CSTE Public Health Law and Occupational Health Joint Webinar: Employer Reporting of Workplace Injury and Illness in the United States

May 24, 2017
2:00-3:00 pm (ET)

CSTE

Council of State and Territorial Epidemiologists

Webinar Housekeeping

CSTE

- Today's webinar is being **recorded** and will be available on the CSTE website in the Webinar Library (http://www.cste.org/?page=WebinarLibrary)

- All lines have been muted

- There will be a Q&A at the end of the webinar
  - To ask a question, please **unmute your line** or use the **Raise Hand feature** to be unmuted and verbally ask your question.
  - You can also use the **Chat box** on the right side of your screen to submit your question, and we will read them aloud.

- When the webinar ends, you will be redirected to a **brief evaluation form to complete**

Objectives

After the webinar, participants will be able to:

- Recall the new Federal OSHA rule issued in May 2016

- Discuss the importance of the new employer reporting requirement and impact on occupational health surveillance in the U.S.

- Describe the impacts of non-compliant states like Oklahoma and Texas

Today's Speakers

Dr. Robert Harrison, M.D. MPH, Public Health Medical Officer at the California Department of Public Health and Clinical Professor at the University of California San Francisco

Jordan Barab, MA, Former Deputy Assistant Secretary, Federal Occupational Safety and Health Administration and publisher of "Confined Space"

Michael Kirkpatrick, J.D., Attorney, Public Citizen Litigation Group and Adjunct Professor of Law at Georgetown University

Employer Reporting of Workplace Injury and Illness in the United States

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UC San Francisco

and

California Department of Public Health

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Would we know about this case (and does it matter)*

- 40 y.o. old man
- Assigned to blast freezer at large poultry plant in TX
- Seen in ER with suspected frostbite
- Multiple visits to plant nurse without referral to specialist
- Amputation 2 weeks later

*I was consulted about this case from the union and his lawyer

Tracking work-related injuries and illnesses in the U.S.
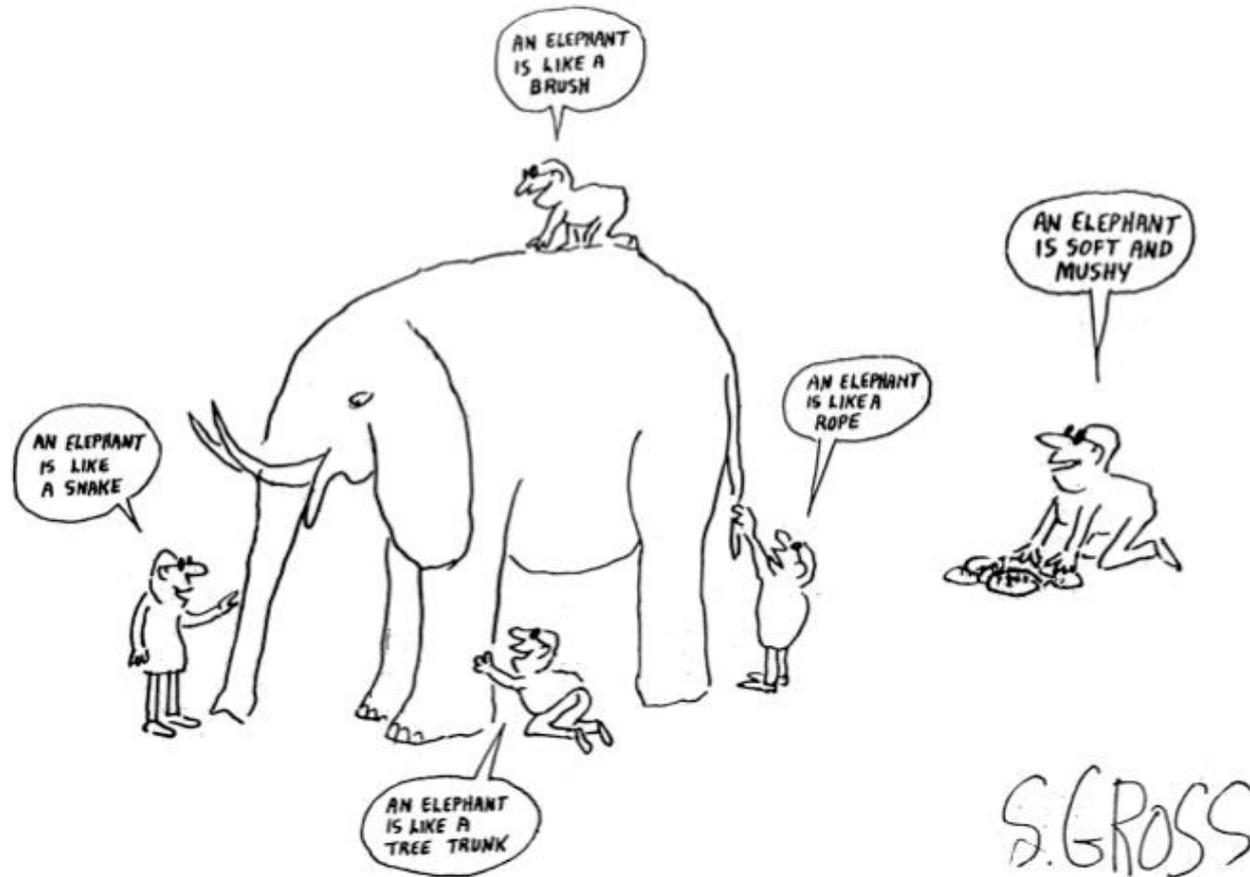
Tracking work-related injuries and illnesses in the U.S.

