

# Is Your Company Complying with OSHA's New Recordkeeping Requirements?

On January 1, 2002, covered employers were required to be in compliance with OSHA's new recordkeeping and reporting rules for occupational injuries and illnesses. The revision was intended to create simpler forms, provide clearer regulatory guidance, and allow employers more flexibility to use computers to meet recordkeeping requirements.

As part of the settlement of a lawsuit brought against OSHA by the National Association of Manufacturers, OSHA is not enforcing the new rules during the first 120 days they are in effect. During this time period, OSHA compliance officers are not issuing citations for violations of the new recordkeeping rules, but instead are assisting companies with compliance efforts. This 120-day time period will soon expire. Accordingly, covered companies should ensure that they are in compliance.

Once OSHA starts issuing citations in May 2002, employers that fail to comply with the new recordkeeping requirements could be penalized \$1,000 for each year that they fail to properly maintain the new OSHA 300 form. A separate penalty of \$1,000 also may be issued for each OSHA 301 form (up to a maximum of \$7,000) that is not filled out by the employer.

The following briefly summarizes the key components of the new recordkeeping rules:

1. The new rules continue to partially exempt employers who had 10 or fewer employees at all times in the previous calendar year. In addition, the list of service and retail industries that are partially exempt from the rules has been updated. Despite these changes, all employers must continue to report to OSHA any workplace incident that results in a fatality or the hospitalization of three or more employees.
2. Three OSHA forms have been updated:
  - OSHA Form 300: This form is the Log of Work-Related Injuries and Illnesses.
  - OSHA Form 301: This form is the Injury and Illness Incident Report.
  - OSHA Form 300A: This form is the Summary of Work-Related Injuries and Illnesses.
3. The rules eliminate different criteria for recording work-related injuries or

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illnesses.

The new rules provide flexibility so that employers can keep all the information on computers, at a central location, or on alternative forms, as long as the information is compatible and the data can be produced when needed. A company executive is required to certify the accuracy of the summary and it must now be posted for three months instead of just one month.

4. The rules require records to include any work-related injury or illness resulting from one of the following: death; days away from work; restricted work or transfer to another job; medical treatment beyond first aid; loss of consciousness; or diagnosis of a significant injury or illness by a physician or other licensed health care professional.
5. New definitions of medical treatment, first aid, and restricted work have been included in an effort to simplify the employer's recording decisions.
6. The recording of "light duty" or restricted work cases has been clarified.
7. Employers are required to record all needlestick and sharps injuries involving contamination by another person's blood or other potentially infectious material.
8. Musculoskeletal disorders are treated like all other injuries or illnesses.
9. The term "lost workdays" is eliminated and the rules now require recording of days away, days of restricted work, or transfer to another job. Also, new rules for counting that rely on calendar days instead of workdays are included. Employers are also no longer required to count days away or days of restriction beyond 180 days.
10. Employers are required to establish a procedure for employees to report injuries and illnesses and to tell their employees how to report.
11. Employers are required to protect an employee's privacy by withholding an individual's name or other descriptive information on Form 300 for certain types of sensitive injuries or illnesses, like sexual assaults, HIV infections, and mental illnesses.
12. Employers do not need to call in public street motor vehicle accidents, except those in a construction zone.

Covered employers who have not already done so should immediately review their level of compliance with the new OSHA recordkeeping rules. These new rules will provide OSHA with another tool to cite non-compliant employers during an inspection. If you would like further information on these new rules, please contact a member of our OSHA Practice Group.



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