OSHA INSTRUCTION

U.S. DEPARTMENT OF LABOR **Occupational Safety and Health Administration**

DIRECTIVE NUMBER: CPL 02-00-172	
SUBJECT: Part 1904 Recordkeeping Policies and Procedures Directive	
DIRECTORATE: Directorate of Technical Support and Emergency Management	
SIGNATURE DATE: [1/10/25]	**EFFECTIVE DATE:** [1/13/25]

ABSTRACT

Purpose: This instruction provides enforcement guidance for the Occupational Safety and Health Administration's (OSHA's) Occupational Injury and Illness Recording and Reporting regulation, 29 Code of Federal Regulations (CFR) Part 1904.

Scope: OSHA-wide.

References: See section III for references.

Cancellations: OSHA Instruction CPL 02-00-135, December 30, 2004.

State Impact: Notice of Intent and Equivalency Required.

Action Offices: National, Regional, Area Offices, and State Plans.

Originating Office: Directorate of Technical Support and Emergency Management (DTSEM).

Contact: Office of Statistical Analysis, DTSEM
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By and Under the Authority of

DOUGLAS L. PARKER
Assistant Secretary

Executive Summary

This instruction provides guidance to OSHA personnel regarding OSHA's recordkeeping regulation, 29 CFR 1904 - Occupational Injury and Illness Recording and Reporting Requirements. This instruction includes a summary of these requirements, inspection procedures and citation policy.

Significant Changes

This instruction supersedes OSHA's prior Recordkeeping Policies and Procedures Manual CPL 2-00-135, dated, December 30, 2004, and includes the following significant changes:

- Changed the Originating Office to Directorate of Technical Support and Emergency Management (DTSEM).
- Revised Summary of the Recording and Reporting Regulations to provide more information about regulations, to reflect updated policies, and to incorporate new regulatory requirements and guidance.
- Updated the discussion of industry exemptions to reflect current alignment with NAICS classifications, rather than SIC classifications.
- Added information regarding employees' rights to report Injuries and Illnesses free from retaliation to reflect regulatory changes.
- Incorporated information about OSHA's recent Improve Tracking of Workplace Injuries and Illnesses rulemakings.
- Provided updated inspection procedures and citation policy, which reflects updated regulations and policies and incorporates guidance from OSHA's Field Operations Manual (FOM), CPL 02-00-164.
- Updated the Compliance Officer Checklist in Appendix B to reflect current regulations and policies.
- Relocated OSHA's recordkeeping Frequently Asked Questions (FAQs) from the appendices of this instruction to OSHA's recordkeeping website at https://www.osha.gov/recordkeeping, since OSHA routinely supplements the FAQs in response to new inquiries.

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I. Purpose

This instruction provides enforcement guidance for the Occupational Safety and Health Administration's (OSHA's) Injury and Illness Recording and Reporting regulation, 29 Code of Federal Regulations (CFR) Part 1904.

II. Scope

This instruction applies OSHA-wide.

III. References

A. 29 CFR Part 1904 – Recording and Reporting Occupational Injuries and Illnesses.

B. Federal Register, Vol. 66, page 5916, January 19, 2001, Occupational Injury and Illness Recording and Reporting Requirements, Final Rule, available on OSHA's website at https://www.osha.gov/laws-regs/federalregister/2001-01-19 (PDF).

C. Federal Register, Vol. 66, page 52031, October 12, 2001, Occupational Injury and Illness Recording and Reporting Requirements, Final Rule, available on OSHA's website at https://www.osha.gov/laws-regs/federalregister/2001-10-12 (PDF).

D. Federal Register, Vol. 69, page 68793, November 26, 2004, Basic Program Elements for Federal Employee Occupational Safety and Health Programs and Related Matters; Subpart I for Recordkeeping and Reporting Requirements, Final Rule, available on OSHA's website at https://www.osha.gov/laws-regs/federalregister/2004-11-26 (PDF).

E. Federal Register, Vol. 79, page 56120, September 18, 2014, Occupational Injury and Illness Recording and Reporting Requirements – NAICS Update and Reporting Revisions, Final Rule, available on OSHA's website at https://www.osha.gov/laws-regs/federalregister/2014-09-18 (PDF).

F. Federal Register, Vol. 81, page 29623, May 12, 2016, Improve Tracking of Workplace Injuries and Illnesses, Final Rule, available on OSHA's website at https://www.osha.gov/laws-regs/federalregister/2016-05-12 (PDF).

G. Federal Register, Vol. 84, page 380, January 25, 2019, Tracking of Workplace Injuries and Illnesses, available on OSHA's website at https://www.osha.gov/laws-regs/federalregister/2019-01-25 (PDF).

H. Federal Register, Vol. 88, page 47254, July 21, 2023, Improve Tracking of Workplace Injuries and Illnesses, Final Rule, available on OSHA's website at https://www.osha.gov/laws-regs/federalregister/2023-07-21 (PDF).

I. OSHA Instruction CPL 02-00-164, Field Operations Manual (FOM), April 14, 2020, or most current.

J. OSHA Instruction CSP 01-01-007, State Statistical and Recordkeeping Program under 18(b) Plans, October 30, 1978.

K. OSHA Instruction CPL 02-00-080, Handling of Cases to be Proposed for Violation-By-Violation Penalties, October 21, 1990.

L. OSHA Instruction CSP 01-01-025, State Program Requirements for Statistical Information on the Incidence of Occupational Injuries and Illnesses by Industry; on the injured or Ill Worker; and on the Circumstances of the Injuries or Illnesses, May 4, 1992.

M. OSHA Instruction CPL 02-00-111, Citation Policy for Paperwork and Written Program Requirement Violations, November 27, 1995.

N. OSHA Instruction CPL 02-02-072, Rules of Agency Practice and Procedure Concerning OSHA Access to Employee Medical Records, August 22, 2007, or most current.

O. May 12, 2012 Memorandum to Regional Administrators and Whistleblower Program Managers, Employer Safety Incentive and Disincentive Policies and Practices.

P. March 4, 2016 Memorandum to Regional Administrators, Revised Interim Enforcement Procedures for Reporting Requirements under 29 CFR 1904.39.

Q. October 19, 2016 Memorandum to Regional Administrators, Interpretation of 1904.35(b)(1)(i) and (iv).

R. November 10, 2016 Memorandum to Regional Administrators, Interim Enforcement Procedures for New Recordkeeping Requirements Under 29 CFR 1904.35.

S. October 11, 2018 Memorandum to Regional Administrators, Clarification of OSHA's Position on Workplace Safety Incentive Programs and Post-Incident Drug Testing Under 29 C.F.R. § 1904.35(b)(1)(iv).

T. April 16, 2024 Memorandum to Regional Administrators, Update to Enforcement Procedures for Failure to Submit Electronic Illness and Injury Records under 29 CFR 1904.41(a)(1) and (a)(2).

U. April 17, 2024 Memorandum to Regional Administrators, Instance-by-Instance Citation Policy for Serious, Repeat, and Other-than-Serious Violations.

V. April 18, 2024 Memorandum to Regional Administrators, Injury Tracking Application (ITA) Non-Responder Enforcement Program.

W. May 2, 2024 Memorandum to Regional Administrators, Enforcement Guidance Under OSHA's Recordkeeping Regulation When First Aid, Active Release Techniques (ART), and Exercise/Stretching Are Used to Treat Musculoskeletal Injuries and Illnesses.

X. OSHA's General Part 1904 Recordkeeping Frequently Asked Questions at https://www.osha.gov/laws-regs/interlinking/standards/1904/faq.

Y. OSHA's Injury Tracking Application Frequently Asked Questions at https://www.osha.gov/injuryreporting/faqs.

IV. Cancellations

OSHA Instruction CPL 02-00-135, December 30, 2004.

V. Action Offices

A. **Responsible Office.**

Directorate of Technical Support and Emergency Management (DTSEM), Office of Statistical Analysis.

B. **Action Office.**

OSHA Regional Administrators, Area Directors, State Plan Designees and National Office Directors will ensure that the policies and procedures established in this instruction, or their equivalent in State Plans, are transmitted to and implemented in all field offices.

C. **Information Offices.**

Informational copies of this instruction are provided to: Consultation Project Managers, Compliance Assistance Coordinators and Compliance Assistant Specialists.

VI. Federal Program Change- Notice of Intent and Equivalency Required

This instruction describes a federal program change which requires State action.

A. **Recordkeeping Regulations.**

OSHA's regulations at 29 CFR 1904.37 and 1902.7 require that States with OSHA-approved State Plans adopt occupational injury and illness recording and reporting requirements that are substantially identical to the requirements in 29 CFR Part 1904. The requirements for determining which injuries and illnesses are recordable and how they are recorded must be identical to those in Part 1904, so that national statistics are uniform. For other provisions in Part 1904 (for example, industry exemptions, reporting of fatalities and hospitalizations and amputations, record retention, or employee involvement), State requirements may be more stringent than or supplemental to the Federal requirements, but any different requirements must be approved by OSHA.

The requirement that States participate in the BLS survey of work-related injuries and illnesses or provide equivalent data under an alternative system approved by OSHA and BLS is set out in OSHA Instruction CSP 01-01-007 State Statistical and Recordkeeping Program Under 18(b) Plans and OSHA Instruction CSP 01-01-025.

B. **Recording and Reporting Requirements.**

To ensure uniform national statistics, State Plans must adopt the interpretations in this instruction which relate to the determination of which injuries and illnesses are recordable and how they are recorded. (States must also adhere to any additional formal Federal interpretations regarding the recording and reporting of injuries and illnesses issued through formal letter or memorandum and/or posted on OSHA's website.) For interpretations, including Frequently Asked Questions (FAQs), regarding other recordkeeping issues, States may adopt interpretations which are more stringent than or supplemental to the Federal interpretations but must submit those interpretations, with an explanation of how the differences are more stringent, for OSHA approval.

Within 60 days of the effective date of this instruction, a State Plan must submit

a notice of intent indicating if the State Plan will adopt or already has in place policies and procedures that are identical to or different from the federal program (interpretations must be identical or more stringent than the interpretations in this instruction and must be preapproved by the Regional Administrator). State adoption, either identical or different, should be accomplished within six months. If adopting identically, the State Plan must provide the date of adoption to OSHA within 60 days of adoption. If the State Plan adopts or maintains enforcement policies that differ from those in this instruction, the policies must be available for review. Within 60 days of adoption, the State Plan must provide an electronic copy of the policy or a link to where their policies are posted on the State Plan's website. The State Plan must also provide the date of adoption and identify differences, if any, between their policy and OSHA's. OSHA will provide summary information on the State Plan responses to this instruction on its website at: www.osha.gov/dcsp/osp/index.html.

C. **Compliance Procedures.**

Adoption of the enforcement policies and procedures described in this instruction is not required; however, States are expected to have enforcement policies and procedures which are at least as effective as those of Federal OSHA.

VII. Significant Changes

This instruction supersedes OSHA's prior Recordkeeping Policies and Procedures Manual CPL 2-00-135, dated, December 30, 2004, and includes the following significant changes:

A. Changed the Originating Office to Directorate of Technical Support and Emergency Management (DTSEM).
B. Revised Summary of the Recording and Reporting Regulations to provide more information about regulations, to reflect updated policies, and to incorporate new regulatory requirements and guidance.
C. Updated the discussion of industry exemptions to reflect current alignment with NAICS classifications, rather than SIC classifications.
D. Added information regarding employees' rights to report Injuries and Illnesses free from retaliation to reflect regulatory changes.
E. Incorporated information about OSHA's recent Improve Tracking of Workplace Injuries and Illnesses rulemakings.
F. Provided updated inspection procedures and citation policy, which reflects updated regulations and policies and incorporates guidance from OSHA's Field Operations Manual (FOM), CPL 02-00-164.
G. Updated the Compliance Officer Checklist in Appendix B to reflect current regulations and policies.
H. Relocated OSHA's recordkeeping Frequently Asked Questions (FAQs) from the appendices of this instruction to OSHA's recordkeeping website at

https://www.osha.gov/recordkeeping, since OSHA routinely supplements the FAQs in response to new inquiries.

VIII. Background

This instruction reflects updated policies and information regarding the recordkeeping program and incorporates revisions from several regulatory changes. The previous instruction addressing OSHA recordkeeping requirements (CPL-02-00-135) was updated in 2004. Since 2004, OSHA has completed multiple rulemakings that have made changes to OSHA's recordkeeping requirements at 29 CFR 1904. The following rulemakings are of note:

On September 18, 2014, OSHA published a final rule that revised the requirements of 29 CFR 1904 (Occupational Injury and Illness Recording and Reporting Requirements, 79 FR 56130). This rulemaking incorporated two main regulatory changes. First, it updated the list of partially exempt industries in Appendix A of 29 CFR Part 1904 Subpart B, and it identified these by North American Industry Classification System (NAICS) code rather than by Standard Industrial Classification (SIC) code. Second, it expanded the reporting requirements in section 1904.39 to include all work-related in-patient hospitalizations, amputations, and losses of an eye.

On May 12, 2016, OSHA amended the recordkeeping regulation at 29 CFR 1904.41 to require certain establishments, on an annual basis, to submit electronically to OSHA injury and illness information that employers are already required to keep under part 1904 (Improve Tracking of Workplace Injuries and Illnesses, 81 FR 29624). The 2016 final rule required establishments with 20 to 249 employees in certain designated industries to electronically submit information from their OSHA annual summary (Form 300A) to OSHA once a year. In addition, under the 2016 final rule, establishments with 250 or more employees that are routinely required to keep records were required to electronically submit information from their OSHA Forms 300, 300A, and 301 to OSHA once a year.

Further, the May 12, 2016, final rule included revisions to 29 CFR 1904.35 to require employers to inform employees of their right to report work-related injuries and illnesses free from retaliation. It also clarified the existing implicit requirement that an employer's procedure for reporting work-related injuries and illnesses must be reasonable and not deter or discourage employees from reporting; and incorporated a prohibition on retaliating against employees for reporting work-related injuries or illnesses.

