J. J. Keller®
COMPLIANCE NETWORK

QUARTERLY SPECIAL REPORT

OSHA WORKPLACE INJURY AND ILLNESS RECORDKEEPING:

YOUR QUESTIONS ANSWERED

SAFETY & HEALTH

OSHA's requirements for keeping and maintaining workplace injury and illness records are found in 29 CFR Part 1904. Although the rules are written in plain language and seem easy to follow, recordkeeping can be challenging because it involves many judgment calls. As this special report walks you through OSHA's workplace injury and illness recordkeeping requirements, it will answer your most pressing questions using OSHA's own words.

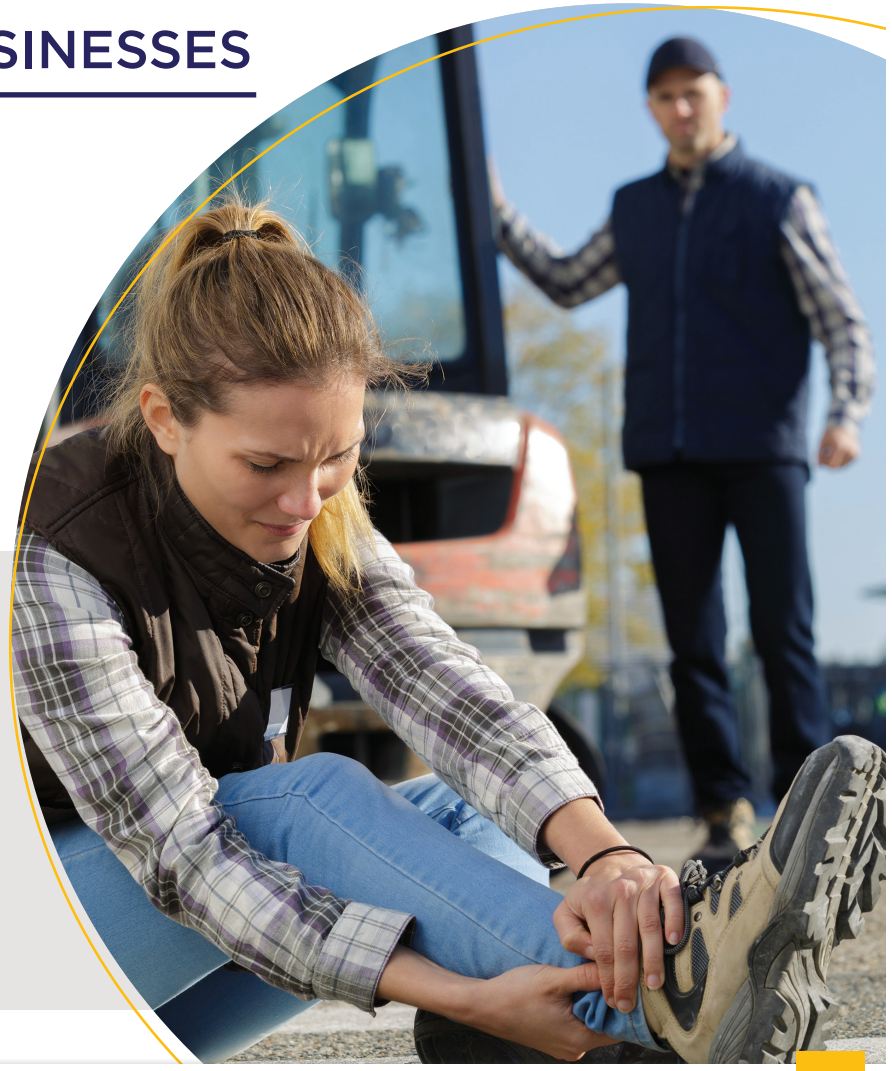
ROUTINE RECORDKEEPING REQUIREMENTS

All employers covered by the Occupational Safety and Health Act (OSH Act) are covered by the workplace injury and illness recordkeeping requirements in Part 1904. However, not all employers have to keep the records.

