

Today's webinar will begin shortly. We are waiting for attendees to log on.





# OSHA's New Recordkeeping And E-Filing Requirements: Are you In Compliance



January 26, 2017

Presented by:  
**Edwin G. Foulke, Jr.**

Phone: (404) 240-4273 | Email: [efoulke@fisherphillips.com](mailto:efoulke@fisherphillips.com)

# Thank You For Your Commitment To Safety



“Winning is not a sometime thing, it is an all-time thing.”  
~ Vince Lombardi

So Is Safety!

# OSHA Recordkeeping Is More Important Than Ever

- Broaden definition of recordable workplace injuries and illnesses.
- Better tracking occupational illness and accompanying emphasis on Industrial Hygiene regulation.
- Expand concept of “*work related.*”
- Strictly limit definition of “First Aid,” and expand definition of “*Medical Treatment.*”
- Use new Reporting obligations to visit new or seldom visited work sites.

# OSHA Recordkeeping Is More Important Than Ever

- OSHA has successfully raised average penalties, and more frequently uses willful, repeat and egregious citations.
- Employers with multiple establishments or job sites present special compliance challenges and exposure for “low hanging fruit” violations, especially recordkeeping.
- Expanded coverage and new reporting requirements starting on January 1, 2015. (i.e., fatalities, hospitalizations, amputation and loss of eye) and December 1, 2016 (i.e., retaliation and electronic filing).
- OSHA will make public all reports on OSHA web site.
- OSHA’s Temporary Worker Initiative.

# OSHA Recordkeeping Is More Important Than Ever

- Many employer locations continue to improperly complete OSHA 300s and related materials.
- Many employers unnecessarily record first aid incidents.
- No coordination between workers comp and OSHA recordkeeping.
- Employers do not audit and correct documents.
- Injury records are used to measure and “drive” employer safety and health programs in a way the process was not intended to do.
- More employers selecting contractors, suppliers, and vendors in part based on injury and illness records. (ISN, Browz and PICS)
- January 18, 2017 ongoing obligation to make and maintain accurate records (5 year lookback)

# Recordkeeping Action Points Going Forward

- Review Employee Injury and Illness Reporting Policy
- Get ahead of the curve: Audit Injury & Illness Records on a routine basis.
- Properly correct logs.
- Train site personnel on proper recordkeeping.
- Review other related recordkeeping areas, such as accident/root cause analysis and safety programs.
- Develop measurements of safety & health programs that do not rely on injury and illness rates (leading indicators).
- Review safety incentive programs – stop focusing on lagging indicators.
- Prepare for OSHA Recordkeeping inspections.

# Auditing Your Recordkeeping Process

- Determine internally everyone who maintains injury and illness records and their “business” reasons for doing so.
  - OSHA
  - First Aid and FMLA
  - Workers Comp
  - STD/LTD



# Auditing Your Recordkeeping Process

- Consolidate injury and illness recordkeeping into one system (to the extent possible).
- If the corporation maintains a corporate-wide log and analysis, take steps to protect this information (to the extent possible).
- Review site collection procedures and determine whether it is feasible to enter data electronically at every establishment or job site, and alternative methods.

# Auditing Your Recordkeeping Process

- Self-audit logs for five (5) years and make corrections where errors are found. In the audit, utilize certain workers compensation or other appropriate records to check to see if some recordable injuries were overlooked. Utilize the process which allows such changes to lawfully be made.

# Auditing Your Recordkeeping Process

- Determine which State-OSHA plans maintain any additional recordkeeping requirements or different emphasis so as to maintain a consistent corporate approach.
- Prepare for increased focus on MSD's.

# OSHA's New Electronic Filing and Whistleblower/Retaliation Requirements

- Published – May 11, 2016
- Effective Dates:
  - December 1, 2016 – Whistleblower provision (1904.36) and Injury and Illness reporting procedure (1904.35)
  - January 1, 2017 – Phase in of electronic filing requirements (1904.41) – will post date on OSHA public website

# Basic OSHA Employee Reporting Protections

- You must inform each employee of how to report an injury or illness;
- Must set up a way for employees to report work-related injuries and illnesses promptly; and
- Must tell each employee how to report work-related injuries and illnesses to you.



# Actual Rule

- What must I do to make sure that employees report work-related injuries and illnesses to me?
- (i) You 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.

