OREGON OCCUPATIONAL SAFETY AND HEALTH DIVISION
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES

PROGRAM DIRECTIVE

Program Directive: A-249
Issued: March 13, 2002
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SUBJECT: Recordkeeping Policies and Procedures Manual (300 Log)

PURPOSE: This instruction gives enforcement information on Oregon OSHA's recordkeeping regulation OAR 437-001-0700.

SCOPE: This instruction applies to all of Oregon OSHA.

BACKGROUND: On February 2, 1996, OSHA first published in the Federal Register the proposed rule for Occupational Injury and Illness Recording and Reporting Requirements; on February 29, 1996 OSHA published an addendum to the proposed rule: the executive summary of the Preliminary Economic Analysis. On January 19, 2001, the final rule was published in the Federal Register with an effective date of January 1, 2002.

OSHA added a paragraph establishing criteria for recording cases of work-related hearing loss during calendar year 2002. This section codified the enforcement policy in effect since 1991, under which employers must record work-related shifts in hearing of an average 25dB or more at 2000, 3000 and 4000 hertz in either ear. In 2003, this was revised to require reporting an average 10 dB or more shift at 2000, 3000, and 4000 Hertz, and when the hearing level is at or above 25 dB of audiometric zero.

Oregon OSHA adopted federal OSHA's recordkeeping rules with some minor changes on September 14, 2001, and it became effective January 1, 2002.

On September 18, 2014, federal OSHA published a final rule that updates the list of industries that are exempt from the requirement to routinely keep OSHA injury and illness records, due to relatively low occupational injury and illness rates. The previous list of industries was based on the old Standard Industrial Classification (SIC) system and injury and illness data from the Bureau of Labor Statistics (BLS) from 1996, 1997, and 1998. The updated list of industries that are exempt from routinely keeping OSHA injury and illness records is based on the North American Industry Classification System (NAICS) and injury and illness data from the Bureau of Labor Statistics (BLS) from 2007, 2008, and 2009.

In addition to the Federal OSHA changes, in Oregon, edits were made to enhance clarity so employers can better understand their responsibility to record workplace illnesses and injuries. The annual summary requirements were modified for clarity and to allow for the employer to designate a representative to sign and certify that the information is correct, as long as the information is shared with a company executive.

Additionally, the reporting requirements were moved to a new rule (OAR 437-001-0704), and a note was added reminding employers that, in addition to these reporting requirements, an injury involving a mechanical power press must also be reported to Oregon OSHA.

On May 12, 2016, federal 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 (DCBS Form 801 in Oregon) to OSHA once a year.

In January 2017, Oregon OSHA was petitioned to remove the following NAICS codes from the exempt list: NAICS 6111 (Elementary and Secondary Schools), 6116 (Other Schools of Instruction), and 6117 (Educational Support Services). On August 1, 2017, Oregon OSHA adopted language that removed those NAICS codes from the list of exempt industries. However, it was not the intention for the electronic recordkeeping requirements to apply to employers in those NAICS codes, as they are still exempt federally and the ITA is a federal system. For additional information, see the Workplace Advisory Memorandum regarding electronic submission of injury and illness records at https://osha.oregon.gov/OSHARules/advisorymemos/pg-2024-01-advisory-memo-ITA-for-certain-schools.pdf

On January 25, 2019, federal 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 (DCBS Form 801 in Oregon) 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.

On July 21, 2023, federal 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 (DCBS Form 801 in Oregon) 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.

On December 21, 2023, Oregon OSHA adopted a final rule to mirror the federal OSHA requirements for electronic recordkeeping.

ENFORCEMENT POLICIES AND PROCEDURES:

A. Summary of the Rule. The central requirements in Oregon OSHA's recordkeeping rule, 437-001-0700, are summarized below.

1. Coverage. The rule requires employers to keep records of occupational deaths, injuries and illnesses, and to make certain reports to Oregon OSHA and the Bureau of Labor Statistics. Smaller employers (with 10 or fewer workers) and employers who have establishments in certain retail, service, finance, real estate or insurance industries are not required to keep these records. However, they must report any occupational fatalities, catastrophes, or any event that results in an in-patient hospitalization, amputation or avulsion that includes bone or cartilage loss, or the loss of an eye that occur in their establishments to Oregon OSHA, and they must participate in government surveys if they are asked to do so.

2. Forms. Employers who operate establishments that are required by the rule to keep injury and illness records are required to complete three forms: the OSHA 300 Log of Work-Related Injuries and Illnesses, the annual OSHA 300A Summary of Work-Related Injuries and Illnesses, and the Department of Consumer Business Services (DCBS) Form 801 or OSHA 301 Injury and Illness Incident Report. Employers are required to keep separate 300 Logs for each establishment that they operate that is expected to be in operation for

one year or longer. The Log must include injuries and illnesses to employees on the employer's payroll as well as injuries and illnesses of other employees the employer supervises on a day-to-day basis, such as temporary workers or contractor employees who are subject to daily supervision by the employer. Within seven calendar days of the time the fatality, injury, or illness occurred, the employer must enter any case that is work-related, is a new case, and meets one or more of the recording criteria in the rule on the Log and Form 801.

3. Work-Relationship. OAR 437-001-0700(6) states that "an injury or illness is 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." Under this language, a case is presumed work-related if, and only if, an event or exposure in the work environment is an apparent 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 apparent causes; it need not be the sole or predominant cause.

   OAR 437-001-0700(6) states that a case is not recordable if it "involves signs or symptoms that surface at work but result solely from a non-work-related event or exposure that occurs outside of the work environment." Regardless of where signs or symptoms surface, a case is recordable only if a work event or exposure is an apparent cause of the injury or illness or of a significant aggravation to a pre-existing condition. 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 make a determination 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. If the employer decides the case is not work-related, and Oregon OSHA subsequently issues a citation for failure to record, Oregon OSHA would have the burden of proving that the injury or illness was work-related.

4. New Case. Only new cases are recordable. Work-related injuries and illnesses are considered to be new cases when the employee has never reported similar signs or symptoms before, or when the employee has recovered completely from a previous injury or illness and workplace exposures have caused the signs or symptoms to reappear.

5. General Recording Criteria. Employers must record new work-related injuries and illnesses that meet one or more of the general recording criteria or meet the recording criteria for specific types of conditions. Recordable work-related injuries and illnesses are those that result in one or more of the following:

- Death
- Days away from work
- Restricted work
- Transfer to another job
- Medical treatment beyond first aid
- Loss of consciousness
- Diagnosis of a significant injury or illness

Employers must classify each case on the 300 Log in accordance with the most serious outcome associated with the case. The outcomes listed on the form are: death, days away, restricted work/transfer, and "other recordable." For cases resulting in days away or in a work restriction or transfer of the employee, the employer must count the number of calendar days involved and enter that total on the form. The employer may stop counting when the total number of days away, restricted, or transferred reaches 180.

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 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. 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. 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).

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. Oregon OSHA would consider the medical treatment and days away from work directed by the second physician as medically

necessary unless the employer can document that the first opinion was based on the exact same condition and is most authoritative.

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. The employer must count those days as days away whether the injured or ill employee follows the recommendation or not.

6. Restricted Work. An employee's work is considered restricted when, as a result of a work-related injury or illness:
   a. 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

   b. A physician or other licensed health care professional recommends that the employee not perform one or more of the routine functions of the job, or not work the full workday that they would otherwise have been scheduled to work. A case is not recordable under section OAR 437-001-0700(6) as a restricted work case if the employee experiences minor musculoskeletal discomfort, a health care professional determines that the employee is fully able to perform all of the routine job functions, and the employer assigns a work restriction to that employee for the purpose of preventing a more serious condition from developing.

