

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION REGULATIONS FOR RECORDING AND REPORTING OCCUPATIONAL INJURIES AND ILLNESSES

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Title 29—LABOR

Chapter XVII—Occupational Safety and Health Administration, Department of Labor

PART 1904—RECORDING AND RE- PORTING OCCUPATIONAL INJU- RIES AND ILLNESSES

The new Part 1904 reads as follows:

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AUTHORITY: The provisions of this Part 1904 issued under secs. 8(c)(1), (2), 8(g)(2), and 24(e), 84 Stat. 1599, 1600, 1615; 29 U.S.C. 657, 673.

§ 1904.1 Purpose and scope.

The regulations in this part implement sections 8(c)(1), (2), 8(g)(2), and 24(e) of the Occupational Safety and Health Act of 1970. These sections provide for recordkeeping and reporting by employers covered under the act as necessary or appropriate for enforcement of the act, for developing information regarding the causes and prevention of occupational accidents and illnesses, and for maintaining a program of collection, compilation, and analysis of occupational safety and health statistics. The regulations in this Part were promulgated with the cooperation of the Secretary of Health, Education, and Welfare.

§ 1904.2 Log of occupational injuries and illnesses.

(a) Each employer shall maintain in each establishment a log of all recordable occupational injuries and illnesses for that establishment, except that under the circumstances described in paragraph (b) of this section an employer may maintain the log of occupational injuries and illnesses at a place other than the establishment. Each employer shall enter each recordable occupational injury and illness on the log as early as practicable but no later than 6 working days after receiving information that a recordable case has occurred. For this purpose, Occupational Safety and Health Administration OSHA Form No. 100 or any pri-

vate equivalent may be used. OSHA Form No. 100 or its equivalent shall be completed in the detail provided in the form and the instruction contained in OSHA Form No. 100. If an equivalent to OSHA Form No. 100 is used, such as a printout from data-processing equipment, the information shall be as readable and comprehensible to a person not familiar with the data-processing equipment as the OSHA Form No. 100 itself.

(b) Any employer may maintain the log of occupational injuries and illnesses at a place other than the establishment or by means of data-processing equipment, or both, under the following circumstances:

(1) There is available at the place where the log is maintained sufficient information to complete the log to a date within 6 working days after receiving information that a recordable case has occurred, as required by paragraph (a) of this section.

(2) At each of the employer's establishments, there is available a copy of the log which reflects separately the injury and illness experience of that establishment complete and current to a date within 45-calendar days.

[37 FR 736, January 18, 1972]

§ 1904.3 Period covered.

Logs shall be established on a calendar year basis. The initial log shall include recordable occupational injuries and illnesses occurring on or after July 1, 1971.

§ 1904.4 Supplementary record.

In addition to the log of occupational injuries and illnesses provided for under § 1904.2, each employer shall have available for inspection at each establishment within 6 working days after receiving information that a recordable case has occurred, a supplementary record for each occupational injury or illness for that establishment. The record shall be completed in the detail prescribed in the instructions accompanying Occupational Safety and Health Administration Form OSHA No. 101. Workmen's compensation, insurance, or other reports are acceptable alternative records if they contain the information required by Form OSHA No. 101. If no acceptable alternative record is maintained for other purposes, Form OSHA No. 101 shall be used or the necessary information shall be otherwise maintained.

[37 FR 736, January 18, 1972]

§ 1904.4a Temporary rules.

(a) *Explanation.* Copies of the three recordkeeping forms required under this part (OSHA Forms Nos. 100, 101, and 102) may not be available when these rules are published. Specimens of two of these forms were published in the daily issue of the Federal Register on the date of the publication of this part. One of these specimens (OSHA Form No. 101) will, in addition to its intended purpose,

be used, as provided below, as an interim method of recording log-type information. The log-type information will later be transferred to the log (Form 100) when copies of that form are generally available either through direct mailing or at the local offices of the Occupational Safety and Health Administration or the Bureau of Labor Statistics.

(b) *Rule (1).* Pending the availability of OSHA Form No. 101, each employer subject to this part and required to use Form No. 101 by § 1904.4 shall comply with § 1904.4 by preparing records in a manner which is consistent with the specimen of OSHA Form No. 101. The specimen is published in the daily issue of the Federal Register on the date of the publication of this part.

(2) Pending the availability of OSHA Form No. 100, each employer subject to this part shall comply with § 1904.2 by making the records required by subparagraph (1) of this paragraph or § 1904.4, as the case may be, within 2 working days after receiving information that a recordable injury or illness has occurred. When OSHA Form No. 100 becomes available, information concerning recordable occupational injuries and illnesses occurring before such availability and on or after July 1, 1971, shall be transcribed therein from the records maintained under subparagraph (1) of this paragraph or § 1904.4, as the case may be.