On January 25, 2019, OSHA published a final rule that amended the recordkeeping regulations to remove the 2016 requirement for establishments with 250 or more employees that are routinely required to keep records to electronically submit information from their OSHA Forms 300 and 301 to OSHA once a year (Tracking Workplace Injuries and Illnesses, 84 FR 380). As a result, those establishments were

required to electronically submit only information from their OSHA 300A annual summary. Establishments with 20 to 249 employees in certain designated industries also continued to be required to submit OSHA Form 300A, as required by the 2016 rule. The 2019 final rule also added a requirement for all covered employers to submit their Employer Identification Number (EIN) electronically along with their injury and illness data submission (83 FR 36494, 84 FR 380, 395-97).

On July 21, 2023, OSHA published a final rule further revising and expanding the requirements to electronically submit injury and illness data to OSHA under section 1904.41 (Improve Tracking of Workplace Injuries and Illnesses, 88 FR 47254). The 2023 final rule requires establishments with 100 or more employees in designated industries to electronically submit certain information from their OSHA Form 300 and OSHA Form 301 to OSHA once a year. The 2023 final rule also updated the list of designated industries in which establishments with 20-249 employees must annually electronically submit information from their OSHA Form 300A annual summary and continued the requirement that establishments with 250 or more employees in all industries routinely required to keep Part 1904 records must annually electronically submit such OSHA Form 300A information. In addition, the final rule required establishments to include their legal company name when making electronic submissions to OSHA.

IX. Summary of OSHA's Recording and Reporting Occupational Injuries and Illnesses Regulation, Part 1904

OSHA's recordkeeping regulation at 29 CFR 1904 requires employers to keep records of occupational deaths, injuries, and illnesses, and to make certain reports to OSHA and the Bureau of Labor Statistics. The central requirements in OSHA's recordkeeping regulation at 29 CFR 1904 are described below. In addition to summarizing central provisions, this section also references some key interpretations and policy documents.

Note: The text of OSHA's Part 1904 regulation, Federal Register Notices, Letters of Interpretation (LOIs), Frequently Asked Questions (FAQs), and other relevant guidance and information are available on OSHA's public website located at: https://www.osha.gov/recordkeeping. The 29 CFR 1904 regulation and above-referenced information and should also be consulted by OSHA compliance officers, as appropriate, in conducting an inspection and in considering citations for violations of this regulation.

A. Purpose.

Section 1904.0 states the purpose of the rule is to require employers to record and report work-related fatalities, injuries, and illnesses.

Note to 1904.0: Section 1904.0 also includes a note which states that recording or reporting of a work-related injury, illness, or fatality does not mean that the employer or employee was at fault, that an OSHA rule has been violated, or that the employee is eligible for workers' compensation or other benefits.

B. **Coverage.**

OSHA's recordkeeping regulation at 29 CFR 1904 applies to all employers with employees covered by the Occupational Safety and Health Act (OSH Act), although some employers are not required to keep injury and illness records if they have ten or fewer employees or have establishments in certain low hazard industries. These partial exemptions are detailed below:

1. **Small Employer Exemption.** Section 1904.1 provides that companies with ten or fewer employees at all times during the previous calendar year are not required to routinely keep injury and illness records. This partial exemption is based on the total number of employees in the entire company rather than the number of employees at an individual establishment. The count includes all full-time, part-time, temporary, and seasonal employees.

2. **Low-Hazard Industry Exemption.** Section 1904.2 provides that employers with establishments classified in certain low-hazard industries are not required to routinely keep injury and illness records. Please see the Non-Mandatory Appendix A to Subpart B of OSHA's recordkeeping regulation for a list of the low-risk industries that are exempt under section 1904.2. This current list of partially exempt low hazard industries is based on 2007 NAICS codes. (See also FAQ 2-3 and 2-4.) The partial exemption is based on the NAICS code of the individual establishment rather than the entire company, and the employer should rely on the establishment's primary NAICS. (See 1904.2(b)(2)(i).)

3. **Exemptions from electronic reporting requirements.** OSHA's electronic reporting requirements in section 1904.41 do not apply to all establishments. Employer coverage under these regulations is discussed in detail in paragraph IX.R. below.

   Note: All employers covered by the OSH Act, including those partially exempt from keeping injury and illness records by reason of company size or industry classification, must report to OSHA each work-related fatality, in-patient hospitalization, amputation, and loss of an eye (section 1904.39), and must participate in government surveys if they are asked to do so in writing by OSHA (section 1904.41) or the BLS (section 1904.42).

C. **Keeping Records for More Than One Agency.**

Section 1904.3 of the regulation addresses employers who are subject to the occupational injury and illness recording and reporting requirements of other Federal agencies. Several other Federal agencies have similar recordkeeping requirements, such as the Mine Safety and Health Administration (MSHA), the Department of Energy (DOE), and the Federal Railroad Administration (FRA).

Section 1904.3 provides that OSHA will accept injury and illness records in place of the employer's Part 1904 records under two circumstances: (1) if OSHA has entered into a memorandum of understanding (MOU) with that agency that specifically accepts the other agency's records, then the employer may use them in place of the OSHA records; or (2) if the other agency's records include the same information required by Part 1904, because OSHA would consider them an acceptable substitute.

D. **Forms.**

Section 1904.29 directs employers who are required to keep OSHA injury and illness records to use three forms for recordable injuries and illnesses: Form 300 (also called the OSHA 300 Log), Log of Work-Related Injuries and Illnesses, Form 300A, Summary of Work-Related Injuries and Illnesses, and Form 301, Injury and Illness Incident Report, or equivalent forms. Employers are required to keep separate OSHA 300 Logs for each establishment that is expected to be in operation for one year or longer. Under section 1904.31, the OSHA 300 Log must include injuries and illnesses to employees on the employer's payroll as well as injuries and illnesses of other workers the employer supervises on a day-to-day basis, such as temporary workers or contractor workers who are subject to daily supervision by the employer.

Note: An equivalent form is one that has the same information, is as readable and understandable, and is completed using the same instructions as the OSHA form it replaces. Some employers use an insurance form instead of the OSHA Form 301 or supplement an insurance form by adding any additional information required by OSHA. (See section 1904.29(b)(4) and FAQ 29-4).

E. **Determining the Recordability of Fatalities, Injuries, or Illnesses.**

Section 1904.4(a) mandates that each employer who is required by OSHA to keep records must record each fatality, injury or illness that meets the following: (1) it is work-related; (2) it is a new case and not a continuation of an old case; and (3) it meets one or more of the general recording criteria in section 1904.7 or the additional criteria for specific cases found in sections 1904.8 through 1904.11. Fatalities, injuries, and illnesses that meet these criteria must be recorded on the employer's OSHA Forms 300, 300A, and 301, or equivalent forms.

1. **Work Relationship.** Section 1904.5(a) states that "[the employer] must consider an injury or illness to be work-related if an event or exposure in the work environment either caused or contributed to the resulting condition. Work-relatedness is presumed for injuries and illnesses resulting from events or exposures occurring in the work environment, unless an exception in [section] 1904.5(b)(2) specifically applies." Under this provision, 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.

Under section 1904.5(b)(3), if it is not obvious whether the precipitating event or exposure occurred in the work environment or elsewhere, the employer "must evaluate the employee's work duties and environment to decide whether or not one or more events or exposures in the work environment caused or contributed to the resulting condition or significantly aggravated a pre-existing condition." This means that the employer must determine whether it is more likely than not that work events or exposures were a cause of the injury or illness, or of a significant aggravation to a pre-existing condition. (As also discussed under section XIV. of this instruction, Citations and Penalties for Violation of Part 1904 Requirements, if the employer decides the case is not work-related, but OSHA disagrees and issues a citation for failure to record, then OSHA will have the burden of proving that the fatality, injury, or illness case was work-related.)

Exceptions. Situations in which the employee's injury or illness meets one or more of the listed exceptions in section 1904.5(b)(2) are not considered work-related and are therefore not recordable. Specifically, OSHA recording requirements do not apply if:

a. The employee is present as a member of the general public, rather than as an employee, at time of injury or illness;
b. Symptoms arise in a 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. See OSHA's January 13, 2004 LOI regarding section 1904.5, Determining work-relatedness when the work event or exposure is only one of the discernable causes; not the sole or predominant cause.)
c. The injury or illness results solely from voluntary participation in wellness program, medical, fitness or recreational activity;
d. The injury or illness results solely from eating, drinking, or preparing food or drink for personal consumption;
e. The injury or illness results solely from personal tasks outside assigned working hours;
f. The injury or illness results solely from personal grooming, self-medication for non-work-related condition, or intentionally self-inflicted;

g. The injury or illness is caused by a motor vehicle accident in the parking lot or company access road during commute;
h. The illness is the common cold or flu; or
i. The illness is a mental illness, unless the employee voluntarily provides the employer with an opinion from a physician or licensed health care professional (PLHCP) with appropriate training and experience (i.e. a psychiatrist, psychologist, psychiatric nurse practitioner, etc.) stating that the employee has a mental illness that is work-related, and that the case meets one or more of the general recordkeeping criteria in section 1904.7.

Note: Exposures to substances or communicable disease that do not result in signs or symptoms of an injury or illness are not recordable under Part 1904 even if they involve medical treatment beyond first aid, days away from work, restricted work activity or job transfer. (For example, see OSHA's September 14, 2017 LOI, Determining if the employees experienced an injury or illness due to an exposure.)

2. **New Case.** Only new cases are recordable. Section 1904.6 provides that work-related injuries and illnesses are considered to be new cases when: (1) the employee has not previously experienced a recorded injury or illness of the same type that affected the same part of the body; or (2) the employee previously experienced a recorded injury or illness of the same type that affected the same part of the body but had recovered completely (all signs and symptoms of the previous injury or illness had disappeared) from the previous injury or illness and an event or exposure in the work environment caused the signs or symptoms to reappear.

   As with employer determinations of work-relatedness under section 1904.5, employers may (but are not required to) seek the advice of a physician or other licensed healthcare professional (PLHCP) to determine whether an injury or illness is a new case or recurrence. (See section 1904.6(b)(3).)

3. **General Recording Criteria.** Employers must record work-related injuries and illnesses that meet one or more of the general recording criteria in section 1904.7 or the additional criteria for specific cases found in sections 1904.8 through 1904.11. A work-related injury or illness meets the general recording criteria when it results in one or more of the following:
   a. Death
   b. Days Away from Work
   c. Restricted Work
   d. Transfer to Another Job

e. Medical Treatment Beyond First Aid
f. Loss of Consciousness
g. Diagnosis of a Significant Injury or Illness

These recording criteria are described in greater detail below.

4. **Multiple Applicable Recording Criteria.** Although most cases are recorded because they meet one of these criteria, some cases may meet more than one criterion. The outcomes listed on the OSHA Form 300 include, death, days away, restricted work/job transfer, and "other recordable." Employers must classify each case on the OSHA 300 Log in accordance with the most serious outcome of the injury or illness.

   For example, an injured worker may initially be sent home to recuperate (making the case recordable as a "days away" case) and then subsequently return to work on a restricted ("light duty") basis (meeting a second criterion, that for restricted work). For cases that result in both days away from work and days of restricted work activity/job transfer, the case must be classified as days away from work (Column H on the Form 300 Log). For cases resulting in either days away from work or restricted work/job transfer, the employer must track the number of calendar days involved and enter the total on the OSHA 300 Log. The employer may stop counting when the total number of days away from work or restricted work activity/job transfer, or combination of both, reaches 180 calendar days.

5. **Counting Days.** The OSHA 300 Log requires the employer to note the number of days that the employee is unable to work as a result of the injury or illness, or the number of days that a workers is under restricted work, or transferred to another job. Section 1904.7(b)(3)(i) states that the employer is not to count the day of injury or illness, but is to begin counting days away on the following day. Section 1904.7(b)(3)(vii) provides a cap of 180 days. Employers must count the number of calendar days the employee was unable to work as a result of the injury or illness regardless of whether the employee was scheduled to work on those days, including weekend days, holidays or other days off. (See section 1904.7(b)(3)(iv).) Under section 1904.7(b)(3)(vii), the employer may stop counting days away from work if an employee who is away from work because of an injury or illness leaves the company for some reason unrelated to the injury or illness, such as retirement or a plant closing. Cases involving restricted work or transfers are counted in the same way as cases involving days away from work, except that if an employee is permanently assigned to a new or modified job, the

employer may stop the day count (although at least one day of restricted work or job transfer must be counted) (See 1904.7(b)(4)(xi).)

6. **Most Authoritative Medical Opinion.** In cases where two or more physicians or other licensed health care professionals (PLHCP) make conflicting or differing recommendations related to recordability of an employee injury or illness, the employer must make a decision as to which recommendation is the most authoritative (best documented, best reasoned, or most persuasive), and record the case based on that recommendation. This concept applies to cases that involve determinations as to whether an injury or illness is a new case, or whether an injury or illness results in days away from work or restricted work activity.

   It is imperative that the PLHCPs involved in the examination of the employee see the exact same condition. If the employee's condition either improves or worsens between the examinations, the concept does not apply.

   Several criteria can be considered by the employer in evaluating whether the PLHCPs involved are seeing the same condition:

   a. Whether examination of the patient is in person (i.e. review of documents only cannot be substituted for a physical examination);
   b. Whether the examinations are contemporaneous;
   c. Whether the employee was subject to additional exposures between the examinations; and
   d. Whether medical treatment, restricted work activity, or days away from work occurred between the examinations.

   If all of the above criteria are met, the employer may rely on the most authoritative medical opinion. If these criteria are not met, this may indicate the PLHCPs are not seeing the same condition. OSHA would consider the medical treatment and days away from work directed by the second physician as necessary unless the employer can document that the first opinion was based on the exact same condition and is most authoritative. (See FAQ 7-10a and OSHA's February 25, 2011 LOI, Clarification of the terms most authoritative and pre-existing conditions as used for recording purposes.)