Health care reporting

State: hospital discharge, ER, death certificates
State: labs (lead)
State: "sentinel" provider reports
State: EHRs (future)

Employer reporting

State: workers comp data
BLS: Annual Survey
BLS: CFOI
FedOSHA: hospitalization, **amputation,** loss of eye
FedOSHA: OSHA logs

Employer reporting requirements
Final Rule - May 12, 2016
Electronic data submission via secure website

- \> 250 employees: Summary 300A (July 1, 2017), OSHA Log 300 and Incident Reports 301 (July 1, 2018)
- 20 - 249 high risk employers*: OSHA Summary 300A (July 1, 2018)
  - all AFF, utilities, construction, manufacturing, wholesale trade + 61 other 4-digit NAICS
- Data posted on FedOSHA website (no PII)
- Anti-retaliation provision

*Based on BLS SOII data 2011-2013, DART > 2.0

Scope and cost of rule

- 33,674 establishments > 250 employees, 700,000 injuries and illnesses, cost $214/year

- 410,673 high risk establishments > 20 employees, cost $11.13/year

- Total $15 million

Final Rule Issued to Improve Tracking of Workplace Injuries and Illnesses

About

Read the Rule

Regulatory Text for Recordkeeping Standard - Part 1904 - [Amended]

Corrected Text

NEW Employee Involvement (Employee's right to report injuries and illnesses free from retaliation) (1904.35)

Fact Sheet

Frequently Asked Questions

Blog by Paul O'Neill

Related Links

Recordkeeping Webpage

All covered employers – Form 300A

OSHA's Form 300A (Rev. 01/2004)

Summary of Work-Related Injuries and Illnesses

Year 20__ __

U.S. Department of Labor
Occupational Safety and Health Administration

Form approved OMB no. 1218-0176

All establishments covered by Part 1904 must complete this Summary page, even if no work-related injuries or illnesses occurred during the year. Remember to review the Log to verify that the entries are complete and accurate before completing this summary.

Using the Log, count the individual entries you made for each category. Then write the totals below, making sure you've added the entries from every page of the Log. If you had no cases, write "0."

Employees, former employees, and their representatives have the right to review the OSHA Form 300 in its entirety. They also have limited access to the OSHA Form 301 or its equivalent. See 29 CFR Part 1904.35, in OSHA's recordkeeping rule, for further details on the access provisions for these forms.

Number of Cases

Total number of deaths	Total number of cases with days away from work	Total number of cases with job transfer or restriction	Total number of other recordable cases
(G)	(H)	(I)	(J)

Number of Days

Total number of days away from work	Total number of days of job transfer or restriction
(K)	(L)

Injury and Illness Types

Total number of . . .
(M)

(1) Injuries

(2) Skin disorders

(3) Respiratory conditions

(4) Poisonings

(5) Hearing loss

(6) All other illnesses

Establishment information

Your establishment name _____

Street _____

City _____ State _____ ZIP _____

Industry description (*e.g., Manufacture of motor truck trailers*) _____

Standard Industrial Classification (SIC), if known (*e.g., 3715*) ___ ___ ___ ___

OR

North American Industrial Classification (NAICS), if known (e.g., 336212) ___ ___ ___ ___ ___ ___

Employment information *(If you don't have these figures, see the Worksheet on the back of this page to estimate.)*

Annual average number of employees _____

Total hours worked by all employees last year _____

Sign here

Knowingly falsifying this document may result in a fine.