§ 1904.5 Annual summary.

(a) Each employer shall compile an annual summary of occupational injuries and illnesses for each establishment. Each annual summary shall be based on the information contained in the log of occupational injuries and illnesses for the particular establishment. Form OSHA No. 102 shall be used for this purpose, and shall be completed in the form and detail as provided in the instructions contained therein.

(b) The summary shall be completed no later than 1 month after the close of each calendar year beginning with calendar year 1971.

(c) Each employer, or the officer or employee of the employer who supervises the preparation of the annual summary of occupational injuries and illnesses, shall certify that the annual summary of occupational injuries and illnesses is true and complete. The certification shall be accomplished by affixing the signature of the employer, or the officer or employee of the employer who supervises the preparation of the annual summary of occupational injuries and illnesses, to the lower right hand corner of the annual summary or by appending a separate statement to the annual summary certifying that the annual summary is true and complete.

(d)(1) Each employer shall post a copy of the establishment's summary in

each establishment in the same manner that notices are required to be posted under § 1904.2(a) of this chapter. The summary covering the previous calendar year shall be posted no later than February 1, and shall remain in place until March 1. For employees who do not primarily report or work at a single establishment, or who do not report to any fixed establishment on a regular basis, employers shall satisfy this posting requirement by presenting or mailing a copy of the summary during the month of February of the following year to each such employee who receives pay during that month. For multiestablishment employers where operations have closed down in some establishments during the calendar year, it will not be necessary to post summaries for those establishments. [37 FR 20822, October 4, 1972, effective November 3, 1972]

(2) A failure to post a copy of the establishment's annual summary may result in the issuance of citations and assessment of penalties pursuant to sections 9 and 17 of the Act.

[37 FR 763, January 18, 1972, effective February 17, 1972]

§ 1901.6 Retention of records.

Records provided for in §§ 1904.2, 1904.4, and 1904.5 shall be retained in each establishment for 5 years following the end of the year to which they relate.

§ 1901.7 Access to records.

Records provided for in §§ 1904.2, 1904.4, and 1904.5 shall be available for inspection and copying by Compliance Safety and Health Officers of the Occupational Safety and Health Administration, U.S. Department of Labor during any occupational safety and health inspection provided for under Part 1903 of this chapter and section 8 of the act, by any representative of the Bureau of Labor Statistics, U.S. Department of Labor, by any representative of the Secretary of Health, Education, and Welfare during any investigation under section 20(b) of the act, or by any representative of a State accorded jurisdiction for occupational safety or health inspections or for statistical compilations under sections 18 and 24 of the act.

§ 1901.8 Reporting of fatality or multiple hospitalization accidents.

Within 48 hours after the occurrence of an employment accident which is fatal to one or more employees or which results in hospitalization of five or more employees, the employer of any employees so injured or killed shall report the accident either orally or in writing to the nearest office of the Area Director of the Occupational Safety and Health Administration, U.S. Department of Labor. The reporting may be by telephone or telegraph. The report shall relate the circumstances of the accident, the number of fatalities, and the extent of any injuries. The Area Director may require such additional reports, in writing or otherwise, as he deems necessary, concerning the accident.

§ 1904.9 Initials—falsification—failure to keep records or reports.

(a) Section 17(g) of the Act provides that "Whoever knowingly makes any

false statement, representation, or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this Act shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment, for not more than 6 months or both."

(b) Failure to maintain records or file reports required by this part, or in the details required by forms and instructions issued under this part, may result in the issuance of citations and assessment of penalties as provided for in sections 9, 10, and 17 of the Act.

[37 FR 736, January 18, 1972]

§ 1901.10 Recordkeeping under approved State plans.

Records maintained by an employer and reports submitted pursuant to, and in accordance with the requirements of an approved State plan under section 18 of the act shall be regarded as compliance with this Part 1904.

§ 1901.11 Change of ownership.

Where an establishment has changed ownership, the employer shall be responsible for maintaining records and filing reports only for that period of the year during which he owned such establishment. However, in the case of any change in ownership, the employer shall preserve those records, if any, of the prior ownership which are required to be kept under this part. These records shall be retained at each establishment to which they relate, for the period, or remainder thereof, required under § 1904.6.

§ 1901.12 Definitions.

(a) "Act" means the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1590 et seq., 29 U.S.C. 651 et seq.).

(b) The definitions and interpretations contained in section (2) of the Act shall be applicable to such terms when used in this Part 1904.