7. Medical Treatment. Medical treatment means any treatment not contained in the list of first aid treatments. Medical treatment does not include visits to a healthcare professional for observation and counseling or diagnostic procedures. First aid means only those treatments specifically listed in OAR 437-001-0700(8)(d)(B). Examples of first aid include: the use of non-prescription medications at non-prescription strength, the application of hot or cold therapy, eye patches, finger guards, and others.

8. Diagnosis of a Significant Injury or Illness. A work-related cancer, chronic irreversible disease such as silicosis or byssinosis, punctured eardrum, or fractured or cracked bone is a significant injury or illness that must be recorded when diagnosed by a physician or a licensed health care professional regardless of treatment.

9. Recording Injuries and Illnesses to Soft Tissues. 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. There are no special rules for recording these cases if the case is work-related and involves medical treatment, days away, job transfer, or restricted work.

10. Employee Privacy. The employer must protect the privacy of injured or ill employees when recording cases. In certain types of cases, such as those involving mental illness or sexual assault, the employer must not enter the injured or ill employee's name on the Log. Instead, the employer simply enters "privacy case," and keeps a separate, confidential list containing the identifying information. If the employer provides the Oregon OSHA records to anyone who is not entitled to access the records under the rule, the names of all injured and ill employees generally must be removed before the records are turned over.

11. Certification, Summarization and Posting. After the end of the year, employers must review the Log to verify its accuracy, summarize the 300 Log information on the 300A summary form. A company executive (or a designee, as long as the information is shared with that company executive) must certify the summary. This information must then be posted in a conspicuous place for three months, from February 1 to April 30 at each establishment that they operate that is expected to be in operation for one year or longer. Each 300A Summary must be specific to the establishment. The employer must keep the records for five years following the calendar year they cover, and if the employer sells the business, they must transfer the records to the new owner.

12. Employee Involvement. Each employer must set up a way for employees to report work-related injuries and illnesses. Each employee must be informed about how to report an injury or illness. Employees, former employees, and employee representatives also have a right to access the records, and an employer must provide copies of certain records upon request.

13. Electronic Submission of Injury & Illness Records to OSHA. Electronic recordkeeping requirements under 437-001-0700(24) only apply to establishments that already have to keep a 300 Log. If they are exempt from maintaining a 300 Log, then they are not required to electronically submit injury and illness recordkeeping regardless of how many employees they have. Electronic recordkeeping uses the same criteria for “establishment” that recordkeeping uses. Also, how

employees are counted for recordkeeping is the same for electronic recordkeeping: it is total number of employees, not FTE equivalents. There is one exception: employers with the NAICS that start with 6111, 6116, and 6117 are required to keep OSHA 300 Logs, but are not required to submit through the federal Injury Tracking Application.

14. Federal notifications of electronic recordkeeping submission non-compliance. When Oregon OSHA is notified during an open inspection that an employer may not have fulfilled their responsibility under 437-001-00700(24) to electronically submit their information to the federal Injury Tracking Application, Oregon OSHA will evaluate this information and determine the appropriate next steps. Due to the variability and confidence level rating of the of the information received, a code-related hazard letter up may be considered. The Hazard Letter will be associated with OAR 437-001-0700(24)(h). Based on the circumstances of the individual inspection, discuss with the Statewide Enforcement Manager if a citation is warranted.

B. Annual Survey. An employer also must participate in the BLS injury and illness survey if they receive a survey form from DCBS or BLS.

C. Inspection and Citation Procedures.

1. Review Records and Collect Data. At the end of this program directive are tools to assist the compliance officer in reviewing records, including Health Care Practitioners' Abbreviations.

2. Citations and Penalties for Violation of Division 1, Recordkeeping Requirements.

a. Recordkeeping violations are generally cited as Other-Than-Serious citations, although there may be occasions where such violations may be cited as Serious, Repeat, Willful, or Failure to Abate citations. Follow the guidance of Program Directive A-216, “Citation: Paperwork and Written Program Violations” and the Field Inspection Reference Manual for citation and penalty guidance.

b. Oregon OSHA 300 and DCBS 801 Forms. The employer must record cases on the OSHA 300 Log of Work-Related Injuries and Illnesses, and on the DCBS 801 Incident Report, (or equivalent form). Where no records are kept and there have been injuries or illnesses which meet the requirements for recordability, as determined by other records or by employee interviews, a citation for failure to keep records will normally be issued.

When the required records are kept but no entry is made for a specific injury or illness which meets the requirements for recordability, a citation for failure to record the case will normally be issued.

Where no records are kept and there have been no injuries or illnesses, as determined by employee interviews, a citation will not be issued. See B. 2.b. regarding OSHA 300A, Annual Summary.

When the required records are kept but have not been completed with the detail required by the regulation, or the records contain minor inaccuracies, the records will be reviewed to determine if there are deficiencies that materially impair the understanding of the nature of the hazards, injuries, and illnesses in the workplace. For example, Oregon OSHA would consider an employer not in compliance if an injury was originally entered on the OSHA 300 Log as a sprain, and the employer failed to update the log after receiving new information that the injury was a fracture. In this example, the failure to update the log would materially impair the comprehension of the nature of the hazards, injuries, and illnesses in the workplace. The employer does not need to update the 300 Log if a physician or other licensed health care professional merely refers to an injury or illness by a different or more medically technical name. In such case, failure to update an entry would not materially impair the understandability of the nature of hazards, injuries, and illnesses in the workplace.

If the defects in the records materially impair understanding the nature of the hazards, injuries, and/or illnesses at the workplace, an other-than-serious citation will normally be issued.

Incomplete Recorded Cases on the OSHA 300 or DCBS 801. If the deficiencies do not materially impair the understanding of the information, normally no citation will be issued. For example, an employer should not be cited solely for misclassifying an injury as an illness or vice versa. The employer will be provided information on keeping the records for the employer's analysis of workplace injury trends and on the means to keep the records accurately. The employer's promised actions to correct the deficiencies will be recorded and no citation will be issued.

One Citation Item Per Form. Except for violation-by-violation citations pursuant to PD A-158, recordkeeping citations for improper recording of a case will be limited to a maximum of one citation item per form per year. This applies to both the OSHA 300 and the DCBS 801. Where the conditions for citation are met, an employer's failure to accurately complete the OSHA 300 Log for a given year would normally result in one citation item. Similarly, an employer's failure to accurately complete the DCBS 801, or equivalent, would normally result in one citation item. Multiple cases which are unrecorded or inaccurately recorded on the OSHA 300 or 801s will normally be reflected as instances of the violation under that citation.

For example: A single citation item for an OSHA 300 violation would result from a case where the employer did not properly count the days away, checked the wrong column, and did not adequately describe the injury or illness. Also, where the employer in several cases checked the wrong columns and/or did not adequately describe the injury or illness, and these errors materially impair understanding the nature of the hazards, injuries, and/or illnesses at the workplace. Note: As stated above, an employer should not be cited solely for misclassifying injuries as illnesses, or vice versa.

For example: A single citation item for an DCBS 801 violation would result where DCBS 801s had not been completed, or where so little information had been put on the 801s for multiple cases as to make the 801s materially deficient.

Penalties. When a penalty is appropriate, there will be an unadjusted penalty of $100 for each year the OSHA 300 was not properly kept; an unadjusted penalty of $100 for each DCBS 801 that was not filled out at all (up to maximum indicated on the annual penalty bulletin); and an unadjusted penalty of $100 for each DCBS 801 that was not accurately completed (up to the maximum indicated on the annual penalty bulletin).
Where citations are issued, penalties will be proposed only in the following cases:

- Where Oregon OSHA can document that the employer was previously informed of the requirements to keep records; **or**,
- Where the employer's deliberate decision to deviate

from the recordkeeping requirements, or the employer's plain indifference to the requirements, can be documented.

c. Posting Annual Summary Requirements. An other-than-serious citation will normally be issued, if an employer fails to post the OSHA 300A Summary by February as required by OAR 437-001-0700(17)(d); and/or fails to certify the Summary as required by OAR 437-001-0700(17)(c); and/or fails to keep it posted for three months, until May 1, as required by OAR 437-001-0700(17)(d). The minimum penalty for this violation is $200.

