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# UNDERSTANDING OSHA RECORDABILITY & WC COMPENSABILITY

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## **My Goals for YOU today:**

- 1) Understand why OSHA recordkeeping is a pretty big deal for any company.
- 2) Understand the major differences between Workers' Compensation reporting and OSHA 300 reporting.
- 3) How to avoid OSHA 300 "Over-reporting"



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# Does this “training scenario” sound familiar?

- You have been promoted (?) to keep the OSHA 300 log! (PARTY TIME)
- Here comes the training session...or not!
- Logical thought process?

**Well, if I'm keeping the OSHA records, "better safe than sorry" !**

- Not so fast my over-reporting friend!
- The OSHA 300 log was NEVER INTENDED to be your First Aid log...in fact those injuries are very specifically excluded from the log!
- You need to understand this form and who sees it and what they do with it!



# What is an OSHA 300 log?



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- Calendar Year Basis (NOT WC Year)
- Log of employee and contract/Temporary employee injuries.
- Cases must be logged if: “Death”, “Days away from work”, “job transfer or restriction”, “Loss of consciousness” or “Other recordable case”.
- Which 4 do you think are generally quite easy to make a determination on as to whether or not they should be on the log? (Logically...)
- Which 1 could have room for “interpretation”?



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# You were correct if you said:

- “Other Recordable Cases”
- Much of whether or not this is going to go on your 300 log comes down to the type of treatment provided and in some cases by whom!
- If a company is over reporting, 99% of those entries are most likely “other recordable cases”.



# Historically:



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- The OSHA log has not been required to be physically sent to anybody on an annual basis. (except for those having public sector employees!)\*\*
- BUT (there always seems to be a BUT) your company may be chosen for the dreaded “Survey of Incidences.”
- Who does that? Why? How? So many questions...

**\*\*Changes being proposed!!!!**



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# The Bureau of Labor Statistics also known as the BLS

- They gather data for all industries and develop frequency and severity rates.
- These are actually handy for safety geeks (yes, like me) who like to compare “our” companies/customers against the national averages for “peer companies”.
- Good for companies who like to Benchmark how they are doing compared to their peers.





# Do you hear something? The winds of change are blowing!



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- OSHA PROPOSAL UNDER CONSIDERATION:
- Employers between 20 and 250 employees would be required to electronically submit their OSHA 300 totals ANNUALLY. (to OSHA!)
- Employers over 250 employees would be required to electronically submit their OSHA 300 totals QUARTERLY. (to OSHA!)
- Isn't the current BLS data gathering good enough for OSHA? (NO!)
- When would this start? (proposal was 11-8-2013)
- Now, why would OSHA want to do this????



# So, is your firm required to even complete an OSHA 300 form?



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- ✓ Well, maybe! Do you have 10 or more employees?
- ✓ Are you a private industry in an included class?\*
- ✓ “I’m a state/federal operation so I’m excluded from the OSHA 300 log” ??? NOT SO FAST!!!
- ✓ Can you say “SBD-10710” ?
- ✓ Per Comm 32.10, all Wisconsin public employers must complete and submit this summary form, or the equivalent OSHA 300A form, by March 1 of each year even if no work-related injuries or illnesses occurred during the year.

Year	2010
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**U.S. Department of Labor**  
Occupational Safety and Health Administration



Form approved OMB no. 1218-

Establishment name	ABC Metal Fabrication
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City	Safety	State	W
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Classify the case

						CHECK ONLY ONE box for each case based on the most serious outcome for that case:				Enter the number of days the injured or ill worker was:		Check the "injury" column or choose type of illness:					
(A)	(B)	(C)	(D)	(E)	(F)							(M)					
Case No.	Employee's Name	Job Title (e.g., Welder)	Date of injury or onset of illness (mo./day)	Where the event occurred (e.g. Loading dock north end)	Describe injury or illness, parts of body affected, and object/substance that directly injured or made person ill (e.g. Second degree burns on right forearm from acetylene torch)	Death	Days away from work	Remained at work		Away From Work (days)	On job transfer or restriction (days)	Injury	Skin Disorder	Respiratory Condition	Poisoning	Hearing Loss	
								Job transfer or restriction	Other recordable cases								
						(G)	(H)	(I)	(J)	(K)	(L)	(1)	(2)	(3)	(4)	(5)	
2010-1	John Smith	Welder	1-4	Fabrication Dept.	EE Cut his finger on burr in metal-5 stitches				x			x					

Be sure to transfer these totals to the Summary page (Form 300A) before you post it.

Public reporting burden for this collection of information is estimated to average 14 minutes per response, including time to review the instruction, search and gather the data needed, and complete and review the collection of information. Persons are not required to respond to the collection of information unless it displays a currently valid OMB control number. If you have any comments about these estimates or any aspects of this data collection, contact: US Department of Labor, OSHA Office of Statistics, Room N-3644, 200 Constitution Ave. NW, Washington, DC 20210. Do not send the completed forms to this office.