# OSHA'S Interpretation Of Violations Of The Rule

- Maintain incentive programs which reward employees for experiencing no recordable workplace injuries and illnesses;
- Maintain rules requiring disciplining employees who do not immediately report workplace injuries; and
- Automatically conduct post-accident drug testing of injured employees.
- **EMPHASIZED IN OCT 19 MEMO: Disproportionate discipline against injured employees.**

## OSHA'S Initial Interpretation Of The Rule

- To strike the appropriate balance here, drug testing policies should limit post-incident testing to situations in which employee drug use is likely to have contributed to the incident, and for which the drug test can accurately identify impairment caused by drug use.
- Employers need not specifically suspect drug use before testing, but there should be a reasonable possibility that drug use by the reporting employee was a contributing factor to the reported injury or illness in order for an employer to require drug testing. In addition, drug testing that is designed in a way that may be perceived as punitive or embarrassing to the employee is likely to deter injury reporting.



## OSHA: Post-Accident Drug Test Without “*Objectively Reasonable Basis For Testing*” Would Be A Violation Of The New Rule

- ✓ 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.”
  - 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;
  - 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.

# Exceptions

- DOT mandated testing is exempt.
- OSHA's interpretation exempts post injury testing conducted pursuant to State Workers Comp Drug Free Workplace Programs (DFWPs) or related insurer plans, but since most of these programs are voluntary, we'd like OSHA to confirm its position that:

*if an employer conducts drug testing to comply with the requirements of a state or federal regulation, the employer's motive would not be retaliatory and the final rule would not prohibit such testing. This is doubly true because Section 4(b)(4) of the Act prohibits OSHA from superseding or affecting workers' compensation laws.*

# Possible Steps?

- Ensure OSHA Poster with employee reporting rights is posted and consider separate injury-related and non-injury-related incident reporting.
- Eliminate word “*immediately*” from injury reporting policies.
- Possible other occasions to trigger automatically testing?
- Move away from incentivizing Lagging indicators.
- Check to see if it looks as if you discipline for safety when an injury occurs?

# Purpose Of The Recordkeeping 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

# Subpart B - Scope

## 1904.1 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, in-patient hospitalization, amputations and loss of eye 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)
- Appendix A currently lists 80 industries that are exempt from OSHA recordkeeping under 1904.

# Subpart B - Scope

## 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

# Subpart C – Forms & 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

# Subpart C – Forms & Recording Criteria

## 1904.4 Recording Criteria

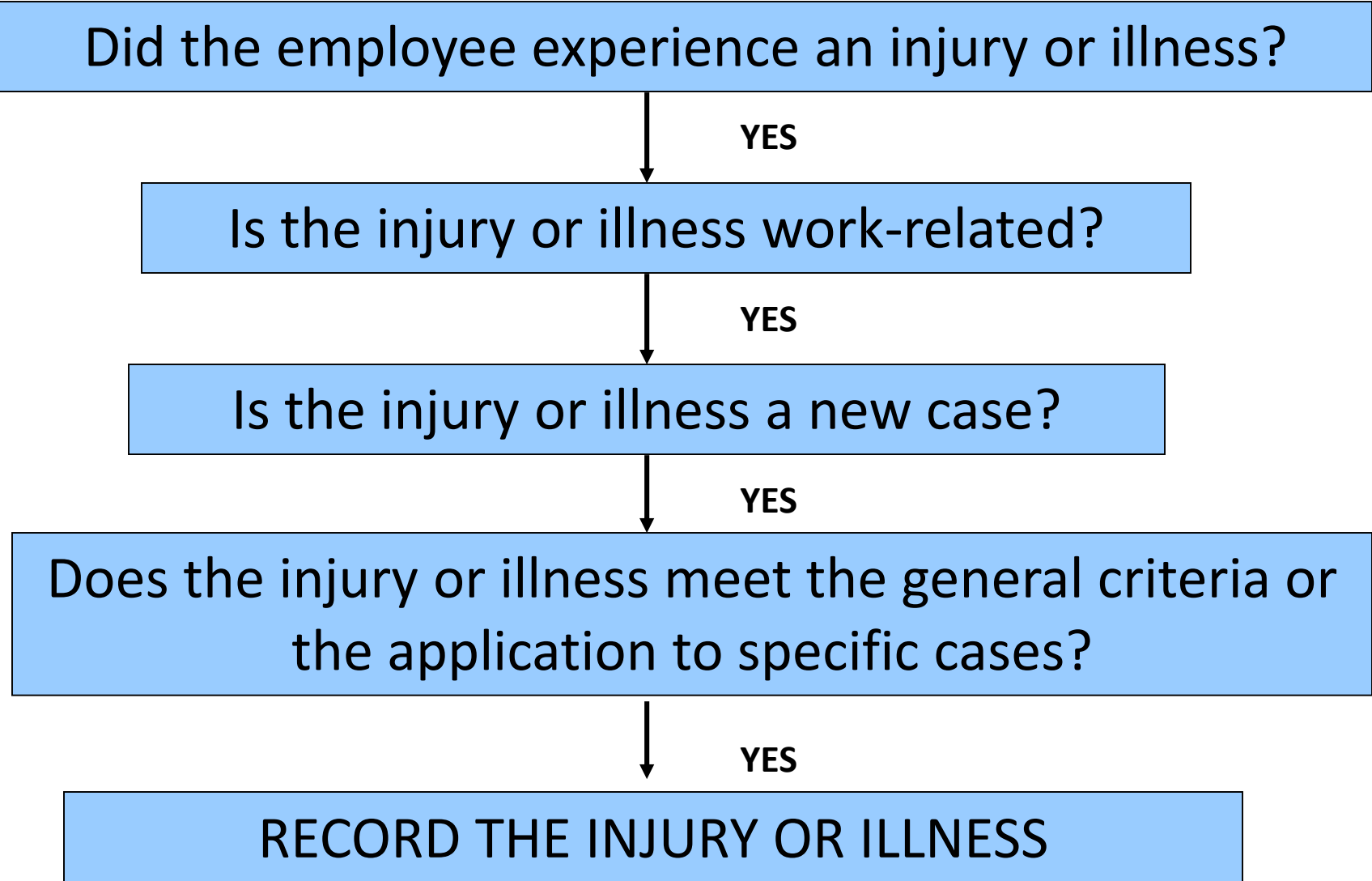
- Who is responsible to record the injury or illness?
  - The employer actually supervising the employee is typically required to record the injury, so most temporary providers do not.
  - Many individual “Independent Contractors” are actually misclassified and are “employees.”



