore discourage or deter accurate recordkeeping: disciplinary policies, post-accident drug testing policies, and employee incentive programs. OSHA made clear in the preamble that it is not prohibiting these kinds of policies categorically, and that section 1904.35(b)(1)(iv) does not impose any new obligations or restrictions on employers. Rather, section 1904.35 gives OSHA another mechanism to address conduct that has always been unlawful—retaliating against employees for reporting work-related injuries or illnesses.<sup>1</sup>

To issue a citation under section 1904.35(b)(1)(iv), OSHA must have reasonable cause to believe that a violation occurred—in other words, that an employer retaliated against an employee for reporting a work-related injury or illness.<sup>2</sup> To make this showing, OSHA must demonstrate the well-established elements of retaliation. In this context, those elements include:

The employee reported a work-related injury or illness;  
The employer took adverse action against the employee (that is, action that would deter a reasonable employee from accurately reporting a work-related injury or illness); and  
The employer took the adverse action because the employee reported a work-related injury or illness. Regardless of whether an adverse action is taken pursuant to a disciplinary policy, post-accident drug testing policy, or employee incentive program, OSHA's ultimate burden is to prove that the employer took the adverse action because the employee reported a work-related injury or illness, not for a legitimate business reason. Determining in a particular case whether a violation occurred and whether there is enough evidence to substantiate the violation will be a fact-specific inquiry. The discussion below explains in more detail the kinds of facts that will be important in evaluating whether a violation has occurred in the contexts of disciplining employees who report, providing or withholding a benefit based on whether an employee reports, and drug testing employees who report work-related injuries or illnesses.

### A. Discipline.

Section 1904.35(b)(1)(iv) does not prohibit employers from disciplining employees who violate legitimate safety rules or reasonable reporting procedures.<sup>3</sup> Rather, it prohibits disciplining employees simply because they report a work-related injury or illness. In some cases, OSHA will have



direct evidence that an employer disciplined an employee simply for reporting a work-related injury or illness, such as a policy under which the employer automatically disciplines all employees who report work-related injuries or illnesses without regard to whether the reporting employee violated a work rule, or statements by the employer indicating that it disciplined the employee simply for reporting. Direct evidence of retaliation is sufficient to establish a violation.

To establish a violation of section 1904.35(b)(1)(iv) in a case where an employer claims it disciplined an employee who reported a work-related injury or illness for a legitimate business reason such as violating a workplace safety rule, or a rule on the time, place or manner for reporting an injury or illness, OSHA will need to show that the real reason for the discipline was the reported injury or illness and not the rule violation. As is typically true in a discrimination case, circumstantial evidence can satisfy this burden, as direct evidence of the employer's real reason for the adverse action may not exist.

In these circumstances, when OSHA is evaluating whether the employer violated section 1904.35(b)(1)(iv), the central inquiry is whether the employer treated other employees who violated the same rule in the same way—i.e., took the same adverse action—regardless of whether those employees reported a work-related injury or illness, or whether the employer only or primarily used the rule against employees who reported a work-related injury or illness. Evidence that the employer consistently applied the rule when employees violated it regardless of whether the employees also reported a work-related injury or illness is evidence that the real reason for the discipline was the work rule violation, not the injury or illness report. On the other hand, evidence that the employer disproportionately disciplined employees for violating the rule when they reported work-related injuries or illnesses (and tended to ignore violations absent an injury or illness) indicates that the real reason for the discipline was the reported injury or illness, not the work rule violation. The same analysis would apply if reporting employees are subject to more severe adverse action than non-reporting employees who also violated a work rule in the same manner or to the same degree. OSHA will also evaluate any other evidence relevant to the employer's reason for the discipline. If OSHA determines that the real reason for the discipline was the reported injury or illness, OSHA may issue a citation under section 1904.35(b)(1)(iv).

Similarly, in cases involving an employer rule about the time, place or manner for reporting an injury or illness, OSHA will evaluate whether the employer had a legitimate business reason for the discipline or whether the rule was used as a pretext for disciplining the employee for reporting a work-related injury or illness. OSHA will consider factors such as the reasonableness of the rule; whether the employee had a reasonable basis for the deviation; whether the employer has a substantial interest in the rule and its enforcement; and whether the discipline imposed appears proportionate to the employer's interest in the rule. If OSHA determines that the real reason for the discipline was the report of an injury or illness, OSHA may issue a citation under section 1904.35(b)(1)(iv).<sup>4</sup>

#### B. Drug and Alcohol Testing.<sup>5</sup>

Section 1904.35(b)(1)(iv) does not prohibit employers from drug testing employees who report work-related injuries or illnesses so long as they have an objectively reasonable basis for testing, and the rule does not apply to drug testing employees for reasons other than injury-reporting. Moreover, OSHA will not issue citations under section 1904.35(b)(1)(iv) for drug testing conducted under a state workers' compensation law or other state or federal law. Drug testing under state or federal law does



not violate section 1904.35(b)(1)(iv). See sections 4(b)(1) and 4(b)(4) of the OSH Act, 29 U.S.C. §§ 653(b)(1) & (4). Section 1904.35(b)(1)(iv) only prohibits drug testing employees for reporting work-related injuries or illnesses without an objectively reasonable basis for doing so. And, as in all cases under section 1904.35(b)(1)(iv), OSHA will need to establish the three elements of retaliation to prove a violation: a protected report of an injury or illness; adverse action; and causation.

When evaluating whether an employer had a reasonable basis for drug testing an employee who reported a work-related injury or illness, the central inquiry will be whether the employer had a reasonable basis for believing that drug use by the reporting employee could have contributed to the injury or illness. If so, it would be objectively reasonable to subject the employee to a drug test. When OSHA evaluates the reasonableness of drug testing a particular employee who has reported a work-related injury or illness, it will consider factors including whether the employer had a reasonable basis for concluding that drug use could have contributed to the injury or illness (and therefore the result of the drug test could provide insight into why the injury or illness occurred), whether other employees involved in the incident that caused the injury or illness were also tested or whether the employer only tested the employee who reported the injury or illness, and whether the employer has a heightened interest in determining if drug use could have contributed to the injury or illness due the hazardousness of the work being performed when the injury or illness occurred. OSHA will only consider whether the drug test is capable of measuring impairment at the time the injury or illness occurred where such a test is available. Therefore, at this time, OSHA will consider this factor for tests that measure alcohol use, but not for tests that measure the use of any other drugs. The general principle here is that drug testing may not be used by the employer as a form of discipline against employees who report an injury or illness, but may be used as a tool to evaluate the root causes of workplace injuries and illness in appropriate circumstances.

Consider the example of a crane accident that injures several employees working nearby but not the operator. The employer does not know the causes of the accident, but there is a reasonable possibility that it could have been caused by operator error or by mistakes made by other employees responsible for ensuring that the crane was in safe working condition. In this scenario, it would be reasonable to require all employees whose conduct could have contributed to the accident to take a drug test, whether or not they reported an injury or illness. Testing would be appropriate in these circumstances because there is a reasonable possibility that the results of drug testing could provide the employer insight on the root causes of the incident. However, if the employer only tested the injured employees but did not test the operator and other employees whose conduct could have contributed to the incident, such disproportionate testing of reporting employees would likely violate section 1904.35(b)(1)(iv).

Furthermore, drug testing an employee whose injury could not possibly have been caused by drug use would likely violate section 1904.35(b)(1)(iv). For example, drug testing an employee for reporting a repetitive strain injury would likely not be objectively reasonable because drug use could not have contributed to the injury. And, section 1904.35(b)(1)(iv) prohibits employers from administering a drug test in an unnecessarily punitive manner regardless of whether the employer had a reasonable basis for requiring the test.

#### C. Incentives.

Section 1904.35(b)(1)(iv) does not prohibit safety incentive programs. Rather, it prohibits taking adverse action against employees simply because they report work-related injuries or illness.



Withholding a benefit—such as a cash prize drawing or other substantial award—simply because of a reported injury or illness would likely violate section 1904.35(b)(1)(iv) regardless of whether such an adverse action is taken pursuant to an incentive program.<sup>6</sup> Penalizing an employee simply because the employee reported a work-related injury or illness without regard to the circumstances surrounding the injury or illness is not objectively reasonable and therefore not a legitimate business reason for taking adverse action against the employee.

Consider the example of an employer promise to raffle off a \$500 gift card at the end of each month in which no employee sustains an injury that requires the employee to miss work. If the employer cancels the raffle in a particular month simply because an employee reported a lost-time injury without regard to the circumstances of the injury, such a cancellation would likely violate section 1904.35(b)(1)(iv) because it would constitute adverse action against an employee simply for reporting a work-related injury.

However, conditioning a benefit on compliance with legitimate safety rules or participation in safety-related activities would not violate section 1904.35(b)(1)(iv). For example, raffling off a \$500 gift card each month in which employees universally complied with legitimate workplace safety rules—such as using required hard hats and fall protection and following lockout-tagout procedures—would not violate the rule. Likewise, rewarding employees for participating in safety training or identifying unsafe working conditions would not violate the rule. On the contrary, OSHA encourages employers to find creative ways to incentivize safe work practices and accident-prevention measures that do not disproportionately penalize workers who report work-related injuries or illnesses. If OSHA determines that an employer withheld a benefit from an employee simply because the employee reported a work-related injury or illness without regard to the circumstances surrounding the injury or illness, OSHA may issue a citation under section 1904.35(b)(1)(iv).

1 See OSHA Memorandum re: Employer Safety Incentive and Disincentive Policies and Practices (Mar. 12, 2012) (explaining that disciplining an employee, denying benefits under an incentive program, and drug testing under some circumstances could each violate section 11(c) if done because of a reported work-related injury or illness).

2 For an explanation of the reasonable cause standard, please see OSHA Memorandum re: Clarification of the Investigative Standard for Whistleblower Investigations (Apr. 20, 2015).

3 Discipline is considered an adverse action if it would discourage a reasonable employee from reporting a work-related injury or illness. Examples of discipline that rises to the level of adverse action include both immediately tangible actions like termination, demotion, or suspension, and also actions like giving an employee "points" that could result in future consequences. Moreover, any employer action that would discourage a reasonable employee from reporting a work-related injury or illness would constitute adverse action under section 1904.35 and section 11(c) whether or not it constitutes discipline or affects a term or condition of employment. See *Burlington Northern & Santa Fe Railway Co. v. White*, 548 U.S. 53, 68 (2006). The OSHA Whistleblower Investigations Manual, CPL 02-03-007 (Jan. 28, 2016), lists additional examples of adverse action.

4 NOTE: As described in Section I of this memorandum, OSHA may also issue a citation under section 1904.35(b)(1)(i) if an employer's rules regarding when, where or how to report work-related injuries or illnesses unduly burden employees' right to report.



5 The discussion of drug testing in this memorandum applies equally to testing for alcohol use unless specifically noted otherwise.

6 Whether withholding a particular benefit constitutes adverse action depends on whether the failure to receive the benefit "could well dissuade" a reasonable employee from reporting a work-related injury or illness. See Burlington Northern, 548 U.S. at 68.

