DEPARTMENT OF LABOR AND INDUSTRY

MNOSHA Instruction **CPL 2-0.135A**
October 1, 2015
Reissued in accessible format: April 12, 2022

SUBJECT: Recordkeeping Policies and Procedures

Purpose:

This instruction provides enforcement guidance for the recordkeeping regulation (29 CFR Part 1904).

Scope:

This instruction applies MNOSHA-wide.

References:

1. Federal OSHA Instruction CPL 02-00-135, "Recordkeeping Policies and Procedures Manual," dated December 30, 2004.

2. MNOSHA Instruction CPL 2.111, "Paperwork and Written Program Violations."

3. MNOSHA Instruction CPL 2.26, "Public Employer Inspections."

4. Federal Registers dated January 19, 2001 (final rule, 29 CFR Part 1904); July 3, 2001 (proposed delay of effective date for certain provisions); October 12, 2001, (final rule; decision on delayed effective date for certain provisions); June 30, 2003 (final rule, 29 CFR Part 1904); and September 18, 2014 (final rule, 29 CFR Part 1904).

Cancellations:

1. This directive supersedes MNOSHA Instruction CPL 2-0.135, dated August 21, 2013.

2. References in any MNOSHA directive, memorandum, or other publication to the recordkeeping forms shall be considered as references to the OSHA 300, 301 and 300A, unless it is clear that the reference is to the forms used before January 1, 2002 (OSHA 200 and 101 form).

3. All references to the Lost Workday Injury (LWDI) rate or the Lost Workday Injury and Illness (LWDII) rate shall be considered to be a reference to the Days Away, Restricted, or Transferred (DART) rate, unless it is clear that the reference is to the rate in use prior to January 1, 2002.

ACTION:

I. Enforcement Policies and Procedures.

The central requirements in the recordkeeping rule, 29 CFR 1904, are summarized below:

A. Coverage.

The rule requires employers to keep records of occupational deaths, injuries and illnesses, and to make certain reports to OSHA and the Bureau of Labor Statistics. Small employers are not required to keep these records. However, they must report any occupational fatalities, inpatient hospitalizations, amputations and losses of an eye that occur in their establishments to MNOSHA, and they must participate in government surveys if they are asked to do so. "Small" employers are those who employed 10 or fewer employees at all times during the previous calendar year. If an employer employs 11 or more people at any given time during that year, the employer is not eligible for the small employer exemption in the following year. The size exemption is based on the total number of employees in the firm, rather than the number of employees at any particular location or establishment.

All individuals who are "employees" under the OSHA Act are counted in the total; the count includes all full-time, part-time, temporary, and seasonal employees. For businesses that are sole proprietorships or partnerships, the owners and partners would not be considered employees and would not be counted. Similarly, for family farms, family members are not counted as employees. However, in a corporation, corporate officers who receive payment for their services are considered employees.

[NOTE: Federal OSHA also exempts establishments in certain retail, service, finance, real estate and insurance industries – these exemptions do not apply in Minnesota.]

B. 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 OSHA 301 Injury and Illness

Incident Report. [The Minnesota Workers' Compensation First Report of Injury (FROI) may be used in lieu of the OSHA 301. The FROI was revised in January 2002 to include all information required under Part 1904.] 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 301 or First Report of Injury (FROI) form.

C. Work-Relationship.

Section 1904.5(a) states that "[the employer] must consider an injury or illness to be 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 a discernible 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 discernible causes; it need not be the sole or predominant cause.

Section 1904.5(b)(2)(ii) 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." This language is intended as a restatement of the principle expressed in section 1904.5(a), described above. Regardless of where signs or symptoms surface, a case is recordable only if a work event or exposure is a discernible cause of the injury or illness or of a significant aggravation to a pre-existing condition.

Section 1904.5(b)(3) states that 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 MNOSHA subsequently issues a citation for failure to record, MNOSHA would have the burden of proving that the injury or illness was work-related.

D. 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 events or exposures have caused the signs or symptoms to reappear.

E. 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, or
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.

F. Restricted Work.

In general, 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 his or her job (job functions that the employee regularly performs at least once per week), or from working the full workday that he or she 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 his or her job, or not work the full workday that he or she would otherwise have been scheduled to work. If the restriction is imposed on the employee only for the day of the injury or onset of illness, the case is not recordable as a restricted work case. If a work restriction is not followed or implemented by the employee, the injury or illness is still recordable as a restricted case. A case is not recordable under section 1904.7(b)(4) 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 his or her routine job functions, and the employer assigns a work restriction to that employee for the purpose of preventing a more serious condition from developing. Similarly, if the employer voluntarily, or for preventive purposes, temporarily transfers an employee to another job or restricts an employee's work activities before the employee has experienced an injury or illness (e.g., such as in medical removal under the lead or cadmium standard), the transfer or restriction is not

recordable because it does not meet the first recording requirement of the recordkeeping rule, namely, that a work-related injury or illness must occur for recording to be considered at all.

G. Medical Treatment.

Medical treatment means any treatment not contained in the list of first aid treatments. Medical treatment does not include visits to a health-care professional for observation and counseling or diagnostic procedures. First aid means only those treatments specifically listed in 1904.7. Examples of first aid include: the use of non-prescription medications at non-prescription strength, the application of hot or cold therapy, eye patches or finger guards, and others.

H. 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.

I. 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, it is recordable.

J. 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 may 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 OSHA records to anyone who is not entitled to access to the records under the rule, the names of all injured and ill employees generally must be removed before the records are turned over.

K. 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, and certify the summary (a company executive must sign the certification). This information must then be posted for three months, from February 1 to April 30. The employer must keep the records for five years following the calendar year covered by them, and if the employer sells the business, he or she must transfer the records to the new owner.

L. Employee Involvement.

Each employer must set up a way for employees to report work-related injuries and illnesses, and each employee must be informed about how he or she is 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.

