




# Collaborative Bachelor's Degree Program of Fire Protection and Safety Engineering Technology between Southwest Jiaotong University and Oklahoma State University, U.S.A.





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## FPST 3013

### Safety Management

Injury Recordkeeping Rules

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Oklahoma State University

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### INJURY AND ILLNESS REPORTING AND RECORDKEEPING

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OSHA #7845 Recordkeeping Rule Seminar



Office Of  
**PROFESSIONAL DEVELOPMENT**  
*College of Engineering, Architecture & Technology*  
CEATPD.OKSTATE.EDU | (405) 744-5718

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### 29 CFR Part 1904

Recording and Reporting  
Occupational Injuries and Illnesses



OSHA #7845

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### OSHAct

- ◆ Section 8(c)(1) **develop regulations** requiring employers to keep and maintain records regarding the causes and prevention of occupational injuries and illnesses.



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### OSH Act

- ◆ Section 8(c)(2) of the Act requires OSHA to issue regulations **requiring employers** to
- ◆ "**maintain accurate records** of, and to make periodic reports on, **work-related deaths, injuries and illnesses** other than minor injuries requiring only first aid treatment and which do not involve medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job."



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### OSHAct

- ◆ Section 24(a) of the Act requires the Secretary to **develop and maintain an effective program** of collection, compilation, and analysis of occupational safety and health **statistics**.



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### History of Recordkeeping

- ◆ From 1971 to 2001 OSHA and the Bureau of Labor Statistics (BLS) operated the recordkeeping system as a cooperative effort.
- ◆ July 11, 1990, BLS nationwide statistical compilation of occupational illnesses and injuries
  - ~ Annual Survey of Occupational Injuries and Illnesses
  - ~ Blue Book
- ◆ 2001 Significant Revisions to 29 CFR 1904
  - ~ Medical treatment vs first aid
  - ~ Restricted duty and lost workday
  - ~ Injury vs illness
  - ~ 200 log changed to 300 log
- ◆ 2015 – Reporting of Fatalities, Amputations, Hospitalizations
- ◆ 2017 - Electronic Reporting requirement
  - ~ Report all injuries to a govt website – Public access
  - ~ Lawsuits
- ◆ 2018-19 - More Revisions
  - ~ [January 24, 2019](#)

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### Criticism of Recordkeeping Rule

- ◆ Definitions of Medical Treatment vs first aid unclear
- ◆ Employers intentionally under record injuries and illnesses because:
  - ~ in response to OSHA inspection policies
  - ~ Pressure from management safety competitions
  - ~ they do not understand the system
  - ~ they do not place a high priority on recordkeeping
  - ~ they do not supervise their recordkeepers properly

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### 1904.30 – Multiple Business Establishments

- ◆ Keep a separate OSHA Form 300 for each establishment that is expected to be in operation for more than a year
- ◆ May keep one OSHA Form 300 for all short-term establishments
  - ~ those expected to be in operation less than one year),
- ◆ Each employee must be linked with one establishment
- ◆ An employer with multiple lines of business may have some exempt and some covered establishments

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#### 1904.31 – Covered Employees

- ◆ Employees on payroll
- ◆ Temporary employees not on payroll who are supervised on a day-to-day basis
- ◆ Exclude self-employed and partners

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#### 1904.33 – Retention and Updating

- ◆ Retain forms for the current year plus five years (current +5)
- ◆ Update the OSHA Form 300 during that period with status changes
- ◆ Need not update the OSHA Form 300A or OSHA Form 301
- ◆ New Case Law: OSHA can only cite for recordkeeping violations within the last 6 months

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#### Case Law – US Court of Appeals DC District

- ◆ May 10, 2006, Volks Construction.
- ◆ Company had not kept OSHA records from January 11, 2002 to April 22, 2006.
- ◆ OSHA issued 171 citations
- ◆ \$13,300 in fines
- ◆ 54 months – 6 months plus 10 days, before the citations were issued
- ◆ Citations were deemed untimely

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- ◆ Finally, the Court noted that Congress' aim in creating OSHA was to improve the safety of America's workplaces, and it must have believed this goal would be served by having OSHA enforce recordkeeping violations quickly.
- ◆ The Court observed, "Nothing in the statute suggests Congress sought to **endow this bureaucracy with the power to hold a discrete record-making violation over employers for years**, and then cite the employer long after the opportunity to actually improve the workplace has passed."

