

# **OSHA's New INJURY AND ILLNESS RECORDKEEPING REQUIREMENTS**

**-- HEY! THIS ISN'T ERGONOMICS!**

**Author: Robert Gombar**

**Keywords: OSHA, injury, illness,  
recordkeeping, compliance,  
requirements**

**OSHA'S NEW INJURY AND  
ILLNESS RECORDKEEPING  
REQUIREMENTS  
-- HEY! THIS ISN'T ERGONOMICS!**

**FOR  
ACADEMY OF  
CERTIFIED HAZARDOUS  
MATERIALS MANAGERS**

**ROBERT C. GOMBAR  
MC DERMOTT, WILL & EMERY  
AUGUST 2001**

# **THE NEW RECORDKEEPING RULES -- STATUS**

- **MANDATED REVIEW -- CARD MEMO**
- **NAM LAWSUIT**
- **KEY ISSUES:**
  - **AGGRAVATION OF NON-WORK-RELATED CONDITIONS**
  - **10 DECIBEL THRESHOLD FOR HEARING LOSS**
  - **PRIVACY PROTECTION**
  - **MSD COLUMN (ERGONOMICS)**
- **WHAT'S LIKELY TO HAPPEN?**
- **WHAT CAN WE EXPECT FROM OSHA DURING THE BUSH ADMINISTRATION?**

# KEY DATES

- **MOVE TO REVISE RULES STARTS -- 1986**
- **NEW RULES PROMULGATED -- 1/19/01**
- **NEW RULES EFFECTIVE -- 1/1/02 (??)**
- **OLD OSHA 200 FORM -- USE DURING 2001**
- **START USING OSHA 300 FORM -- 1/1/02 (??)**
- **POST 2001 DATA USING 200 FORM -- 2/1/02**
- **POST 2002 DATA USING 300A FORM  
-- 2/1/03 (??)**

# WHAT'S CHANGED?

## OLD RULES

- **COVERAGE -- EMPLOYERS WITH 10 OR FEWER EMPLOYEES -- ALSO LOW HAZARD RETAIL AND SERVICE EMPLOYERS -- NOT COVERED**
- **FORMS -- 2 FORMS -- OSHA 200 (LOG & SUMMARY) AND 101 (SUPPLEMENTAL RECORD)**
- **TIME TO RECORD -- WITHIN 6 “WORKING” DAYS**

## NEW RULES

- **COVERAGE -- CHANGES IN RETAIL AND SERVICE INDUSTRIES -- E.G., FUEL DEALERS (598) AND DRY CLEANERS (721) ARE COVERED -- DOCTORS (801) AND DENTISTS (802) ARE NOT**
- **FORMS -- 4 FORMS -- OSHA 300 (LOG), 300A (SUMMARY), 301 (INCIDENT REPORT), PRIVACY CONCERN LIST**
- **TIME TO RECORD -- WITHIN 7 “CALENDAR” DAYS**

# CHANGES

- **WORK RELATIONSHIP**  
**-- INCLUDED IF WORK CAUSED OR CONTRIBUTED TO INJURY OR ILLNESS, OR “AGGRAVATED” A PRE-EXISTING CONDITION**
- **WORK RELATIONSHIP**  
**-- INCLUDED IF WORK CAUSED OR CONTRIBUTED TO INJURY OR ILLNESS, OR “SIGNIFICANTLY AGGRAVATED” A PRE-EXISTING CONDITION**
- **INJURY V. ILLNESS** --  
**MUST RECORD ALL ILLNESSES AND INJURIES THAT MEET THE CRITERIA**
- **INJURY V. ILLNESS** --  
**DISTINCTION ELIMINATED -- MUST RECORD IF DEATH, DAYS AWAY FROM WORK, JOB RESTRICTION OR TRANSFER, MEDICAL TREATMENT BEYOND FIRST AID, LOSS OF CONSCIOUSNESS -- PLUS OTHER SPECIFIC SITUATIONS**

# CHANGES

- **SIGNIFICANT INJURY OR ILLNESS -- CATEGORY DID NOT EXIST**
- **SIGNIFICANT INJURY OR ILLNESS -- NEW CATEGORY -- RECORD IF A “SIGNIFICANT” INJURY OR ILLNESS IS DIAGNOSED BY A PHYSICIAN OR OTHER LICENSED HEALTH CARE PROFESSIONAL (E.G., CANCER, FRACTURED BONE)**
- **NEEDLESTICK & SHARPS INJURIES -- RECORD IF MEETS REGULAR CRITERIA FOR INJURIES (OR EMPLOYEE SEROCONVERTS)**
- **NEEDLESTICK & SHARPS INJURIES -- MUST RECORD ALL SUCH INJURIES IF INVOLVE HUMAN BLOOD OR OTHER POTENTIALLY INFECTIOUS MATERIALS (PRIVACY CONCERN CASES)**

# CHANGES

- **HEARING LOSS -- RECORD IF A 25 DECIBEL HEARING LOSS IN ONE OR BOTH EARS WHEN COMPARED TO THE BASELINE AUDIOGRAM**
- **HEARING LOSS -- RECORD IF A 10 DECIBEL HEARING LOSS (STS) IN ONE OR BOTH EARS WHEN COMPARED TO THE BASELINE AUDIOGRAM**
- **TUBERCULOSIS -- IF ACTIVE CASE OR POSITIVE TB SKIN TEST, PRESUMED (REBUTTABLE) WORK RELATED IF EMPLOYEE WAS IN A HIGH RISK INDUSTRY**
- **TUBERCULOSIS -- PRESUMED (REBUTTABLE) WORK RELATED IF EMPLOYEE EXPOSED AT WORK TO A KNOWN, ACTIVE TB CASE**