A citation will not be issued if the Summary that is not posted or certified reflects no injuries or illnesses, and no injuries or illnesses actually occurred. The compliance officer will verify that there were no recordable injuries or illnesses by interviews, or by review of workers' compensation or other records, including medical records.

d. Access to Records for Employees. If upon request the employer fails to provide copies of records required in OAR 437-001-0700(5) to any employee, former employee, personal representative, or authorized employee representative by the end of the next business day, a citation for violation of OAR 437-001-0700(21) will normally be issued. The penalty will be $100 for each form not made available.

For example: If the OSHA 300 or the OSHA 300A for the current year and the three preceding years is not made available, the penalty will be $400.

If the DCBS 801s are not made available, the minimum penalty will be $100 for each DCBS 801 not provided, up to the maximum indicated on the annual penalty bulletin. If the employer is to be cited for failure to keep records (OSHA 300, OSHA 300A, or DCBS 801) under OAR 437-001-0700(5), no citation for failure to give access under OAR 437-001-0700(21) will be issued.

e. Egregious Cases. When willful violations are apparent, violation-by-violation citations and penalties may be proposed in accordance with Oregon OSHA's egregious policy as stated in PD A-158.

3. Enforcement Procedures for Occupational Exposure to Bloodborne Pathogens. Compliance guidance given in PD A-154 is superseded by OAR 437-001-0700(9) (Needlestick and Sharps Injury Recording Criteria) of the Recordkeeping rule.

   In addition, the term "contaminated" under OAR 437-001-0700(9), Recording Criteria for Needlestick and Sharps Injuries, incorporates the definition of "contaminated" from the Bloodborne Pathogens Standard at 1910.1030(b) (Definitions). “Contaminated" means the presence or the reasonably anticipated presence of blood or other potentially infectious materials on an item or surface. Employers may use the OSHA 300 and DCBS 801 forms to meet the sharps injury log requirement of OAR 437-002-1035, if the employer enters the type and brand of the device causing the sharps injury on the 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.

4. Enforcement Procedures for Occupational Exposure to Tuberculosis. Compliance guidance given in paragraph L.5. PD A-215 is superseded by OAR 437-001-0700(12) (Recording Criteria for Work-Related Tuberculosis Reporting Criteria) of the Recordkeeping rule.

5. Clarification of Recordkeeping Citation Policy in the Construction Industry.

   a. At construction worksites scheduled to continue for a year or more:
      - A separate OSHA 300 Log must be maintained for each establishment
      - The log may be maintained either at the construction site or at an established central location
      - When maintained at a central location, employers must be able to transmit injury and illness information from the establishment to the central location within 7 calendar days of receiving information that a recordable injury or illness has occurred; and
      - Employers must be able to produce and send records from the central location to the establishment within 4 business hours when the employer is required to provide to a government representative. The records must be provided by the end of the next business day when requested by an employee, former employee, or employee representative.

b. At construction worksites that are scheduled to continue for less than a year:
   - A separate OSHA 300 Log need not be maintained for each establishment
   - One OSHA 300 Log may be maintained to cover all short-term establishments or all short-term establishments within company divisions or geographic regions
   - The Log may be maintained at the establishment or at a central location as described above

c. You must link each employee with one of your establishments for recordkeeping purposes. You must record the injury and illness on the OSHA 300 Log of the injured or ill employee's establishment, or on an OSHA 300 Log that covers the employee's short-term establishment.

d. You must record the injury or illness on the OSHA 300 Log of the establishment where the injury or illness occurred. If the ill or injured employee is not at one of your establishments, you must record the event at the establishment where the employee normally works.

6. Recording Criteria for Cases Involving Medical Removal. Section OAR 437-001-0700(10) requires the employer to record the case on the OSHA 300 Log if an employee is medically removed under the medical surveillance requirements of an OSHA standard. Currently the medical surveillance requirements of the following standards have medical removal requirements:

   a. Benzene. General industry standard (1910.1028(i)); Shipyard standard (1915.1028); and Construction standard (1926.1028(i))

   b. Cadmium. General industry standard (1910.1027(l)); Shipyard standard (1915.1027); and Construction standard (1926.1127)

   c. Formaldehyde. General industry standard (1910.1048(l)); Shipyard standard (1915.1048); and Construction standard (1926.1048(d))

   d. Lead. General industry standard (1910.1025); Shipyard standard (1915.1025); and Construction standard (1926.62)

e. Methylenedianiline. General industry standard (1910.1050(m)); Shipyard standard (1915.1050); and Construction standard (1926.60(n))

f. Methylene Chloride. General industry standard (1910.1052(j)); Shipyard standard (1915.1052); Construction standard (1926.1152)

g. Vinyl Chloride. General industry standard (1910.1017(k)); Shipyard standard (1915.1517); and Construction standard (1926.1017(k))

7. Privacy Concern Cases. OAR 437-001-0700(14)(G) through (I) requires the employer to protect the privacy of the injured or ill employee. The employer must not enter an employee's name on the OSHA 300 Log when recording a privacy case. The employer must keep a separate, confidential list of the case numbers and employee names, and provide it to the government upon request.

If the work-related injury involves any of the following, it is to be treated as a privacy case: (**Note:** This is a complete list)

a. An injury or illness to an intimate body part or the reproductive system;
b. An injury or illness resulting from a sexual assault;
c. A mental illness;
d. HIV infection, Hepatitis, or Tuberculosis;
e. Needlestick and sharps injuries that are contaminated with another person's blood or other potentially infectious material as defined by 1910.1030; or
f. Other illnesses, if the employee independently and voluntarily requests that their name not be entered on the OSHA 300 Log (This does not apply to injuries. See the definition of "Injury and Illness" in OAR 437-001-0015.)

D. Physician or Other Licensed Health Care Provider's Opinion. In cases where two or more physicians or other licensed health care providers make conflicting or differing recommendations, the employer must make a decision as to which recommendation is the most authoritative (best documented, best reasoned, or most persuasive), and record based on that recommendation.

E. Employers Exempt and Partially Exempt.

1. **Federal Agencies**. Except for the United States Postal Service, federal agencies do not have to maintain OSHA injury and illness

records under Part 1904. Federal Agencies have separate recordkeeping requirements under 29 CFR Part 1960.

2. **Oregon OSHA and BLS Surveys**. All employers who receive the Oregon OSHA annual survey form, or the BLS Survey of Occupational Injuries and Illnesses Form, are required to complete and return the survey forms in accordance with OAR 437-001-0700(23). This requirement also applies to those establishments under the small establishment exemption and the low hazard industry exemption.

3. **Small Employers**. Since 1977 the regulations have exempted employers with ten or fewer employees at all times during the last calendar year from the regular recordkeeping requirements. OAR 437-001-0700(3)(a) continues this small employer exemption.

4. **Low-Hazard Industry**. The listings of partially exempt low-hazard industries are those North American Industry Classification System (NAICS) code industries within SICs 52-89 that have an average Days Away, Restricted, or Transferred (DART) rate at or below 75% of the national average DART rate.

   See Table 1 of 437-001-0700 for the list of Partially Exempt Industries.

F. Prohibition Against Discrimination. Section OAR 437-001-0700(20) is informational only and is not a citable provision of the regulation. Any discrimination cases related to this rule are to be handled using the normal process under 654.062(5)(a).

