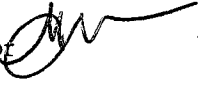




**State of Alaska
Department of Labor and Workforce Development
Division of Labor Standards and Safety**

AKOSH Program Directive 10-07

Date: March 1, 2010
To: Distribution List
From: Grey R. Mitchell, Director 
Subject: **AKOSH Injury and Illness Recordkeeping**

This Program Directive, PD 10-07, is formal notice that the Alaska Department of Labor and Workforce Development, Division of Labor Standards and Safety recognizes and will implement the Injury and Illness Recordkeeping NEP with some changes to better fit AKOSH.

Significant AKOSH Changes

X. Program Procedures

This has been changed from the Site Specific Targeting to the AKOSH Industry Specific Targeting System (ISTS).

Since the "Medical Access Orders" section is not applicable to AKOSH it was deleted.

The NAICS codes section was deleted because it is not applicable to AKOSH.

XI. Scheduling

This has been revised to meet AKOSH needs.

Clarifications: For the purpose of all OSHA Program Directive(s) adopted by AKOSH, the following terms are defined:

Where U.S. Department of Labor, Occupational Safety and Health Administration (OSHA) refers to the following positions or locations; in Alaska their equivalent will be:

Area Director = Chief of Alaska Occupational Safety and Health (AKOSH)
Enforcement section

Area Office = Labor Standards and Safety Division, AKOSH office located at 3301 Eagle Street, Suite 305, Anchorage, Alaska

Assistant Area Director = Chief of Alaska Occupational Safety and Health
(AKOSH) Enforcement section

Assistant Secretary = Commissioner, Alaska Department of Labor and Workforce
Development

Deputy Assistant Secretary = Deputy Commissioner, Alaska Department of Labor
and Workforce Development

National Office = Commissioner's Office, Alaska Department of Labor and Workforce
Development

OSHA = Alaska Occupational Safety and Health (AKOSH) Enforcement/
Compliance and Consultation & Training sections, located at 3301 Eagle Street,
Suite 305, Anchorage, Alaska

Regional Administrator = Director, Labor Standards and Safety, Alaska Department of
Labor and Workforce Development

Regional Office = Alaska Department of Labor and Workforce Development, Labor
Standards and Safety, Director's Office, 1111 W. 8th Street, Suite 304, Juneau, Alaska

RSOL = Department of Law

SST (Site Specific Targeting) = Industry Specific Targeting System (ISTS)

Secretary = Commissioner, Alaska Department of Labor and Workforce Development

Please ensure that all members of your staff receive a copy of this program directive.

Attachment

Cc: Richard S. Terrill, Regional Administrator, USDOL, Region X, OSHA
David Mahlum, Deputy Regional Administrator, USDOL, Region X OSHA
Scott Ketcham, Alaska Area Administrator, USDOL, Region X, OSHA - Anchorage

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**State of Alaska
Department of Labor and Workforce Development
Division of Labor Standards and Safety**

AKOSH Injury and Illness Recordkeeping

Executive Summary

Recently, several academic studies have asserted varying degrees of under-recording of workplace injuries and illnesses on the OSHA Form 300; (e.g., Boden L.I., Ozonoff A. Capture-Recapture Estimates of Nonfatal Workplace Injuries and Illnesses, 2008 and Rosenman K.D. How Much Work-Related Injury and Illness is Missed By the Current National Surveillance System, 2006). At the request of the Senate Committee on Health, Education, Labor and Pensions and the House Committee on Education and Labor, the Government Accountability Office (GAO) initiated a study on the accuracy of employer injury and illness records. In an effort to identify and correct under-recorded and incorrectly recorded cases and to work cooperatively with the GAO, OSHA is initiating this NEP. This NEP also complements the Bureau of Labor Statistics' efforts to investigate factors accounting for differences in the number of workplace injuries and illnesses estimated by the BLS and other data sources.

OSHA postulates the most likely places where under-recorded injuries and illnesses may exist would be low rate establishments operating in historically high rate industries. The NEP will pilot test OSHA's ability to effectively target establishments to identify under-recording of occupational injuries and illnesses.

This NEP is one component of OSHA's effort to address the issue of inaccurate recording of occupational injuries and illnesses. In addition to this NEP, OSHA will address the issue through comprehensive training of its compliance staff to identify and correct violations of the recordkeeping regulation. OSHA will also develop other enforcement and quality assurance programs to address the recordkeeping issue in establishments and industries outside the scope of this NEP (e.g., the construction industry, Partnerships, VPP and SHARP establishments).

