

SPECIAL Report



NATIONAL ROOFING CONTRACTORS ASSOCIATION

September 28, 2001

The Occupational Safety and Health Administration (OSHA) released its revised *Occupational Injury and Illness Recording and Reporting Requirements* standard on Jan. 19, 2001. It becomes effective Jan. 1, 2002.

Employers with 10 or fewer employees, as well as employees in Standard Industrial Classification (SIC) numbers 52 through 89, are exempt from record-keeping requirements, except as noted below. SIC numbers 52 through 89 include low-hazard industries such as retail, finance, insurance, real estate and service.

All employers, regardless of size or SIC number, must report to OSHA all work-related fatalities and/or hospitalizations of three or more employees that occur from a single incident within eight hours of its occurrence. In addition, all employers must comply with record-keeping requirements if requested randomly to do so by the Bureau of Labor Statistics (BLS).

OSHA's previous record-keeping forms, OSHA Form 200 and Form 101, have been replaced with OSHA Form 300 and Form 301, respectively. OSHA will allow an employer to use a state's insurance first report of injury form, provided it requires the same information as the OSHA Form 301.

Starting in 2002, OSHA's 300A Injury and Illness Summary Sheet must be posted in its entirety in a conspicuous place at your workplace between Feb. 1 and April 30 each year, reporting the previous year's injuries, illnesses and deaths. This form is to be posted even if no recordable incidents occurred. Because the current standard does not require or provide a summary sheet, only the right half of the OSHA 200 Form, which was delineated with a dotted line, is to be posted.

However, on June 29, 2001 Secretary of Labor Elaine Chao announced that even though the new rule would go into effect on January 1, 2002, OSHA would seek additional comment on two proposed modifications to the rule's record keeping requirements. First, OSHA proposes that the criteria for recording work-related hearing loss not be implemented for one year, pending further comment on the level of hearing loss that should be recorded as a "significant" health condition. Second, OSHA will also delay for one year the record keeping rule's definition of "musculoskeletal disorder" and the requirement that employers check the MSD column on the OSHA Log.

The details of both of those sections are presented below, however, the reader is reminded of the delay to January 1, 2003 for these requirements.

Background

Since its beginning in 1971, OSHA has collected injury and illness data using OSHA Form 200 and Form 101. OSHA Form 200, often referred to as the OSHA 200 log, was found to be confusing and difficult to complete.

OSHA's new record-keeping rule's intent is to assist employers identify and correct workplace hazards. Also, it allows OSHA compliance safety and health officers (COSHOs) to identify workplace hazards at the onset of an inspection. The record keeping also has allowed BLS to develop national statistics that have been used to help Congress and OSHA make decisions affecting safety and health legislation, programs and standards.

Although OSHA's intent behind record-keeping requirements was to provide useful information, there have been many shortcomings. For example, the National Institute for Occupational Safety and Health (NIOSH) conducted a survey between 1981 and 1983 that revealed 25 percent of the 4,185 employers surveyed did not keep records, even though they were required by the OSHA standard to do so.

OSHA and BLS determined the recordkeeping regulations did not provide proper guidance for employers and, in April 1986, the two agencies released a joint document, *Recordkeeping Guidelines for Occupational Injuries and Illnesses*.

Although these guidelines provided some clarification, ambiguity continued to exist. This forced OSHA to write several letters of interpretation attempting to clarify the concerns raised by employers, employees and labor unions.

On Feb. 2, 1996, OSHA published a Notice of Proposed Rulemaking to promulgate a revised, more workable rule. The comment period ended July 1, 1996. OSHA published its final rule Jan. 19, 2001, with a Jan. 1, 2002, effective date.

The Revised Standard

Exemptions

OSHA provides two exemptions from record-keeping requirements. They are based on a company's SIC code and size.

OSHA expanded its exemptions to include employees in SIC codes 52 through 89, whereas previously exemptions were for low-hazard industries, making no reference to SIC codes. Because the roofing industry is classified as SIC 1761, roofing contractors are *not* exempt from the rule.

