

HEALTH + SAFETY

NEWSLETTER

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BLS Recordkeeping Guidelines for Occupational Injuries and Illnesses

On July 17, 1985, the Bureau of Labor Statistics (BLS), U.S. Department of Labor, announced proposed revisions in its Recordkeeping Guidelines for Occupational Injuries and Illnesses. [50 F. d. Reg. 29102] These guidelines could affect your company's health and safety record by changing recordkeeping criteria.

Attached, for your information, are CMA's draft comments on the BLS Recordkeeping Guidelines for Occupational Injuries and Illnesses.

CMA urges you to send company comments to BLS to ensure a balanced rulemaking record for the revised guidelines. Please consider submitting company comments on points you want to make, attaching CMA's comments, or sending a single-page letter endorsing CMA's. Send in your written comments no later than October 15, 1985 to:

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Office of Occupational Safety and Health Statistics
U.S. Department of Labor
601 D Street, N.W., Room 4014
Washington, D.C. 20212

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29107	D	Change second italicized sentence to read, "The work environment is primarily composed of the employer's premises and other locations, where are engaged in work-related activities and are present as a condition of their employment."	Clarifies work relationship and recognizes employee may be present on employer's premises for personal reasons.
29107	D	Change sentence after italicized wording to "Work relationship must always be established to consider an injury or illness as occupational, whether on or off the premises. Generally, all injuries on the premises are occupational; however, solely personal activities on or off the employer's premises are not work-related."	Ditto above and eliminates negativism already created over the "presumption" phrase.
29107	D,1	Eliminate first two paragraphs.	Covered above.
29107	D,1,b	Eliminate two sentences following "...by employees during off-work hours."	Principle is that use of this type facility, regardless of location, is <u>not</u> occupational unless the use is required by the employer.
29107	D,1,c	Change last sentence to "...be considered work related if the employee was engaged in work-related activity or the injury arose from an environmental condition."	Classifies and simplifies parking lot injuries.
29107	D,2	Eliminate second sentence (beginning "When an employee is...")	Redundant. Considered under first paragraph of D.
29107	D,2, 2nd ¶	Eliminate second ¶ beginning with second sentence ("an employee in travel status..."). Change to, "Employees who travel on company business shall be considered in the course of employment all the time they spend in the interest of company, including, but not limited to, travel to and from customer contacts, entertaining or being entertained for the purpose of transacting, discussing or promoting business. However, an injury/ illness would not be tabulatable if it occurred during normal living activities (eating, sleeping, recreation); or if the	This the "home away from home" concept and is understood and currently used by many. One must not confuse compensability of injuries occurring to an employee traveling (i.e., in a motel) with occupationally related.

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		employee deviates from a reasonably direct route of travel, (side trip for vacation or other personal reasons). He would again be in the course of employment when he returned to the normal route of travel. If an employee establishes a home away from home (hotel, motel, etc.), injuries sustained during travel to/from the temporary work site are considered off the job. A home away from home is established when employee enters hotel or motel property. Sales personnel may establish only one office (home or company office). A sales person with his home as an office is considered at work when he is in that office and when he leaves his premises in the interest of the company."	
29108	F	Change fourth paragraph to "Occupational illnesses must be diagnosed to be recordable. Diagnosis must be made by any person who is licensed to prescribe treatment within the state. Employers, employees, and others may detect some illnesses and then request diagnosis."	Diagnosis is inextricably tied to treatment. Without the responsibility and experience of treatment, diagnoses cannot be held accountable because diagnosis is basically an implement to formulate treatment. There is no diagnosis that does not portend a treatment strategy even should the strategy be "no need for treatment." Diagnosis rendered by those who are neither trained nor experienced in treatment can only be considered as conjectural opinions. It is the prerogative of the various states to protect its citizens by setting standards for expertise regarding diagnosis and, if needed, treatment of illnesses. Federal regulations have yielded to state authority in such matters and it is not pragmatically feasible to alter that established relationship for this activity. This also maintains congruity with the Workman's Compensation Act procedures.
29116	A12 Q, A13 Q, and A14 Q	Change to reflect that occupational injuries/ illnesses to <u>U.S.</u> based employees travel-	The intent of the OSH Act is to reflect occupational injury/illness impact on U.S. persons.

