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TITLE 610 DEPARTMENT OF LABOR

LSA Document #01-340(F)

DIGEST

Adds 610 IAC 4-6 concerning the rules for reporting and recording work related injuries and illnesses, pursuant to the revised federal rules for reporting and recording work related injuries and illnesses, found in 29 CFR 1904. Repeals 610 IAC 4-4. Effective 30 days after filing with the secretary of state.

610 IAC 4-4
610 IAC 4-6

SECTION 1. 610 IAC 4-6 IS ADDED TO READ AS FOLLOWS:

Rule 6. Recording and Reporting Occupational Injuries and Illnesses

610 IAC 4-6-1 Purpose
Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 1. (a) The purpose of this rule is to require employers to record and report work related fatalities, injuries, and illnesses.

(b) Recording or reporting a work related injury, illness, or fatality does not mean that:
(1) the employer or employee was at fault;
(2) an Indiana or federal Occupational Safety and Health Act (OSHA) rule has been violated; or
(3) the employee is eligible for workers' compensation or other benefits.

(c) All employers covered by the Indiana Occupational Safety and Health Act (IOSHA) (IC 22-8-1.1 et seq.) are covered by this rule. Sections 2 through 4 of this rule describe which employers do not have to keep OSHA injury and illness records unless Indiana occupational safety & health administration (IOSHA), the federal Occupational Safety and Health Administration (OSHA), or the Bureau of Labor Statistics (BLS) informs them in writing that they must keep records. Under sections 2 through 4 of this rule, employers with ten (10) or fewer employees and business establishments in certain industry classifications are partially exempt from keeping OSHA injury and illness records.

(d) Sections 5 through 14 of this rule describe the work related injuries and illnesses that an employer must enter into the OSHA records and explains *[sic., explain]* **the OSHA forms that employers must use to record work related fatalities, injuries, and illnesses.**

(e) Under section 8 of this rule, IOSHA believes most significant injuries and illnesses will result in one (1) of the criteria listed in section 8(a) of this rule. However, there are some significant injuries, such as a punctured eardrum or a fractured toe or rib, for which neither medical treatment nor work restrictions may be recommended. In addition, there are some significant progressive diseases, such as byssinosis, silicosis, and some types of cancer, for which medical treatment or work restrictions may not be recommended at the time of diagnosis but are likely to be recommended as the disease progresses. OSHA believes that cancer, chronic irreversible diseases, fractured or cracked bones, and punctured eardrums are generally considered

significant injuries and illnesses and must be recorded at the initial diagnosis even if medical treatment or work restrictions are not recommended, or are postponed, in a particular case. *(Department of Labor; 610 IAC 4-6-1; filed Sep 26, 2002, 11:22 a.m.: 26 IR 353)*

610 IAC 4-6-2 Partial exemption for employers with 10 or fewer employees

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 2. (a) Basic requirement *[sic., requirements]* **for partial exemptions based on the number of employees are as follows:**

(1) If an employer had ten (10) or fewer employees at all times during the last calendar year, that employer does not need to keep Occupational Safety and Health Administration (OSHA) injury and illness records unless federal OSHA, the Indiana occupational safety and health administration (IOSHA), or the Bureau of Labor Statistics informs the employer in writing that the employer must keep records under section 24 or 25 of this rule. However, all employers covered by the Indiana Occupational Safety and Health Act must report to IOSHA any workplace incident that results in a fatality or hospitalization of employees as required by section 23 of this rule.

(2) If an employer had more than ten (10) employees at any time during the last calendar year, that employer must keep OSHA injury and illness records unless that employer's establishment is classified as a partially exempt industry under section 3 of this rule.

(b) This section shall be implemented as follows:

(1) The partial exemption for size is based on the number of employees in the entire company.

(2) To determine if an employer is exempt because of size, the employer needs to determine the company's peak employment during the last calendar year. If the employer had no more than ten (10) employees at any time in the last calendar year, then the company qualifies for the partial exemption for size.

(Department of Labor; 610 IAC 4-6-2; filed Sep 26, 2002, 11:22 a.m.: 26 IR 354)

610 IAC 4-6-3 Partial exemption for establishments in certain industries

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 3. (a) Basic requirements for partial exemptions for establishments in certain industries are as follows:

(1) If a private-sector employer's business establishment is classified in a specific low hazard retail, service, finance, insurance, or real estate industry, as described in subsection (b), that employer does not need to keep Occupational Safety and Health Administration (OSHA) injury and illness records unless the government asks the employer to keep the records under section 24 or 25 of this rule.

(2) Private-sector employers with the following Standard Industrial Classification (SIC) codes do not need to keep OSHA injury and illness records unless the government asks the employer to keep the records under section 24 or 25 of this rule:

(A) 525x Hardware Stores.
(B) 542x Meat and Fish Markets.
(C) 544x Candy, Nut, and Confectionary Stores.
(D) 545x Dairy Products Stores.
(E) 546x Retail Bakeries.
(F) 549x Miscellaneous Food Stores.
(G) 551x New and Used Car Dealers.
(H) 552x Used Car Dealers.
(I) 554x Gasoline Service Stations.
(J) 557x Motorcycle Dealers.
(K) 56xx Apparel and Accessory Stores.
(L) 573x Radio, Television, and Computer Stores.
(M) 58xx Eating and Drinking Places.

(N) 591x Drug Stores and Proprietary Stores.
(O) 592x Liquor Stores.
(P) 594x Miscellaneous Shopping Goods Stores.
(Q) 599x Retail Stores Not Elsewhere Classified.
(R) 60xx Depository Institutions, Banks, and Savings Institutions.
(S) 61xx Nondepository Institutions.
(T) 62xx Security and Commodity Brokers.
(U) 63xx Insurance Carriers.
(V) 64xx Insurance Agents, Brokers, and Services.
(W) 653x Real Estate Agents and Managers.
(X) 654x Title Abstract Offices.
(Y) 67xx Holding and Other Investment Offices.
(Z) 722x Photographic Studios, Portrait.
(AA) 723x Beauty Shops.
(BB) 724x Barber Shops.
(CC) 725x Shoe Repair and Shoeshine Parlors.
(DD) 726x Funeral Service and Crematories.
(EE) 729x Miscellaneous Personal Services.
(FF) 731x Advertising Services.
(GG) 732x Credit Reporting and Collection Services.
(HH) 733x Mailing, Reproduction, and Stenographic Services.
(II) 737x Computer and Data Processing Services.
(JJ) 738x Miscellaneous Business Services.
(KK) 764x Reupholstery and Furniture Repair.
(LL) 78xx Motion Picture.
(MM) 791x Dance Studios, Schools, and Halls.
(NN) 792x Producers, Orchestras, Entertainers.
(OO) 793x Bowling Centers.
(PP) 801x Offices and Clinics of Medical Doctors.
(QQ) 802x Offices and Clinics of Dentists.
(RR) 803x Offices of Osteopathic Physicians.
(SS) 804x Offices of Other Health Practitioners.
(TT) 807x Medical and Dental Laboratories.
(UU) 809x Health and Allied Services Not Elsewhere Classified.
(VV) 81xx Legal Services.
(WW) 82xx Educational Services, Schools, Colleges, Universities, and Libraries.
(XX) 832x Individual and Family Services.
(YY) 835x Child Day Care Services.
(ZZ) 839x Social Services Not Elsewhere Classified.
(AAA) 841x Museums and Art Galleries.
(BBB) 86xx Membership Organizations.
(CCC) 87xx Engineering, Accounting, Research, Management, and Related Services.
(DDD) 899x Services Not Elsewhere Classified.

However, all employers must report to the Indiana occupational safety and health administration any workplace incident that results in a fatality or the hospitalization of employees as required by section 23 of this rule.

(3) If one (1) or more of an employer's establishments are classified in a nonexempt industry, that employer must keep OSHA injury and illness records for all of such establishments unless the employer is partially exempted because of size under section 2 of this rule.

(b) Implementation for partial exemption for establishments in certain industries shall be as follows:

(1) The partial industry classification exemption applies only to business establishments in the retail, services, finance, insurance, or real estate industries (SICs 52xx-89xx). Business establishments classified in the:

(A) agriculture;
(B) mining;
(C) construction;
(D) manufacturing;
(E) transportation;
(F) communication;
(G) electric, gas, and sanitary services; or
(H) wholesale trade;

are not eligible for the partial industry classification exemption.