In addition to the SIC code exemption, employers with 10 or fewer employees are not covered by the standard's record-keeping requirements—including situations involving a fatality or hospitalization of three or more employees. However, the reporting

requirements apply to all employers, regardless of size. Employers are required to report to OSHA any fatality and/or hospitalization of three or more employees occurring as a result of a single accident.

Any employer, regardless of number of employees, is required to maintain records when selected by OSHA or BLS to participate in a record-keeping survey.

If an employer employs 11 or more employees at any time during a calendar year, he is required to follow OSHA's record-keeping requirements the following year. The employer is not required to keep records for the current year.

For example, an employer in SIC 1761 who employs seven people is exempt from OSHA's record-keeping requirements because he employs 10 or less employees. If a fatality or hospitalization of three or more employees occurs as a result of a single incident, the employer is required to notify OSHA within eight hours. The information does not need to be recorded on OSHA's 300 Form.

If the employer hires four or more employees during the year, the employer must maintain records throughout the next calendar year because he employed more than 10 employees that year. All injuries and illnesses must be recorded on OSHA Form 300 and Form 301 and eventually recorded on OSHA Form 300A. Form 300A must be posted in a conspicuous place from Feb. 1 to April 30 the following year.

If an employer typically employs 10 workers and hires one more employee for even one hour, the employer is required to maintain records the following calendar year. Records do not need to be kept for the current year.

Record-keeping Criteria

Covered employers are required to maintain records for work-related fatalities, injuries and illnesses or new recordable cases, which are described later in this report. In addition, cases must be recorded when work-related injuries or illnesses result in days away from work; restricted work or job transfer; medical treatment beyond first aid; loss of consciousness; or a significant injury is determined by a licensed health-care professional.

In addition to these criteria, the new OSHA standard includes requirements for recording cases involving:

- Needlestick or injuries from sharp objects containing another person's blood
- Medical removal as required by other OSHA standards
- Hearing loss (Note: delayed until 1/1/03)
- Work-related tuberculosis

- Musculoskeletal disorders (MSDs) (Note: delayed until 1/1/03)

If the above cases are work-related, they also must be recorded on OSHA's Form 300 and Form 301. The criteria for each of these are described later in this report.

Determining Whether an Incident is Work-related

OSHA considers the following situations not work-related and, therefore, not recordable even though the injury or illness occurred in the work place:

- At the time of an illness or injury, the employee was present in the work environment but as a member of the general public rather than an employee.
- An injury or illness involves signs or symptoms that surface at work but result solely from a nonwork-related event or exposure that occurred outside the work environment.
- An injury or illness results solely from voluntary participation in a wellness program or medical, fitness or recreational activity, such as blood donation, physical examination, flu shot, exercise class, racquetball or baseball.
- An injury or illness solely is the result of an employee eating, drinking or preparing food or drink for personal consumption (whether bought on the employer's premises or brought in). For example, if choking on a sandwich while in the employer's establishment injures an employee, the case would not be considered work-related. Note: If an employee is made ill by ingesting food contaminated by workplace contaminants (such as lead) or gets food poisoning from food supplied by his employer, the case would be considered work-related.
- An injury or illness solely is the result of an employee doing personal tasks (unrelated to his employment) at the establishment outside the employee's assigned working hours.
- An injury or illness solely is the result of personal grooming, self-medication for a nonwork-related condition or intentionally self-inflicted.
- An injury or illness is caused by a motor vehicle accident and occurs in a company parking lot or company access road while the employee is commuting to or from work.
- An illness is the common cold or flu. Note: Contagious diseases, such as tuberculosis, brucellosis, hepatitis A or plague are considered work-related if the employee is infected at work.

- An illness is a mental illness. Mental illnesses are not considered work-related unless the employee voluntarily provides the employer with an opinion from a physician or other licensed health-care professional with appropriate training and experience e.g., psychiatrist, psychologist, psychiatric nurse practitioner who states that the employee has a work-related mental illness.