# Subpart C – Forms & Recording Criteria

## 1904.4 Recording Criteria

- Covered employers must record each injury, illness or fatality 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,
  - follow the recordkeeping 5-Step Process.



# OSHA Injury & Illness Recordkeeping: 5-Step Process

Step 1: Did the employee experience an illness or injury?

Definition [1904.46]

An injury or illness is an **abnormal condition or disorder**. Injuries include cases such as, but not limited to, a cut, fracture, sprain, or amputation. Illnesses include both acute and chronic illnesses, such as, but not limited to, a skin disease, respiratory disorder, or poisoning.

# OSHA Injury & Illness Recordkeeping: 5-Step Process

Step 2: Is the injury or illness work-related?

## Determination of Work-Relatedness [1904.5]

**Work-relatedness** is presumed for injuries and illnesses resulting from events or exposures occurring in the **work environment** unless an exception specifically applies.

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.

# OSHA Injury & Illness Recordkeeping: 5-Step Process

Step 2: Is the injury or illness work-related?

## Work Environment [1904.5]

- 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.

# OSHA Injury & Illness Recordkeeping: 5-Step Process

Step 2: Is the injury or illness work-related?

## Exceptions [1904.5]

- Present as a member of the general public
- Symptoms arising in work environment that are solely due to non-work-related events 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

# OSHA Injury & Illness Recordkeeping: 5-Step Process

Step 2: Is the injury or illness work-related?

Exceptions [1904.5]

- Eating, drinking or preparing food or drink for personal consumption
- 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

# OSHA Injury & Illness Recordkeeping: 5-Step Process

Step 2: Is the injury or illness work-related?

Exceptions [1904.5]

- Common cold or flu (pandemics may be different!)
- 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



# OSHA Injury & Illness Recordkeeping: 5-Step Process

## Step 2: Is the injury or illness work-related?

### Travel Status [1904.5]

- 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
- Not recordable if employee is out of United States and injury or illness occurs



# OSHA Injury & Illness Recordkeeping: 5-Step Process

Step 2: Is the injury or illness work-related?

## Work At Home [1904.5]

- Injury 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
  - Are directly related to the performance of work rather than the general home environment.

# OSHA Injury & Illness Recordkeeping: 5-Step Process

Step 3: Is the injury or illness a new case?

## New Case [1904.6]

- 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)

# OSHA Injury & Illness Recordkeeping: 5-Step Process

Step 4: Does the injury or illness meet the general criteria or the application to specific cases?

## General Recording Criteria [1904.7]

- 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

# OSHA Injury & Illness Recordkeeping: 5-Step Process

Step 4: Does the injury or illness meet the general criteria or the application to specific cases?

## General Recording Criteria [1904.7]

- An injury or illness is recordable if it results in one or more of the following:
  - Medical treatment beyond first aid
  - Loss of consciousness
  - Significant injury or illness diagnosed by a PLHCP

# OSHA Injury & Illness Recordkeeping: 5-Step Process

Step 4: Does the injury or illness meet the general criteria or the application to specific cases?

## Days Away Cases [1904.7(b)(3)]

- 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



# OSHA Injury & Illness Recordkeeping: 5-Step Process

Step 4: Does the injury or illness meet the general criteria or the application to specific cases?

