Exception to paragraph (e)(3): When the authorized employee who applied the lockout or tagout device is not available to remove it, the device may be removed under the direction of the employer, provided that specific procedures and training for such removal have been developed, documented and incorporated into the employer's energy control program. The employer shall demonstrate that the specific procedure provides equivalent safety to the removal of the device by the authorized employee who applied it. The specific procedure shall include at least the following elements:

(i) Verification by the employer that the authorized employee who applied the device is not at the facility;

(ii) Making all reasonable efforts to contact the authorized employee to inform him/her that his/her lockout or tagout device has been removed; and

(iii) Ensuring that the authorized employee has this knowledge before he/she resumes work at that facility.

(f) Additional requirements. (1) Testing or positioning of machines, equipment or components thereof. In situations in which lockout or tagout devices must be temporarily removed from the energy isolating device and the machine or equipment energized to test or position the machine, equipment or component thereof, the following sequence of actions shall be followed:

This section will normally be cited as "serious". VOSH agrees with federal OSHA's intent that:

"Paragraph (f)(1) requires that the employer develop and utilize a procedure that establishes a sequence of actions to be taken in situations where energy isolating devices are locked out or tagged out and there is a need for testing or positioning of the machine or equipment or components thereof. These actions are required in order to maintain the integrity of any lockout or tagout protection for the servicing employees. It is also necessary in order to provide optimum safety coverage for employees when they have to go from a deenergized condition to an energized one and then return the system to lockout or tagout control. It is during these transition periods that employee exposure to hazards is high, and a sequence of steps to accomplish these tasks safely is needed.

Paragraph (f)(1) prescribes a logical sequence of steps to be followed in situations where energy isolating devices are locked out or tagged out, and when there is a need to test or position the machine, equipment or
(i) Clear the machine or equipment of tools and materials in accordance with paragraph (e)(1) of this section;

(ii) Remove employees from the machine or equipment area in accordance with paragraph (e)(2) of this section;

(iii) Remove the lockout or tagout devices as specified in paragraph (e)(3) of this section;

(iv) Energize and proceed with testing or positioning;

(v) Deenergize all systems and reapply energy control measures in accordance with paragraph (d) of this section to continue the servicing and/or maintenance.

(2) Outside personnel (contractors, etc.). (i) Whenever outside servicing personnel are to be engaged in activities covered by the scope and application of this standard, the on-site employer and the outside employer shall inform each other of their respective lockout or tagout procedures.

This section will normally be cited as "other-than-serious". VOSH agrees with federal OSHA that: "These requirements are necessary when outside personnel work on machines or equipment because their activities have the same or greater potential for exposing employees to servicing hazards as would exist of the employer's own employees were performing the work...This standard is intended to ensure that both the employer and the outside service personnel are aware that their interaction can be a possible source of injury to employees and that the close coordination of these activities is needed in order to reduce the likelihood of such injury." - 54 Fed Reg. 36680.
(ii) The on-site employer shall ensure that his/her employees understand and comply with the restrictions and prohibitions of the outside employer’s energy control program.

(3) Group lockout or tagout (i) When servicing and/or maintenance is performed by a crew, craft, department or other group, they shall utilize a procedure which affords the employees a level of protection equivalent to that provided by the implementation of a personal lockout or tagout device.

(ii) Group lockout or tagout devices shall be used in accordance with the procedures required by paragraph (c)(4) of this section including, but not necessarily limited to, the following specific requirements:

(A) Primary responsibility is vested in an authorized employee for a set number of employees working under the protection of a group lockout or tagout device (such as an operations lock);

(B) Provision for the authorized employee to ascertain the exposure status of individual group members with regard to the lockout or tagout of the machine or equipment and

(C) When more than one crew, craft, department, etc. is involved, assignment of overall job-associated lockout or tagout control responsibility to an authorized employee designated to coordinate affected work forces and ensure continuity of protection; and

The term "authorized employee" as used for group lockout or tagout means the authorized employee in charge of the group servicing operation.

VOSH agrees with federal OSHA that determining the exposure status of individual group members and taking appropriate measures to control or limit that exposure includes, but is not limited to the following:

1. "Verification of shutdown and isolation of the equipment or process before allowing a crew member to place a personal lockout or tagout device on an energy isolating device, or on a lockout box, board, or cabinet," and

2. "Ensuring that all employees in the crew have completed their assignments, removed their lockout and/or tagout devices from the energy isolating device, the box lid or other device used, and are in the clear before turning the equipment or process over to the operating personnel or simply turning the machine or equipment on." - 54 Fed. Reg. 36682

VOSH agrees with federal OSHA that determining the exposure status of an individual group and taking appropriate measures to control or limit that exposure includes, but is not limited to: "...[p]roviding the necessary coordinating procedures for ensuring the safe transfer of lockout or tagout control devices between other groups and work shifts." -54 Fed. Reg. 36682.
(D) Each authorized employee shall affix a personal lockout or tagout device to the group lockout device, group lockbox, or comparable mechanism when he or she begins work, and shall remove those devices when he or she stops working on the machine or equipment being serviced or maintained.

(4) Shift or personnel changes. Specific procedures shall be utilized during shift or personnel changes to ensure the continuity of lockout or tagout protection, including provision for the orderly transfer of lockout or tagout device protection between off-going and oncoming employees, to minimize exposure to hazards from the unexpected energization or start-up of the machine or equipment, or release of stored energy.

Failure of employees to affix their own devices to indicate that they are exposed to the hazards of the servicing operations will normally be cited as "serious". Such employees, by clearing the equipment and removing their own devices, indicate that they are no longer exposed to the hazards of the servicing operation. Failure to remove their own devices will normally be cited as "other-than-serious."

This section will normally be cited as "serious". OSHA agrees with federal OSHA that one feasible and acceptable way to achieve compliance with this section would be: "In situations where the off-going employee removes his/her lockout or tagout device before the on-coming employee arrives, the procedure could allow for the off-going employee to apply a tagout device at the time he/she removes his/her device, indicating that the lock had been removed but that the machine or equipment had not been reenergized. The on-coming employee would verify that the system was still deenergized, and would remove the interim tag and substitute his/her lockout device. This would insure that the continuous protection is maintained from one shift to another." - 54 Fed. Reg. 36683.
Attachments:

Appendix A: Typical Minimal Lockout or Tagout System Procedures
Appendix B: Other Lockout /Tagout Standards
Appendix C: Checklist for Energy Control Procedure
Appendix D: Checklist of Exception to Energy Control Procedure
Appendix E: Checklist for Tagout System
Appendix F: Checklist for Tagout System Training
Appendix G: Training/Retraining Checklist
Appendix H: Checklist for Group Lockout or Tagout
Appendix I: Checklist for Removal of Lockout or Tagout Devices

Distribution:

Commissioner of Labor and Industry
Assistant Commissioner for Enforcement
Assistant Commissioner for Training and Public Services
Directors and Supervisors
Director of Program Evaluation and Technical Support
Director of Enforcement Policy
Safety and Health Staff
OSHA Regional Administrator, Region III
General
The following simple lockout procedure is provided to assist employers in developing their procedures so they meet the requirements of this standard. When the energy isolating devices are not lockable, tagout may be used, provided the employer complies with the provisions of the standard which require additional training and more rigorous periodic inspections. When tagout is used and the energy isolating devices are lockable, the employer must provide full employee protection (see paragraph (c)(3)) and additional training and more rigorous periodic inspections are required. For more complex systems, more comprehensive procedures may need to be developed, documented and utilized.

Lockout Procedure
Lockout procedure for
(Name of Company for single procedure or identification of equipment if multiple procedures are used)

Purpose
This procedure establishes the minimum requirements for the lockout of energy isolating devices whenever maintenance or servicing is done on machines or equipment. It shall be used to ensure that the machine or equipment is stopped, isolated from all potentially hazardous energy sources and locked out before employees perform any servicing or maintenance where the unexpected energization or start-up of the machine or equipment or release of stored energy could cause injury.

Compliance With This Program
All employees are required to comply with the restrictions and limitations imposed upon them during the use of lockout. The authorized employees are required to perform the lockout in accordance with this procedure. All employees, upon observing a machine or piece of equipment which is locked out to perform servicing or maintenance shall not attempt to start, energize or use that machine or equipment.

Type of compliance enforcement to be taken for violation of the above.

Sequence of Lockout
(1) Notify all affected employees that servicing or maintenance is required on a machine or equipment and that the machine or equipment must be shut down and locked out to perform the servicing or maintenance.

Name(s)/Job Title(s) of affected employees and how to notify.

(2) The authorized employee shall refer to the company procedure to identify the type and magnitude of the energy that the machine or equipment utilizes, shall know the methods to control the energy. Type(s) and magnitude(s) of energy, its hazards and the methods to control the energy.

(3) If the machine or equipment is operating, shut it down by the normal stopping procedure (depress stop button, open switch, close valve, etc.).

Type(s) and location(s) of machine or equipment operating controls.

(4) De-activate the energy isolating device(s) that the machine or equipment is isolated from the energy source(s).

Type(s) and location(s) of energy isolating devices.

(5) Lock out the energy isolating device(s) with assigned individual lock(s).

(6) Stored or residual energy (such as that in capacitors, springs, elevated machine members, rotating flywheels, hydraulic systems, and air, gas, steam, or water pressure, etc.) must be dissipated or restrained by methods such as grounding, repositioning, blocking, bleeding down, etc.

Type(s) of stored energy - methods to dissipate or restrain.

(7) Ensure that the equipment is disconnected from the energy source(s) by first checking that no personnel are exposed, then verify the isolation of the equipment by operating the push button or other normal operating control(s) or by testing to make certain the equipment will not operate.

Caution: Return operating control(s) to neutral or "off" position after verifying the isolation of the equipment.

Method of verifying the isolation of the equipment

(8) The machine or equipment is now locked out.

Restoring Equipment to Service When the servicing or maintenance is completed and the machine or equipment is ready to return to normal operating condition, the following steps shall be taken.

(1) Check the machine or equipment and the immediate area around the machine or equipment to ensure that nonessential items have been removed and that the machine or equipment components are operationally intact.

(2) Check the work area to ensure that all employees have been safely positioned or removed from the area.

(3) Verify that the control are in neutral.

(4) Remove the lockout devices and re-energize the machine or equipment.

Note: The removal of some forms of blocking may require re-energization of the machine before safe removal.

(5) Notify affected employees that the servicing or maintenance is completed and the machine or equipment is ready for use.
APPENDIX B

Other Lockout/Tagout Standards

The following listing indicates a number of VOSH/OSHA standards which currently impose lockout/tagout related requirements. The list does not necessarily include all lockout/tagout VOSH/OSHA 1910 standards.

Confined Space – General Industry and Construction

1910.146

Powered Industrial Trucks

1920.178(q)(4)

Overhead and Gantry Cranes

1910.179(g)(5) (i), (ii), (iii)
1910.179(l)(2) (i) (c), (d)

Derricks

1910.181 (f) (2) (i)(c), (d)

Woodworking Machinery

1910.213(a)(10)
1910.213(b)(5)

Mechanical Power Presses

1910.217(b) (8) (i)
1910.217(d)(9) (iv)

Forging Machines

1910.218(a)(3) (iii), (iv) 1910.228(f) (2) (i), (ii)
1920.218(d) (2) 1910.218(h) (2), (5)
1910.218(e) (1) (ii), (iii) 1910.218(i)(1), (2)
1910.218(f)(1)(i), (ii), (iii) 1910.218(j) (1)

Welding, Cutting and Brazing

1910.252(c) (1)(i) B-1
Pulp, Paper and Paperboard Mills

1910.261(b)(4)
1910.261(f)(6)(i)
1910.261(g)(15)(i)
1910.261(g)(19)(iii)

Textiles

1910.262(c)(1)
1910.262(n)(2)
1910.262(p)(1)
1910.262(q)(2)

Bakery Equipment

1910.263(1)(3)(iii)(b)
1910.263(1)(8)(iii)

Sawmills

1910.265(c)(13)
1910.265(c)(26)(v)

Confined Space - Telecommunications

1910.268(t)

Grain Handling

1910.272(e)(1)(ii)
1910.272(g)(1)(ii)
1910.272(l)(4)

Electrical

1910.399
APPENDIX C

Checklist for

Energy Control Procedure

1. ___ Employer has developed a procedure for the control of potentially hazardous energy when employees are engaged in servicing and maintenance of equipment/machinery. Detail ____________________________________________________________________________________________

__________________________________________________________________________________________

__________________________________________________________________________________________

2. ___ The procedure is documented.