# CHANGES

- **MUSCULOSKELETAL DISORDERS (MSD) -- RECORDABILITY DIFFERED BETWEEN MSD INJURY AND MSD ILLNESS**
- **MUSCULOSKELETAL DISORDERS (MSD) -- RECORDABILITY BASED ON THE SAME CRITERIA AS ANY OTHER INJURY OR ILLNESS (SEPARATE MSD BOX ON LOG)**
- **MEDICAL REMOVAL -- RECORDABLE ONLY IF MET DAYS AWAY FROM WORK, RESTRICTED WORK, OR JOB TRANSFER CRITERIA**
- **MEDICAL REMOVAL -- IF REQUIRED BY SPECIFIC OSHA STANDARDS, MUST BE RECORDED EVEN IF USUAL CRITERIA NOT MET**

# CHANGES

- **MENTAL ILLNESSES --  
GENERALLY  
RECORDABLE IF  
“DIAGNOSED”**
- **MENTAL ILLNESSES --  
GENERALLY NOT  
RECORDABLE -- ONLY  
IF EMPLOYEE  
VOLUNTARILY  
PROVIDES AN  
OPINION FROM A  
QUALIFIED HEALTH  
CARE PROFESSIONAL  
THAT THE MENTAL  
ILLNESS IS WORK  
RELATED**

# CHANGES

- **DAYS AWAY, JOB RESTRICTION, JOB TRANSFER:**
  1. **ROUTINE JOB FUNCTIONS** -- ANY ACTIVITY AN EMPLOYEE WOULD BE EXPECTED TO PERFORM (EVEN IF ONLY ONCE A YEAR)
  2. **COUNTING STARTS** -- THE DAY THAT THE INJURY OR ILLNESS OCCURRED
  3. **COUNTING SYSTEM** - - COUNT DAYS EMPLOYEE WAS SCHEDULED TO WORK -- NO ARBITRARY LIMIT TO NUMBER OF DAYS
- **DAYS AWAY, JOB RESTRICTION, JOB TRANSFER:**
  1. **ROUTINE JOB FUNCTIONS** -- ANY ACTIVITY AN EMPLOYEE WOULD BE EXPECTED TO PERFORM AT LEAST ONCE PER WEEK
  2. **COUNTING STARTS** -- THE DAY AFTER THE INJURY OR ILLNESS OCCURRED
  3. **COUNTING SYSTEM** -- COUNT ALL CALENDAR DAYS -- MAY STOP AT 180 DAYS OR (FOR RESTRICTION) WHEN JOB MODIFIED

# CHANGES

- **MEDICAL TREATMENT/ FIRST AID -- MEDICAL TREATMENT IS ANY TREATMENT OTHER THAN FIRST AID ADMINISTERED TO AN INJURED OR ILL EMPLOYEE -- OSHA'S *RECORDKEEPING GUIDELINES* ("BLUE BOOK") PROVIDED EXAMPLES TO AID AN EMPLOYER IN DISTINGUISHING BETWEEN FIRST AID AND MEDICAL TREATMENT**
- **MEDICAL TREATMENT/ FIRST AID -- MEDICAL TREATMENT IS THE MANAGEMENT AND CARE OF A PATIENT TO COMBAT DISEASE OR DISORDER -- FIRST AID IS DEFINED COMPLETELY AND EXCLUSIVELY BY A LIST OF 14 SPECIFIC TREATMENTS -- IF A TREATMENT IS NOT ON THE LIST, IT IS NOT FIRST AID -- SOME CHANGES (E.G., BUTTERFLY BANDAGES & STERI-STRIPS NOW FIRST AID)**

# CHANGES

- **PROVIDING RECORDS TO GOVERNMENT -- ACCESS MUST BE PROVIDED, BUT NO TIME PERIOD SPECIFIED**
- **PROVIDING RECORDS TO GOVERNMENT -- COPIES MUST BE PROVIDED WITHIN 4 BUSINESS HOURS OF THE REQUEST**
- **PROVIDING COPIES OF RECORDS TO EMPLOYEES, FORMER EMPLOYEES, AND REPRESENTATIVES -- ACCESS MUST BE PROVIDED, BUT NO TIME PERIOD PROVIDED**
- **PROVIDING COPIES OF RECORDS TO EMPLOYEES, FORMER EMPLOYEES, AND REPRESENTATIVES -- COPIES MUST BE PROVIDED BY THE END OF THE NEXT BUSINESS DAY**

# CHANGES

- **ANNUAL SUMMARY CERTIFICATION -- CERTIFICATION BY A “COMPANY EXECUTIVE” NOT REQUIRED**
- **ANNUAL SUMMARY CERTIFICATION -- “COMPANY EXECUTIVE” MUST CERTIFY THAT THE ANNUAL SUMMARY IS CORRECT AND COMPLETE**
- **STATE PLANS -- ONLY GUIDANCE IS A BRIEF REFERENCE TO SEC. 18 OF THE ACT**
- **STATE PLANS -- RECORDKEEPING MUST BE SUBSTANTIALLY IDENTICAL -- ANY CHANGES MUST HAVE APPROVAL OF FEDERAL OSHA**