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I. Purpose

This Directive establishes enforcement procedures to inspect the accuracy of the Occupational Injury and Illness Recording and Reporting Requirements for low rate establishments in selected industries.

II. Scope

This Notice applies OSHA-wide.

III. References

A. Occupational Safety and Health Act of 1970, 29 USC 651.

B. 29 CFR Part 1904, Recording and Reporting Occupational Injuries and Illnesses.

C. 29 CFR 1913.10(b)(6), Authorization and Procedures for Reviewing Medical Records

D. OSHA Directives.

- ADM 03-01-005, OSHA Compliance Records, August 3, 1998.
- CPL 02-00-148, Field Operations Manual (FOM), March 26, 2009 (AKOSH PD 10-03).
- CPL 02-00-135, Recordkeeping Policies and Procedures Manual (RKM), December 30, 2004 (AKOSH PD 05-10).
- 09-05 (CPL 02), Site-Specific Targeting 2009 (SST-09) (AKOSH PD 10-06 Industry Specific Targeting System).
- CPL 02-00-025, Scheduling System for Programmed Inspections, January 4, 1995.

IV. Expiration Date

This Notice will terminate one year from the effective date.

V. Action.

OSHA Regional Administrators and Area Directors must use professional judgment when ensuring that the policies and procedures set forth in this directive are followed.

VI. Application.

OSHA compliance personnel shall ensure that the procedures contained in this directive are followed when inspecting the establishments selected under this NEP.

VII. Federal Program Change, Notice of Intent Required, Adoption Encouraged.

This Instruction describes a Federal program change which establishes a National Emphasis Program (NEP) to inspect the accuracy of the Occupational Injury and Illness recording and reporting requirements for establishments in selected industries and ensure appropriate enforcement of these requirements if employers are found to be under-reporting injuries and illnesses. As accurate injury and illness reporting is critical to an effective enforcement program, State plan participation, although not required, is strongly encouraged. State notice of intent regarding this directive is required.

- A. Procedures. States participating in the OSHA Data Initiative (ODI) that choose to participate in this NEP may request from the Office of Statistical Analysis a list of establishments to be inspected, as discussed in Paragraph X. States should not delete any public sector establishment that appears on the list. States not participating in the ODI that adopt a similar NEP would need to select their own establishments for inspection. The establishment list need not exceed the Federal size of five or fewer establishments. States that participate in the NEP or adopt their own equivalent to the NEP on this issue are asked to submit copies of logs collected and completed worksheets to the Office of Statistical Analysis, as discussed in Paragraph XV.
- B. State Submissions. The State's notice of intent must indicate whether the State will initiate an emphasis program and if so, whether the State's program will be identical to or different from the Federal one. If the State's program differs from the Federal program, its implementing policies and procedures are expected to be at least as effective as those in this instruction and must be available for review. The State may either post its different emphasis program on its State plan website and provide the link to OSHA or provide a copy to OSHA with information on how the public may obtain a copy. (OSHA will provide summary information on the State response to this instruction on its website.)
- C. Inspections conducted by States under an NEP on recordkeeping should code in accordance with the instructions in Paragraph XIII.

VIII. Background

Recently, several academic studies have asserted varying degrees of under-reporting workplace injuries and illnesses on the OSHA Form 300; (e.g., Boden L.I., Ozonoff A. Capture-Recapture Estimates of Nonfatal Workplace Injuries and Illnesses; 2008 and Rosenman K.D. How Much Work-Related Injury and Illness is Missed By the Current National Surveillance System, 2006). At the request of the Senate Committee on Health, Education, Labor and Pensions and the House Committee on Education and Labor, the

GAO initiated a study on the accuracy of employer injury and illness records. In an effort to identify and correct under-recording and to work cooperatively with the GAO, OSHA is initiating this NEP. This NEP also complements the Bureau of Labor Statistics' efforts to investigate factors accounting for differences in the number of workplace injuries and illnesses estimated by the BLS and other data sources. Review of OSHA's inspection history shows that the vast majority of major cases involving recordkeeping violations were generated from complaint and referral inspections. This NEP will be OSHA's initial attempt to target the issue of under-recording for programmed inspections. OSHA postulates that the most likely places where under-recorded injuries and illnesses may exist would be low rate establishments operating in historically high rate industries. The NEP will focus on these establishments to identify under-recording.