M. Reporting.

The employer must orally report, within eight (8) hours, work-related fatalities and within 24 hours, any work-related inpatient hospitalization of an employee, amputation or loss of an eye to the nearest MNOSHA office or the federal OSHA Hotline at 1-800-321-OSHA(6742). There is an exception for certain motor vehicle or public transportation accidents. An employer also must participate in an OSHA or BLS injury and illness survey if he or she receives a survey form from OSHA or the BLS.

II. Inspection and Citation Procedures.

A. Review Records and Collect Data.

All OSHIs on all inspections must review and record the establishment's injury and illness records for the three prior calendar years in accordance with FCM Chapter III. Appendix A includes an OSHA-300 Log Data Collection Form for use in collecting this data.

1. OSHI Procedures for OSHA-300 Data Collection.

a. On all non-construction MNOSHA inspections, OSHIs shall obtain Log summary totals for each of the three preceding years, as instructed in FCM, Chapter 3, under "Other Opening Conference Topics". The information should be handwritten on an OSHA-300 Data Collection form (see Appendix A). The OSHI will then enter this information in the Minnesota OSHA Operations System Exchange (MOOSE) as directed in the General MOOSE Functions Manual, Chapter 3, Establishment Processing.

b. On construction site inspections, OSHIs do not have to collect the OSHA 300 information if the employer is not required to keep records on site (only required if job duration extends longer than one year and then only if employer has more than ten employees).

B. Evaluation tools

to assist the OSHI in reviewing injury and illness records are included in the appendices to this directive: Appendix B-1 OSHI Checklist; Appendix B-2 is an optional "Recordkeeping Violation Documentation Worksheet" (a completed sample documentation worksheet is on the back) which may be used to document alleged recordkeeping violations; and Appendix C is a list of Health Care Practitioners' Abbreviations.

C. Citations and Penalties for Violation of Part 1904 Requirements.

1. ***OSHA 300 and OSHA 301 Forms***. The employer must record cases on the OSHA 300 Log of Work-Related Injuries and Illnesses, and on the OSHA 301 Incident Report (or equivalent form), as prescribed in Subpart C of §1904. 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.

   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 shall be reviewed to determine if there are deficiencies that materially impair the understandability of the nature of hazards, injuries and illnesses in the workplace. If the defects in the records materially impair the understandability of the nature of the hazards, injuries and/or illnesses at the workplace, a citation for failure to record will normally be issued.

   If the deficiencies do not materially impair the understandability 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. 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 OSHA 301. 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 OSHA 301, or equivalent, would normally result in one

citation item. Multiple cases which are unrecorded or inaccurately recorded on the OSHA 300 or 301s during a particular year will normally be reflected as instances of the violation under that citation item.

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, or 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 the understandability of 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 OSHA 301 violation would result where OSHA 301s had not been completed, or where so little information had been put on the 301s for multiple cases as to make the 301s materially deficient.

Penalties. When a penalty is appropriate, there will be an unadjusted penalty of $1,000 for each year the OSHA 300 was not properly kept: an unadjusted penalty of $1,000 for each OSHA 301 that was not filled out at all (up to a maximum of $7,000); and an unadjusted penalty of $1,000 for each OSHA 301 that was not accurately completed (up to a maximum of $3,000). The penalties will not be adjusted for good faith, size and history.

Where citations are issued, penalties will be proposed only in the following cases:

Where MNOSHA 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.

2. ***Posting Annual Summary Requirements***. A non-serious citation will normally be issued, if an employer fails to post the OSHA 300A Summary by February as required by §1904.32(a)(1); and/or fails to certify the Summary as required by §1904.32(b)(3); and/or fails to keep it posted for three months, until May 1, as required by §1904.32(b)(6). The unadjusted penalty for this violation will be $1,000 and will not be adjusted for good faith, size and history.

   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 OSHI will verify that there were no recordable injuries or illnesses by interviews, or by review of workers' compensation or other records, including medical records.

3. ***Reporting***. In accordance with §1904.39, an employer is required to report to OSHA within eight hours of the time the employer learns of the death of any employee or within 24 hours, any

inpatient hospitalization of an employee, amputation or loss of an eye from a work-related incident. This includes fatalities at work caused by work-related heart attacks. There is an exception for certain work-related motor vehicle accidents or public transportation accidents.

The employer must orally report the fatality, hospitalization or injury by telephone or in person to MNOSHA. Federal OSHA's toll-free telephone number may be used: 1-800-321-OSHA.

If a decision is made to issue a citation for failure to report an occurrence, a non-serious citation will normally be issued. The unadjusted penalty will be $5,000 adjusted for good faith, size and history.

If an OMT Director becomes aware of an incident required to be reported under §1904.39 through some means other than an employer report, prior to the elapse of the 8-hour/24-hour reporting period and an inspection of the incident is made, a citation for failure to report will normally not be issued.

4. ***Access to Records for Employees***. If the employer fails upon request to provide copies of records required in §1904.29(a) to any employee, former employee, personal representative, or authorized employee representative by the end of the next business day, a citation for violation of §1904.35(b)(2) will normally be issued. The unadjusted penalty will be $1,000 for each form not made available and will not be adjusted for good faith, size and history.

   For example: If the OSHA 300 or the OSHA 300A for the current year and the three preceding years is not made available, the unadjusted penalty will be $4,000.

   If the employer does not make available the OSHA 301s, the unadjusted penalty will be $1,000 for each OSHA 301 not provided, up to a maximum of $7,000.

   If the employer is to be cited for failure to keep records (OSHA 300, OSHA 300A or OSHA 301) under §1904.4, no citation for failure to give access under §1904.35(b)(2) will be issued.

D. Willful, Significant, and Egregious Cases.

When an OSHI determines that there may be significant recordkeeping deficiencies, it may be appropriate to contact the Program Analyst and/or OMT Director for guidance and assistance.