(2) The partial industry classification exemption applies to individual business establishments. If an employer has several business establishments engaged in different classes of business activities, some of the employer's establishments may be required to keep records, while others may be exempt.

(3) Employers determine their SIC code by using the Standard Industrial Classification Manual, Executive Office of the President, Office of Management and Budget. Employers may contact the Indiana occupational safety and health administration office for help in determining the SIC.

(Department of Labor; 610 IAC 4-6-3; filed Sep 26, 2002, 11:22 a.m.: 26 IR 354)

610 IAC 4-6-4 Keeping records for more than one agency

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 4. (a) If an employer creates records to comply with another government agency's injury and illness record keeping requirements, the Indiana occupational safety and health administration (IOSHA) will consider those records as meeting the record keeping requirements in this rule if the federal Occupational Safety and Health Administration (OSHA) accepts the other agency's records under a memorandum of understanding with that agency, or if the other agency's records contain the same information that this rule requires the employer to record. Employers may contact IOSHA for help in determining whether the records kept meet IOSHA's requirements.

(b) All employers, including those partially exempted by reason of company size or industry classification, must report to IOSHA any workplace incident that results in a fatality or the hospitalization of employees as required by section 23 of this rule. *(Department of Labor; 610 IAC 4-6-4; filed Sep 26, 2002, 11:22 a.m.: 26 IR 355)*

610 IAC 4-6-5 Recording criteria

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 5. (a) Each employer required by this rule to keep records of fatalities, injuries, and illnesses must record each fatality, injury, and illness that:

(1) is work related;
(2) is a new case; and
(3) meets one (1) or more of the general recording criteria listed in section 8 of this rule or the application to specific cases of sections 9 through 13 of this rule.

(b) The following sections of this rule address each topic:

(1) Section 6 of this rule addresses the determination of work relatedness.
(2) Section 7 of this rule addresses the determination of a new case.
(3) Section 8 of this rule addresses general recording criteria.
(4) Sections 9 through 13 of this rule address additional criteria for cases including:
(A) needlestick and sharps injury cases;
(B) tuberculosis cases;
(C) hearing loss cases;

(D) medical removal cases; and
(E) musculoskeletal disorder cases.

(c) If no employee has experienced an injury or illness, no record is required. If an employee has experienced an injury or an illness, but the injury or illness is not work related, then the employer is not required to record the injury or illness. If an employee has experienced a work related injury or illness, and the injury or illness is not a new case, the employer is required to update the previously recorded injury or illness entry if necessary. If an employee experiences a work related injury or illness and the injury or illness is a new case, the employer should consult section 8 of this rule and determine if general recording criteria are met. If so, the employer is required to record the injury or illness. *(Department of Labor; 610 IAC 4-6-5; filed Sep 26, 2002, 11:22 a.m.: 26 IR 355)*

610 IAC 4-6-6 Determination of work relatedness
Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 6. (a) Basic requirements for determining work relatedness are that employers 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 preexisting injury or illness. Work relatedness is presumed for injuries and illnesses resulting from events or exposures occurring in the work environment, unless an exception in subsection (b)(2) specifically applies.

(b) Implementation of this section is as follows:
(1) The work environment is defined as the establishment and other locations where one (1) or more employees are working or are present as a condition of their employment. The work environment includes not only physical locations, but also the equipment or materials used by the employee during the course of his or her work.
(2) An injury or illness occurring in the work environment that falls under one (1) of the following exceptions is not work related, and therefore is not recordable:
(A) 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.
(B) The injury or illness involves signs or symptoms that surface at work but result solely from a nonwork related event or exposure that occurs outside the work environment.
(C) 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.
(D) 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). For example, if the employee is injured by choking on a sandwich while in the employer's establishment, the case would not be considered work related. However, if the employee is made ill by ingesting food that has been contaminated by workplace contaminants (such as lead), or gets food poisoning from food supplied by the employer, the case is considered work related.
(E) 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.
(F) The injury or illness is solely the result of personal grooming, self medication for a nonwork related condition, or is intentionally self-inflicted.
(G) 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.
(H) The illness is the common cold or flu. However, contagious diseases such as tuberculosis, brucellosis, hepatitis A, or plague are considered work related if the employee is infected at work.
(I) 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 (including psychiatrist, psychologist, psychiatric

nurse) stating that the employee has a mental illness that is work related.

(3) If it is not obvious whether the precipitating event or exposure occurred in the work environment or occurred away from work, the employer must evaluate the employee's work duties and environment to decide whether or not one (1) or more events or exposures in the work environment either caused or contributed to the resulting condition or significantly aggravated a preexisting condition.

(4) A preexisting injury or illness has been significantly aggravated, for purposes of Occupational Safety and Health Administration (OSHA) injury and illness record keeping, when an event or exposure in the work environment results in any of the following:

(A) Death, provided that the preexisting injury or illness would likely not have resulted in death but for the occupational event or exposure.

(B) Loss of consciousness, provided that the preexisting injury or illness would likely not have resulted in loss of consciousness but for the occupational event or exposure.

(C) One (1) or more days away from work, days of restricted work, or days of job transfer that otherwise would not have occurred but for the occupational event or exposure.

(D) Medical treatment in a case where no medical treatment was needed for the injury or illness before the workplace event or exposure, or a change in medical treatment was necessitated by the workplace event or exposure.

(5) An injury or illness is a preexisting condition if it resulted solely from a nonwork related event or exposure that occurred outside the work environment.

(6) Injuries and illnesses that occur while an employee is on travel status are work related if, at the time of the injury or illness, the employee was engaged in work activities in the interest of the employer. Examples of such activities include travel to and from customer contacts, conducting job tasks, and entertaining or being entertained to transact, discuss, or promote business (work related entertainment includes only entertainment activities being engaged in at the direction of the employer). Injuries or illnesses that occur when the employee is on travel status do not have to be recorded if they meet one (1) of the following exceptions:

(A) If the employee while traveling has taken up temporary residence, for example, in a hotel, motel, inn, or other paid lodging, for one (1) or more days, the employer must evaluate the employee's activities in the same manner as the employer must evaluate the activities of a nontraveling employee. When the employee checks into the temporary residence, the employee has left the work environment. When the employee begins work each day, the employee reenters the work environment. The employer does not need to consider injuries or illnesses work related if they occur while the employee is commuting between the temporary residence and the job location.

(B) If the employee has taken a detour for personal reasons. Injuries or illnesses are not considered work related if they occur while the employee is on a personal detour from a reasonably direct route of travel.

(7) Injuries and illnesses that occur while an employee is working at home, including work in a home office, will be considered work related if the injury or illness occurs while the employee is performing work for pay or compensation in the home, and the injury or illness is directly related to the performance of work rather than to the general home environment or setting. For example, if an employee:

(A) drops a box of work documents and injures his or her foot, the case is considered work related;

(B) has a fingernail that is punctured by a needle from a sewing machine used to perform garment work at home, becomes infected and requires medical treatment, the injury is considered work related;

(C) is injured because he or she trips on the family dog while rushing to answer a work phone call, the case is not considered work related; or

(D) is working at home and is electrocuted because of faulty home wiring, the injury is not considered work related.

(Department of Labor; 610 IAC 4-6-6; filed Sep 26, 2002, 11:22 a.m.: 26 IR 356)

610 IAC 4-6-7 Determination of new cases

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 7. (a) Employers must consider an injury or illness to be a new case if either of the following occur:

(1) The employee has not previously experienced a recorded injury or illness of the same type that affects the same part of the body.
(2) 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 sign or symptoms to reappear.