PARTIAL EXEMPTION FOR SMALL BUSINESSES

If your company always has 10 or fewer employees during the year, you are partially exempt from the routine recordkeeping requirements in Part 1904. This exemption applies at the company level, meaning if you have more than one location, you must include the employees from all your locations in your count.

For example, if you have three establishments and each location has seven employees, your company has 21 employees and the size exemption does not apply. All three locations would have to keep injury records unless you qualify for another exemption.



FAQ

Q: You don't have to complete Forms 300 – 300A if you have less than 11 workers. Do you count the temporary workers and the workers that you didn't keep after hiring and let go for that calendar year?

A: Yes, the exemption is based on peak employment (employees at one time), not how many you hired and later released in one year. If your entire company had 10 or fewer workers at all times during the previous calendar year, then you are exempt from OSHA's injury recordkeeping requirements. If you had 11 or more employees at any time during a calendar year, you would not qualify for the size exemption.

PARTIAL EXEMPTION FOR LOW-HAZARD ESTABLISHMENTS

If your business is listed as a low-hazard industry in Appendix A to Subpart B, you do not need to keep the OSHA injury and illness records unless the government asks you to do so in writing. For instance, the Bureau of Labor Statistics may select you for the annual Survey of Occupational Injuries and Illnesses (SOII). This exemption applies at the establishment level, so a company with multiple establishments might have some locations that must keep records while other locations are exempt.

NO EXEMPTIONS FROM THE REPORTING REQUIREMENTS

All employers under OSHA jurisdiction must report all work-related fatalities, inpatient hospitalizations, amputations and losses of an eye to OSHA, even employers who are exempt from keeping OSHA injury and illness records due to company size or industry.

Employers must report work-related fatalities within eight hours of finding out about them or of learning they were work-related.

For any inpatient hospitalization, amputation, or eye loss, employers must report within 24 hours of learning about it.

There are some exceptions. Employers do not have to report an event if it:

- Resulted from a motor vehicle accident on a public street or highway, but employers must report the event if it happened in a construction work zone.
- Occurred on a commercial or public transportation system (airplane, subway, bus, ferry, streetcar, light rail, train).
- Occurred more than:
  - 30 days after the work-related incident in the case of a fatality, or
  - More than 24 hours after the work-related incident in the case of an inpatient hospitalization, amputation, or loss of an eye.

HOW TO REPORT

There are three options for reporting the event:

- By telephone to the OSHA Area Office that is nearest to the site of the incident during normal business hours.
- By telephone to the 24-hour OSHA hotline at 1-800-321-OSHA (6742).
- Electronically through the OSHA website.

Note that state-plan states may have different reporting obligations, and employers must report events to the state agency, not to federal OSHA.

RECORDABLE CASES

If you are required to maintain an OSHA 300 Log, note that not all injuries and illnesses in the workplace are recordable. To be recordable, an injury or illness must meet all of the following conditions:

1. It is work-related.

2. Is it a new case

3. It results in one or more of the general recording criteria.

DETERMINING WORK-RELATEDNESS

You must consider an injury or illness to be work-related if an event or exposure in the work environment either caused or contributed to the resulting condition or significantly aggravated a pre-existing injury or illness. Work-relatedness is presumed for injuries and illnesses resulting from events or exposures occurring in the work environment, unless one of nine exceptions specifically applies. OSHA defines the work environment as "the establishment and other locations where one or more employees are working or are present as a condition of their employment."

THE 9 EXCEPTIONS TO WORK-RELATEDNESS

Note that for the exception to apply, a case must meet all the conditions listed in the exception.

1. The employee is present in the work environment as a member of the general public rather than as an employee. An example would be an employee getting injured while shopping in a store during a day off.

2. The injury or illness involves signs or symptoms that surface at work, but result solely from a non-work-related event or exposure that occurs outside the work environment. For this exception to apply, the work environment cannot have caused, contributed to, or significantly aggravated the injury or illness. OSHA gave the example of an employee having an epileptic seizure while at work.