I certify that I have examined this document and that to the best of my knowledge the entries are true, accurate, and complete.

_____   _____
Company executive   Title

(___) ___ - ___   __ / __ / __
Phone   Date

Post this Summary page from February 1 to April 30 of the year following the year covered by the form.

Public reporting burden for this collection of information is estimated to average 58 minutes per response, including time to review the instructions, search and gather the data needed, and complete and review the collection of information. Persons are not required to respond to the collection of information unless it displays a currently valid OMB control number. If you have any comments about these estimates or any other aspects of this data collection, contact: US Department of Labor, OSHA Office of Statistical Analysis, Room N-3644, 200 Constitution Avenue, NW, Washington, DC 20210. Do not send the completed forms to this office.

Large high-risk employers

Log of Work-Related Injuries and Illnesses

Attention: This form contains information relating to employee health and must be used in a manner that protects the confidentiality of employees to the extent possible while the information is being used for occupational safety and health purposes.

Year 20__ __

U.S. Department of Labor
Occupational Safety and Health Administration

Form approved OMB no. 1218-0176

You must record information about every work-related death and about every work-related injury or illness that involves loss of consciousness, restricted work activity or job transfer, days away from work, or medical treatment beyond first aid. You must also record significant work-related injuries and illnesses that are diagnosed by a physician or licensed health care professional. You must also record work-related injuries and illnesses that meet any of the specific recording criteria listed in 29 CFR Part 1904.8 through 1904.12. Feel free to use two lines for a single case if you need to. You must complete an Injury and Illness Incident Report (OSHA Form 301) or equivalent form for each injury or illness recorded on this form. If you're not sure whether a case is recordable, call your local OSHA office for help.

Establishment name _____

City _____ State _____

Identify the person

(A) Case no.
(B) Employee's name
(C) Job title (e.g., Welder)

Describe the case

(D) Date of injury or onset of illness
(E) Where the event occurred (e.g., Loading dock north end)
(F) Describe injury or illness, parts of body affected, and object/substance that directly injured or made person ill (e.g., Second degree burns on right forearm from acetylene torch)

Classify the case

CHECK ONLY ONE box for each case based on the most serious outcome for that case:

		Remained at Work	
Death	Days away from work	Job transfer or restriction	Other recordable cases
(G)	(H)	(I)	(J)

Enter the number of days the injured or ill worker was:

Away from work (K) ___ days
On job transfer or restriction (L) ___ days

Check the "Injury" column or choose one type of illness:

(M) Injury	Skin disorder	Respiratory condition	Poisoning	Hearing loss	All other illnesses
(1)	(2)	(3)	(4)	(5)	(6)

Page totals ➤

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

Page ___ of ___

Injury	Skin disorder	Respiratory condition	Poisoning	Hearing loss	All other illnesses
(1)	(2)	(3)	(4)	(5)	(6)

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

Injury, skin, respiratory, poisoning, hearing loss, other

Large employers

OSHA's Form 301
Injury and Illness Incident Report

U.S. Department of Labor
Occupational Safety and Health Administration

Form approved OMB no. 1218-0176

This *Injury and Illness Incident Report* is one of the first forms you must fill out when a recordable work-related injury or illness has occurred. Together with the *Log of Work-Related Injuries and Illnesses* and the accompanying *Summary*, these forms help the employer and OSHA develop a picture of the extent and severity of work-related incidents.

Within 7 calendar days after you receive information that a recordable work-related injury or illness has occurred, you must fill out this form or an equivalent. Some state workers' compensation, insurance, or other reports may be acceptable substitutes. To be considered an equivalent form, any substitute must contain all the information asked for on this form.

According to Public Law 91-596 and 29 CFR 1904, OSHA's recordkeeping rule, you must keep this form on file for 5 years following the year to which it pertains.

If you need additional copies of this form, you may photocopy and use as many as you need.

Completed by _____

Title _____

Phone (_____)_____--_____ Date ____/____/____

Information about the employee

1) Full name _____

2) Street _____

City _____ State _____ ZIP _____

3) Date of birth ____/____/____
4) Date hired ____/____/____
5) ☐ Male
   ☐ Female

Information about the physician or other health care professional

6) Name of physician or other health care professional _____

7) If treatment was given away from the worksite, where was it given?