3. ___ The procedure is utilized.

4. ___ The energy control procedures contain the following in the control of hazardous energy:

   a. ___ clearly and specifically outlined scope and purpose

   b. ___ authorization

   c. ___ rules

   d. ___ techniques

   e. ___ means to affect compliance such as:

      i. ___ specific statement of intended use of procedure
         Detail: __________________________________________________________________________________________
         __________________________________________________________________________________________
         __________________________________________________________________________________________
         __________________________________________________________________________________________

      i i __ specific procedural steps- for shutting down, isolating, blocking and securing machines or equipment to control hazardous energy
         Detail: __________________________________________________________________________________________
         __________________________________________________________________________________________
         __________________________________________________________________________________________
         __________________________________________________________________________________________

   C-1
specific procedural steps for placement, removal, and transfer of lockout devices or tagout devices and the responsibility for them.

iv. specific requirements for testing a machine or equipment to determine and verify the effectiveness of lockout devices, tagout devices, and other energy control measures.
APPENDIX D

Checklist for

Exception to Energy Control Procedure

The employer need not document the required procedure for a particular machine or equipment, when all of the following elements exist:

(1) _____ the machine or equipment has no potential for stored or residual energy or reaccumulation of stored energy after shut down which endanger employees;

(2) _____ the machine or equipment has a single energy source which can be readily identified and isolated;

(3) _____ the isolation and locking out of that energy source will completely de-energize and deactivate the machine or equipment;

(4) _____ the machine or equipment is isolated from that energy source and locked out during servicing or maintenance;

(5) _____ a single lockout device will achieve a locked-out condition;

(6) _____ the lockout device is under the exclusive control of the authorized employee performing the servicing or maintenance;

(7) _____ the servicing or maintenance does not create hazards for other employees; and

(8) _____ the employer, in utilizing this exception, has had no accidents involving unexpected activation or re-energization of the machine or equipment during servicing or maintenance.

D-1
APPENDIX E

Checklist for Tagout System

This checklist should be used when a tagout system is utilized.

1. A tagout device has been placed on the energy isolating device.

2. There is a means of attaching a warning device to indicate that the energy isolating device and the equipment being controlled may not be operated until the tagout device is removed.

3. The tagout device and its means of attachment are substantial enough to prevent inadvertent or, accidental removal.

4. A tagout device is affixed in a manner that will hold the energy isolating devices in a "safe" or "off" position.

5. The tagout device attachment is fastened at the same point at which a lock would have been attached.

6. The attachment is self-locking.

7. The tagout device is attachable by hand.

8. The attachment is releasable with minimum unlocking strength of no less than 50 pounds.

9. The attachment is at least equivalent to a one-piece, all-environment-tolerant nylon cable tie.

10. Tagout devices are standardized in color, shape, or size.
APPENDIX F

Checklist for Tagout System Training

1. ___ Employer has developed, documented, and implemented a training program which covers use of tags.
   Detail: ____________________________________________________________
   ________________________________________________________________
   ________________________________________________________________

2. ___ Employer's safety program for use of tag-out systems includes, but is not limited to, additional safety measures such as the following:
   a. ___ Removal of isolating circuit element.
   b. ___ Blocking of control switch.
   c. ___ Opening of extra disconnecting device.
   d. ___ Removal of valve handle(s) (where applicable) to reduce likelihood of inadvertent energization.

3. ___ Tagout device warns against a hazardous condition if machine or equipment is energized.

4. ___ Tagout device includes a legend such as:
   ____ DO NOT START   ____ DO NOT OPEN
   ____ DO NOT CLOSE   ____ DO NOT ENERGIZE
   ____ DO NOT OPERATE
APPENDIX G

Training Checklist

1. __ Employer has provided employees with energy control program training. If yes, answer all below.

2. __ The training includes instruction for each authorized employee in the recognition of applicable hazardous energy sources.

3. __ The training includes instruction for each affected or other employee in the purpose and use of the energy control procedure.

4. __ The training includes the types and magnitudes of the energy available in the workplace.

5. __ The training provides the methods and means necessary for energy isolation and control.

Detail: ____________________________________________________________

Retraining Checklist

1. __ Retraining provided for all authorized and affected employees whenever there is a change in their job assignment.

2. __ Retraining provided for all authorized and affected employees whenever there is a change in machines, equipment, or processes presenting new hazards.

3. __ A change in the energy control procedures.

4. __ Additional retraining has been conducted whenever employer has had reason to believe that there have been inadequacies in employee's knowledge or deviations from the use of energy control procedures.

Detail: ____________________________________________________________

5. __ Employer has certified that employee training has been accomplished and kept up-to-date.

Detail: ____________________________________________________________

G-1
Checklist for Group Lockout or Tagout

1. ___ Authorized employee has verified shutdown and isolation of equipment or process before allowing group members to lockout or tagout.
   Detail:________________________________________________________
   _____________________________________________________________
   _____________________________________________________________

2. ___ Authorized employee has verified that all employees in the crew completed their assignments and removed their lockout and/or tagout devices from energy isolating device?
   Detail:________________________________________________________
   _____________________________________________________________
   _____________________________________________________________

3. ___ When more than one crew, craft, department, etc. is involved, assignment of overall job-associated lockout or tagout responsibility has been given to an authorized employee to coordinate affected work forces and ensure continuity of protection.
   Detail:________________________________________________________
   _____________________________________________________________
   _____________________________________________________________
APPENDIX I

Checklist for
Removal of Lockout or Tagout Devices

1. _____ Specific procedures and training for such removal have been developed, documented and incorporated into employer's energy control program.

2. _____ The lockout or tagout device has been removed from energy isolating device by employee who applied the device.

   a. _____ Is there employer verification when authorized employee who applied the device is not at the facility. Detail:

   b. _____ Reasonable efforts have been made to contact authorized employee that his/her lockout device has been removed. Detail:

   c. _____ Authorized employee was made aware of efforts to inform him/her of removal of lockout device before authorized employee resumed work. Detail:
16. WRITTEN HAZARD COMMUNICATION PROGRAM

Comments and Discussion:

All private employers and all public sector organizations are responsible for developing, implementing and maintaining a written hazard communication program for their workplaces by May 23, 1988. (For the manufacturing SIC codes 20-39 and all public sector organizations the effective date was May 25, 1986.)

Employers are to describe details of their hazard communication programs in a written plan. The written hazard communication plan, which is a documentation of how the employer is meeting the requirements of the Hazard Communication Standard, will be a vehicle for promoting safety in the workplace by providing information to employees about health and safety hazards. This written program must include provisions related to:

-- Labels and other forms of warning,

-- Material Safety Data Sheets, and

-- Employee Information and Training.

Key Provisions:

1. A written hazard communication plan must include:

   a. A list of all hazardous chemicals (products) in the workplace. The chemical names used on this list should correspond with those on the material safety data sheets.

   b. A description of how the criteria of the Standard are satisfied pertaining to:

      (1) Labeling and other forms of warning
      (2) Material safety data sheets
      (3) Employee training.

   c. Descriptions of the methods the employer will use to inform employees:

      (1) Of the hazards of non-routine tasks (i.e. cleaning a chemical vat)

      (2) Of the hazards associated with chemicals contained in unlabeled pipes in their work area.
d. Employers who produce, use or store hazardous chemicals at a workplace in such a way that employees of the other employer(s) may be exposed must describe the methods the employer will use:

(1) To provide information for each hazardous chemical the other employer(s)’ employees may be exposed to while working. (May provide copy of MSDS or make available at a central location in the workplace.)

2. The written hazard communication plan is to be available to employees, their designated representatives, Virginia Occupational Safety and Health (VOSH), and the National Institute of Occupational Safety and Health (NIOSH).

3. Any existing written hazard communication plan which complies with the requirements that have been outlined above is acceptable.

Other Recommendations for a Written Plan:

1. Give specific information including the names of individuals responsible for various aspects of the program. Include an appendix listing titles with corresponding names and responsibilities.

   a. Example: Labels and Other Forms of Warning

      1) Give title of person(s) responsible for ensuring in-plant labeling

      2) Give title of person(s) responsible for ensuring labels are on shipped containers

      3) Describe the procedure to follow if containers received are not labeled properly

      4) Describe the labeling system(s) used (Put an example in an appendix)

      5) Describe written alternatives to in-plant labeling, if used

      6) Give procedure to review and update label information when necessary.

   b. Example: Material Safety Data Sheets

      1) Give title of person(s) responsible for obtaining and maintaining data sheets

      2) Describe how sheets are to be maintained (e.g. notebooks in the work area(s))

      3) Explain how employees will have access to MSDSs

      4) Give procedure to follow when MSDS is not received at time of first shipment

      5) Give procedure to follow when MSDS received is incomplete
6) Give procedure for review and updating of sheets

7) Describe alternatives to actual data sheets used.

c. Example: Training

1) Give title of person(s) responsible for conducting training

2) Describe the format of the program used (audiovisuals, classroom instruction, etc.)

3) Describe the subject content of the program

4) Give procedure for initial training and retraining employees when a new hazard is introduced in the workplace

5) Describe documentation of training (i.e. employee sign).

2. Review and update the plan on a periodic basis. Include a review date and signature blank for responsible person in the written plan.
EXAMPLE OF A
WRITTEN HAZARD COMMUNICATION PROGRAM

I. Introduction

The OSHA Hazard Communication Standard was promulgated to ensure that all chemicals would be evaluated and that information regarding the hazards would be communicated to employers and employees. The goal of the standard is to reduce the number of chemically related occupational illnesses and injuries.

In order to comply with the Hazard Communication Standard, this written program has been established for (name of company). All divisions and sections of the company are included within this program. Copies of this written program will be available (for review by any employee) in the following locations:

Basic components of the program include:
- Hazardous Chemical Inventory List
- Material Safety Data Sheets
- Labels and Other Forms of Warning
- Employee Information and Training
- Nonroutine Tasks
- Unlabeled Pipes
- On-Site Contractors
- Program Review

II. Hazardous Chemical Inventory List

A list of all known hazardous chemicals (products) used at (name of company) is contained in Appendix A of this written program.

A list of hazardous chemicals used by each department is kept with material safety data sheets in the respective departments.

III. Hazard Determination

Example A

All hazardous chemicals in this facility are purchased materials; there are no manufactured or intermediate hazardous chemicals. Therefore, (name of company) shall rely on the hazard determination made by the chemical manufacturer as indicated on the MSDS.
Example B

Hazardous chemicals in this facility are either purchased materials, by-products of the manufacturing or work process, or a chemical end product manufactured at this facility.

For purchased hazardous chemicals (Name of Company) will rely on the hazard determination made by the chemical manufacturer as indicated on the MSDS.

For a chemical by-products and/or end product for which a generic MSD cannot be purchased (Name of Company) will evaluate the chemical using the procedure described in Appendix B.

IV. Material Safety Data Sheets (MSDS)

When chemicals are ordered, the (title of person ordering) shall specify on the purchase order that chemicals are not to be shipped without corresponding material safety data sheets.

When MSDSs arrive, they will be reviewed for completeness by (title of person). Should any MSDS be incomplete, a letter will be sent immediately to the manufacturer requesting the additional information.

A complete file of MSDSs for all hazardous chemicals to which employees of this company may be exposed will be kept in labeled binders in (location) and (location).

MSDSs for hazardous chemicals used by departments will be kept in labeled binders in office of the respective departments. MSDSs will be available for employees during each work shift. Should MSDSs be unavailable, please contact (title & number) immediately.