3. The injury or illness results solely from voluntary participation in a wellness program or in a medical, fitness, or recreational activity such as blood donation, physical examination, flu shot, exercise class, racquetball, or baseball. For example, if an employee passes out during a voluntary blood donation drive, the loss of consciousness would not be work-related or recordable.

4. The injury or illness is solely the result of an employee eating, drinking, or preparing food or drink for personal consumption, whether purchased on company premises or brought in.

5. The injury or illness is solely the result of an employee doing personal tasks (unrelated to their employment) at the establishment and outside of the employee's assigned working hours (off-shift time).

6

The injury or illness is solely the result of personal grooming, self-medication for a non-work-related condition, or is intentionally self-inflicted, such as attempted suicide.

7

The injury or illness is caused by a motor vehicle accident and occurs on a company parking lot or company access road while the employee is commuting to or from work or on a personal errand. This exception can apply even if a pedestrian employee gets struck by another employee who was driving to or from work. Note: If an employee is injured in a car accident while leaving the property to purchase supplies for work, the case is considered work-related.

8

The illness is the common cold or flu.

9

The illness is a mental illness. Mental illness is not considered work-related unless the employee voluntarily provides the employer with an opinion from a physician or other licensed healthcare professional with appropriate training and experience, such as a psychiatrist, psychologist, or psychiatric nurse practitioner, stating that the employee has a mental illness that is work-related.

FAQ

Q: An office employee driving a company vehicle on their normal commute to the office was involved in an accident. If the employee required medical treatment would this have to be recorded?

A: Injuries and illnesses that occur during an employee's normal commute, to and from work, are not considered work-related, and therefore not recordable. The fact that the vehicle was a company vehicle is not relevant to determining work relatedness.

Injuries that occur in the workplace before or after normal working hours are recordable, as long as one of the nine exceptions does not apply.

NORMAL WORKDAY

Note that an incident could be work-related for OSHA recordkeeping purposes even if workers' compensation denies the claim. This commonly happens if a pre-existing condition gets aggravated at work. The reverse can also happen, where an injury claim is accepted by workers' compensation but meets an exception under OSHA, such as a motor vehicle accident on company property.

Injuries that occur in the work environment before or after normal working hours are recordable, as long as one of the nine exceptions does not apply. Injuries to employees who are on company property before starting work or after finishing work may be recordable. The employee does not have to be engaged in a work-related activity at the time. For example, injuries occurring to an employee who arrives to work and hasn't clocked in yet who trips and is injured in the parking lot would be work-related unless a specific exception applies. On the other hand, injuries sustained during a pickup basketball game during breaks or at lunch are not recordable because exception number three from above applies to voluntary participation in recreational activities.

"Personal grooming activities" are directly related to personal hygiene, such as combing and drying hair, brushing teeth, clipping fingernails and the like. Bathing or showering at the workplace when necessary because of an exposure to a substance at work is not within the personal grooming exception. Thus, an employee exposed to chemical hazards at work who is injured while showering in the locker room, and sustains an injury that meets one of the recording criteria, would be recordable.

GEOGRAPHIC PRESUMPTION

Some injuries occur with no apparent work-related cause. An example is an employee who is walking on an even surface whose knee suddenly buckles for no apparent reason. OSHA's "geographic presumption" assumes the injury is work-related because it occurred at work. The "geographic presumption" also covers cases in which an injury or illness results from activities that occur at work but that are not directly productive, such as horseplay.

OSHA has clarified that normal body movements such as walking, bending down, and sneezing are "events" that trigger the presumption of work-relatedness if they are a discernible cause of an injury.

COMPANY PARKING LOTS

Injuries that occur in the company parking lot may be recordable if the parking lot is completely under your control. Lots that are used by the general public are not part of the work environment, however.

If an employee slips and falls in the company parking lot and is injured, the incident may be recordable. It may also be recordable if an employee is injured getting in to or out of his vehicle in the parking lot. Even before punching in or after punching out, employees are present in company parking lots as a condition of employment and therefore in the work environment.