In addition, there is some question about the validity of the low injury and illness rates reported by establishments in Poultry Processing and the cleaning and sanitation functions associated with meat and poultry slaughtering and processing operations that fall under Support Activities for Animal Production. These industries are referred to in GAO report 05-96, "Workplace Safety and Health: Safety in the Meat and Poultry Industry, while Improving, Could be Further Strengthened," dated January 2005.

According to the GAO report, "Meat and poultry workers sustain a range of injuries, including cuts, burns, and repetitive stress injuries, and while, according to BLS, injuries and illnesses in the meat and poultry industry declined from 29.5 injuries and illnesses per 100 full-time workers in 1992 to 14.7 in 2001, the rate was among the highest of any industry. Similarly, though not comparable with these data because of recent changes in OSHA's record-keeping requirements, statistics for 2002 indicate that injury and illness rates in the meat and poultry industry remain high in relation to those of other industries." The report also points out that "Because of the many hazards inherent in meat and poultry plants and the type of work performed, the dramatic decline in the industry's injury and illness rates has raised a question about the validity of the data on which these rates are based."

The GAO report also indicates that "the injury and illness data on which OSHA bases its selection of plants for inspection are incomplete, because they do not include injuries and illnesses incurred by cleaning and sanitation workers not employed directly by the plants. These workers are not classified by BLS as working in the meat and poultry industry, although they labor in the same plants and under working conditions that can be even more hazardous than those of production workers."

Recordkeeping in the construction industry has a long history of complexity and questions raised due to the nature of the workforce associated with mobile worksites. The NEP will initially pilot several inspections of construction employers to better understand how to approach this industry on a broad scale.

IX. Definitions.

- A. OSHA 300 Form or equivalent – the Log of Work-Related Injuries and Illnesses
 - B. OSHA 301 Form or equivalent – the Injury and Illness Incident Report
 - C. OSHA 300A Form or equivalent – the Summary of Work-related Injuries and Illnesses
 - D. Administrative Subpoena - A written order issued by OSHA to require an employer, or any other person, to produce listed records, documents, testimony and/or other supporting evidence relevant to an inspection or investigation under the OSH Act. If the person served with a subpoena refuses to honor (or only partially honors) the order, the subpoena is subject to judicial review and enforcement by the U.S. District Court. OSHA's policies and procedures for issuing administrative subpoenas are set forth at OSHA Instruction ADM 01-00-002 of 8/19/91.
 - E. Injury or Illness – An injury or illness is an abnormal condition or disorder. Injuries include cases such as, but not limited to, a cut, fracture, sprain, or amputation. Illnesses include both acute and chronic illnesses, such as, but not limited to, a skin disease, respiratory disorder, or poisoning. (Note: Injuries and illnesses are recordable only if they are new, work-related cases that meet one or more of the Part 1904 recording criteria.)
 - F. Physician or Other Licensed Health Care Professional - A physician or other licensed healthcare professional is an individual whose legally permitted scope of practice (i.e., license, registration, or certification) allows him or her to independently perform, or be delegated the responsibility to perform, the activities described by this regulation.
 - G. Days Away, Restricted or Transferred (DART) Rate - The DART rate includes cases involving days away from work, restricted work activity, and transfers to another job. It is calculated based on $(N/EH) \times (200,000)$ where N is the number of cases involving days away and/or restricted work activity, and/or job transfers; EH is the total number of hours worked by all workers during the calendar year; and 200,000 is the base number of hours worked for 100 full-time equivalent workers.
- X. Program Procedures.

Based on available resources, AKOSH will perform pilot inspections focused on recordkeeping requirements. Priority will be placed on construction, seafood processing, oil and gas exploration and production and transportation/warehousing industry categories. Sites with on-site medical clinic facilities will be priority targets for inspection along with sites having a history of recordkeeping violations.

Inspection targets will be established by the Research Analyst III and assigned by the chief of AKOSH Enforcement. Sites with valid deferrals or exemptions from enforcement inspections will be excluded.

XI. Scheduling

The AKOSH Research Analyst will select companies having 20 or more employees working in high hazard industrial groupings (seafood processing, oil and gas, transportation/warehousing, construction) and calculate the rate of injuries per 100 employees averaged over the most recent three calendar year period. Companies with average injury rates 30% or more below the national average injury rate for the industry will be placed on a list of potential targets. Using the list of selected companies, the AKOSH Chief of Enforcement will identify at least five sites from different companies for focused record-keeping inspections as outlined in this directive. In selecting the sites, the AKOSH Chief of Enforcement will consider the existence of previous record-keeping violations, on-site employer-controlled medical facilities, accessibility of the site and other factors to maximize inspection resources.