G. Definitions.

1. Days Away, Restricted, or Transferred (DART) Rate: This includes cases involving days away from work, restricted work activity, and transfers to another job and 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.

NOTE: The DART rate will replace the Lost Workday Injury and Illness (LWDII) rate. See Figure 3 for an optional Incidence Rate Worksheet.

2. Establishment: An establishment is 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.

   a. Normally, one business location has only one establishment. Under limited conditions, the employer may consider two or more separate businesses that share a single location to be separate establishments. An employer may divide one location into two or more establishments when:
      i. Each of the establishments represents a distinctly separate business;
      ii. Each business is engaged in a different economic activity;
      iii. No one industry description in the North American Industry Classification System (NAICS) Manual applies to the joint activities of the establishments; and
      iv. 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.

   b. 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:

      i. The employer operates the locations as a single business operation under common management;

ii. The locations are all in close proximity to each other; and

iii. 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 services building across the street.

For employees who telecommute from home, the employee's home is not a business establishment and a separate 300 Log is not required. Each employee who telecommutes must be linked to one of the employer's establishments.

c. Covered Employees.

- Record all recordable injuries and illnesses on the OSHA 300 Log of all employees on your payroll. (OAR 437-001-0700(16)).
- Record all recordable injuries and illnesses of employees not on your payroll if you supervise them on a day-to-day basis.
- Record injuries and illnesses of temporary or leased employees on your OSHA 300 Log only if you supervise them on a day-to-day basis.
- Record injuries and illnesses of contractor's employees on your OSHA 300 Log only if you supervise them on a day-to-day basis.
- Coordinate your efforts with temporary and leasing services, or contractors to make sure that each injury and illness is recorded only once.

3. First Aid: As stated in OAR 437-001-0700(8)(d)(B), first aid means only the following treatments (any treatment not included in this list is not considered first aid for recordkeeping purposes):

a. Using a nonprescription medication at nonprescription strength;

b. Administering tetanus immunizations;

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™;

e. Using hot or cold therapy;

f. Using any non-rigid means of support, such as elastic bandages, wraps, non-rigid back belts, etc.;

g. Using temporary immobilization devices while transporting an accident victim;

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; or

n. Drinking fluids for relief of heat stress.

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

Note: Oregon 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 recordkeeping purposes.

The application of a first aid treatment 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 Oregon OSHA recordkeeping purposes, even when such treatment is provided over a long time period 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 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."

4. Injuries and Illnesses: An injury or illness is an abnormal condition or disorder. Injuries include cases such as, but not limited to, a cut, fracture, sprain, or amputation. Illnesses include both acute and chronic illnesses, such as a skin disease, respiratory disorder, or poisoning. (**Note:** Injuries and illnesses are recordable only if they are new, work-related cases that meet one or more of the recording criteria.)

   Note: The distinction between injury and illness is no longer a factor for determining which cases are recordable.

5. Medical Treatment: Medical treatment means the management and care of a patient to combat disease or disorder. For recordkeeping purposes, it does not include:

   a. visits to a physician or other licensed health care professional solely for observation or counseling;

   b. diagnostic procedures such as x-rays and blood tests, including the administration of prescription medications used solely for diagnostic purposes (e.g., eyedrops to dilate pupils); or

   c. any treatment contained on the list of first-aid treatments.

6. Other Potentially Infectious Material (OPIM): For purposes of OAR 437-001-0700, this term has the same meaning as in OSHA's bloodborne pathogens standard at 1910.1030, which defines OPIM as:

   a. The following human body fluids: semen, vaginal

secretions, cerebrospinal fluid, synovial fluid, pleural fluid, pericardial fluid, peritoneal fluid, amniotic fluid, saliva in dental procedures, any body fluid that is visibly contaminated with blood, and all body fluids in situations where it is difficult or impossible to differentiate between body fluids;

b. Any unfixed tissue or organ (other than intact skin) from a human (living or dead); and

c. 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.

7. Physician or Other Licensed Health Care Professional: A physician or other licensed health care professional is 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 this regulation.

History: Issued 3-13-2002 Revised 5-31-2005, 2-26-2007, 5-11-2012, 10-10-2012, 5-18-2016, 9-10-2018, and 7-7-2025

Figure 1: Health Care Practitioners' Abbreviations

General/Diagnostic Information			
Pt	Patient	IPPB	Intermittent positive pressure breathing
Dx	Diagnosis		
Tx	Therapy	LBP	Low back pain
Hx	History	CTS	Carpal tunnel syndrome
Sx	Symptom	VS	Vital signs:
Sz	Seizure	BP	Blood pressure
fx	Fracture	P	Pulse, or
wt	weight	HR	Heart rate
		T	Temperature
		RR	Respiratory rate
Test Type/ Body Part Information			
PE	Physical exam	CXR	Chest X-Ray
EKG	Electrocardiogram	PA	Posterior-anterior (x-ray view)
ECG	Electrocardiogram	Lat	Lateral (x-ray view)
EEG	Electroencephalogram	RUQ	Right upper quadrant (abdomen)
CBC	Complete blood count	LUQ	Left upper quadrant (abdomen)
UA	Urinalysis	RLQ	Right lower quadrant (abdomen)
		LLQ	Left lower quadrant (abdomen)
Treatment/Prescription Information			
Rx	Prescription/treatment	b.i.d.	twice daily
QOD	Every other day	t.i.d.	three times a day
q.h.	Every hour	q.i.d.	four times a day
q.i.d.	Four times a day	p.r.n.	as necessary
pc	Post prandial (after meals)	q.s.	as sufficient
mg	Milligram	q.d.	per day
p.o.	By mouth	c	with
IV	Intravenous	p	after
p.r.	per rectum		
SMA chemistry test: (Sequential Multiple Analysis method of testing for chemicals/impurities in the body)			
Alb	Albumin	Glu	Glucose
Alk phos	Alkaline phosphates	K	Potassium
Bili	Bilirubin	Na	Sodium
BUN	Blood urea nitrogen	P	Phosphate
Ca	Calcium	SGOT	Liver enzyme
Chol	Cholesterol	SGPT	Liver enzyme
Cl	Chloride	GGTP	Liver enzyme
Cr	Creatinine		

Figure 2

INSTRUCTIONS FOR COMPUTING INCIDENCE RATES FOR AN INDIVIDUAL FIRM

Days Away, Restricted and/or Transfer Rates (DART) and Total Case Incident Rate (TCIR)

The incidence rates for an individual establishment or firm may be calculated by using the same formula used to calculate industry-wide incidence rates from the annual Occupational Injury and Illness Survey. The incidence rates (IR) are calculated for numbers of injuries and/or illnesses, or for cases with days away and/or job transfer or restriction, per 100 workers per year. The rate is calculated as:

IR = (N x 200,000) ÷ EH **or** **(N ÷EH) x (200,000) = IR**

Where:
- IR = Incidence Rate (either DART or TCIR)
- N = Number of cases with days away and/or job transfer or restriction or number of cases with injuries/illnesses
- EH = Total hours worked by all employees during the calendar year
- 200,000 = Base for 100 full-time equivalent workers[1] (working 40 hours per week, 50 weeks per year)

The formulas in the following table may be used to determine the Days Away, Restricted, and/or Transfer (DART) Rate, or to determine Total Case Incident Rate (TCIR):

Incident Rate	OSHA 300 Log Column Entry	Calculations
Days Away, Restricted or Transferred **DART Rate** Was Lost Workday Injury and Illness Rate (LWCDIR)	H _____ + I _____ Total = _____ (cases)	_____ (cases) x 200,000 ÷ _____ (hours) = _____ (rate)
Total Case Incident Rate (TCIR) **TCIR Rate**	G _____ + H _____ + I _____ + J _____ Total = _____ (cases)	_____ (cases) x 200,000 ÷ _____ (hours) = _____ (rate)

[1] Employee hours (EH) is the total number of hours actually worked during the year by all employees from payroll or other time records. The hours worked figure should not include any non work time even though paid, such as vacation, sick leave, holidays, etc. (If actual hours worked are not available for employees paid on commission, salary, by the mile, etc., hours worked may be estimated on the basis of scheduled hours or 8 hours per workday.)