WORKPLACE VIOLENCE

The recordkeeping rule has no general exception to work-relatedness for cases involving acts of violence in the work environment. You use the same criteria for determining recordability for acts of workplace violence as for any other event occurring in the workplace.

FAQ

Q: An employee threw a stapler at another employee and struck him in the head. The laceration required a few stitches. Is this a recordable injury?

A: Yes. Cases involving workplace violence, horseplay etc. that occur in the work environment are considered to be work-related. Since the employee got stitches, which is medical treatment beyond first aid, the case is recordable.

NEW CASES

Most of the time, it's easy to determine if you have a new case: The employee had never experienced the injury or illness before or had recovered completely from a previous injury or illness, but a new event or exposure in the workplace caused the signs or symptoms to reappear.

If you are not certain whether the condition started at work or at home, you should evaluate the employee's work duties to decide if the work environment caused or contributed to the condition or significantly aggravated a pre-existing condition. If something in the work environment contributed, even if not a primary cause, the incident is work-related.

GENERAL RECORDING CRITERIA

A work-related, new injury or illness must also meet one or more of the general recording criteria to be recordable. OSHA lists the general recording criteria in order of seriousness.

They are:

- Death
- Days away from work
- Restricted work or transfer to another job
- Medical treatment beyond first aid
- Loss of consciousness

In addition, employers must record certain significant work-related injuries or illnesses diagnosed by a medical professional, such as fractured bones or chipped teeth, even if those injuries do not result in medial treatment, restrictions, or days away.

FAQ

Q: We had an employee fall and chip a tooth. He went to the dentist and had a small cap placed on the tooth. Is this considered a recordable injury?

A: Yes. A case involving a chipped or broken tooth is considered a significant injury when diagnosed by a physician or other healthcare professional. Work-related significant injuries are automatically recordable.

FIRST AID TREATMENTS

Cases that are only treated with first aid are not recordable unless they also meet one of the other general recording criteria such as days away from work or restricted work. Note: It doesn't matter how many times first aid treatment is provided, where it is provided, or the professional status of the person who provides it. For example, if an employee goes to the emergency room but receives only first aid treatment, that does not make the incident recordable.

Section 1904.7 provides a complete list of what OSHA considers to be first aid. For the purposes of Part 1904, "first aid" means the following:

- Using a nonprescription medication at nonprescription strength;
- Tetanus immunizations;
- Cleaning, flushing, or soaking wounds on the surface of the skin;
- Using wound coverings;
- Hot or cold therapy;
- Any non-rigid means of support, such as elastic bandages, wraps, non-rigid back belts, etc.;
- Temporary immobilization devices while transporting an accident victim;
- Drilling of a fingernail or toenail, or draining fluid from a blister;
- Using eye patches;
- Removing foreign bodies from the eye using only irrigation or a cotton swab;
- Removing splinters or foreign material from areas other than the eye by irrigation, tweezers, cotton swabs, or other simple means;
- Using finger guards;
- Using massages; or
- Drinking fluids for relief of heat stress.

MEDICAL TREATMENT

Any treatments not on the first aid list are, by definition, considered to be medical treatment and recordable. Also, OSHA considers treatment beyond first aid to be medical treatment even when it is provided by someone other than a physician or other licensed healthcare professional.

Medical treatment means the management and care of a patient to combat disease or disorder. Therefore, a diagnostic procedure such as an x-ray, MRI, or CAT scan is not medical treatment. They are used to determine if a disorder exists, not to treat any condition.

In the case of prescription medications, OSHA considers that medical treatment is provided once a prescription is written, prescription medication is provided, or the employee is told to take an over-the-counter medication at prescription strength.

To determine the prescription-strength dosages for other drugs that are available in prescription and nonprescription formulations, contact OSHA, the United States Food and Drug Administration, your local pharmacist, or physician.