7. **Days Away from Work.** Section 1904.7(b)(3) addresses how to record a work-related injury or illness when it involves one or more days away from work. If a physician or licensed health care professional recommends days away, an employer should encourage the employee to

follow that recommendation and count those days as days away from work. Section 1904.7(b)(3)(ii) provides that the employer must count those days as days away whether the injured or ill employee follows the recommendation or not.

8. **Restricted Work.** Under section 1904.7(b)(4)(i), an employee's work is considered restricted when, as a result of a work-related injury or illness: (1) the employer keeps the employee from performing one or more of the routine functions of their job (job functions that the employee regularly performs at least once per week), or from working the full workday that they would otherwise have been scheduled to work; or (2) a physician or other licensed health care professional recommends that the employee not perform one or more of the routine functions of their job, or not work the full workday that they would otherwise have been scheduled to work. Note that several OSHA LOIs provide clarifications on whether to record days as restricted work or days away from work.

   a. **Employer-restricted work -** If an employee has a work-related injury or illness, and that employee's work is restricted by the employer to prevent exacerbation of, or to allow recuperation from, that injury or illness, the case is recordable as a restricted work case. For example, an employee who sustains burns to their arm while working in a radiological area is treated on-site with over-the-counter medication and a bandage and released with no restrictions in performing their routine job functions. The company, in accordance with its policy, restricts the employee from working in the radiological area for two days until his burn scabs over. This would be considered a restricted work case. (See OSHA's February 12, 2015 LOI regarding section 1904.7, Clarification regarding the applicability of the recording criteria involving restricted work.)

      However, a case is not recordable under section 1904.7(b)(4) as a restricted work case if the employee experiences minor injury or illness – for example musculoskeletal discomfort, and a health care professional determines that the employee is fully able to perform all their routine job functions, but the employer assigns a work restriction to that employee for the purpose of preventing a more serious condition from developing. (See FAQ 7-19.)

   b. **Recommendations from physician or other licensed health care professional -** If a physician or licensed health care professional determines an employee may work with restricted work duties, the employer must evaluate the restriction in light of the routine

job functions to determine whether the restriction keeps the employee from performing any job functions. (See section 1904.7(b)(4)(iv).)

As with days away, if a physician or other licensed healthcare professional recommends a job restriction that affects an employee's routine job functions, but the employee does all of their routine work, the employer must still record the injury or illness as a restricted work case. (See section 1904.7(b)(4)(viii).)

Conversely, if the physician or licensed health care professional recommends restricted work but the employee decides to stay home, such time should be counted as restricted work rather than days away if the employer determines the employee was able to come to work and perform restricted work. However, if an employer has no restricted work available to an employee placed on restricted work and sends the employee home, that time should be counted as days away from work. (See, for example, OSHA's August 3, 2006 LOI regarding section 1904.7, Recording an injury when physician recommends restrictions but no restricted work is available.)

9. **Transfer to Another Job.** Under section 1904.7(b)(4)(ix), if an employer assigns an injured or ill employee to a job other than their regular job for part of the day, the case involves transfer to another job. This does not include the day on which the injury or illness occurred. For example, if an employer assigns, or a physician or other licensed health care professional recommends an employer to assign, an injured or ill worker to their routine job duties for part of the day and to another job for the rest of the day, the injury or illness involves a job transfer. Under section 1904.7(b)(4)(x), both job transfer and restricted work cases are recorded in the same box on the OSHA 300 Log.

10. **Medical Treatment Beyond First Aid.** Work-related injuries and illnesses that result in medical treatment beyond first aid meet the general recording criteria. Section 1904.7(b)(5)(i) provides that medical treatment means the management and care of a patient to combat disease or disorder. However, for purposes of Part 1904, medical treatment does not include: (1) visits to a physician or licensed healthcare professional solely for observation or counseling; (2) the conduct of diagnostic procedures, such as x-rays and blood tests, including the administration of prescription medications used solely for diagnostic

purposes (e.g., eye drops to dilate pupils); and (3) "first aid," as defined in section 1904.7(b)(5)(ii).

For purposes of Part 1904, section 1904.7(b)(5)(ii) provides that first aid includes:

a. Using a nonprescription medication at nonprescription strength; (For medications available in both prescription and non-prescription form, a recommendation by a physician or other licensed health care professional to use a non-prescription medication at prescription strength is considered medical treatment for recordkeeping purposes. See section 1904.7(b)(5)(iv) and see FAQ 7-8.)
b. Administering tetanus immunizations; (Other immunizations, such as hepatitis B vaccine or rabies vaccine, are considered medical treatment.)
c. Cleaning, flushing or soaking wounds on the surface of the skin;
d. Using wound coverings, such as bandages, Band-Aids®, gauze pads, etc.; or using butterfly bandages or Steri-Strips® (other wound closing devices, such as sutures, staples, etc. are considered medical treatment);
e. Using hot or cold therapy;
f. 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.)
g. Using temporary immobilization devices while transporting an accident victim (e.g., splints, slings, neck collars, back boards, etc.);
h. Drilling of a fingernail or toenail to relieve pressure, or draining fluid from a blister;
i. Using eye patches;
j. Removing foreign bodies from the eye using only irrigation or a cotton swab;
k. Removing splinters or foreign material from areas other than the eye by irrigation, tweezers, cotton swabs or other simple means;
l. Using finger guards;
m. Using massages (physical therapy or chiropractic treatment are considered medical treatment for recordkeeping purposes); and
n. Drinking fluids for relief of heat stress. (However, note that intravenous administration of fluids to treat heat stress is medical treatment. See Recordkeeping FAQ 7-6.)

Any treatment not included on this list is considered medical treatment beyond first aid for OSHA recordkeeping purposes, and thus would be recordable.

Note: OSHA considers the above treatments to be first aid regardless of the professional status of the person providing the treatment. Consequently, even when the treatments are provided by a physician or other licensed healthcare professional, they are still considered first aid for purposes of Part 1904.

The application of a first aid treatment detailed in section 1904.7(b)(5)(ii) to treat a work-related injury, or illness is considered first aid for purposes of OSHA recordkeeping, regardless of the number of times the treatment is applied. In other words, if an injured or ill employee is given first aid treatment, such as hot or cold therapy, massage, or some other treatment on the first aid list, that treatment should not be considered medical treatment beyond first aid for OSHA recordkeeping purposes, even when such treatment is provided over a long period of time or involves multiple applications. For example, if a work-related injury or illness is treated only with multiple doses of a nonprescription medication (e.g., ibuprofen or acetaminophen) at nonprescription strength, and the employee continues to work a full day and perform all routine job functions, the injury or illness does not result in medical treatment and is not recordable.

However, repeated application of treatments included on the Part 1904 first aid list might be an indication that further necessary medical care is not being provided to an injured or ill employee. In such a case, the employer might be using repeated applications of first aid as a way to avoid the use of "medical treatment beyond first aid." (See additional guidance in OSHA's May 2, 2024 Memorandum, Enforcement Guidance Under OSHA's Recordkeeping Regulation When First Aid, Active Release Techniques (ART), and Exercise/Stretching Are Used to Treat Musculoskeletal Injuries and Illnesses.)

11. **Diagnosis of a Significant Injury or Illness.** Section 1904.7 requires employers to record a significant work-related injury or illness diagnosed by a physician or other licensed health care professional, even if it does not result in death, days away from work, restricted work or job transfer, medical treatment beyond first aid, or loss of consciousness.

Section 1904.7(b)(7) specifies which significant, diagnosed work-related injuries and illnesses OSHA require recording. They are: work-related cancer, chronic irreversible disease such as silicosis or byssinosis,

punctured eardrum, or fractured or cracked bone. OSHA has also clarified that this includes fractured teeth. (See OSHA's 2001 *Federal Register* Notice, Vol. 66, page 5995). This list is exhaustive; no other conditions are considered a significant injury or illness for recordkeeping purposes under this provision.

12. **Needlestick and Sharps Injuries.** Section 1904.8 addresses the recording of work-related injuries and illnesses involving punctures, cuts and lacerations caused by needles or other sharp objects contaminated or reasonably anticipated to be contaminated with blood or other potentially infectious materials that may lead to bloodborne disease such as AIDs, hepatitis B or hepatitis C. The recordkeeping regulation uses the terms "contaminated," "other potentially infectious materials," and "occupational exposure" as these terms are defined in OSHA's Bloodborne Pathogens standard at 29 CFR 1910.1030.

Additional compliance guidance is outlined in 29 CFR 1904.8 of the recordkeeping regulation and section X. of OSHA Instruction CPL 02-02-069, Enforcement Procedures for the Occupational Exposure to Bloodborne Pathogens.

a. **Using the OSHA Forms 300 and 301 to record needlestick and sharp injuries -** Section 1904.8(a) requires employers to record on the OSHA 300 Log all work-related needlestick and sharps injuries involving objects contaminated (or reasonably anticipated to be contaminated) with another person's blood or other potentially infectious material. Employers may use the OSHA Forms 300 and 301 to meet the sharps injury log requirement in OSHA's Bloodborne Pathogens standard at 29 CFR 1910.1030(h)(5), if the employer enters the type and brand of the device causing the sharps injury on the OSHA 300 Log and maintains the records in a way that segregates sharps injuries from other types of work-related injuries and illnesses or allows sharps injuries to be easily separated.

When recording cases under section 1904.8, paragraph (a) prohibits the employer from entering the affected employee's name on the OSHA 300 Log. Instead, the employer must enter "privacy concern case" in the space reserved for the employee's name. The employer then keeps a separate, confidential list of privacy concern cases with the case number from the OSHA 300 Log and the corresponding employee name. (See the requirements for privacy concern cases in section 1904.29(b)(6) through(b)(9).)

b. **Cuts caused by non-contaminated sharp instruments -** Although the regulation requires the recording of all workplace cut and puncture injuries resulting from an event involving contaminated sharps, it does not require the recording of all cuts and punctures. For example, a cut made by a knife or other sharp instrument that was not contaminated (or reasonably anticipated to be contaminated) by blood or other potentially infectious material would not generally be recordable, and a laceration made by a dirty tin can or greasy tool would also generally not be recordable, providing that the injury did not result from a contaminated sharp and did not meet one of the general recording criteria. Section 1904.8(b)(2) includes provisions indicating which cuts and punctures must be recorded because they involve contaminated sharps, and which must be recorded only if they meet the general recording criteria in section 1904.7.

c. **Updating OSHA Form 300 where injury leads to bloodborne illness -** Section 1904.8(b)(3) contains requirements for updating the OSHA 300 Log when a worker experiences a wound caused by a contaminated needle or sharp and is later diagnosed as having a bloodborne illness, such as AIDS, hepatitis B or hepatitis C. The regulation requires the employer to update the classification of such a privacy concern case on the OSHA 300 Log if the outcome of the case changes, i.e., if it subsequently results in death, days away from work, restricted work, or job transfer. The employer must also update the case description on the Log to indicate the name of the bloodborne illness and to change the classification of the case from an injury (i.e., the needlestick) to an illness (i.e., the illness that resulted from the needlestick).

d. **Contact with blood or infectious materials not involving needlesticks or sharps -** Section 1904.8(b)(4) addresses the recording of cases involving workplace contact with blood or other potentially infectious materials that do not involve needlesticks or sharps, such as splashes to the eye, mucous membranes, or non-intact skin. The recordkeeping regulation does not require employers to record these incidents unless they result in the diagnosis of a bloodborne illness or meet one or more of the general recording criteria in section 1904.7.

13. **Cases Involving Medical Removal.** Section 1904.9 requires an employer to record a case on the OSHA 300 Log if an employee is medically removed from the workplace under the medical surveillance

requirements of an OSHA standard. The employer must enter each medical removal case on the OSHA 300 Log as a case involving either days away from work (if the employee does not work during the medical removal) or as restricted work activity (if the employee continues to work, but in an area where exposures are not present). If the medical removal is the result of a chemical exposure, the employer must enter the case on the Form 300 Log by checking the "poisoning" column.

The following standards have medical surveillance requirements which include medical removal requirements:

a. Benzene. General industry Standard (section 1910.1028(i)); Shipyard standard (§1915.1028); and Construction Standard (section 1926.1128)
b. Cadmium. General Industry Standard (section 1910.1027(l)); Shipyard Standard (section 1915.1027); and Construction Standard (section 1926.1127)
c. Formaldehyde. General Industry Standard (section 1910.1048(l)); Shipyard Standard (section 1915.1048); and Construction Standard (section 1926.1148)
d. Lead. General Industry Standard (section 1910.1025); Shipyard Standard (section 1915.1025); and Construction Standard (section 1926.62)
e. Methylenedianiline. General Industry Standard (section 1910.1050(m)); Shipyard Standard (section 1915.1050); and Construction Standard (section 1926.60(n))
f. Methylene Chloride. General Industry Standard (section 1910.1052(j)); Shipyard standard (section 1915.1052); Construction standard (section 1926.1152)
g. Vinyl Chloride. General industry Standard (section 1910.1017(k)); Shipyard Standard (section 1915.1517); and Construction Standard (section 1926.1117)
h. Beryllium. General Industry Standard (section 1910.1024(l); Construction Standard (section 1926.1124(l), and Maritime Standard (section 1915.1024(l)).

Note: In some cases, employers voluntarily rotate employees from one job to another to reduce exposure to hazardous substances. Section 1904.9(b)(3) provides that an employer is not required to record a case of medical removal on the OSHA 300 Log when the case involves voluntary medical removal before the medical removal levels required by an OSHA standard are reached.

14. **Cases Involving Occupational Hearing Loss.** Section 1904.10(a) requires employers to record work-related hearing loss cases when: (1) the

employee's audiogram reveals a work-related Standard Threshold Shift (STS) in hearing in one or both ears; and (2) the employee's total hearing level is 25 decibels (dB) or more above audiometric zero (averaged at 2000, 3000, and 4000 hertz (Hz)) in the same ear(s) as the STS. An STS is defined in OSHA's Occupational Noise Exposure Standard at 29 CFR 1910.95(g)(i) as "a change in hearing threshold, relative to the baseline audiogram for that employee, of an average of 10 dB or more at 2000, 3000, and 4000 (Hz)" in one or both ears.