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### 29 CFR Part 1904

- ◆ Recording and Reporting Occupational Injuries and Illnesses



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### What to Report?

- ◆ First Aid injuries
  - ~ No requirement to report to OSHA
- ◆ Injuries and illnesses beyond first aid
  - ~ Record on OSHA 300 log within 7 days
- ◆ Hospitalizations, amputations, loss of an eye
  - ~ Report to OSHA within 24 hours
- ◆ Fatalities
  - ~ Report to OSHA within 8 hours
- ◆ OSHA Forms



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### Subpart B - Scope

- ◆ 1904.1 – Size Exemption
- ◆ If the company had 10 or fewer employees at all times during the last calendar year,
  - ~ number of employees in the entire company
- ◆ Include temporary employees
  - ~ supervised on a day to day basis

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### Subpart B – Scope

- ◆ 1904.2 - Industry Exemption
- ◆ [Appendix A lists partially exempt industries](#)
  - ~ Pipeline
  - ~ Transportation
  - ~ Retail
  - ~ Medical practices
  - ~ Dental Practices
  - ~ Gasoline Stations
  - ~ Day Care Centers

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### Subpart B - Scope

- ◆ Partial Exemption
- ◆ Employers that are partially exempt from the recordkeeping requirements because of their size or industry must continue to comply with:
  - ~ 1904.39, Reporting **fatalities, amputations, the loss of an eye, or hospitalization**
  - ~ 1904.41-42, Annual **OSHA/BLS injury and illness survey** (if specifically requested to do so by OSHA/BLS.

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#### 1904.4 – Recording Criteria

- ◆ Covered employers must record each fatality, injury or illness that:
  - ~ is work-related, and
  - ~ is a new case, and
  - ~ meets one or more of the criteria contained in sections 1904.7 through 1904.11.

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#### OSHA INJURY AND ILLNESS RECORDKEEPING 5 STEP PROCESS



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Did the employee **experience an injury or illness?**

Is the injury or illness **work-related?**

Is the injury or illness **a new case?**

Does the injury or illness **meet the general criteria or the application to specific cases?**

**RECORD THE INJURY OR ILLNESS**

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**STEP 1:**  
Did the employee **experience an injury or illness?**

**Definition [1904.46]**  
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.

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**STEP 1:**  
Did the employee **experience an injury or illness?**

**Scenario A:**  
A worker reports to nurses' station with complaint of painful wrists.  
Employee given two Ibuprofen and returned to job.

**YES**

**Why:** Painful wrists was the injury experienced.

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**STEP 1:**  
Did the employee **experience an injury or illness?**

**Scenario B:**  
There is a chlorine gas leak at XYZ establishment and the two employees in the area are rushed to the hospital. They are told to stay home the next day as a precautionary measure.

**Answer:** It depends !! We need more information.

**Why:** We need to know if either employee exhibited signs or symptoms of an injury/illness. If yes, then go to the next step.  
If no, **STOP**. We have an event or exposure only.

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Did the employee **experience an injury or illness**?

Is the injury or illness **work-related**?

**Determination of Work-Relatedness [1904.5]**

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

A case is presumed work-related if, and only if, an **event or exposure** in the work environment is a discernable **cause of the injury or illness** or of a significant **aggravation to a pre-existing condition**.