MSDSs will be reviewed annually by (title). Should there be any MSDS that has not been updated within the past year, a new MSDS will be requested.
After three documented requests for an MSDS have been unsuccessful, the problem will be reported to the nearest Virginia Occupational Safety and Health (VOSH) office.

V. Labels and Other Forms of Warning

The Hazard Communication Standard requires that hazardous chemicals be labeled by manufacturers. The label must contain the following:

- Chemical identify
- Appropriate hazard warnings
- Name and address of the chemical manufacturer, importer, or other responsible Party

When chemicals are ordered by (title) the purchase order will indicate the need for the above stated information to be included on the labels or (name of company) will refuse acceptance of the shipment.

Upon delivery of chemicals, (title) will ensure that chemicals are labeled properly. Any chemicals without proper labeling will not be accepted.

When chemicals are transferred from the manufacture’s containers to secondary containers, the supervisor of each section will ensure that the containers are labeled with the identity of the chemicals and appropriate hazard warnings.

See Appendix C for an example of in-plant labeling.

The entire labeling procedure will be reviewed annually by (title) and changed as necessary.

VI. Employee Information and Training

Prior to starting work, new employees of (name of company) will attend a health and safety orientation program. (title) is responsible for organizing and conducting initial training. Training will consist of (number) sessions of (number) minutes each.

The format for the training program will be _______________________

The following topics will be covered:
- An overview of the requirements of the Hazard Communication Standard
- The labeling system and how to use it
- How to review MSDSs and where they are kept
- Chemicals present in work operations
- Physical and health effects of hazardous chemicals
- Methods and observation techniques used to determine the presence or release of hazardous chemicals in the area
- Personal protective equipment and work practices to lessen or prevent exposure to chemicals
Steps the company has taken to lessen or prevent exposure to chemicals
Safety/emergency procedures to follow if exposure occurs
Location and availability of the written program.

Following each training session, the employee is required to sign and date the training record verifying attendance. See Appendix D for a sample training record.

Before any new employee can begin work which requires the use of or potential exposure to hazardous chemicals, training as indicated above must be completed.

Additional training will be provided with the introduction of each new hazard. Records of this additional training will be maintained.

VII. Non-Routine Tasks

Hazardous non-routine tasks at (name) have been identified as follows:

<table>
<thead>
<tr>
<th>Task</th>
<th>Hazardous Chemicals</th>
</tr>
</thead>
</table>

Prior to any employee beginning a hazardous non-routine task, he/she must report to __________________________ to determine the hazards involved and the protective equipment required.

VIII. Unlabeled Pipes

Work activities are often performed in areas where chemicals are transferred through pipes. These pipes are not required to be labeled; however, the employee needs to be aware of potential hazards. Prior to starting work in areas having unlabeled pipes, the employee shall contact (title) to determine:

- The identity of the chemical in the pipes
- Potential hazards
- Safety precautions

IX. Multi-Employer Workplaces

Often one (1) or more contractors work on site at (Name of Company) or employees of (Name of Company) work at a site with employees of other employers. When employees of other employers are exposed to chemicals used or stored by (Name of Company), then the other employers will be provided with:

- A copy of the MSDS.
- Information on any precautionary measures that need to be taken to protect employees.
The chemical labeling system used.

(Name of Position of Employee) is responsible for providing other employers with a MSDS or ensuring that the MSDS is available at (Location).

(Name) is responsible for providing other employers with information on precautionary measures that need to be taken to protect employees. This information will be provided (verbally, in writing, or other methods).

(Name or Position of Employee) is responsible for informing other employers of the labeling system used. This information will be provided (verbally, in writing, or other methods). (If a number of pictograph system is used, then the legend explaining the numbers and pictograph should be given to the employers or posted in the work area). (Appendix E contains a listing of titles with corresponding names and responsibilities as designated in this program).

×.  **Program Review**

This Written Hazard Communication Program for (name of company) will be reviewed by (title) annually and updated as necessary. Appendix F contains the review and signature form.
# APPENDIX A

Hazardous Chemical Inventory List

<table>
<thead>
<tr>
<th>Hazardous Chemicals</th>
<th>Work Processes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chemical Name (common name)</td>
<td></td>
</tr>
</tbody>
</table>
APPENDIX B

Procedures for Evaluating Chemical By-Products/End Products
APPENDIX C

Example of In-House Labeling
APPENDIX D

Training Record

<table>
<thead>
<tr>
<th>Date</th>
<th>Topic</th>
<th>Employee Signature</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### APPENDIX E

**Titles with Corresponding Names and Responsibilities**

<table>
<thead>
<tr>
<th>Title</th>
<th>Name</th>
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APPENDIX F

The Written Hazard Communication Program for (name of company) has been reviewed and updated.

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SECTION (f)

LABELS AND OTHER FORMS OF WARNING

Comments and Discussion:

Since labels and other forms of warning will be the primary initial source of warning for employees, the requirements of this section of the Standard are very important to the effectiveness of the overall hazard communication program.

Key Provisions:

1. Chemical manufacturers, importers, and distributors must ensure that every container of hazardous chemicals leaving the workplace bears a label specifying:
   a. The identity of the hazardous chemical
   b. Appropriate hazard warnings
   c. The name and address of the chemical manufacturer, importer or other responsible party.

2. Labels affixed to containers by the manufacturer, importer or distributor must not conflict with the requirements of the Hazardous Materials Transportation Act.

3. Substances with specific OSHA standards must be labeled by the manufacturer, importer, or distributor in a way which includes the specific labeling requirements of that standard. For example, the VOSH inorganic Arsenic Standard, 1910.1018(p), provides that containers which contain inorganic arsenic must have a label which bears the following legend:

   DANGER
   CONTAINS INORGANIC ARSENIC
   CANCER HAZARD
   HARMFUL IF INHALED OR SWALLOWED
   USE ONLY WITH ADEQUATE VENTILATION

4. Employers must ensure that each container in the workplace is labeled or otherwise marked. The information must include:
   a. The identity of the hazardous chemical(s) contained
   b. “Appropriate” hazard warnings for employee protection.

5. Signs, placards, process sheets, batch tickets, operating procedures may be used for stationary process containers rather than individually labeling each piece of equipment.
These alternatives must contain the same information as labels and must always be readily accessible to employees.

6. Exemptions to in-house individual container labeling include:

   a. Pipes and piping systems

   b. Portable containers, the contents of which are to be used during the workshift by employee who transferred the material into the container.

7. Employers must not remove labels from incoming containers unless they are immediately marked with the required information.

8. All forms of warnings must be in English. Other languages, in addition to English, may be used where needed.

9. Various coding systems incorporating colors, symbols, and/or numbers may be used in labeling secondary containers in the workplace to describe hazardous properties of a chemical and appropriate protective equipment. If a coding system is used in-house, employees must be trained about the specifics of the coding system.

10. The label affixed to the container by the manufacturer should include any known target organ effects in the hazard warning.

11. Existing labels and other forms of warnings may be utilized if they meet the requirements of this Standard.
Comments and Discussion:

Material Safety Data Sheets (MSDS) will be the back-bone of the hazard communication program, as they contain extensive detailed information related to hazardous chemicals. The MSDS will be maintained and available as a backup to the information provided on the labels and other forms of warning. In medical emergency situations and other emergencies, the MSDS will be the most important item due to the nature of the information.

Key Provisions:

1. Chemical manufacturers and importers must obtain or develop a MSDS on each hazardous chemical they produce or import.

2. Employers must maintain a MSDS for each hazardous chemical they use.

MSDS REQUIREMENTS

1. The MSDS must be in English and must include:

   a. The identity used on the label
      - Single substance: chemical and common names
      - Mixtures tested as a whole: chemical and common name(s) of all ingredients which contribute to known hazards, and common name(s) of the mixture itself
      - Mixtures untested as whole: chemical and common names of all ingredients which are health hazards and which are in concentrations of 1% or greater; carcinogens in concentration of 0.1% or more.

   b. Physical and chemical characteristics of the hazardous chemicals

   c. Physical hazards (potential for fire, explosion, etc.)

   d. Known acute and chronic health effects and related health information

   e. Primary routes of entry into the body

   f. Information on exposure limits

   g. Whether hazardous chemical is considered a carcinogen by OSHA, the
International Agency for Research on Cancer or the National Toxicology Program

h. Precautions for safe handling

i. Generally acceptable control measures (engineering controls, work practices, personal protective equipment)

j. Emergency and first aid procedures

k. Date of MSDS preparation or last change

l. Name, address and phone number of party responsible for preparing/distributing the MSDS (see example of complete MSDSs on p. 60).

2. No blank spaces are permitted; if information is not found or not applicable, spaces should be marked accordingly.

3. One MSDS may be used for similar mixtures with essentially the same hazards and contents

4. The chemical manufacturer, importer or employer must ensure that the MSDS accurately reflects scientific evidence. New information must be added to the MSDS within three months.

5. The MSDS is to be provided to purchasers with their first shipment. Unless otherwise specified, the MSDS may be forwarded by mail, computer link-up, etc. An updated MSDS must be transmitted with the next shipment.

6. Distributors must provide MSDSs to purchasers.

7. Copies of MSDSs must be readily accessible during each work shift to employees when they are in their work area(s)."

8. An MSDS may be kept in any format as long as the requirements are met. Acceptable formats include: manuals, files and computer terminals if the information is readily accessible.

9. MSDSs are to be made available to designated representatives, Virginia Occupational Safety and Health and the Director, National Institute for Occupational Safety and Health.
Additional Responsibilities

Employers must seek MSDSs if they are not forwarded automatically with each first shipment. (See Appendix E, p. 99 for sample request letter.) Should employers learn that a chemical manufacturer does not have the appropriate MSDSs he should contact the VOSH office in the area for follow-up. Documentation of attempts to obtain MSDSs (copies of letters, notes regarding phone requests) should be maintained. Although chemical manufacturers are responsible for the accuracy of the information contained on the MSDS, employers must ensure that there are not obvious omissions of data. (See Appendix E, p. 101 for a sample letter requesting more information on a deficient MSDS.)

NOTE: In view of the above requirements for MSDSs, it may be prudent for larger employers to develop a system of MSDS storage that is broken down by department or work process rather than on a company-wide basis.
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**Regions VII and VIII**  
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Preface

The information in this pamphlet explains the requirements of the Occupational Safety and Health Act of 1970 and Title 29 of the Code of Federal Regulations, Part 1904 (29 CFR Part 1904) for recording and reporting occupational injuries and illnesses. The Occupational Safety and Health Act of 1970 and 29 CFR Part 1904 require employers to prepare and maintain records of occupational injuries and illnesses. The act made the Secretary of Labor responsible for the collection, compilation, and analysis of statistics of work-related injuries and illnesses. The Bureau of Labor Statistics (BLS) administers this recordkeeping and reporting system. In most States, a State agency cooperates with BLS in administering these programs.

Records of injuries and illnesses are necessary for carrying out the purposes of the act. They provide a basis for a statistical program which produces injury and illness data which are used by OSHA in measuring and directing the agency’s efforts. The records are also helpful to employers and employees in identifying many of the factors which cause injuries or illnesses in the workplace. In addition, OSHA records are designed to assist safety and health compliance officers in making OSHA inspections.

This pamphlet summarizes the OSHA recordkeeping requirements of 29 CFR Part 1904, and provides basic instructions and guidelines to assist employers in fulfilling their recordkeeping and reporting obligations. Many specific standards and regulations of the Occupational Safety and Health Administration (OSHA) have additional requirements for the maintenance and retention of records of medical surveillance, exposure monitoring, inspections, accidents and other activities and incidents relevant to occupational safety and health, and for the reporting of certain information to employees and to OSHA. These additional requirements are not covered in this pamphlet. For information on these requirements, employers should refer directly to the OSHA standards or regulations or contact their OSHA Area Office.

Further information on the requirements outlined in this pamphlet is available in the free detailed report, Recordkeeping Guidelines for Occupational Injuries and Illnesses, which may be obtained by using the order form on page 18. Assistance can also be obtained by contacting the participating State agency or the BLS regional office for your area. The BLS regional offices are listed on the inside front cover. State agencies are listed at the end of this publication.