## Days Away Cases [1904.7(b)(3)]

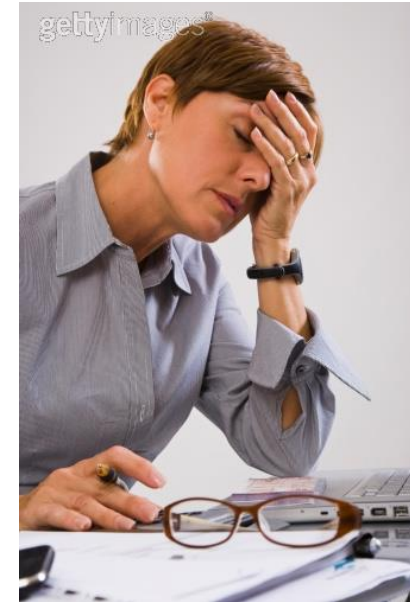
- Day counts (days away or days restricted)
  - Count the number of calendar days the employee was unable to work (include weekend days, holidays, vacation days, etc.)
  - Cap day count at 180 days away and/or days restricted
  - May stop day count if employee leaves company for a reason unrelated to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

# OSHA Injury & Illness Recordkeeping: 5-Step Process

Step 4: Does the injury or illness meet the general criteria or the application to specific cases?

## Restricted Work Cases [1904.7(b)(4)]

- 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





# OSHA Injury & Illness Recordkeeping: 5-Step Process

Step 4: Does the injury or illness meet the general criteria or the application to specific cases?

## Restricted Work Cases [1904.7(b)(4)]

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

# OSHA Injury & Illness Recordkeeping: 5-Step Process

Step 4: Does the injury or illness meet the general criteria or the application to specific cases?

## Restricted Work Cases [1904.7(b)(4)]

- Not recordable under 1904.7(b)(4) as a restricted work case if:
  - Employee experiences minor musculoskeletal discomfort,
  - Healthcare professional determines employee is fully able to perform all of his or her routine job functions, and
  - Employer assigns work restriction to employee for the purpose of preventing a more serious condition from developing.

# OSHA Injury & Illness Recordkeeping: 5-Step Process

Step 4: Does the injury or illness meet the general criteria or the application to specific cases?

## Job Transfer [1904.7(b)(4)]

- 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

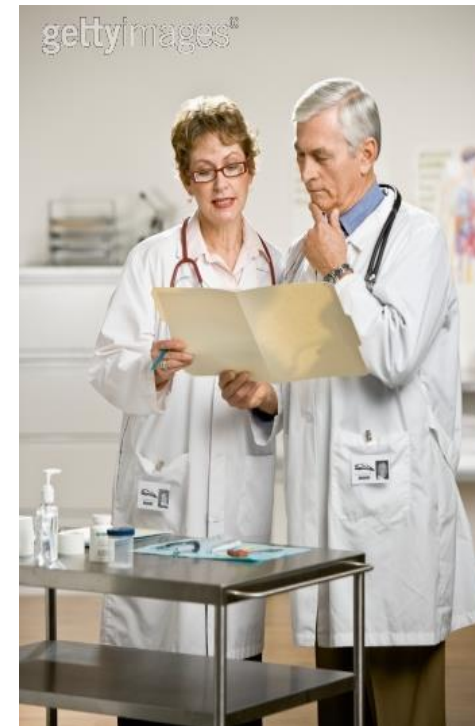


# OSHA Injury & Illness Recordkeeping: 5-Step Process

Step 4: Does the injury or illness meet the general criteria or the application to specific cases?

## Medical Treatment [1904.7(b)(5)]

- 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



# OSHA Injury & Illness Recordkeeping: 5-Step Process

Step 4: Does the injury or illness meet the general criteria or the application to specific cases?

## First Aid [1904.7(b)(5)]

- Using non-prescription medication at non-prescription strength
- Tetanus immunizations
- Cleaning, flushing, or soaking surface wounds



# OSHA Injury & Illness Recordkeeping: 5-Step Process

Step 4: Does the injury or illness meet the general criteria or the application to specific cases?

## First Aid [1904.7(b)(5)]

- Wound coverings, butterfly bandages, Steri-Strips
- Hot or cold therapy
- Non-rigid means of support
- Temporary immobilization device used to transport accident victims



# OSHA Injury & Illness Recordkeeping: 5-Step Process

Step 4: Does the injury or illness meet the general criteria or the application to specific cases?

## First Aid [1904.7(b)(5)]

- Drilling of fingernail or toenail, draining fluid from blister
- Eye patches
- Removing foreign bodies from eye using irrigation or cotton swab



# OSHA Injury & Illness Recordkeeping: 5-Step Process

Step 4: Does the injury or illness meet the general criteria or the application to specific cases?