The OSHA standard requires employers to consider an incident work-related if it caused, contributed or significantly aggravated a condition or pre-existing injury or illness. If an employee injures himself away from work but significantly aggravates the injury at work, the case is recordable.

A pre-existing injury or illness significantly aggravated in the work place is considered work-related and recordable when the incident results in one of the following:

- Death
- Loss of consciousness
- One or more days away from work
- Medical treatment beyond first aid.

A pre-existing injury is an injury that occurred outside the workplace and out of the work environment.

An injury or illness that occurs while an employee is on travel status is considered work-related if, at the time of the injury or illness, the employee was engaged in work activities in the interest of his employer. This includes traveling to and from customer locations, conducting job tasks and entertaining or being entertained to transact, discuss or promote business. Work-related entertainment only includes entertainment activities being engaged in at the direction of the employer.

Injuries or illnesses that occur while an employee is on travel status are not recordable if one of the two following exceptions occurs:

- OSHA views a stay at a hotel, motel or any other temporary residence as a “home away from home.” For example, when an employee checks into a temporary residence, he is considered to have left the work environment. When an employee begins work each day, he re-enters the work environment. If an employee is to report to a fixed work site each day, injuries or illnesses that occur between the work site and temporary residence are not considered to be work-related.
- If an employee has taken a detour from a normal or reasonably direct route of travel and an injury or illness occurs, the incident is not recordable.

OSHA requires injuries or illnesses that occur at an employee’s residence to be considered work-related and recordable if the employee is performing work for pay or other forms of compensation. For example, if an employee is working at home and drops a box of work documents on his foot, the case is work-related.

However, if, for example, an employee trips over the family dog while trying to answer a work-related call, the incident is not considered work-related. Also, if an employee is working at home and is electrocuted because of faulty wiring, the case is not work-related.

Determination of New Cases

When an employee injury or illness occurs, employers must determine whether the injury or illness is a new case. An injury or illness is considered to be a new case when it has not been previously recorded. An injury or illness also is considered to be a new case when it affects the same area of the body previously recorded but the signs and symptoms have disappeared.

If an employee suffers a chronic work-related illness, it only needs to be recorded initially regardless how many times it may reappear. Examples include asbestosis, occupational cancer and silicosis. However, for employees who experience occupational asthma, each episode must be treated as a new case.

Recording Cases on OSHA's 300 Form

When injuries or illnesses occur and require medical treatment beyond first aid, they must be recorded on OSHA's Form 300 and Form 301. Medical treatment does not include visits to a licensed health-care professional solely for observation, counseling or diagnostic procedures that include X-rays, blood tests or administering of prescription medications used solely for diagnostic purposes. An example is using eye drops to dilate pupils.

Medical treatment also does not include first-aid cases. First aid treatment provided to employees does not need to be recorded on either OSHA form. OSHA has compiled an all-inclusive list to determine first-aid cases. If a case is not on this list, it is not considered to be first aid and must be recorded.

First aid includes:

- Using nonprescription medication at nonprescription strength (If a licensed health-care professional prescribes nonprescription medication at prescription strengths, it is considered to be medical treatment.)
- Administering tetanus immunizations
- Cleaning, flushing or soaking wounds on the surface of the skin
- Using of bandages, gauze pads or butterfly bandages
- Using hot or cold therapy

- Using elastic bandages and nonrigid back belts
- Using splints, slings, neck collars or other rigid supports during transportation of a victim
- Drilling a fingernail or toenail to relieve pressure or draining fluid from a blister
- Using eye patches
- Removing foreign objects from eyes using only irrigation or cotton swabs
- Removing splinters or foreign material from areas other than an eye using tweezers, irrigation or cotton swabs
- Using finger guards
- Receiving massages, excluding physical therapy or chiropractic massages
- Drinking fluids for relief of heat stress