(b) Implementation for determination of new cases is as follows:
(1) For occupational illnesses where the signs or symptoms may recur or continue in the absence of an exposure in the workplace, the case must only be recorded once. Examples may include occupational cancer, asbestosis, byssinosis, and silicosis.
(2) When an episode or recurrence was caused by an event or exposure in the workplace, the incident must be treated as a new case.
(3) Employers are not required to seek the advice of a physician or other licensed health care professional. However, if an employer does seek such advice, the employer must follow the physician or other licensed health care professional's recommendation about whether the case is a new case or a recurrence. If the employer receives recommendations from two (2) or more physicians or other licensed health care professionals, the employer must decide which recommendation is the most authoritative (best documented, best reasoned, or most authoritative), and record the case based upon that recommendation.
(Department of Labor; 610 IAC 4-6-7; filed Sep 26, 2002, 11:22 a.m.: 26 IR 357)

610 IAC 4-6-8 General recording criteria
Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 8. (a) Employers 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:
(1) Death.
(2) Days away from work.
(3) Restricted work or transfer to another job.
(4) Medical treatment beyond first aid.
(5) Loss of consciousness.
Employers 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.

(b) Implementation for general recording criteria is as follows:
(1) A work related injury or illness must be recorded if it results in one (1) or more of the following:
(A) Death, see subdivision (2).
(B) Days away from work, see subdivision (3).
(C) Restricted work or transfer to another job, see subdivision (4).
(D) Medical treatment beyond first aid, see subdivision (5).
(E) Loss of consciousness, see subdivision (6).
(F) A significant injury or illness diagnosed by a physician or other licensed health care professional, see subdivision (7).
(2) Employers must record an injury or illness that results in death by entering a check mark on the Occupational Safety and Health Administration (OSHA) 300 Log in the space for cases resulting in death. Employers must also report any work related fatality to the Indiana occupational safety and health administration as required by section 23 of this rule.
(3) When an injury or illness involves one (1) or more days away from work, you must record the injury or illness on the OSHA 300 Log with a check mark in the space for cases involving days away and an entry of the number of calendar days away from work in the number of days column. If the employee is out for

an extended period of time, the employer must enter an estimate of the days that the employee will be away and update the day count when the actual number of days is known. Requirements for counting days shall be as follows:

(A) Employers must begin counting days away on the day after the injury occurred or the illness began.

(B) Employers must record these injuries and illnesses on the OSHA 300 Log using the check box for cases with days away from work and enter the number of calendar days away recommended by the physician or other licensed health care professional. If a physician or other licensed health care professional recommends days away, the employer should encourage his or her employee to follow that recommendation. However, the days away must be recorded whether the injured or ill employee follows the physician or licensed health care professional's recommendation or not. If the employer receives recommendations from two (2) or more physicians or other licensed health care professionals, the employer may decide which recommendation is the most authoritative and record the case based upon that recommendation.

(C) When a physician or other licensed heath care professional recommends that the worker return to work but the employee stays at home, the employer must end the count of days away from work on the date the physician or other licensed health care professional recommends that the employee return to work.

(D) The employer must count the number of calendar days the employee was unable to work as a result of the injury or illness, regardless or whether or not the employee was scheduled to work on those days. Weekend days, holidays, vacation days, or other days off are included in the total number of days recorded if the employee would not have been able to work on those days because of a work related injury or illness.

(E) In cases in which a worker is injured or becomes ill on a Friday and reports to work on a Monday, and was not scheduled to work on the weekend, the employer must record this case only if the employer receives information from a physician or other licensed health care professional indicating that the employee should not have worked, or should have performed only restricted work, during the weekend. If so, the employer must record the injury or illness as a case with days away from work or restricted work and enter the day counts, as appropriate.

(F) In cases in which a worker is injured or becomes ill on the days before scheduled time off such as a holiday, a planned vacation, or a temporary plant closing, the employer must record a case of this type only if the employer receives information from a physician or other licensed health care professional indicating that the employee should not have worked, or should have performed only restricted work, during the scheduled time off. If so, the employer must record the injury or illness as a case with days away from work or restricted work and enter the day counts, as appropriate.

(G) The employer may "cap" the total days away at one hundred eighty (180) calendar days. The employer is not required to keep track of the number of calendar days away from work if the injury or illness resulted in more than one hundred eighty (180) calendar days away from work or days of job transfer or restriction. In such a case, entering one hundred eighty (180) in the total days away column will be considered adequate.

(H) If the employee leaves the employer's company for some reason unrelated to the injury or illness, such as retirement, a plant closing, or to take another job, the employer may stop counting days away from work or days of restriction/job transfer. If the employee leaves the employer's company because of the injury or illness, the employer must estimate the total number of days away or days of restriction/job transfer and enter the day count on the OSHA 300 Log.

(I) If a case occurs in one (1) year but results in days away during the next calendar year, the employer must only record the injury or illness once. The employer must enter the number of calendar days away for the injury or illness on the OSHA 300 Log for the year in which the injury or illness occurred. If the employee is still away from work because of the injury or illness when the employer prepares the annual summary, the employer shall estimate the total number of calendar days the employer expects the employee to be away from work, use this number to calculate the total for the annual summary, and then update the initial log entry later when the day count is known or reaches the one hundred eighty (180) day cap.

(4) When an injury or illness involves restricted work or job transfer but does not involve death or days way from work, the employer must record the injury or illness on the OSHA 300 Log by placing a check mark in the space for job transfer or restriction and an entry of the number of restricted or transferred days in the restricted workdays column, based upon the following:

(A) Restricted work occurs when, as the result of a work related injury or illness:

(i) the employer keeps the employee from performing one (1) or more of the routine functions of his or her job, or from working the full workday that he or she would otherwise have been scheduled to work; or

(ii) a physician or other licensed health care professional recommends that the employee not perform one (1) or more of the routine functions of his or her job, or not work the full workday that he or she would otherwise have been scheduled to work.

(B) For record keeping purposes, an employee's routine functions are those work activities the employee regularly performs at least once per week.

(C) Employers do not have to record restricted work or job transfers if the employer, or the physician or other licensed health care professional, imposes the restriction or transfer only for the day on which the injury occurred or the illness began.

(D) A recommended work restriction is recordable only if it affects one (1) or more of the employee's routine job functions. To determine whether this is the case, the employer must evaluate the restriction in light of the routine functions of the injured or ill employee's job. If the restriction from the employer or the physician or other licensed health care professional keeps the employee from:

(i) performing one (1) or more of his or her routine job functions; or

(ii) working the full workday that the injured or ill employee would otherwise have worked;

the employee's work has been restricted and the employer must record the case.

(E) A partial day of work is recorded as a day of job transfer or restriction for record keeping purposes, except for the day on which the injury occurred or the illness began.

(F) If the injured or ill worker produces fewer goods or services than he or she would have produced prior to the injury or illness, but otherwise performs all of the routine functions of his or her work, then the case is considered restricted work only if the worker does not work the full shift that he or she would otherwise have worked.

(G) If the employer is not clear about the physician or other licensed health care professional's recommendation, the employer may ask that person whether the employee can do all of his or her routine job functions and work all of his or her normally assigned work shift. If the answer to both of these questions is "Yes", then the case does not involve a work restriction and does not have to be recorded as such. If the answer to one (1) or both of these questions is "No", the case involves restricted work and must be recorded as a restricted work case. If the employer is unable to obtain the additional information from the physician or other licensed health care professional who recommended the restriction, the employer must record the injury or illness as a case involving restricted work.

(H) If a physician or other licensed health care professional recommends a job restriction meeting IOSHA's definition, but the employee does all of his or her routine job functions anyway, the employer must record the injury or illness on the OSHA 300 Log as a restricted work case. If a physician or other licensed health care professional recommends a job restriction, the employer should ensure that the employee complies with that restriction. If the employer receives recommendations from two (2) or more physicians or other licensed health care professionals, the employer may decide which recommendation is the most authoritative and record the case based upon that recommendation.

(I) If the employer assigns an injured or ill employee to a job other than his or her regular job for part of the day, the case involves transfer to another job. This does not include the day on which the injury or illness occurred.

(J) Both job transfer and restricted work cases are recorded in the same box on the OSHA 300 Log. For example, if the employer assigns, or a physician or other licensed health care professional recommends that the employer assign an injured or ill worker to his of her routine job duties for part of the day and to another job for the rest of the day, the injury or illness involves a job transfer. Employers must record an injury or illness that involves a job transfer by placing a check in the box for job transfer.