XII. Inspection Procedures

A. Opening Conference.

At the opening conference the CSHO shall present an explanatory letter (Appendix A) to the employer and employee representative (if one is present) explaining the purpose, scope, and process for the records inspection. The CSHO shall also inform the employer and employee representative about the Agency citation policy (Paragraph XIII, below) and indicate that where applicable, violations will be cited accordingly. The employer and employee representative shall be informed that any complaints received that are not related to recordkeeping will be addressed by the CSHO and will be cited as part of the current inspection or be referred to the Area Office for processing.

During the opening conference the CSHO shall verify from the employer representative what actions are taken when an employee experiences an injury or illness. (i.e., does the establishment have an on-site Licensed Health Care Professional; if not then identify the local health clinics, ambulance services and/or hospitals nearby that have treated their employees).

B. New Ownership

If the establishment has changed ownership after December 31, 2006 but before December 31, 2008, the records inspection will only be conducted for the period of new ownership.

If the establishment has changed ownership after December 31, 2008, the inspection

will not be conducted.

If the name of the company changes, but the ownership essentially remains the same, the CSHO will inspect the establishment.

Compliance Guidance: The recordkeeping regulation at 1904.40(a) states that once a request is made, an employer must provide the required recordkeeping records within four (4) business hours.

Although the employer has four hours to provide recordkeeping records, there is no requirement that compliance officers must wait until the records are provided before beginning the walkaround portion of the inspection. As soon as the opening conference is completed, the compliance officers may begin the walkaround portion of the inspection and/or conduct the required interviews.

C. Calculate DART.

During inspections under this Notice, the OSHA 300 Logs for 2007 and 2008, and corresponding OSHA Forms 301 and the OSHA Form 300A will be reviewed.

The CSHO calculated DART rate for 2007 will be compared to the DART rate reported by the employer in the OSHA Data Initiative data collection. If the recalculated 2007 DART rate is above the cutoff rate of this NEP (i.e., >4.2) the records inspection will not be conducted. The purpose of this NEP is to inspect the accuracy of records in low rate establishments. If the establishment's DART is twice the national average, it does not qualify as a low rate establishment. When this occurs, the records inspection will not be conducted; however, a limited walkaround will be conducted. *The CSHO shall verify and document from employer representative why the information that was reported through the ODI is different from the information obtained during the NEP.*

D. Procedures to Conduct Records Inspection.

Compliance Guidance: The following document request represents records that are related to any injury or illness. While some of the documents listed below are required by 29 CFR Part 1904, some are not. The documents requested may or may not be at the employer's establishment. If the documents requested below are not maintained at the establishment then the CSHO shall determine the availability and location of the records needed to conduct this NEP inspection.

The CSHO shall perform a comprehensive review of the employees' records in order to identify occupational injuries and illnesses that may have occurred to those employees during CY 2007 and CY 2008. **The records to be reviewed shall include medical records, workers' compensation records, insurance records, payroll/absentee records and, if available, company safety incident reports,**

company first-aid logs, alternate duty rosters, and disciplinary records pertaining to injuries and illnesses. The CSHO will also review records that are stored offsite. The CSHO will verify that each identified recordable injury or illness is properly entered on the employer's OSHA Form 300 and OSHA Form 301.

1. Obtain a copy of the employer's completed OSHA Form 300 for the establishment for calendar years 2007 and 2008; the total hours worked for all employees and the average number of employees for 2007 and 2008; and a copy of a complete roster of all employees who worked at the establishment during 2007.

The employee roster should include full-time, part-time and seasonal employees. The listing may be an alphabetic listing, a payroll listing, a listing by department, or it may be in some other form. The CSHO shall document the type of listing used and his or her assessment of its completeness.

2. Determine the sample size and draw samples of employees.

The CSHO shall use the 2007 employee **roster** to select the employees whose records will be reviewed. Sampling of employees for the records review is dependent on the size of the establishment.

- a. For establishments with an employee roster of 100 or fewer employees, all employees' records will be reviewed (there will be no sampling involved).
- b. For establishments with 101 to 250 employees, records of 50% of employees will be reviewed. Select the second employee on the list and choose every other employee from there on.
- c. For establishments with >250 employees, records of 33% of employees will be reviewed. Select the third employee on the list and choose every third employee from there on.