The following government agencies are involved in OSHA recordkeeping:

A. The Occupational Safety and Health Administration, U.S. Department of Labor. The Occupational Safety and Health Administration is responsible for developing, implementing, and enforcing safety and health standards and regulations. OSHA works with employers and employees to foster effective safety and health programs which reduce workplace hazards.


C. State Agencies Many States cooperate with BLS in administering the OSHA recordkeeping and reporting programs. Some States have their own safety and health laws which may impose additional obligations. Employers should consult their State safety and health laws concerning these requirements.

These guidelines were prepared in the BLS office of Occupational Safety and Health Statistics, by Stephen Newell, under the general direction of William M. Eisenberg, Associate commissioner.

OMB DISCLOSURE STATEMENT

We estimate that the use of this supplementary instruction booklet will take an average of 6 minutes per reference, which is included in the estimate of time for completing and reviewing either a line entry on an OSHA Form No. 200 and/or an entire OSHA Form No. 101. If you have any comments regarding this estimate or any other aspect of this recordkeeping system, send them to the Bureau of Labor Statistics, Division of Management Systems (1220-0029), Washington, D.C. 20212 and to the Office of Management and Budget, Paperwork Reduction Project (1220-0029), Washington, DC. 20503.
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Chapter I. Employers Subject to the Recordkeeping Requirements of the Occupational Safety and Health Act of 1970

The recordkeeping requirements of the Occupational Safety and Health Act of 1970 apply to private sector employers in all States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Trust Territories of the Pacific Islands.

A. Employers who must keep OSHA records

Employers with 11 or more employees (at any one time in the previous calendar year) in the following industries must keep OSHA records. The industries are identified by name and by the appropriate Standard Industrial Classification (SIC) code:

- Agriculture, forestry, and fishing (SIC's 01-02 and 07-09)
- Oil and gas extraction (SIC 13 and 1477)
- Construction (SIC's 15-17)
- Manufacturing (SIC's 20-39)
- Transportation and public utilities (SIC's 41-42 and 44-49)
- Wholesale trade (SIC's 50-51)
- Building materials and garden supplies (SIC 52)
- General merchandise and food stores (SIC's 53 and 54)
  Hotels and other lodging places (SIC 70)
- Repair services (SIC's 75 and 76)
- Amusement and recreation services (SIC 79), and
  Health services (SIC 80).

If employers in any of the industries listed above have more than one establishment with combined employment of 11 or more employees, records must be kept for each individual establishment.

B. Employers who infrequently must keep OSHA records

Employers in the industries listed below are normally exempt from OSHA recordkeeping. However, each year a small rotating sample of these employers is required to keep records and participate in a mandatory statistical survey of occupational injuries and illnesses. Their participation is necessary to produce national estimates of occupational injuries and illnesses for all employers (both exempt and nonexempt) in the private sector. If an employer who is regularly exempt is selected to maintain records and participate in the Annual Survey of Occupational Injuries and Illnesses, he or she will be notified in advance and supplied with the necessary forms and instructions. Employers who normally do not have to keep OSHA records include:

1. All employers with no more than 10 full- or part-time employees *at any one time* in the previous calendar year.

2. Employers in the following retail trade, finance, insurance and real estate, and services industries (identified by SIC codes):
   - Automotive dealers and gasoline service stations (SIC 55)
   - Apparel and accessory stores (SIC 56)
   - Furniture, home furnishings, and equipment stores (SIC 57)
   - Eating and drinking places (SIC 58)
   - Miscellaneous retail (SIC 59)
   - Banking (SIC 60)
   - Credit agencies other than banks (SIC 61)
   - Security, commodity brokers, and services (SIC 62)
   - Insurance (SIC 63)
   - Insurance agents, brokers, and services (SIC 64)
   - Real estate (SIC 65)
   - Combined real estate insurance, etc. (SIC 66)
   - Holding and other investment offices (SIC 67)
   - Personal services (SIC 72)
   - Business services (SIC 73)
   - Motion pictures (SIC 78)
   - Legal services (SIC 81)
   - Educational services (SIC 82)
   - Social services (SIC 83)
   - Museums, botanical, zoological gardens (SIC 84)
   - Membership organizations (SIC 86)
   - Private households (SIC 88), and
   - Miscellaneous services (SIC 89).

Even though recordkeeping requirements are reduced for employers in these industries, they, like nonexempt employers, must comply with OSHA standards, display the OSHA poster, and report to OSHA within 48 hours any accident which results in one or more fatalities or the hospitalization of five or more employees. Also, some State safety and health laws may require regularly exempt employers to keep injury and illness records, and some States have more stringent catastrophic reporting requirements.
C. Employers and individuals who never keep OSHA records

The following employers and individuals do not have to keep OSHA injury and illness records:

- **Self-employed individuals**;
- **Partners with no employees**;
- **Employers of domestics in the employers’ private residence for the purposes of housekeeping or child care, or both**, and
- **Employers engaged in religious activities concerning the conduct of religious services or rites**. Employees engaged in such activities include clergy, choir members, organists and other musicians, ushers, and the like. However, records of injuries and illnesses occurring to employees while performing secular activities must be kept. Recordkeeping is also required for employees of private hospitals and certain commercial establishments owned or operated by religious organizations.

State and local government agencies are usually exempt from OSHA recordkeeping. However, in certain States, agencies of State and local governments are required to keep injury and illness records in accordance with State regulations.

D. Employers subject to other Federal safety and health regulations

Employers subject to injury and illness recordkeeping requirements of other Federal safety and health regulations are not exempt from OSHA recordkeeping. However, records used to comply with other Federal recordkeeping obligations may also be used to satisfy the OSHA recordkeeping requirements. The forms used must be equivalent to the log and summary (OSHA No. 200) and the supplementary record (OSHA No. 101).
Chapter II. OSHA Recordkeeping Forms

Only two forms are used for OSHA recordkeeping. One form, the OSHA NO. 200, serves as both the Log of Occupational Injuries and Illnesses, on which the occurrence and extent of cases are recorded during the year; and as the Summary of Occupational Injuries and Illnesses, which is used to summarize the log at the end of the year to satisfy employer posting obligations. The other form, the Supplementary Record of Occupational Injuries and Illnesses, OSHA No. 101, provides additional information on each of the cases that have been recorded on the log.

A. The Log and Summary of Occupational Injuries and Illnesses, OSHA No. 200

The log is used for recording and classifying occupational injuries and illnesses, and for noting the extent of each case. The log shows when the occupational injury or illness occurred, to whom, the regular job of the injured or ill person at the time of the injury or illness exposure, the department in which the person was employed, the kind of injury or illness, how much time was lost, whether the case resulted in a fatality, etc. The log consists of three parts: A descriptive section which identifies the employee and briefly describes the injury or illness; a section covering the extent of the injuries recorded, and a section on the type and extent of illnesses.

Usually, the OSHA No. 200 form is used by employers as their record of occupational injuries and illnesses. However, a private form equivalent to the log, such as a computer printout, may be used if it contains the same detail as the OSHA No. 200 and is as readable and comprehensible as the OSHA No. 200 to a person not familiar with the equivalent form. It is important that the columns of the equivalent form have the same identifying number as the corresponding columns of the OSHA No. 200 because the instructions for completing the survey of occupational injuries and illnesses refer to log columns by number. It is advisable that employers have private equivalents of the log form reviewed by BLS to insure compliance with the regulations.

The portion of the OSHA No. 200 to the right of the dotted vertical line is used to summarize injuries and illnesses in an establishment for the calendar year. Every nonexempt employer who is required to keep OSHA records must prepare an annual summary for each establishment based on the information contained in the log for each establishment. The summary is prepared by totaling the column entries on the log (or its equivalent) and signing and dating the certification portion of the form at the bottom of the page.

B. The Supplementary Record of Occupational Injuries and Illnesses, OSHA No. 101

For every injury or illness entered on the log, it is necessary to record additional information on the supplementary record, OSHA No. 101. The supplementary record describes how the accident or illness exposure occurred, lists the objects or substances involved, and indicates the nature of the injury or illness and the part(s) of the body affected.

The OSHA No. 101 is not the only form that can be used to satisfy this requirement. To eliminate duplicate recording, workers’ compensation, insurance, or other reports may be used as supplementary records if they contain all of the items on the OSHA No. 101. If they do not, the missing items must be added to the substitute or included on a separate attachment.

Completed supplementary records must be present in the establishment within 6 workdays after the employer has received information that an injury or illness has occurred.
Ordinarily, injury and illness records must be kept by employers for each of their establishments. This chapter describes what is considered to be an establishment for recordkeeping purposes, where the records must be located, how long they must be kept, and how they should be updated.

A. Establishments

If an employer has more than one establishment, a separate set of records must be maintained for each one. The recordkeeping regulations define an establishment as “a single physical location where business is conducted or where services or industrial operations are performed.” Examples include a factory, mill, store, hotel, restaurant, movie theater, farm, ranch, sales office, warehouse, or central administrative office.

The regulations specify that distinctly separate activities performed at the same physical location (for example, contract construction activities operated from the same physical location as a lumber yard) shall each be treated as a separate establishment for recordkeeping purposes. Production of dissimilar products; different kinds of operational procedures; different facilities; and separate management, personnel, payroll, or support staff are all indicative of separate activities and separate establishments.

B. Location of records

Injury and illness records (the log, OSHA No. 200, and the supplementary record, OSHA No. 101) must be kept for every physical location where operations are performed. Under the regulations, the location of these records depends upon whether or not the employees are associated with a fixed establishment. The distinction between fixed and nonfixed establishments generally rests on the nature and duration of the operation and not on the type of structure in which the business is located. A nonfixed establishment usually operates at a single location for a relatively short period of time. A fixed establishment remains at a given location on a long-term or permanent basis. Generally, any operation at a given site for more than 1 year is considered a fixed establishment. Also, fixed establishments are generally places where clerical, administrative, or other business records are kept.

1. Employees associated with fixed establishments

   a. Records for employees working at fixed locations, such as factories, stores, restaurants, warehouses, etc., should be kept at the work location.
   b. Records for employees who report to a fixed location but work elsewhere should be kept at the place where the employees report each day. These employees are generally engaged in activities such as agriculture, construction, transportation, etc.
   c. Records for employees whose payroll or personnel records are maintained at a fixed location, but who do not report or work at a single establishment, should be maintained at the base from which they are paid or the base of their firm’s personnel operations. This category includes generally unsupervised employees such as traveling salespeople, technicians, or engineers.

2. Employees not associated with fixed establishments

Some employees are subject to common supervision, but do not report or work at a fixed establishment on a regular basis. These employees are engaged in physically dispersed activities that occur in construction, installation, repair, or service operations. Records for these employees should be located as follows:

   a. Records may be kept at the field office or mobile base of operations.
   b. Records may also be kept at an established central location. If the records are maintained centrally: (1) The address and telephone number of the place where records are kept must be available at the worksite; and (2) there must be someone available at the central location during normal business hours to provide information from the records.

C. Location exception for the log (OSHA No. 200)

Although the supplementary record and the annual summary must be located as outlined in the previous section, it is possible to prepare and maintain the log at an alternate location or by means of data processing equipment, or both. Two requirements must be met: (1) Sufficient information must be available at the alternate location to complete the log within 6 workdays after receipt of information that a recordable case has occurred; and (2) a copy of the log updated to within 45 calendar days must be present at all times in the establishment. This location exception applies only to the
log, and not to the other OSHA records. Also, it does not affect the employer’s posting obligations.

D. Retention of OSHA records

The log and summary, OSHA No. 200, and the supplementary record, OSHA No. 101, must be retained in each establishment for 5 calendar years following the end of the year to which they relate. If an establishment changes ownership, the new employer must preserve the records for the remainder of the 5-year period. However, the new employer is not responsible for updating the records of the former owner.