Injury	Skin Disorder	Respiratory Condition	Poisoning	Hearing Loss
(1)	(2)	(3)	(4)	(5)

Page	1 of 1		(1)	(2)	(3)	(4)	(5)
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## **SO, Could you Logically say:**

- “If I send a claim into Workers’ Compensation, it is serious enough to put on the OSHA 300?”
- **YES!!!!!! (You’ d be correct *most of the time!*)**
- **BUT IT IS STILL WRONG!!! You will end up with too much on your OSHA 300!!**
- Here is why it matters...



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## Let's look at the formula used for Incident Rate:

- # of OSHA recordables (add up columns G,H,I,J on 300 log) X 200,000/total hours worked in your organization=Incident Rate
- This equalizes companies of all sizes.
- Why did “they” pick 200,000???



# DART Rate measures severity



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- $\text{DART} = \frac{\text{Cases having Days Away from or Restricted Time (add the cases from columns H and I)} \times 200,000}{\text{total hours worked}}$
- Most companies are pretty accurate on this because you know when a case has lost time or job transfer or restriction.
- Key distinction between Workers Comp and OSHA on when the count starts!



# Let us Consider an Example of Over-Reporting from the real world



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- A contractor calls asking me how to calculate their incident rate.
- They tell me that they had 8 recordables last year. The problem? They worked roughly 90,000 hours.
- $8 \times 200,000 / 90,000 = \underline{17.8}$
- National average for their trade = 4.0
- ❖ Do you see a “problem”?



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So, we went through those 8 cases  
they reported.

- 3 of these people never even went to the doctor!!!!
- When we were done, there were 2 left .
- $2 \times 200,000 / 90,000 = 4.44$
- Is that a little more in line with their National Average? (4.0)





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# Excessively high Frequency Rates draw interest (the wrong kind!)

- If you are chosen for the BLS survey and OSHA establishes a cut off for inspections, you could very well get a visit. Or, going forward, sending OSHA your annual totals and they are really high.
- It is a shame if the only reason for getting an inspection is because of what we entered on the 300 log!
- Let's spend a minute talking about what you report to Workers' Compensation. (this is so easy, it doesn't need a slide!)

# Where does the OSHA reporting go off the tracks?

- That would be the “other Recordable Cases” meaning injuries that DO NOT have lost days or job transfer/restricted days.
- We will focus on the difference between Medical Treatment and First Aid.

# The Key to Recordability:

- Medical Treatment vs. “First Aid”
- In general, even if a medical provider looks at an injured employee but does little more than check him/her over or provide services that are classified by OSHA as first aid, you will **not have a recordable incident.**

# Let's Start with First Aid: Not recordable!!



- Using a non-prescription medication at nonprescription strength.
- For medications available in both prescription and non-prescription form, a recommendation by a physician or other licensed health care professional to use a non prescription medication at prescription strength is considered medical treatment for recordkeeping purposes.
- What is “Prescription Strength” for a few common medications?

## • These are considered to be Prescription Strength:

- 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 25mg

## What else is first aid?

- Administering tetanus immunizations. (**not recordable by itself**)
- Other immunizations such as Hepatitis B or rabies vaccine are considered medical treatments. (**Recordable**)

## More First Aid (not recordable)

- Cleaning, flushing, or soaking wounds on the surface of the skin.
- Using wound coverings such as bandages, Band-Aids, Gauze Pads, Butterfly Bandages, or Steri-Strips. (stitches, sutures, or glue=REPORTABLE)
- Using hot or cold therapy

## More First Aid (not recordable)

- Using any non-rigid means of support, such as elastic bandages, wraps, non-rigid back belts, etc.
- (devices with rigid stays or other medical systems designed to immobilize parts of the body **are considered medical treatment** for recordkeeping purposes.)



## More First Aid (non recordable)

- Using temporary immobilization devices while transporting an accident victim. (splints, slings, neck collars, back boards)
- Drilling of a fingernail or toenail to relieve pressure, or draining fluid from a blister.  
(EEWWW!)

# More First Aid (non recordable)

- Using Eye patches



- Removing Foreign Bodies from  
the eye using only irrigation or a cotton swab.\*

## More First Aid (non recordable)

- Removing Splinters or foreign material from areas other than the eye by irrigation, tweezers, cotton swabs or other simple means.
- Using finger guards
- Using massages (Physical therapy or chiropractic treatment are considered medical treatment for Recordkeeping purposes)



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## More First Aid (non recordable)

- Negative X-Rays
- Drinking fluids for relief of heat stress.
- Any other procedures included in first aid?
- NO-this is the complete list.

## Question:

- Does the professional status of the person providing the treatment have any effect on what is considered first aid or medical treatment?
- In short NO per OSHA. (the only exception is treatment by a Chiropractor is always recordable!)