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		ing overseas <u>should</u> be recorded.	Their actual location at the time of injury or exposure is not germane. Suppose an employee was exposed overseas and the illness symptoms were not manifested until the employee returned to the U.S. Would one not consider this a recordable illness? Of course, but the proposed guideline leaves doubt on this.
29116	C,1	Delete last sentence beginning "Partners, self-employed..."	Redundant. Covered in A answers.
29117	C-1 Q	Delete.	Covered on P. 29116, C,2.
29121	Col. 13	Change "Enter a check if no entry was made in Cols. 8, 9, or 14, the illness did not involve lost workdays and was not a first aid illness as described in these guidelines.	Recording Illnesses - Section 8(2) of the OSH Act discusses work-related deaths and the requirement for reporting. It indicates "the Secretary (Labor) in cooperation with the Secretary of Health, Education, and Welfare, shall prescribe regulations requiring employers to maintain accurate records of and make periodic reports on work-related deaths, injuries and illnesses, other than minor injuries requiring only first-aid..." Section 24(A) further comments that the Secretary "shall compile accurate statistics on work injuries and illnesses whether or not involving loss of time from work, other than minor injuries requiring only first aid..." As written, it was <u>not</u> intended to omit minor illnesses from these two sections and there is <u>no more reasons under the direction of Congress to record "insignificant" illnesses than there is to record insignificant injuries.</u> There is no intent on the part of Congress to "overreport" injuries or illnesses. Less serious illnesses, just like the less serious injuries, should be addresses by establishing a "first aid" illness category. This should include illnesses without treatment, and those treated without prescription drugs on a "one time visit only" (guidelines similar to first-aid injuries). The advantage of a first aid illness category are that more will be reported (without "performance penalty") and the resulting data will be a better early warning device for safety and health pro-

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			grams and prevention measures.
29121	After A2 Q&A	Add a question. "Q: Should an entry be made if an injury or illness to a pensioner is discovered? A: Yes, if it is discovered within 5 years after the employee retires. See A-2 for logging date."	Responds to question of logging injuries and illnesses to retired employees. Should result in truer statistics, especially illnesses. The 5 years is consistent with the required period for record retention.
29129	C	Correct title "Location Exception..."	Correct spelling.
29132	2nd ¶	Eliminates last two sentences beginning, "The alternative of..." Replace with, "The goal of OSHA recording is to produce a valid, consistent and uniform system capable of accurately describing the nature of safety and health problems."	Self serving, based on assumption and misplaced emphasis.
29132	Last ¶ on Page	Delete in entirety.	Adds nothing but words.
29133	1st ¶	Delete from "Although generally..." to "...the statistical data."	BLS has no responsibility for "private" systems.
29133	1st ¶	Delete "...and have been followed by most employers is making recordkeeping determinations since their issuance in 1982."	The assumption that most employers follow the system is too broad and unfounded.
29134	Chart 1, Boxes (2)	Delete "...or from.."	Clarify wording.
29135	B-4,A	Change the last word from "exposure" to "last possible causal exposure or last day of employment if causal exposure is	Illness logging requirement is generally based on diagnosis date; however, this cannot be followed for retired persons.
29135	B-5,A	Change first paragraph to "Yes. If it is determined through investigation that a work related recordable injury did occur, it must be included on the OSHA No. 200, even though the determination was made several weeks after the injury occurred. There must be evidence of a work relationship to the injury. The actual date of injury should be entered in column B of the log."	Clarify work relationship.

