



## OSHA'S NEW RECORDKEEPING PROGRAM: ARE YOU READY?

Most employers are required to fill out OSHA 300 Logs, which are used to classify work-related illness and injuries. Once an incident occurs, the employer must enter into the log the details of the illness/injury of how and what happened. Employers must keep the log (and summary) for each establishment or site where they have employees. Within seven days of learning the information about the incident, the employer must record any such work-related illness/injuries resulting in:

- Death;
- Loss of consciousness;
- Days away from work;
- Restricted work activity or job transfer;
- Medical treatment beyond first aid; or
- Any other significant illness/injury.

Due to a perceived lack of recording or under-recording of incidents, OSHA launched a National Emphasis Program (“NEP”) on recordkeeping enforcement. Through this initiative, OSHA investigators are targeting employers with 40 or more employees that report low injury and illness rates in historically high-rate industries, including, but not limited to:

- Construction firms;
- Animal (except poultry) slaughtering;
- Scheduled passenger air transportation;
- Steel foundries (except investment);
- Other nonferrous foundries (except die casting);
- Concrete pipe manufacturing;
- Soft drink manufacturing;
- Couriers;
- Manufactured home (mobile home) manufacturing;
- Rolling mill machinery and equipment manufacturing;
- Iron foundries;



- Nursing care facilities;
- Fluid milk manufacturing;
- Seafood canning;
- Marine cargo handling;
- Copper foundries (except die-casting);
- Bottled water manufacturing;
- Refrigerated warehousing and storage;
- Motor vehicle seating and interior trim manufacturing; and
- Pet and pet supplies stores

The inspections will include:

1. A review by the OSHA investigator of records including: medical records; workers' compensation records; insurance records; payroll/absentee records and if available; company safety incident reports; company first-aid logs; alternate duty rosters; and disciplinary records pertaining to injuries and illness.

The records review is intended to ensure that each identified recordable injury or illness is properly entered on the employer's OSHA Logs.

2. Interviews and statements of employees, management, recordkeepers, and employee health care providers.

The interviews are intended to determine whether the employer has policies that discourage employees from reporting injuries and illness. The OSHA inspector will also assess the recordkeeper's knowledge of the OSHA injury/illness recordkeeping requirements and determine if any problems exist. The inspector will also seek to determine management's possible influence of medical treatment of illness or injured employees.

3. Limited walk-around.

The investigator will do a walk-around to determine any hazards consistent with the recorded injuries and illness. Of course, during the walk-around, the investigator will address any OSHA violations in plain view.



### *Why is This Important?*

The Obama Administration has provided OSHA with a largely enhanced budget, drastically increasing the number of investigators and attorneys who enforce the regulations. As such, more and more companies will be subject to investigations and penalties.

The sanctions may include citations, monetary penalties, and potential criminal misdemeanor charges for falsifying documents. There is currently proposed legislation to increase all such penalties including raising the misdemeanor charge to a felony charge.

### *What Should Employers Do to Prepare?*

- Review and update your policies and procedures for reporting illness/injuries to ensure that they are effective and do not discourage employees from reporting such illness/injuries.
- Ensure that your OSHA 300 Log summaries are posted, accurate, and properly verified.
- Conduct an audit of the last five years of OSHA 300 Logs to confirm that they are properly recorded and verified and look for any common problems/causes of illness/injuries that should be addressed.
- Ensure that the recordkeepers are adequately trained and have an adequate understanding of OSHA's recordkeeping requirements.
- Contact your attorney if you have any questions or concerns.

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*Remember that these legal principles may change and vary widely in their application to specific factual circumstances. You should consult with counsel about your individual circumstances. For further information regarding these issues, contact:*

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