E. Maintenance of the log (OSHA No. 200)

In addition to keeping the log on a calendar year basis, employers are required to update this form to include newly discovered cases and to reflect changes which occur in recorded cases after the end of the calendar year. Maintenance or updating of the log is different from the retention of records discussed in the previous section. Although all OSHA injury and illness records must be retained, only the log must be updated by the employer. If, during the 5-year retention period, there is a change in the extent or outcome of an injury or illness which affects an entry on a previous year’s log, then the first entry should be lined out and a corrected entry made on that log. Also, new entries should be made for previously unrecorded cases that are discovered or for cases that initially weren’t recorded but were found to be recordable after the end of the year in which the case occurred. The entire entry should be lined out for recorded cases that are later found nonrecordable. Log totals should also be modified to reflect these changes.
Chapter IV. Deciding Whether a Case Should Be Recorded and How To Classify It

This chapter presents guidelines for determining whether a case must be recorded under the OSHA record-keeping requirements. These requirements should not be confused with recordkeeping requirements of various workers’ compensation systems, internal industrial safety and health monitoring systems, the ANSI z. 16 standards for recording and measuring work injury and illness experience, and private insurance company rating systems. Reporting a case on the OSHA records should not affect recordkeeping determinations under these or other systems. Also-

Recording an injury or illness under the OSHA system does not necessarily imply that management was at fault, that the worker was at fault, that a violation of an OSHA standard has occurred, or that the injury or illness is compensable under workers’ compensation or other systems

A. Employees vs. other workers on site

Employers must maintain injury and illness records for their own employees at each of their establishments, but they are not responsible for maintaining records for employees of other firms or for independent contractors, even though these individuals may be working temporarily in their establishment or on one of their jobsites at the time an injury or illness exposure occurs. Therefore, before deciding whether a case is recordable an employment relationship needs to be determined.

Employee status generally exists for recordkeeping purposes when the employer supervises not only the output, product, or result to be accomplished by the person’s work, but also the details, means, methods, and processes by which the work is accomplished. This means the employer who supervises the worker’s day-today activities is responsible for recording his injuries and illnesses. Independent contractors are not considered employees; they are primarily subject to supervision by the using firm only in regard to the result to be accomplished or end product to be delivered. Independent contractors keep their own injury and illness records.

Other factors which may be considered in determining employee status are: (1) Whom the worker considers to be his or her employer; (2) who pays the worker’s wages; (3) who withholds the worker’s Social Security taxes; (4) who hired the worker; and (5) who has the authority to terminate the worker’s employment.

B. Method used for case analysis

The decisionmaking process consists of five steps:

1. Determine whether a case occurred, that is, whether there was a death, illness, or an injury;
2. Establish that the case was work related; that it resulted from an event or exposure in the work environment;
3. Decide whether the case is an injury or an illness; and
4. If the case is an illness, record it and check the appropriate illness category on the log; or
5. If the case is an injury, decide if it is recordable based on a finding of medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job.

Chart 1 presents this methodology in graphic form.

C. Determining whether a case occurred

The first step in the decisionmaking process is the determination of whether or not an injury or illness has occurred. Employers have nothing to record unless an employee has experienced a work-related injury or illness. In most instances, recognition of these injuries and illnesses is a fairly simple matter. However, some situations have troubled employers over the years. Two of these are:

1. Hospitalization for observation. If an employee goes to or is sent to a hospital for a brief period of time for observation, it is not recordable, provided no medical treatment was given, or no illness was recognized. The determining factor is not that the employee went to the hospital, but whether the incident is recordable as a work-related injury or illness requiring medical treatment or involving loss of consciousness, restriction of work or motion, or transfer to another job.

2. Differentiating a new case from the recurrence of a previous injury or illness Employers are required to make new entries on their OSHA forms for each new recordable injury or illness. However, new entries should
not be made for the recurrence of symptoms from previous cases, and it is sometimes difficult to decide whether or not a situation is a new case or a recurrence. The following guidelines address this problem:

a. **Injuries.** The aggravation of a previous injury almost always results from some new incident involving the employee (such as a slip, trip, fall, sharp twist, etc.). Consequently, when work related, these new incidents should be recorded as new cases.

b. **Illnesses.** Generally, each occupational illness should be recorded with a separate entry on the OSHA No. 200. However, certain illnesses, such as silicosis, may have prolonged effects which recur over time. The recurrence of these symptoms should not be recorded as new cases on the OSHA forms. The recurrence of symptoms of previous illnesses may require adjustment of entries on the log for previously recorded illnesses to reflect possible changes in the extent or outcome of the particular case.

Some occupational illnesses, such as certain dermatitis or respiratory conditions, may recur as the result of new exposures to sensitizing agents, and should be recorded as new cases.

D. Establishing work relationship

The Occupational Safety and Health Act of 1970
requires employers to record only those injuries and illnesses that are work related. **Work relationship is established under the OSHA recordkeeping system when the injury or illness results from an event or exposure in the work environment. The work environment is primarily composed of: (1) The employer’s premises, and (2) other locations where employees are engaged in work-related activities or are present as a condition of their employment.**

When an employee is off the employer’s premises, work relationship must be established; when on the premises, this relationship is presumed. The employer’s premises encompass the total establishment, including not only the primary work facility, but also such areas as company storage facilities. In addition to physical locations, equipment or materials used in the course of an employee’s work are also considered part of the employee’s work environment.

1. **Injuries and illnesses resulting from events or exposures on the employer’s premises** Injuries and illnesses that result from an event or exposure on the employer’s premises are generally considered work related. The employer’s premises consist of the total establishment. They include the primary work facilities and other areas which are considered part of the employer’s general work area.

The presumption of work relationship for activities on the employer’s premises is rebuttable. Situations where the presumption would not apply include: (1) When a worker is on the employer’s premises as a member of the general public and not as an employee, and (2) when employees have symptoms that merely surface on the employer’s premises, but are the result of a nonwork-related event or exposure off the premises.

The following subjects warrant special mention:

a. Company restrooms, hallways, and cafeterias are all considered to be part of the employer’s premises and constitute part of the work environment. Therefore, injuries occurring in these places are generally considered work related.

b. For OSHA recordkeeping purposes, the definition of work premises *excludes all* employer controlled ball fields, tennis courts, golf courses, parks, swimming pools, gyms, and other similar recreational facilities which are often apart from the workplace and used by employees on a voluntary basis for their own benefit, primarily during off-work hours. Therefore, injuries to employees in these recreational facilities are not recordable unless the employee was engaged in some work-related activity, or was required by the employer to participate.

c. Company parking facilities are generally not considered part of the employer’s premises for OSHA recordkeeping purposes. Therefore, injuries to employees on these parking lots are not presumed to be work related, and are not recordable unless the employee was engaged in some work-related activity.

2. **Injuries and illnesses resulting from events or exposures off the employer’s premises** When an employee is off the employer’s premises and suffers an injury or an illness exposure, work relationship must be established; it is not presumed. Injuries and illness exposures off premises are considered work related if the employee is engaged in a work activity or if they occur in the work environment. The work environment in these instances includes locations where employees are engaged in job tasks or work-related activities, or places where employees are present due to the nature of their job or as a condition of their employment.

Employees who travel on company business shall be considered to be engaged in work-related activities all the time they spend in the interest of the company, including, but not limited to, travel to and from customer contacts, and entertaining or being entertained for the purpose of transacting, discussing, or promoting business, etc. However, an injury/illness would not be recordable if it occurred during normal living activities (eating, sleeping, recreation); or if the employee deviates from a reasonably direct route of travel (side trip for vacation or other personal reasons). He would again be in the course of employment when he returned to the normal route of travel.

When a traveling employee checks into a hotel or motel, he establishes a “home away from home.” Thereafter, his activities are evaluated in the same manner as for nontraveling employees. For example, if an employee on travel status is to report each day to a fixed worksite, then injuries sustained when traveling to this worksite would be considered off the job. The rationale is that an employee’s normal commute from home to office would not be considered work related. However, there are situations where employees in travel status report to, or rotate among several different worksites after they establish their “home away from home” (such as a salesperson traveling to and from different customer contacts). In these situations, the injuries sustained when traveling to and from the sales locations would be considered job related.

Traveling sales personnel may establish only one base of operations (home or company office). A sales person with his home as an office is considered at work when he is in that office and when he leaves his premises in the interest of the company.

Chart 2 provides a guide for establishing the work relationship of cases.

E. **Distinguishing between injuries and illnesses**

Under the OSH Act, all work-related illnesses must be recorded, while injuries are recordable only when they require medical treatment (other than first aid), or involve loss of consciousness, restriction of work or motion, or transfer to another job. The distinction between injuries and illnesses, therefore, has significant recordkeeping implications.

Whether a case involves an injury or illness is determined by the nature of the original event or exposure.
which caused the case, not by the resulting condition of the affected employee. Injuries are caused by instantaneous events in the work environment. Cases resulting from anything other than instantaneous events are considered illnesses. This concept of illnesses includes acute illnesses which result from exposures of relatively short duration.

Some conditions may be classified as either an injury or an illness (but not both), depending upon the nature of the event that produced the condition. For example, a loss of hearing resulting from an explosion (an instantaneous event) is classified as an injury; the same condition arising from exposure to industrial noise over a period of time would be classified as an occupational illness.

F. Recording occupational illnesses

Employers are required to record the occurrence of all occupational illnesses, which are defined in the instructions of the log and summary as:

Any abnormal condition or disorder, other than one resulting from an occupational injury, caused by exposure to environmental factors associated with employment. It includes acute and chronic illnesses or diseases which may be caused by inhalation, absorption, ingestion, or direct contact.

The instructions also refer to recording illnesses which were “diagnosed or recognized.” Illness exposures ultimately result in conditions of a chemical, physical, biological, or psychological nature.

Occupational illnesses must be diagnosed to be recordable. However, they do not necessarily have to be diagnosed by a physician or other medical personnel. Diagnosis may be by a physician, registered nurse, or a person who by training or experience is capable of making such a determination. Employers, employees, and others may be able to detect some illnesses such as skin diseases or disorders without the benefit of specialized medical training. However, a case more difficult to diagnose, such as silicosis, would require evaluation by properly trained medical personnel.

In addition to recording the occurrence of occupational illnesses, employers are required to record each illness case in 1 of the 7 categories on the front of the log. The back of the log form contains a listing of types of illnesses or disorders and gives examples for each illness category. These are only examples, however, and should not be considered as a complete list of types of illnesses under each category.

Recording and classifying occupational illnesses may be difficult for employers, especially the chronic and long term latent illnesses. Many illnesses are not easily detected; and once detected, it is often difficult to determine whether an illness is work related. Also, employees may not report illnesses because the symptoms may not be readily apparent, or because they do not think their illness is serious or work related.

The following material is provided to assist in detecting occupational illnesses and in establishing their work relationship:

1. Detection and diagnosis of occupational illnesses

An occupational illness is defined in the instructions on
the log as any work-related abnormal condition or disorder (other than an occupational injury). Detection of these abnormal conditions or disorders, the first step in recording illnesses, is often difficult. When an occupational illness is suspected, employers may want to consider the following:

a. A medical examination of the employee’s physiological systems. For example:
   - Head and neck
   - Eyes, ears, nose, and throat
   - Endocrine
   - Genitourinary
   - Musculoskeletal
   - Neurological
   - Respiratory
   - Cardiovascular, and
   - Gastrointestinal;

b. Observation and evaluation of behavior related to emotional status, such as deterioration in job performance which cannot be explained;

c. Specific examination for health effects of suspected or possible disease agents by competent medical personnel;

d. Comparison of date of onset of symptoms with occupational history;

e. Evaluation of results of any past biological or medical monitoring (blood, urine, other sample analysis) and previous physical examinations;

f. Evaluation of laboratory tests: Routine (complete blood count, blood chemistry profile, urinalysis) and specific tests for suspected disease agents (e.g., blood and urine tests for specific agents, chest or other X-rays, liver function tests, pulmonary function tests); and

g. Reviewing the literature, such as Material Safety Data Sheets and other reference documents, to ascertain whether the levels to which the workers were exposed could have produced the ill effects.