1. ***Willful and Significant Cases***. All willful recordkeeping cases and all significant cases with major recordkeeping violations will initially be reviewed by the Program Analyst and OMT Director.

2. ***Egregious Cases.*** When willful violations are apparent, violation-by-violation citations and penalties may be proposed in accordance with MNOSHA's egregious penalty guidelines in FCM Chapter VI.

E. Enforcement Procedures for Occupational Exposure to Bloodborne Pathogens.

Compliance guidance given in MNOSHA Instruction CPL 2-2.44D, was updated in May 2002, to incorporate the requirements of 1904.8, "Recording Criteria for Needlestick and Sharps Injuries," of the new Recordkeeping rule.

In addition, the term "contaminated" under 29 CFR 1904.8, Recording Criteria for Needlestick and Sharps Injuries, incorporates the definition of "contaminated" from the Bloodborne Pathogens Standard at 29 CFR 1910.1030(b) (Definitions). Thus, "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 301 forms to meet the sharps injury log requirement of §1910.1030(h)(5) 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.

F. Enforcement Procedures for Occupational Exposure to Tuberculosis.

Compliance guidance given in MNOSHA Instruction CPL 2-2.48, was amended on July 11, 2003, to amend outdated recordkeeping requirements and include information relative to 1904.11, "Recording Criteria for Work-related Tuberculosis Cases."

G. Recording Criteria for Cases Involving Medical Removal.

Section 1904.9 requires employers 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 following standards have medical removal requirements:

1. Benzene. General industry standard–1910.1028(i); Shipyard standard–1915.1028; and Construction standard–1926.1128.

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

3. Formaldehyde. General industry standard–1910.1048(l); Shipyard standard--1915.1048; and Construction standard–1926.1148.

4. Lead. General industry standard–1910.1025; Shipyard standard 1915.1025; and Construction standard–1926.62.

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

6. Methylene Chloride. General industry standard–1910.1052(j); Shipyard standard–1915.1052; and Construction standard 1926.1152.

7. Vinyl Chloride. General industry standard–1910.1017(k); Shipyard standard–1915.1517; and 1926.1117.

H. Privacy Concern Cases.

The rule §1904.29(b)(6) through (10) 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:

1. An injury or illness to an intimate body part or the reproductive system;

2. An injury or illness resulting from a sexual assault;

3. A mental illness;

4. HIV infection, Hepatitis or Tuberculosis;

5. Needlestick and sharps injuries that are contaminated with another person's blood or other potentially infectious material as defined by §1910.1030; or

6. Other illnesses: If the employee independently and voluntarily requests that his or her name not be entered on the OSHA 300 Log. (This does not apply to injuries. See the definition of "injury and Illness" in §1904.46.)
[Note: This is a complete list.]

III. 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.

IV. Employers Exempt and Partially Exempt.

A. ***OSHA and BLS Surveys.*** All employers who receive the 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 §§1904.41 and 1904.42. This requirement also applies to those establishments under the small establishment exemption.

B. ***Small Employer Exemption.*** Employers who had ten or fewer employees at all times during the last calendar year are exempt from the recordkeeping requirements (§Part 1904.1).

C. ***Low-Hazard Industry Exemption.*** Federal OSHA exempts certain low-hazard industries from maintaining injury and illness records on a regular basis. New Part 1904 includes a list of those NAICS that are exempted by Federal OSHA. The low-hazard industry exemption (§1904.2) was not adopted by Minnesota OSHA. Employers in NAICS codes 44-81 (with the exception of those who qualify as "small employers" -- see paragraph B above) must comply with the Recordkeeping requirements of Part 1904. [If additional information on the low-hazard exemption is needed, see Federal OSHA Instruction CPL 02-00-135 and §1904.2]

V. Prohibition Against Discrimination.

Section 1904.36 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 usual 11(c) discrimination complaint process.

VI. Definitions.

A. ***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.

B. ***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.

1. 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:

   - Each of the establishments represents a distinctly separate business;
   - Each business is engaged in a different economic activity;
   - No one NAICS industry description applies to the joint activities of the establishments; and
   - 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.

2. 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:

   - The employer operates the locations as a single business operation under common management;
   - The locations are all located in close proximity to each other; and
   - 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. Employees who telecommute must be linked to one of the employer's establishments under §1904.30(b)(3).

3. Construction work sites.

a. Construction work sites that are scheduled to continue for a year or more:

(1) A separate 300 Log must be maintained for each establishment.

(2) The Log may be maintained either:
- At the construction site, or
- At an established central location --- provided the employer can:

* Transmit information about the injuries and illnesses from the establishment to the central location within seven (7) calendar days of receiving information that a recordable injury or illness has occurred, and

* Produce and send records from the central location to the establishment within four (4) business hours when the employer is required to provide to a government representative or by the end of the next business day when providing records to an employee, former employee or employee representative.

b. Construction sites that are scheduled to continue for less than a year:

(1) A separate OSHA 300 Log need not be maintained for each establishment.

(2) One OSHA 300 Log may be maintained to cover:
- All such short-term establishments; or
- All such short-term establishments within company divisions or geographic regions.

(3) The Log may be maintained at the establishment or at a central location under the criteria noted in 3.a.(2) above.

4. ***Public Sector Employers***. See MNOSHA Instruction CPL 2.26.

