OSHA Recordkeeping Update

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Topics

- New Final Rule
- Pending Final Rule
- Proposed Rule
- Frequently Asked Questions
- Information Access Rights
- Recordkeeping Resources
Occupational Injury and Illness Recording and Reporting Requirements – NAICS Update and Reporting Revisions 29 CFR Part 1904.39

• Vol. 79 No. 181, Final Rule Date September 18, 2014.

• OSHA expanded the list of severe injuries & illnesses that covered employers must report and revised the requirements for reporting incidents. (Covered means covered by the OSH Act).

• OSHA updated the list of industries who are partially exempt from routinely keeping OSHA records.
Final Rule

Starting January 1, 2015, **ALL** employers **must report** the following to OSHA:

- All work-related **fatalities** within **8 hours** (no change)
- All work-related **in-patient hospitalizations** of one or more employees within **24 hours** (had been three or more)
- All work-related **amputations** within **24 hours** (new)
- All work-related **losses of an eye** within **24 hours** (new)
OSHA's NEW REPORTING EXPLAINED

WORKER IS INJURED

WAS IT FATAL?

NO

WAS THE WORKER ADMITTED TO A HOSPITAL?

NO

WAS THERE AN AMPUTATION?

NO

DID SOMEONE LOSE AN EYE?

NO

REPORT TO OSHA WITHIN 8 HOURS

YES

REPORT TO OSHA WITHIN 24 HOURS

NO REPORT REQUIRED

HOW DO I REPORT?

Call 1-800—321-OSHA (6742) or your local OSHA office
Report online at www.osha.gov/report_online
How can employers report to OSHA?

- By telephone to the nearest OSHA office during normal business hours.

- By telephone to the 24-hour OSHA hotline (1-800-321-OSHA or 1-800-321-6742).

- Online: OSHA is developing a new means of reporting events electronically, which will be available soon at www.osha.gov/report_online.
Final Rule

1. Employer Reports Incident to Area Office
2. Information Entered in Data Base for Triage to Determine Outcome of Enforcement Action
3. Triage Outcome of Enforcement Action
   - Inspection
   - Rapid Response Investigation
From the Preamble of Vol. 79 No. 181

- Estimated this rule will lead to 117,000 reports to OSHA per year
- The database will be used by OSHA to target high hazard industries
- OSHA will not inspect all reports, OSHA will use other interventions to contact employers about protective measures
What Has Been Reported So Far Nationwide (Federal Plan States):

• Since January 1, 2015
  – Number of Reports = 8200
    • 37% resulted in an Inspection
    • 45% resulted in a Rapid Response Investigation
    • 18% needed no action for various reasons
What Has Been Reported So Far in Region VI (Federal Plan States):
• January 1 to the week ending August 10, 2015
  – 1,765 Employer Reports
  • 28% resulted in Inspections
  • 60% resulted in a Rapid Response Investigation
  • 12% No jurisdiction/not reportable, exemptions etc.
What Has Been Reported So Far in Region VI (within OSHA’s jurisdiction):

- January 1 to the week ending August 10, 2015
  - 103 Fatalities
  - 4 Catastrophes
  - 1,112 Hospitalizations
  - 331 Amputations
  - 2 Loss of eye
  - 28 Failures to report event
What Has Been Reported So Far:

- Major Industries Represented
  - Manufacturing = 33%
  - Construction = 15%
  - Transportation = 9%
  - All other industries = 43%
Final Rule

Changes to Who Keeps Records

- Industries classified by North American Industry Classification System (NAICS) rather than by Standard Industrial Classification (SIC).
- Updated the list of industries exempt from the requirement to routinely keep OSHA injury and illness records
  - Relatively low occupational injury and illness rates.
- Firms with 10 or fewer employees in the previous year are still exempt from keeping OSHA records but are NOT exempt from the new reporting requirements.
Changes to Who Keeps Records

- 63 new industries, categorized by 6 digit NAICS code, are now required to keep OSHA injury and illness logs.
- 69 new industries, categorized by 6 digit NAICS code, are newly partially exempt from keeping OSHA injury and illness logs.
Definitions to Note

- In-patient hospitalization – Formal admission to the in-patient service of a hospital or clinic for care or treatment.