If an injury or illness is considered to be work-related, it must be recorded on OSHA's Form 300 and Form 301 if it results in one of the following:

- Death
- Days away from work
- Restricted work or transfer to another job
- Medical treatment beyond first aid
- Loss of consciousness
- Significant injury or illness as diagnosed by a licensed health-care professional
- A needle stick injury or cut from a sharp object contaminated with another person's blood or other infectious material
- Any case requiring an employee to be medically removed under the requirements of a specific OSHA standard

- A standard threshold shift (STS) in hearing (an STS is a hearing loss of 10 decibels in either ear)
- Tuberculosis (TB) infection as evidenced by a positive skin test or diagnosis by a licensed health-care professional after exposure to a known case of TB

OSHA 300 Form

Each recorded case must include the following information on OSHA's 300 Form:

- Identity of the person, using columns A to C
 - Column A – Assign a case number either using a company numbering system or other methods, such as 1, 2, 3, etc.
 - Column B – Record the employee's name. Note: When there is a case involving an injury or illness to an intimate body part or reproductive system; injury or illness resulting from sexual assault; mental illness; case of human immunodeficiency virus; hepatitis or TB; needlestick injury or cut from a sharp object that is contaminated with blood or other infectious material; and other illnesses for which an employee independently and voluntarily requests his name not be entered on the log, "privacy case" must be entered in column B.
 - Column C – Enter the employee's job title.
- Description of the case, using columns D to F
 - Column D – Enter the date of the injury or onset of illness.
 - Column E – Enter the physical location of where the injury occurred, such as the warehouse, yard, etc.
 - Column F – Provide a description of the injury or illness, parts of the body affected, and object or substance that caused the situation. For example, "Third-degree burn on forearm from hot asphalt splash."
- Classification of the case, using columns G to J. Only one check can be used in each column to classify the case.
 - Column G – Enter a check if a death occurred.
 - Column H – Enter a check if the injury or illness resulted in days away from work. (If an employee missed only the day he was injured, check Column J.)
 - Column I – Enter a check if the injury or illness resulted in a job transfer or work restriction.
 - Column J – Enter a check if one is not entered in Columns G to I; and a recordable injury or illness occurred but did not result in lost work days; transfer to another job; restricted work activity; or death.
- Record the number of days the employee did not work, using Columns K to L. The day of injury or illness itself is not to be counted.
 - Column K – Enter the number of days the employee was on work restriction or job transfer.
 - Column L – Enter the number of days the employee was away from work.

- Record whether the employee suffered either an injury or illness, using Columns M-1 through M-7.
 - Column M-1 – Enter a check if an injury occurred.
 - Column M-2 – Enter a check if an MSD occurred. (Note: delayed until 1/1/03)
 - Column M-3 – Enter a check if illness resulted in a skin disorder.
 - Column M-4 – Enter a check if illness was caused by a respiratory ailment.
 - Column M-5 – Enter a check if illness was caused by poisoning.
 - Column M-6 – Enter a check if illness resulted in hearing loss. (Note: delayed until 1-1-03)
 - Column M-7 – Enter a check if illness could not be classified in columns 1 – 6.

Restricted activity occurs when an employer keeps an employee from performing at least one of his routine functions or working a full day when he was scheduled to work. OSHA defines routine functions as those work activities an employee regularly performs at least once per week.

When an injury involves restricted activity or a transfer to another job, a check must be entered in Column I and the number of calendar days away from work entered in Column K. Calendar days include holidays, weekends, vacations and temporary layoffs. If an employee is injured or becomes ill on Friday and returns to work on Monday, the days must be recorded if a licensed health-care professional indicates the employee would have needed to stay home from work.

When an injury or illness involves days away from work, a check must be entered in Column H and the days away from work entered in Column L. If the employee is away for an extended period of time, an estimate of the number of days the employee will miss must be entered. When the employee returns to work, the estimate must be erased and replaced with the actual number of days spent away from work. The number of days away from work or restricted activity must start the day after the injury or illness occurred.