? Determining whether the illness is occupationally related. The instructions on the back of the log define occupational illnesses as those “caused by environmental factors associated with employment.” In some cases, such as contact dermatitis, the relationship between an illness and work-related exposure is easy to recognize. In other cases, where the occupational cause is not direct and apparent, it may be difficult to determine accurately whether an employee’s illness is occupational in nature. In these situations, it may help employers to ask the following questions:

a. Has an illness condition clearly been established?

b. Does it appear that the illness resulted from, or was aggravated by, suspected agents or other conditions in the work environment?

c. Are these suspected agents present (or have they been present) in the work environment?

d. Was the ill employee exposed to these agents in the work environment?

e. Was the exposure to a sufficient degree and/or duration to result in the illness condition?

f. Was the illness attributable solely to a nonoccupational exposure?

G. Deciding if work-related injuries are recordable

Although the OSH Act requires that all work-related deaths and illnesses be recorded, the recording of nonfatal injuries is limited to certain specific types of cases: Those which require medical treatment or involve loss of consciousness; restriction of work or motion; or transfer to another job. Minor injuries requiring only first aid treatment are not recordable.

1. Medical treatment. It is important to understand the distinction between medical treatment and first aid treatment since many work-related injuries are recordable only because medical treatment was given.

The regulations and the instructions on the back of the log and summary, OSHA No. 200, define medical treatment as any treatment, other than first aid treatment, administered to injured employees. Essentially, medical treatment involves the provision of medical or surgical care for injuries that are not minor through the application of procedures or systematic therapeutic measures.

The act also specifically states that work-related injuries which involve only first aid treatment should not be recorded. First aid is commonly thought to mean emergency treatment of injuries before regular medical care is available. However, first aid treatment has a different meaning for OSHA recordkeeping purposes. The regulations define first aid treatment as:

. . . any one-time treatment, and any followup visit for the purpose of observation, of minor scratches, cuts, burns, splinters, and so forth, which do not ordinarily require medical care. Such one-time treatment, and followup visit for the purpose of observation, is considered first aid even though provided by a physician or registered professional personnel.

The distinction between medical treatment and first aid depends not only on the treatment provided, but also on the severity of the injury being treated. First aid is: (1) Limited to one-time treatment and subsequent observation; and (2) involves treatment of only minor injuries, not emergency treatment of serious injuries. Injuries are not minor if:

a. They must be treated only by a physician or licensed medical personnel;

b. They impair bodily function (i.e., normal use of senses, limbs, etc.);

c. They result in damage to the physical structure of a nonsuperficial nature (e.g., fractures); or

d. They involve complications requiring followup medical treatment.

Physicians or registered medical professionals, working under the standing orders of a physician, routinely treat minor injuries. Such treatment—may constitute first aid. Also, some visits to a doctor do not involve treatment at all. For example, a visit to a doctor for an examination or other diagnostic procedure to determine
whether the employee has an injury does not constitute medical treatment. Conversely, medical treatment can be provided to employees by lay persons; i.e., someone other than a physician or registered medical personnel.

The following classifications list certain procedures as either medical treatment or first aid treatment.

**Medical Treatment:**

The following are generally considered medical treatment. Work-related injuries for which this type of treatment was provided or should have been provided are almost always recordable:

1. Treatment of **INFECTION**
2. Application of **ANTI SEPTICS** during second or subsequent visit to medical personnel
3. Application of **SUTURES** (stitches)
4. Application of **BUTTERFLY ADHESIVE DRESSING(S)** or **STERI STRIP(S)** in lieu of sutures
5. Removal of **FOREIGN BODIES EMBEDDED IN EYE**
6. Removal of **FOREIGN BODIES FROM WOUND; if procedure is COMPLICATED** because of depth of embedment, size, or location
7. Use of **PRESCRIPTION MEDICATIONS** (except a single dose administered on first visit for minor injury or discomfort)
8. Use of hot or cold **SOAKING THERAPY** during second or subsequent visit to medical personnel
9. Application of hot or cold **COMPRESS(ES)** during second or subsequent visit to medical personnel
10. **CUTTING AWAY DEAD SKIN** (surgical debridement)
11. Application of **HEAT THERAPY** during second or subsequent visit to medical personnel
12. Use of **WHIRLPOOL BATH THERAPY** during second or subsequent visit to medical personnel
13. **POSITIVE X-RAY DIAGNOSIS** (fractures, broken bones, etc.)
14. **ADMISSION TO A HOSPITAL** or equivalent medical facility for treatment.

**First Aid Treatment:**

The following are generally considered first aid treatment (e.g., one-time treatment and subsequent observation of minor injuries) and should not be recorded if the work-related injury does not involve loss of consciousness, restriction of work or motion, or transfer to another job:

1. Application of **ANTI SEPTICS** during first visit to medical personnel
2. Treatment of **FIRST DEGREE BURN(S)**
3. Application of **BANDAGE(S)** during any visit to medical personnel
4. Use of **ELASTIC BANDAGE(S)** during first visit to medical personnel
5. Removal of **FOREIGN BODIES NOT EMBEDDED IN EYE** if only irrigation is required
6. Removal of **FOREIGN BODIES FROM WOUND; if procedure is UNCOMPLICATED, and is, for example, by Tweezers or other simple technique
7. Use of **NONPRESCRIPTION MEDICATIONS AND administration of single dose of PRESCRIPTION MEDICATION** on first visit for minor injury or discomfort
8. **SOAKING THERAPY** on initial visit to medical personnel or removal of bandages by **SOAKING**
9. Application of hot or cold **COMPRESS(ES)** during first visit to medical personnel
10. Application of **OINTMENTS** to abrasions to prevent drying or cracking
11. Application of **HEAT THERAPY** during first visit to medical personnel
12. Use of **WHIRLPOOL BATH THERAPY** during first visit to medical personnel
13. **NEGATIVE X-RAY DIAGNOSIS**
14. **OBSERVATION** of injury during visit to medical personnel.

The following procedure, by itself, is not considered medical treatment:

1. Administration of **TETANUS SHOT(S)** or **BOOSTER(S)**.
   However, these shots are often given in conjunction with more serious injuries; consequently, injuries requiring these shots may be recordable for other reasons.

2. **Loss of consciousness** If an employee loses consciousness as the result of a work-related injury, the case must be recorded no matter what type of treatment was provided. The rationale behind this recording requirement is that loss of consciousness is generally associated with the more serious injuries.

3. **Restriction of work or motion** Restricted work activity occurs when the employee, because of the impact of a job-related injury, is physically or mentally unable to perform all or any part of his or her normal assignment during all or any part of the workday or shift. The emphasis is on the employee’s ability to perform normal job duties. Restriction of work or motion may result in either a lost worktime injury or a nonlost-worktime injury, depending upon whether the restriction extended beyond the day of injury.

4. **Transfer to another job** Injuries requiring transfer of the employee to another job are also considered serious enough to be recordable regardless of the type of treatment provided. Transfers are seldom the sole criterion for recordability because injury cases are almost always recordable on other grounds, primarily medical treatment or restriction of work or motion.
Once the employer decides that a recordable injury or illness has occurred, the case must be evaluated to determine its extent or outcome. There are three categories of recordable cases: Fatalities, lost workday cases, and cases without lost workdays. Every recordable case must be placed in only one of these categories.

A. Fatalities
All work-related fatalities must be recorded, regardless of the time between the injury and the death, or the length of the illness.

B. Lost workday cases
Lost workday cases occur when the injured or ill employee experiences either days away from work, days of restricted work activity, or both. In these situations, the injured or ill employee is affected to such an extent that: (1) Days must be taken off from the job for medical treatment or recuperation; or (2) the employee is unable to perform his or her normal job duties over a normal work shift, even though the employee may be able to continue working.

1. Lost workday cases involving days away from work are cases resulting in days the employee would have worked but could not because of the job-related injury or illness. The focus of these cases is on the employee’s inability, because of injury or illness, to be present in the work environment during his or her normal work shift.

2. Lost workday cases involving days of restricted work activity are those cases where, because of injury or illness, (1) the employee was assigned to another job on a temporary basis, or (2) the employee worked at a permanent job less than full time, or (3) the employee worked at his or her permanently assigned job but could not perform all the duties normally connected with it. Restricted work activity occurs when the employee, because of the job-related injury or illness, is physically or mentally unable to perform all or any part of his or her normal job duties over all or any part of his or her normal workday or shift. The emphasis is on the employee’s inability to perform normal job duties over a normal work shift.

Injuries and illnesses are not considered lost workday cases unless they affect the employee beyond the day of injury or onset of illness. When counting the number of days away from work or days of restricted work activity, do not include the initial day of injury or onset of illness, or any days on which the employee would not have worked even though able to work (holidays, vacations, etc.).

C. Cases not resulting in death or lost workdays
These cases consist of the relatively less serious injuries and illnesses which satisfy the criteria for recordability but which do not result in death or require the affected employee to have days away from work or days of restricted work activity beyond the date of injury or onset of illness.
This chapter focuses on the requirements of Section 8(c)(2) of the Occupational Safety and Health Act of 1970 and Title 29, Part 1904, of the Code of Federal Regulations for employers to make reports of occupational injuries and illnesses. It does not include the reporting requirements of other standards or regulations of the Occupational Safety and Health Administration (OSHA) or of any other State or Federal agency.

A. The Annual Survey of Occupational Injuries and Illnesses

The survey is conducted on a sample basis, and firms required to submit reports of their injury and illness experience are contacted by BLS or a participating State agency. A firm not contacted by its State agency or BLS need not file a report of its injury and illness experience. Employers should note, however, that even if they are not selected to participate in the annual survey for a given year, they must still comply with the recordkeeping requirements listed in the preceding chapters as well as with the requirements for reporting fatalities and multiple hospitalization cases provided in the next section of this chapter.

Participants in the annual survey consist of two categories of employers: (1) Employers who maintain OSHA records on a regular basis, and (2) a small, rotating sample of employers who are regularly exempt from OSHA recordkeeping. The survey procedure is different for these two groups of employers.

1. Participation of firms regularly maintaining OSHA records. When employers regularly maintaining OSHA records are selected to participate in the Annual Survey of Occupational Injuries and Illnesses, they are mailed the survey questionnaire in February of the year following the reference calendar year of the survey. (A firm selected to participate in the 1985 survey would have been contacted in December 1984.) At the time of notification, they are supplied with the necessary forms and instructions. During the reference calendar year, prenotified employers make entries on the log, OSHA No. 200, but are not required to complete a Supplementary Record of Occupational Injuries and Illnesses, OSHA No. 101, or post the summary of the OSHA No. 200 the following February (regularly participating employers do both).

B. Reporting fatalities and multiple hospitalizations

All employers are required to report accidents resulting in one or more fatalities or the hospitalization of five or more employees. (Some States have more stringent catastrophic reporting requirements.)

The report is made to the nearest office of the Area Director of the Occupational Safety and Health Administration, U.S. Department of Labor, unless the State in which the accident occurred is administering an approved State plan under Section 18(b) of the OSH Act. Those 18(b) States designate a State agency to which the report must be made.

The report must contain three pieces of information: (1) Circumstances surrounding the accident(s), (2) the number of fatalities, and (3) the extent of any injuries. If necessary, the OSHA Area Director may require additional information on the accident.

The report should be made within 48 hours after the occurrence of the accident or within 48 hours after the occurrence of the fatality, regardless of the time lapse between the occurrence of the accident and the death of the employee.
Chapter VII. Access to OSHA Records and Penalties for Failure To Comply With Recordkeeping Obligations

The preceding chapters describe recordkeeping and reporting requirements. This chapter covers subjects related to insuring the integrity of the OSH recordkeeping process-access to OSHA records and penalties for recordkeeping violations.

A. Access to OSHA records

All OSHA records, which are being kept by employers for the 5-year retention period, should be available for inspection and copying by authorized Federal and State government officials. Employees, former employees, and their representatives are provided access to only the log, OSHA No. 200.