(K) The employer must count days of job transfer or restriction in the same way the employer counts days away from work, using subdivision (3)(A) through (3)(H), above. The only difference is that, if the employer permanently assigns the injured or ill employee to a job that has been modified or permanently changed in a manner that eliminates the routine functions the employee was restricted from performing, the employer may stop the day count when the modification is made permanent. The employer must count at least one (1) day of restricted work or job transfer for such cases.

(5) If a work related injury or illness results in medical treatment beyond first aid, the employer must record it on the OSHA 300 Log. If the injury or illness did not involve death, one (1) or more days away from work, one (1) or more days of restricted work, or one (1) or more days of job transfer, the employer shall enter a check mark in the box for cases where the employee received medical treatment but remained at work and was not transferred or restricted, based upon the following:

(A) As used in this rule, "medical treatment" means the management and care of a patient to combat disease or disorder. For purposes of this rule, the term does not include any of the following:

(i) Visits to a physician or other licensed health care professional solely for observation or counseling.

(ii) The conduct of diagnostic procedures, such as x-rays and blood tests, including the administration of prescription medications used solely for diagnostic purposes, for example, eye drops to dilate pupils.

(iii) "First aid" as defined in clause (B) below.

(B) As used in this rule, "first aid" means the following:

(i) Using a nonprescription medication at nonprescription strength (for medications available in both prescription and nonprescription form, a recommendation by a physician or other licensed health care professional to use a nonprescription medication at prescription strength is considered medical treatment for record keeping purposes).

(ii) Administering tetanus immunizations (other immunizations, such as hepatitis B vaccine or rabies vaccine, are considered medical treatment).

(iii) Cleaning, flushing, or soaking wounds on the surface of the skin.

(iv) Using wound coverings, such as bandages, Band-Aids™, or gauze pads, or using butterfly bandages or Steri-Strips™ (other wound closing devices, such as sutures or staples, are considered medical treatment).

(v) Using hot or cold therapy.

(vi) Using any nonrigid means of support, such as elastic bandages, wraps, nonrigid back belts (devices with rigid stays or other systems designed to immobilize parts of the body are considered medical treatment for record keeping purposes).

(vii) Using temporary immobilization devices while transporting an accident victim, for example, splints, slings, neck collars, or backboards.

(viii) Drilling of a fingernail or toenail to relieve pressure, or draining fluid from a blister.

(ix) Using eye patches.

(x) Removing foreign bodies from the eye using only irrigation or a cotton swab.

(xi) Removing splinters or foreign material from areas other than the eye by irrigation, tweezers, cotton swabs, or other simple means.

(xii) Using finger guards.

(xiii) Using massages (physical therapy or chiropractic treatment are considered medical treatment for record keeping purposes).

(xiv) Drinking fluids for relief of heat stress.

(C) Clause (B) contains a complete list of all treatments considered first aid for purposes of this rule.

(D) IOSHA considers the treatments listed in clause (B) to be first aid regardless of the professional status of the person providing the treatment. Even when these treatments are provided by a physician or other licensed health care professional, they are considered first aid for the purposes of this rule. Similarly, IOSHA considers treatment beyond first aid to be medical treatment even when it is provided by someone other than a physician or other licensed health care professional.

(E) If a physician or other licensed health care professional recommends medical treatment, the employer should encourage the injured or ill employee to follow that recommendation. However, the employer must record the case even if the injured or ill employee does not follow the physician or other licensed health care professional's recommendation.

(6) Employers must record a work related injury or illness if the worker becomes unconscious, regardless of the length of time the employee remains unconscious.

(7) Work related cases involving cancer, chronic irreversible disease, a fractured or cracked bone, or a punctured eardrum must always be recorded under the general criteria at the time of diagnosis by a physician or other licensed health care professional. These are "significant" diagnosed injuries or illnesses that are recordable even if they do not result in death, days away from work, restricted work or job transfer, medical treatment beyond first aid, or loss of consciousness.

(Department of Labor; 610 IAC 4-6-8; filed Sep 26, 2002, 11:22 a.m.: 26 IR 357)

610 IAC 4-6-9 Recording criteria for needlestick and sharps injuries

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 9. (a) The employer must record all work related needlestick injuries and cuts from sharp objects that are contaminated with another person's blood or other potentially infectious material (as defined by 29 CFR 1910.1030(b)). The employer must enter the case on the Occupational Safety and Health Administration (OSHA) 300 Log as an injury. To protect the employee's privacy, the employer may not enter the employee's name on the OSHA 300 Log (see the requirements for privacy cases in section 14 of this rule).

(b) Implementation of needlestick and sharps injuries recording is as follows:

(1) As used in this rule, "other potentially infectious materials" has the meaning as set forth in the OSHA Bloodborne Pathogens standard at 29 CFR 1910.1030(b), including the following:

(A) Human bodily fluids, tissues, and organs.

(B) Other materials infected with the HIV or hepatitis B (HBV) virus, such as laboratory cultures or tissues from experimental animals.

(2) The employer must record cuts, lacerations, punctures, and scratches only if they are work related and involve contamination with another person's blood or other potentially infectious material. If the cut, laceration, or scratch involves a clean object, or a contaminant other than blood or other potentially infectious material, the employer must record the case only if it meets one (1) or more of the recording criteria in section 8 of this rule.

(3) If an employer records an injury and the employee is later diagnosed with an infectious bloodborne disease, then the employer must update the classification of the case on the OSHA 300 Log if the case results in death, days away from work, restricted work, or job transfer. The employer must also update the description to identify the infectious disease and change the classification of the case from an injury to an illness.

(4) If one (1) of an employer's employees is splashed or exposed to blood or other potentially infectious material without being cut or scratched, the employer needs to record such an incident on the OSHA 300 Log as an illness if it:

(A) results in the diagnosis of a bloodborne illness, such as HIV, hepatitis B, or hepatitis C; or

(B) meets one (1) or more of the recording criteria in section 8 of this rule.

(Department of Labor; 610 IAC 4-6-9; filed Sep 26, 2002, 11:22 a.m.: 26 IR 360)

610 IAC 4-6-10 Recording criteria for cases involving medical removal under OSHA standards

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 10. (a) If an employee is medically removed under the medical surveillance requirements of an Occupational Safety and Health Act (OSHA) standard, the employer must record the case on the OSHA 300 Log.

(b) The employer shall record cases involving medical removal as follows:

(1) The employer must enter each medical removal case on the OSHA 300 Log as either a case involving days away from work or a case involving restricted work activity, depending on how the employer decides

to comply with the medical removal requirement. If the medical removal is the result of a chemical exposure, the employer must enter the case on the OSHA 300 Log by checking the "poisoning" column.
(2) Not all of OSHA's standards have medical removal provisions. Some OSHA standards, such as the standards covering bloodborne pathogens and noise, do not have medical removal provisions. Many OSHA standards that cover specific chemical substances have medical removal provisions. These standards include, but are not limited to, lead, cadmium, methylene chloride, formaldehyde, and benzene.
(3) The employer does not need to record the case on the OSHA 300 Log if the case involves voluntary medical removal before the medical removal levels required by an OSHA standard.
(Department of Labor; 610 IAC 4-6-10; filed Sep 26, 2002, 11:22 a.m.: 26 IR 361)

610 IAC 4-6-11 Recording criteria for cases involving occupational hearing loss
Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 11. (a) Beginning on January 1, 2003, if an employee's hearing test (audiogram) reveals that a standard threshold shift (STS) has occurred, the employer must record the case on the Occupational Safety and Health Administration (OSHA) 300 Log by checking the "hearing loss" column.