FREQUENTLY ASKED QUESTIONS

The following Questions and Answers have been prepared to address enforcement issues concerning the Recordkeeping Rule.

I. General Guidance.

How can I get copies of the forms?

Copies of the forms can be obtained on Oregon OSHA's website at https://osha.oregon.gov/ or from the Oregon OSHA Resource Center.

II. Purpose.

Why are employers required to keep records of work-related injuries and illnesses?

The OSH Act of 1970 requires the Secretary of Labor to produce regulations that require employers to keep records of occupational deaths, injuries, and illnesses. The records are used for several purposes.

Injury and illness statistics are used by OSHA to help direct its programs and measure its own performance. Inspectors also use the data during inspections to help direct their efforts to the hazards that are hurting workers.

The records are also used by employers and employees to implement safety and health programs at individual workplaces. Analysis of the data is a widely recognized method for discovering workplace safety and health problems and for tracking progress in solving those problems.

The records provide the base data for the BLS Annual Survey of Occupational Injuries and Illnesses, the Nation's primary source of occupational injury and illness data.

What is the effect of workers' compensation reports on the OSHA records?

The purpose section of the rule includes a note to make it clear that recording an injury or illness neither affects a person's entitlement to workers' compensation nor proves a violation of an OSHA rule. The rules for compensability under workers' compensation do not have any effect on whether or not a case needs to be recorded on the OSHA 300 Log. Many cases will be OSHA recordable and compensable under workers' compensation. However, some cases will be compensable but not OSHA recordable, and some cases will be OSHA recordable but not compensable under workers' compensation.

III. Partial Exemption for Establishments in Certain Industries.

How can I get help to find my NAICS Code and determine if I'm partially exempt from the recordkeeping rule?
These are listed on Federal OSHA’s website:

https://www.osha.gov/recordkeeping/presentations/covered .You can also look up NAICS codes through the U.S. Census Bureau at https://www.census.gov/naics/.
If you still cannot determine your NAICS code, call an Oregon OSHA office for assistance.

Do States with OSHA-approved State plans have the same industry exemptions as Federal OSHA?

States with OSHA-approved plans may require employers to keep records for the State, even though those employers are within an industry exempted by the Federal rule.

Do professional sports teams qualify for the partial industry exemption in section 437-002-0700(3)?

No. Only those industry classifications in Table 1 qualify for the partial industry exemption in section 437-002-0700(3). Professional sports teams are classified under the NAICS code 7112, which is not one of the listed exempt classifications.

IV. Recording Criteria.

Does an employee's report of an injury or illness establish the existence of the injury or illness for recordkeeping purposes?

No. In determining whether a case is recordable, the employer must first decide whether an injury or illness, as defined by the rule, has occurred. If the employer is uncertain about whether an injury or illness has occurred, the employer may refer the employee to a physician or other health care professional for evaluation and may consider the health care professional's opinion in determining whether an injury or illness exists. [Note: If a physician or other licensed health care professional diagnoses a significant injury or illness within the meaning of 437-001-0700(8) and the employer determines that the case is work-related, the case must be recorded.]

V. Determination of Work-Relatedness.

If a maintenance employee is cleaning the parking lot or an access road and is injured as a result, is the case work-related?

Yes, the case is work-related because the employee is injured as a result of conducting company business in the work environment. If the injury meets the general recording criteria of Section 437-001-0700(8) (death, days away, etc.), the case must be recorded.

Are cases of workplace violence considered work-related under the Recordkeeping rule?

The Recordkeeping rule contains no general exception, for purposes of determining work-relationship, for cases involving acts of violence in the work environment. Some cases involving violent acts might be included within one of the exceptions listed in section 437-001-0700(6) Table 3. For example, if an employee arrives at work early to use a company conference room for a civic club meeting and is injured by some violent act, the case would not be work-related

under the exception in section 437-001-0700(6) Table 3.

What activities are considered "personal grooming" for purposes of the exception to the geographic presumption of work-relatedness in section 437-001-0700(6) Table 3?

Personal grooming activities are activities directly related to personal hygiene, such as combing and drying hair, brushing teeth, clipping fingernails and the like. Bathing or showering at the workplace when necessary because of an exposure to a substance at work is not within the personal grooming exception in section 437-001-0700(6) Table 3. Thus, if an employee slips and falls while showering at work to remove a contaminant to which they have been exposed at work, and sustains an injury that meets one of the general recording criteria listed in section 437-001-0700(8), the case is recordable.

What are "assigned working hours" for purposes of the exception to the geographic presumption in section 437-001-0700(6) Table 3?

"Assigned working hours," for purposes of section 437-001-0700(6) Table 3, means those hours the employee is actually expected to work, including overtime.

What are "personal tasks" for purposes of the exception to the geographic presumption in section 437-001-0700(6) Table 3?

"Personal tasks" for purposes of section 437-001-0700(6) Table 3 are tasks that are unrelated to the employee's job. For example, if an employee uses a company break area to work on their child's science project, they are engaged in a personal task.

If an employee stays at work after normal work hours to prepare for the next day's tasks and is injured, is the case work-related? For example, if an employee stays after work to prepare air-sampling pumps and is injured, is the case work-related?

A case is work-related any time an event or exposure in the work environment either causes or contributes to an injury or illness or significantly aggravates a pre-existing injury or illness, unless one of the exceptions in section 437-001-0700(6) applies. The work environment includes the establishment and other locations where one or more employees are working or are present as a condition of their employment. The case in question would be work-related if the employee was injured as a result of an event or exposure at work, regardless of whether the injury occurred after normal work hours.

If an employee voluntarily takes work home and is injured while working at home, is the case recordable?

No. Injuries and illnesses occurring in the home environment are only considered work-related if the employee is being paid or compensated for working at home and the injury or illness is directly related to the performance of the work rather than to the general home environment.

If an employee's pre-existing medical condition causes an incident which results in a subsequent injury, is the case work-related? For example, if an employee suffers an epileptic seizure, falls, and breaks their arm, is the case covered by the exception in section 437-001-0700(6) Table 3?

Neither the seizures nor the broken arm are recordable. Injuries and illnesses that result solely from non-work-related events or exposures are not recordable under the exception in section 437-001-0700(6), Table 3. Epileptic seizures are a symptom of a disease of non-occupational origin, and the fact that they occur at work does not make them work-related. Because epileptic seizures are not work-related, injuries resulting solely from the seizures, such as the broken arm in the case in question, are not recordable.

This question involves the following sequence of events: Employee A drives to work, parks their car in the company parking lot, and is walking across the lot when they are struck by a car driven by employee B, who is commuting to work. Both employees are seriously injured in the accident. Is either case work-related?

Neither employee's injuries are recordable. While the employee parking lot is part of the work environment under section 437-001-0700(6), Table 3, injuries occurring there are not work-related if they meet the exception in Table 3. The exception in Table 3 includes injuries caused by motor vehicle accidents occurring on the company parking lot while the employee is commuting to and from work. In the case in question, both employees' injuries resulted from a motor vehicle accident in the company parking lot while the employees were commuting. Accordingly, the exception applies.

How does OSHA define a "company parking lot" for purposes of Recordkeeping?

