

OSHA Recordkeeping and the National Emphasis Program

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Disclosure

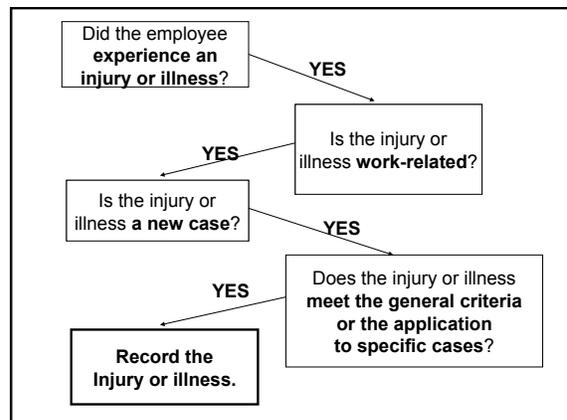
- I work for OSHA, no other financial gain.

Take a deep breath...

It's a **surveillance** tool:
Not clinically relevant
Not part of workers' compensation
Not a robust measure of safety
NEVER meant as a tool to award contracts or bonuses!

29 CFR 1904 - Recording and Reporting Occupational Injuries and Illness

- OSHA requires employers of 10 or more employees to maintain records of occupational injuries and illnesses
 - If injury or illness results in death
 - One or more lost workdays
 - Restriction of work or motion
 - Loss of consciousness
 - Transfer to another job
 - Or medical treatment (other than first aid)



Step 1:
Did the employee experience an injury or illness?

Scenario A:

A worker reports to nurses station with complaint of painful wrists. Employee given 2 Advil™ and returned to job.

Stop Here
OR
Go On To The Next Step?

Answer: Go on to the next step.

Why: "Wrist pain" is the injury experienced.

Step 2:
Is the injury or illness work-related?

Determination of Work-relatedness

You 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 or significantly aggravated a pre-existing injury or illness.

Work-relatedness is **presumed** for injuries and illnesses resulting from events or exposures in the work environment **unless an exception specifically applies.**

What Are The Specific Exceptions To Presumed Work-relatedness?

1. At the time of the injury or illness, the employee was present in the work environment as a **member of the general public** rather than as an employee.
2. The injury or illness involves signs or symptoms that surface at work but result **solely from a non-work related event or exposure** that occurs outside the work environment.
3. 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.

Specific Exceptions To Presumed Work-relatedness (continued)

4. The injury or illness is solely the result of an employee **eating, drinking, or preparing food or drink for personal consumption** (whether bought on the employer's premises or brought in).

Example: If an employee chokes on a sandwich while in the employer's establishment, the case would not be considered work-related.

Note: If the employee is made ill by ingesting food contaminated by workplace contaminants (such as lead), or gets food poisoning from food supplied by the employer, the case would be considered work-related.

Specific Exceptions To Presumed Work-relatedness (continued)

5. The injury or illness is solely the result of an employee doing **personal tasks** (unrelated to their employment) at the establishment **outside of the employee's assigned working hours.**
6. The injury or illness is **solely the result of** personal grooming, self medication for a non-work-related condition, or is **intentionally self-inflicted.**

Specific Exceptions To Presumed Work-relatedness (continued)

7. 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.**
8. **The illness is the common cold or flu** (Note: *contagious diseases such as tuberculosis, brucellosis, hepatitis A, or plague are considered work-related if the employee is infected at work*).

Specific Exceptions To Presumed Work-relatedness (continued)

9. The illness is a **mental illness**. Mental illness will not be considered work-related unless 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.

Step 3:
Is the injury or illness a new case?

Determination of a new case

It's 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

Employee previously experienced a recorded injury or illness of the same type that affected the same part of body but had recovered completely from the previous injury or illness and an event or exposure in the work environment caused the signs or symptoms to reappear.

Step 4:
Does the injury or illness meet the general criteria or the application to specific cases?