If in identifying the sample of employees the CSHO determines that an employee name is a duplicate or cannot be used for whatever reason (for example the individual is not covered by the OSH Act such as a partner or owner of the company), he/she shall substitute the next employee name on the roster. If the CSHO comes to the end of the employee roster before obtaining the required sample size, he/she shall continue the interval count from the top of the employee roster.

The CSHO shall compile a list of the employees selected for the records review.

3. Review all pertinent records for each employee selected in the inspection sample and independently reconstruct log entries for the sampled employees. Compare the reconstructed cases with the employer's OSHA Form 300.

The CSHO shall perform a comprehensive review of the sampled employees' records in order to identify all of the recordable occupational injuries and illnesses that may have occurred to those employees during 2007 and 2008. The records to be reviewed shall include medical records, workers' compensation records, insurance records, payroll/absentee records, and if available, company safety incident reports, company first-aid logs, alternate duty rosters, and disciplinary records pertaining to injuries and illnesses.

If the employer utilizes an off-site clinic for medical services, the CSHO shall visit that clinic to review any medical records pertaining to the sampled employees for the review period. A modification to the MAO may be necessary.

Using the various records compiled, the CSHO shall independently construct Log entries for the recordable cases identified from the employee files. The CSHO shall identify the recordable cases and enter the reasons for recordability using the worksheet contained in Appendix C. The CSHO shall use the worksheet to compare the recordable case entries with the employer's Form 300 Log, and to document any differences that exist. *When completing the worksheet it is imperative to use a unique code as an employee identifier rather than the employee's name. These worksheets will contain personal medical information and will be submitted to the National Office for evaluation. The employee's medical privacy must be protected by using codes. The CSHO will maintain a list of codes associated with the employees' name and will treat this list as a medical record.*

The CSHO shall make copies of the OSHA Form 300 for inclusion in the case file. The CSHO shall also make copies of any documentation needed to support discovered recordkeeping deficiencies. If a copying machine is not available, or is not made available for CSHO use, or if the employer will not allow appropriate documents to be temporarily removed from the premises, the CSHO shall subpoena all records considered necessary for verification using the procedures outlined in the FOM 02-00-148 Chapter 3 Section VI.; Chapter 15 and ADM 01-00-002 (ADM 4.4).

Compliance Guidance: If review of the sampled employees' records indicate that under-recording exists, the CSHO may, upon consultation with the Area Office, expand the records inspection beyond the sampled employees.

If during review of the OSHA Forms and the injury and illness records the CSHO determines that a significant portion of the injuries and illnesses are ergonomics-related, the CSHO will calculate a Days Away from Work case rate for musculoskeletal disorder cases. If the calculated rate is greater than or equal to twice the industry rate listed in Appendix D, the CSHO will include the questions contained in the Supplemental Questionnaires for the employee, management, and Health Care Professional interviews. The CSHO will discuss the findings

with the Area Director to determine if a referral is necessary.

4. Review employer's log to identify any cases recorded for the sampled employees that do not meet the OSHA recordability criteria (over-recording).

After reviewing the sampled employees' files, the CSHO shall scan the employer's 2007 and 2008 Logs for any recorded cases for the sampled employees not identified as recordable in the file review. The CSHO will determine the cases' recordability by considering the documentation in the employee's records and, if necessary, talking with the employer, Recordkeeper or employee. The CSHO shall document any over-recorded cases on the worksheet provided in Appendix B.

5. Interview the Designated Recordkeeper.

The CSHO shall interview the designated Recordkeeper regarding the manner in which injuries and illnesses are recorded at the establishment. The purpose of this interview is to assess each recordkeeper's knowledge of the OSHA injury/illness recordkeeping requirements and to determine whether recordkeeping problems exist. The CSHO shall use the Recordkeeping Procedures Questionnaire, included in Appendix B.

If the CSHO learns of any company policies that may have the effect of discouraging recording on the injury and illness records, these should be noted in the comments section of the questionnaire. For example, if the CSHO learns that there is an awards program tied to the number of injuries and illnesses recorded on the OSHA Log, the program is to be described in the comments section. If it is determined that these are written procedures, the CSHO shall obtain a copy of the employer's policy.

6. Conduct Employee Interviews.

A sub-sample of employees must be interviewed using the Employee Questionnaire contained in Appendix C. Any specified injury or illness not identified in the records review must be investigated. A sub-sample of employees to be interviewed must be selected from the list of employees selected for the records inspection in Paragraph XI.E.3, above. For establishments with 100 or fewer employees, conduct at least 10 interviews. For establishments with 101 to 250 employees conduct at least 15 interviews. For establishments with more than 250 employees, conduct at least 20 interviews.