Section 1904.10(b)(5) provides that there are no special rules for determining the work-relatedness of hearing loss. Employers must use the rules in section 1904.5 to determine if the hearing loss is work-related. A case is work-related if an event or exposure in the work environment either caused or contributed to the hearing loss, or significantly aggravated a pre-existing hearing loss. It is not necessary for the work environment to be the sole cause, or even the predominant cause, of the hearing loss in order for the case to be work-related. Any contribution from work to the hearing loss makes a hearing loss case work-related.

When evaluating the work-relatedness of a given hearing loss case, employers should take several factors into consideration, including:

a. The employee's prior occupational and non-occupational noise exposure.
b. Calibration records and the audiometric testing environment.
c. The employee's records, including medical records.
d. The employee's workplace activities, age correction, and personal medical conditions.
e. If an employee is working in a high-noise environment, whether the employee is consistently and properly using hearing protection devices (e.g., is the employee using the protection, does it fit properly, and is it appropriate for the type of noise to which the employee is being exposed). (See OSHA's April 29, 2016 LOI, Recording criteria for cases involving occupational hearing loss when employees use hearing protection.)

Note: Many employers may be conducting audiometric testing pursuant to OSHA's Noise Standard at 29 CFR 1910.95. However, employers not covered by section 1910.95 (e.g., construction, agriculture, oil and gas servicing and drilling), but who voluntarily conduct audiometric testing of employees, are also required to record a work-related hearing loss case if the hearing loss meets the two-step criteria in Section 1904.10(a).

15. **Work-Related Tuberculosis Cases.** Section 1904.11 requires employers to record a case on the OSHA 300 Log when an employee has been occupationally exposed to anyone with a known case of active tuberculosis (TB), and that employee subsequently develops a TB infection, as evidenced by a positive skin test or diagnosis by a physician or other licensed healthcare professional. For these cases, employers must check the "respiratory condition" column.

Employers may line-out or erase recorded TB cases from the OSHA 300 Log if the case is not occupational. Section 1904.11(b)(2) lists the following circumstances to assist employers to rule out cases where occupational exposure is not the cause of the infection in the employee:

a. The employee is living in a household with a person who has been diagnosed with active TB;
b. The Public Health Department identified the employee as a contact of an individual with a case of active TB unrelated to the workplace; or
c. A medical investigation shows that the employee's infection was caused by exposure to TB away from work or proves that the case was not related to the workplace TB exposure.

Additional information regarding the requirement to record work-related TB cases is provided in section 1904.11 and OSHA Instruction CPL 02-02-078, Enforcement Procedures and Scheduling for Occupational Exposure to Tuberculosis.

16. **Musculoskeletal Disorders (MSDs).** Work-related injuries and illnesses involving muscles, nerves, tendons, ligaments, joints, cartilage and spinal discs are recordable under the same requirements applicable to any other type of injury or illness. These injuries are also referred to as musculoskeletal disorders, or MSDs. There are no special rules for recording these cases; if the case is work-related, a new case, and involves medical treatment, days away, job transfer or restricted work under the criteria in section 1904 described above in this section, it is recordable. As is the case with other injuries or illnesses, to avoid a potential repetitive stress injury, an employer may choose to reassign an employee with a work-related MSD condition before it becomes severe enough to result in medical treatment beyond first aid, days away, restricted work, or job transfer. (See also, section 1904.7(b)(4), the discussion above addressing restricted work under paragraph IX.E.8. of this instruction, and additional guidance in OSHA's May 2, 2024 Memorandum, Enforcement Guidance Under OSHA's Recordkeeping Regulation When First Aid, Active Release Techniques (ART), and

Exercise/Stretching Are Used to Treat Musculoskeletal Injuries and Illnesses.)

F. **Deadline for Entering a Case.**

Section 1904.29(b)(3) states that the employer must enter each case on the OSHA 300 Log and OSHA 301 Form within 7 calendar days of receiving information that a recordable injury or illness has occurred. In most cases, employers know immediately or within a short time that a recordable case has occurred. In a few cases, however, it may be several days before the employer is informed that an employee's injury or illness meets one or more of the recording criteria. If the employer receives more information after entering a case, section 1904.33(b)(1) allows an employer to revise an entry on the OSHA 300 Log simply by lining it out or amending it if further information justifying the revision becomes available.

Note: There is an exception to the 7-day recording period if an employee experiences a recordable hearing loss, and the employer elects to retest the employee's hearing within 30 days. In that case, under section 1904.10(b)(4), the employer can wait for the results of the retest before recording the case on the OSHA 300 Log and Form 301 Incident Report.

G. **Employee Privacy.**

Section 1904.29(b)(6) and (b)(7) include requirements for employers to protect the privacy of injured or ill employees when recording cases in certain types of cases. In these cases, the employer may not enter the injured or ill employee's name on the OSHA 300 Log. Instead, the employer must enter "privacy case," and keep a separate, confidential list containing the identifying information for those individuals. If the work-related injury involves any of the following, it must be recorded as a privacy case:

1. An injury or illness to an intimate body part or the reproductive system;
2. An injury or illness resulting from a sexual assault;
3. A mental illness;
4. HIV infection, Hepatitis, or Tuberculosis;
5. Needlestick and sharps injuries that are contaminated with another person's blood or other potentially infectious material as defined by 29 CFR 1910.1030 (see additional discussion in paragraph IX.E.12. of this instruction); or
6. Other illnesses, if the employee independently and voluntarily requests that their name not be entered on the OSHA 300 Log.

This is a complete list.

Note: The employer may be required to provide the OSHA Forms 300 and 301 records to government representatives, employees, former employees or

authorized representatives, who are entitled to disclosure under sections 1904.35 and 1904.40 (see additional discussion in paragraphs IX.M. and IX.Q. of this instruction). In addition, under section 1904.29(b)(10), the employer may disclose unredacted versions of these forms to an auditor or consultant hired by the employer to audit safety and health, where necessary for workers' compensation or insurance purposes, or to a public health authority, health oversight agency, or law enforcement agency as permitted by the HIPAA privacy regulation at 64 CFR 512. In all other circumstances, the employer must remove or redact the names and any other personally identifying information of all injured and ill employees before the records are provided.

H. **Multiple Business Establishments.**

Under section 1904.30(a), employers are required to keep separate OSHA 300 Logs for each establishment that is expected to be in business for one year or longer.

1. **Short-term Establishments.** Section 1904.30(b)(1) requires that for short-term establishments, i.e., those that will exist for less than a year, employers are required to keep injury and illness records but are not required to keep separate OSHA 300 Logs. Instead, employers may keep one OSHA 300 Log covering all short-term establishments or may include the short-term establishment records in logs that cover individual company divisions or geographic regions. For example, a construction company with multi-state operations might have separate OSHA 300 Logs for each state to show the injuries and illnesses of its employees engaged in short-term projects, as well as a separate OSHA 300 Log for each construction project expected to last for more than one year.

2. **Storing Records for Multiple Establishments.** Section 1904.30(b)(2) allows the employer to keep records for separate establishments at the business headquarters or another central location, provided that information can be transmitted from the establishment to headquarters or the central location within 7 days of the occurrence of the injury or illness, and provided that the employer is able to produce and send the OSHA records to each establishment when the access provisions of section 1904.35 or 1904.40 requires such transmission. Under section 1904.30(b)(3), each employee must be linked, for recordkeeping purposes, with one of the employer's establishments. Any injuries or illnesses sustained by the employee must be recorded on that employee's home establishment's OSHA 300 Log, or on a general OSHA 300 Log for short-term establishments.

3. **Recording an Injury or Illness that Occurs at an Establishment Other than the Employee's Home Establishment.** Under section 1904.30(b)(4),

if an employee suffers a work-related injury or illness while visiting or working at another of their employer's establishments, then the injury or illness must be recorded on the OSHA 300 Log of the establishment at which the injury or illness occurred. On the other hand, if an employee is injured or becomes ill while visiting or working at another employer's workplace, or while the employee is in travel status, the injury or illness must be recorded on the OSHA 300 Log of the employee's home establishment. (See section 1904.30(b)(4).)

I. **Covered Employees.**

Section 1904.31(a) requires employers to record the recordable injuries and illnesses of all employees on their payroll, whether they are labor, executive, hourly, salary, part-time, seasonal, or migrant workers. Employers must also record the recordable injuries and illnesses that occur to employees who are not on their payroll if they supervise these employees on a day-to-day basis.

1. **Self-employed Individuals.** Section 1904.31(b)(1) states that a self-employed individual is not an employee under the OSH Act; therefore, injuries and illnesses sustained by self-employed individuals are not recordable under Part 1904. Other individuals who are usually not considered to be employees under the OSH Act, and whose injuries and illnesses would therefore not usually need to be recorded, include unpaid volunteers, sole proprietors, partners, family members of farm employers.

2. **Multi-employer Circumstances.** Section 1904.31(b)(3) states that if a contractor's employee is working at another employer's establishment, and that individual is under the day-to-day supervision of the contractor, the contractor is responsible for recording the injury or illness. If another employer (e.g., the host employer or prime contractor) supervises the work of the contract employee or temporary employee on a day-to-day basis, that employer must record the injury or illness.

   Day-to-day supervision occurs when "in addition to specifying the output, product or result to be accomplished by the person's work, the employer supervises the details, means, methods and processes by which the work is to be accomplished." (See FAQ 31-1.)

   The determination as to which entity must record injuries and illnesses of contract employees must be based on the actual facts concerning day-to-day supervision at the workplace. This means the entity actually providing day-to-day supervision must record the case on their OSHA 300 Log regardless of the language included in any contractual agreement between parties addressing supervisory responsibilities. (See OSHA's

June 23, 2003 LOI, Recording criteria for cases involving workers from a temporary help service, employee leasing service, or personnel supply service.)

Note: Section 1904.31(b)(4) provides that the employers in such multi-employer circumstances should coordinate their efforts to ensure that each injury and illness is recorded only once, and that it is recorded by the employer who provides day-to-day supervision.

J. **Certification, Summarization and Posting of OSHA 300 Log Information.**

At the end of each calendar year, section 1904.32 requires the employer to review their OSHA 300 Log for completeness and accuracy and to prepare an annual summary of the OSHA 300 Log using the OSHA Form 300A, Summary of Work-Related Injuries and Illnesses, or an equivalent form. The Form 300A must be reviewed and certified for accuracy by a company executive and physically posted in the workplace for three months from February 1 through April 30. The company executive must be one of the following persons: (1) an owner of the company; (2) an officer of the corporation; (3) the highest-ranking official working at the establishment; or (4) the immediate supervisor of the highest-ranking official working at the establishment. The annual summary must be completed, certified, and physically posted in the workplace even if no recordable injuries or illnesses occurred during the calendar year.

Note: Although section 1904.32(a) uses the phrase "at the end of the calendar year," employers have until February 1 to create and post the annual summary for the recorded information from the previous calendar year.

K. **Retention and Updating of Records.**

Section 1904.33(a) requires the employer to save the OSHA Form 300, the privacy case list (if one exists), the annual summary Form 300A and the OSHA Form 301 Incident Reports for five years following the end of the calendar year covered by the records. Section 1904.33(b)(1) also requires the employer to update the entries on the OSHA 300 Log on a continuing basis (including during the five-year retention period) to include newly discovered cases and show changes that have occurred to the classification, description or outcome of previously recorded injuries and illnesses. For example, if the description or outcome of an injury or illness changes (a case requiring medical treatment becomes worse and the employee must take days away from work to recuperate), the employer must remove or line out the original entry and enter the new information on the OSHA 300 Log.

Sections 1904.33(b)(2) and (b)(3) provide that the employer is not required to update the OSHA 300A annual summary or the OSHA 301 Incident Report Forms, although the employer may update such forms if they wish to do so.

L. **Change in Business Ownership.**

Under, section 1904.34, if an employer ceases operations at an establishment during a calendar year, and the establishment is then operated by a new employer for the remainder of the year, each employer is responsible for recording and reporting work-related injuries and illnesses only for that period of the year during which each employer owned the establishment. The selling employer is required to transfer their Part 1904 records to the new owner, and the new owner must save all records of the establishment kept by the prior owner. However, the new owner is not required to update or correct the records of the prior owner, even if new information about old cases becomes available.

M. **Employee Involvement.**

Under section 1904.35, employees and their representatives must be involved in the recordkeeping system in specific ways. Each employer must: (1) inform employees on how to report work-related injuries and illnesses; (2) inform employees that they have the right to report injuries and illnesses and that employers are prohibited from discharging or in any manner discriminating against employees for reporting work-related injuries and illnesses: and (3) provide employees and their representatives with access to the injury and illness records. More information about each of these requirements is provided below.

Note: OSHA's March 12, 2012 Memorandum entitled Employer Safety Incentive and Disincentive Policies and Practices, October 19, 2015 Memorandum entitled Interpretation of 1904.35(b)(1)(i) and (iv), November 10, 2016 Memorandum entitled Interim Enforcement Procedures for New Recordkeeping Requirements under 29 CFR 1904.35, and October 11, 2018 Memorandum entitled Clarification of OSHA's Position on Workplace Safety Incentive Programs and Post-Incident Drug Testing Under 29 C.F.R. § 1904.35(b)(1)(iv) provide some further guidance on what may constitute reasonable reporting procedures and retaliatory conduct. OSHA's October 11, 2018, Memorandum supersedes the 2016 Memorandum to the extent there is inconsistency and provides a clarification of the Department's position that OSHA's recordkeeping requirements do not prohibit workplace safety incentive programs or post-incident drug testing and relevant enforcement instruction.

1. **Reporting Work-related Injuries and Illnesses.** Under section 1904.35(b)(1)(i) employers must set up a reasonable way for employees to report work-related injuries and illnesses promptly and accurately. A procedure is not reasonable if it would deter or discourage employees from accurately reporting a work-related injury or illness.