General Recording Criteria

- You must consider an injury or illness to meet the general recording criteria, and therefore to be recordable, if it results in any of the following:
 - **death,**
 - **days away from work,**
 - **restricted work or**
 - **transfer to another job,**
 - **medical treatment beyond first aid, or**
 - **loss of consciousness.**

General Recording Criteria (continued)

- You must **also** consider a case to meet the general recording criteria **if it involves a significant injury or illness** diagnosed by a physician or other licensed health care professional, *even if it does not result in death, days away from work, restricted work or job transfer, medical treatment beyond first aid, or loss of consciousness.*

General Recording Criteria (continued)

What does OSHA consider a significant injury or illness even if it does not result in death, days away, restriction, transfer or medical treatment beyond first aid?

- 29 CFR 1904.7(b)7
 - Cancer
 - Chronic irreversible disease
 - Fractured/cracked bone
 - Punctured eardrum

Definition of Medical Treatment for OSHA Recordkeeping Purposes

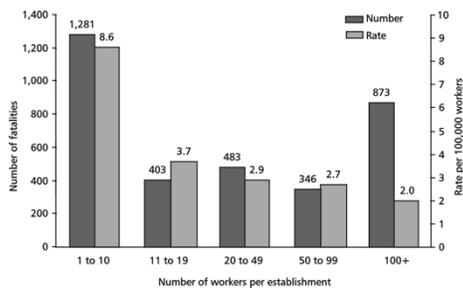
Does not include –

- Visits to a physician or licensed health care practitioner solely for observation/counseling
- Diagnostic procedures (X-rays, blood tests)
- Use of prescription drugs for diagnostic purposes (drops to dilate pupils)
- First Aid
 - The First Aid list in 29 CFR 1904.7(b)(5)(ii) is comprehensive.
 - Any other procedure is medical treatment for OSHA Recordkeeping purposes.

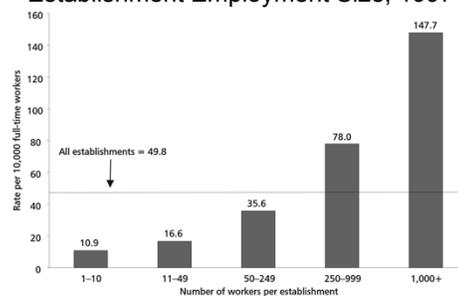
Background

- OSHA Recordkeeping Audits
 - Between 10% and 20% under-recording
- Between 25% and 68% under-recording (Boden, Rosenman, Forst), some based on systematic exclusions (public workers in federal plan states, self-employed)

Number & Rate of Fatal Occupational Injuries in Private Sector Wage & Salary Workers by Employment Size of Establishment, 1997



Incidence Rates of Nonfatal Occupational Illness in Private Industry by Establishment Employment Size, 1997



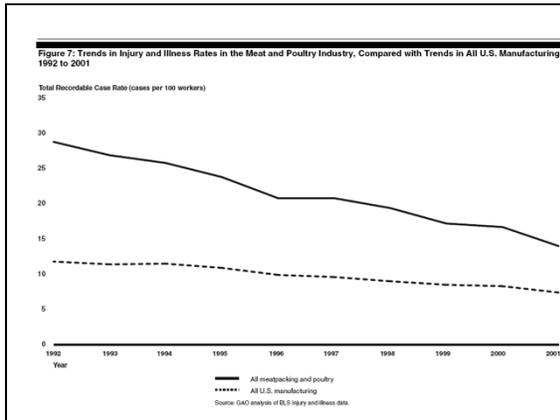
U.S. GAO Report on Workplace Safety and Health in the Meat and Poultry Industry (1/05)

Figure 2: Production Line at a Poultry Plant



GAO Report

- Illness and Injury rates declining but high (29.5/100 FTE in '92 to 14.7 in '01)
- 65% male, 42% Hispanic, 43% < age 35
- Unionization rates fell from 46% to 21% over the 1980's, industry consolidation.
- Low wage (\$21,320/yr vs \$33,500 for mfg)
- High turnover
- One-third of workforce subcontracted



Solution

- GAO recommended developing year-to-year tracking and investigating when decline in injury and illness reporting too precipitous.
- OSHA decided to target low-rate companies in high-rate industries.