(c) "Recordable occupational injuries or illnesses" are any occupational injuries or illnesses which result in:

(1) Fatalities, regardless of the time between the injury and death, or the length of the illness; or

(2) Lost workday cases, other than fatalities, that result in lost workdays; or

(3) Nonfatal cases without lost workdays which result in transfer to another job or termination of employment, or require medical treatment (other than first aid) or involve loss of consciousness or restriction of work or motion. This category also includes any diagnosed occupational illnesses which are reported to the employer but are not classified as fatalities or lost workday cases.

(d) "Medical treatment" includes treatment administered by a physician or by registered professional personnel under the standing orders of a physician. Medical treatment does not include first aid treatment even though provided by a physician or registered professional personnel.

(e) "First Aid" is any one-time treatment, and any followup visit for the purpose of observation, of minor scratches, cuts, burns, splinters, and so forth, which do not ordinarily require medical care. Such one-time treatment, and followup visit for the purpose of observation is considered first aid even though provided by a physician or registered professional personnel.

(f) "Lost workdays." The number of days (consecutive or not) after, but not including, the day of injury or illness, during which the employee would have worked but could not do so; that is, could not perform all or any part of his normal assignment during all or any part of the workday or shift, because of the occupational injury or illness.

(g)(1) "Establishment." A single physical location where business is conducted or where services or industrial operations are performed. (For example: a factory, mill, store, hotel, restaurant, movie theater, farm, ranch, bank, sales office, warehouse, or central administrative office.) Where distinctly separate activities are performed at a single physical location (such as contract construction activities operated from the same physical location as a lumber yard), each activity shall be treated as a separate establishment.

(2) For firms engaged in activities such as agriculture, construction, transportation, communications, and electric, gas and sanitary services, which may be physically dispersed, records may be maintained at a place to which employees report each day.

(3) Records for personnel who do not primarily report or work at a single establishment, and who are generally not supervised in their daily work, such as traveling salesmen, technicians, engineers, etc., shall be maintained at the location from which they are paid or the base from which personnel operate to carry out their activities.

[37 FR 20822, October 4, 1972, effective November 3, 1972]

§ 1901.13 Petitions for recordkeeping exceptions.

(a) *Submission of petition.* Any employer who wishes to maintain records in a manner different from that required by this part may submit a petition containing the information specified in paragraph (c) of this section to the Regional Director of the Bureau of Labor Statistics wherein the establishment involved is located.

(b) *Opportunity for comment.* Affected employees or their representatives shall have an opportunity to submit written data, views, or arguments concerning the petition to the Regional Director involved within 10 working days following the receipt of notice under paragraph (c)(5) of this section.

(c) *Contents of petition.* A petition filed under paragraph (a) of this section shall include:

(1) The name and address of the applicant;

(2) The address of the place or places of employment involved;

(3) Specifications of the reasons for seeking relief;

(4) A description of the different recordkeeping procedures which are proposed by the applicant;

(5) A statement that the applicant has informed his affected employees of the petition by giving a copy thereof to them or to their authorized representative and by posting a statement giving a summary of the petition and by other appropriate means. A statement posted pursuant to this subparagraph shall be posted in each establishment in the same manner that notices are required to be posted under § 1903.2(a) of this chapter. The applicant shall also state that he has informed his affected employees of their rights under paragraph (b) of this section;

(6) In the event an employer has more than one establishment he shall submit a list of the States in which such establishments are located and the number of establishments in each such State. In the further event that certain of the employer's establishments would not be affected by the petition, the employer shall identify every establishment which would be affected by the petition and give the State in which they are located.

[37 FR 736, January 18, 1972]

(d) *Referrals to Assistant Commissioner.* Whenever a Regional Director receives a petition from an employer having one or more establishments beyond the geographic boundary of his region, or a petition from a class of employers having any establishment beyond the boundary of his region, he shall refer the petition to the Assistant Commissioner for action.

(e) *Additional Notice, Conferences.* (1) In addition to the actual notice provided for in paragraph (c)(5) of this section, the Assistant Commissioner, or the Regional Director, as the case may be, may provide, or cause to be provided, such additional notice of the petition as he may deem appropriate.

(2) The Assistant Commissioner or the Regional Director, as the case may be, may also afford an opportunity to interested parties for informal conference or hearing concerning the petition.

(f) *Action.* After review of the petition, and of any comments submitted in regard thereto, and upon completion of any necessary appropriate investigation concerning the petition, if the Regional Director or the Assistant Commissioner, as the case may be, finds that the alternative procedure proposed will not hamper or interfere with the purposes of the Act and will provide equivalent information, he may grant the petition subject to such conditions as he may determine appropriate, and subject to revocation for cause.

(g) *Publication.* Whenever any relief is granted to an applicant under this Act, notice of such relief, and the reasons therefor, shall be published in the FEDERAL REGISTER.