Company parking lots are part of the employer's premises and therefore part of the establishment. These areas are under the control of the employer, i.e. those parking areas where the employer can limit access (such as parking lots limited to the employer's employees and visitors). On the other hand, a parking area where the employer does not have control (such as a parking lot outside of a building shared by different employers, or a public parking area like those found at a mall or beneath a multi-employer office building) would not be considered part of the employer's establishment (except for the owner of the building or mall), and therefore not a company parking lot for purposes of OSHA recordkeeping.

An employee experienced an injury or illness in the work environment before they had "clocked in" for the day. Is the case considered work-related even if that employee was not officially "on the clock" for pay purposes?

Yes. For purposes of OSHA recordkeeping injuries and illnesses occurring in the work environment are considered work-related. Punching in and out with a time clock (or signing in and out) does not affect the outcome for determining work-relatedness. If the employee experienced a work-related injury or illness, and it meets one or more of the general recording criteria under section 437-001-0700(8), it must be entered on the employer's OSHA 300 log.

Is work-related stress recordable as a mental illness case?

Mental illnesses, such as depression or anxiety disorder, that have work-related stress as a contributing factor, are recordable if the employee voluntarily provides the employer with an opinion from a physician or other licensed health care professional with appropriate training and experience (psychiatrist, psychologist, psychiatric nurse practitioner, etc.) stating that the employee has a mental illness that is work-related, and the case meets one or more of the general recording criteria. See Table 3 and 437-001-0700(8).

If an employee dies or is injured or infected as a result of a terrorist attack, should it be recorded on the OSHA Injury and Illness Log? Should it be reported to Oregon OSHA?

Yes, injuries and illnesses that result from a terrorist event or exposure in the work environment are considered work-related for Oregon OSHA recordkeeping purposes. Oregon OSHA does not exclude violence-related injury and illness cases, including injuries and illnesses resulting from terrorist attacks.

OAR 437-001-0704 requires an employer to report any work-related incident that results in the death of any employee or the inpatient hospitalization of three or more employees to Oregon OSHA within 8 hours of the incident or employer knowledge. This includes heart attacks and motor vehicle accidents. Fatalities and catastrophes must be reported if they occur within 30 days of the incident that lead to the death or multiple hospitalizations of employees.

OAR 437-001-0704 also requires employers to report any work-related incident that results in an in-patient hospitalization, loss of an eye, or amputation or avulsion that includes bone or cartilage loss, to Oregon OSHA within 24 hours of the incident or employer knowledge. These events only need to be reported when they occur within 24 hours of the event that caused the hospitalization, amputation/avulsion, or the eye loss.

An employer may also use the Oregon OSHA toll-free central telephone number, 1-800-922-2689.

VI. Determination of New Cases.

How is an employer to determine whether an employee has "recovered completely" from a previous injury or illness such that a later injury or illness of the same type affecting the same part of the body resulting from an event or exposure at work is a "new case" under section 437-001-0700(7)? If an employee's signs and symptoms disappear for a day and then resurface the next day, should the employer conclude that the later signs and symptoms represent a new case?

An employee has "recovered completely" from a previous injury or illness, for purposes of section 437-001-0700(7), when they are fully healed or cured. The employer must use their best judgment based on factors such as the passage of time since the symptoms last occurred, and the physical appearance of the affected part of the body. If the signs and symptoms of a previous injury disappears for a day, only to reappear the following day, that is strong evidence the injury

has not properly healed. The employer may, but is not required to, consult a physician or other licensed health care provider (PLHCP). Where the employer does consult a PLHCP to determine whether an employee has recovered completely from a prior injury or illness, it must follow the PLHCP's recommendation. In the event the employer receives recommendations from two or more PLHCPs, the employer may decide which recommendation is the most authoritative and record the case based on that recommendation.

VII. General Recording Criteria.

Does the size or degree of a burn determine recordability?

No, the size or degree of a work-related burn does not determine recordability. If a work-related first, second, or third degree burn results in one or more of the outcomes in section 437-001-0700(8) (days away, work restrictions, medical treatment, etc.), the case must be recorded.

If an employee dies during surgery made necessary by a work-related injury or illness, is the case recordable? What if the surgery occurs weeks or months after the date of the injury or illness?

If an employee dies as a result of surgery or other complications following a work-related injury or illness, the case is recordable. If the underlying injury or illness was recorded prior to the employee's death, the employer must update the Log by lining out information on less severe outcomes, e.g., days away from work or restricted work, and checking the column indicating death.

An employee hurts their left arm and is told by the doctor not to use the left arm for one week. The employee is able to perform all of their routine job functions using only the right arm (though at a slower pace and the employee is never required to use both arms to perform their job functions). Would this be considered restricted work?

No. If the employee is able to perform all of their routine job functions (activities the employee regularly performs at least once per week), the case does not involve restricted work. Loss of productivity is not considered restricted work.

Are surgical glues used to treat lacerations considered "first aid?"

No, surgical glue is a wound closing device. All wound closing devices except for butterfly and Steri-Strips are by definition "medical treatment," because they are not included on the first aid list.

Item N on the first aid list is "drinking fluids for relief of heat stress." Does this include administering intravenous (IV) fluids?

No. Intravenous administration of fluids to treat work-related heat stress is medical treatment.

Is the use of a rigid finger guard considered first aid?

Yes, the use of finger guards is always first aid.

For medications such as Ibuprofen that are available in both prescription and non-prescription form, what is considered to be prescription strength? How is an employer to determine whether a non-prescription medication has been recommended at prescription strength?

Medication prescription strength is the measured quantity of the therapeutic agent to be taken at one time, i.e., a single dose. The single dosages that are considered prescription strength for four common over-the-counter drugs are:

Ibuprofen (such as Advil®) - Greater than 467 mg
Diphenhydramine (such as Benadryl®) - Greater than 50 mg
Naproxen Sodium (such as Aleve®) - Greater than 220 mg
Ketoprofen (such as Orudus KT®) - Greater than 25mg

To determine the prescription-strength dosages for other drugs that are available in prescription and non-prescription formulations, the employer should contact their local pharmacist, their physician, or the United States Food and Drug Administration.

If an employee who sustains a work-related injury requiring days away from work is terminated for drug use based on the results of a post-accident drug test, how is the case recorded? May the employer stop the day count upon termination of the employee for drug use under section 437-001-0700(8)(b)?

Under section 437-001-0700(8)(b), 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. However, when the employer conducts a drug test based on the occurrence of an accident resulting in an injury at work and subsequently terminates the injured employee, the termination is related to the injury. Therefore, the employer must estimate the number of days that the employee would have been away from work due to the injury and enter that number on the 300 Log.

Once an employer has recorded a case involving days away from work, restricted work or medical treatment and the employee has returned to regular work or has received the course of recommended medical treatment, is it permissible for the employer to delete the Log entry based on a physician's recommendation, made during a year-end review of the Log, that the days away from work, work restriction or medical treatment were not necessary?

The employer must make an initial decision about the need for days away from work, a work restriction, or medical treatment based on the information available, including any recommendation by a physician or other licensed health care professional. Where the employer receives contemporaneous recommendations from two or more physicians or other licensed

health care professionals about the need for days away, a work restriction, or medical treatment, the employer may decide which recommendation is the most authoritative and record the case based on that recommendation. Once the days away from work or work restriction have occurred or medical treatment has been given, however, the employer may not delete the Log entry because of a physician's recommendation, based on a year-end review of the Log, that the days away, restriction or treatment were unnecessary.

If a physician or other licensed health care professional recommends medical treatment, days away from work, or restricted work activity as a result of a work-related injury or illness, can the employer decline to record the case based on a contemporaneous second provider's opinion that the recommended medical treatment, days away from work, or work restriction are unnecessary, if the employer believes the second opinion is more authoritative?