[https://www.osha.gov/recordkeeping/finalrule/interp\\_recordkeeping\\_101816.html](https://www.osha.gov/recordkeeping/finalrule/interp_recordkeeping_101816.html)



November 10, 2016

MEMORANDUM FOR:

REGIONAL ADMINISTRATORS  
STATE DESIGNEES

THROUGH:

DOROTHY DOUGHERTY  
Deputy Assistant Secretary

FROM:

THOMAS GALASSI, Director  
Directorate of Enforcement Programs

SUBJECT:

Interim Enforcement Procedures for New Recordkeeping Requirements Under 29 CFR 1904.35  
This memorandum establishes interim procedures for enforcing new provisions in OSHA's occupational injury and illness recordkeeping regulation, 29 CFR 1904.35, Employee involvement. Employers are required to establish and inform employees of their reasonable procedure for reporting work-related injuries and illnesses and are prohibited from discharging or retaliating against an employee who reports a work-related injury or illness.

#### I. Overview of New Regulations and Procedures

On May 12, 2016, OSHA issued a final rule revising its occupational injury and illness recordkeeping and reporting requirements in 29 CFR 1904.35, Employee involvement. Changes to Section 1904.35 became effective on August 10, 2016. However, the Agency delayed enforcement of those provisions until December 1, 2016. The new provisions addressed in these Interim Enforcement Procedures require employers to have a reasonable procedure for reporting work-related injuries and illnesses and to inform employees of that procedure and of their right to report work-related injuries and illnesses free from discrimination/retaliation. Also, the new rule prohibits employers from discriminating or retaliating against any employee who reports a work-related injury or illness. (See Appendix A, Summary of New Requirements.)

The new rule also includes changes to Section 1904.41, Electronic Submission of Injury and Illness Records to OSHA. Those provisions are not effective until January 1, 2017 and are not addressed in this memorandum. The complete final rule can be viewed at 92 FR 29624-29694, Improve Tracking of Workplace Injuries and Illnesses.

The National Office has established these Interim Enforcement Procedures to ensure that OSHA field offices are prepared for the receipt of complaints related to the new provisions. They are interim enforcement guidance that will be evaluated and adjusted after the new provisions are in effect.

Specifically, these Interim Enforcement Procedures provide guidance to the Area Offices for enforcement of the new requirements in the recordkeeping sections 1904.35(b)(1)(i),(ii), and (iii). Included in these Interim Procedures are Special Interim Procedures for enforcing the new anti-retaliation provision in section 1904.35(b)(1)(iv) and for making administrative referrals to the



Whistleblower Protection Program (WPP) in the Regions for pre-citation consultation and investigation. These interim procedures follow procedures contained in the Field Operations Manual (FOM), Chapters 3 and 9.

Concurrent with these Interim Enforcement Procedures, the National Office has established Interim Investigation Procedures to ensure that complaints are properly investigated by the WPP. (See Appendix B, Interim Investigation Procedures for Section 29 C.F.R. 1904.35(b)(1)(iv).) Those procedures provide guidance to the WPP for conducting an expedited investigation.

Collectively, these interim procedures address the separate responsibilities of the WPP and the Area Offices for enforcement of the new anti-retaliation provision. Among other things, Area Offices have responsibility for following the FOM in determining when an inspection is opened, entering data into OIS, and preparing the citation package. The WPP has responsibility for investigating the retaliation complaints, recommending whether or not to issue a citation, and determining make-whole remedies when appropriate. The procedures provide for coordination between Area Offices and the WPP on matters such as sharing of relevant information and resolution of citations through informal settlements.

## II. Enforcement and Citation Guidance for Violations of 1904.35(b)(1)(i),(ii), and (iii).

The following is a summary of the enforceable requirements and the inspection and citation guidance for these provisions:

### Enforcement Guidance. Section 1904.35(b)(1)(i)

Establish reasonable reporting procedure. This provision requires that an employer must establish a reasonable procedure for employees to report work-related injuries or illnesses promptly and accurately. While the new regulation uses the word "procedure," the basic requirement is the same as the previous regulation, which required that the employer must set up "a way" for employees to report work-related injuries and illnesses. The new provision states that "a procedure is not reasonable if it would deter or discourage a reasonable employee from accurately reporting a workplace injury or illness." The regulation does not require that the procedure be in writing.

Evidence to establish a violation is based on whether the employer's procedure is unduly burdensome and/or would discourage a reasonable employee from reporting. The test of "reasonable" is an objective test: would the procedure discourage a reasonable employee from reporting?

Under these Interim Enforcement Procedures, OSHA will only issue citations under section 1904.35(b)(1)(i) if the employer's procedure regarding the time and means for filing a report of an injury or illness is "unreasonable." The "time" and "means" refers to when and how the employer's procedure requires employees to report injuries and illnesses.

For example, it is a reasonable time (when) requirement if the procedure requires employees to report a work-related injury or illness as soon as practicable after the employee realizes that he or she has a work-related injury or illness that should be reported to the employer. However, it is not a reasonable time requirement if the employer has a rigid prompt-reporting requirement that disciplines employees for late reporting when the employee could not have realized that he or she



has a work-related injury or illness. The employer's time requirement for reporting an injury or illness must take into account situations in which employees cannot reasonably be expected to discover their injuries or illnesses within a rigid reporting period. For a reporting procedure to be reasonable it must allow for reporting of work-related injuries and illnesses within a reasonable time after the employee has realized that he or she has suffered the kind of work-related injury or illness the employer's procedure requires employees to report.

It is a reasonable means (how) requirement if the procedure requires employees to report a work-related injury or illness by reasonable means, such as by phone, email, or in person when practicable. However, it is not a reasonable means requirement if the procedure requires the employee to report the injury or illness in person at a location remote from his or her workplace. Similarly, it is not a reasonable means if the procedure requires employees to take unnecessarily cumbersome steps or an excessive number of steps to report a work-related injury or illness. The means in the procedure for reporting must not be unduly burdensome, such that a reasonable employee would be discouraged from reporting the work-related injury or illness.

The CSHO will attempt to identify employees who did not report past injuries or illnesses because of the employer's unreasonable reporting procedure. However, OSHA may still cite a violation of section 1904.35(b)(1)(i) for an unreasonable procedure even if OSHA does not identify an employee who did not report an illness or injury in the past, as long as OSHA can identify one or more employees who would be deterred or discouraged from reporting future injuries or illnesses because of the employer's procedure. Also, OSHA may cite a violation of Section 1904.35(b)(1)(i) for an unreasonable reporting procedure even if OSHA does not identify an employee who was disciplined for violating the procedure.

#### Section 1904.35(b)(1)(ii)

Inform employees of procedure. This provision is basically the same as the former provision that required employers to tell each employee how to report a work-related injury or illness. The new provision clarifies that the employer must inform each employee of the "procedure" for reporting work-related injuries or illnesses. OSHA may cite for a violation of section 1904.35(b)(1)(ii) when the employer does not inform employees of the procedure. As under the former provision, the rule does not specify how the employer must inform employees. Employers have flexibility to set up systems that are appropriate to their workplace. The size of the workforce, employee language proficiency and literacy levels, the workplace culture, and other factors will determine what will be effective for any particular workplace.

#### Section 1904.35(b)(1)(iii)

Inform employees of right to report. This provision requires that employers inform employees that they have the right to report work-related injuries and illnesses and prohibits employers from discharging or in any manner discriminating against any employee for reporting work-related injuries and illnesses. The employer can comply with this provision by posting the OSHA worker rights poster (version OSHA 3165-04R 2015 or later). Alternatively, the employer can comply with this provision by informing employees of the required information by other appropriate means, such as an individual written notice to each employee. The information does not need to be provided in writing.



Under these Interim Enforcement Procedures, if OSHA determines that the employer has not posted the poster and has not otherwise informed employees of the information required by this provision, the CSHO will provide the employer a copy of the poster. If the employer posts the poster, immediate abatement is accomplished and no citation will be issued. If the employer does not post the poster, a citation may be issued.

Under these Interim Enforcement Procedures, if the employer declines to post the poster and has not otherwise informed employees of the required information, the violation will be based on the identification of specific employees who have not been informed that they have a right to report work-related injuries and illnesses to the employer and that the employer is prohibited from retaliating against them for reporting.

Issuance of Citations.

Violation of 1904.35 (b)(1)(i)

OSHA will issue a citation based on its determination that an employer failed to establish a reasonable procedure for employees to report work-related injuries and illnesses promptly and accurately.

An other-than-serious citation of section 1904.35(b)(1)(i) will normally be issued if the employer has failed to establish a reasonable procedure.(1) The gravity-based penalty for this violation is \$5,345. If the Area Director determines that it is appropriate to achieve the necessary deterrent effect, the unadjusted penalty may be up to \$12,471.

Six-month date calculation: The citation must be issued within six months from when an unreasonable procedure was in effect.

Abatement: The employer can abate this violation by establishing a reasonable procedure within the meaning of this provision.

Violation of 1904.35 (b)(1)(ii)

OSHA will issue a citation based on its determination that an employer failed to inform employees about the procedure to report injuries and illness.

An other-than-serious citation of section 1904.35(b)(1)(ii) will normally be issued if the employer has failed to inform employees of its procedure. The gravity-based penalty for this violation is \$5,345. If the Area Director determines that it is appropriate to achieve the necessary deterrent effect, the unadjusted penalty may be up to \$12,471.

Six-month date calculation: The citation must be issued within six months from when the employer failed to inform an employee of its reporting procedure.

Abatement: The employer can abate this violation by informing employees of the procedure within the meaning of this provision.

Violation of 1904.35(b)(1)(iii)

OSHA will issue a citation based on its determination that the employer failed to inform employees of their right to report work-related injuries and illnesses and/or failed to inform employees that the



employer may not retaliate/discriminate against any employee who reports a work-related injury or illness.

An other-than-serious citation of section 1904.35(b)(1)(iii) will normally be issued if an employer fails to inform each employee of the required information. The gravity-based penalty for this violation is \$5,345. If the Area Director determines that it is appropriate to achieve the necessary deterrent effect, the unadjusted penalty may be up to \$12,471.

Six-month date calculation: The citation must be issued within six months from when the employer failed to inform employees of their right to report work-related injuries or illnesses without fear of retaliation.

Abatement: The employer can abate this violation by implementing a procedure to inform employees of the right to report work-related injuries and illnesses without fear of retaliation. This can be satisfied by posting the OSHA worker rights poster (version OSHA 3165-04R 2015 or later). However, employers are not required to post this version of the poster if they provide the required information through other appropriate means, such as providing a written notice to each individual employee.