  - Being admitted to an emergency room and then released is not reportable. The injured worker must be formally admitted to the in-patient service of the hospital to be a reportable event.
Definitions to Note

- Amputation – The traumatic loss of a limb or other appendage, that has been severed, cut off, amputated, (either completely or partially); fingertip amputations with or without bone loss; medical amputations resulting from irreparable damage; amputations of body parts that have since been reattached. Amputations do not include: avulsions, enucleations, degloving, scalpings, severed ears, broken/chipped teeth.
Clarifications

• Loss of an eye is the physical removal of the eye. This includes enucleation and evisceration.
  ➢ Loss of sight without the physical removal of the eye is not reportable under the requirements of section 1904.39.
Pending Final Rule

Improve Tracking of Workplace Injuries and Illnesses (Electronic Data Collection)

• For 29 CFR Parts 1904 and 1952 [State-Plans]
• Updates and modernizes reporting system for a more efficient and timely collection of data
• Improves the accuracy and availability of the relevant records and statistics
Pending Final Rule

Improve Tracking of Workplace Injuries and Illnesses (Electronic Data Collection)

- Employers required to keep records under Part 1904 and who have 250 or more employees send OSHA data quarterly and then send the summary.

- OSHA issued a proposed rule on Nov. 8, 2013 (Vol.78 No. 217). The pending final rule is set for August, 2015.

- Status:
  - Costs and benefits still under analysis
  - Analysis of risks still under analysis
Proposed Rule

Clarification of Employer's Continuing Obligation to Make and Maintain Accurate Records of Each Recordable Injury and Illness

- Proposes to clarify an ongoing duty that records must be created, maintained accurately, kept, and made available for the year in which illness/injury occurred
- Duty does not expire with failure to create records
- **Status:** No deadlines established at this time
Frequently Asked Questions

• Is (description of event) recordable?
• Where do I get the unique number for my OSHA Log?
• How do I send you my OSHA Logs?
• A temporary employee was injured at my company. Whose log is the injury recorded on?

   And the new trending question is,

• I need to send my OSHA Logs to a Third Party Safety Verification company. How do I get my OSHA Log information?
Review of Information Regarding Access Rights To Records
Providing Access to the OSHA Forms 300 and 301 to persons other than governmental representatives, employees, former employees, or authorized representatives, 1904.29(b)(10)

- The employee name and other personally identifiable information must be hidden except for the following cases;
Exceptions in 1904.29(b)(10)

• May be disclosed to an auditor or consultant hired by the employer to evaluate the safety and health program.

• To the extent necessary for processing a claim for worker’s compensation or other insurance benefit.

• To a public health authority or law enforcement agency for uses and disclosures for which consent is not…required under 45 CFR 164.512.
Employee Involvement 1904.35

✓ The employer must set up a way
  ✓ for employees to report injuries and illnesses and
  ✓ inform employees of the means to report them.

✓ Employees, former employees, personal representatives, and authorized representatives have the right to access the OSHA injury and illness records with some limitations.
Definitions related to OSHA illness and injury records access

– An authorized employee representative is an authorized collective bargaining agent of employees.

– A personal representative is any person the employee designates as such, in writing. It can also be the legal representative of a deceased or legally incapacitated employee or former employee.
Time Allowable for Employer to Provide the OSHA 300 Log

- A copy of current or stored logs must be provided to an employee, former employee, personal representative, or authorized employee by the end of the next business day. (the requester must work or have worked in the establishment being requested), AND

- Names must remain on the log(s) unless a case is designated as a “privacy concern” case.

- There is no charge for the first copy.
Access to the OSHA 301 Incident Report

- An employee, former employee, or personal representative is entitled to a copy of the OSHA 301 that describes an injury or illness to the affected employee.
- The report must be provided by the end of the next business day.
- There is no charge for the first copy.
Access to the OSHA 301 Incident Report by an Authorized employee representative

- Provided to the authorized representative within 7 calendar days
- Only the information in the “Tell us about the case” section is provided.
- There is no charge for the first copy.
Prohibition Against Discrimination 1904.36

- Section 11(c) of the Act prohibits employers 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.
For More Help

• OSHA’s Recordkeeping Page. On this page:
  – The In Focus Section with 4 ways to get answer

• OSHA Regional Recordkeeping Coordinators
• State Plan States
• OSHA Training Institute Education Centers
• www.OSHA.gov
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