C. ***First Aid.*** As stated in §1904.7(b)(5)(ii), first aid means only the following treatments (any treatment not included in this list is not considered first aid for recordkeeping purposes:
1. Using a nonprescription medication at nonprescription strength;
2. Administering tetanus immunizations;
3. Cleaning, flushing or soaking wounds on the surface of the skin;
4. Using wound coverings such as bandages, Band-Aids, gauze pads, etc.; or using butterfly bandages or Steri-Strips;
5. Using hot or cold therapy;
6. Using any non-rigid means of support, such as elastic bandages, wraps, non-rigid back belts, etc.;
7. Using temporary immobilization devices while transporting an accident victim;
8. Drilling of a fingernail or toenail to relieve pressure, or draining fluid from a blister;
9. Using eye patches;
10. Removing foreign bodies from the eye using only irrigation or a cotton swab;

11. Removing splinters or foreign material from areas other than the eye by irrigation, tweezers, cotton swabs or other simple means;
12. Using finger guards;
13. Using massages; or
14. Drinking fluids for relief of heat stress.

D. ***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, but not limited to, 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 Part 1904 recording criteria.)

E. ***Medical Treatment***. Medical treatment means the management and care of a patient to combat disease or disorder. For recordkeeping purposes, it does not include:
1. Visits to a physician or other licensed health care professional solely for observation or counseling;
2. Diagnostic procedures such as X-rays and blood tests, including the administration of prescription medications used solely for diagnostic purposes (e.g., eye drops to dilate pupils); or
3. Any treatment contained on the list of first-aid treatments.

F. ***Other Potentially Infectious Material (OPIM):*** For purposes of Part 1904, this term has the same meaning as in Part 1910.1030, Bloodborne Pathogens, which defines OPIM as: (1) 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; (2) Any unfixed tissue or organ (other than intact skin) from a human (living or dead); and (3) HIV-containing cell or tissue cultures, organ cultures, and HIV- or HBV-containing culture medium or solutions; and blood, organ, or other tissues from experimental animals infected with HIV or HBV.

G. ***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 him or her to independently perform, or be delegated the responsibility to perform, the activities described by this regulation.

James Krueger, OMT Director
for the OSHA Management Team

Distribution: OSHA Compliance and WSC Director.

Attachments: Appendix A - OSHA-300 Data Collection Form
Appendix B-1 OSHI Checklist
Appendix B-2 Recordkeeping Violation Documentation Worksheet (optional)
Sample Completed Worksheet (back of Appendix B-2)
Appendix C - Health Care Practitioners' Abbreviations
Appendix D - Frequently Asked Questions
Appendix E - Recordkeeping Requirements - Cross Reference to Final Rule Publication

NOTICE: Minnesota OSHA Directives are used exclusively by MNOSHA personnel to assist in the administration of the OSHA program and in the proper interpretation and application of occupational safety and health statutes, regulations, and standards. They are not legally binding declarations and they are subject to revision or deletion at any time without notice.

APPENDIX A: OSHA-300 Data Collection Form

Minnesota Department of Labor and Industry
Occupational Safety and Health Division

443 Lafayette Road
St. Paul, MN 55155-4307

OSHA-300 DATA COLLECTION – (for data collected in ____)

Establishment Name		Inspection Number	

SUMMARY OSHA-300 DATA											
Data Not Available		Log Year		Avg # Full Time Employees			# Employee Hours Worked				
Work-Related Injuries and Illnesses											
(G) Number of Deaths	(H) Number of cases with days away from work	(I) Number of cases with job transfer or restriction	(J) Number of other recordable cases	(K) Number of days away from work	(L) Number of days on job transfer or restriction	(M)(1) Injury	(M)(2) Skin Disorder	(M)(3) Respiratory Condition	(M)(4) Poisoning	(M)(5) Hearing Loss	(M)(6) All Other Illnesses

SUMMARY OSHA-300 DATA											
Data Not Available		Log Year		Avg # Full Time Employees			# Employee Hours Worked				
Work-Related Injuries and Illnesses											
(G) Number of Deaths	(H) Number of cases with days away from work	(I) Number of cases with job transfer or restriction	(J) Number of other recordable cases	(K) Number of days away from work	(L) Number of days on job transfer or restriction	(M)(1) Injury	(M)(2) Skin Disorder	(M)(3) Respiratory Condition	(M)(4) Poisoning	(M)(5) Hearing Loss	(M)(6) All Other Illnesses

SUMMARY OSHA-300 DATA											
Data Not Available		Log Year		Avg # Full Time Employees			# Employee Hours Worked				
Work-Related Injuries and Illnesses											
(G) Number of Deaths	(H) Number of cases with days away from work	(I) Number of cases with job transfer or restriction	(J) Number of other recordable cases	(K) Number of days away from work	(L) Number of days on job transfer or restriction	(M)(1) Injury	(M)(2) Skin Disorder	(M)(3) Respiratory Condition	(M)(4) Poisoning	(M)(5) Hearing Loss	(M)(6) All Other Illnesses

Total Injury and Illness Rate Calculation (Incidence Rate)	DART (Days Away/Restricted/Transferred) Case Rate Calculation (LWDII rate)
# of total cases (G+H+I+J) X 200,000 / (hours worked) or (2,000 hours for each FT employee)	# of DART cases (H+I) X 200,000 / (hours worked) or (2,000 hours for each FT employee)

NOTE: The number of employee hours worked <u>must</u> be included or the computer will not accept the data.

APPENDIX B-1: OSHI Checklist

This checklist provides guidance for a records evaluation.

Ask for the following Information.

Ask for the OSHA logs, the total hours worked, and the number of employees worked for each year, and for a roster of current employees.

If you have questions regarding a specific case on the log, request the OSHA 301s or equivalent form for that case.

Check if the establishment has an on-site medical facility, where the nearest emergency room is located where employees may be treated.

APPENDIX B-2: Recordkeeping Violation Documentation Worksheet (optional) and Sample Completed Worksheet (back of Appendix B-2)

[OPTIONAL] **RECORDKEEPING VIOLATION DOCUMENTATION WORKSHEET** *[OPTIONAL]*

1. UNIQUE CASE NUMBER: _____
   (Designate a number that will stay the same at all times. Example: OSHA-98-1, where OSHA means it was discovered by us, 98 is the year, and the numbers will be in sequence.)