Facility _____

Street _____

City _____ State _____ ZIP _____

8) Was employee treated in an emergency room?
   ☐ Yes
   ☐ No

9) Was employee hospitalized overnight as an in-patient?
   ☐ Yes
   ☐ No

Information about the case

10) Case number from the *Log* _____ *(Transfer the case number from the Log after you record the case.)*

11) Date of injury or illness ____/____/____

12) Time employee began work _____ AM / PM

13) Time of event _____ AM / PM ☐ Check if time cannot be determined

14) *What was the employee doing just before the incident occurred?* Describe the activity, as well as the tools, equipment, or material the employee was using. Be specific. *Examples:* "climbing a ladder while carrying roofing materials"; "spraying chlorine from hand sprayer"; "daily computer key-entry."

15) *What happened?* Tell us how the injury occurred. *Examples:* "When ladder slipped on wet floor, worker fell 20 feet"; "Worker was sprayed with chlorine when gasket broke during replacement"; "Worker developed soreness in wrist over time."

16) *What was the injury or illness?* Tell us the part of the body that was affected and how it was affected; be more specific than "hurt," "pain," or sore." *Examples:* "strained back"; "chemical burn, hand"; "carpal tunnel syndrome."

17) *What object or substance directly harmed the employee?* *Examples:* "concrete floor"; "chlorine"; "radial arm saw." *If this question does not apply to the incident, leave it blank.*

18) *If the employee died, when did death occur?* Date of death ____/____/____

Arguments for rule

- Benefits outweigh costs ($15 million/year)

- Disclosure of data → improvements in H & S

- Improves use of resources and evaluation of program impact

- FedOSHA already collected Summary Form 300a from 80,000 companies under the OSHA Data Initiative (ODI) from 1997-2012
  - no detailed information & not timely

CSTE Comments on Proposed Rule (Davis and Rosenman) – March 6, 2014

- Identification of emerging problems (methylene chloride deaths)

- Targeting establishments for preventive outreach

- Improvement in data quality and use (WA State survey)

- Improvement in medical care

"The availability of establishment-specific injury and illness data will also be of great use to county, state and territorial Departments of Health and other public institutions charged with injury and illness surveillance. In particular, aggregation of establishment-specific injury and illness reports and rates from similar establishments will facilitate identification of newly-emerging hazards that would not easily be identified without linkage to specific industries or occupations. There are currently no comparable data sets available, and these public health surveillance programs must primarily rely on reporting of cases seen by medical practitioners, any one of whom would rarely see enough cases to identify an occupational etiology."

Industry challenges to rule January 4, 2017

- National Association of Home Builders (OK) & TEXO ABC/ABG (Texas)
  - No statutory authority for online database
  - **No effect on workplace safety and health**
  - Exceeds authority to provide redress for retaliatory actions
  - Reporting procedures are not reasonable
  - Violates First and Fifth Amendments to Constitution
- Stayed until June 5, 2017 to allow government time to reconsider

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

TEXO ABC/AGC, INC., *et al.*,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Civil Action No. **3:16-CV-1998-L**
	)	
EDWARD HUGLER,	)	
Acting Secretary of Labor, *et al.*,	)	
	)	
Defendants.	)	
	)	

MOTION TO INTERVENE AS DEFENDANTS
BY PUBLIC CITIZEN HEALTH RESEARCH GROUP,
AMERICAN PUBLIC HEALTH ASSOCIATION,
COUNCIL OF STATE AND TERRITORIAL EPIDEMIOLOGISTS,
AND CENTER FOR MEDIA AND DEMOCRACY

May 5, 2017
Petition for Administrative Stay
to delay Form 300A

NAHB

Chamber of Commerce

National Chicken Counsel

US Poultry and Egg Association

Association of Building Contractors

National Association of Manufacturers

Various oil and steel companies

Arguments for stay (more)

- Divulges confidential business information
  - Hours worked, business address
- Not enough time to meet deadline
- Penalties for routine post-accident drug testing and safety incentive programs

Politics

OSHA suspends rule requiring firms report injury and illness data electronically

By **Juliet Eilperin**   May 17

PH Law Quarterly Subcommittee Calls for 2017

CSTE

- September 6, 2017 at 2:00 pm (ET)
- December 6, 2017 at 2:00 pm (ET)

Thank you for your participation!

Please complete the webinar evaluation: https://cste.co1.qualtrics.com/jfe/form/SV_9QqfHo9rZeMj4I7