FAQ

Q: If an injured employee is given samples by a doctor but is not given a prescription is this considered medical treatment?

A: If the samples given are a prescription medication or are at prescription strength, then it is a medical treatment.

Q: An employee injured his back while lifting up a piece of heavy pipe. After work was over he went to see his chiropractor. The chiropractor conducted a few manipulations on the employee's back, and according to our employee, he was like new. Is chiropractic care considered medical treatment beyond first aid?

A: Yes, chiropractic treatment is considered medical treatment because OSHA did not include it on the first aid list.

COUNTING DAYS

When you count days away from work or days of restricted work activity, OSHA requires you to count calendar days, regardless of whether the employee was scheduled to work, or if the days cover weekends, holidays, etc. This will make the counts more consistent and make the actual length of an injury or illness clear.

DAY COUNT "CAP"

You may "cap" the total days away and/or days of restricted duty at 180 days for any one incident. If the incident has both days away and days of restricted duty, there must be at least one day counted in each of those day count columns.

FAQ

Q: In a case where the employee is working restricted duty, and takes days off for personal reasons, do we still include those days in our total? This employee is working modified duty through his next doctor's appointment which falls after the allotted vacation time.

A: Yes, you would count the vacation days count as restricted days. You must include all calendar days until the date the physician or other licensed healthcare professional recommends that the employee return to work.

RECORDKEEPING PAPERWORK

Injuries and illnesses must be recorded on three specific forms (or an equivalent):

- OSHA Form 300, Log of Work-Related Injuries and Illnesses
- OSHA Form 300A, Summary of Work-Related Injuries and Illnesses
- OSHA Form 301, Injury and Illness Incident Report

The employer must enter each case on the OSHA 300 Log and OSHA 301 Form within seven calendar days of receiving information that a recordable injury or illness has occurred. You may revise an entry simply by lining it out or amending it if further information justifying the revision becomes available. For instance, if you originally logged a restricted work case that later required days away, you would correct the Log to reflect the change in status for that incident.

OSHA LISTS THE GENERAL RECORDING CRITERIA IN ORDER OF SERIOUSNESS.

DEATH

DAYS AWAY FROM WORK

RESTRICTED WORK OR TRANSFER TO ANOTHER JOB

MEDICAL TREATMENT BEYOND FIRST AID

LOSS OF CONSCIOUSNESS

SIGNING THE SUMMARY

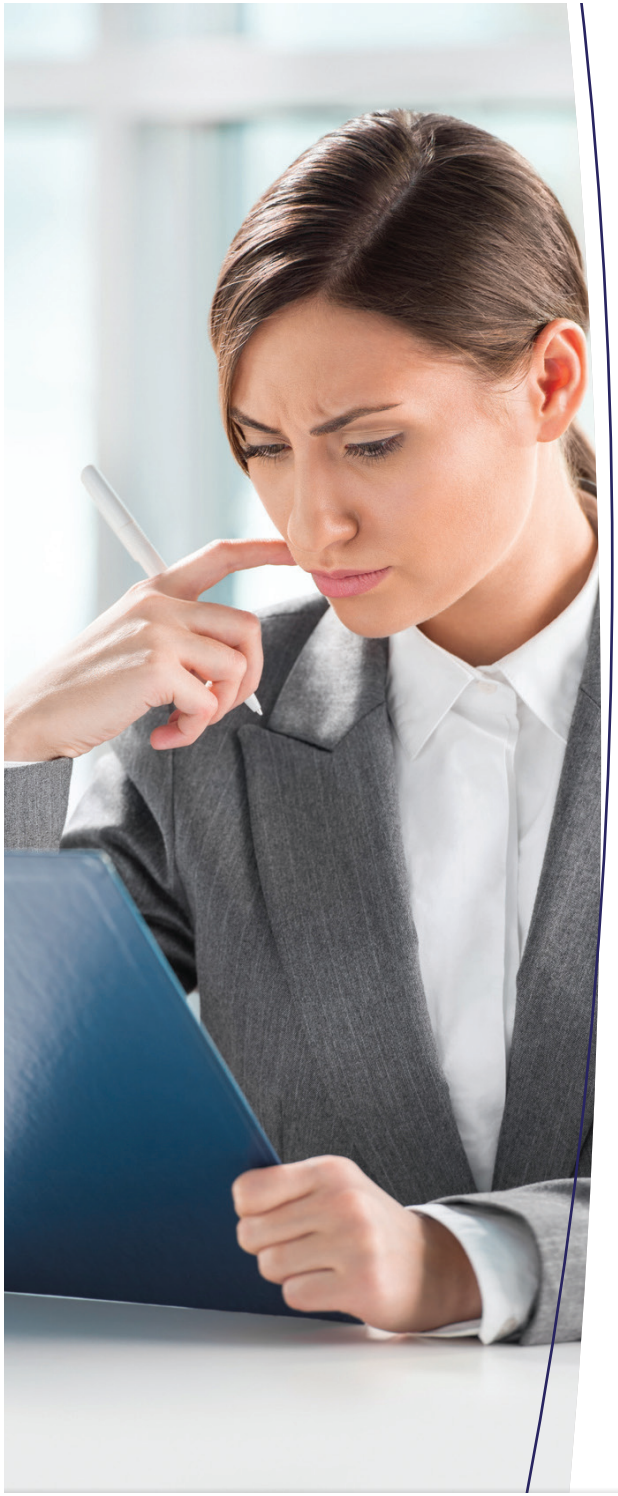
At the end of the year, you must:

- Review the 300 Log to verify that the entries are complete and accurate, and correct any deficiencies identified;
- Create an annual summary of injuries and illnesses recorded on the OSHA 300 Log;
- Certify the Summary; and
- Post the Annual Summary

When reviewing the 300 Log for accuracy, you do not need to examine every entry but should spot check a number of cases for errors. Common problems OSHA finds during inspections include:

- Column (E) requires a location. Writing “warehouse” is not good enough. Add as much description as possible. OSHA gives examples such as “north end of loading dock” or “second floor storeroom.”
- Column (F) requires describing the injury, body part, and cause. A common error is listing a body part (like “fractured right forearm”) but missing the description of how it happened. Also, specify left or right for body parts like hands, arms, or feet.

These issues don’t affect the 300A, but the review can help avoid citations for incomplete entries during a future inspection.



Creating the Annual Summary requires adding up the total cases, day counts, and injury types. That's fairly simple, but you also need to determine the average number of employees and total hours worked.

When calculating the average number of employees, include part-time and seasonal workers, as well as temps from a staffing agency if your company supervises them and records their injuries.

If an establishment has roughly the same number of employees throughout the year, OSHA says it can use that number as the annual average. However, if the number of employees fluctuates (the business is seasonal, or the establishment grew or shrank during the year), employers must calculate the average using a formula provided in the packet of 300 Forms.

For total hours worked, include salaried, hourly, part-time, and seasonal workers, as well as hours worked by temps. Do not include vacation, sick leave, holidays, or other non-work time, even if employees were paid for it. Employees cannot get work-related injuries during vacations and holidays, so those hours don't get counted.

For salaried workers or drivers paid by the mile, employers might only keep records of the hours paid (including vacation and holidays). If so, the employer can estimate the hours worked.

FAQ

Q: Who is supposed to sign the form 300A after it is completed?

A: 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. The company executive who certifies the log must be one of the following persons:

- An owner of the company (only if the company is a sole proprietorship or partnership);
- An officer of the corporation;
- The highest ranking company official working at the establishment; or
- The immediate supervisor of the highest ranking company official working at the establishment.

POST THE 300A SUMMARY

You must post a copy of the Annual Summary in each establishment, where notices are normally posted, no later than February 1 of the year following the year covered by the records and keep it in place until April 30. Only the OSHA 300A Summary form should be posted.