2. DATE OF INJURY/ILLNESS: _____

3. WAS CASE RECORDED ON LOG? (Please check one)
   [ ] Yes (if yes, enter Log case number here: _____; continue to **Table 1** then to **Table 2**)
   [ ] No (if no, continue to **Table 2**)

Table 1. If yes, copy information from columns **G through M** of the employer's 300 Log entry.								**Table 2.** If recorded incorrectly in Table 1, or not recorded at all, correctly record here.						
G	H	I	J	K	L	M		G	H	I	J	K	L	M

4. INJURY/ILLNESS INFORMATION: (From 300 Log, Items 1-6 of Column M) 1) If Injury Check Here [ ]
   If Illness, Check Type: 2) Skin Disorder [ ] 3) Poisonings [ ]
   4) Respiratory Condition [ ] 5) Hearing Loss [ ]
   6) All Other Illnesses [ ]

5. WORK RELATIONSHIP: Describe event or exposure including placement of employee on or off premises; OSHA 301 equivalent or company accident report often provides this information. Example: Cut finger while loading scrap metal at work; broke arm in auto accident while driving to customer's office; develops dermatitis from cleaning parts with solvent on premises.

6. BASIS FOR RECORDABILITY: (Check all that apply and provide details in comments section below)
   - ☞ Death (D) ---------- [ ]
   - ☞ Days away from work (DA)------ [ ]
   - ☞ Loss of consciousness (LC)----- [ ]
   - ☞ Restricted work or transfer to another job (RT) ---------- [ ]
   - ☞ Medical treatment beyond first aid (MT) --------- [ ]
   - ☞ A significant injury or illness diagnosed by a physician or other health care professional ---- [ ]
   - ☞ Recordable condition under 1904.8 through 1904.12 (needlestick, TB, etc.) ---------- [ ]

7. COMMENTS: (Be specific and show all relevant information) Examples: MT-Naprosyn 440 mg BID (twice a day); DAW-RWT–give dates (9/14/02-9/21/02); SI - Aplastic Anemia from Benzene exposure.

8. SUPPORTING DOCUMENTATION OR EVIDENCE: (Check all documentation used for substantiating case recordability)
   ☞ OSHA 300 Form [ ] ☞ Employee roster (payroll) [ ] ☞ Medical Records/Files [ ]
   ☞ Nurse/Doctor/Clinic Logs [ ] ☞ Insurers' accident reports [ ] ☞ Company Accident Rpt [ ]
   ☞ Absentee Records [ ] ☞ Company First Aid Reports [ ] ☞ Union Records [ ]
   ☞ Accident and Health Benefit Insurance [ ] ☞ OSHA 301 Form or Workers' Comp. Equiv. [ ]
   ☞ State Workers' Compensation Form [ ] ☞ Other (Specify) _____ [

[OPTIONAL] **RECORDKEEPING VIOLATION DOCUMENTATION WORKSHEET** *[OPTIONAL]*

1. UNIQUE CASE NUMBER: OSHA-14-1
(Designate a number that will stay the same at all times. Example: OSHA-98-1, where OSHA means it was discovered by us, 98 is the year, and the numbers will be in sequence.)

2. DATE OF INJURY/ILLNESS: 05/25/14

3. WAS CASE RECORDED ON LOG? (Please check one)
[ ] Yes (if yes, enter Log case number here: _____; continue to **Table 1** then to **Table 2**)
[X] No (if no, continue to **Table 2**)

Table 1. If yes, copy information from columns **G through M** of the employer's 300 Log entry.								**Table 2.** If recorded incorrectly in Table 1, or not recorded at all, correctly record here.						
G	H	I	J	K	L	M		G	H	I	J	K	L	M

4. INJURY/ILLNESS INFORMATION: (From 300 Log, Items 1-6 of Column M) 1) If Injury Check Here [ ]
If Illness, Check Type: 2) Skin Disorder [ ] 3) Poisonings [ ]
4) Respiratory Condition [ ] 5) Hearing Loss [ ]
6) All Other Illnesses [ ]

5. WORK RELATIONSHIP: Describe event or exposure including placement of employee on or off premises; OSHA 301 equivalent or company accident report often provides this information. Example: Cut finger while loading scrap metal at work; broke arm in auto accident while driving to customer's office; develops dermatitis from cleaning parts with solvent on premises.
Employee was standing on a ladder in the steel mill, welding pipes. A forklift passed through the area causing a vibration which caused the ladder to shake. The employee fell to the floor fracturing the left arm and left leg.

6. BASIS FOR RECORDABILITY: (Check all that apply and provide details in comments section below)
- ☞ Death (D) ----------[ ]
- ☞ Days away from work (DA)------ [X]
- ☞ Loss of consciousness (LC)----- [ ]
- ☞ Restricted work or transfer to another job (RT) ---------- [X]
- ☞ Medical treatment beyond first aid (MT) --------- [ ]
- ☞ A significant injury or illness diagnosed by a physician or other health care professional ---- [ ]
- ☞ Recordable condition under 1904.8 through 1904.12 (needlestick, TB, etc.) ---------- [ ]

7. COMMENTS: (Be specific and show all relevant information) Examples: MT-Naprosyn 440 mg BID (twice a day); DAW-RWT–give dates (9/14/14-9/21/14); SI - Aplastic Anemia from Benzene exposure.
Employee was away from work 15 calendar days from 5/26/14 through 6/9/14, and subsequently returned to work on a restricted basis for 12 days from 6/10/14 through 6/21/14. Employee was released to full duty on 6/22/14.