### III. Special Interim Enforcement, Inspection, Referral, and Citation Procedures for Violations of 1904.35(b)(1)(iv).

These Special Interim Procedures provide general information to Area Offices on the elements of a violation of the anti-retaliation provision at section 1904.35(b)(1)(iv). The Area Office's decision to conduct an inspection of a potential violation of Section 1904.35(b)(1)(iv) must be based on sufficient information to warrant an inspection pursuant to current FOM procedures (Chapter 9) and the conduct of the inspection must follow current FOM procedures (Chapter 3). Under these Special Interim Procedures, the Area Office will refer the investigation into the merits of the potential violation to the WPP. These Special Interim Procedures detail the process for the referral of cases by the Area Office to the WPP for investigation and referrals from the WPP to the Area Office for opening of inspections. Also, these Special Interim Procedures address citation procedures and post-citation informal settlements.

The WPP has developed Interim Investigation Procedures that provide guidance to the WPP regarding the investigation of potential violations of 1904.35(b)(1)(iv), the preparation of a memorandum of investigation regarding the merits of the complaint, and recommendations of remedies and damages, where appropriate. (See Appendix B.)

Both the Special Interim Procedures and the Interim Investigation Procedures provide that the Area Office, in consultation with the WPP, will determine whether to issue the citation, and if so, the Area Office will enter the information into OIS and prepare the citation package.

NOTE: If the same inspection also involves safety and health violations, the Area Director may exercise his or her discretion to issue those citations separately from a section 1904.35(b)(1)(iv) citation.

NOTE: These interim procedures do not affect in any way Regional procedures that are currently in place for intake of Section 11(c) complaints. Each Region will continue to follow its current procedure for intake and referral of 11(c) complaints. As addressed in the WPP Interim Investigation Procedures



(Appendix B), upon receipt of the 11(c) referral, the WPP will, when appropriate, make a referral to the Area Office to open an inspection related to a potential violation of section 1904.35(b)(1)(iv).

Elements of the violation.

OSHA will issue a citation under section 1904.35(b)(1)(iv) if the employer has taken an adverse action against an employee for reporting a work-related injury or illness, and if the adverse action took place within the six months before issuance of the citation. To issue a citation under section 1904.35(b)(1)(iv), OSHA must have reasonable cause to believe that a violation occurred—in other words, that an employer retaliated against an employee for reporting a work-related injury or illness. The elements of a violation are:

The employee reported a work-related injury or illness;  
The employer took adverse action(2) against the employee (that is, action that would deter a reasonable employee from accurately reporting a work-related injury or illness); and  
The employer took the adverse action because the employee reported a work-related injury or illness. Under these Special Interim Procedures, OSHA will only issue a citation for a violation of this provision when OSHA can identify an employee who received an adverse action because he or she reported or attempted to report a work-related injury or illness.

Calculation of the six-month date for the issuance of a citation will run from the date on which the employer took the adverse action against the employee for reporting a work-related injury or illness.

NOTE: Unlike Section 11(c), which requires the complainant to notify OSHA within 30 days of the adverse action, a potential violation of section 1904.35(b)(1)(iv) does not require the complainant to inform OSHA within 30 days.

Inspection and Referral Guidance.

The decision to open an inspection of a potential violation of section 1904.35(b)(1)(iv) and to make the administrative referral to the WPP to conduct the investigation into the merits of the complaint may involve receipt of complaints from several sources: current and former employees and their representatives, and other non-aggrieved employees. Each is discussed below:

Complaint from current employee.

When the Area Office receives an allegation from a current employee (or representative) that he or she reported a work-related injury or illness, and that as a result he or she was disciplined, denied a benefit, or otherwise suffered an adverse action, the Area Office will follow current procedure in the FOM to treat the allegation as a formal complaint. Information documented on the OSHA 7 will serve as a basis for entry into OIS by the Area Office and referral of the complaint to the WPP. Information documented on the OSHA 7 for referral must include the following:

Name of employee making the allegation, including all contact information, home address, phone numbers;

Name and address of employer;

Report of injury or illness: What did the employee report; describe injury or illness that employee reported; how did the injury occur; when (date) did employee report, or attempt to report, the injury or illness; name of person to whom employee reported injury or illness;

Adverse Action: What action did the employer take as a result of the report of the injury or illness; describe in detail the action; when (date) did the employer take that action (for purposes of



calculation of the six-month statute of limitations it is important to have as exact a date as possible of when the adverse action occurred);

Statute of limitations: Identification of the date by which a citation must be issued.

The following is an example of a summary:

On [date] [name of employee] reported that he was injured or was ill to [name]. On [date], employer [name] told [name of employee] that [he or she was disciplined], [was denied benefit] [describe any other adverse action.]

A citation must be issued by [DATE].

When the Area Office determines an inspection is warranted, the Area Office will follow the protocols currently in place for referral of a retaliation complaint to the WPP. The Area Office will send the completed OSHA 7 to the WPP and identify the referral as a potential violation of 1904.35(b)(1)(iv). (See C., Opening Conference, below for further notification to the WPP after opening conference.)

Complaint from former employee.

OSHA anticipates that the Area Office may receive complaints from former employees, or representatives, alleging that a former employee was terminated or forced to quit because he or she reported a work-related injury or illness. The complaint will be treated as a potential 11(c) complaint and will be referred to the WPP consistent with the current procedure in each Region.

Additionally, the complaint will be treated as a potential violation of 1904.35(b)(1)(iv). The Area Office will attempt to obtain the following information:

Name of employee making the allegation, including all contact information, home address, phone numbers;

Name and address of employer;

Reason for separation from job: When (date) was employee separated from job (for purposes of calculation of the six-month statute of limitations it is important to have as an exact date as possible of when the employee quit or was terminate); was the employee fired; what reason did the employer give the employee for the termination; why does the employee think he or she was terminated; if the employee left the employment what was the reason.

Report of injury or illness: What did the employee report; describe injury or illness that employee reported; how did the injury occur; when (date) did employee report the injury or illness; name of person to whom employee reported injury or illness.

The above information will be documented on the OSHA 7 and provided to the WPP for a determination as to whether a reasonable basis exists for believing that a violation of 1904.35(b)(1)(iv) could have occurred. The information will be provided to the WPP following current procedure for referral of a whistleblower complaint in each Region. After the WPP has received the information (within two days, if possible), the WPP will make such a determination and, if appropriate, refer to the Area Office for opening an inspection pursuant to the FOM, Chapter 9, Section I.C.8. Within 5 days of receipt of the referral from the WPP, the Area Office will open an inspection. If the WPP determination is that no reasonable basis exists for believing a violation of section 1904.35(b)(1)(iv) could have occurred, the Area Office will not open an inspection and will inform the former employee.

Complaint from a non-aggrieved employee.



OSHA anticipates that the Area Office may receive an allegation of potential non-compliance with section 1904.35(b)(1)(iv) from an individual, or entity, other than someone who claims to have been retaliated against by the employer based on the report of a work-related injury or illness. In such situations, the individual/entity making the allegation may not have the identity/name of an individual who may have been subject to the retaliation. OSHA will inquire as to whether the non-aggrieved employee can obtain the identity of an aggrieved employee. If that individual is identified the complaint will be handled as outlined above, based on the status as a current or former employee. If the identity/name of an individual cannot be determined, OSHA will treat the complaint as a non-formal complaint and follow current FOM procedures for a phone/fax. A referral to the WPP may be appropriate dependent on the outcome of the phone/fax.

Complaint provided to CSHO while conducting on-site safety and health inspection.

If, during the conduct of a safety and health inspection, the CSHO is informed of an allegation related to a potential violation of the anti-retaliation provision at section 1904.35(b)(1)(iv), the CSHO will handle each complaint based on these Special Interim Procedures depending on whether it is a complaint from a current or former employee.

Referral from the WPP.

There may be occasions when the WPP receives directly from a complainant an allegation of retaliation because he or she reported a work-related injury or illness and the allegation has not been filed with the Area Office. Pursuant to the FOM, Chapter 9, Section I.C.8, the WPP will refer the complaint to the Area Office for a determination about whether an inspection is warranted. The Area Office will handle each case based on these Special Interim Procedures, depending on whether it is a complaint from a current or former employee.

Opening Conference.

During the opening conference, the CSHO will follow established procedure and present a copy of the OSHA 7 on which the complainant's name has been withheld. The CSHO will explain that the investigation of the retaliation complaint will be handled by a Whistleblower (WB) Investigator and that shortly after the opening conference a WB Investigator will contact a representative of the company. The CSHO will identify the name of the company representative and his or her contact information. There may be occasions when, based on discussions between the Area Office and the WPP, the participation of the WPP may be appropriate at the opening conference.

The CSHO will conduct a review of records. In addition to the OSHA logs for the past 5 years, the CSHO will obtain any documentation related to the reported injury that is the basis of the retaliation/discrimination allegation, and any other document relevant to the complaint of retaliation.

After the inspection, within one business day when practicable, the Area Office will notify the WPP that the inspection has been opened and will provide copies of the OSHA 300 logs and any other relevant documentation. The Area Office will identify the Point of Contact in the Area Office for future coordination, who will be the contact for a request from the WPP to obtain information that may be available from the employer onsite.

Interim Investigation Procedures Following Referral from the Area Office to the WPP.

The WPP will conduct an investigation to determine whether the facts are sufficient to support an issuance of a citation under section 1904.35(b)(1)(iv). The WPP will follow its Interim Investigation Procedures for gathering evidence, analyzing the merits of the allegation, reaching a recommendation



regarding the determination of retaliation or discrimination, and recommending the appropriate remedies, including back wages when appropriate. It is not intended that the investigation will be a joint investigation.

Conclusion of the WPP Investigation of Potential Violation of Section 1904.35(b)(1)(iv).

When the WPP investigation has been concluded, regardless of the recommended determination, the WPP will forward a Memorandum of Investigation (MOI), along with the evidentiary materials, via e-mail or hard copy, to the Area Office. The Area Office will incorporate the forwarded materials into the enforcement case file and maintain the records in accordance with normal procedures.

If the investigation leads to a recommendation not to issue a citation under 1904.35(b)(1)(iv), the WPP will notify the Area Office via the MOI that "The WPP does not recommend issuing a citation under section 1904.35(b)(1)(iv)." The Area Office will take the necessary steps to record this finding in OIS. If the WPP continues to investigate the matter under section 11(c), the notification will also state, "However, this recommendation should not be viewed or interpreted to mean that the WPP has made any determination regarding the merit of any corresponding section 11(c) matter. The WPP continues to investigate this matter under section 11(c)."

If the WPP does recommend issuing a citation under 1904.35(b)(1)(iv) based on a finding that reasonable cause exists to believe that section 1904.35(b)(1)(iv) was violated, the WPP will forward the MOI to the Area Office for inclusion in the enforcement file and for use in the issuance of citations. The MOI will include recommendations for remedies for the aggrieved employee, which could include back wages, removal of disciplinary actions, and recommendations for abatement of any underlying policy or procedure that is related to the merit determination.

As stated below, the Area Office will assess a penalty for the citation.

After receipt of the MOI from the WPP, and consultation as necessary with the WPP, the Area Office will hold a closing conference with the employer. This closing conference can be done by telephone.

Issuance of Citation and Penalty Policy.

If the AO determines, after consultation with the WPP, that a citation should be issued, the AO will prepare and issue the citation. The AO is responsible for ensuring the necessary information is entered into OIS and drafting/issuing any citations, with input from the WPP.