Government officials with access to the OSHA records include: Representatives of the Department of Labor, including OSHA safety and health compliance officers and BLS representatives; representatives of the Department of Health and Human Services while carrying out that department’s research responsibilities; and representatives of States accorded jurisdiction for inspections or statistical compilations. “Representatives” may include Department of Labor officials inspecting a workplace or gathering information, officials of the Department of Health and Human Services, or contractors working for the agencies mentioned above, depending on the provisions of the contract under which they work.

Employee access to the log is limited to the records of the establishment in which the employee currently works or formerly worked. All current logs and those being maintained for the 5-year retention period must be made available for inspection and copying by employees, former employees, and their representatives. An employee representative can be a member of a union representing the employee, or any person designated by the employee or former employee. Access to the log is to be provided in a reasonable manner and at a reasonable time. Redress for failure to comply with the access provisions of the regulations can be obtained through a complaint to OSHA.

B. Penalties for failure to comply with recordkeeping obligations

Employers committing recordkeeping and/or reporting violations are subject to the same sanctions as employers violating other OSHA requirements such as safety and health standards and regulations.
Glossary of Terms

Annual summary. Consists of a copy of the occupational injury and illness totals for the year from the OSHA No. 200, and the following information: The calendar year covered; company name; establishment address; certification signature, title, and date.

Annual survey. Each year, BLS conducts an annual survey of occupational injuries and illnesses to produce national statistics. The OSHA injury and illness records maintained by employers in their establishments serve as the basis for this survey.

Bureau of Labor Statistics (BLS). The Bureau of Labor Statistics is the agency responsible for administering and maintaining the OSHA recordkeeping system, and for collecting, compiling, and analyzing work injury and illness statistics.

Certification. The person who supervises the preparation of the Log and Summary of Occupational Injuries and Illnesses, OSHA No. 200, certifies that it is true and complete by signing the last page of, or by appending a statement to that effect to, the annual summary.

Cooperative program. A program jointly conducted by the States and the Federal Government to collect occupational injury and illness statistics.

Employee. One who is employed in the business of his or her employer affecting commerce.

Employee representative. Anyone designated by the employee for the purpose of gaining access to the employer’s log of occupational injuries and illnesses.

Employer. Any person engaged in a business affecting commerce who has employees.

Establishment. A single physical location where business is conducted or where services or industrial operations are performed; the place where the employees report for work, operate from, or from which they are paid.

Exposure. The reasonable likelihood that a worker is or was subject to some effect, influence, or safety hazard; or in contact with a hazardous chemical or physical agent at a sufficient concentration and duration to produce an illness.

Federal Register. The official source of information and notification on OSHA’s proposed rulemaking, standards, regulations, and other official matters, including amendments, corrections, insertions, or deletions.

First aid. Any one-time treatment and subsequent observation of minor scratches, cuts, bums, splinters, and so forth, which do not ordinarily require medical care. Such treatment and observation are considered first aid even though provided by a physician or registered professional personnel.

First report of injury. A workers’ compensation form which may qualify as a substitute for the supplementary record, OSHA No. 101.

Incidence rate. The number of injuries, illnesses, or lost workdays related to a common exposure base of 100 full-time workers. The common exposure base enables one to make accurate interindustry comparisons, trend analysis over time, or comparisons among firms regardless of size. This rate is calculated as:

\[ \text{Incidence Rate} = \frac{N}{EH} \times \frac{200,000}{100} \]

where:

- \(N\) = number of injuries and/or illnesses or lost workdays
- \(EH\) = total hours worked by all employees during calendar year
- \(100,000\) = base for 100 full-time equivalent workers (working 40 hours per week, 50 weeks per year).

Log and Summary (OSHA No. 200). The OSHA recordkeeping form used to list injuries and illnesses and to note the extent of each case.

Lost workday cases. Cases which involve days away from work or days of restricted work activity, or both.

Lost workdays. The number of workdays (consecutive or not) beyond the day of injury or onset of illness, the
employee was away from work or limited to restricted work activity because of an occupational injury or illness.

(1) **Lost workdays--away from work** The number of workdays (consecutive or not) on which the employee would have worked but could not because of occupational injury or illness.

(2) **Lost workdays - restricted work activity.** The number of workdays (consecutive or not) on which, because of injury or illness: (1) The employee was assigned to another job on a temporary basis, or (2) the employee worked at a permanent job less than full time; or (3) the employee worked at a permanently assigned job but could not perform all duties normally connected with it.

The number of days away from work or days of restricted work activity does not include the day of injury or onset of illness or any days on which the employee would not have worked even though able to work.

**Low-hazard industries.** Selected industries in retail trade; finance, insurance, and real estate; and services which are regularly exempt from OSHA recordkeeping. To be included in this exemption, an industry must fall within an SIC not targeted for general schedule inspections and must have an average lost workday case injury rate for a designated 3-year measurement period at or below 75 percent of the U.S. private sector average rate.

**Medical treatment.** Includes treatment of injuries administered by physicians, registered professional personnel, or lay persons (i.e., nonmedical personnel). Medical treatment does not include first aid treatment (one-time treatment and subsequent observation of minor scratches, cuts, burns, splinters, and so forth, which do not ordinarily require medical care) even though provided by a physician or registered professional personnel.

**Occupational illness.** Any abnormal condition or disorder, other than one resulting from an occupational injury, caused by exposure to environmental factors associated with employment. It includes acute and chronic illnesses or diseases which may be caused by inhalation, absorption, ingestion, or direct contact. The following categories should be used by employers to classify recordable occupational illnesses on the log in the columns indicated:

**Column 7a. Occupational skin diseases or disorders.**

Examples: Contact dermatitis, eczema, or rash caused by primary irritants and sensitizers or poisonous plants; oil acne; chrome ulcers; chemical burns or inflammations; etc.

**Column 7b. Dust diseases of the lungs (pneumoconioses).**

Examples: Silicosis, asbestosis, and other asbestos-related diseases, coal worker’s pneumoconiosis, byssinosis, siderosis, and other pneumoconioses.

**Column 7c. Respiratory conditions due to toxic agents**

Examples: Pneumonitis, pharyngitis, rhinitis or acute congestion due to chemicals, dusts, gases, or fumes; farmer’s lung, etc.

**Column 7d. Poisoning (systemic effects of toxic materials).**

Examples: Poisoning by lead, mercury, cadmium, arsenic, or other metals; poisoning by carbon monoxide, hydrogen sulfide, or other gases; poisoning by benzol, carbon tetrachloride, or other organic solvents; poisoning by insecticide sprays such as parathion, lead arsenate; poisoning by other chemicals such as formaldehyde, plastics, and resins; etc.

**Column 7e. Disorders due to physical agents (other than toxic materials).**

Examples: Heatstroke, sunstroke, heat exhaustion, and other effects of environmental heat; freezing, frostbite, and effects of exposure to low temperatures; caisson disease; effects of ionizing radiation (isotopes, X-Rays, radium); effects of nonionizing radiation (welding flash, ultra-violet rays, microwaves, sunburn); etc.

**Column 7f. Disorders associated with repeated trauma**

Examples: Noise-induced hearing loss; synovitis, tenosynovitis, and bursitis; Raynaud’s phenomena; and other conditions due to repeated motion, vibration, or pressure.

**Column 7g. All other occupational illnesses**

Examples: Anthrax, brucellosis, infectious hepatitis, malignant and benign tumors, food poisoning, histoplasmosis, coccidioidomycosis, etc.

**Occupational injury.** Any injury such as a cut, fracture, sprain, amputation, etc., which results from a work accident or from a single instantaneous exposure in the work environment.

Note: Conditions resulting from animal bites, such as insect or snake bites, and from one-time exposure to chemicals are considered to be injuries.

**Occupational injuries and illnesses, extent and outcome.** All recordable occupational injuries or illnesses result in either:

(1) Fatalities, regardless of the time between the injury, or the length of illness, and death;

(2) Lost workday cases, other than fatalities, that result in lost workdays; or

(3) Nonfatal cases without lost workdays.

**Occupational Safety and Health Administration (OSHA).** OSHA is responsible for developing, implementing, and enforcing safety and health standards and regulations. OSHA works with employers and employees to foster effective safety and health programs which reduce workplace hazards.

**Posting.** The annual summary of occupational injuries and illnesses must be posted at each establishment by February 1 and remain in place until March 1 to provide employees with the record of their establishment’s injury and illness experience for the previous calendar year.

**Premises, employer’s.** Consist of the employer’s total establishment; they include the primary work facility and
other areas in the employer’s domain such as company storage facilities, cafeterias, and restrooms.

**Recordable cases.** All work-related deaths and illnesses, and those work-related injuries which result in: Loss of consciousness, restriction of work or motion, transfer to another job, or require medical treatment beyond first aid.

**Recordkeeping system.** Refers to the nationwide system for recording and reporting occupational injuries and illnesses mandated by the Occupational Safety and Health Act of 1970 and implemented by Title 29, Code of Federal Regulations, Part 1904. This system is the only source of national statistics on job-related injuries and illnesses for the private sector.

**Regularly exempt employers.** Employers regularly exempt from OSHA recordkeeping include: (A) All employers with no more than 10 full- or part-time employees at any one time in the previous calendar year; and (B) all employers in retail trade; finance, insurance, and real estate; and services industries; i.e., SIC’s 52-89 (except building materials and garden supplies, SIC 52; general merchandise and food stores, SIC’s 53 and 54; hotels and other lodging places, SIC 70; repair services, SIC’s 75 and 76; amusement and recreation services, SIC 79; and health services, SIC 80). (Note: Some State safety and health laws may require these employers to keep OSHA records.)

**Report form.** Refers to survey form OSHA No. 200-S which is completed and returned by the surveyed reporting unit.

**Restriction of work or motion.** Occurs when the employee, because of the result of a job-related injury or illness, is physically or mentally unable to perform all or any part of his or her normal assignment during all or any part of the workday or, shift.

**Single dose (prescription medication).** The measured quantity of a therapeutic agent to be taken at one time:

**Small employers.** Employers with no more than 10 full- and/or part-time employees among all the establishments of their firm at any one time during the previous calendar year.

**Standard Industrial Classification (SIC).** A classification system developed by the Office of Management and Budget, Executive Office of the President, for use in the classification of establishments by type of activity in which engaged. Each establishment is assigned an industry code for its major activity which is determined by the product manufactured or service rendered. Establishments may be classified in 2-, 3-, or 4-digit industries according to the degree of information available.

**State (when mentioned alone).** Refers to a State of the United States, the District of Columbia, and U.S. territories and jurisdictions.

**State agency.** State agency administering the OSHA recordkeeping and reporting system. Many States cooperate directly with BLS in administering the OSHA recordkeeping and reporting programs. Some States have their own safety and health laws which may impose additional obligations.

**Supplementary Record (OSHA No. 101).** The form (or equivalent) on which additional information is recorded for each injury and illness entered on the log.

**Title 29 of the Code of Federal Regulations, Parts 1900-1999.** The parts of the Code of Federal Regulations which contain OSHA regulations.

**Volunteers.** Workers who are not considered to be employees under the act when they serve of their own free will without compensation.

**Work environment.** Consists of the employer’s premises and other locations where employees are engaged in work-related activities 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.

**Workers’ compensation systems.** State systems that provide medical benefits and/or indemnity compensation to victims of work-related injuries and illnesses.
ORDER FORM

Please type or print

Please complete this form and mail it to the appropriate BLS regional office or participating State agency.

From:

Name
Firm
Street Address
City, State, Zip Code

Please send me the following items at no charge:

<table>
<thead>
<tr>
<th>Item</th>
<th>Quantity</th>
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<tbody>
<tr>
<td>A Brief Guide to Recordkeeping Requirements for Occupational Injuries and Illnesses (18pp.)</td>
<td></td>
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<td>Recordkeeping Guidelines for Occupational Injuries and Illnesses (84 pp.)</td>
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<td>OSHA No. 200 Forms (Log and Summary of Occupational Injuries and Illnesses)</td>
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<td>OSHA No. 101 Forms (Supplementary Record of Occupational Injuries and Illnesses)</td>
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ADDRESS LABEL

Name
Firm
Street Address
City, State, Zip Code

Participating State Agencies

Agencies preceded by an asterisk (*) have a State safety and health plan under section 18(b) of the act in operation and may be contacted directly for information regarding State regulations.