8. SUPPORTING DOCUMENTATION OR EVIDENCE: (Check all documentation used for substantiating case recordability)
☞ OSHA 300 Form [X] ☞ Employee roster (payroll) [X] ☞ Medical Records/Files [X]
☞ Nurse/Doctor/Clinic Logs [X] ☞ Insurers' accident reports [ ] ☞ Company Accident Rpt [X]
☞ Absentee Records [ ] ☞ Company First Aid Reports [ ] ☞ Union Records [ ]
☞ Accident and Health Benefit Insurance [ ] ☞ OSHA 301 Form or Workers' Comp. Equiv. [X]
☞ State Workers' Compensation Form [ ] ☞ Other (Specify) _____ [ ]

APPENDIX C: Health Care Practitioners' Abbreviations

General/Diagnostic Information			
Pt	Patient	IPPB	Intermittent positive pressure breathing
Dx	Diagnosis	LBP	Low back pain
Tx	Therapy	CTS	carpal tunnel syndrome
Hx	History	VS	Vital signs:
Sx	symptom		BP = blood pressure
Sz	seizure		P = pulse, or
fx	fracture		HR = heart rate
wt	weight		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	lower left 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
pc	post prandial (after meals)	p.r.n.	as necessary
mg	milligram	q.s.	as sufficient
p.o.	by mouth	q.d.	per day
IV	intravenous	c	with
p.r.	per rectum	p	after
SMA Chemistry Test: (Sequential Multiple Analysis method of testing for chemicals/impurities in the body.)			
Alb	Albumin	Glu	Glucose
Alk phos	Alkaline phosphatase	K	Potassium
Bili	Bilirubin	Na	Sodium
BUN	Blood urea nitrogen	P	Phosphate
Ca	Calcium	SGOT	Liver enzyme (serum glutamic-oxaloacetic transaminase)
Chol	Cholesterol	SGPT	Liver enzyme (serum glutamic-pyruvic transaminase)
Cl	Chloride	GGTP	Liver enzyme (gamma-glutamyl transpeptidase)
Cr	Creatinine		

APPENDIX D: FREQUENTLY ASKED QUESTIONS

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

GENERAL GUIDANCE

Question 1: How can I get copies of the forms?

Copies of the forms can be obtained on OSHA's web site at http://www.osha.gov or from the OSHA Publications Office at (202) 693-1888.
https://www.osha.gov/Publications/workplace_poster_page.html

Question 2: Are the recordkeeping requirements the same in all of the States?

The States operating OSHA-approved State Plans must adopt occupational injury and illness recording and reporting requirements that are substantially identical to the requirements in Part 1904. For more information see the discussion under "States Requirements," §1904.37.

SECTION 1904.0 - PURPOSE

Question 0-1: 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. OSHA collects data through the OSHA Data Initiative (ODI) 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.

Question 0-2: 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 differ from state to state and 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.

SECTION 1904.2 - PARTIAL EXEMPTION FOR ESTABLISHMENTS IN CERTAIN INDUSTRIES

Question 2-1: How can I get help to find my NAICS Code and determine if I'm partially exempt from the recordkeeping rule?

Note: The NAICS exemption was not adopted by Minnesota OSHA. However, employers who need help in determining their NAICS classification may use the following contacts:

- The statistics section of OSHA's Internet home page at http://www.osha.gov/oshstats/ . Go to the website and choose NAICS Manual and follow the directions.
- Minnesota OSHA may be reached at: e-mail: *OSHA.Compliance@state.mn.us*; phone: (651) 284-5050; or toll-free at 1-877-470-6742.

Question 2-2: Do States with OSHA-approved State Plans have the same industry exemptions as Federal OSHA?

States with OSHA-approved plans (http://www.osha-slc.gov/fso/ops) may require employers to keep records for the State, even though those employers are within an industry exempted by the Federal rule.

NOTE: Minnesota OSHA did not adopt the exemption for certain industries found in § 1904.2. All employers in Minnesota (with the exception of those employers with ten or fewer employees) must keep injury and illness records.

Question 2-3. Do professional sports teams qualify for the partial industry exemption in section 1904.2?

No.

SECTION 1904.4 - RECORDING CRITERIA

Question 4-1: Does an employee 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 § 1904.7(b)(7) and the employer determines that the case is work-related, the case must be recorded.]

SECTION 1904.5 - DETERMINATION OF WORK-RELATEDNESS

Question 5-1: 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 1904.7 (death, days away, etc.), the case must be recorded.

Question 5-2: 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. However, some cases involving violent acts might be included within one of the exceptions listed in section 1904.5(b)(2).

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 1904.5(b)(2)(v).

Question 5-3: What activities are considered "personal grooming" for purposes of the exception to the geographic presumption of work-relatedness in section 1904.5(b)(2)(vi)?

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 1904.5(b)(2)(vi). Thus, if an employee slips and falls while showering at work to remove a contaminant to which he/she has been exposed at work, and sustains an injury that meets one of the general recording criteria listed in section 1904.7(b)(1), the case is recordable.

Question 5-4: What are "assigned working hours" for purposes of the exception to the geographic presumption of section 1904.5(b)(2)(v)?

"Assigned working hours," for purposes of section 1904.5(b)(2)(v), means those hours the employee is actually expected to work, including overtime.

Question 5-5: What are "personal tasks" for purposes of the exception to the geographic presumption in section 1904.5(b)(2)(v)?

"Personal tasks" for purposes of section 1904.5(b)(2)(v) are tasks that are unrelated to the employee's job. For example, if an employee uses a company break area to work on his child's science project, he is engaged in a personal task.

Question 5-6: 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 1904.5(b)(2) 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.

Question 5-7: 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.

Question 5-8: 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 an arm, is the case covered by the exception in section 1904.5(b)(2)(ii)?

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 1904.5(b)(2)(ii). 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.

Question 5-9: This question involves the following sequence of events: Employee A drives to work, parks her car in the company parking lot and is walking across the lot when she is 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 1904.5, injuries occurring there are not work-related if they meet the exception in section 1904.5(b)(2)(vii). Section 1904.5(b)(2)(vii) exempts 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.