An other-than-serious citation of Section 1904.35(b)(1)(iv) will normally be issued if an employer discharges or in any manner discriminates against any employee for reporting a work-related injury or illness. The gravity-based penalty for this violation will normally be \$5,345. If the Area Director determines that it is appropriate to achieve the necessary deterrent effect, the unadjusted penalty may be up to \$12,471.

Abatement: The citation must include remedies for the aggrieved employee, such as back wages, removal of disciplinary action, reinstatement of lost time and wages, etc., where appropriate. This abatement will be based on the recommendations received from the WPP. Also, the citation must include the means for abatement of the underlying policy or procedure that is related to the merit determination.

Informal Conference/Settlement.



If an employer requests an Informal Conference regarding the citation issued for a violation of 1904.35(b)(1)(iv), the Area Office will consult with the WPP regarding participation in the conference. Participation can be in person, by telephone, or video conference. Preparation for the informal conference should include a discussion on settlement parameters. Among other things, the Area Office/WPP should be prepared to discuss remedies including back wages and other make-whole remedies for the aggrieved employee. As necessary, consultation with the RSOL may be sought.

The Area Office/WPP will consult with the aggrieved employee before the informal conference to advise him or her that the employer has requested the conference and to discuss settlement parameters. The Area Office/WPP will tell the employee that, if settlement within the discussed parameters seems likely, the Area Director/WPP will contact the employee to discuss before finalizing the settlement terms. If a settlement is reached, the Area Office, in consultation with the WPP, will prepare the Informal Settlement Agreement. (See Appendix C, Template – Informal Settlement Agreement.)

#### IV. Data Collection and Input into OIS.

Complaints received by the Area Office will follow the standard procedures for complaint intake. To help aid in tracking the number of complaints received for a 1904.35(b)(1) violation, include the standard number that is allegedly violated in the text field of the "Hazard Description and Location." At a minimum, "1904.35(b)(1)" needs to be included in the text field in order to facilitate tracking in OIS.

#### EXAMPLE:

1904.35(b)(1)(iv): Employer has discharged or in some manner discriminated against an employee for reporting a work-related injury or illness.

#### V. Federal Agencies.

All Federal Executive Branch agencies regardless of location (including those overseas), size, or industry classification must collect and maintain OSHA-required injury and illness data. In addition, with the updates to 29 CFR 1960 on August 5, 2013, Federal agencies were required to annually submit that data to the Department of Labor. Each agency must submit to the Secretary by May 1 of each year all information included on the agency's previous calendar year's occupational injury and illness recordkeeping forms. Currently, Federal agencies submit their data through BLS, either by entering the data directly on-line or uploading a flat-file of their data.

The revised reporting requirements of 29 CFR 1904.35 are applicable to all Federal agencies, no matter their location.

NOTE: OSHA has also developed a document that answers common questions concerning Federal agencies' recordkeeping. (See Frequently Asked Questions for OSHA's Injury and Illness Recordkeeping Rule for Federal Agencies.)

#### VI. Outreach.



To ensure that the public is informed of the new requirements under 29 C.F.R. 1904.35, OSHA is engaging in outreach to industry and interested parties. Area Offices are encouraged to conduct their own outreach initiatives. For further information and resources, please see the OSHA website at <https://www.osha.gov/recordkeeping/finalrule/index.html>.

If you have any questions regarding these new requirements and the enforcement plan, please contact the Directorate of Enforcement Programs, Office of General Industry and Agricultural Enforcement.

Resources:

OSHA Poster: <http://www.osha.gov/Publications/poster.html>

Recordkeeping Home Page: <http://www.osha.gov/recordkeeping/index.html>

Recordkeeping Tutorial: <http://www.osha.gov/recordkeeping/tutorial.html>

Appendixes:

Summary of New Requirements of Section 1904.35

Interim Investigation Procedures for Section 29 C.F.R. 1904.35(b)(1)(iv)

Template – Informal Settlement Agreement

APPENDIX A

Summary of New Requirements of Section 1904.35

Summary of New Requirements of Section 1904.35: Employee Involvement and Prohibition Against Discrimination.

One of the goals of the final rule is to ensure the completeness and accuracy of injury and illness data collected by employers and submitted to OSHA. The final rule is intended to promote accurate recording of work-related injuries and illnesses by preventing the under-recording that arises when workers are discouraged from reporting these occurrences. The rule establishes an additional mechanism for OSHA to enforce the existing prohibition on employer retaliation against employees. Therefore, Section 1904.35 contains new requirements intended to promote complete and accurate reporting of work-related injuries and illnesses. Section 1904.35(a) Basic requirement– retains the requirement that an employer must involve employees and their representatives in the recordkeeping system by informing each employee how to report an illness or injury and providing access to employees and employee representatives of the employer's injury and illness records.

The new rule clarifies that the injuries and illnesses referred to in 1904.35(a)(1) are work-related injuries and illness. Also, the new rule clarifies that the employer, when informing each employee how to report a work related injury or illness, must provide specific information contained in new section (b)(1)(iii).

Section 1904.35(b)(1) Implementation – retains the requirement that an employer must set up a way for employees to report work related injuries and illnesses. The new rule clarifies that an employer "must establish a reasonable procedure for employees to report work-related injuries and illnesses promptly and accurately. A procedure is not reasonable if it would deter or discourage a reasonable employee from accurately reporting a workplace injury or illness."



Section 1904.35(b)(ii) maintains the requirement that the employer must tell each employee how to report a work-related injury or illness but now requires that each employee be informed of the "procedure" for reporting a work-related injury or illness.

Section 1904.35(b)(1)(iii) adds a new provision requiring employers to "inform each employee that employees have the right to report work-related injuries and illnesses" and prohibiting employers "from discharging or in any manner discriminating against employees for reporting work-related injuries or illnesses."

Section 1904.35(b)(1)(iv) is a new provision stating that employers "must not discharge or in any manner discriminate against any employee for reporting a work-related injury or illness." While this provision is new in the recordkeeping regulation, this provision is consistent with the existing prohibition in Section 11(c) of the OSH Act, which prohibits employers from retaliating against employees for reporting work-related injuries and illnesses.

The new Rule also provides:

#### 1904.36 Prohibition against discrimination

In addition to 1904.35, section 11(c) of the OSH Act also 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.

This provision is not citable as it repeats the current prohibition addressed in Section 11(c) of the OSH Act.

#### APPENDIX B

Interim Investigation Procedures for Section 29 C.F.R. 1904.35(b)(1)(iv)  
(See OSHA Memorandum, November 10, 2016)

#### APPENDIX C

Template - Informal Settlement Agreement

NOTE: The AO can use its standard ISA. This template is intended to include some of the provisions that may be included as abatement of the 1904.35(b)(1)(iv) citation. The AO will consult with the WPP regarding the terms of the abatement and it is strongly recommended that RSOL be consulted before execution of these agreements.

#### INFORMAL SETTLEMENT AGREEMENT

The undersigned Employer and the undersigned Occupational Safety and Health Administration (OSHA), in settlement of the above citation(s) and penalties which were issued on \*\*\*\*\*, 20\*\*\*, hereby agree as follows:



The Employer accepts the Citation and Notification of Penalties as issued on \*\*\*\*\*. [or Employer and OSHA agree to amend the Citation and Notification of Penalties as below:]

The Employer agrees to pay the penalty of \$XXXX within 10 working days of the date this Informal Settlement Agreement is signed. Payment will be made electronically at www.pay.gov or with a check or money order payable to "DOL-OSHA", and mailed to U.S. Dept. of Labor — OSHA, [Area Office Address].

The Employer agrees to fully abate the citation by taking the following actions:

The Employer agrees to pay [the name of the employee] \$\_\_\_\_\_ in back pay (less normal payroll deductions). The Employer shall submit appropriate documentation to the Social Security Administration allocating back pay to the appropriate calendar quarters. [OR Employer agrees to pay [the employee's name] a lump sum of \$\_\_\_\_.] Any check shall be made payable to [the name of the employee] and mailed to U.S. Dept. of Labor – OSHA, [Area Office Address];

The Employer shall expunge any references from [the name of the employee]'s personnel records relating to the adverse action and shall not make any references relating to the adverse action in any future requests for employment references;

Should any third parties, including prospective employers, inquire as to the employment of [the employee's name], the Employer agrees to refrain from any mention of [the employee's name]'s protected activity. The Employer agrees that nothing will be said or conveyed to any third party that could be construed as damaging the name, character, or employment of [the employee's name];

The Employer agrees to change its incentive program by \*\*\*\*\*;

The Employer agrees to change its drug testing program by \*\*\*\*\*;

The Employer agrees to change its disciplinary program by \*\*\*\*\*.

The Employer agrees that the abatement actions contained in this paragraph will be completed by \*\*\*\*\*

The Employer, by signing this informal settlement agreement, waives its rights to contest the above citation(s) and penalties [as amended in paragraph \* of this agreement]. Further the Employer agrees that the terms of this Informal Settlement Agreement are incorporated into the citation.

OSHA and the Employer agree that the citation is amended to include the terms of this Informal Settlement Agreement.

The Employer agrees to immediately post a copy of this Informal Settlement Agreement in a prominent place at or near the location of the violation(s) referred to in paragraph 1 above. This Informal Settlement Agreement must remain posted until the violations cited have been corrected, or for three working days (excluding weekends and federal holidays), whichever is longer.

Pursuant to 29 C.F.R. 1903.19(c), the Employer will submit abatement verification to the U.S. Dept. of Labor — OSHA, [Area Office Address]; within ten days of the agreed upon abatement date for each action identified in this Informal Settlement Agreement. The abatement verification shall include the date and method of abatement and a statement that affected employees and their representatives have been informed of the abatement.

If a third party submits a Freedom of Information Act ("FOIA") request, OSHA will disclose settlement agreements in accordance with the FOIA, unless one of the FOIA exemptions applies;

Nothing in this Informal Settlement Agreement alters in any manner the rights afforded employees under the OSH Act.

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For Occupational Safety  
And Health Administration  
Area Director



(signature and date)

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For the Employer  
(signature and date)

1 Under the FOM, all 1904 citations are issued as other-than-serious.

2 Adverse action could include a range of activities, including those listed in the Interim Investigation Procedures attached as Appendix B and the OSHA Whistleblower Investigations Manual, CPL 02-03-007 (1/28/2016).

[https://www.osha.gov/dep/memos/recordkeeping\\_memo\\_11102016.html](https://www.osha.gov/dep/memos/recordkeeping_memo_11102016.html)

## Final Rule to Improve Tracking of Workplace Injuries and Illnesses

Each year, millions of workers suffer serious injuries and illnesses on the job. Under the Federal *Occupational Safety and Health Act*, employers must provide their workers with worksites free of recognized serious hazards. In order to help prevent work-related injuries and illnesses, the Occupational Safety and Health Administration (OSHA) has for decades required employers to keep track of their workers' injuries and illnesses by recording them in what is often called an "OSHA log."