(b) Beginning on January 1, 2003, implementation of this section shall be as follows:
(1) As used in this rule, "STS" has the meaning as set forth in the occupational noise exposure standard at 29 CFR 1910.95(g)(10)(i) as a change in hearing threshold, relative to the most recent audiogram for that employee, of an average of ten (10) decibels or more at two thousand (2,000), three thousand (3,000), and four thousand (4,000) hertz in one (1) or both ears.
(2) If the employee has never previously experienced a recordable hearing loss, the employer must compare the employee's current audiogram with that employee's baseline audiogram. If the employee has previously experienced a recordable hearing loss, the employer must compare the employee's current audiogram with the employee's revised baseline audiogram (the audiogram reflecting the employee's previous recordable hearing loss case).
(3) When comparing audiogram results, the employer may adjust the results for the employee's age when the audiogram was taken using Table F-1 or F-2, as appropriate, in Appendix F of 29 CFR 1910.95.
(4) If the employer retests the employee's hearing within thirty (30) days of the first test, and the retest does not confirm the STS, the employer is not required to record the hearing loss case on the OSHA 300 Log. If the retest confirms the STS, the employer must record the hearing loss illness within seven (7) calendar days of the retest.
(5) Hearing loss is presumed to be work related if the employee is exposed to noise in the workplace at an eight (8) hour time-weighted average of eighty-five (85) decibels or greater, or to a total noise dose of fifty percent (50%), as defined in 29 CFR 1910.95. For hearing loss cases where the employee is not exposed to this level of noise, the employer must use the criteria in section 6 of this rule to determine if the hearing loss is work related.
(6) If a physician or other licensed health care professional determines that the hearing loss is not work related or has not been significantly aggravated by occupational noise exposure, the employer is not required to consider the case work related or to record the case on the OSHA 300 Log.

(c) Until December 31, 2002, employers are required to record a work related hearing loss averaging twenty-five (25) decibels or more at two thousand (2,000), three thousand (3,000), and four thousand (4,000) hertz in either ear on the OSHA 300 Log. When comparing audiogram results, the employer must use the employee's original baseline audiogram for comparison. The employer may make a correction for presbycusis (aging) by using the tables in Appendix F of 29 CFR 1910.95. *(Department of Labor; 610 IAC 4-6-11; filed Sep 26, 2002, 11:22 a.m.: 26 IR 361)*

610 IAC 4-6-12 Recording criteria for work related tuberculosis cases
Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 12. (a) If any employee has been occupationally exposed to anyone with a known case of active tuberculosis (TB), and that employee subsequently develops a tuberculosis infection, as evidenced by a positive skin test or diagnosis by a physician or other licensed health care professional, the employer must record the case on the Occupational Safety and Health Administration 300 Log by checking the "respiratory condition" column.

(b) Work related tuberculosis cases shall be recorded based on the following:

(1) The employer does not have to record a positive TB skin test result obtained at a preemployment physical because the employee was not occupationally exposed to a known case of active tuberculosis in the workplace.

(2) The employer may line-out or erase from the OSHA 300 Log a recorded TB case not caused by occupational exposure under the following circumstances:

(A) The worker is living in a household with a person who has been diagnosed with active TB.

(B) The public health department has identified the worker as a contact of an individual with a case of active TB unrelated to the workplace.

(C) A medical investigation shows that the employee's infection was caused by exposure to TB away from work or proves that the case was not related to the workplace TB exposure.

(Department of Labor; 610 IAC 4-6-12; filed Sep 26, 2002, 11:22 a.m.: 26 IR 362)

610 IAC 4-6-13 Recording criteria for cases involving work related musculoskeletal disorders

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 13. (a) Beginning January 1, 2003, if any employee experiences a recordable work related musculoskeletal disorder (MSD), the employer must record it on the Occupational Safety and Health Administration (OSHA) 300 Log by checking the "musculoskeletal disorder" column.

(b) Beginning January 1, 2003, cases involving musculoskeletal disorders shall be recorded based on the following:

(1) MSDs are disorders of the muscles, nerves, tendons, ligaments, joints, cartilage, and spinal discs. MSDs do not include disorders caused by slips, trips, falls, motor vehicle accidents, or other similar accidents. Examples of MSDs include the following:

(A) Carpal tunnel syndrome.
(B) Rotator cuff syndrome.
(C) De Quervain's disease.
(D) Trigger finger.
(E) Tarsal tunnel syndrome.
(F) Sciatica.
(G) Epicondylitis.
(H) Tendinitis.
(I) Raynaud's phenomenon.
(J) Carpet layers knee.
(K) Herniated spinal disc.
(L) Low back pain.

(2) There are no special criteria for determining which musculoskeletal disorders to record. An MSD case is recorded using the same process the employer would use for any other injury or illness. If a musculoskeletal disorder is work related, and is a new case, and meets one (1) or more of the general recording criteria, the employer must record the musculoskeletal disorder as follows:

(A) Use section 6 of this rule to determine if the MSD is work related.
(B) Use section 7 of this rule to determine if the MSD is a new case.
(C) Use the following to determine if the MSD meets one (1) or more of the general recording criteria:
(i) Section 8(b)(3) of this rule for cases involving days away from work.
(ii) Section 8(b)(4) of this rule for cases involving restricted work or transfer to another job.

(iii) Section 8(b)(5) of this rule for cases involving medical treatment beyond first aid.

(3) The symptoms of an MSD are treated the same as symptoms for any other injury or illness. If an employee has pain, tingling, burning, numbness, or any other subjective symptom of an MSD, and the symptoms are work related, and the case is a new case that meets the recording criteria, the employer must record the case on the OSHA 300 Log as a musculoskeletal disorder.

(c) Until December 31, 2002, the employer is required to record work related injuries and illnesses involving the following:

(1) Muscles.
(2) Nerves.
(3) Tendons.
(4) Ligaments.
(5) Joints.
(6) Cartilage.
(7) Spinal discs.

The employer must record work related injuries and illnesses involving the items contained in this subsection in accordance with the requirements contained in sections 6, 7, and 14 of this rule. For entry (M) on the OSHA 300 Log, the employer must check either the entry for injury or "all other illnesses". *(Department of Labor; 610 IAC 4-6-13; filed Sep 26, 2002, 11:22 a.m.: 26 IR 362)*

610 IAC 4-6-14 Forms

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 14. (a) Employers must use Occupational Safety and Health Administration (OSHA) 300, 300-A, and 301 forms, or equivalent forms, for recordable injuries and illnesses. The OSHA 300 form is called the Log of Work Related Injuries and Illnesses, the 300-A is the Summary of Work Related Injuries and Illnesses, and the OSHA 301 form is called the Injury and Illness Incident Report.

(b) Employers shall use the forms based on the following:

(1) To complete the OSHA 300 Log, the employer must enter information about the employer's business at the top of the OSHA 300 Log, enter a one (1) or two (2) line description for each recordable injury or illness, and summarize this information on the OSHA 300-A at the end of the year.
(2) The employer must complete an OSHA 301 Incident Report form, or an equivalent form, for each recordable injury or illness entered on the OSHA 300 Log.
(3) The employer must enter each recordable injury or illness on the OSHA 300 Log and 301 Incident Report within seven (7) calendar days of receiving information that a recordable injury or illness has occurred.
(4) An equivalent form is one that has the same information, is as readable and understandable, and is completed using the same instructions as the OSHA form it replaces. Many employers use an insurance form instead of the OSHA 301 Incident Report, or supplement an insurance form by adding any additional information required by OSHA.
(5) Records may be kept by computer, provided the computer can produce equivalent forms when they are needed, as described under sections 20 and 24 of this rule.
(6) There are situations where employers do not put the employee's name on the forms for privacy reasons. If an employer has a privacy concern case, the employer may not enter the employee's name on the OSHA 300 Log. Instead, the employer must enter "privacy case" in the space normally used for the employee's name. This will protect the privacy of the injured or ill employee when another employee, a former employee, or an authorized employee representative is provided access to the OSHA 300 Log under section 20(b)(2) of this rule. The employer must keep a separate, confidential list of the case numbers and employee names for the employer's privacy concern cases so the employer can update the cases and provide the information to the government if asked to do so.
(7) The employer must consider the following injuries or illnesses to be privacy concern cases:

(A) An injury or illness to an intimate body part or the reproductive system.
(B) An injury or illness resulting from a sexual assault.
(C) Mental illnesses.
(D) HIV infection, hepatitis, or tuberculosis.
(E) Needlestick injuries and cuts from sharp objects that are contaminated with another person's blood or other potentially infectious material (see section 9 of this rule for definitions).
(F) Other illnesses, if the employee independently and voluntarily requests that his or her name not be entered on the log.
(G) Beginning January 1, 2003, musculoskeletal disorders are not considered privacy concern cases.
(H) This subdivision is a complete list of all injuries and illnesses considered privacy concern cases for purposes of this rule.