Question 5-10. 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 employers establishment (except for the owner of the building or mall), and therefore not a company parking lot for purposes of OSHA recordkeeping.

Question 5-11. 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 1904.7, it must be entered on the employer's OSHA 300 log.

Question 5-12. 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 sections 1904.5(b)(2)(ix) and 1904.7.

Question 5-13. If an employee dies or is injured or infected as a result of terrorist attacks, should it be recorded on the OSHA Injury and Illness Log? Should it be reported to OSHA?

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

Within eight (8) hours after the death of any employee from a work-related incident or within 24 hours of an in-patient hospitalization of an employee, amputation or eye loss as a result of a work-related incident, an employer must orally report the fatality/ hospitalization/injury by telephone or in person to the OSHA Area that is nearest to the site of the incident. An employer may also use the OSHA toll- free telephone number, 1-800-321-OSHA.

SECTION 1904.6 - DETERMINATION OF NEW CASES

Question 6-1: 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 1904.6(a)(2)? 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 1904.6(a)(2), when he or she is fully healed or cured. The employer must use his/her 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 disappear 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.

SECTION 1904.7 - GENERAL RECORDING CRITERIA

Question 7-1: 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 1904.7 (days away, work restrictions, medical treatment, etc.), the case must be recorded.

Question 7-2: 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.

Question 7-3: An employee hurts his or her 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 his or her 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 his or her job functions). Would this be considered restricted work?

No. If the employee is able to perform all of his or her 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.

Question 7-4: 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.

Question 7-5: The first aid list includes "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.

Question 7-6: Is the use of a rigid finger guard considered first aid?

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

Question 7-7: 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 for purposes of section 1904.7(b)(5)(i)(C)(ii)(A)?

The prescription strength of such medications is determined by 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 25 mg

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

Question 7-8: 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 1904.7(b)(3)(vii)?

Under section 1904.7(b)(3)(vii), 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.

Question 7-9: Once an employer has recorded a case involving days away from work, restricted work or medical treatment and the employee has returned to his 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.

Question 7-9a. 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 and record on that basis. In the case of prescription medications, OSHA considers that medical treatment is provided once a prescription is issued

Question 7-10: Section 1904.7(b)(5)(ii) 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 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.

Question 7-11: How long must a modification to a job last before it can be considered permanent modification under section 1904.7(b)(4)(xi)?

Section 1904.7(b)(4)(xi) 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 his or her former job duties at a later date, the restriction or transfer is considered temporary rather than permanent.

Question 7-12: If an employee loses his arm in a work-related accident and can never return to his 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.

Question 7-13: 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 1904.7(b)(4)(i)(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 he/she not been injured.

Question 7-14: 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.

Question 7-15: Is the employer subject to a citation for violating section 1904.7(b)(4)(viii) if an employee fails to follow a recommended work restriction?

Section 1904.7(b)(4)(viii) 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.]

Question 7-16. Are work-related cases involving chipped or broken teeth recordable?

Yes, under section 1904.7(b)(7), 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.

Question 7-17. 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.

Question 7-18. 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 his or her routine job functions, but the employer assigns a work restriction to the injured employee?

As set out in Chapter 2, I., F. of the Recordkeeping Policies and Procedures Manual (CPL 2-0.131) a case would not be recorded under section 1904.7(b)(4) 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 his or her 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 1904.7, such as medical treatment beyond first aid, a case involving minor musculoskeletal discomfort would be recordable.

Question 7-19. 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 record retention and updating period contained in section 1904.33. 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.

Question 7-20. If an employee leaves the company after experiencing a work-related injury or illness that results in days away from work and/or days of restricted work/job transfer how would an employer record the case?

If the employee leaves the company for some reason(s) unrelated to the injury or illness, section 1904.7(b)(3)(viii) 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 the 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 reason(s) related to the injury or illness, section 1904.7(b)(3)(viii) 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.

Question 7-21. 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 29 CFR 1904.5) and meets the general recording criteria contained in 29 CFR 1904.7. A reaction caused by a smallpox vaccination is work related if the vaccination was necessary to enable the employee to perform his or her work duties. Such a reaction is work-related even though the employee was not required to receive it, if the vaccine was provided 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 analogous 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.

Question 7-22. 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 which results in a different work restriction. How would the employer record these cases?

For purposes of 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.

Question 7-23. 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.

Question 7-24. An employee tests positive for anthrax exposure/infection and is provided antibiotics. Is this a recordable event on the OSHA log?

Yes. A work-related anthrax exposure/infection coupled with administration of antibiotics or other medical treatment must be recorded on the log.

SECTION 1904.8 - RECORDING CRITERIA FOR NEEDLESTICK AND SHARPS INJURIES

Question 8-1: Can you clarify the relationship between the OSHA Recordkeeping requirements and the requirements of the Bloodborne Pathogens standard to maintain a sharps injury log?

The OSHA Bloodborne Pathogens standard states: "The requirement to establish and maintain a sharps injury log shall apply to any employer who is required to maintain a Log of occupational injuries and illnesses under 29 CFR 1904." Therefore, if an employer is exempted from the OSHA Recordkeeping rule, the employer does not have to maintain a sharps log. For example, a doctor's or dentist's office that employs fewer than ten employees would not be required to keep a sharps injury log.

Question 8-2: 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.

SECTION 1904.10 - RECORDING CRITERIA FOR CASES INVOLVING OCCUPATIONAL HEARING LOSS

Question 10-1. If an employee suffers a Standard Threshold Shift (STS) in only one ear, may the employer revise the baselines for both ears?

No. A Standard Threshold Shift, or STS, is defined in the occupational noise exposure standard at 29 CFR 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 employer is permitted only to revise the baseline in the ear where the employee suffered an STS change in hearing threshold.