Under a final rule that becomes effective January 1, 2017, OSHA will revise its requirements for recording and submitting records of workplace injuries and illnesses to require that some of this recorded information be submitted to OSHA electronically for posting to the OSHA website.

We are taking information that employers are already required to collect and using these data to help keep workers safer and make employers, the public, and the government better informed about workplace hazards. Releasing the data in standard, open formats will:

- Encourage employers to increase their efforts to prevent worker injuries and illnesses, and, compelled by their competitive spirit, to race to the top in terms of worker safety; and
- Enable researchers to examine these data in innovative ways that may help employers make their workplaces safer and healthier and may also help to identify new workplace safety hazards before they become widespread.

In addition, the final rule includes provisions that encourage workers to report work-related injuries or illnesses to their employers and prohibit employers from retaliating against workers for making those reports.

OSHA expects this new rule will help improve workplace safety through expanded access to timely, establishment-specific injury and illness information for OSHA, employers, employees, employee representatives, potential employees, customers, potential customers, and public health researchers.

The rule will also provide OSHA with data to assist the agency in improving allocation of compliance assistance — help OSHA provide to employers who want to improve their safety standards — and enforcement resources, expanding the Agency's ability to identify, target and remove safety and health hazards, thereby preventing workplace injuries, illnesses and deaths. It will also enable OSHA to conduct more rigorous evaluations of the impact of government injury prevention activities.

In addition, behavioral science suggests that public disclosure of the data will "nudge" employers to reduce work-related injuries and illnesses in order to demonstrate to investors, job seekers, customers, and the broader public that their workplaces provide safe and healthy work environments for their employees. Currently, employers cannot compare their injury experience with other businesses in their industry; they can only compare their experience with their industry as a whole. Access to establishment-specific data will enable employers to benchmark their safety and health performance against industry leaders, encouraging them to improve their safety programs.

Finally, public access to very large sets of workplace injury and illness data will provide public health researchers with unprecedented opportunities to advance the fields of injury and illness causation and prevention research.

### Background

In 2013, OSHA issued a proposed rule to improve tracking of workplace injuries and illnesses through the electronic collection of establishment-specific injury and illness data

to which OSHA currently does not have direct access. The agency held a public meeting in January 2014 and received comments on the proposal. After considering public comments, OSHA is now issuing a final rule that requires certain employers to electronically submit injury and illness data.

### Electronic Submission Requirements

The final rule requires certain employers to electronically submit the injury and illness information they are already required to keep under existing OSHA regulations.

The requirement applies to the following:

- Establishments with 250 or more employees that are currently required to keep OSHA injury and illness records must electronically submit information from OSHA Forms 300 — *Log of Work-Related Injuries and Illnesses*, 300A — *Summary of Work-Related Injuries and Illnesses*, and 301 — *Injury and Illness Incident Report*.
- Establishments with 20-249 employees that are classified in certain industries with historically high rates of occupational injuries and illnesses must electronically submit information from OSHA Form 300A.

The electronic submission requirements do not change an employer’s obligation to complete and retain injury and illness records.

Data submission from OSHA Forms 300 — *Log of Work-Related Injuries and Illnesses*, 300A — *Summary of Work-Related Injuries and Illnesses*, and 301 — *Injury and Illness Incident Report* for these establishments will be phased in as follows:

Submission year	Establishments with 250 or more employees	Establishments with 20-249 employees	Submission deadline
2017	Form 300A	Form 300A	July 1, 2017
2018	Forms 300A, 300, 301	Form 300A	July 1, 2018

Beginning in 2019, the submission deadline will be changed from July 1st to March 2nd. Timeliness of the data collected is important for surveillance and intervention activities. The earlier a workplace hazard can be identified, the earlier it can be removed, reducing the chances of another worker being injured or becoming ill.

OSHA will post the establishment-specific injury and illness data it collects under this recordkeeping rule on its public Web site ([www.osha.gov](http://www.osha.gov)). OSHA will remove any Personally Identifiable Information (PII) before the data are released to the public.

The final rule retains the provision that allows OSHA to collect information from employers that do not submit the information to the Agency on a routine basis. These employers would only be required to submit the data requested upon written notification from OSHA or OSHA’s designee.

States that operate their own job safety and health programs, also called OSHA State Plan states, must adopt requirements that are substantially identical to the requirements in this rule within six months after publication of the final rule.

### Employees’ Right to Report Free from Retaliation

These data will only be accurate if employees feel free to report injuries and illnesses without fear of retaliation. The rule therefore also contains three provisions to promote complete and accurate reporting of work-related injuries and illnesses.

- Employers must inform employees of their right to report work-related injuries and illnesses free from retaliation. This obligation may be met by posting the OSHA *Job Safety and Health — It’s The Law* worker rights poster from April 2015 or later ([www.osha.gov/Publications/poster.html](http://www.osha.gov/Publications/poster.html)).
- An employer’s procedure for reporting work-related injuries and illnesses must be reasonable and must not deter or discourage employees from reporting.
- An employer may not retaliate against employees for reporting work-related injuries or illnesses.

## Workers' Rights

Workers have the right to:

- Working conditions that do not pose a risk of serious harm.
- Receive information and training (in a language and vocabulary the worker understands) about workplace hazards, methods to prevent them, and the OSHA standards that apply to their workplace.
- Review records of work-related injuries and illnesses.
- File a complaint asking OSHA to inspect their workplace if they believe there is a serious hazard or that their employer is not following OSHA's rules. OSHA will keep all identities confidential.

- Exercise their rights under the law without retaliation, including reporting an injury or raising health and safety concerns with their employer or OSHA. If a worker has been retaliated against for using their rights, they must file a complaint with OSHA as soon as possible, but no later than 30 days.

For more information, see [OSHA's Workers page](#).

## How to Contact OSHA

For questions or to get information or advice, to report an emergency, fatality, inpatient hospitalization, amputation, or loss of an eye, or to file a confidential complaint, contact your nearest OSHA office, visit [www.osha.gov](http://www.osha.gov) or call OSHA at 1-800-321-OSHA (6742), TTY 1-877-889-5627.

**This is one in a series of informational fact sheets highlighting OSHA programs, policies or standards. It does not impose any new compliance requirements. For a comprehensive list of compliance requirements of OSHA standards or regulations, refer to Title 29 of the Code of Federal Regulations. This information will be made available to sensory-impaired individuals upon request. The voice phone is (202) 693-1999; teletypewriter (TTY) number: (877) 889-5627.**

**For assistance, contact us. We can help. It's confidential.**



**[www.osha.gov](http://www.osha.gov) (800) 321-OSHA (6742)**



U.S. Department of Labor



## Section 3: Activities



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**Activity #1 - Recordkeeping Coverage**

**Instructions:** Use the information presented; the new Recordkeeping Rule; and the information presented below.

**Group A** - determine whether or not the following employers are routinely required to keep records and why.

Group A - Establishments	Is this employer required to keep records - why?
(1) Employer has three construction establishments in NAICS 236115. Site A employs 6 people; Site B employs 2 and Site C employs 1.	
(2) Employer has three establishments. Site A is a construction establishment (SIC 236115) located in Rockford that employs 6 people; Site B is a warehouse (NAICS 236220) located in Springfield that employs 2 and Site C is a manufacturing operation (NAICS 332321) located in Chicago that employs 4.	
(3) Employer has 2 grain elevators (SIC 424510) employing a total of 50 people and 1 Health supplements retail store (NAICS 446191) employing 20 people.	
(4) Dental office (SIC 621210) that employs 20 people.	
(5) Temporary staffing firm (NAICS 561320) that employs 30 people.	
(6) Employer has a multi-site operation with two establishments in NAICS 333923. One is located in Illinois and one located in Japan. There are 500 employees at each location.	



**Group B** - determine whether or not the person described is an employee for recordkeeping purposes.

Group B - Employee coverage	Is this an employee for recordkeeping purposes?
(1) Temporary worker, supervised by employer, was injured when running a milling machine.	
(2) Construction worker, an independent contractor, was injured when building a new addition.	
(3) President of corporation who was attending a meeting in another State was injured from a fall that occurred during the meeting.	
(4) The company nurse received an injury while drawing blood as an unpaid volunteer for the American Red Cross.	
(5) The self-employed owner of a company was injured.	



**Activity #2 - Determining OSHA Recordability**

**Instructions** Determine whether or not a case must be recorded on an OSHA log. If recordable, determine how to classify it. Use the scenario described below to complete the decision-making process for determining recordability and classification.

**Scenario** At 8:05 a.m. at the Lets-Make-A-Deal Company, a machine operator was injured. The machine operator was a **temporary employee** hired from Short Timers, a personnel lending agency, but supervised by the employer. The glove he was wearing on his right hand was snagged by the tool on his drill press, drawing his right hand into the drill. The injuries to his hand included two broken fingers and numerous cuts. The doctor sutured the cuts and applied splints to his fingers.

Method for Analysis	Response
1. <b>Did a case occur?</b> A case must involve a death, illness, or injury to an <b>employee</b>	
2. <b>Is it work-related?</b> Did it result from an occupational event - one occurring in the work environment or while on company business?	
3. <b>Is it recordable?</b> Recordable categories are: <ul style="list-style-type: none"> <li>• All fatalities</li> <li>• Occupational injuries and illnesses that resulted in               <ul style="list-style-type: none"> <li>✓ days away from work, restricted work or job transfer</li> <li>✓ medical treatment</li> <li>✓ loss of consciousness.</li> </ul> </li> <li>• Significant cases diagnosed by a physician or LHCP</li> <li>• Occupational injuries and illnesses that meet special recording criteria               <ul style="list-style-type: none"> <li>✓ needlestick and sharps injuries</li> <li>✓ medical removal under OSHA standards</li> <li>✓ occupational hearing loss</li> <li>✓ work-related tuberculosis</li> </ul> </li> </ul>	
4. <b>Is it an injury or an illness?</b> <ul style="list-style-type: none"> <li>• Injuries include cases such as, but not limited to, a cut, fracture, sprain or amputation.</li> <li>• Illnesses include both acute and chronic illnesses, such as, but not limited to, a skin disease, respiratory disorder, or poisoning.</li> </ul> <b>If an illness, record and check</b> the appropriate illness category.	



**Activity #3 - To Record or not to Record**

**Instructions:** Complete this activity on OSHA recordability. Underline the keywords in the descriptions that led you to make your decision. Next to each instance, a check mark should be placed in either the column marked as “not recordable” because it was first aid or specifically excluded or “recordable” because it was medical treatment, a significant case, or met the general recording requirements. For help, use the next page in the workbook.