2. **Employee Access to Records.** Section 1904.35(b)(2) requires employers to provide access to recordkeeping forms to current and former employees, as well as to their personal representatives, and to authorized employee representatives. Under section 1904.35(b)(2)(i), an authorized employee representative is an authorized collective bargaining agent of one or more of the employees who work at the employer's establishment. Under section 1904.35(b)(2)(ii), a personal representative of an employee or former employee is a person that the employee or former employee designates, in writing, as their personal representative, or the legal representative of a deceased or legally incapacitated employee or former employee. (For additional information, see OSHA's September 9, 2005 LOI, Employer obligation to provide access to entire OSHA 300 Logs, including names of both union and non-union employees.)

   Section 1904.35(b)(2) gives employees and their representatives the access rights described below:

   a. **OSHA 300 Log -** Any employee, former employee, personal representative, or authorized employee representative has the right to obtain a copy of the current OSHA 300 Log, and to any other retained OSHA 300 Log(s), for any establishment in which the employee or former employee has worked. The employer must provide one copy, free of charge, of the requested OSHA 300 Log(s) by the end of the next business day.

      Note: The employee, former employee, personal representative, or authorized employee representative is not entitled to see, or to obtain a copy of, the confidential list of names and case numbers for privacy concern cases.

   b. **OSHA Form 301 Incident Reports -** Any employee, former employee, or their personal representative is entitled to a copy of any OSHA 301 Incident Report Forms describing an injury or illness to that employee, free of charge, by the end of the next business day.

      An authorized employee representative is entitled to copies of information from the right-hand portion of all OSHA Form 301 Incident Reports for the establishment(s) where the representative represents one or more employees under a collective bargaining agreement. The right-hand portion of the OSHA 301 Incident Report Form contains the heading "Information about the case," and includes information about

how the injury or illness occurred, but it does not contain the employee's name or other specific information, such as the employee's address, date of birth, and location information for medical treatment. The employer must remove all other information from the OSHA 301 Incident Report Form before it is disclosed to an authorized employee representative. The employer must provide the authorized employee representative with one copy of all requested OSHA Form 301 Incident Reports for the establishment, free of charge, within seven calendar days.

3. **Prohibition Against Discrimination.** OSHA recordkeeping requirements prohibit employers from retaliating against employees for reporting work-related injuries and illnesses. Section 1904.35(b)(1)(iv) specifically prohibits employers from discharging or in any way discriminating against employees for reporting work-related injuries or illnesses.

   Section 1904.36 makes clear that, in addition to the requirements in Section 1904.35, section 11(c) of the OSH Act prohibits employers from discriminating against an employee for reporting a work-related fatality, injury, or illness, and that section 11(c) of the OSH Act also protects an 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. (Note that section 1904.36 is informational only and is not a citable provision of the Recordkeeping Regulation.)

N. **State Recordkeeping Regulations.**

Section 1904.37(a) provides that States operating OSHA-approved State Plans must have occupational injury and illness recordkeeping requirements that are substantially identical to the requirements in Part 1904 (See 29 CFR 1902.3(k), 29 CFR 1952.4 and 29 CFR 1956.190(i).) Section 1904.37(b)(1) provides that these State Plans must have the same requirements as OSHA for determining which injuries and illnesses are recordable and how they are recorded. For other Part 1904 provisions, such as industry exemptions, the reporting of fatalities and other severe injuries and illnesses, record retention, or employee involvement, State Plan requirements may be more stringent than or supplemental to federal requirements. (See section 1904.37(b)(2).)

The State Plan recordkeeping and reporting requirements for State and local government employees may differ from those for the private sector but must meet the requirements in Section 1904.37(b)(1) and (b)(2).

O. **Variances from Recordkeeping Requirements.**

Section 1904.38 explains the procedures employers must follow when requesting a variance from the recordkeeping requirements in Part 1904. The

regulation allows employers to petition OSHA if they want to maintain records in a manner that is different from the approach required in 29 CFR 1904, rather than following the procedures in 29 CFR 1905. Section 1904.38 requires that employers show that their alternative recordkeeping system: (1) collects the same information as required by the Part 1904 regulation; (2) meets the purposes of the OSH Act; and (3) does not interfere with the administration of the OSH Act. (See section 1904.38 for specific requirements and variance application and approval procedures.)

P. **Reporting Severe Injuries and Illnesses to OSHA.**

Section 1904.39(a)(1) requires employers to report to OSHA within 8 hours each work-related fatality, and Section 1904.39(a)(2) requires employers to report to OSHA within 24 hours each work-related inpatient hospitalization, amputation, and loss of an eye. The reporting requirements in section 1904.39 apply to all employers covered by the OSH Act, including those that are partially exempt from keeping OSHA injury and illness records because of size or industry classification.

1. **Methods For Reporting.** Section 1904.39(a)(3) requires employers to report the work-related fatality, in-patient hospitalization, amputation, or loss of an eye using one of the following methods:
   a. By telephone or in person to the OSHA Area Office that is nearest to the site of the incident;
   b. By telephone to the OSHA toll-free central telephone number, 1-800-321-OSHA (1-800-321-6742); or
   c. By electronic submission using the Serious Event Reporting Online Form reporting application located on OSHA's public website, entitled Report a Fatality or Severe Injury.

   Note: If the Area office is closed, the employer must still report the fatality, in-patient hospitalization, amputation, or loss of an eye in a timely manner, by using either the OSHA telephone number or the reporting application. (See 1904.39(b)(1).)

   Note: If an employer reports to OSHA an in-patient hospitalization, amputation, or loss of an eye, and the employee subsequently dies within 30 days of the incident, the employer is not required to make a second report regarding the fatality. (See OSHA's January 8, 2021, LOI, Reporting two related reportable events.)

2. **Information Required in Reporting.** Section 1904.39(b)(2) requires employers to give OSHA the following information for each fatality, in-patient hospitalization, amputation, or loss of an eye:
   a. The establishment name;

b. The location of the work-related incident;
c. The time of the work-related incident;
d. The type of reportable event (i.e., fatality, in-patient hospitalization, amputation, or loss of an eye);
e. The number of employees who suffered a fatality, in-patient hospitalization, amputation, or loss of an eye;
f. The names of employees who suffered a fatality, in-patient hospitalization, amputation, or loss of an eye;
g. The employer's contact person and phone number; and
h. A brief description of the work-related incident.

3. **Circumstances in which Reporting is Not Required.** Under section 1904.39, employers do not have to report an event to OSHA if any of the following circumstances apply:
   a. It is not work-related.
   b. It occurred more than 30 days after the work-related incident.
   c. It resulted from a motor vehicle accident on a public street or highway, except in a construction work zone. (However, employers must report events occurring in construction work zones.)
   d. It occurred on a commercial or public transportation system (e.g. airplane, subway, bus, ferry, streetcar, light rail, or train).

   Note: Events that are not required to be reported to OSHA may still be recordable if the employer is required to keep Part 1904 Injury and Illness Records and the event meets the recording criteria in the regulation. (See sections 1904.4 through 1904.11, and prior discussion of these provisions in this instruction for recordability requirements.)

4. **Heart Attacks.** Section 1904.39(b)(5) requires employers to report work-related fatalities and in-patient hospitalizations caused by a heart attack. However, the local OSHA Area Office Director will decide whether to investigate the event, depending on the circumstances of the heart attack.

5. **Delays in Reporting.** Under section 1904.39(b)(7), if an employer is not immediately aware of a reportable incident, a report to OSHA must be made within 8 hours after a fatality is reported to the employer or any of its agents, and 24 hours after an in-patient hospitalization, amputation, or loss of an eye is reported to the employer or any of its agents. Under section 1904.39(b)(8), if an employer is not immediately aware that a reportable incident is the result of a work-related incident, the employer must similarly report to OSHA within 8 hours after the employer or any of its agents learns this in the event of a fatality, and within 24 hours after

the employer or any of its agents learn about an in-patient hospitalization, amputation, or loss of an eye.

Q. **Providing Records to Government Representatives.**

Section 1904.40(a) states that employers must provide a complete copy of any records required by Part 1904 to an authorized government representative when requested. Copies of the requested records must be provided within 4 business hours. Records under Part 1904 include the OSHA Form 300 (Log), the OSHA Form 300A (Summary), the confidential listing of privacy concern cases along with the names of the injured or ill privacy case workers, and the OSHA Form 301 (Incident Report). Section 1904.40(b)(1) specifies that authorized government representatives include (1) a representative of the Secretary of Labor conducting an inspection or investigation under the OSH Act, (2) a representative of the Secretary of Health and Human Services (including the National Institute for Occupational Safety and Health (NIOSH)) conducting an investigation under Section 20(b) of the OSH Act, or (3) a representative of a State agency responsible for administering an OSHA-approved State Plan.

Note: The government's right to ask for such records is limited by the authority of that Agency. For example, a representative of a State Plan can only ask for the records when visiting an establishment within that State.

Note: Under section 1904.40(b)(2), if the employer maintains the records at an establishment in a different time zone, the employer may use the business hours at the location where the records are being retained when calculating the deadline.

R. **Electronic Submission of Injury and Illness Data to OSHA.**

Section 1904.41 requires certain employers to electronically submit to OSHA, on an annual basis, injury and illness data that they are already required to keep under Part 1904. These data are submitted through OSHA's Injury Tracking Application (ITA).

1. **Establishments Required to Electronically Submit Data.** The electronic submission requirement is based on establishment size and industry classification.

   a. **OSHA Form 300A -** Section 1904.41(a)(1)(i) requires establishments with 20-249 employees at any time during the previous calendar year, that are classified in an industry listed in Appendix A to Subpart E of Part 1904, to electronically submit to OSHA information from their OSHA Form 300A Summary of Work-Related Injuries and Illnesses. Section 1904.41(a)(1)(ii) requires establishments with 250 or more employees at any time during

the previous calendar year to electronically submit to OSHA information from their OSHA Form 300A. This provision applies to establishments in all industries covered by Part 1904.

b. **OSHA Forms 300 and 301 -** Section 1904.41(a)(2) requires establishments with 100 or more employees at any time during the previous calendar year, that are classified in Appendix B to Subpart E of Part 1904, to electronically submit to OSHA certain information from their OSHA Form 300 Log of Work-Related Injuries and Illnesses and their Form 301 Injury and Illness Incident Report.

c. **Electronic Submission of Part 1904 Records Upon Notification -** Section 1904.41(a)(3) requires employers to electronically submit requested information upon notification by OSHA or OSHA's designee. Section 1904.41(b)(3) provides that OSHA will notify an employer by mail if they are required to submit such information, and that OSHA will also announce individual data collections through publication in the Federal Register and the OSHA newsletter, and announcements on the OSHA website.

2. **Determining Establishment Size.** The size criterion in Section 1904.41 is based on the number of employees at the establishment and not the number of employees at the company. 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. The size threshold for electronic submission is based on the peak number of employees at a given establishment during the previous calendar year.

3. **Determining Establishment Industry.** The covered industries listed in both Appendix A and Appendix B to Subpart E are based on 2017 NAICS codes. The industry criterion is based on the NAICS code at the establishment rather than the entire company.

4. **Requisite Information for Submission.** For each establishment subject to the electronic reporting requirements, the employer must provide the Employer Identification Number (EIN) by establishment. For establishments required to submit OSHA Form 300A data, all fields are required. For establishments required to submit OSHA Forms 300 and 301 data, under section 1904.41(b)(9), establishments are required to submit all of the information from the forms except the following: Employee name (column B) of the Form 300 Log; and Employee name (field 1), employee address (field 2), name of physician or other health

care professional (field 6), and facility name and address if treatment was given away from the worksite (field 7) of the Form 301 Incident Report. (For additional information, see OSHA's Injury Tracking Application Frequently Asked Questions (ITA FAQ) at https://www.osha.gov/injuryreporting/faqs.)

5. **Information that Should Not be Submitted by Employers through the ITA.** When electronically submitting OSHA Forms 300 and 301 data, establishments should review and remove non-mandatory information that could reasonably be expected to identify individuals from the narrative fields. Establishments should not include the following information: Names, Social Security numbers, telephone numbers, home addresses, email addresses, healthcare provider information. (See OSHA's ITA FAQ, https://www.osha.gov/injuryreporting/faqs, and OSHA's Fact Sheet on Protecting Personally Identifiable Information (PII) in ITA submissions for further information.)

6. **Deadline for Submitting Information Electronically.** Under section 1904.41(c), establishment required to electronically submit data from their OSHA Forms must do so by March 2 of the year after the calendar year covered by the form(s) (for example, by March 2, 2024, for the forms covering 2023).

7. **Additional Resources on Electronic Reporting Requirements.** OSHA has provided additional information, including an ITA Coverage Application to help establishments determine coverage by these requirements, and answers to many frequently asked questions, on its website for the new electronic reporting requirements at https://www.osha.gov/injuryreporting.

X. Requests from the Bureau of Labor Statistics (BLS) for Data.

Section 1904.42(a) requires employers that receive a Survey of Occupational Injuries and Illnesses Form from BLS or a BLS designee to promptly complete and return the form to BLS. Each year, BLS collects data from a statistical sample of employers in all industries and across all size classes and uses the data to compile occupational injury and illness statistics. Section 1904.42(b)(1) states that some employers will receive a BLS survey form and others will not, and that an employer is not required to send data to BLS unless requested to do so. Section 1904.42(b)(2) directs the employer to follow the instructions on the survey form when completing the information and return it promptly.

Section 1904.42(b)(3) notes that BLS is authorized to collect data from all employers, even those who are exempt from keeping injury and illness records under section 1904.1 to section 1904.3, from keeping OSHA injury and illness records. In such cases,

BLS may inform such employers in writing that it will be collecting injury and illness information from them in the coming year, and if an employer receives such a letter, they are required to keep the injury and illness records required by section 1904.5 to 1904.15 and to make a survey report to BLS for the year covered by the survey.

Note: Establishment-specific injury and illness data collected by BLS are not shared with the public, other government agencies, or OSHA.