(8) If an employer has a reasonable basis to believe that information describing the privacy concern case may be personally identifiable even though the employee's name has been omitted, the employer may use discretion in describing the injury or illness on both the OSHA 300 and 301 forms. The employer must enter enough information to identify the cause of the incident and the general severity of the injury or illness, but the employer does not need to include details of an intimate or private nature. For example, a sexual assault case could be described as injury from assault, or an injury to a reproductive organ could be described as lower abdominal injury.

(9) If an employer decides to voluntarily disclose the Forms 300 and 301 to persons other than government representatives, employees, former employees, or authorized representatives (as required by sections 20 and 24 of this rule), the employer must remove or hide the employees' names and other personally identifying information, except for the following cases. The employer may disclose the forms with personally identifying information only to:

(A) an auditor or consultant hired by the employer to evaluate the safety and health program;
(B) the extent necessary for processing a claim for workers' compensation or other insurance benefits; and
(C) a public health authority or law enforcement agency for uses and disclosures for which consent, authorization, or opportunity to agree or object is not required under Department of Health and Human Services Standards for Privacy of Individually Identifiable Health Information, 45 CFR 164.512.

(Department of Labor; 610 IAC 4-6-14; filed Sep 26, 2002, 11:22 a.m.: 26 IR 363)

610 IAC 4-6-15 Multiple business establishments

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 15. (a) Employers must keep a separate Occupational Safety and Health Administration (OSHA) 300 Log for each establishment that is expected to be in operation for one (1) year or longer.

(b) Implementation of the record keeping requirements for multiple business establishments is as follows:

(1) Employers must keep OSHA injury and illness records for short term establishments, that is, establishments that will exist for less than one (1) year. However, the employer does not have to keep a separate OSHA 300 Log for each such establishment. The employer may keep one (1) OSHA 300 Log that covers all of the employer's short term establishments. The employer may also include the short term establishments' recordable injuries and illnesses on an OSHA 300 Log that covers short term establishments for individual company divisions or geographic regions.

(2) The employer may keep the records for an establishment at a headquarters or other central location if the employer can:

(A) transmit information about the injuries and illnesses from the establishment to the central location within seven (7) calendar days of receiving information that a recordable injury or illness has occurred; and
(B) produce and send the records from the central location to the establishment within the time frames required by sections 20 and 24 of this rule when the employer is required to provide records to a government representative, employees, former employees, or employee representatives.

(3) When recording cases for employees who work at several different locations or who do not work at any of

an employer's establishments at all, the employer must link each of its employees with one (1) of its establishments for record keeping purposes. The employer must record the injury and illness on the OSHA 300 Log of the injured or ill employee's establishment, or on an OSHA 300 Log that covers that employee's short term establishment.

(4) The following governs recording an injury or illness when an employee of one (1) of the employer's establishments is injured or becomes ill while visiting or working at another of the employer's establishments, or while working away from any of the employer's establishments:

(A) If the injury or illness occurs at one (1) of the employer's establishments, the employer must record the injury or illness on the OSHA 300 Log of the establishment at which the injury or illness occurred.

(B) If the employee is injured or becomes ill and is not at one (1) of the employer's establishments, the employer must record the case on the OSHA 300 Log at the establishment at which the employee normally works.

(Department of Labor; 610 IAC 4-6-15; filed Sep 26, 2002, 11:22 a.m.: 26 IR 364)

610 IAC 4-6-16 Covered employees

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 16. (a) The employer must record on the Occupational Safety and Health Administration (OSHA) 300 Log the recordable injuries and illnesses of all employees on the employer's payroll, whether they are labor, executive, hourly, salary, part-time, seasonal, or migrant workers. The employer must also record the recordable injuries and illnesses that occur to employees who are not on the employer's payroll if the employer supervises these employees on a day-to-day basis. If the employer's business is organized as a sole proprietorship or partnership, the owner or partners are not considered employees for record keeping purposes.

(b) Employee coverage is based on the following:

(1) If a self-employed person is injured or becomes ill while doing work at an employer's business, the employer does not need to record the injury or illness. Self-employed individuals are not covered by the Indiana occupational safety and health act (IOSHA) or this rule.

(2) The employer must record the injuries and illnesses of employees obtained from a temporary help service, leasing service, or supply service, if the employer supervises these employees on a day-to-day basis.

(3) When an injury or illness occurs to a contractor's employee at the employer's establishment, recording is governed by the following:

(A) If the contractor's employee is under the day-to-day supervision of the contractor, the contractor is responsible for recording the injury or illness.

(B) If another employer supervises the contractor employee's work on a day-to-day basis, the supervising employer must record the injury or illness.

(4) The personnel supply service, temporary help service, employee leasing service, or contractor need not also record the injuries or illnesses occurring to temporary, leased, or contract employees that another employer supervises on a day-to-day basis. The employer and the temporary help service, employee leasing service, personnel supply service, or contractor should coordinate their efforts to make sure that each injury and illness is recorded only once, either on the employer's OSHA 300 Log (if the employer provides day-to-day supervision) or on the other employer's OSHA 300 Log (if that company provides day-to-day supervision).

(Department of Labor; 610 IAC 4-6-16; filed Sep 26, 2002, 11:22 a.m.: 26 IR 364)

610 IAC 4-6-17 Annual summary

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 17. (a) At the end of each calendar year, the employer must do the following:

(1) Review the Occupational Safety and Health Administration (OSHA) 300 Log to verify that the entries

are complete and accurate and make corrections to any deficiencies identified.
(2) Create an annual summary of injuries and illnesses recorded on the OSHA 300 Log.
(3) Certify the summary.
(4) Post the annual summary.

(b) Implementation of the annual summary requirements is as follows:
(1) The employer must review the OSHA 300 Log entries at the end of the year as extensively as necessary to make sure that they are complete and correct.
(2) To complete the annual summary, employers must do the following:
(A) Total the columns on the OSHA 300 Log (if the employer had no recordable cases, enter zeros for each column total).
(B) Enter the following:
(i) The calendar year covered.
(ii) The company's name.
(iii) The establishment name.
(iv) The establishment address.
(v) The annual average number of employees covered by the OSHA 300 Log.
(vi) The total hours worked by all employees covered by the OSHA 300 Log.
(C) If the employer is using an equivalent form other than the OSHA 300-A summary form, as permitted under section 7(b)(4) of this rule, the summary used must also include the employee access and employer penalty statements found on the OSHA 300-A Summary form.
(3) A company executive must certify that he or she has examined the OSHA 300 Log and that he or she reasonably believes, based on his or her knowledge of the process by which the information was recorded, that the annual summary is correct and complete.
(4) The company executive who certifies the log must be one (1) of the following persons:
(A) An owner of the company (only if the company is a sole proprietorship or partnership).
(B) An officer of the corporation.
(C) The highest ranking company official working at the establishment.
(D) The immediate supervisor of the highest ranking company official working at the establishment.
(5) The employer must post a copy of the annual summary in each establishment in a conspicuous place or places where notices to employees are customarily posted. The employer must ensure that the posted annual summary is not altered, defaced, or covered by other material.
(6) The employer must post the summary no later than February 1 of the year following the year covered by the records and keep the posting in place until April 30.
(Department of Labor; 610 IAC 4-6-17; filed Sep 26, 2002, 11:22 a.m.: 26 IR 365)

610 IAC 4-6-18 Retention and updating
Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 18. (a) Employers must save each of the following for five (5) years following the end of the calendar year that these records cover:
(1) The Occupational Safety and Health Administration (OSHA) 300 Log.
(2) The privacy case list (if one exists).
(3) The annual summary.
(4) The OSHA 301 Incident Report forms.

(b) The employer shall retain and update records as follows:
(1) During the five (5) year storage period, the employer must update the employer's stored OSHA 300 Logs to include newly discovered recordable injuries or illnesses and to show any changes that have occurred in the classification of previously recorded injuries and illnesses. If the description or outcome of a case changes, the employer must remove or line out the original entry and enter the new information.
(2) The employer is not required to update the annual summary, but may do so.