## Question:

- If a physician or other licensed health care provider recommends medical treatment but the employee doesn't follow the recommendation, is the case recordable?
- YES-If the case meets the definition of medical treatment, it must be recorded.

## Question:

- Is every work-related injury or illness case involving a loss of consciousness recordable?
- YES-you must record a work-related injury or illness if the worker becomes unconscious, regardless of the length of time the employee remains unconscious.

## At this point:

- I normally go through the list of what OSHA considers “Medical attention” meaning it is recordable.
- Due to time limitations, I can tell you that most of these are the opposite of the First Aid slides!





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## **This one comes up from time to time:**

- Employee alleges a strain of some sort and there is a great deal of treatment and therapy. (obviously recordable)
- 6 months later, a heartless WC Claims adjuster denies the claim! Can we take this claim off of our 300 log?
- Maybe! It all depends why the claim was denied! If injury is an aggravation of previous, leave it on!



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- Example: Employee re-injures him/her self and they aggravated a previous injury. WC may be able to deny and push the claim back to a previous carrier.
- OSHA? Pre-existing conditions that are significantly aggravated by workplace events or exposures are reportable.
- On the other hand, WC denies a claim because they find no proof of an actual injury....I'd take it off of the 300 log!



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## As is the case with WC, there can be mass confusion over:

- Is the case “work related”
- What is a new case? (versus aggravation of a prior injury)
- When does a case become lost time?
- Our next several slides will answer these questions!



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## 1904.5 (b) (2) Work Related? NOT if:

- The injury or illness results solely from voluntary participation in a wellness program or in a medical, fitness, or recreational activity such as blood donation, physical examination, flu shot, exercise class, racquetball, or baseball.
- The injury or illness is caused by a motor vehicle accident and occurs on a company parking lot or company access road while the employee is commuting to or from work. (during lunch-hour is recordable!)



# New case vs. old case?



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- Must be considered a new case if:
  - The employee has not previously experienced a recorded injury or illness of the same type that affects the same part of the body, or
  - The employee previously experienced a recorded injury or illness of the same type that affected the same part of the body but had recovered completely (all signs and symptoms had disappeared) from the previous injury or illness and an event or exposure in the work environment caused the signs or symptoms to reappear.



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# Can you see/imagine some gray areas in these definitions?

- Trust me, there are!
- We have not scratched the surface of the incredibly detailed scenarios and questions you *could* ask about recordability!

# The “Dark Side” of OSHA recordkeeping

- *Some* companies are very proud of their OSHA statistics and use them as ways to prove to customers, potential customers, employees, the public, OSHA, etc. that they are doing a good job.
- As the record gets better and better, nobody wants it to end. So....



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# I see some real “manipulation” of the OSHA 300 logs!

- It is difficult for OSHA to catch this and usually gets caught when a company is waving **red flags** everywhere!  
(like 0 recordables for 5 years with 300 ee's)
- How difficult is it to catch a case where an ee went to the doc. 1 time, came right back to work, but got a prescription and we did not put it on the log?
- Do you think OSHA has time to track down many recordkeeping issues, especially on the smaller cases?





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# A couple of quick notes about day counts:

- Never count the day of the injury.
- OSHA counts all days of the week including Saturdays and Sundays, even if the person doesn't normally work those days!
- The maximum number of restricted or Lost work days is capped at 180!



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## What if a case happens in December and goes into the next year?

- The case will only be recorded in the year that it happened and not carried into the next year!
- OSHA would ask that you make an estimate on your previous year log for lost or restricted days and go with that until the case settles. Then correct the old log.



# More great questions:



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- If a doctor recommends your employee stay off of work but the employee comes to work anyway, do you still count the days as lost work days? (YES)
- **IMPORTANT:** If a doctor recommends a restriction, is the case automatically checked as “restricted work case”?  
  
(**NO!!**-If the routine functions of the person’s job can be done within the restrictions it is checked as an “other recordable case”). Example: restriction is “can’t lift more than 25 lbs.” but we don’t ever lift that much.
- Can you stop counting days if an employee voluntarily leaves/retires while off on an injury? (YES)



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# To get to the actual Recordkeeping Regulations:

- [www.OSHA.gov](http://www.OSHA.gov)
- Find the search tab and type in Recordkeeping. That will take you to the OSHA Recordkeeping Page with lots of good resources. You can also access the Recordkeeping standard found in 1904. Most of what you need will be in 1904.1 to 1904.7
- You can also find the list of OSHA 300 exempt operations and those that are required to keep it.



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## So, if nothing else, remember this statement:

➤ “Just because an employee went to the doctor doesn’ t automatically make it an OSHA recordable case!”



➤ Look for: Prescriptions, stitches/sutures, Chiropractic care or multiple follow up visits for being recordable!

# This is very detailed information!

- I do a webinar every December and January that covers reportability in even a bit more detail than we did today!
- Your turn-questions!