Alabama Department of Labor
651 Administrative Bldg.
Montgomery, AL 36130
Phone: 205-261-3460

*Alaska Department of Labor
Research and Analysis Section
P.O. Box 25501, Juneau, AR 99802
Phone: 907-465-4520

Government of American Samoa
Department of Manpower Resources Division of Labor
Pago Pago, AS 96799
Phone: 633-5849

*Industrial Commission of Arizona
Division of Administration/Management Research and Statistics Section
P.O. Box 19070, Phoenix, AZ 85005
Phone: 602-255-3739

Workers' Compensation Commission
Arkansas Department of Labor
OSH Research and Statistics, Suite 219
1515 W. 7th St., Little Rock, AR 72201
Phone: 501-371-2770

*California Department of Industrial Relations, Labor Statistics and Research Division
P.O. Box 6880, San Francisco, CA 94101
Phone: 415-557-1466

Colorado Department of Labor and Employment, Division of Labor
1313 Sherman St., Rm. 323
Denver, CO 80203
Phone: 303-866-3748

*Connecticut Department of Labor
200 Folly Brook Blvd.
Wethersfield, CT 06109
Phone: 203-566-4380

Delaware Department of Labor
Division of Industrial Affairs
820 N. French St., 6th FL
Wilmington, DE 19801
Phone: 302-571-2688

Florida Department of Labor and Employment Security
Division of Worker's Compensation
2551 Executive Center
Circle West, Rm. 204
Tallahassee, FL 32301-5014
Phone: 904-488-3044

*Guam Department of Labor
Bureau of Labor Statistics
Occupational Safety and Health Statistics
P.O. Box 23548, Guam Main Facility
Guam, M.I. 96921
Phone: 477-9241

*State of Hawaii
Department of Labor and Industrial Relations, Research and Statistics
Office - OSHA
P.O. Box 3680, Honolulu, HI 96811
Phone: 808-548-7638

*Indiana Department of Labor
Research and Statistics Division
State Office Bldg.-Rm. 1013
100 N. Senate Ave.
Indianapolis, IN 46204
Phone: 317-232-2681

17-21
18. The FDA Inspection

Food and Drug Administration (FDA) inspections have a serious regulatory purpose. The inspector comes, usually, to determine whether the inspected company is complying with the requirements of the Federal Food, Drug, and Cosmetic Act (FDC Act) and FDA regulations. Your company must regard the inspector as a policeman gathering evidence, evidence that ultimately could be used against the company. Almost every FDA-initiated recall, civil seizure action, injunction action, and criminal prosecution has as its basis data acquired by an FDA inspector during an inspection. Therefore, it is critically important that you have a good understanding of FDA’s rights and your company’s rights during an inspection, and that you act accordingly to manage the inspection to protect your company as best you can.

I. INSPECTION PLAN

Every FDA-regulated company should have a standard operating procedure, a written plan, for coping with the FDA inspection. The plan should explain for affected personnel (1) FDA’s rights, (2) the company’s rights, and (3) company policies and practices to be followed during the FDA inspection.

This paper is intended to help you to develop such a plan for your company, or to review and refine your existing procedures if you already have an inspection plan. A useful way to approach this subject is to discuss a hypothetical FDA inspection, from start to finish.

II. RECEIVING THE INSPECTOR

Before beginning an inspection, the FDA inspector is required by the FDC Act to present (1) credentials identifying himself/herself and (2) a written notice of inspection (Form FDA-482) to the owner, operator, or agent in charge of the establishment to be inspected. Your company’s inspection plan should designate the person to receive and accompany the inspector. “Back-up” personnel should also be identified. These persons should be trained so that they understand thoroughly the extent of FDA’s rights, your company’s rights, and your company’s policies with respect to the various matters likely to arise during an inspection.

III. COMPANY RECORD OF THE INSPECTION

Upon receiving the inspector, your company representative (referred to “you,” hereafter for convenience) should begin immediately to compile a comprehensive record of the inspection. This record should open with the notice of inspection provided by the inspector. Examine his or her credentials. Record the full name of each inspector. If later, FDA should institute an enforcement action based upon the inspection, you would want to be certain of the identity of each FDA inspector, for depositions or other preparation of your defense.
IV. **WHAT ABOUT A WARRANT?**

The FDC Act provides that FDA inspectors are authorized . . .

to enter, at reasonable times, any factory, warehouse, or establishment in which food . . . [is] manufactured, processed, packed, or held, for introduction into interstate commerce or after such introduction, or to enter any vehicle being used to transport or hold such food . . . in interstate commerce; and . . . to inspect.2/

The FDC Act makes no mention of requiring a warrant from a United States district judge or magistrate to authorize the inspection. Furthermore, the FDC Act provides that “refusal to permit entry or inspection” is a criminal offense.3/

However, in 1978 the United States Supreme Court, in *Marshall v. Barlow’s, Inc.*, ruled that it is unconstitutional for inspectors of the Occupational Safety and Health Administration (OSHA) to conduct an inspection without a warrant unless the inspected company consents to the inspection.4/ In this decision, the Supreme Court stated that “warrantless searches are generally unreasonable” and that “this rule applies to commercial premises as well as homes.” Nevertheless, the Supreme Court stated that warrantless inspections are permitted, as an “exception,” for “pervasively regulated” businesses “long subject to close supervision and inspection.” The Court identified the “liquor” and “firearms” industries as examples of the exceptional circumstances in which warrantless inspections are permitted without the consent of an inspected firm.

FDA asserts that companies subject to regulation under the FDC Act come within the exception in *Marshall v. Barlow’s, Inc.* that permits unconsented warrantless inspections of pervasively regulated industries. However, the United States district courts have ruled “both ways” on the issue of whether an unconsented and warrantless inspection under the FDC Act is constitutional in light of the *Barlow’s* decision.5/ Since FDA probably can obtain an inspection warrant anyway, simply by telling a United States district judge or magistrate that the Agency has not inspected your company for a while and that it wants to see what you are doing, most companies decide to permit an inspection without attempting to insist upon a warrant.

FDA does not routinely obtain a warrant before attempting to conduct an inspection. If an FDA inspector should arrive at your company armed with a warrant, this would be a most unusual and suspicious circumstance, requiring prompt and careful attention. If the warrant should provide for photographs, for access to manufacturing records, or for other FDA activity you otherwise would refuse to permit, it is especially important to react immediately; you may find it necessary to comply with the warrant until you can reach the judge or magistrate who issued the document.

V. **BEFORE THE INSPECTION BEGINS**

Before the inspector begins to examine your establishment, ask why he/she is
there, and attempt to determine what he/she intends to review. It sometimes happens, for example, that the inspector is interested only in a particular subject, and that you can provide desired information without “opening the door” for him/her to wander generally through your establishment. In such a case, you may want to obtain the information for the inspector and let him/her depart as quickly as possible.

Also, before allowing an inspection to commence, you should tell the inspector of your company’s policies that will control the inspection. For example, you may want to tell the inspector (1) that company policy prohibits taking cameras into the plant and that the inspector must leave any camera in his/her car or in your office, and (2) that any questions or requests for information are to be directed only to you and not to other company employees. (In Sections IX-XI below, this paper reviews several policies that you should consider adopting.)

VI. CONDUCT OF THE INSPECTION -- FDA’S LIMITED RIGHTS

Suppose the inspector states that his/her purpose is to conduct a routine surveillance inspection of your establishment: What is the extent of FDA’s inspection authority?

The FDC Act provides FDA authority

to inspect, at reasonable times and within reasonable limits and in a reasonable manner, such factory, warehouse, establishment, or vehicle and all pertinent equipment, finished and unfinished materials, containers, and labeling therein.

(Emphasis added.6/)

Note particularly what the Act does not state. It does not mention, for example, any FDA right of access to manufacturing records including master formula records, batch production records, results of analyses, or complaint files. You generally are not required to show such records to the FDA inspector. (Caveat: FDA does have authority to inspect such records in certain exceptional cases.7/)

Technically, the law does not require even that you talk to the inspector. However, when an inspector asks reasonable questions about the types of products you manufacture, your manufacturing procedures, and the like, you probably will want to respond. After all, you may save yourself a lot of time and trouble. If the inspector should have to remain in your plant for two weeks in order to determine the nature of your operations, he/she may decide to do just that, when you could avoid such an extended FDA presence simply by answering reasonable questions.

VII. TAKING OF SAMPLES

The FDC Act provides that the inspector is authorized to collect samples.8/ During an inspection, FDA inspectors routinely take samples of finished and unfinished
materials and of labeling, and companies generally permit the taking of reasonable samples of this type. The courts have recognized that this is an appropriate inspection function.9 You may insist that the inspector pay for the fair value of samples taken, but many companies do not bother to do this unless the value is substantial.

VIII. “HOLDING” A SUSPECT PRODUCT

While he/she may take samples of materials in your establishment, the FDA inspector does not have the authority to detain or embargo foods that he/she believes to be in violation of the FDC Act (except for items that are being imported into the United States). The inspector may request that you voluntarily hold a food that he/she believes to be adulterated or misbranded, but he/she cannot require that you do so (except for imports).

“Seizure” of an article in your establishment pursuant to the FDC Act requires the institution of a civil proceeding in a United States district court. In general, before an article can be “seized” under the FDC Act, the following chain of events must occur: The FDA district office recommends to FDA headquarters that a civil seizure be instituted, and if FDA headquarters agrees, the FDA chief counsel writes to the local United States attorney, requesting the initiation of a civil seizure action. Assuming the United States attorney agrees (as he/she usually does), he/she files a complaint for forfeiture in the local United States district court, and then the United States marshal serves upon the article a “warrant for arrest.” Service of this warrant upon the article accomplishes seizure. Thereafter, there will be a trial before the court to determine, on the merits, whether the food is adulterated or misbranded and should be condemned as alleged by FDA (However, FDA may ask state health officials to detain goods until a federal civil seizure action is accomplished. State officials may exercise authority under state law to embargo goods pending FDA action.10)
IX. CONDUCT OF THE INSPECTION -- PROTECTING YOUR COMPANY’S RIGHTS AND INTERESTS

Let’s now consider several policies or procedures you can adopt to control the conduct of the FDA inspection, in order to protect your company’s rights and interests:

- You should accompany the FDA inspector at all times. Do not allow the inspector to proceed unattended by the company representative.

- Advise the inspector that any questions or requests for data are to be directed only to the company’s designated representative.

(The FDC Act authorizes only “reasonable” inspections, and, surely, it is not reasonable to permit someone who is not an employee to roam unattended through your establishment asking questions of whomever he or she pleases. Such activity could be disruptive of production and perhaps even dangerous to someone who is not familiar with your plant.)

- Employees other than the company representative should be instructed not to speak to the inspector. They should not volunteer conversation, and if asked a question by the inspector, they should respond that it is company policy not to discuss their work with visitors and that any questions should be directed to the company representative designated to accompany the inspector.

- Keep a detailed record of all that the inspector says or does. This information may become important in the future, especially if FDA should undertake regulatory action based upon the inspection.

- Whenever the FDA inspector takes a sample of anything, you also should take a sample of the same article, to be maintained as a part of your company’s record of the inspection. For example, if FDA samples a particular lot of finished product, or a particular label, you want to be certain that you have taken an identical companion sample, which will then be available for your efficient reference if FDA subsequently asks questions or undertakes regulatory action.

- Do not sign or initial “affidavits” or other documents. FDA inspectors frequently enter information that they believe to be important on a form entitled “Affidavit” and then ask a company representative to sign or initial the form, thereby acknowledging the accuracy of the statement. There is no obligation for you to sign or initial any such affidavit, and there is no good reason to do so. Any admissions in the statement could be used against you and your company in court.