



OSHA'S NEW RECORDKEEPING RULE AND THE OSHA 300 LOG*

On January 19, 2001, OSHA issued a revised rule changing the requirements employers must follow for recording injuries and illnesses in the workplace. The new recordkeeping rule, a revision of 29 CFR Part 1904, becomes effective on January 1, 2002. Provisions were delayed and changes made in the form after issuance.

Postponed until January 1, 2003 are the provisions for recording work-related hearing loss; the rule's definition of "musculoskeletal disorder" (MSD); and the requirement that the employers check the MSD column on the OSHA log. The MSD and Hearing Loss columns were deleted from the forms. Workplaces are encouraged to keep their own records of musculoskeletal disorder (MSD) injuries.

Who Is Covered By the Revised Rule? [1904.1 and 1904.2]

Employers covered by OSHA who have more than 10 employees in the entire company are required to keep records of injuries and illnesses.

What Changed?

There were some changes made to the list of "low hazard" industries that are exempt from OSHA's new recordkeeping requirements. For example, industrial laundries are no longer considered "low hazard" and will now be required to keep OSHA 300 Logs. On the other hand, offices and clinics of medical doctors and dentists will no longer be required to keep injury and illness logs under the revised rule.

What Injuries/Illnesses Must The Employer Record? [1904.4 - 1904.12]

Employers must record all new cases of work-related fatalities, injuries, and illnesses if they involve:

- death,
- days away from work,
- restricted work or transfer to another job,
- medical treatment beyond first aid,
- loss of consciousness, or
- a significant injury or illness diagnosed by a physician or other licensed health care professional.

*Developed from AFL-CIO Health and Safety Department and George Meany Center for Labor Studies materials

What Changed?

The old rule required *all* occupational illnesses to be recorded. The new rule dropped that requirement, but added a new category of injuries/illnesses for employers to record, called “significant injury or illness diagnosed by a physician or other licensed health care professional.” This includes such injuries/illnesses as work-related cancer, chronic irreversible diseases such as silicosis, a fractured or cracked bone and a punctured eardrum.

Injuries that are treated with hot or cold compresses on more than one occasion are now considered “first aid” cases and therefore not required to be recorded on the OSHA 300 Log.

New criteria were added to the revised rule for recording: needlestick and sharps injury cases where objects are contaminated with another person’s blood or other potentially infectious material; tuberculosis cases; occupational hearing loss cases; medical removal cases under OSHA standards; and work-related musculoskeletal disorders.

Certain injuries and illnesses that, while they may occur at work, do not have to be recorded on the OSHA 300 Log. Examples include injury/illness resulting from voluntary participation in a wellness program or recreational activity or caused by a motor vehicle accident in a company parking lot while the employee is commuting to or from work.

The new rule also clarified what injuries and illnesses are recordable and non-recordable when they occur to workers who are on work-related travel assignments.

New Forms Used For Recording Injuries And Illnesses [1904.29]

New forms will be used to record work-related injuries and illnesses. Employers will use:

- The **OSHA 300 Log** of Work-Related Injuries and Illnesses to record all injuries and illnesses. It will replace the old OSHA 200 Log.
- **Form 300-A** is the Summary of Work-Related Injuries and Illnesses, which is to be posted in the workplace annually.
- **Form 301** is called the Injury and Illness Incident Report, which is used to record information on how each injury or illness case occurred. It replaces the old Form 101, the Supplementary Record of Occupational Injuries and Illnesses.

Each recordable injury or illness case must be recorded on the OSHA 300 Log and **the Form 301 Incident Report within seven (7) calendar days after the employer receives notice that the injury or illness occurred.**

Issues of Privacy and Recording Injuries and Illnesses [1904.29]

The new rule prohibits the employer from entering an employee's name on the OSHA 300 Log to protect the privacy of the injured or ill worker in cases where the injury or illness occurred to an intimate body part or the reproductive system; sexual assaults; mental illnesses; HIV infection, hepatitis, or tuberculosis; and needlestick injuries and cuts from sharps where the objects are contaminated with another person's blood. In such cases, a separate confidential list of employee names must be kept. Employers also have the right to use discretion in describing the nature of the injury where the worker's identity would be known.

Which Employees Are Covered By The Recording Requirements? [1904.31]

What Changed?

The new rules require employers to record injuries and illnesses that affect workers who they supervise on a day-to-day basis, including employees of temporary help services, employee leasing services, personnel supply services, and contractors.

The Annual Summary [1904.32]

What Changed?

Employers will be required to post the annual summary (now called Form 300-A) for 3 months (February 1 - April 30) instead of only one month (the month of February).

Employees Must Be Involved [1904.35]

What Changed?

Under the new rules, employers are required to inform workers how they are to report injuries or illnesses. Employers are required to set up a way to receive these reports promptly. The employer must also provide workers, former workers, their personal representatives, and their authorized employee representative (union representative) with access to injury and illness records, including **a copy of the OSHA 300 Logs by the end of the next business day**. The names of employees must be left on the OSHA 300 Log unless they are "privacy concern cases."

Employees, former employees, or personal representatives **must be given a copy of a requested Form 301 Incident Report by the end of the next business day**. **When an authorized employee representative (union representative)** asks for a copy of the Form 301 Incident Report, the employer is required to give copies of the part of the

form that contains information about the case, with all personal information about the employee removed, **within 7 calendar days**. Previously, there was no requirement that employers provide the detailed incident report to employees or their representatives.

Employers must provide copies of the OSHA 300 Logs and Form 301 Incident Report **free of charge the first time they are requested**.

No Discrimination Allowed [1904.36]

What Changed?

This is a new provision, not specifically incorporated in the old recordkeeping rule. Many employers currently have “safety incentive” and “injury discipline” programs that could violate OSHA’s Section 11(c) anti-discrimination provisions. Under these incentive and discipline programs, workers who report injuries may be denied some type of reward or may be automatically placed on a discipline tract or drug-tested. Workers may want to consider filing OSHA 11(c) complaints of discrimination if they have suffered such discrimination after reporting an injury or illness. Because Section 11(c) of the OSH Act is currently an available remedy to workers who suffer discrimination, workers do not have to wait until the new recordkeeping rules come into effect (January 1, 2002) to consider filing these discrimination complaints.

Compliance Date [1904.43]

Employers must keep OSHA 200 Logs in 2001.

The use of the new OSHA 300 Logs, Form 300-A Summary, and Form 301 Incident Reports must begin on January 1, 2002.

A summary of the employer’s OSHA 200 Log for the period January 1, 2001 - December 31, 2001 must only be posted from February 1, 2002 - March 1, 2002.

Beginning in 2003 employers must use the Form 300A for their summary information, and must post this form from February 1, 2003 - April 30, 2003.