XI. Definitions

Included below are definitions for select terms used in Part 1904, including select definitions from section 1904.46.

A. **Incident Rate or Days Away, Restricted, or Transferred (DART) Rate.**

These terms are not defined in 1904.46, but they are terms used by OSHA that both refer to the number of recordable injuries and illnesses occurring among a given number of full-time workers (usually 100 full time workers) over a given period of time (usually one year). In calculating the Incidence Rate or DART Rate, the total number of injuries and illnesses includes cases involving days away from work, restricted work activity, and transfers to another job. The rate is calculated based on (N/EH) x (200,000) where N is the number of cases involving days away and/or job transfer or restriction, EH is the total number of hours worked by all employees during the calendar year, and 200,000 is the base for 100 full-time equivalent employees. For example:

Employees of an establishment (XYZ Company), including temporary and leased workers, worked 645,089 hours at XYZ Company. There were 22 injury and illness cases involving days away and/or restricted work activity and/or job transfer from the OSHA 300 Log (total of column H plus column I). The DART rate would be (22/645,089) x (200,000) = 6.8. (See additional guidance in Chapter 3 of OSHA Instruction CPL 02-00-164, Field Operations Manual (FOM), April 14, 2020.)

B. **Establishment.**

An establishment is defined in section 1904.46 as a single physical location where business is conducted or where services or industrial operations are performed. For activities where employees do not work at a single physical location, such as construction, transportation, communications, electric, gas and sanitary services, and similar operations, the establishment is represented by main or branch offices, terminals, stations, etc. that either supervise such activities or are the base from which personnel carry out these activities.

1. **Multiple Establishments at One Business Location.** Under section 1904.46(1), normally, one business location has only one establishment, but under limited conditions, the employer may consider two or more

separate businesses that share a single location to be separate establishments. Section 1904.46(1) provides that an employer may divide one location into two or more establishments only when:

a. Each of the establishments represents a distinctly separate business;
b. Each business is engaged in a different economic activity;
c. No one industry description in the North American Industry Classification - System (NAICS) applies to the joint activities of the establishments; and
d. Separate reports are routinely prepared for each establishment on the number of employees, their wages and salaries, sales or receipts, and other business information. For example, if an employer operates a construction company at the same location as a lumber yard, the employer may consider each business to be a separate establishment.

2. **Establishments With More Than One Physical Location.** Under section 1904.46(2), an establishment can include more than one physical location, but only under certain conditions. An employer may combine two or more physical locations into a single establishment only when:

a. The employer operates the locations as a single business operation under common management;
b. The locations are all located in close proximity to each other; and
c. The employer keeps one set of business records for the locations, such as records on the number of employees, their wages and salaries, sales or receipts, and other kinds of business information. For example, one manufacturing establishment might include the main plant, a warehouse a few blocks away, and an administrative service building across the street.

3. **Telecommuting**. Under section 1904.46(3), for employees who telecommute from home, the employee's home is not a business establishment, and a separate 300 Log is not required. Employees who telecommute must be linked to one of the employer's establishments under section 1904.30(b)(3).

4. **Temporary worksites.** Whether a temporary worksite, such as a construction site, should be treated as a separate establishment depends on the length of the project.

a. **Temporary worksites that are scheduled to continue for a year or more -** A separate OSHA 300 Form must be maintained for each establishment under section 1904.30(a). In accordance with sections 1904.35 and 1904.40, the log may be maintained either

at the construction site, or at an established central location provided the employer can: (1) Transmit information about the injuries and illnesses from the establishment to the central location within seven (7) calendar days of receiving information that a recordable injury or illness has occurred; and (2) Produce and send records from the central location to the establishment within four business hours when the employer is required to provide to a government representative or by the end of the next business day when providing records to an employee, former employee or employee representative.

b. **Temporary worksites that are scheduled to continue for less than a year -** A separate OSHA 300 Log Form need not be maintained for each worksite. Instead, one OSHA 300 Log may be maintained to cover all such short-term establishments, or all such short-term establishments within company divisions or geographic regions, if applicable. In accordance with sections 1904.35 and 1904.40, the OSHA 300 Log may be maintained at the establishment or at a central location provided the employer can satisfy the same criteria described in the previous paragraph.

C. **Injuries and Illnesses.**

An injury or illness is defined in section 1904.46 as an abnormal condition or disorder. Section 1904.46 further provides that injuries include cases such as, but not limited to, a cut, fracture, sprain, or amputation, and that illnesses include both acute and chronic illnesses, such as, but not limited to, a skin disease, respiratory disorder, or poisoning. Section 1904.46 notes that injuries and illnesses are recordable only if they are new, work-related cases that meet one or more of the Part 1904 recording criteria.

Although injury and illness are broadly defined, they capture only those changes that reflect an adverse change in the employee's condition that is of some significance i.e. that reach the level of an abnormal condition or disorder. For example, a mere change in mood or experiencing normal end-of-the-day tiredness would not be considered an abnormal condition or disorder. Similarly, a cut or obvious wound, breathing problems, skin rashes, blood tests with abnormal results, and the like are clearly abnormal conditions and disorders. Pain and other symptoms that are wholly subjective are also considered an abnormal condition or disorder. There is no need for the abnormal condition to include objective signs to be considered an injury or illness. (See the preamble of the 2001 recordkeeping final rule *Federal Register* Notice, Vol. 66, page 6080 for further discussion of these terms. See sections 1904.4 through 1904.11 and corresponding sections of this instruction for injury and illness recordability requirements.)

Note: The distinction between injury and illness is not a factor for determining which cases are recordable.

D. **Other Potentially Infectious Material (OPIM).**

Section 1904.46 provides that, for purposes of 29 CFR Part 1904, OPIM has the same meaning as in OSHA's Bloodborne Pathogens standard at 29 CFR 1910.1030. Under both OSHA regulations, OPIM is defined to mean: (1) The following human body fluids: semen, vaginal secretions, cerebrospinal fluid, synovial fluid, pleural fluid, pericardial fluid, peritoneal fluid, amniotic fluid, saliva in dental procedures, anybody fluid that is visibly contaminated with blood, and all body fluids in situations where it is difficult or impossible to differentiate between body fluids; (2) Any unfixed tissue or organ (other than intact skin) from a human (living or dead); and (3) HIV-containing cell or tissue cultures, organ cultures, and HIV or HBV-containing culture medium or other solutions; and blood, organ, or other tissues from experimental animals infected with HIV or HBV.

E. **Physician or Other Licensed Health Care Professional.**

A physician or other licensed health care professional is defined in section 1904.46 as an individual whose legally permitted scope of practice (i.e., license registration, or certification) allows them to independently perform, or be delegated the responsibility to perform, the activities described by Part 1904.

XII. Federal Agency Occupational Injury and Illness Recordkeeping and Reporting Requirements

Under 29 CFR 1960, Subpart I, federal agencies must keep their injury and illness records in essentially the same manner as private sector employers under Part 1904. Specifically, they must comply with the requirements under Part 1904, Subparts C, D, E and G, except that the definition of “establishment” found in section 1960.2(h) remains applicable to federal agencies. These distinctions are described in further detail below.

A. **Different Statement of Purpose.**

Subpart A of Part 1904 specifies the "Purpose" of the recordkeeping regulation for private sector employers. The "Purpose" statement for federal agencies is outlined in 29 CFR 1960.66(a).

B. **No Exclusion for Ten or Fewer Employees.**

Subpart B of Part 1904 is the partial exemption for private sector employers with ten or fewer employees and those in certain industries. Subpart B of Part 1904 does not apply to federal agencies. There is no equivalent provision in the federal sector. All federal executive branch agencies regardless of size or industry classification, must keep injury and illness records.

C. **Different Definition of Establishment.**

When OSHA adopted the applicable Part 1904 requirements for federal agencies, it maintained the definition of "establishment" in section 1960.2(h), as this definition better describes the application of the term in the federal sector. Under section 1960.2(h), “establishment” means a single physical location where business is conducted or where services or operations are performed. Where distinctly separate activities are performed at a single physical location, each activity shall be treated as a separate establishment. Section 1960.2(h) further clarifies that “establishment” in this context would typically refer to a field activity, regional office, area office, installation, or facility.

D. **Reporting of Serious Accidents.**

As with the private sector, federal agencies must report work-related fatalities, in-patient hospitalizations, amputations, and losses of an eye to OSHA in accordance with section 1904.39. In addition, as required by the basic program element at 29 CFR 1960.70, federal agencies must provide the OSHA Office of Federal Agency Programs (OFAP) with a summary report of each fatal and catastrophic incident investigation.

Note: The United States Postal Service (USPS) is considered a private sector employer for purposes of OSHA’s enforcement oversight, and so USPS must comply with Part 1904 without the above modifications.

XIII. Inspection Procedures

This section includes general guidance for OSHA Compliance Safety and Health Officers (CSHOs) in conducting review and evaluation of an employer’s records and compliance with OSHA recordkeeping requirements in Part 1904, in the course of an OSHA inspection. This section supplements compliance inspection guidance in the FOM. In addition, Appendix B of this instruction provides a Compliance Officer Checklist which is meant to serve as a resource to CSHOs for conducting records evaluations.

A. **Determining Applicability of Recordkeeping Requirements.**

In conducting an OSHA inspection or investigation, the CSHO must verify the establishment’s NAICS code and the number of employees in the entire company to determine the whether the establishment must comply with all Part 1904 recordkeeping requirements, or whether the establishment may be partially exempt. If the company has 10 or fewer employees at all times during the previous year, or the establishment is classified as a partially exempt industry listed under section 1904.2 and Appendix A, Subpart B of Part 1904, they are not required to maintain the OSHA injury or illness forms, although they are still required to report fatalities and severe injuries and illnesses to OSHA. For additional information regarding coverage requirements, see section 1904.2 and paragraph IX.B. of this instruction.

B. **Requesting Injury and Illness Records and Recording OSHA 300 Form data in the OSHA Information System (OIS).**

For inspections and investigations of establishments required to maintain the injury and illness records, the CSHO must request copies of the establishment's injury and illness records for the current and three prior calendar years. The CSHO must review these records and enter the employer's data from its OSHA 300 Logs into OIS.

Note: In accordance with Chapter 3 of OSHA's FOM, CPL 02-00-164, for construction inspections and investigations, only the OSHA 300 Log information for the prime/general contractor needs to be recorded by the CSHO in OIS (where such records exist and are maintained). It will be left to the discretion of the Area Director or the CSHO as to whether such information should also be recorded by the CSHO in OIS for any of the subcontractors.

C. **Timeliness.**

Section 1904.40(a) states that once a request is made, an employer must provide the required recordkeeping records within four (4) business hours.

Note: Although the employer has four hours to provide recordkeeping records, there is no requirement that compliance officers must wait until the records are provided before beginning the inspection.

D. **Calculating DART Rates.**

The CSHO must use the data on the employer's OSHA Forms 300, 300A, and 301 to calculate the establishment's Days Away from Work, Restricted/Job Transfer (DART) rate. CSHOs will not normally need to manually calculate the DART rate since it is automatically calculated when the OSHA Form 300 data are entered into the OIS. However, if it is necessary to calculate rates manually, the CSHO should do so in accordance with the formula included in the Definitions section of this instruction and additional guidance in Chapter 3 of OSHA's FOM, CPL 02-00-164. The establishment's DART rate must be included in the entry in OIS for each inspection or investigation.

E. **Reviewing compliance with ITA requirements.**

In addition, CSHOs should refer to the ITA database in the course of inspections to identify employers who were required to submit data, to verify whether they have complied with the requirement, and to obtain submitted data for review, where appropriate. In recent years, DTSEM has generated a weekly list of establishments for which OSHA has opened an inspection that may have failed to submit form 300A data within the six-month date to issue a citation for non-compliance with the requirements of 29 CFR 1904.41 (September 2 of each year). (See OSHA's April 16, 2024 Memorandum entitled Update to Enforcement

Procedures for Failure to Submit Electronic Illness and Injury Records under 29 CFR 1904.41(a)(1) and (a)(2) and OSHA's April 18, 2024 Memorandum entitled Injury Tracking Application (ITA) Non-Responder Enforcement Program. Refer to OSHA's Recordkeeping website for further enforcement memoranda at https://www.osha.gov/recordkeeping.)

F. **Reviewing Establishment Injury and Illness Records.**

The CSHO should review the records provided by the employer (including the employer's OSHA 300 logs, 300A summaries, and 301 incident reports for the prior three calendar years) to identify any trends, potential hazards, types of operations and work-related injuries or illnesses, and to determine whether the employer properly recorded and reported information to OSHA. The CSHO may also review information provided to OSHA through the ITA if available. If recordkeeping deficiencies are suspected, the CSHO may be able to obtain further information through the inspection, including through information obtained in employee interviews and medical records review, where appropriate.

1. **Identifying Deficiencies in OSHA Recordkeeping Forms.** Certain information that may appear on – or have been omitted from - an establishment's OSHA Form 300 may be an indication that injuries or illnesses are inaccurately recorded. If the CSHO has questions regarding a specific case on the employer's OSHA Form 300, the CSHO must review the employer's corresponding OSHA Form 301 or equivalent to verify the recordable injury or illness is properly entered on the employer's OSHA 300 Log. For example, if location, body part, or other information seems to be missing from the OSHA Form 300, the CSHO should review the corresponding OSHA Form 301.

   Some examples of factors that may indicate a likelihood of inaccurate recording, and that may warrant closer review of the establishment's records, include, but are not limited to:

   a. Cases classified as "other recordable": For such cases, the CSHO should check to see whether the recorded outcome is consistent with the type of injury or illness entered on the form.
   b. Circumstances where a large number of temporary workers are present.
   c. Circumstances where the establishment has a very low DART rate but is in an industry with a very high DART rate.
   d. Circumstances where there are very high numbers of reportable incidents.
   e. Circumstances where the requested logs from previous calendar years have no recorded injuries or illnesses.