If a licensed health-care professional recommends the employee stay away from work but the employee returns for duty anyway, the recommended days are to be recorded. The employer should, however, encourage the employee to follow the recommendation. The same holds true for those cases involving a transfer to another job or restricted work activity.

If, on the other hand, the employee does not return to work after the number of days recommended by the licensed health-care professional, only the recommended days need to be recorded.

For injuries or illnesses that result in a significant number of days away from work or restricted activity, the number of days can be capped at 180. If an employee retires or leaves the company while away from work because of a work-related injury or illness, an estimate of the number of days away must be entered on the form up to 180.

All injuries and illnesses are to be recorded in the year in which they happened. If an employee is injured and away from work when the new calendar year begins, the days away from work are to be recorded in the year in which the injury occurred. If the employee continues to be away from work at the time the OSHA Form 300A is prepared to be posted, the employer may estimate how much time he believes the employee will be off duty.

Specific Cases That Must be Recorded

OSHA requires specific cases involving needlestick- and sharps-related injuries, medical removal under OSHA standards, hearing loss and MSDs to be recorded on OSHA's 300 Form and 301 Form.

Needle stick

Employees in the roofing industry typically are not exposed to needlestick- and sharps-related injuries. Exposure can occur to employees who clean offices or warehouses where diabetic workers discard needles.

If an employee's skin is punctured with a needle or other sharp object contaminated with another person's blood or other body fluids, the case must be recorded. If the employee is diagnosed at a later date with having an infectious bloodborne disease, the OSHA 300 Form must be updated to reflect any changes, such as days away from work, death, etc. If a person is splashed with a potentially infectious material, it only needs to be recorded if the incident results in diagnosis of HIV or hepatitis B or C.

To protect the infected person's identity, the term "privacy case" should be entered on the name line instead of the employee's name.

Medical Removal

Certain OSHA health-related standards addressing lead, benzene, formaldehyde, cadmium and methylene chloride exposure have requirements for medical removal when certain exposure levels have been reached or exceeded. When these levels are achieved or exceeded, they must be recorded on the OSHA 300 Form and 301 Form and classified as poisoning under M-5.

Some employers take the initiative to remove employees from exposure to these chemicals. If employers voluntarily remove or rotate employees before their exposure levels require medical removal, the cases do not need to be recorded.

Hearing Loss

Cases involving hearing loss also must be recorded **after January 1, 2003** if there is a standard threshold shift (STS). OSHA defines an STS as a decrease in hearing threshold

of an average of 10 decibels (dB) or more at 2,000, 3,000, and 4,000 hertz in one or both ears.

To determine hearing loss, an employer must implement a hearing conservation program when employees are exposed to more than 85 dB over eight hours. As a part of the program, licensed health-care professionals must conduct annual audiometric testing. Audiometric testing monitors an employee's acuity and sharpness at different frequency levels, referred to as hertz, and is conducted once per year. If annual testing indicates a hearing loss in excess of 10 dB, an STS has occurred and must be recorded on the OSHA 300 Form and 301 Form. Adjustments for age can be made to the results as outlined in 29 CFR 1910.95.

If a licensed health-care professional determines the hearing loss is not work-related, it does not need to be recorded.

Tuberculosis (TB)

Tuberculosis cases must be recorded when an employee is occupationally exposed to and diagnosed with TB. For cases involving TB, a check must be entered in box M-4 of the OSHA 300 Form.

If the case is recorded on the form and it is later determined that it was not work-related, the employer can either erase or delete it.

Musculoskeletal Disorders (MSDs)

Cases that involve MSDs, which are disorders of muscles, nerves, tendons, ligaments, joints, cartilage and spinal discs, must be recorded **as of January 1, 2003**. If the disorders arise from slips, trips, falls, motor-vehicle accidents or other similar accidents, they are not to be recorded as MSD incidents. This section of the rule is delayed in order for OSHA to obtain more information from the public on appropriate definitions of the terms "ergonomic injury" and MSD.