(3) The employer is not required to update the OSHA 301 Incident Reports, but may do so.
(Department of Labor; 610 IAC 4-6-18; filed Sep 26, 2002, 11:22 a.m.: 26 IR 365)

610 IAC 4-6-19 Change in business ownership
Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 19. If an employer's business changes ownership, that employer is responsible for recording and reporting work related injuries and illnesses only for that period of the year during which that employer owned the establishment. The employer must transfer the records required under this rule to the new owner. The new owner must save all records of the establishment kept by the prior owner, as required by section 18 of this rule, but need not update or correct the records of the prior owner. *(Department of Labor; 610 IAC 4-6-19; filed Sep 26, 2002, 11:22 a.m.: 26 IR 365)*

610 IAC 4-6-20 Employee involvement
Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 20. (a) An employer's employees and their representatives must be involved in the record keeping system in the following ways:
(1) The employer must inform each employee of how he or she is to report an injury or illness to the employer.
(2) The employer must provide limited access to the employer's injury and illness records for the employees and their representatives.

(b) The employer must do the following to make sure that employees report work related injuries and illnesses to the employer:
(1) The employer must set up a way for employees to report work related injuries and illnesses promptly.
(2) The employer must tell each employee how to report work related injuries and illnesses to the employer.

(c) The employer's employees, former employees, their personal representatives, and their authorized employee representatives have the right to access the Occupational Safety and Health Administration (OSHA) injury and illness records, with some limitations, pursuant to the following:
(1) An authorized employee representative is an authorized collective bargaining agent of employees.
(2) A personal representative of an employee or former employee is:
(A) any person that the employee or former employee designates as such, in writing; or
(B) the legal representative of a deceased or legally incapacitated employee or former employee.
(3) When an employee, former employee, personal representative, or authorized employee representative asks for copies of an employer's current or stored OSHA 300 Log for an establishment the employee or former employee has worked in, the employer must give the requester a copy of the relevant OSHA 300 Log by the end of the next business day.
(4) Removing the names of the employees or any other information from the OSHA 300 Log before the employer gives copies to an employee, former employee, or employee representative is prohibited. The employer must leave the names on the 300 Log. However, to protect the privacy of injured and ill employees, the employer may not record the employee's name on the OSHA 300 Log for certain privacy concern cases, as specified in section 14 of this rule.
(5) The employer must provide requested access to the OSHA 301 Incident Report in the following cases:
(A) When an employee, former employee, or personal representative asks for a copy of the OSHA 301 Incident Report describing an injury or illness to that employee or former employee, the employer must give the requester a copy of the OSHA 301 Incident Report containing that information by the end of the next business day.
(B) When an authorized employee representative asks for copies of the OSHA 301 Incident Reports for

an establishment where the agent represents employees under a collective bargaining agreement, the employer must give copies of those forms to the authorized employee representative within seven (7) calendar days. The employer is only required to give the authorized employee representative information from the OSHA 301 Incident Report section titled "Tell us about the case". The employer must remove all other information from the copy of the OSHA 301 Incident Report or the equivalent substitute form that it gives to the authorized employee representative.

(6) Charging for the copies is prohibited. The employer may not charge for these copies the first time they are provided. However, if one (1) of the designated persons asks for additional copies, the employer may assess a reasonable charge for retrieving and copying the records.

(Department of Labor; 610 IAC 4-6-20; filed Sep 26, 2002, 11:22 a.m.: 26 IR 366)

610 IAC 4-6-21 Prohibition against discrimination

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-38.1

Sec. 21. Section 11(c) of the federal Occupational Safety and Health Act (OSHA) and IC 22-8-1.1-38.1 prohibit the employer from discriminating against an employee for reporting a work related fatality, injury, or illness. That provision of the Act also protects the employee who files a safety and health complaint, asks for access to the records required in this rule, or otherwise exercises any rights afforded by the OSHA.

(Department of Labor; 610 IAC 4-6-21; filed Sep 26, 2002, 11:22 a.m.: 26 IR 366)

610 IAC 4-6-22 Keeping alternative records

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 22. (a) If a private sector employer wishes to keep records in a different manner from the manner prescribed by this rule, the employer may submit a petition to the Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, Washington, D.C. 20210. The Indiana occupational safety and health administration (IOSHA) will recognize permission to vary records issued by the federal Occupational Safety and Health Administration.

(b) A public sector employer who wishes to keep records in a different manner from the manner prescribed by this rule may submit a petition to the commissioner of the Indiana department of labor (commissioner). The employer can obtain permission to keep different records only if the employer shows that the alternative record keeping system:

(1) collects the same information as this rule requires;
(2) meets the purposes of the Indiana and federal Occupational Safety and Health Acts; and
(3) does not interfere with the administration of the Occupational Safety and Health Acts.

(c) Implementation of the rules governing the keeping of different records:

(1) The employer must include the following items in the petition to keep different records:

(A) Employer's name and address.
(B) The address or addresses of the business establishment or establishments involved.
(C) A description of why the employer is seeking a different record keeping system.
(D) A description of the different record keeping procedures the employer proposes to use.
(E) A description of how the proposed procedures will collect the same information as would be collected under this rule and achieve the purpose of the Acts.
(F) A statement that the employer has informed his or her employees of the petition by giving them or their authorized representative a copy of the petition and by posting a statement summarizing the petition in the same way as notices are posted under 610 IAC 4-3-2(a).

(2) The commissioner will take the following steps to process the petition:

(A) The commissioner will offer the employer's employees and their authorized representatives an opportunity to submit written data, views, and arguments about the employer's petition to keep different

records.

(B) The commissioner may allow the public to comment on the petition by publishing the petition in the Indiana Register. If the petition is published, the notice will establish a public comment period and may include a schedule for a public meeting on the petition.

(C) After reviewing the petition to keep different records and any comments from the employees and the public, the commissioner will decide whether or not the proposed record keeping procedures will meet the purposes of the Indiana Occupational Safety and Health Act, and will not otherwise interfere with that Act, and will provide the same information as this rule provides. If the employer's procedures meet the criteria, the commissioner will obtain the advice of the federal Occupational Safety and Health Administration (OSHA) concerning the petition. If federal OSHA declines to grant approval for the different records, such decision shall be binding on the commissioner.

(D) If the employer's procedures meet the criteria and are approved by federal OSHA, the commissioner may allow the different records subject to such conditions as he or she finds appropriate.

(E) If the commissioner allows the keeping of different records, the Indiana occupational safety and health administration (IOSHA) will publish a notice in the Indiana Register to announce the grant of the petition. The notice will include the practices the commissioner allows the employer to use, any conditions that apply, and the reasons for allowing the employer to keep records that vary.

(3) Use of proposed record keeping procedures during the application process is prohibited. If an employer applies for permission to keep different records, the employer may not use his or her proposed record keeping procedures while the commissioner is processing the petition. Alternative record keeping practices are only allowed after the different record keeping method is approved. Employers must comply with the requirements of this rule while the commissioner is reviewing the petition to keep different records.

(4) The petition to keep different records affects previous record keeping citations and penalties as follows. If an employer has already been cited by IOSHA for not following this rule, his or her petition will have no effect on the citation and penalty. In addition, the commissioner may elect not to review an employer's petition to keep different records if it includes an element for which the employer has been cited and the citation is still under review by a court or the IOSHA Board of Safety Review.

(5) Revocation of the right to keep different records at a later date is permitted. The commissioner may revoke an employer's different record keeping procedures if he or she has good cause. The procedures for revoking permission to keep different records will follow the same process as outlined in subsection (b)(2). Except in cases of willfulness or where necessary for public safety, the commissioner will:

(A) notify the employer in writing of the facts or conduct that may warrant revocation of an employer's permission to keep different records; and

(B) provide the employer, the employer's employees, and authorized employee representatives with an opportunity to participate in the revocation procedures.

(See sections 24 through 25 of this rule).

(Department of Labor; 610 IAC 4-6-22; filed Sep 26, 2002, 11:22 a.m.: 26 IR 366)

610 IAC 4-6-23 Reporting fatalities and multiple hospitalization incidents

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 23. (a) Within forty-eight (48) hours after the death of any employee from a work related incident or the in-patient hospitalization of five (5) or more employees as a result of a work related incident, the employer must orally report the fatality/multiple hospitalization by telephone or in person to the Indiana occupational safety and health administration (IOSHA). The employer shall contact IOSHA by calling 1-317-232-2693. The employer may also use the federal Occupational Safety and Health Administration toll-free central telephone number, 1-800-321-OSHA (1-800-321-6742).