2. **Identifying Potential Safety and Health Trends.** Where the records review indicates potential trends in types of incidents or hazards, in such situations it may be appropriate for the CSHO to conduct further evaluation of the potential hazards in the course of the inspection, including through the walkaround, employee interviews, and medical records review where appropriate. If the deficiencies or inaccuracies in the employer's records impair the CSHO's ability to assess hazards, injuries and/or illnesses at the workplace, a more thorough records review may be warranted.

   Note: OSHA can expand the scope of the inspection when there is reasonable belief, based on specific evidence (e.g., injuries or illnesses recorded in both OSHA forms 300 and 301, employee statements, or "plain view" observations), that violative conditions may be found in other areas of the workplace. During a partial inspection, ordinarily, injury and illness data from the OSHA 300 logs *alone* will not be sufficient to support a broader inspection. However, OSHA 300 data in conjunction with other specific evidence—including incident report information from OSHA 301 forms, employee statements, or plain view observations—can be used to support an expanded inspection when the particular injuries or illnesses found in the OSHA 300 logs can be tied to a specific violative condition in the workplace.

3. **Obtaining Further Assistance.** If recordkeeping deficiencies are suspected or determined to exist during an inspection or an investigation, the CSHO and the Area Director or Designee may request assistance from the Regional Recordkeeping Coordinator or designated contact. A list of Regional Recordkeeping Coordinators is found on OSHA's Recordkeeping website at https://www.osha/gov/recordkeeping/contacts. The Regional Recordkeeping Coordinator can help the CSHO determine, for example, whether the inspection or investigation should be expanded, and what citations may be appropriately considered. (As noted above, the Compliance Officer Checklist in Appendix B of this instruction may also be useful to CSHOs in conducting a recordkeeping evaluation during an OSHA inspection.)

G. **Medical Facilities.**

In evaluating employers' compliance with recordkeeping requirements, CSHOs should check if the establishment has an on-site medical, nursing, health, or first aid facility. If so, it may be useful to obtain the first aid logs for the medical facilities in evaluating potential recordkeeping deficiencies, as well as indications of hazards that may be prevalent at the workplace. In addition, the CSHO may wish to inquire regarding the location of the nearest emergency room where employees may be treated. For example, such information may be useful in

cases where the records review indicates employees have received medical treatment off-site, or where the records review and/or employee interviews may indicate deficiencies in recordkeeping.

H. **Obtaining Medical Records.**

In addition to information from the employer's recordkeeping forms, employee medical records can provide critical information needed to determine whether an employee's safety and health has been adversely affected by conditions in the workplace. For example, OSHA access to employee medical records may be necessary during inspections to determine whether an employer is complying with OSHA standards, or to verify whether an employer has taken steps to abate existing violations.

A medical access order (MAO) must be obtained when accessing all personally identifiable employee medical information, unless specifically excluded by provisions set forth in 29 CFR 1913.10 or CPL 02-02-072, Rules of agency practice and procedure concerning OSHA access to employee medical records. For example, a written MAO is required in order to review medical opinions not mandated by an existing OSHA standard. OSHA's regulation at section 1913.10 and CPL 02-02-072, provide further information regarding MAOs. CSHOs should consult with OSHA's Office of Occupational Medicine and Nursing (OOMN) for guidance if they have any questions when reviewing medical records and for obtaining MAOs, as necessary.

I. **Policies that Discourage Recording and Reporting.**

The CSHO must document in the case file any evidence of company policies that may have an effect of discouraging recording and reporting of injuries and illnesses. An example of this might be an award or incentive program tied to the number of injuries or illnesses recorded on the OSHA 300 Log. If the CSHO learns through employee interviews or other means of any company policies that may have influenced or restricted the treatment that employees receive for occupational injuries and illnesses, the CSHO shall obtain a copy of the employer's written policy and ask questions of management personnel to help verify whether such policies exist. See OSHA's November 10, 2016 Memorandum entitled Interim Enforcement Procedures for New Recordkeeping Requirements under 29 CFR 1904.35, OSHA's October 11, 2018 Memorandum entitled Clarification of OSHA's Position on Workplace Safety Incentives Programs and Post-Incident Drug Testing Under 29 CFR 1904.35(b)(1)(iv), and other above-referenced memoranda in paragraph IX.M. of this instruction, for further discussion.

XIV. Citations and Penalties for Violation of Part 1904 Requirements

This section provides a discussion of citation policies for Part 1904 requirements.

A. **General.**

Violations of Part 1904 are generally cited as Other-Than-Serious citations. Violations of Part 1904 may be cited as Repeat, Willful, or Failure to Abate citations (see additional discussion in paragraph XV.L. of this instruction below). Violations of Part 1904 may not be cited as serious citations. See Chapter 6 of OSHA's FOM, CPL 02-00-164, Section X.D.

B. **Limitation Period for Issuing Recordkeeping Citations.**

Section 9(c) of the OSH Act provides that, no citation may be issued after the expiration of six months following "the occurrence of any violation."

As previously discussed, section 1904.29(b)(3) states that the employer must enter each case on the OSHA 300 Log and 301 Incident Report within 7 calendar days of receiving information that a recordable injury or illness has occurred. In most cases, employers know immediately or within a short time that a recordable case has occurred. In a few cases, however, it may be several days before the employer receives information that an employee's injury or illness meets one or more of the recording criteria.

For purposes of entering cases on the OSHA Form 300 Log and OSHA Form 301 Incident Report, a violation "occurs" when the employer fails to enter the case within seven calendar days of receiving information that an injury or illness results in the recording criteria. For example, if an injury or illness takes place on April 1, and the case meets all of the recording criteria on that date, the employer would need to enter the injury or illness on the OSHA Form 300 Log and OSHA Form 301 Incident Report within seven calendar days on April 8. In this example, the six-month limitation date for OSHA to issue a citation for failure to record the case would be October 8.

In another example, an employee sustains a work-related, injury on April 1, but only receives first aid treatment through April 14. On April 15, the employee starts receiving medical treatment beyond first aid to treat the injury. Since the injury meets the recording criteria on April 15, the employer would have until April 22 to enter the case on the OSHA 300 Log and OSHA 301 Incident Report. In this example, the violation for failure to record the case would occur on April 22 (seven days after the employer received information that the case resulted in the general recording criteria) and not April 1 when the injury took place. The six-month limitation date for failure to record the injury in this example would be October 22.

Finally, for purposes of the records retention requirement in section 1904.33, which requires employers to retain recordkeeping forms for five years following the end of the calendar year that the record covers, a violation occurs when the employer loses or destroys a form before the end of the five-year retention

period. Accordingly, once an employer creates a Part 1904 record, OSHA can cite that employer for failure to save the record for five calendar years plus six months.

Note: Section 9(c) of the OSH Act does not apply to federal agencies. OSHA may issue Notices to federal agencies for recordkeeping violations even when they are issued more than six months after the occurrence of the violation. However, like the private sector, federal agencies are only required to maintain recordkeeping forms for five years. As such, notices to federal agencies for recordkeeping violations should only be issued if the violation occurs within the five-year retention period.

C. **OSHA 300 Log and 301 Incident Report Forms.**

The employer must record cases on the OSHA Form 300 Log of Work-Related Injuries and Illnesses (or equivalent form) and on the OSHA Form 301 Incident Report (or equivalent form), as required in Subpart C of Part 1904. Below are citation policies for several potential shortcomings with employers' OSHA recordkeeping forms.

1. **Failure to Maintain Forms.** Where the employer has failed to maintain these records and the CSHO determines that there have been injuries or illnesses which meet the requirements for recordability but that were not recorded, an Other-Than-Serious citation of section 1904.4(a) for failure to keep records should normally be considered.

   Note: Where no records are kept, but the CSHO determines there have been no injuries or illnesses, a section 1904.4(a) citation should normally not be considered. OSHA also has the burden of proving that each fatality, injury, or illness case was work-related and met one or more of the general recording criteria. Thus, if the employer did not record any injuries or illnesses because they did not determine that a fatality, injury or illness case was work-related, a citation should not be considered unless OSHA can satisfy that burden.

2. **Unrecorded Cases.** When the required records are kept but no entry is made for a specific injury or illness which meets the requirements for recordability, an Other-Than-Serious citation of section 1904.4(a) for failure to record the case should normally be considered.

3. **Failure to use OSHA 300 Log, OSHA 300A Annual Summary, or OSHA 301 Incident Report, or Equivalent Forms.** When the required records are kept but have not been completed using the OSHA 300, 300A, or 301 forms, or their equivalent (i.e. the employer uses a different form or system, and it does not have comparable fields or information), then an

Other-Than-Serious citation of section 1904.29(a) should normally be considered.

4. **Misclassified or Incomplete Cases on the OSHA 300 Log, OSHA 300A Summary Form, or OSHA 301 Incident Report.** When required records are kept but have not been completed with the detail required by the regulation, when the OSHA 300 or equivalent form does not correctly classify certain work-related injuries or illnesses (e.g. days away, restricted work, job transfer, etc.), or when the employer failed to enter the number of days away, days of restricted work, or days of job transfer, or the records otherwise contain inaccuracies, the records must be reviewed to determine if there are deficiencies that materially impair the understandability of the nature of hazards, injuries and illnesses in the workplace.

   If the defects in the records materially impair the understandability of the nature of the hazards, injuries and/or illnesses at the workplace, then an Other-Than-Serious citation of section 1904.7(b)(3) or 1904.7(b)(4) (for failure to correctly classify the case on the OSHA Form 300), or section 1904.29(b)(1) (for OSHA Form 300 and 300A deficiencies), or section 1904.29(b)(2) (for OSHA Form 301 deficiencies) should normally be considered. The CSHO should specify in the AVD what was missing from the OSHA Form 300, 300A, or 301, or equivalent form.

   If the deficiencies do not materially impair the understandability of the information, normally a citation should not be considered. For example, a citation should normally not be considered solely for misclassifying an injury as an illness. In such circumstances, the CSHO should provide instruction to the employer on how to correct the deficiency and reference the employer to relevant materials on the OSHA recordkeeping webpage (http://www.osha.gov/recordkeeping). The CSHO should also document that such instruction was provided in the case file, along with the employer's promised actions to correct the deficiencies.

5. **Failure to Timely Record.** If the employer has recorded an incident on their OSHA forms, but the CSHO can establish through employee interviews, records review, or other means that the employer did not record a case on their OSHA form within seven calendar days of receiving information that a recordable injury or illness has occurred, an Other-Than-Serious citation of section 1904.29(b)(3) may be considered.

6. **Privacy Cases.** If the employer has failed to indicate privacy case where required to do so in the space normally used for the employee's name on

the OSHA Form 300 or equivalent form, then an Other-Than-Serious citation of section 1904.29(b)(6) should normally be considered.

7. **Over-recorded cases.** A citation should not normally be considered if an employer enters cases on the OSHA Form 300 Log that should not have been recorded. The CSHO should instruct the employer to line-out or delete the over-recorded case(s).

D. **Annual Summary Posting Requirements.**

Other-Than-Serious citations under section 1904.32 may be considered if there are shortcomings in the employer's compliance with the requirement to complete and post the OSHA 300A Summary. For example, an Other-Than-Serious citation of section 1904.32(a)(2) should normally be considered if the employer fails to create an annual summary of injuries and illnesses using the OSHA 300A or equivalent form. An Other-Than-Serious citation of section 1904.32(a)(4) should normally be considered if an employer fails to physically post the OSHA Form 300A Summary by February 1. An Other-Than-Serious citation of section 1904.32(a)(3) should normally be considered if an employer fails to certify the Summary. An Other-Than-Serious citation of section 1904.32(b)(2)(iii) should be considered if the employer uses an equivalent form, but it does not include the employee access or employee penalty statements from the OSHA 300A Summary form. An Other-Than-Serious citation of section 1904.32(b)(6) should normally be considered if the employer fails to keep the Summary posted for three months, until May 1.

Note: Citations under section 1904.32 should normally be considered even if no injuries or illnesses occurred. As previously discussed, employers are still required to post the OSHA Form 300A Summary, with zeroes entered, even if no recordable cases occurred. (See FAQ 32-2.)

E. **Record Retention Obligation.**

Employers must save and retain the OSHA forms including the privacy case list if one exists for five years following the end of the calendar year that these records cover under section 1904.33(a). If the employer is required to keep the records and did not have any recordable fatalities, injuries or illnesses, the employer must retain a 300A or equivalent form with zeros during the five-year retention period. An Other-Than-Serious citation of section 1904.33(a) for failure to retain records should normally be considered if an employer has not maintained requisite records for five years.

F. **Access to Records by Employees and Employee representatives.**

If the employer fails upon request to provide copies of records required in section 1904.29(a) to any employee, former employee, personal representative, or authorized employee representative by the end of the next business day, an

Other-Than-Serious citation for violation of section 1904.35(a)(3) should normally be considered. However, if a citation is issued under section 1904.4(a) for the employer's failure to keep records, then normally an additional citation should not be considered for failure to give access under section 1904.35(a)(3).

G. **Discrimination.**

If the employer discharged or discriminated (in any manner) against the employee for reporting a work-related injury or illness, an Other-Than-Serious citation of section 1904.35(b)(1)(iv) should normally be considered. (See OSHA's November 10, 2016 Memorandum entitled Interim Enforcement Procedures for New Recordkeeping Requirements Under 29 CFR 1904.35, and October 11, 2018 Memorandum entitled Clarification of OSHA's Position on Workplace Safety Incentive Programs and Post-Incident Drug Testing Under 29 C.F.R. § 1904.35(b)(1)(iv), for further guidance.)

H. **Failure to Report a Fatality or Severe Injury.**

As previously discussed, in accordance with section 1904.39, an employer is required to report to OSHA within 8 hours of the time the employer learns of the death of any employee (section 1904.39(a)(1)), and within 24 hours of the time the employer learns of an inpatient hospitalization, amputation, or loss of an eye of an employee, from a work-related incident (section 1904.39(a)(2)). This includes heart attacks when work-relationship is established. The employer must report the fatality, inpatient hospitalization, amputation, or loss of an eye to the OSHA Area Office (or State Plan office) that is nearest to the site of the incident, or by calling OSHA's toll-free telephone number 1-800-321-OSHA (6742), or by electronic submission using the Serious Event Reporting Online Form reporting application located on OSHA's public website, entitled Report a Fatality or Severe Injury. See further guidance in paragraph IX.P. of this instruction.