## First Aid [1904.7(b)(5)]

- 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



# OSHA Injury & Illness Recordkeeping: 5-Step Process

Step 4: Does the injury or illness meet the general criteria or the application to specific cases?

## Loss of Consciousness [1904.7(b)(6)]

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



# Significant Diagnosis of Injuries and Illnesses Cases

- If work-related, always record
  - Cancer
  - Chronic irreversible disease
  - Fractured bone
  - Punctured eardrum

# OSHA Injury & Illness Recordkeeping: 5-Step Process

Step 4: Does the injury or illness meet the general criteria or the application to specific cases?

## Bloodborne Pathogens [1904.7(b)(8)]

- Record all work-related needlesticks and cuts from sharp objects that are contaminated with another person's blood or other potentially infectious materials (includes human bodily fluids, tissues and organs; other materials infected with HIV or HBV such as laboratory cultures)

# OSHA Injury & Illness Recordkeeping: 5-Step Process

Step 4: Does the injury or illness meet the general criteria or the application to specific cases?

## Bloodborne Pathogens [1904.8]

- Record splashes or other exposures to blood or other potentially infectious material if it results in diagnosis of a bloodborne disease or meets the general recording criteria

# OSHA Injury & Illness Recordkeeping: 5-Step Process

Step 4: Does the injury or illness meet the general criteria or the application to specific cases?

## Medical Removal [1904.9]

- 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

# OSHA Injury & Illness Recordkeeping: 5-Step Process

Step 4: Does the injury or illness meet the general criteria or the application to specific cases?

## Hearing Loss [1904.10]

- Must record all work-related hearing loss cases where:
- Employee has experienced a Standard Threshold Shift (STS)<sup>1</sup>, and

<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.

# OSHA Injury & Illness Recordkeeping: 5-Step Process

Step 4: Does the injury or illness meet the general criteria or the application to specific cases?

## Hearing Loss [1904.10]

- 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
- Must compute the STS in accordance with OSHA's noise standard, 1910.95

# OSHA Injury & Illness Recordkeeping: 5-Step Process

Step 4: Does the injury or illness meet the general criteria or the application to specific cases?

## Hearing Loss [1904.10]

- 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



# OSHA Injury & Illness Recordkeeping: 5-Step Process

Step 4: Does the injury or illness meet the general criteria or the application to specific cases?

## Tuberculosis [1904.11]

- Record a case where an employee is exposed at work to someone with a known case of active tuberculosis and subsequently develops a TB infection

# OSHA Injury & Illness Recordkeeping: 5-Step Process

Step 4: Does the injury or illness meet the general criteria or the application to specific cases?

## Tuberculosis [1904.11]

- 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

# OSHA Injury & Illness Recordkeeping: 5-Step Process

Step 4: Does the injury or illness meet the general criteria or the application to specific cases?

## Forms [1904.29]

- 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*



# OSHA Injury & Illness Recordkeeping: 5-Step Process

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 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 CHECK ONLY ONE box for each case based on the most serious outcome for that case:				Enter the number of days the injured or ill worker was:		Check the "Injury" column or choose one type of illness:					
(A) Case no.	(B) Employee's name	(C) Job title (e.g., Welder)	(D) Date of injury or onset of illness	(E) Where the event occurred (e.g., Loading dock north end)	(F) Describe injury or illness, parts of body affected, and object/substance that directly injured or made person ill (e.g., Second degree burns on right forearm from acetylene torch)	Remained at Work				Away from work (K)	On Job transfer or restriction (L)	(M)					
						Death (G)	Days away from work (H)	Job transfer or restriction (I)	Other recordable cases (J)			Injury (1)	Skin disease (2)	Respiratory condition (3)	Poisoning (4)	Hearting/limb (5)	All other illnesses (6)
			month/day			<input type="checkbox"/>	<input type="checkbox"/>	<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"/>			<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"/>			<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"/>			<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"/>			<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"/>			<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"/>			<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"/>			<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"/>			<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"/>			<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"/>			<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"/>			<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"/>			<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"/>			<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"/>			<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"/>			<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"/>			<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"/>			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Page totals</b>												Injury (1)	Skin disease (2)	Respiratory condition (3)	Poisoning (4)	Hearting/limb (5)	All other illnesses (6)

Public reporting burden for this collection of information is estimated to average 14 minutes per response, including time to review the instructions, search and gather the data needed, and complete and review the collection of information. Persons are not required to respond to the collection of information unless it displays a currently valid OMB control number. If you have any comments about these estimates or any other aspects of this data collection, contact: US Department of Labor, OSHA Office of Statistical Analysis, Room N-3644, 200 Constitution Avenue, NW, Washington, DC 20210. Do not send the completed forms to this office.