(b) The employer must report fatalities and multiple hospitalization incidents as follows:

(1) Reporting the incident by leaving a facsimile transmission or e-mail is prohibited. If IOSHA is closed and the employer cannot talk to a person at IOSHA, the employer must report the fatality or multiple

hospitalization incident by calling 1-317-232-2693 or 1-800-321-OSHA.

(2) The employer must give IOSHA the following information for each fatality or multiple hospitalization incident:

(A) The establishment name.

(B) The location of the incident.

(C) The time of the incident.

(D) The number of fatalities or hospitalized employees.

(E) The names of any injured employees.

(F) The employer's contact person and his or her phone number.

(G) A brief description of the incident.

(3) The employer does not have to report all fatality or multiple hospitalization incidents resulting from a motor vehicle accident. If the motor vehicle accident occurs on a public street or highway, and does not occur in a construction work zone, the employer does not have to report the incident to IOSHA. However, these injuries must be recorded on the employer's OSHA injury and illness records, if the employer is required to keep such records.

(4) Reporting a fatality or multiple hospitalization incident that occurs on a commercial or public transportation system is not required. Employers do not have to call IOSHA to report a fatality or multiple hospitalization incident if it involves a commercial airplane, train, subway, or bus accident. However, these injuries must be recorded on the employer's IOSHA injury and illness records, if the employer is required to keep such records.

(5) Reporting a fatality caused by a heart attack at work is required. IOSHA will then decide whether to investigate the incident, depending on the circumstances of the heart attack.

(6) Reporting a fatality or hospitalization that occurs long after the incident is not required. The employer must only report each fatality or multiple hospitalization incident that occurs within thirty (30) days of an incident.

(7) If an employer does not learn of a reportable incident at the time it occurs and the incident would otherwise be reportable under this section, the employer must make the report within forty-eight (48) hours of the time the incident is reported to the employer or to any of the employer's agents or employees.

(Department of Labor; 610 IAC 4-6-23; filed Sep 26, 2002, 11:22 a.m.: 26 IR 367)

610 IAC 4-6-24 Providing records to government representatives

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 24. (a) When an authorized government representative asks for the records kept under this rule, the employer must provide copies of the records within four (4) business hours.

(b) Providing records to government representatives is governed by the following:

(1) The government representatives authorized to receive the records required under this rule are the following:

(A) A representative of the commissioner of labor conducting an inspection or investigation under the Indiana Occupational Safety and Health Act.

(B) A representative of the federal Occupational Safety and Health Administration.

(C) A representative of the Secretary of Health and Human Services (including the National Institute for Occupational Safety and Health–NIOSH) conducting an investigation under Section 20(b) of the Occupational Safety and Health Act.

(2) The federal Occupational Safety and Health Administration and the Indiana occupational safety and health administration will consider the employer's response to be timely if the employer gives the records to the government representative within four (4) business hours of the request. If an employer maintains the records at a location in a different time zone, the employer may use the business hours of the establishment at which the records are located when calculating the deadline.

(Department of Labor; 610 IAC 4-6-24; filed Sep 26, 2002, 11:22 a.m.: 26 IR 368)

610 IAC 4-6-25 Requests from the Bureau of Labor Statistics for data
Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 25. (a) If an employer receives a Survey of Occupational Injuries and Illnesses Form from the Bureau of Labor Statistics (BLS), or a BLS designee, he or she must promptly complete the form and return it following the instructions contained on the survey form.

(b) Employers shall respond to requests from the Bureau of Labor Statistics as follows:
(1) Not every employer must send data to the BLS. Each year, the BLS sends injury and illness survey forms to randomly selected employers and uses the information to create the nation's occupational injury and illness statistics. In any year, some employers will receive a BLS survey form and others will not. An employer does not have to send injury and illness data to the BLS unless he or she receives a survey form.
(2) If an employer receives a Survey of Occupational Injuries and Illnesses Form from the BLS, or a BLS designee, he or she must promptly complete the form and return it, following the instructions contained on the survey form.
(3) An employer must respond to a BLS survey form even if he or she is normally exempt from keeping OSHA injury and illness records. Even if an employer is exempt from keeping injury and illness records under sections 2 through 4 of this rule, the BLS may inform the employer in writing that it will be collecting injury and illness information from the employer in the coming year. If the employer receives such a letter, the employer must keep the injury and illness records required by sections 6 through 14 of this rule and make a survey report for the year covered by the survey.
(4) All employers who receive a survey form must respond to the survey.
(Department of Labor; 610 IAC 4-6-25; filed Sep 26, 2002, 11:22 a.m.: 26 IR 368)

610 IAC 4-6-26 Retention and updating of old forms
Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 26. Each employer must save the employer's copies of the Occupational Safety and Health Administration 200 and 101 forms for five (5) years following the year to which they relate, and continue to provide access to the data as though these forms were the OSHA 300 and 301 forms. The employer is not required to update the old 200 and 101 forms. *(Department of Labor; 610 IAC 4-6-26; filed Sep 26, 2002, 11:22 a.m.: 26 IR 369)*

610 IAC 4-6-27 Definitions
Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-1

Sec. 27. (a) The Indiana OSH Act (IOSHA) means the Indiana Occupational Safety and Health Act codified at IC 22-8-1.1 et seq. The definitions found in IC 22-8-1.1-1 and related interpretations apply to such terms when used in this rule.

(b) The federal Occupational Safety and Health Act means the Occupational Safety and Health Act of 1970 codified at 29 U.S.C. 651 et seq.

(c) The Acts means both the Indiana Occupational Safety and Health Act and the federal Occupational Safety and Health Act as described in subsections (a) and (b).

(d) An establishment is a single physical location where business is conducted or where services or industrial operations are performed. For activities where employees do not work at a single physical location, such as construction, transportation, communications, electric, gas, and sanitary services, and similar operations, the establishment is represented by main or branch offices, terminals, or stations, that either supervise such activities or are the base from which personnel carry out these activities as follows:

(1) Normally, one (1) business location has only one (1) establishment. Under limited conditions, the employer may consider two (2) or more separate businesses that share a single location to be separate establishments. An employer may divide one (1) location into two (2) or more establishments only when the following occur:

(A) Each of the establishments represents a distinctly separate business.

(B) Each business is engaged in a different economic activity.

(C) No one (1) industry description in the Standard Industrial Classification Manual (1987) applies to the joint activities of the establishments.

(D) Separate reports are routinely prepared for each establishment on the number of employees, their wages and salaries, sales or receipts, and other business information. For example, if an employer operates a construction company at the same location as a lumber yard, the employer may consider each business to be a separate establishment.

(2) An establishment can include more than one (1) physical location, but only under certain conditions. An employer may combine two (2) or more physical locations into a single establishment only when the following occur:

(A) The employer operates the locations as a single business operation under common management.

(B) The locations are all located in close proximity to each other.

(C) The employer keeps one (1) set of business records for the locations, such as records on the number of employees, their wages and salaries, sales or receipts, and other kinds of business information. For example, one (1) manufacturing establishment might include the main plant, a warehouse a few blocks away, and an administrative services building across the street.

(3) If an employee telecommutes from home, his or her home is not considered a separate establishment and a separate 300 Log is not required. Employees who telecommute must be linked to one (1) of your establishments under section 15 of this rule.

(e) An injury or illness is an abnormal condition or disorder. Injuries include cases, such as, but not limited to, a cut, fracture, sprain, or amputation. Illnesses include both acute and chronic illnesses, such as, but not limited to, a skin disease, respiratory disorder, or poisoning. (Note: Injuries and illnesses are recordable only if they are new, work related cases that meet one (1) or more of the recording criteria contained in this rule).

(f) A physician or other licensed health care professional is an individual whose legally permitted scope of practice, that is, license, registration, or certification, allows him or her to independently perform, or be delegated the responsibility to perform, the activities described by this rule.

(g) "Employer" means any individual or type of organization, including the state and all its political subdivisions, that has in its employ one (1) or more individuals. *(Department of Labor; 610 IAC 4-6-27; filed Sep 26, 2002, 11:22 a.m.: 26 IR 369)*

SECTION 2. 610 IAC 4-4 IS REPEALED.

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