If an employer fails to timely report a fatality or severe injury or illness to OSHA if required to do so, an Other-Than-Serious citation of the applicable provision in section 1904.39, for failure to report, should normally be considered. If the employer attempts to make a report to OSHA but fails to do so by the means prescribed in section 1904.39(a)(3) (i.e. by fax, e-mail, or by leaving a voicemail with the applicable Area Office), then an Other-Than Serious citation of section 1904.39(a)(3) may normally be considered.

If the Area Director becomes aware of an incident required to be reported under section 1904.39 through some means other than an employer report, but prior to the elapse of the 8-hour or 24-hour reporting period, and an inspection or a Rapid Response Investigation (RRI) of the incident is made, a citation for failure to report should normally not be issued. (See OSHA's March 4, 2016 Memorandum, Revised Interim Enforcement Procedures for New Reporting Requirements under 29 C.F.R. 1904.39, for specific enforcement procedures that

Area Offices should follow when reports of a fatality or a severe injury or illness is received pursuant to section 1904.39.)

I. **Failure to Provide Records to Authorized Government Representatives.**

If the employer fails to provide a CSHO or other authorized government representative requested records pursuant to section 1904.40(a), an Other-Than-Serious citation of that provision should normally be considered.

J. **Annual Electronic Submission.**

An Other-Than-Serious citation for violation of OSHA's electronic reporting requirements under section 1904.41(a)(1)(i), (a)(1)(ii), or (a)(2) may be considered where establishments fail to electronically submit illness and injury records as required. OSHA has provided further enforcement and citation guidance through memoranda. (See OSHA's April 16, 2024 Memorandum entitled Update to Enforcement Procedures for Failure to Submit Electronic Illness and Injury Records under 29 CFR 1904.41(a)(1) and (a)(2) and OSHA's April 18, 2024 Memorandum entitled Injury Tracking Application (ITA) Non-Responder Enforcement Program. Refer to OSHA's Recordkeeping website for further enforcement memoranda.)

K. **Penalties.**

Penalties for recordkeeping violations under Part 1904 must be calculated in accordance with Chapter 6 of OSHA's FOM, CPL 02-00-164, entitled Penalties and Debt Collection. See Section X of Chapter 6 the FOM for specific guidance concerning penalties under Part 1904.

L. **Repeat, Willful, Significant, and Egregious Cases.**

When a CSHO determines that there may be significant recordkeeping deficiencies in the course of an inspection, it may be appropriate for the CSHO to conduct a more comprehensive recordkeeping inspection, or to make a referral for a comprehensive recordkeeping inspection to be conducted.

CSHOs are encouraged to contact the Region's Recordkeeping Coordinator or designated contact for guidance and assistance in such cases. Proposed Willful recordkeeping citations, significant cases with major recordkeeping violations, and egregious cases should normally be reviewed by the Region's Recordkeeping Coordinator or designated contact. (See https://www.osha.gov/recordkeeping/contacts.)

1. **Repeat Cases.** For repeated instances of recordkeeping violations, a Repeat citation may be considered, consistent with Chapter 4 and Chapter 6 of OSHA's FOM, CPL 02-00-164. To calculate penalties for or Repeat recordkeeping citations, the initial penalty (for the current inspection) should normally be multiplied by 2 for the first repeated

violation and multiplied by 5 for the second repeated violation. If the Area Director determines that it is necessary to achieve the proper deterrent effect, the initial penalty may be multiplied by 10. Penalties proposed for repeated recordkeeping violations should normally be reduced only for size.

2. **Willful and Significant Cases.** A Willful recordkeeping violation may exist where an employer has demonstrated either an intentional disregard or a plain indifference for the recordkeeping requirements in Part 1904. The CSHO must document in the case file evidence of the employer's deliberate decision to deviate from the recordkeeping requirements, or the employer's plain indifference to the requirements. (See Chapter 4 and Chapter 6 of OSHA's FOM, CPL 02-00-164, for further information).

3. **Egregious Cases.** When appropriate, violation-by-violation citations and penalties may be considered in accordance with OSHA's egregious policy in OSHA Instruction CPL 02-00-080, Handling of Cases To Be Proposed for Violation-By-Violation Penalties. (See OSHA's April 17, 2024 Memorandum entitled Instance-by-Instance Citation Policy for Serious, Repeat, and Other-Than-Serious Violations for further information.)

Appendix A

OPTIONAL

OPTIONAL

RECORDKEEPING VIOLATION DOCUMENTATION WORKSHEET

(This Form Effective - January 1, 2004)

1. UNIQUE CASE NUMBER: _____
(Designate a number that will stay the same at all times. Example: OSHA-98-1, where OSHA means it was discovered by us, 98 is the year, and the numbers will be in sequence.)

2. DATE OF INJURY/ILLNESS: _____

3. Was case recorded on log? (Please check one)
[ ] Yes (If yes, enter log case number here _____; continue to **Table 1** then to **Table 2**)
[ ] No (If no, then continue to **Table 2**)

Table 1. If yes, copy information from columns **G** through **M** of the employer's 300 log entry.

G	H	I	J	K	L	M

Table 2. If recorded incorrectly in Table 1, or not recorded at all, correctly record here.

G	H	I	J	K	L	M

4. INJURY/ILLNESS INFORMATION: (From 300 Log, Items 1-6 of Column M)
1) If Injury Check here [ ]
If Illness, Check type: 2) Skin Disorder [ ] 3) Respiratory Condition [ ]
4) Poisoning [ ] 5) Hearing Loss [ ]
6) All Other Illnesses [ ]

5. WORK RELATIONSHIP: Describe event or exposure including placement of employee on or off premises; OSHA 301 equivalent or company accident report often provides this information. Ex: Cut finger while loading scrap metal at work; Broke arm in auto accident while driving to customer's office, develops dermatitis from cleaning parts with solvent on premises.

6. BASIS FOR RECORDABILITY: (Check all that apply and provide details in comments section below)
- ☞ Death **(D)** - - - - - - - - - - - - - - - - - - [ ]
- ☞ Days Away **(DA)** - - - - - - - - - - - - - [ ]
- ☞ Restriction or Job Transfer **(RT)** - - -[ ]
- ☞ Loss of Consciousness **(LC)** - - - - - -[ ]
- ☞ Medical Treatment beyond First Aid **(MT)** - - - - - - - - - - - - [ ]
- ☞ A significant injury or illness diagnosed by a physician or other health care professional **(SI)** - - - - - - - - - - - - - - - - [ ]

[**SI** -- 1904.7(b)(7) - Work related cases involving cancer, chronic irreversible disease, a fractured or cracked bone, or a punctured eardrum **ONLY**.]

7. COMMENTS: (Be specific and show all relevant information) Examples: MT-Naprosyn 440 mg BID (twice a day); DA-RT - give dates (9/14/02-9/21/02); SI - Aplastic Anemia from Benzene exposure

8. SUPPORTING DOCUMENTATION OR EVIDENCE: (Check all documentation used for substantiating case recordability)
- ☞ OSHA 300 Form [ ]
- ☞ Employee roster (payroll) [ ]
- ☞ Medical Records/Files [ ]
- ☞ Nurse/Doctor/Clinic logs [ ]
- ☞ Insurers' accident reports [ ]
- ☞ Company Accident Reports [ ]
- ☞ Absentee Records [ ]
- ☞ Company First Aid Reports [ ]
- ☞ Union Records [ ]
- ☞ Accident and Health Benefit Insurance [ ]
- ☞ OSHA 301 Form or Workers' Comp. Equivalent [ ]
- ☞ State Workers' Compensation Form [ ]
- ☞ Other (Specify) _____ [ ]

Appendix B

Compliance Officer Checklist

This checklist is a resource that provides recommended steps for CSHOs to take in conducting a recordkeeping evaluation during an OSHA inspection.

PRE-INSPECTION PREPARATION:

Review Inspection History.

- ☐ Before initiating an inspection, review the employer's inspection history and take other preparatory steps as contemplated in Chapter 3 of OSHA's Field Operations Manual (FOM), CPL 02-00-164.

- ☐ If possible, check for the establishment NAICS code and the number of employees in the entire company to determine recordkeeping coverage.

NOTE: Companies with 10 or fewer employees at all times during the previous calendar year or the establishment's industry is classified in one of the 2007 NAICS codes listed in Appendix A to Subpart B are exempt from maintaining the OSHA injury and illness records.

Check ITA data for the establishment.

- ☐ Obtain any Injury Tracking Application (ITA) information available. Each Area Office has access to the ITA database. ITA information is available on OSHA's ITA data webpage.

Obtaining Administrative Subpoenas and Medical Access Orders.

- ☐ In some circumstances, it may be necessary to issue an administrative subpoena to obtain evidence related to an OSHA inspection or investigation. For more information on issuing an administrative subpoena, review Chapter 15 of the FOM.

- ☐ In some circumstances, a medical access order will be needed for OSHA personnel to examine and copy personally identifiable employee medical information. For more information on medical access orders, review OSHA Instruction CPL 02-02-072, Rules of Agency Practice and Procedure Concerning OSHA Access to Employee Medical Records, published August 22, 2007.

ON-SITE RECORDS REVIEW:

Ask the employer for the following Information.

- ☐ Ask for the OSHA 300 logs, 300A summary, and 301 incident reports for current and three prior calendar years.

- ☐ Ask for a roster of current employees.

- ☐ Check if the establishment has an on-site medical facility, nursing, health, or first aid facility. If so, it may be appropriate to request the company first aid log.

- ☐ Ask where the nearest emergency department is located where employees may be treated for workplace injuries and illnesses.

- ☐ Additional records to review may include employers' written policies related to recordkeeping and reporting, any medical records maintained by the employer, workers compensation records, insurance records, first report of injury, company first-aid logs, and/or nurse/physician logs.

Verify NAICS Code and Entire Company Size.

- ☐ Verify the accuracy of the establishment's NAICS code and the number of employees in the entire company and enter this information in OIS. (See above note about partial recordkeeping exemption.)

Enter OSHA 300 data into OIS to calculate DART Rate.

- ☐ CSHOs will not normally need to calculate the Days Away, Restricted, or Transferred (DART) rate since it is automatically calculated when OSHA 300 data are entered into the OIS. However, if it is necessary to manually calculate the DART rate, consult Chapter 3 of the FOM for further information.

Conduct Records Review.

- ☐ Review and compare information on the employers' OSHA 300, 300A, and 301 forms and other information received to identify any trends, potential hazards, types of operations and work-related injuries or illnesses, and to determine whether the employer properly recorded and reported information to OSHA in compliance with 29 CFR 1904.

  In addition, compare the establishment's ITA data with the OSHA 300A, 300 and 301 forms (or equivalent forms) for the previous calendar year.

  Some factors that may indicate a potential for inaccurate recording, or that may warrant closer review of the establishment's records, are included in the Reviewing Establishment Injury and Illness Records section of the Part 1904 Recordkeeping Policies and Procedures Directive.

- ☐ Where the records review indicates potential trends in types of incidents or hazards, in such situations it may be appropriate for the CSHO to conduct further evaluation of the

potential hazards during the inspection, including through the walkaround, employee interviews, and medical records review where appropriate.

NOTE: In some cases, the need for an administrative subpoena, or to obtain medical information through a Medical Access Order, may become apparent in the course of the records review or the inspection. See above section on Obtaining Administrative Subpoenas and Medical Access Orders.

NOTE: OSHA can expand the scope of the inspection when there is reasonable belief, based on specific evidence (e.g., injuries or illnesses recorded in both OSHA forms 300 and 301, employee statements, or "plain view" observations), that violative conditions may be found in other areas of the workplace. During a partial inspection, ordinarily, injury and illness data from the OSHA 300 logs ***alone*** will not be sufficient to support a broader inspection. However, OSHA 300 data in conjunction with other specific evidence—including incident report information from OSHA 301 forms, employee statements, or plain view observations—can be used to support an expanded inspection when the particular injuries or illnesses found in the OSHA 300 logs can be tied to a specific violative condition in the workplace.

EMPLOYEE INTERVIEWS:

- Conduct employee interviews in a manner consistent with Chapter 3 of the FOM. In conducting a recordkeeping evaluation, the following may be helpful:

- Ask questions related to the employer's recordkeeping policies and practices in interviews with the Management Representative and employees.

- Interview employees with reported and/or recorded injuries and illnesses, and inquire about injuries and illnesses in the context of all employee interviews.

- Where applicable, interview the Designated Recordkeeper, first-aid providers, and on-site healthcare professionals.

- In interviews, ask what procedures have been established at the location for employees to report work-related incidents.

- Ask if the company uses temporary or contract employees. If so, does the company supervise them on a daily basis? If yes, are their injuries and illnesses recorded on the OSHA 300 log?

- Ask questions to determine whether there may be company policies that have the effect of discouraging recording and reporting of injuries and illnesses. See OSHA's November 10, 2016 Memorandum, Interim Enforcement Procedures for New Recordkeeping Requirements under 29 CFR 1904.35 and October 11, 2018 Memorandum, Clarification

of OSHA's Position on Workplace Safety Incentives Programs and Post-Incident Drug Testing Under 29 CFR 1904.35(b)(1)(iv) for further guidance.

FURTHER ACTION:

Consider citations where appropriate.

- If recordkeeping deficiencies are identified, it may be appropriate to consider citations under 29 CFR 1904. See the Citations and Penalties for Violation of Part 1904 Requirements section of the Part 1904 Recordkeeping Policies and Procedures Directive.

Ask your Regional Recordkeeping Coordinator for Assistance if needed.

- If significant recordkeeping deficiencies are suspected, you and your Area Director may request assistance from the Regional Recordkeeping Coordinator.