Question 10-2. Which baseline is used to determine if a recordable Standard Threshold Shift (STS) has occurred this year?

Employers should use the same baseline that they would use to comply with OSHA's Noise Standard, Part 1910.95. If the employer chose to revise an employee's baseline due to a previous STS, then the employer would use the same revised baseline when determining recordability under section 1904.10 of the recordkeeping regulation.

Question 10-3. 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).

SECTION 1904.29 - FORMS

Question 29-1: 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.

Question 29-2: 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 1904.29(b)(7), 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.

Question 29-3: Under paragraph 1904.29(b)(9), 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.

Question 29-4: May employers attach missing information to their accident investigation or workers' compensation forms to make them an acceptable substitute form for the OSHA 301 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 OSHA 301 form and is completed using the same instructions as the OSHA 301 form. [NOTE: The Minnesota Workers' Compensation "First Report of Injury" form was amended in January 2002 to include all required information under the Recordkeeping Standard.]

Question 29-5: 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.

Question 29-6. 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 Classifying 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.

SECTION 1904.31 - COVERED EMPLOYEES

Question 31-1: How is the term "supervised" in section 1904.31 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."

Question 31-2: 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.

SECTION 1904.32 - ANNUAL SUMMARY

Question 32-1: 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.

Question 32-2. 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 must sign the certification). This information must then be posted for three months, from February 1 to April 30.

Question 32-3. If employers electronically post the OSHA 300-A Summary of Work-related Injuries and Illnesses, are they in compliance with the posting requirements of 1904.32 (b) (5)?

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 1904.32 (b) (5), requires employers to post a copy of the Annual Summary in each establishment, where notices are normally posted [see 1903.2(a)], 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.

SECTION 1904.35 - EMPLOYEE INVOLVEMENT

Question 35-1: How does an employer inform each employee on how he or she is 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 its 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, employees' language proficiency and literacy levels, the workplace culture, and other factors will determine what will be effective for any particular workplace.

Question 35-2. Do I have to give my employees and their representative's 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 OSHA 301 Incident Form with some limitations, in section 1904.35(b)(2)(v)(B) of the recordkeeping regulation.

SECTION 1904.37 - STATE RECORDKEEPING REGULATIONS

Question 37-1: Do I have to follow these rules if my State has an OSHA-approved State Plan?

If your workplace is located in a State that operates an OSHA-approved State Plan, you must follow the regulations of the State. However, these States must adopt occupational injury and illness recording and reporting requirements that are substantially identical to the requirements in Part 1904. State Plan States must have the same requirements as Federal OSHA for determining which injuries and illnesses are recordable and how they are recorded.

Question 37-2: How many state regulations differ from the Federal requirements?

For Part 1904 provisions other than recording and reporting, State requirements may be more stringent than or supplemental to the federal requirements. For example, a State Plan could require employers to keep records for the State, even though those employers have 10 or fewer employees (1904.1) or are within an industry exempted by the Federal rule. A State Plan could also require employers to keep additional supplementary injury and illness information, require employers to report fatality and multiple hospitalization incidents within a shorter time frame than Federal OSHA does (1904.39), require other types of incidents to be reported as they occur, require hearing loss to be recorded at a lower threshold level during CY2002 (1904.10(c)), or impose other requirements.

Minnesota OSHA did not adopt the exemption for certain industries found in § 1904.2. All employers in Minnesota (with the exception of those employers with ten or fewer employees) must keep injury and illness records. MNOSHA does not require additional injury and illness information, nor reporting of incidents within a shorter time frame than Federal OSHA.

Question 37-3: Are State and local government employers covered by this rule?

State and local government employers are covered under the equivalent state rule in Minnesota or other states that operate OSHA-approved State Plans. State rules must cover these workplaces and require the recording and reporting of work-related injuries and illnesses.

Question 37-4: How can I find out if my State has an OSHA-approved plan?

Besides Minnesota, the following States have OSHA-approved plans: Alaska, Arizona, California, Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Washington and Wyoming. Connecticut, Illinois, Maine, New Jersey, New York, and Virgin Islands have plans that cover State and local government employees.

SECTION 1904.39 - REPORTING FATALITIES, HOSPITALIZATIONS, AMPUTATIONS, AND LOSSES OF AN EYE AS A RESULT OF WORK-RELATED INCIDENTS TO OSHA

Question 39-1: When a work-related heart attack occurs in the workplace and the employee dies one or more days later, how should the case be reported to OSHA?

The employer must orally report a work-related fatality by telephone or in person to the OSHA Area Office nearest to the site of the incident. The employer must report the fatality within eight (8) hours of the employee's death in cases where the death occurs within 30 days of the incident. The employer need not report a death occurring more than 30 days after a work-related incident.

In Minnesota, employers must report the fatality by telephone or in person to any Minnesota Department of Labor and Industry, Occupational Safety and Health Division (Minnesota OSHA) office. After normal business hours and on Saturdays, Sundays, and state holidays, the report must be made within the eight hour time period by using the federal Occupational Safety and Health Administration (federal OSHA), United States Department of Labor, toll free central telephone number (1 800 321 OSHA).

Question 39-2: What is considered a "construction work zone" for purposes of section 1904.39(b)(3)?

For purposes of section 1904.39(b)(3), a "construction work zone" is an area of a street or highway where construction activities are taking place, and is typically marked by signs, channeling devices, barriers, pavement markings and/or work vehicles. The work zone extends from the first warning sign to rotating/strobe lights on a vehicle to the "END ROAD WORK" sign or the last temporary traffic control device.

APPENDIX E: Recordkeeping Requirements - Cross Reference to Final Rule Publication

To be used with the 1/19/2001 Federal Register http://www.gpo.gov/fdsys/pkg/FR-2001-01-19/pdf/01-725.pdf