Incident Description	Recordable?
1. Treatment limited to cleaning, soaking, applying antiseptic and bandaging a wound.	<input type="checkbox"/> Yes <input type="checkbox"/> No
2. Medical glue was applied to close multiple lacerations.	<input type="checkbox"/> Yes <input type="checkbox"/> No
3. Butterfly bandages were applied to multiple lacerations.	<input type="checkbox"/> Yes <input type="checkbox"/> No
4. Applying non-prescription ointments on follow-up visits to prevent drying and cracking of skin.	<input type="checkbox"/> Yes <input type="checkbox"/> No
5. Second or subsequent hot and cold soaks and use of whirlpool treatments.	<input type="checkbox"/> Yes <input type="checkbox"/> No
6. Drilling a fingernail to drain the fluid and relieve the pressure.	<input type="checkbox"/> Yes <input type="checkbox"/> No
7. One-time administration of oxygen for several minutes for treatment of work-related injury/illness.	<input type="checkbox"/> Yes <input type="checkbox"/> No
8. Following a chest x-ray an employee was diagnosed with silicosis.	<input type="checkbox"/> Yes <input type="checkbox"/> No
9. One time administration of prescription medication to alleviate minor discomfort.	<input type="checkbox"/> Yes <input type="checkbox"/> No
10. Additional cleaning and application of antiseptic because the bandage became soiled.	<input type="checkbox"/> Yes <input type="checkbox"/> No
11. Medical removal as mandated by OSHA standard due to cadmium poisoning.	<input type="checkbox"/> Yes <input type="checkbox"/> No
12. Employee injures back at work and has one chiropractic adjustment.	<input type="checkbox"/> Yes <input type="checkbox"/> No
13. Loss of consciousness.	<input type="checkbox"/> Yes <input type="checkbox"/> No
14. Following an x-ray of a rib for a fracture, x-ray indicates the rib is not broken.	<input type="checkbox"/> Yes <input type="checkbox"/> No
15. Reaction to flu shot administered in-plant on a voluntary basis.	<input type="checkbox"/> Yes <input type="checkbox"/> No
16. The injury is the result of choking on a sandwich from the employee’s brown bag lunch.	<input type="checkbox"/> Yes <input type="checkbox"/> No
17. Adding drops to eye in order to dilate pupils for diagnostic purposes.	<input type="checkbox"/> Yes <input type="checkbox"/> No
18. Needlestick from sharp object contaminated with potentially infectious material.	<input type="checkbox"/> Yes <input type="checkbox"/> No
19. Employee has work-related elbow pain and is given non-prescription pain medication at prescription strength.	<input type="checkbox"/> Yes <input type="checkbox"/> No



## Recordability—First Aid vs Medical Treatment, and Significant Diagnosed Injury or Illness

1904.7

### Not Recordable

- Visits to a physician or other LHCP solely for observation or counseling.
  - Diagnostic procedures, such as x-rays and blood tests, including the administration of prescription medications solely for diagnostic purposes (e.g., eye drops to dilate pupils).
- 

### First Aid (All Inclusive)

- Using **nonprescription medications** at nonprescription strength (for medications available as both prescription and non-prescription drugs. A recommendation by a physician or other licensed health care professional\* to use a non-prescription drug at prescription strength is considered medical treatment for recordkeeping purposes).
  - Administering tetanus **immunizations** (other immunizations, such as Hepatitis B vaccine or rabies vaccine, are considered medical treatment).
  - Cleaning, flushing or soaking **wounds on the surface** of the skin.
  - Using **wound coverings** such as bandages, Band-Aids, gauze pads, or using butterfly bandages, Steri-Strips (other wound closing devices such as sutures, staples, etc. are considered medical treatment).
  - Using hot or cold **therapy**.
  - 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).
  - Using **temporary immobilization devices while transporting** an accident victim (e.g. splints, slings, neck collars, back boards, etc.).
  - 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 eyes** by irrigation, tweezers, cotton swabs or other simple means.
  - Using finger **guards**.
  - Using **non-therapeutic massages** (physical therapy or chiropractic treatment are considered medical treatment for recordkeeping purposes).
  - Drinking **fluids for relief** of heat disorders.
- 

### Medical Treatment

- All treatment that does not fall into first aid as listed above.
  - Using prescription medications or use of a non-prescription drug at prescription strength.
  - Using wound closing devices such as surgical glue, sutures, staples, etc.
  - Using any devices with rigid stays or other systems designed to immobilize parts of the body.
- 

### Significant Diagnosed Injury or Illness

- Any significant work-related disorder that is diagnosed by a physician or other licensed health care provider. Work-related cases involving cancer, chronic irreversible disease, a fractured or a cracked bone or a punctured eardrum.



## Activity #4 - Recording Number of Days

### Instructions

You must determine the number of days away, restricted or transferred as a result of the injury/illness and record on the OSHA log. Use the scenario described below to complete the decision-making process for determining days away or days restricted/transferred.

### Scenario

An assembler in the Electrical Department at the Tool-N-Die Company slipped on oil on the floor on Monday, January 14 at 7:05 a.m. just 5 minutes after starting work. Pat Green suffered a bad sprain (right leg) and went to the doctor. Pat returned to work on the 18th as directed by the doctor.

On Monday, the 21st, Pat phoned in. The leg was still a problem and Pat was returning to the doctor's office. Pat was again released by the doctor and returned to work on the 23<sup>rd</sup> with the doctor's permission, but had to stay off the foot. Pat was given restricted duty and placed on inspection work instead of on the assembly line. As an inspector, Pat could remain seated with the right leg raised on a support. Pat was able to return to regular job duties on the 30th.

### Calculations

Use the calendar below to calculate the number of days away from work and the number of the number of days which involve job restriction and/or transfer.

- Number of days away from work:
- Number of days restricted:

Sun	Mon	Tues	Wed	Thu	Fri	Sat
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			



**Activity #5 - Entering Information on the OSHA 300 Log**

**Instructions:**

Enter the following cases, for the company specified, onto the 300 Form, provided they are recordable. Use the Standard and handouts (if provided) to assist in your determination. Use calendar for the current year to calculate days.

ABC Company, manufacturer of brushing machines, NAICS 333517. Average number of employees 100 with 210,000 hours worked. You are the President; use your address, city and state.

1/3/02 John Johnson, Assembly Person, Electrical Assembly. Sprained his right wrist when he fell over a box. The doctor said that Mr. Johnson was not to use his right arm for the next two days. The employee's scheduled work requires him to only use his left arm for the next week and he was able to continue working. No days away from work. The employee's routine job functions include tasks that require the use of both arms.

1/4/02 Pat James, Electrician in Maintenance, was shot in the left shoulder by his ex-wife with a shotgun. Incident occurred on the 3<sup>rd</sup> shift. Pat was hospitalized and off work for 4 weeks, returning to full duty on 2/1/02.

1/9/02 Carrie Smith, Accounting Clerk, Accounting Department. Slipped on ice in the parking lot while leaving work to attend a business meeting. Broke her left ankle and was off work until 2/6.

1/23/02 Allen Ghouleah, Welder in Welding Department, developed flash burn both eyes while looking at weld arc. Received prescription medication. No days away from work.

1/23/02 Tim Johnson, Welder's Helper in Welding Department, foreign object struck right eye while grinding part. Received prescription medication to use for the remaining work week. Went to doctor at 7 a.m. and returned to work the next day at start of shift.

2/1/02 Shawn Hogal, Maintenance Supervisor in Maintenance Department working in boiler room. Found unconscious in boiler. Sent to hospital where he died 2/3/2. Diagnosis was death due to carbon monoxide poisoning.



2/6/02 Shirley Bandan, Assembly Operator in Canning Department, reported to supervisor that she was experiencing a pain in both wrists from repetitive motion. Plant nurse provided her with immobilizing wrists splints to use.

2/27/02 William Handwerk, temporary help from Short Timers. Assigned to work in your shipping department for two weeks. Broke left wrist from a fall off a ladder and sent to doctor at 11: 00 a.m. Unable to work for 5 days; returned 3/5 for light duty (restricted work) for 4 hours each day; released to full duty on 3/9. This person is on Short Timer's payroll and they are responsible for the worker's compensation claim; however, the employee is supervised by your company.

3/6/02 Bob Foglia, Shipping Department Forklift Operator. Broke his right large toe, when the forklift ran over his foot. Unable to walk but was able to drive the forklift. Had another employee do work for him which required walking for 4 days. No days away from work.

3/09/02 Marilyn Rose, Canning Machine Operator in Canning Department. Foreign object in right eye (not embedded). Doctor said she could return to work but Marilyn did not return for 2 days because of eye pain.





**Activity #6 - Ike on Loan**

**Instructions:**

Complete Form 301 Incident Report using your name, address, birthdate, etc., for that of the employee. Fill in completely. Be prepared to discuss the form.

Company: Ace Metal craft, 123 Elm Drive, Chicago, Ill 63029  
Metal fabricator, NAICS 332323, Employees 100  
Insured by Travelers, Policy #803955

Injured: Ike (your last name)

Occupation Mechanic's helper making \$240/week.

Date of Hire 8/13/01

Accident: 1/14/02 at 8:00 am. Ike broke back and left foot from forklift accident

**Scenario:**

Due to a backlog of work in a shipping/receiving warehouse, Ike (a heavy equipment mechanic's helper) was detailed from the maintenance facility to help out in the warehouse for 30 days. Ike's regular job as a mechanic's helper involved strenuous physical exertion, so he was glad to get the temporary assignment to lighter duty.

Upon arrival, he was asked if he could drive and if he had a state drivers license. He replied yes to both questions and was immediately assigned the duty of driving an industrial tow truck which pulled small trailers loaded with material from one place to another. The first day on the job went fine and Ike's supervisor was pleased with his work. The second day didn't go so well ....

Ike was towing a cargo of containerized hazardous material on a loading dock when the brakes failed on his tow truck. A protective barrier at the end of the dock had been removed recently in order to install some new conveyor equipment in the warehouse and had not been replaced. Ike, tow truck and all, drove right off the high end of the dock and crashed to the pavement about 12 feet below. Ike was seriously injured in the fall and had to be hospitalized. The tow truck was practically a total loss, causing a still greater backlog of processing warehouse work orders. Several containers ruptured, spilling toxic liquids into the storm sewer which drains into a small creek nearby. Ike is filing suit against his supervisor for injuries incurred.

Accident investigation findings revealed that most of the brake fluid had leaked out of the master cylinder overnight while the vehicle was parked. Ike was not asked to perform an inspection of his vehicle prior to operation.

Hospital Went to the McClean Hospital where he was put in traction. Stayed in the hospital for 3 weeks and was allowed to return to part time employment with instructions to stay off the foot. Attending physician was Dr. Ramona Appleton. Both the doctor and the hospital were at 568 Workshop Avenue, Chicago.

Report prepared by Ace Williams, Safety Supervisor, who can be reached at 123-4578.



# 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.



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 \_\_\_\_\_ (Transfer 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 \_\_\_\_/\_\_\_\_/\_\_\_\_

Public reporting burden for this collection of information is estimated to average 22 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Persons are not required to respond to the collection of information unless it displays a current valid OMB control number. If you have any comments about this estimate or any other aspects of this data collection, including suggestions for reducing this burden, contact: US Department of Labor, OSHA Office of Statistical Analysis, Room N-5614, 200 Constitution Avenue, NW, Washington, DC 20210. Do not send the completed forms to this office.



## **Activity #7 - Worker's Compensation Form Comparison**

**Instructions:** Compare this form with the OSHA 301 to determine what additional information must be added to this form in order to make it equivalent to the 301.