Other OSHA Injury and Illness Record-keeping Requirements

Multiple Business Establishments

OSHA requires injury and illness records to be maintained at each establishment. OSHA defines an establishment as a single physical location where business is conducted or services are provided. In the construction industry, an establishment is considered to be a home office or regional office.

For roofing operations, records can be maintained at home or regional offices. Records do not need to be maintained on each job site.

Covered Employees

If a company is structured as a sole proprietorship or partnership, the owners or partners are not considered employees for record-keeping purposes. Self-employed individuals are not covered under this OSHA standard or the Occupational Safety and Health Act.

Employers who supervise temporary employees on a day-to-day basis must record their injuries and illnesses on an OSHA 300 Form and 301 Form. If a temporary labor agency or leasing company supervises an employee on a day-to-day basis, the leasing company is required to maintain injury and illness records. In this situation, both employers are not to maintain records.

Retention and Updating

OSHA 300, 300A and 301 Forms must be maintained for five years following the end of the calendar year. If during this time an injury or illness results in a death or becomes more severe than the original injury or illness, the OSHA 300 Form for the year the injury occurred must be updated. The other two forms do not have to be updated.

Employee Involvement

OSHA requires employers to instruct employees how to report injuries and illnesses and provide access to OSHA 300 Forms. Employees requesting to view the forms must be provided with them by the end of the next business day.

Access to the OSHA 301 Form must only be given to an injured or ill employee or his personal representative. A personal representative is one who the employee designates in writing as a legal representative of a deceased or legally incapacitated employee or former employee.

Authorized representatives and those who represent employees under collective bargaining agreements must be given access to an employer's OSHA 301 Form within seven calendar days of the request. Only information on the OSHA 301 Form from the area titled, "Tell us about the case" is to be provided. All other areas must be removed.

Reporting Fatalities or Hospitalization of Three or More Employees

The OSHA office nearest an employer must be notified within eight hours after the death of an employee or hospitalization of three or more employees from a single work-related incidents. If the incident occurs after the OSHA office is closed, it must be reported by calling OSHA's central telephone number, (800) 321-OSHA (6742). Voicemail messages, faxes or e-mail messages no longer are acceptable. The following information must be reported:

- Establishment name
- Location of incident

- Time of incident
- Number of fatalities or hospitalizations
- Names of injured employees
- Contact person and return telephone number
- A brief description of the incident.

Employee deaths or hospitalizations resulting from motor vehicle, commercial airline, train, subway or bus accidents do not need to be reported, but they must be recorded on OSHA 300 Form and 301 Form. If an employee suffers a heart attack that results in a fatality, it must be reported to OSHA, and an OSHA director will determine whether to investigate.

If an employer does not learn about an incident right away, it must be reported within eight hours of him learning about it.

Posting of 2001 Data

If an employer was required to maintain an OSHA 200 Log in 2001 because there were 11 or more employees in his company in 2000, it must be posted from Feb. 1, 2002, until March 1, 2002. The information must include the calendar year covered, company name, name and address of establishment, date, and signature and title of the employer certifying the data. It must be posted in a conspicuous place. (Note that the new Form 300A must be posted beginning February 1, 2003 through April 30, 2003 and every subsequent year when required.)

Conclusion

The new OSHA rule is effective Jan. 1, 2002. At that time it will be important for all employers who employed at least 10 employees at any time in calendar year 2001 to have the required forms and comply with the standard. OSHA is seeking additional comment on two issues that have a delayed effective date of Jan. 1, 2003. The delays impact work-related hearing loss cases and those involving MSDs. NRCA has included a copy of the new logs with this report, however, you will find additional information and forms on OSHA's website at www.osha.gov.

If you have any questions about this or other OSHA-related matters please contact Tom Shanahan at NRCA at 1-800-323-9545.