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29135	B-10,A	Delete "...for a brief period of time..." and add the second sentence of the answer to B-11, i.e., "the focus is not on the length..." Delete B-11 Q&A.	These conflict, as written.
29135	B-13,A	Change first sentence to "Pre-existing conditions are not considered relevant in making determinations of recordability under the OSH Act unless they are the sole cause of an injury and except for the recurrence of work-related illness discussed in B-12 above."	Clarification.
29136	B-16,A	Change answer to "If an event occurred in the environment that caused or contributed to the injury, the case would be recordable, assuming it meets the other requirements for recordability. It is necessary to determine whether the back problem could have been reasonably caused by an event at work, whether it is <u>solely</u> the result of a pre-existing condition (see B-14 and B-15), or whether it may be a case with symptoms that merely surface on the employer's premise (see B-17)."	Need to provide evaluatory parameters.
29136	B-17,A	Change first paragraph to "There must be an event or exposure in the work environment which causes or contributes to the injury. If an event or exposure cannot be identified, then this condition cannot be met. If work relationship cannot be established, the injury is not recordable. The employer has a responsibility and duty to fully investigate the case in order to identify a causative event or exposure."	Act requires recording of "...work related..." injuries, not recording of <u>likely</u> work-related injuries. Work relationship (event or exposure) must be established.
29136	C	Change paragraphs as recommended for P. 29107-D.	See previous comments.
29136	Chart 2	Combine "on- and off- employer's premises" blocks. Delete "presumed work-related" block.	To be consistent with ¶ C - work relationship.
29137	C-1 A	Delete second sentence. ("Inquiries occur-	Redundant. Covered under ¶ C1.

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		ring... related.") and delete "yes."	
29137	C-2 A	Eliminate last two sentences. Add "personal" after "employee" in first sentence.	See comment on P. 29107, D,1,b. There is basically no difference in the principle of using recreational or health facilities for personal reasons; whether they are located "within" the work environment or "apart" is not germane. The current emphasis on improving employees' health through fitness programs mandates we not penalize companies which provide such facilities. Statistics clearly show the value of such programs in improving the quality of life of employees; this is an important benefit which should not be denied because of an arbitrary ruling to consider injuries incurred as occupational, as long as the program and facility use is optional and is not required by the employer.
29137	C-3 A	Change last sentence to "...be considered work related if the employee was engaged in work-related activity or the injury arose from an environmental activity or the injury arose from an environmental condition (i.e., icy walkway or hole in surface)."	See comment on P. 29107, D,1,C.
29137	C-6 A	Change second sentence in answer to read "...worker is present in the interest of the employer."	Unclear and confusing. Does not support definition of work relationship. Would preclude use of employer's premises for personal reasons.
29137	C-7 A	Change the Word "all" in the second sentence to "most." Delete second ¶.	See above comments. Keeping "simple boundaries" should not result in unfair recording.
29137	C-8 Q&A	Delete.	Previously covered.
29138	C-9, A2	Delete.	This is a poor example. If this is personal option, it would not be work related. However, if it is required for the employee to pick up paycheck after work, it would be work related.
29138	C-11, A	Delete second paragraph.	Guideline does not necessarily accomplish this. The first paragraph satisfies the reason.

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29138	2	Add to this paragraph, "Employees who travel on company business shall be considered in the course of employment all the time they spend in the interest of company, including, but not limited to, travel to and from customer contacts, entertaining or being entertained for the purpose of transacting, discussing or promoting business. However, an injury/illness would not be tabulatable if it occurred during normal living activities (eating, sleeping, recreation); or if the employee deviates from a reasonably direct route of travel, (side trip for vacation or other personal reasons). He would again be in the course of employment when he returned to the normal route of travel. If an employee establishes a home away from home (hotel, motel, etc.), injuries sustained during travel to/from the temporary work site are considered off the job. A home away from home is established when employee enters hotel or motel property. Sales personnel may establish only one office (home or company office). A sales person with his home as an office is considered at work when he is in that office and when he leaves his premises in the interest of the company."	See Comment P. 29107, D,2.
29138	C-15, A	Add to the second sentence, "...unless the employee was requested to perform the errand by the employer."	Would then be acting <u>for</u> the employer, and be work related.
29138	C-16 Q&A	Delete.	Redundant. Covered under 29138-2.
29138	C-19 Q&A	Delete.	Previously covered under "home away from home" concept.
29139	C-20 Q&A	Delete.	Previously covered under "home away from home" concept.