# OSHA Injury & Illness Recordkeeping: 5-Step Process

## OSHA's Form 301 Injury and Illness Incident Report

**Attention:** This form contains information relating to employee health and must be used in a manner that protects the confidentiality of employees to the extent possible while the information is being used for occupational safety and health purposes.



U.S. Department of Labor  
Occupational Safety and Health Administration

Form approved OMB no. 1218-0176

This *Injury and Illness Incident Report* is one of the first forms you must fill out when a recordable work-related injury or illness has occurred. Together with the *Log of Work-Related Injuries and Illnesses* and the accompanying *Summary*, these forms help the employer and OSHA develop a picture of the extent and severity of work-related incidents.

Within 7 calendar days after you receive information that a recordable work-related injury or illness has occurred, you must fill out this form or an equivalent. Some state workers' compensation, insurance, or other reports may be acceptable substitutes. To be considered an equivalent form, any substitute must contain all the information asked for on this form.

According to Public Law 91-596 and 29 CFR 1904, OSHA's recordkeeping rule, you must keep this form on file for 5 years following the year to which it pertains.

If you need additional copies of this form, you may photocopy and use as many as you need.

Completed by \_\_\_\_\_  
Title \_\_\_\_\_  
Phone (\_\_\_\_) \_\_\_\_\_-\_\_\_\_ Date \_\_\_\_/\_\_\_\_/\_\_\_\_

### Information about the employee

- 1) Full name \_\_\_\_\_
- 2) Street \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ ZIP \_\_\_\_\_
- 3) Date of birth \_\_\_\_/\_\_\_\_/\_\_\_\_
- 4) Date hired \_\_\_\_/\_\_\_\_/\_\_\_\_
- 5)  Male  
 Female

### Information about the physician or other health care professional

- 6) Name of physician or other health care professional \_\_\_\_\_
- 7) If treatment was given away from the worksite, where was it given?  
Facility \_\_\_\_\_  
Street \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ ZIP \_\_\_\_\_
- 8) Was employee treated in an emergency room?  
 Yes  
 No
- 9) Was employee hospitalized overnight as an in-patient?  
 Yes  
 No

### Information about the case

- 10) Case number from the Log \_\_\_\_\_ (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. *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-3644, 200 Constitution Avenue, NW, Washington, DC 20210. Do not send the completed forms to this office.



# OSHA Injury & Illness Recordkeeping: 5-Step Process

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 _____	(4) Poisonings _____
(2) Skin disorders _____	(5) Hearing loss _____
(3) Respiratory conditions _____	(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 38 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 OBoS 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 \_\_\_\_\_

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 \_\_\_\_\_

( ) \_\_\_\_\_ / /

Phone \_\_\_\_\_ Date \_\_\_\_\_

# OSHA Injury & Illness Recordkeeping: 5-Step Process

Step 4: Does the injury or illness meet the general criteria or the application to specific cases?

## Forms [1904.29]

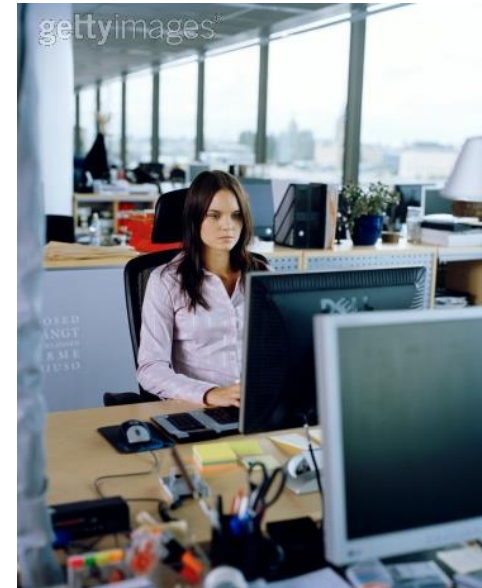
- Employers must enter each recordable case on the forms within 7 calendar days of receiving information that a recordable case occurred.
- An equivalent form has the same information, is as readable and understandable, and uses the same instructions as the OSHA form it replaces.

# OSHA Injury & Illness Recordkeeping: 5-Step Process

Step 4: Does the injury or illness meet the general criteria or the application to specific cases?

## Forms [1904.29]

- Forms can be kept on a computer as long as they can be produced when they are needed (i.e., meet the access provisions of 1904.35 and 1904.40)





# OSHA Injury & Illness Recordkeeping: 5-Step Process

Step 4: Does the injury or illness meet the general criteria or the application to specific cases?