Yes. However, once medical treatment is provided for a work-related injury or illness, or days away from work or work restriction have occurred, the case is recordable. If there are conflicting contemporaneous recommendations regarding medical treatment, or the need for days away from work or restricted work activity, but the medical treatment is not actually provided and no days away from work or days of work restriction have occurred, the employer may determine which recommendation is the most authoritative an record on that basis. In the case of prescription medications, medical treatment is provided once a prescription is issued.

Section 437-001-0700(8)(d) of the rule defines first aid, in part, as "removing splinters or foreign material from areas other than the eye by irrigation, tweezers, cotton swabs or other simple means." What are "other simple means" of removing splinters that are considered first aid?

"Other simple means" of removing splinters, for purposes of the first-aid definition, means methods that are reasonably comparable to the listed methods. Using needles, pins, or small tools to extract splinters would generally be included.

How long must a modification to a job last before it can be considered a permanent modification under section 437-001-0700(8)(c)(f)?

Section 437-001-0700(8)(c)(f) of the rule allows an employer to stop counting days of restricted work or transfer to another job if the restriction or transfer is made permanent. A permanent restriction or transfer is one that is expected to last for the remainder of the employee's career. Where the restriction or transfer is determined to be permanent at the time it is ordered, the employer must count at least one day of the restriction or transfer on the Log. If the employee whose work is restricted or who is transferred to another job is expected to return to their former job duties at a later date, the restriction or transfer is considered temporary rather than permanent.

If an employee loses their arm in a work-related accident and can never return to their job, how is the case recorded? Is the day count capped at 180 days?

If an employee never returns to work following a work-related injury, the employer must check the "days away from work" column, and enter an estimate of the number of days the employee would have required to recuperate from the injury, up to 180 days.

If an employee who routinely works ten hours a day is restricted from working more than eight hours following a work-related injury, is the case recordable?

Generally, the employer must record any case in which an employee's work is restricted because of a work-related injury. A work restriction, as defined in section 437-001-0700(8)(c)(A), occurs when the employer keeps the employee from performing one or more routine functions of the job, or from working the full workday the employee would otherwise have been scheduled to work. The case in question is recordable if the employee would have worked 10 hours had they not been injured.

If an employee is exposed to chlorine or some other substance at work and oxygen is administered as a precautionary measure, is the case recordable?

If oxygen is administered as a purely precautionary measure to an employee who does not exhibit any symptoms of an injury or illness, the case is not recordable. If the employee exposed to a substance exhibits symptoms of an injury or illness, the administration of oxygen makes the case recordable.

Is the employer subject to a citation for violating section 437-001-0700(8)(d) if an employee fails to follow a recommended work restriction?

Section 437-001-0700(8)(d) deals with the recordability of cases in which a physician or other health care professional has recommended a work restriction. The section also states that the employer "should ensure that the employee complies with the [recommended] restriction." This language is purely advisory and does not impose an enforceable duty upon employers to ensure that employees comply with the recommended restriction. [Note: In the absence of conflicting opinions from two or more health care professionals, the employer ordinarily must record the case if a health care professional recommends a work restriction involving the employee's routine job functions.]

Are work-related cases involving chipped or broken teeth recordable?

Yes, under section 437-001-0700(8)(f), these cases are considered a significant injury or illness when diagnosed by a physician or other health care professional. As discussed in the preamble of the final rule, work-related fractures of bones or teeth are recognized as constituting significant diagnoses and, if the condition is work-related, are appropriately recorded at the time of initial diagnosis even if the case does not involve any of the other general recording criteria
.

How would the employer record the change on the OSHA 300 log for an injury or illness after the injured worker reached the cap of 180 days for restricted work and then was assigned to "days away from work?"

The employer must check the box that reflects the most severe outcome associated with a given injury or illness. The severity of any case decreases on the log from column G (Death) to column J (Other recordable case). Since days away from work is a more severe outcome than restricted work the employer is required to remove the check initially placed in the box for job transfer or restriction and enter a check in the box for days away from work (column H.) Employers are allowed to cap the number of days away and/or restricted work/job transfer when a case involves 180 calendar days. For purposes of recordability, the employer would enter 180 days in the "Job transfer or restriction" column and may also enter 1 day in the "Days away from work" column to prevent confusion or computer related problems.

Does the employer have to record a work-related injury and illness, if an employee experiences minor musculoskeletal discomfort, the health care professional determines that the employee is fully able to perform all of their routine job functions, but the employer assigns a work restriction to the injured employee?

A case would not be recorded under section 437-001-0700(8)(c) if 1) the employee experiences minor musculoskeletal discomfort, and 2) a health care professional determines that the employee is fully able to perform all of the routine job functions, and 3) the employer assigns a work restriction to that employee for the purpose of preventing a more serious condition from developing. If a case is or becomes recordable under any other general recording criteria contained in section 437-001-0700(8), such as medical treatment beyond first aid, a case involving minor musculoskeletal discomfort would be recordable.

Are injuries and illnesses recordable if they occurred during employment, but were not discovered until after the injured or ill employee was terminated or retired?

These cases are recordable throughout the five-year retention and updating period contained in section 437-001-0700(18). The cases would be recorded on either the log of the year in which the injury or illness occurred, or the last date of employment.

If an employee leaves the company after experiencing a work-related injury or illness that results in days away from work or days of restricted work/job transfer, how would an employer record the case?

If the employee leaves the company for reasons unrelated to the injury or illness, section 437-001-0700(8)(b)(E) of the rule allows the employer to stop counting days away from work or days of restriction/job transfer. In order to stop a count, that employer must first have a count to stop. Thus, the employer must count at least one day away from work or day of restriction/job transfer on the OSHA 300 log. If the employee leaves the company for some reasons related to the injury or illness, section 437-001-0700(8)(b)(E) of the rule directs the employer to make an estimate of the count of days away from work or days of restriction/job transfer expected for the particular type of case.

If an employee has an adverse reaction to a smallpox vaccination, is it recordable under OSHA's recordkeeping rule?

If an employee has an adverse reaction to a smallpox vaccination, the reaction is recordable if it is work related (see 437-001-0700(6)) and meets the general recording criteria contained in 437-001-0700(8). A reaction caused by a smallpox vaccination is work-related if the vaccination was necessary to enable the employee to perform their work duties. Such a reaction is work-related even though the employee was not required to receive it, if the vaccine was proved by the employer to protect the employee against exposure to smallpox in the work environment. For example, if a health care employer establishes a program to vaccinate employees who may be involved in treating people suffering from the effects of a smallpox outbreak, reactions to the vaccine would be work related. The same principle applies to adverse reactions among emergency response workers whose duties may cause them to be exposed to smallpox. The vaccinations in this circumstance are comparable to inoculations given to employees to immunize them from diseases to which they may be exposed to in the course of work-related overseas travel.

An employee has a work-related shoulder injury resulting in days of restricted work activity. While working on restricted duty, the employee sustains a foot injury that results in a different work restriction. How would the employer record these cases?

For purposes of Oregon OSHA recordkeeping, the employer would stop the count of the days of restricted work activity due to the first case--the shoulder injury, and enter the foot injury as a new case and record the number of restricted work days. If the restriction related to the second case, the foot injury, is lifted and the employee is still subject to the restriction related to their shoulder injury, the employer must resume the count of days of restricted work activity for that case.

An employee is provided antibiotics for anthrax, although the employee does not test positive for exposure/infection. Is this a recordable event on the OSHA log?

No. A case must involve a death, injury, or illness to be recordable. A case involving an employee who does not test positive for exposure/infection would not be recordable because the employee is not injured or ill.

An employee tests positive for anthrax exposure/infection and is provided antibiotics. Is this a recordable event on the OSHA log?

Yes. Under the most recent Recordkeeping requirements, a work-related anthrax exposure/infection coupled with administration of antibiotics or other medical treatment must be recorded on the log.