Compare Worker's Compensation Forms from Alaska, Idaho and Oregon. NOTE: Washington claim forms are numbered and tracked, and must be ordered from the state.



**ILLINOIS FORM 45: EMPLOYER'S FIRST REPORT OF INJURY**

*Please type or print.*

Employer's FEIN	Date of report	Case or File #	Is this a lost workday case? Yes          No
Employer's name		Doing business as	
Employer's mailing address			Employer's email address
Nature of business or service			SIC code
Name of workers' compensation carrier/admin.		Policy/Contract #	Self-insured? Yes          No
Employee's full name			Birthdate
Employee's mailing address			Employee's e-mail address
Gender Male          Female	Marital status Married          Single	# Dependents	Employee's average weekly wage
Job title or occupation			Date hired
Time employee began work	Date and time of accident	Last day employee worked	
If the employee died as a result of the accident, give the date of death.		Did the accident occur on the employer's premises? Yes          No	
Address of accident			
What was the employee doing when the accident occurred?			
How did the accident occur?			
What was the injury or illness? List the part of body affected and explain how it was affected.			
What object or substance, if any, directly harmed the employee?			
Name and address of physician/health care professional			
If treatment was given away from the worksite, list the name and address of the place it was given.			
Was the employee treated in an emergency room? Yes          No		Was the employee hospitalized overnight as an inpatient? Yes          No	
Report prepared by	Signature	Title and telephone #	Email address

Please send this form to: ILLINOIS WORKERS' COMPENSATION COMMISSION 4500 S. SIXTH ST. FRONTAGE RD SPRINGFIELD, IL 62703  
 By law, employers must keep accurate records of all work-related injuries and illness (except for certain minor injuries). Employers shall report to the Commission all injuries resulting in the loss of more than three scheduled workdays. Filing this form does not affect liability under the Workers' Compensation Act and is not incriminatory in any way. This information is confidential. IC45 8/12



ALASKA DEPARTMENT OF LABOR & WORKFORCE DEVELOPMENT  
 Division of Workers' Compensation  
 P.O. Box 115512, Juneau AK 99811-5512

**EMPLOYER REPORT OF OCCUPATIONAL INJURY OR ILLNESS  
 TO DIVISION OF WORKERS' COMPENSATION**

EMPLOYER: All questions with an asterisk (*) must be completed					
1. Employer Name*		2. Industry (NAICS) Code Required on New Claims* See <a href="http://www.census.gov/cgi-bin/sssd/naics/naicsrch">http://www.census.gov/cgi-bin/sssd/naics/naicsrch</a>			
3. Employer Contact Name & Telephone			4. FEIN*	5. UI Number	
6. Employer Mailing Address*			7. Employer Physical Address		
City		State	Zip Code		
Country, if outside the United States			Country, if outside the United States		
8. Employee Name, Last		First	Middle	Suffix	
9. Employee Mailing Address*			10. Date of Birth*		11. Date of Death
City		State	Zip Code		
			12. Employee ID Type & Number* SELECT ONE		
			Country, if outside the United States		
Blocks 13 – 20 are to be completed by the Insurer / Claims Administrator submitting this report to the Division of Workers' Compensation					
13. MTC Report* SELECT ONE		14. JCN / AWCB*	15. Claim Status* SELECT ONE	16. Claim Type* SELECT ONE	17. Late Reason Code DROP DOWN LIST
18. Full Denial Reason Code DROP DOWN LIST DROP DOWN LIST DROP DOWN LIST DROP DOWN LIST DROP DOWN LIST		19. Full Denial Effective Date			
		20. Denial Reason Narrative			
21. Policy Information Number		Effective Date		Expiration Date	
22. Insurer Name			23. Insurer FEIN		24. Insurer Type Code* SELECT ONE
25. Claim Administrator Name*			26. Claim Administrator Primary Address*		
27. Claim Admin FEIN*		28. Claim Admin Claim No.*			
			City		State Zip Code
29. Claim Admin Physical/Alternate Postal Code*					
30. Insured Name			31. Insured FEIN		32. Insured Type Code* SELECT ONE
33. Employment Status* SELECT ONE		34. Days Worked / Week	35. Wage	36. Wage Period Code DROP DOWN LIST	37. Employee Hire Date
38. Occupation / Job Title					
39. Full Wages Paid for Date of Injury Indicator			DROP DOWN		40. Employer Paid Salary in Lieu of Compensation Indicator SELECT ONE
Employer must complete either Block 41 or 42 AND Block 43:			44. Date of Injury / Illness*		45. Time of Injury / Illness
41. Accident Site Information, if not on Employer Premises Organization Name			46. Date Employer First Knew of Injury / Illness		47. Date Claim Admin Knew of Injury / Illness
Street					
City		State	Zip Code		
Country, if outside the United States			For Blocks 48, 49 & 50 see: <a href="https://www.wcio.org/Document%20Library/InjuryDescriptionTablePage.aspx">https://www.wcio.org/Document%20Library/InjuryDescriptionTablePage.aspx</a>		
42. Explain Where Injury Occurred			48. Part(s) of Body Affected*		49. Nature of Injury / Illness*
43. Accident Premises Code* SELECT ONE			50. Cause of Injury / Illness*		51. Death Result of Injury Code DROP DOWN LIST
52. Initial Last Day Worked		53. Initial Date Disability Began		54. Initial Return to Work Date	55. Return to Work Type Code* DROP DOWN LIST
56. Return to Work With Same Employer? DROP DOWN			57. Physical Restrictions Indicator DROP DOWN LIST		
58. Signature of Authorized Employer or Representative			59. Title		60. Date Signed



**WORKERS COMPENSATION – FIRST REPORT OF INJURY OR ILLNESS**

<b>General</b>	Employer (Name & Address incl. zip)		Carrier/Administrator Claim Number		Report Purpose Code	
	NAICS Code		Employer FEIN		Jurisdiction Claim No.	
	Carrier (Name, Address & Phone Number)		Policy Period		Claims Admin (Name, Address & Phone Number)	
	Agent Name & Code Number		To		<input type="checkbox"/> Check if self insured	
<b>Carrier/Claims Admin</b>	Carrier FEIN		Policy Number or Self-Insured Number		Administrator FEIN	
	Legal Name (Last, First, Middle)		Birth Date		Social Security Number	
<b>Employee</b>	Address (Incl. Zip)		Sex		Marital Status	
	Phone		No. of Dependents		Unknown	
	Wage Rate \$		Day		Month	
	<input type="checkbox"/> AM <input type="checkbox"/> PM		Date of Injury or Illness		Time Occurred	
	<input type="checkbox"/> Week <input type="checkbox"/> Other		# Days Worked/WK		# Hrs Worked per Day	
<b>Occurrence</b>	Time Employee Began Work		Date of Injury or Illness		Last Work Date	
	Employer Contact Name/Phone Number		Type of Illness/Injury		Part of Body Affected	
	Did Injury/Illness Exposure Occur on Employer's Premises?		Yes <input type="checkbox"/> No <input type="checkbox"/>		Type of Illness/Injury Code	
	Department or location where accident or illness exposure occurred		All Equipment, Materials, or Chemicals Employee Using upon Occurrence		Part of Body Affected Code	
	Specific Activity Employee Engaged in at Time of Occurrence		Work Process the Employee Was Engaged in at Time of Occurrence		Cause of Injury Code	
	How injury or illness/abnormal health condition occurred. Describe the sequence of events and include any objects or substances that directly injured the employee or made the employee ill.		Date Returned to Work		If Fatal, Date of Death	
	Were Safeguards or Safety Equipment Provided?		Yes <input type="checkbox"/> No <input type="checkbox"/>		Were they used?	
	Were they used?		Yes <input type="checkbox"/> No <input type="checkbox"/>		Initial Treatment 0 <input type="checkbox"/> No Medical Treatment 1 <input type="checkbox"/> Minor: By Employer 2 <input type="checkbox"/> Minor Clinic/Hosp 3 <input type="checkbox"/> Emergency Care 4 <input type="checkbox"/> Hospitalized – 24 hr. 5 <input type="checkbox"/> Anticipated Major Med/Lost Time	
<b>Treatment</b>	Physician/Health Care Provider (Name & Address)		Hospital (Name & Address)		Signature of Injured Employee, or Signature on File, Date	
	Date Administrator Notified		Date Prepared		Preparer's Name & Title	
<b>Other</b>	Witness to Accident (Name & Phone Number)		Preparer's Name & Title		Preparer's Phone Number	
	Date Administrator Notified		Date Prepared		Preparer's Name & Title	

Filing this report is not an admission of liability. This report shall not be evidence of any fact stated herein in any proceeding in respect of the injury, illness or death on account of which this report is made. Idaho Industrial Commission, P.O. Box 83720, Boise, ID 83720-0041 IC Form IA-1 (08/2013)



Insert self-insured employer and insurer name, address, phone number, and service company, if any.

Report of Job Injury or Illness
Workers' compensation claim

Worker

To make a claim for a work-related injury or illness, fill out the worker portion of this form and give it to your employer. If you do not intend to file a workers' compensation claim with the insurance company, do not sign the signature line. Your employer will give you a copy.

Form section for worker information including date of injury, time of injury, location, and DEPT USE fields (Emp, Ins, Occ, Nat, Part, Ev, Src, 2src).

Information ABOVE this line; date of death, if death occurred; and Oregon OSHA case log number must be released to an authorized worker representative upon request.

Form section for worker personal information including legal name, language preference, birthdate, gender, mailing address, social security number, occupation, and health insurance details.

By my signature, I am making a claim for workers' compensation benefits. The above information is true to the best of my knowledge and belief. I authorize health care providers and other custodians of claim records to release relevant medical records to the workers' compensation insurer, self-insured employer, claim administrator, and the Oregon Department of Consumer and Business Services.

Form section for worker signature and completion date.

Employer

Complete the rest of this form and give a copy of the form to the worker. Notify your workers' compensation insurance company within five days of knowledge of the claim. Even if the worker does not wish to file a claim, maintain a copy of this form.

Form section for employer information including legal business name, phone, FEIN, address, nature of business, and OSHA 300 log case number.

OSHA requirements: Employers must report work-related fatalities and catastrophes to Oregon OSHA either in person or by telephone within eight hours. In addition, employers must report any in-patient hospitalization, loss of an eye, and any amputation or avulsion that results in bone or cartilage loss to Oregon OSHA within 24 hours.

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**Activity #8 Entering Data on the OSHA 300A**

Fill out the OSHA 300 Form using the OSHA 300 log you completed in Activity #5.



OSHA's Form 300A (Rev. 01/2004)

# 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 away from work	Total number of days of job transfer or restriction
(K) _____	(L) _____

### Injury and Illness Types

Total number of . . .	(M)
(1) Injuries	_____
(2) Skin disorders	_____
(3) Respiratory conditions	_____
(4) Poisonings	_____
(5) Hearing loss	_____
(6) All other illnesses	_____

Post this Summary page from February 1 to April 30 of the year following the year covered by the form.