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29139	C-22, A	Delete (2) clause.	Persons may be on travel status even though they are not off the premises for more than a normal workday.
29139	D-4, A	Delete second paragraph.	Unnecessary. Also "simple recordkeeping" is no reason for improper recordkeeping.
29140	D-6 Q&A	Comment.	This is an example of why a "first aid" illness category is necessary. There is little significance of this type illness and to penalize an employer by including it in the total recordable incidence rate adversely affects the BLS statistical credibility.
29141	E-2 Q&A	Delete.	Already covered.
29142	E-12 Q&A	Delete.	Highly unlikely case.
29142		We recommend including a definition of first aid illness as one which requires one time first aid treatment; no loss of consciousness, restriction of work or motion or transfer to another job; application of non-prescription medication and other applicable guidelines from the first aid injury section.	See comment on P. 29121.
29142	d, ¶ 3	Change "of" to "or."	Mispelled word.
29143	Not on Tetanus	Add "not" before "considered."	This needs to be consistent with note on P. 29109.
29143	Admission to Hospital	Delete "or prolonged observation."	Need to be consistent with previous comments on this topic. Who judges "prolonged"?
29143	F-3, A	Correct spelling of "FOCUS."	
29144	F-12 Q&A	Delete.	Already covered on P. 29143.
29144	F-15, A	Change answer to "Use of prescription medication to treat an occupational injury normally constitutes medical treatment, However, it is considered first aid when a single dose or application of a prescription medication is given on the first visit	There are a very large number of minor injuries for which prescription medication is given for solely preventive purposes and for the comfort of the injured. In order to avoid recording a large and misleading number of insignificant injuries, there should be a criteria for determining the

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		merely as a preventative measure in the interest of the employee or for possible pain."	seriousness of the injury.
29144	F-16, Q	Correct spelling of "SOLELY."	
29146	B-2, A	In the first sentence, change "able" to "unable."	Answer does not fit example.
29149	A-5, A	Delete second and third paragraphs.	Second paragraph is incorrect. Third paragraph is redundant.
29151	Formula	Change "N = number of injuries and illnesses (except first aid cases), and fatalities."	Clarity.
29160	App. C	Delete the table of "conditions" or diseases in lieu of the following: "The reader is referred to the current Sentinel Health Event List (Occupational) as prepared by NIOSH. (List source)." Sentences that are presently expressed in Appendix C should be adjusted to the above change if it is felt the ideas they express are sufficiently important to be included. Other references may be offered also.	This listing has two disadvantages: 1. It is bulky, cumbersome, and leads to a loss of focus on procedures. 2. It is dated material which will change as additional information is accumulated. Such changes should not force publishing a new standard with each addition to the list. Further, according to the authors of the Sentinel Health Event, Occupational, SHE(O), article (American Journal of Public Health, 73:1054, 1983), these designations were intended for physicians and researchers. They were first described in 1976, and apparently were diseases which the authors considered "negative indices of medical care." The abbreviation SHE(O) is really just an educated guess of an occupational disease; and the designation carries a negative connotation. Diagnosis is often a difficult task for a trained physician. The concept of a lay person selecting a sign or symptom from a list is completely unacceptable as a basis for diagnosis or chronicling an event on the OSHA Log 200. Any listing can only be used as an indication to refer the situation to a trained physician.