VIII. Recording Criteria for Needlestick and Sharps Injuries.

Can I use the OSHA 300 Log to meet the Bloodborne Pathogen Standard's requirement for a sharps injury log?

Yes. You may use the 300 Log to meet the requirements of the sharps injury log provided you enter the type and brand of the device causing the sharps injury on the Log and you maintain your 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. In addition, you need to treat the sharps injuries as privacy cases.

IX. 437-002-0700(11) Recording criteria for cases involving occupational hearing loss.

If an employee suffers a Standard Threshold Shift (STS) in only one ear, is the baseline revised for both ears?

No. A Standard Threshold Shift, or STS, is defined in the occupational noise exposure standard at 437-002-1910.95(g)(10)(i) as a change in hearing threshold, relative to the baseline audiogram for that employee, of an average of 10 decibels (dB) or more at 2000, 3000, and 4000 hertz (Hz) in one or both ears. The baseline is only revised by an audiologist, otolaryngologist, or physician, in the ear where the employee suffered an STS change in hearing threshold.

Which baseline is used to determine if a recordable Standard Threshold Shift (STS) has occurred this year?

Employers should use the initial baseline that they obtained when the employee first started work. The employer may use a revised baseline for this comparison if the audiologist, otolaryngologist, or physician revised that initial baseline due to a previous persistent STS or significant improvement of hearing.

If an employee experienced a recordable hearing loss case, where would the employer record the case on the OSHA 300 Log?

Employers must record all hearing loss cases in the separate hearing loss column (M)(5).

What must an employer do to ensure that a physician or other licensed health care professional makes the appropriate determination that a hearing loss case is not work-related under section 437-001-0700(11)(d)?

A physician or other licensed health care professional (PLHCP) would follow 437-001-0700(6) to determine if the hearing loss 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, the PLHCP must consider the case to be work-related. It is not necessary for work to be the sole cause, or the predominant cause, or even a substantial cause of the hearing loss; any contribution from work makes the case work-related. The employer is responsible for ensuring that the PLHCP applies the analysis in 437-001-0070(6) when evaluating work-related hearing loss, if the employer chooses to rely on the PLHCP's opinion in determining recordability.

X. Forms.

How do I determine whether or not a case is an occupational injury or one of the occupational illness categories in Section M of the OSHA 300 Log?

The instructions that accompany the OSHA 300 Log contain examples of occupational injuries and the various types of occupational illnesses listed on the Log. If the case you are dealing with is on one of those lists, then check that injury or illness category. If the case you are dealing with is not listed, then you may check the injury or illness category that you believe best fits the circumstances of the case.

Does the employer decide if an injury or illness is a privacy concern case?

Yes. The employer must decide if a case is a privacy concern case, using 437-001-0700(14)(g), which lists the six types of injuries and illnesses the employer must consider privacy concern cases. If the case meets any of these criteria, the employer must consider it a privacy concern case. This is a complete list of all injury and illnesses considered privacy concern cases.

Under paragraph 437-001-0700(14)(h), the employer may use some discretion in describing a privacy concern case on the log so the employee cannot be identified. Can the employer also leave off the job title, date, or where the event occurred?

Yes. OSHA believes that this would be an unusual circumstance and that leaving this information off the log will rarely be needed. However, if the employer has reason to believe that the employee's name can be identified through this information, these fields can be left blank.

May employers attach missing information to their accident investigation or workers' compensation forms to make them an acceptable substitute form for the DCBS Form 801 for recordkeeping purposes?

Yes, the employer may use a workers' compensation form or other form that does not contain all the required information, provided the form is supplemented to contain the missing information and the supplemented form is as readable and understandable as the DCBS 801 form and is completed using the same instructions as the DCBS 801 form.

If an employee reports an injury or illness and receives medical treatment this year, but states that the symptoms first arose at some unspecified date last year, on which year's log do I record the case?

Ordinarily, the case should be recorded on the Log for the year in which the injury or illness occurred. Where the date of injury or illness cannot be determined, the date the employee reported the symptoms or received treatment must be used. In the case in question, the injury or illness would be recorded on this year's Log because the employee cannot specify the date when the symptoms occurred.

Is there guidance on how to classify cases to complete column M on the OSHA 300 Log?

An injury or illness is an abnormal condition or disorder. Employers should look at the examples of injuries and illnesses in the "Classifying Injuries and Illnesses" section of the Recordkeeping Forms Package for guidance. If still unsure about the classification, employers could use the longstanding distinction between injuries that result from instantaneous events or those from exposures in the work environment. Cases resulting from anything other than an instantaneous event or exposure are considered illnesses.

XI. Covered Employees.

How is the term "supervised" in section 437-001-0700(16) defined for the purpose of determining whether the host employer must record the work-related injuries and illnesses of employees obtained from a temporary help service?

The host employer must record the recordable injuries and illnesses of employees not on its payroll if it supervises them on a day-to-day basis. 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."

If a temporary personnel agency sends its employees to work in an establishment that is not required to keep OSHA records, does the agency have to record the recordable injuries and illnesses of these employees?

A temporary personnel agency need not record injuries and illnesses of those employees that are supervised on a day-to-day basis by another employer. The temporary personnel agency must record the recordable injuries and illnesses of those employees it supervises on a day to day basis, even if these employees perform work for an employer who is not covered by the recordkeeping rule.

XII. Annual Summary.

How do I calculate the "total hours worked" on my annual summary when I have both hourly and temporary workers?

To calculate the total hours worked by all employees, include the hours worked by salaried, hourly, part-time and seasonal workers, as well as hours worked by other workers you supervise (e.g., workers supplied by a temporary help service). Do not include vacation, sick leave, holidays, or any other non-work time even if employees were paid for it. If your establishment keeps records of only the hours paid or if you have employees who are not paid by the hour, you must estimate the hours that the employees actually worked.

If an employer has no recordable cases for the year, is an OSHA 300-A, Annual Summary, still required to be completed, certified and posted?

Yes. After the end of the year, employers must review the Log to verify its accuracy, summarize the 300 Log information on the 300A summary form, and certify the summary (a company executive or designee must sign the certification). This information must then be posted for three months, from February 1 to April 30.

If employers electronically post the OSHA 300-A Summary of Work-related Injuries and Illnesses, are they in compliance with the posting requirements of 437-001-0700(17)(d)?

No. The recordkeeping rule allows all forms to be kept on computer equipment or at an alternate location, as long as the employer can produce the data when needed. Section 437-001-0700(17)(d), requires employers to post a copy of the Annual Summary in each establishment, where notices are normally posted, no later than February 1 of the year following the year covered by the records, and kept in place until April 30. Only the OSHA 300-A Summary form should be posted.

XIII. Employee Involvement.

How does an employer inform each employee on how to report an injury or illness?

Employers are required to let employees know how and when to report work-related injuries and illnesses. This means that the employer must set up a way for the employees to report work-related injuries and illnesses and tell employees how to use it. The Recordkeeping rule does not specify how the employer must accomplish these objectives, so employers have flexibility to set up systems that are appropriate to their workplace. The size of the workforce, employee's language proficiency and literacy levels, the workplace culture, and other factors will determine what will be effective for any particular workplace.

Do I have to give my employees and their representatives access to the OSHA injury and illness records?

Yes. Your employees, former employees, their personal representatives, and their authorized employee representatives have the right to access the OSHA 300 Log Form and the OSHA 300-A Summary Form. The employer must give the requester a copy of the OSHA 300 Form and the OSHA 300-A Form by the end of the next business day. In addition, employees and their representatives have the right to access the DCBS 801 Incident Form with some limitations, in section 437-001-0700(21)(e) of the recordkeeping regulation.