

## **OSHA Recordkeeping and Workers' Compensation Claims Reporting**

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### **Introduction**

In my 20 years of safety experience, I have seen few subjects that cause as much consternation as recordkeeping and claims reporting. The OSHA standard is written in black and white; yet there are many OSHA interpretation letters written on the subject. What's worse, there seems to be much confusion between OSHA recordkeeping and workers' compensation reporting requirements. I delved into the subject many years ago when I was tasked as a young safety professional to tackle a very large company's recordkeeping issues. The subject fascinates me, because no matter how much I may know and understand about this subject, I always manage to get a question about recordkeeping from clients and seminar attendees that I must think over before being able to answer correctly. In some instances, much research and debate has evolved from these questions. Because of this, I have since put together a presentation on recordkeeping that over the years continues to be immensely popular. I have summarized many of the points of my presentation here in this white paper.

### **OSHA Recordkeeping and Workers' Compensation Claims Reporting: Easing the Confusion**

In my opening, I mentioned that my experience with clients over the years has underscored that OSHA recordkeeping is confusing for many employers. As such, I have compiled a list of the differences between the two. Here are the main differences in the two requirements:

#### OSHA Recordkeeping:

- Tracks current year data
- Requires an OSHA 300, 300A (summary), and a 301(incident report) or equivalent.
- Concerned with frequency and severity data
- Statistics are kept for proactive motives: companies can focus on safety initiatives based on data and compare themselves with other like companies

#### Workers' Compensation claims reporting:

- Main purpose is insurance for employers and medical treatment and payments to injured employees
- Tracks a rolling three year period of data (“ex-mod” formula)
- Different reporting requirements
- Geared toward reactive motives: ensuring that an injured employee is taken care of after an injury occurs

Many companies track their “OSHA incident rate” or “total case rate”. This is calculated as follows: the number of recordable injuries divided by the number of hours worked X 200,000. Workers’ compensation has the “experience modifier”, which is defined as Total Actual Losses (weighted) + Total Expected Losses (weighted) / Total Expected Losses (unweighted). A question I frequently get is “how is OSHA recordkeeping considered a tool in proactive safety management when both the OSHA incident rate and the experience modifier are based on lagging indicators?” The answer is that because the OSHA incident rate uses current year data, and the experience modifier is calculated and based on a rolling 3 year period, a company is better able to track progress toward their injury reduction goals with the OSHA formula. In addition, OSHA incident rates are tracked by the Bureau of Labor and Statistics annually. Because of this, companies are able to compare themselves by SIC code with other companies of similar size. This information is available on the BLS’s website, which can be found here: <http://www.bls.gov/iif.home.htm>.

The federal OSHA recordkeeping standard can be found in 29 Code of Federal Regulations, 1904. The standard is split into subparts that are helpful when one is looking for specific information. Some of the most pertinent subparts are:

- Subpart A-Purpose
- Subpart B-Scope
- Subpart C-Forms and Recording Criteria
- Subpart D-Other Requirements
- Subpart E-Reporting to the Government
- Subpart F-Transition
- Subpart G-Definitions

For purposes of this paper, I will begin with Subpart C, forms and recording criteria. According to this subpart, covered employers must record each fatality, injury, or illness that is work related, is a new case, and contains one or more of the criteria contained in sections 1904.7 through 1904.11. “Covered employers” refers to any employer that is not partially exempt from OSHA recordkeeping, such as an employer with ten or fewer employees, or any employer classified in a number of industries in the low hazard retail, service, finance, insurance and real estate sectors.

What are the criteria for recordable injuries, and how does a company record these? According to OSHA, recordable injuries are all work-related injuries and illnesses which include one or more of:

- Death
- Days away from work

- Restricted work
- Transfer to another job
- Medical treatment beyond first aid
- Loss of consciousness
- A significant injury or illness diagnosed by a physician or other licensed healthcare professional

Any injuries that meet these criteria must be recorded on an OSHA 300, Log of Work Related Injuries and Illnesses. This log must be maintained for each calendar year. In addition, there is a posting requirement on the OSHA 300A, Summary of Work Related Injuries and Illnesses. The OSHA 300A must be filled out using the data on the previous year's OSHA 300 data, and posted prominently within a company from February 1<sup>st</sup> until April 30<sup>th</sup>. For example, 2012's OSHA 300 data must be recorded on an OSHA 300A and posted on February 1<sup>st</sup>, 2013. These forms can be found at <http://www.osha.gov/recordkeeping/new-osh300form1-1-04.pdf>.

It should be noted that on the OSHA 300 log, there are columns for "death", "days away from work", job transfer or restriction", and "other recordable cases". There are also columns for counting days away or days restricted.

OSHA defines "lost time" as any injury that has at least one full day lost time. The day of the accident doesn't count and the day the employee returns to work doesn't count no matter what time of the day the accident occurs or when the employee returns to work. "Job transfer or restriction" is defined as an employee is kept from performing one or more of the routine functions of his or her job, or from working the full workday that he or she would otherwise have been scheduled to work; or a physician or other licensed health care professional recommends that the employee not perform one or more of the routine functions of his or her job, or not work the full workday that he or she would otherwise have been scheduled to work.

When counting days away or restricted days for OSHA recording purposes, the day of the injury does not count, nor does the day of return, regardless of the time of day. All calendar days are counted, including Saturdays, Sundays, or any days the employee may not have been scheduled to work, but are included in the doctor's note as days away.

For cases involving sharps or bloodborne pathogens, there are criteria as well. Record all work-related needle sticks 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). Also record splashes or other exposures to blood or other potentially infectious material if they result in a diagnosis of a blood borne disease or meet the general recording criteria.

For hearing loss cases, OSHA's recordkeeping rule requires the employer to record all work-related cases that meet BOTH of the following conditions on the same audiometric test for either ear:

- The employee has experienced a Standard Threshold Shift (STS) – 10dB or greater from the most current baseline.

- The employee's total hearing level is 25 dB or more above audiometric zero (averaged at 2000, 3000, & 4000 Hz) in the same ear(s) as the STS.

If a company has multiple establishments, there may be a requirement to keep more than one OSHA 300 log. Keep a separate OSHA 300 for each establishment that is expected to be in operation for more than a year. However, a company may keep one OSHA 300 for all short-term establishments. If employees travel from one site to another to work on a regular basis, these employee must be linked to one establishment and any injuries to that employee must be recorded on that establishment's OSHA 300 log.

These are only a few of the major points to remember when tackling OSHA recordkeeping. There are so many nuances with each particular case. In order to truly understand recordkeeping for your business, always refer to 29 CFR 1904, or your state's OSHA plan's standard for recordkeeping.

## **Bibliography**

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