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### 1904.5 – Work Environment

- ◆ The work environment
  - ~ where employees are working or present as a condition of employment
  - ~ physical locations,
  - ~ equipment or materials
  - ~ course and scope of work



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### 1904.5 – Significant Aggravation

- ◆ A pre-existing injury or illness is significantly aggravated when an event or exposure in the work environment causes further injury, illness, or more severe symptoms.
- ◆ More medical treatment
- ◆ More restrictions
- ◆ More days away



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### 1904.5 – Exceptions

- ◆ Present as a member of the general public
- ◆ Symptoms arising in work environment that are solely due to non-work-related event or exposure
- ◆ Voluntary participation in wellness program, medical, fitness or recreational activity
- ◆ Eating, drinking or preparing food or drink for personal consumption



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### 1904.5 – Exceptions

- Personal tasks outside assigned working hours
- Personal grooming, self medication for non-work-related condition, or intentionally self-inflicted
- Motor vehicle accident in parking lot/access road during commute
- Common cold or flu
- Mental illness, unless employee voluntarily provides a medical opinion that affirms work-relatedness



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Did the employee **experience an injury or illness**?

Is the injury or illness **work-related**?

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### 1904.5 – Travel Status

- ◆ An injury or illness that occurs while an employee is on travel status is work-related if it occurred while the employee was engaged in work activities in the interest of the employer
- ◆ Home away from home
- ◆ Detour for personal reasons is not work-related



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### 1904.5 – Work at Home

- ◆ Injuries and illnesses that occur while an employee is working at home are work-related if they:
  - ~ occur while the employee is performing work for pay or compensation in the home, and
  - ~ are directly related to the performance of work rather than the general home environment



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#### STEP 2:

Is the injury or illness **work-related**?

#### Scenario A:

Employee gives blood at employer-sponsored blood drive, passes out and hits head on ground resulting in a laceration.

**NO**

**Why?: Exception** – 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.

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**STEP 2:**

Is the injury or illness **work-related**?

**Scenario B:**

Employee sprains ankle in company parking lot on his way in to work.

**YES**

Why?: Parking lot exception applies only to motor vehicle accidents during commute or if the parking facility is not owned by the company (such as a parking garage or mall).

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Did the employee **experience an injury or illness**?

Is the injury or illness **work-related**?

Is the injury or illness **a new case**?

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**STEP 3:**

Is the injury or illness **a new case**?

**Determination of a new case**

Consider an injury or illness a "new case" if the employee has not previously experienced a recorded injury or illness of the same type that affects the same part of the body,

**OR**

the employee previously experienced a recorded injury or illness of the same type that affected the same part of 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 signs or symptoms to reappear.

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### What is a PLHCP

- ◆ Physician
- ◆ Licensed Health Care Provider
  - ~ Physicians Assistant
  - ~ Nurse Practitioner
  - ~ Chiropractor
  - ~ Physical Therapist
  - ~ Nurse working under a Drs. Order
  - ~ Dentist

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### 1904.6 – New Case

- ◆ If there is a medical opinion regarding resolution of a case, the employer must follow that opinion
  - ~ If two or more PLHCPs make conflicting recommendations, the employer is required to base the decision on the best documented and most well reasoned evidence.
- ◆ If an exposure triggers the recurrence, it is a new case (e.g., asthma, rashes)
- ◆ If signs and symptoms recur even in the absence of exposure, it is not a new case (e.g., silicosis, tuberculosis, asbestosis)

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**STEP 3:**  
Is the injury or illness **a new case?**

**Scenario A:** Five weeks ago, employee sprained wrist at work and received support, prescription medication, and "light duty." Two weeks ago employee was back at her normal job, off the medications and off restrictions. Today (5 weeks after the injury) employee complains of pain in same wrist after moving boxes.

**YES**

**Why?:** Employee had completely recovered from the previous injury and a new event or exposure occurred in the work environment.

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Did the employee **experience an injury or illness?**

Is the injury or illness **work-related?**

Is the injury or illness **a new case?**

Does the injury or illness **meet the general criteria  
or the application to specific cases?**

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