FAQ

Q: Can OSHA Summary Form 300A be posted electronically (on our intranet website) to satisfy the Feb 1-Apr 30 posting requirement?

A: No. A paper copy of the Form 300A must be posted in a conspicuous place or places where notices to employees are customarily posted. You may, however, post the summary on your intranet in addition to posting a paper copy.

FAQ

Q: When an accident happens in one year, but the days away or days restricted continue through to the next year, do you have to record the injury on both years' 300 Log?

A: No, you only record the injury or illness once. You 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 you prepare the Annual Summary, estimate the total number of calendar days you expect 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 180 day cap.

Employers could choose to email the Annual Summary remote workers who won't see the posting, but OSHA doesn't require this. State requirements may differ, however. For example, California does require providing the summary to remote workers.

SUBMITTING DATA TO OSHA

Certain employers must electronically submit injury data to OSHA. This requirement applies to the following:

- Establishments with 250 or more employees that are required to keep OSHA injury and illness records must submit the 300A.
- Establishments with 20 or more employees that are classified in certain industries listed in Appendix A to Subpart E of Part 1904 must submit the 300A. OSHA lists those industries by 2017 NAICS (North American Industry Classification System) codes.
- Establishments with 100 or more employees that are classified in certain industries listed in Appendix B to Subpart E of Part 1904 will submit the 300A along with certain information from the 300 Log and 301 Forms.

The submission is completed through OSHA's Injury Tracking Application by March 2 every year. Note that OSHA is publishing this information on its online platform. The public-facing site includes the establishment name, address, hours worked, and basic information on the number and type of injuries. It does not contain employee names. Employers in state-plan states like California also use the federal Injury Tracking Application system.

CONCLUSION

When analyzing injury and illness records, employers should look for similar injuries and illnesses. These generally indicate a lack of hazard controls. Look for where the injury or illness occurred, what type of work was being done, time of day, or type of equipment.

To ensure accuracy of records (and compliance with any applicable requirements), employers should train employees who are responsible for recording injuries and illnesses on the importance of the records, what is and isn't recordable, and where to go if questions arise.

Finally, you also need to periodically assess your procedures for reporting injuries and illnesses; occasionally impediments, whether real or perceived, can lead to underreporting of injuries and illnesses by workers. Remember, accurate and timely recording of injuries and illness yields accurate results.

ABOUT THE AUTHOR

Ed Zalewski, J. J. Keller & Associates, Inc.

As a senior editor on the EHS publishing team at J. J. Keller, Ed specializes in safety issues such as injury recordkeeping, walking-working surfaces, and forklifts. He is responsible for researching regulatory activity and issues facing EHS professionals in order to develop and update content for J. J. Keller's EHS products. Ed regularly publishes articles in trade magazines, delivers webcasts on a variety of compliance topics, and delivers presentations. He has been published in or been interviewed for articles by Bloomberg Businessweek, Monster.com, Australian Financial Review, NDTV.com (New Delhi Television), Scripps Howard News Service, SHRM Online, Diversity Executive, Talent Management, Workplace HR & Safety, and newspapers such as the New York Post, Denver Post, Atlanta Journal-Constitution, and Pittsburgh Post-Gazette.

ABOUT J. J. KELLER & ASSOCIATES, INC.

Since its beginning as a one-man consulting firm in 1953, J. J. Keller & Associates, Inc. has grown to become the most respected name in safety and regulatory compliance. Now over 1,500 associates strong, J. J. Keller serves over 500,000 customers — including over 90% of Fortune 1000 companies. The company's subject-matter expertise spans nearly 1,500 topics, and its diverse solutions include training via online courses, streaming video, or DVD; online management tools; managed services; advisory services; publications; E-logs and mobile technology; and forms and supplies.

As the nation's leader in regulatory compliance and best practices expertise, J. J. Keller is your reliable source for help complying with motor carrier safety requirements, reducing violations, and preventing crashes. In addition to DOT, we cover OSHA, EPA, DOL, and other agencies.

J. J. Keller®

COMPLIANCE NETWORK