(h) *Revocation.* Whenever any relief under this section is sought to be revoked for any failure to comply with the conditions thereof, an opportunity for informal hearing or conference shall

be afforded to the employers and affected employees, or their representatives. Except in cases of willfulness or where public safety or health requires otherwise, before the commencement of any such informal proceeding, the employer shall: (1) Be notified in writing of the facts or conduct which may warrant the action; and (2) be given an opportunity to demonstrate or achieve compliance.

(i) *Compliance after submission of petitions.* The submission of a petition or any delay by the Regional Director, or the Assistant Commissioner, as the case may be, in acting upon a petition shall not relieve any employer from any obligation to comply with this part. However, the Regional Director or the Assistant Commissioner, as the case may be, shall give notice of the denial of any petition within a reasonable time.

(j) *Consultation.* There shall be consultation between the appropriate representatives of the Occupational Safety and Health Administration and the Bureau of Labor Statistics in order to insure the effective implementation of this section.

§ 1904.14 Employees not in fixed establishments.

Employers of employees engaged in physically dispersed operations such as occur in construction, installation, repair or service activities who do not report to any fixed establishment on a regular basis but are subject to common supervision may satisfy the provisions of §§ 1904.2, 1904.4, and 1904.6 with respect to such employees by:

(a) Maintaining the required records for each operation or group of operations which is subject to common supervision (field superintendent, field supervisor, etc.) in an established central place;

(b) Having the address and telephone number of the central place available at each worksite; and

(c) Having personnel available at the central place during normal business hours to provide information from the records maintained there by telephone and by mail.

[1904.14 added at 37 FR 20822, October 4, 1972, effective January 1, 1973]

§ 1904.15 Small employers.

(a) An employer who had no more than seven (7) employees at any one time during the calendar year immediately preceding the current calendar year need not comply with any of the requirements of this part except § 1904.8 concerning fatalities or multiple hospitalization accidents (i.e., he need not prepare the log, OSHA 100, the supplementary record, OSHA 101, nor prepare or post the summary, OSHA 102).

Editor's Note: An exemption for employers with 10 or fewer employees was provided in the appropriations bills for the Departments of Labor and Health, Education, and Welfare for fiscal 1975 and 1976. The exemption does not apply to small firms selected to participate in the OSHA annual survey.

(b) Paragraph (a) of this section shall not apply when an employer has been notified in writing by the Bureau of La-

bor Statistics that he has been selected to participate in a statistical survey of occupational injuries and illnesses. If selected, an employer will be required to maintain a log of occupational injuries and illnesses (OSHA 100) in accordance with § 1904.2 and to make reports in accordance with § 1904.21 for the period of time which is specified in the notice.

This amendment shall become effective January 1, 1973. The reason for the extended delay in the effective date is that the Bureau of Labor Statistics is conducting a survey of injuries and illnesses for calendar year 1972. In order to complete this survey with respect to small employers, no alteration of the recordkeeping requirements until the close of the calendar year is appropriate. (S-P. B. 84 Stat. 1598; 29 U.S.C. 657)

[1904.15 added at 37 FR 20822, October 4, 1972, effective November 3, 1972]

§ 1904.20 Description of statistical program.

(a) Section 21 of the Act directs the Secretary of Labor, in consultation with the Secretary of Health, Education, and Welfare, to develop and maintain a program of collection, compilation, and analysis of occupational safety and health statistics. The Commissioner of the Bureau of Labor Statistics has been subdelegated this authority by the Secretary of Labor. The program shall consist of periodic surveys of occupational injuries and illnesses. For the immediate future, such surveys shall cover all nonfarm employments with a few limited exclusions such as government and mining.

(b) The sample design encompasses probability procedures, detailed stratification by industry and size, and a systematic selection within strata. Stratification and sampling will be carried out by State and other jurisdictions in order to provide the most efficient sample for eventual State estimates. Some industries will be sampled more heavily than others depending on the injury rate level based on previous experience. Nationally, the survey should produce adequate estimates for most four-digit Standard Industrial Classification (SIC) industries in manufacturing and for three-digit SIC classification in nonmanufacturing. In participating States where the sample size has been supplemented significantly, comparable estimates are possible.

§ 1904.21 Duties of employers.

Upon receipt of an Occupational Injuries and Illnesses Survey Form, OSHA No. 103, the employer shall promptly complete the form in accordance with the instructions contained therein, and return it in accordance with the aforesaid instructions.

§ 1904.22 Effect of State plans.

Nothing in any State plan approved under section 18(c) of the Act shall affect the duties of employers to submit statistical report forms under § 1904.21.