Injury and Illness Recordkeeping National Emphasis Program (RK NEP)

- Office of Statistical Analysis, Directorate of Evaluation and Analysis
- Finalized CPL in July
- CSHO Training in July
- Implementation in August
- Completion one year from implementation date

Scope

- In-Scope industries
 - High rate industries listed on BLS Table SNR02, 2007
 - e.g. Animal Slaughtering, except Poultry; Steel Foundries; Soft Drink Manufacturing; Couriers; Nursing Homes
 - Poultry Processing and Support Activities
 - NAICS 311615
 - NAICS 115210
- Selected establishments with 40 or more employees

What are the Procedures for each Inspection?

- Three main components of inspection
 - Records Review
 - Interviews
 - Limited Walkaround

Records Inspection

- Review ALL available records for each employee sampled (medical records, Workers' Comp, absentee records, audiograms, OSHA Form 301, etc.). In many cases this will include review at off-site clinics utilized by the establishment
- Do not limit review to what the employer deems work-related. Review "non-work related" records also
- All discovered cases will be documented, including correctly recorded cases, unrecorded cases and mis-recorded cases.

Records Inspection (continued)

- Expand scope of review
 - If review of the sampled employees' records indicates under-recording the CSHO will consult with the Area Director to determine if the records inspection should be expanded beyond the sampled employees.

Interviews

- Recordkeeper
- Management
- Employees
- Health Care Provider

How are the Employee Interviews Conducted?

- Sub-sample employees to interview
 - Draw sample from employees whose records were reviewed
 - Draw sample from departments/occupations likely to sustain injuries and illnesses
 - Minimums
 - Establishments ≤ 100 employees: at least 10 interviews
 - Establishments >100 and ≤ 250 employees: at least 15 interviews
 - Establishments >250 employees: at least 20 interviews
- Circumstances indicating expanded employee interviews
 - No cases recorded on log
 - Suspicion of employer withholding records
 - Unexplained employee absences

Employee Interviews

- Identify system for reporting cases
- Identify injuries and illnesses that occurred in 2007 and 2008
 - Follow-up on leads for both employee and co-workers
- Identify incentive and disincentive programs that could affect reporting cases

Management Interview

- Identify system for reporting cases
- Identify system for treating injuries and illnesses
- Identify incentive and disincentive programs that could affect reporting cases – obtain copies of written policies

Recordkeeper Interview

- Identify system for reporting cases
- Identify level of training received
- Identify incentive and disincentive programs that could affect reporting cases – obtain copies of written policies

Health Care Provider Interview

- Knowledge of OSHA recordkeeping system
- Influence of recordability on treatment provided
- Awareness of incentive and disincentive programs that could affect reporting cases

Limited Walkaround

- Each Recordkeeping NEP inspection will include a limited walkaround inspection of the main plant operation areas. The CSHO will generally be looking for consistency with the recorded injuries and illnesses, but will address any violations observed in plain view while conducting the limited walkaround inspection.
- The CSHO may, upon consultation with the Area Office, expand the scope of this inspection or make a referral in order to address other areas of the plant that may be problematic.

Special Circumstances with Construction

- Current injury and illness data not available
- Construction firms present unique situations where the methodology of the NEP may be difficult to apply due to:
 - Establishment level of records
 - Transient workforce
 - Walkaround inspection requirement
- Small pilot will be conducted to access the applicability of methodology at construction firms

Topics for Analysis

- Effectiveness of targeting
- Prevalence of under-recording
- Employer policy to discourage reporting
- Incentive programs

Timing

- Finalize CPL in July
- CSHO Training in July
- Implementation in August
- Completion one year from implementation date