

# Current Alert

Regulatory Issues of Pressing Import to the U.S. Marine Transportation Community

January 19, 2001

No. 1

## OSHA Rules On Injury/Illness Records

[Washington, DC] In a last minute, end-of-game gasp, the Clinton White House's Occupational Safety & Health Administration (OSHA) today issued its long awaited final rule on injury/illness recordkeeping [66 FR 5916].

Joining other 11th hour final rules, such as the EPA's Diesel Engine Emissions; OSHA's Ergonomics Programs and MSHA's Diesel Particulate in Mines, the Injury/Illness Recordkeeping rule underscores the outgoing administration's resolve in honoring commitments it advanced to party faithfuls within the labor community.

Here's a synopsis of the pertinent new requirements:

Employers with 10 or less employees at all times during any given year are not required to maintain injury/illness records. Also, certain industrial classifications (none in the transportation sector) are conditionally excluded;

Only work-related injuries/illnesses qualify as recordable. For instance, injuries or illnesses that are solely the result of voluntary participation in wellness, fitness, recreational activity, etc., at the workplace are not recordable. Similarly, injuries or illnesses that involve signs or symptoms that surface at work but that are the result of a non-work related event or exposure are not recordable;

Marine transportation employers should bear in mind that parking lot or access road incidents (whether vehicular or pedestrian incurred), while probably compensable under LHWCA, are not OSHA recordable events;

As was the case before the instant rule was finalized, all workplace fatalities and accidents wherein 3 or more employees are hospitalized as in-patients must be reported to OSHA within 8 hours after their occurrence. Such reports must be communicated orally and completely; in accordance with the rule. In such cases, in the event the nearest OSHA office is unreachable compliance is assured by calling the national OSHA hotline: 1 800 321 OSHA (1 800 321 6742);

# Current Alert

## Page Two

New forms have been created by OSHA, to assist compliance with the rule. Use of such forms is not mandatory, but the information that they require must be conveyed in any retrievable format utilized by the employer. The new forms are identified as the OSHA 300 (The Log); the OSHA 300A (The Summary) and the OSHA 301 (The Incident Report);

Entries on the OSHA 300/301 forms (or their equivalent) are considered current if set out within 7 days after a recordable event has occurred. The Summary (OSHA 300-A) must be completed at year's end and appropriately posted in the workplace from February 1 through April 30. The rule requires that "a company executive" must certify and sign the summary before posting. That term is more closely defined within the rule. The completed OSHA 300/301 forms will have a 5 year retention period;

For employers who utilize the services of casual, temporary workers provided by outside agencies, responsibility for maintaining pertinent records will generally reside with the employer who exercises day-to-day supervision. In those cases, employers and labor agencies must coordinate their recordkeeping responsibilities to ensure accurate data is reflected;

The rule also stipulates mandatory employee involvement in the recordkeeping process. For instance:

1. Employers must inform each employee how he or she is to report any illness or injury;
2. Employers must provide limited access to injury/illness records for employees and their authorized representatives;
3. Employers must set up a method for injuries and illnesses to be reported promptly; and
4. Employers must tell each employee how to report work-related injuries and illnesses.

The rules take effect January 1, 2002. With regard to posting requirements relating to CY 2001 accident/illness experiences, the current OSHA Form 200 (Summary) will be expected to be displayed February 1, 2002 through March 1, 2002;

In assessing as to whether or not an injury/illness is of sufficient gravity so as to be "recordable", significant weight is accorded the opinion of licensed health care workers. Consistent with present criteria, first aid-type treatment remains non-recordable. Restricted work activity, too, now has specific criteria and disclosure provisions;

The rule, itself, contains logic tree depictions and useful tables which assist in making reporting determinations. As the observations disclosed in this CURRENT ALERT are of a general informative nature, the publisher recommends that the standard be consulted for more comprehensive details in the accurate discharge of statutory obligations.

The Blueoceana Company, Inc. is pleased to provide further assistance and information in relation to this and other regulatory matters, and may be contacted at: (908) 766 0534 or at the e-mail address: blueoceana@msn.com.

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