

OSHA Proposes Changes to Injury/Illness Reporting and Recordkeeping Requirements

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The Occupational Safety and Health Administration proposes to expand reporting requirements for serious injuries and to revise the list of industries partially exempt from injury and illness recordkeeping requirements.

In a Notice of Proposed Rulemaking published in the *Federal Register* on June 22, 2011, the Occupational Safety and Health Administration (OSHA) proposed changes to its current requirements regarding recordkeeping and reporting of employee injuries and illnesses, found in Part 1904 of Title 29 of the Code of Federal Regulations.

The first changes OSHA proposes affect Subpart B, Appendix A, of the regulations, which lists certain industries that, because of relatively low employee injury and illness rates, OSHA partially exempts from the general requirement to maintain logs of work-related injuries and illnesses. The listed industries are currently classified by Standard Industrial Classification (SIC) codes. Prompted in part by a 2009 Government Accountability Office report recommendation, OSHA proposes to transition the classification of industries from SIC codes to North American Industry Classification System codes.

Additionally, OSHA proposes to update its list of partially exempt industries, as the statistics used to create the current list are from the 1990s. OSHA uses DART rates—which reflect incidents involving days away from work, restricted work or job transfers—compiled by the Bureau of Labor Statistics (BLS) to create its list of partially exempt industries. To determine the industries that would qualify for the new proposed list, OSHA used DART rates compiled by the BLS for 2007–09. Industries with DART rates of 75 percent or less of the average national rate are included on the partially exempt list.

As a result of the proposed update to the list of partially exempt industries, nearly 199,000 new worksites with 5.3 million employees would be required to keep logs of work-related injuries and illnesses. OSHA estimates that these industries have an average of 173,000 work-related injuries and illnesses annually. Among many others, the industries that would be added to OSHA's recordkeeping requirements under the proposed rule include automotive dealers and parts and supplies stores; bakeries; dealers of building materials and supplies; beer, wine and liquor stores; hardware stores, machinery and equipment rental and leasing operations; performing arts companies; museums; and historical sites.

OSHA also proposes to remove more than 119,000 worksites, with 4 million employees and an estimated average of 76,000 work-related injuries and illnesses per year, from the current list of partially exempt industries. Among the

industries that no longer would be required to keep logs of injuries and illnesses are sporting goods stores, electronics stores, radio and television broadcasting, newspaper publishers, architectural and engineering firms, travel agencies and gas stations.

OSHA's second set of proposed changes concerns Section 1904.39 of the recordkeeping regulations, which requires employers to report certain work-related injuries and illnesses to OSHA, in addition to recording them on the employers' injury and illness logs. OSHA currently requires employers to report to OSHA within eight hours any work-related death or inpatient hospitalization of three or more employees. OSHA proposes to expand the reporting requirement so that employers must report *any* work-related inpatient hospitalization within eight hours. OSHA considers inpatient hospitalization to have occurred when an employee is formally admitted to a hospital for an overnight stay. An estimated 210,000 annual hospitalizations for work-related injuries and illnesses would be covered under the proposed change to the reporting requirement.

OSHA also proposes to require that any work-related amputation be reported to OSHA within 24 hours. The BLS defines an amputation as the loss of a limb or external body part, which includes a fingertip, but must include bone loss. According to BLS data, more than 6,000 amputations resulted in days away from work in 2008.

OSHA states that the proposed changes to the reporting requirements will ensure that OSHA is informed about each work-related hospitalization, will help the agency establish an expanded database to better track hazards causing fatalities, hospitalizations and amputations, and will help OSHA keep track of industries that experience these occurrences more than other industries. Armed with this increased reportable information, OSHA would likely target more workplaces for inspections and citations under the proposed rule.

OSHA is seeking comments from the public on this proposed rule from now until September 20, 2011.

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