Public reporting burden for this collection of information is estimated to average 28 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 Statistical Analysis, Room N-3614, 200 Constitution Avenue, NW, Washington, DC 20210. Do not send the completed forms to this office.

### 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., 3715) \_\_\_\_\_

OR \_\_\_\_\_

North American Industrial Classification (NAICS), if known (e.g., 336212) \_\_\_\_\_

**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 \_\_\_\_\_  
Date \_\_\_\_\_ / \_\_\_\_ / \_\_\_\_  
Phone \_\_\_\_\_



**Activity #9 - Incidence Rates**

**ABC Company**

The maximum number of employees during the past twelve months was 120. The company controls 2,000 employees across the nation. The average number of employees was 100 for 20XX. The following injury and employment data were provided to determine the incident rate. Obtain Annual Summary Information from the last practice session assigned.

Number of Employee Hours Worked	
Year	20XX
Full time	200,000
Part time	10,000
<b>TOTAL</b>	<b>210,000</b>

SUMMARY OF WORK-RELATED INJURIES & ILLNESSES Number of Cases - Take from last practice session			
Total number of deaths (G)	Total number of cases with days away from work (H)	Total number of cases with job transfer or restrictions (I)	Total number of other recordable cases (J)

ANSWER SHEET	
Problem - ABC Manufacturing	Total Incidence Rate =                  DART Rate =



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## Activity Answer Key:

### Activity #1 - Recordkeeping Coverage

#### Group A:

1. No - partially exempt due to size
2.
  - Yes - based on both NAICS and size (size is calculated based on the total number of employees in the firm) all 3 sites must keep records.
  - If one or more of a company's establishments are classified in a non-partially-exempt industry, the company must keep OSHA injury and illness records for all of such establishments unless the company is partially exempted because of size under 1904.1
3. Grain elevator must keep records; health supplements store does not keep records because of its NAICS. 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 partially exempt.
4. No - partially exempt based on NAICS
5. Yes-temporary service agencies with more than 10 employees must keep records. However, 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 employees on a day-to-day basis
6. Yes for the establishment located in Illinois; No for the establishment in Japan because OSHA does not cover overseas operations.

#### Group B:

1. Yes, temporary workers who are supervised by the employer are employees
2. No, independent contractors (in any industry) are not employees.
3. Yes, corporation officers who receive payment for their services are considered employees
4. No, unpaid volunteers are not employees
5. No, self-employed persons, sole proprietors or partners are not employees.

### Activity #2 - Determining OSHA Recordability

1. Yes - employee was from a temporary service agency, but employer supervised on a day-to-day basis
2. Yes
3. Yes - Recordable because medical treatment required
4. Yes - Injury



### Activity #3 - To Record or not to Record

1. No
2. Yes
3. No
4. No
5. No
6. No
7. Yes
8. Yes
9. Yes
10. No
11. Yes
12. Yes
13. Yes
14. No
15. No
16. No
17. No
18. Yes
19. Yes

### Activity #4 - Recording Number of Days

- Pat was injured on the 14th. The initial day is not counted.
- Pat was not at work on the 15th, 16th and 17th, but returned on the 18<sup>th</sup>.
- The 19<sup>th</sup> and 20<sup>th</sup> were excluded as Pat had returned to work with doctor's permission.
- Pat phoned in and was not at work on the 21st and 22nd (physician approved). So at this point, Pat has been away from work for 5 days.
- Pat returns to work on the 23rd but is placed on restricted activity through the 29th, returning to regular activities on the 30th. Seven (7) days on restricted work.

### Activity #5 - Entering Information on the OSHA 300 Log

(Note: Days based on Calendar Year 2002)



# OSHA's Form 300 (Rev 01/2004) Log of Work-Related Injuries and Illnesses

**Note: You can type input into this form and save it.**  
Because the forms in this recordkeeping package are "fillable/writable" PDF documents, you can type into the input form fields and then save your inputs using the free Adobe PDF Reader. In addition, the forms are programmed to auto-calculate as appropriate.

**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 2002  
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

### Enter the number of days the injured or ill worker was

### Select the "injury" column or choose one type of illness.

(A) Case no.	(B) Employee's name	(C) Job title (e.g., Yelder)	(D) Date of injury or onset of illness (e.g., 2/10)	(E) Where the event occurred (e.g., Loading dock north end)	(F) Describe injury or illness, parts of body affected, and substance that directly injured or made person ill (e.g., Second degree burns on right forearm from acetylene torch)	(G) Death	(H) Days away from work	(I) Job transfer or restriction	(J) Other recordable cases	(K) Days away from work	(L) On job transfer or restriction	(M) Injury	(N) Skin disorder	(O) Respiratory condition	(P) Poisoning	(Q) Hearing loss	(R) All other illnesses
1	John Johnson	Assembly	1 / 3	Electrical Assembly	Fell over box and sprained Rt wrist	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	2	2	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
2	Pat James	Electrician	1 / 4	Maintenance	Wife shot left shoulder	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	27	27	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
3	Carrie Smith	Acc. Clerk	1 / 9	Accounting	Slipped on ice in parking lot and broke left ankle	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	27	27	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
4	Allen Ghoulash	Welder	1 / 23	Welding	Flash burn on both eyes from weld arc	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	4	4	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
5	Tim Johnson	Welder/Shepper	1 / 23	Welding	Foreign body in right eye while grinding	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	4	4	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
6	Shawn Hogal	Maint. Sup.	2 / 1	Maintenance	Death from inhaling carbon monoxide	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	5	5	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
7	Shirley Bandan	Assem. Op.	2 / 6	Canning	Pain in both wrists from repetitive motion	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	4	4	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
8	William Handwerk	Temp.	2 / 27	Shipping	Broke left wrist in fall from ladder	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	4	4	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
9	Bob Foglia	Forklift Op.	3 / 6	Shipping	Broke Rt large toe when forklift ran over foot	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	4	4	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<b>Page totals</b>						<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	59	10	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Public reporting burden for this collection of information is estimated to average 14 minutes per response, including time to review the instructions, search existing data sources, gathering the data, reviewing the collection of information, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this data collection, including suggestions for reducing the burden, to Washington, DC 20503-2900. Do not send this information to OSHA.

Page 1 of 1  
Injury (1) Skin disorder (2) Respiratory condition (3) Poisoning (4) Hearing loss (5) All other illnesses (6)



Activity #6 - Ike on Loan

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.



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.

Information about the employee

- 1) Full name Ike Smith
- 2) Street 123 Elm Drive
- City Chicago State Ill ZIP 63089
- 3) Date of birth 01-02-1965
- 4) Date hired 08-13-01
- 5)  Male  Female

Information about the physician or other health care professional

- 6) Name of physician or other health care professional Dr. Ramona Appleton
- 7) If treatment was given away from the workplace, where was it given? Facility McLean Hospital
- Street 518 Workshop Ave
- City Chicago State IL ZIP 63089
- 8) Was employee treated in an emergency room?  Yes  No
- 9) Was employee hospitalized overnight as an inpatient?  Yes  No

Information about the case

- 10) Case number from the Log 2002-01 (Assign the case number from the Log after you record the case.)
- 11) Date of injury or illness 01-14-02
- 12) Time employee began work 7:00  AM  PM
- 13) Time of event 8:00  PM  AM  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. Example: "climbing a ladder while carrying roofing materials"; "spraying chlorine from hand sprayer"; "daddy computer key-entry"; Towing hazardous materials

15) What happened? Tell us how the injury occurred. Example: "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." Drove off clock on to pavement

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." Example: "strained back"; "chemical burn, hand"; "carpal tunnel syndrome." Broken back and left foot

17) What object or substance directly harmed the employee? Example: "concrete floor"; "chlorine"; "radial arm saw." If this question does not apply to the incident, leave it blank. Tow truck, pavement

18) If the employee died, when did death occur? Date of death: \_\_\_/\_\_\_/\_\_\_

Completed by Ike Williams  
 Title Safety Supervisor  
 Phone 555-123-4567 Date 01-14-02

Public reporting burden for this collection of information is estimated to average 20 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this data collection, including suggestions for reducing this burden, to Washington, DC 20543. Do not send the completed form to this office.



**Activity #7 - Worker's Compensation Form Comparison**

If using the Illinois Form 45, *Employers First Report of Injury or Illness*, it must be modified to add the following information:

- Date employee hired
- Time employee began work
- Whether employee was treated in emergency room
- Name/address of treatment facility (if other than physician's office or hospital)

If using your own State Workers' Compensation form, compare the state form to the OSHA 301 form to determine additional information required

**Activity #8 Entering Data on the OSHA 300A**

OSHA's Form 300A (Rev. 01/2004)

**Summary of Work-Related Injuries and Illnesses**

*Note: You can type input into this form and save it. Because the forms in this recordkeeping package are "fillable/writable" PDF documents, you can type into the input form fields and then save your inputs using the free Adobe PDF Reader.*

Year 2002  
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
1	3	2	3
(G)	(H)	(I)	(J)

Number of Days	
Total number of days away from work	Total number of days of job transfer or restriction
59	10
(K)	(L)

Injury and Illness Types			
Total number of ... (M)			
(1) Injuries	6	(4) Poisonings	1
(2) Skin disorders	0	(5) Hearing loss	0
(3) Respiratory conditions	0	(6) All other illnesses	2

Post this Summary page from February 1 to April 30 of the year following the year covered by the form.

Public reporting burden for this collection of information is estimated to average 50 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 aspect of this data collection, contact: U.S. Department of Labor, OSHA Office of Statistical Analysis, Room N-3644, 200 Constitution Avenue, NW, Washington, DC 20210. Do not send the completed forms to this office.

**Establishment information**

Your establishment name ABC Company

Street 2020 Arlington Heights Road

City Arlington Heights State IL Zip 60645

Industry description (e.g., *Manufacture of motor truck trailers*)  
Manufacture of brushing machines

Standard Industrial Classification (SIC), if known (e.g., 3715)

OR

North American Industrial Classification (NAICS), if known (e.g., 336212)  
333517

**Employment information** (If you don't have these figures, see the Worksheet on the next page to estimate.)

Annual average number of employees 100

Total hours worked by all employees last year 210000

**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 President

Phone XXXXXXXXXX Date 1/6/03



**Activity #9 - Incidence Rates**

**SUMMARY OF WORK-RELATED INJURIES & ILLNESSES**

Number of Cases - Take from last practice session

Total number of deaths (G)	Total number of cases with days away from work (H)	Total number of cases with job transfer or restrictions (I)	Total number of other recordable cases (J)
1	3	2	3

**ANSWER SHEET**

ABC Company

Total Incidence Rate = 8.6 DART Rate: 4.8

Employee hours worked = 210,000

Number of total cases = 9

$$\text{Total Incidence Rate} = \frac{9 \times 200,000}{210,000} = \frac{1,800,000}{210,000} = 8.57$$

Number of days away, restricted or transferred cases = 5

$$\text{DART rate} = \frac{5 \times 200,000}{210,000} = \frac{1,000,000}{210,000} = 4.76$$