## Privacy Protections [1904.29]

- 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



# OSHA Injury & Illness Recordkeeping: 5-Step Process

Step 4: Does the injury or illness meet the general criteria or the application to specific cases?

## Privacy Protections [1904.29]

- 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

# OSHA Injury & Illness Recordkeeping: 5-Step Process

Step 4: Does the injury or illness meet the general criteria or the application to specific cases?

## Privacy Protections [1904.29]

- Privacy concern cases are:
  - 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

# OSHA Injury & Illness Recordkeeping: 5-Step Process

Step 4: Does the injury or illness meet the general criteria or the application to specific cases?


## Privacy Protections [1904.29]

- 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 Injury & Illness Recordkeeping: 5-Step Process

Step 5: If “yes” to each of steps 1-4, then injury or illness is recordable.

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

Year 20 

**U.S. Department of Labor**  
Occupational Safety and Health Administration  
Form approved OMB no. 1218-0178

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

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	_____	(4) Poisonings	_____
(2) Skin disorders	_____	(5) Hearing loss	_____
(3) Respiratory conditions	_____	(6) All other illnesses	_____

**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 \_\_\_\_\_  
( ) \_\_\_\_\_ / /  
Phone \_\_\_\_\_ 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 38 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-3644, 200 Constitution Avenue, NW, Washington, DC 20210. Do not send the completed forms to this office.

## Subpart D – Other Requirements

- 1904.30 Multiple business establishments
- 1904.31 Covered employees
- 1904.32 Annual summary
- 1904.33 Retention and updating
- 1904.34 Change of ownership
- 1904.35 Employee involvement
- 1904.36 Discrimination
- 1904.37 State plans
- 1904.38 Variances

# Subpart D – Other Requirements

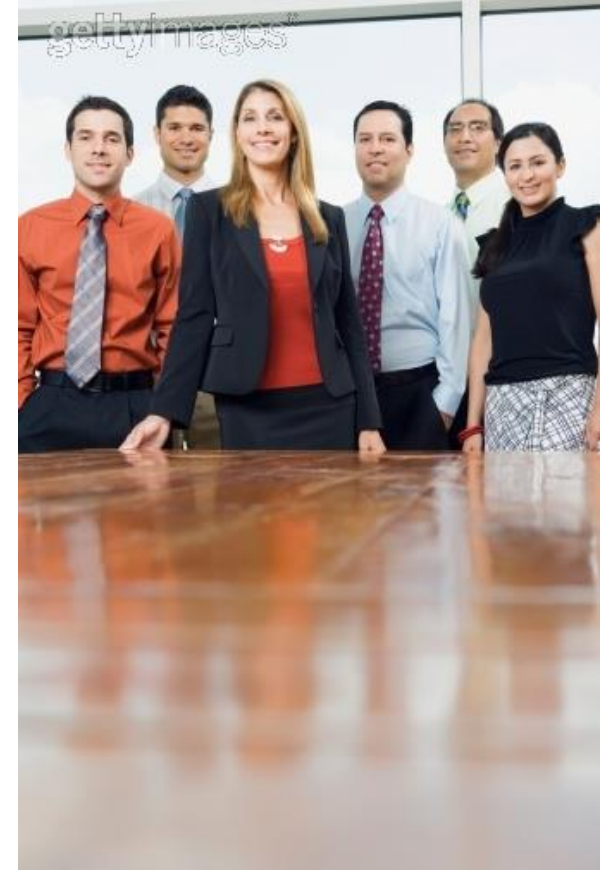
## 1904.30 Multiple Establishments

- 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 (less than 1 year)
- Each employee must be linked to one establishment

# Subpart D – Other Requirements

## 1904.30 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







# Subpart D – Other Requirements 1904.32 Annual Summary

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

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. 1218-0156

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 . . .			
(1) Injuries	_____	(4) Poisonings	_____
(2) Skin disorders	_____	(5) Hearing loss	_____
(3) Respiratory conditions	_____	(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 58 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 US Department of Labor, OSHA Office of Statistical Analysis, Room N-3164, 200 Constitution Avenue, NW, Washington, DC 20220. 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., 336213) \_\_\_\_\_

**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 \_\_\_\_\_

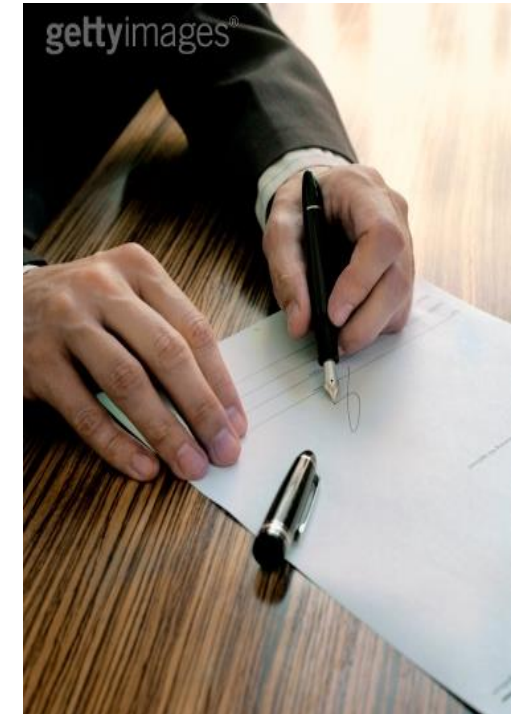
(\_\_\_\_\_) / / \_\_\_\_\_

Print Name \_\_\_\_\_ Date \_\_\_\_\_

# Subpart D – Other Requirements

## 1904.32 Annual Summary

- A company executive must certify the 300A summary:
  - An owner of the company
  - An officer of the corporation
  - The highest ranking company official working at the establishment
  - 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



# Subpart D – Other Requirements

## 1904.34 Retention and Updating

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



# Subpart D – Other Requirements

## 1904.35 Employee Involvement

- Must provide limited access to injury and illness records to employees, former employees and their personal and authorized 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.

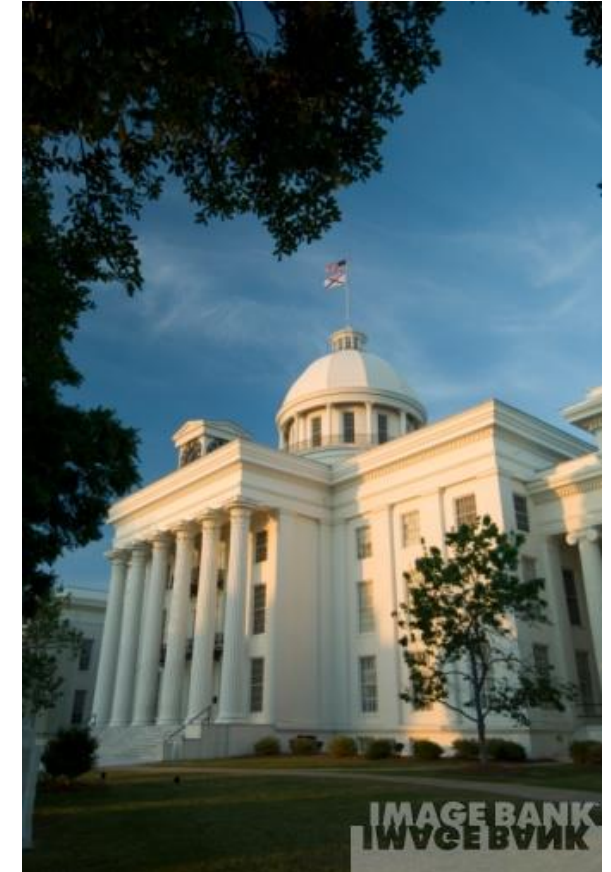
# Subpart D – Other Requirements

## 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 has been modified to reflect these concepts

# Subpart E – Reporting Information To The Government

- 1904.39 Fatality and catastrophe reporting
- 1904.40 Access for Government representatives
- 1904.41 OSHA Survey
- 1904.42 BLS Survey



# Subpart E – Reporting To The Government

## 1904.39 Fatality/Catastrophe Reporting

- Currently report orally any work-related fatality or incident involving in-patient hospitalizations, amputations or loss of eye injuries
  - Fatalities within 8 hours
  - Hospitalization, amputation or loss of eye within 24 hours
- Do not need to report highway or public street motor vehicle accidents (outside of a construction zone)
- Do not need to report commercial airplane, train, subway or bus accidents

# Subpart E – Reporting To The Government

## 1904.40 Providing Records

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







## Final Questions

“Judge a man by his questions, rather than his answers.”

~ Voltaire



Fisher & Phillips LLP  
is dedicated exclusively to  
representing employers in the practice of  
employment, labor, benefits, OSHA, and immigration law  
and related litigation.

**THESE MATERIALS AND THE INFORMATION PROVIDED DURING THE PROGRAM  
SHOULD NOT BE CONSTRUED AS LEGAL ADVICE OR AS CRITICAL OF THE  
CURRENT OR PAST ADMINISTRATIONS.**

# Be Safe!



## REMEMBER:

Bad decisions make good stories and usually the evening news.



# Thank You

Presented by:

**Edwin G. Foulke, Jr.**

Phone: (404) 240-4273 | Email: [efoulke@fisherphillips.com](mailto:efoulke@fisherphillips.com)