The selection of employees to interview is not random. The CSHO will focus interviews on employees likely to be injured or become ill. The informant privilege allows the government to withhold the identity of individuals who provide information about the violation of laws, including OSHA rules and

regulations. CSHOs shall inform employees that their statements will remain confidential to the extent permitted by law. However, each employee giving a statement should be informed that disclosure of his or her identity may be necessary in connection with enforcement or court actions (see Chapter 3, Section IV of the FOM).

The CSHO shall document how employees were selected for interview, and indicate which selected individuals were not available for interview and why.

Compliance guidance: Select employees from those working in high hazardous area). If, during the review of absentee records, the CSHO discovers unexplained absences, the CSHO will interview that employee to determine if the absence was related to a work-related injury or illness.

If the CSHO learns of any company policies that may have the effect of discouraging recording on the injury and illness records, these should be noted in the comments section of the questionnaire. For example, if the CSHO learns that there is an awards program tied to the number of injuries and illnesses recorded on the OSHA Log, the program is to be described in the comments section. If it is determined that these are written procedures, the CSHO shall obtain a copy of the employer's policy.

7. Conduct Management Reviews.

The CSHO shall interview Management representatives regarding the manner in which injuries and illnesses are recorded at the establishment and to determine the existence of incentive or disciplinary programs that may influence recordkeeping. This interview should also seek to determine the extent to which Management may influence medical treatment of injured or ill employees and to determine whether recordkeeping problems exist. The CSHO shall use the questionnaire included in Appendix B.

If the CSHO learns of any company policies that may have the effect of discouraging recording on the injury and illness records, these should be documented in the interview notes or questionnaire. For example, if the CSHO learns that there is an awards program tied to the number of injuries and illnesses recorded on the OSHA Log, the program is to be described in the comments section. If it is determined, that these are written procedures the CSHO shall obtain a copy of the employer's policy.

8. Conduct Interviews with First-Aid Providers and Health Care Professionals.

The CSHO shall interview staff who participated in first-aid or medical treatment of employees with occupational injuries or illnesses to determine the consistency of information regarding the manner in which injuries and illnesses are recorded

at the establishment and to determine the existence of incentive or disciplinary programs that may influence recordkeeping. This interview should also seek to determine the extent to which Management may influence medical treatment of ill or injured employees for the purposes of modifying OSHA recordability and to determine whether recordkeeping problems exist. The CSHO shall use the questionnaire included in Appendix B.

If the CSHO learns of any company policies that may have influenced or restricted the treatment that employees receive for occupational injuries and illnesses, these should be documented in the interview notes or questionnaire. For example, if the CSHO learns that employees are discouraged from visiting their personal physician for treatment or that company's representative direct medical treatment, this should be noted.

E. Conduct Limited Walkaround Inspection.

Each Recordkeeping NEP inspection will include a limited walkaround inspection of the main plant operations areas. The CSHO will generally be looking for consistency with the recorded injuries and illnesses, but will address any violations observed in plain view while conducting the limited walkaround inspection. The CSHO may, upon consultation with the Area Office, expand the scope of this inspection or make a referral in order to address other areas of the plant that may pose safety and health risks. The decision to expand the scope or make a referral will be based on the results of the records review and interviews. The scope of the inspection may also be expanded or a referral can be made if the CSHO observes aspects of the employer's operation that relate to another emphasis program in effect at the time.

The CSHO can combine the recordkeeping inspection with another inspection that may also be scheduled for the workplace. For aspects not addressed in this section, the CSHO shall adhere to the inspection procedures outlined in Chapter 3 of the FOM. For guidance on Walkaround Representatives and Employee Representatives, the CSHO will refer to the FOM Chapter 3, Section VII.

F. Safety and Health Issues Relating to CSHOs.

CSHOs shall adhere to procedures provided in the FOM Chapter 3, Section II.C. on issues relating to their health and safety while conducting inspections for the Recordkeeping NEP.

G. Closing Conference.

At the conclusion of the inspection, the CSHO shall conduct a closing conference with the employer and the employee representatives. The CSHO shall discuss the strengths and weaknesses of the employer's recordkeeping program, and describe any recordkeeping deficiencies and violations found during the data check, records

inspection, and limited walkaround inspection. The closing conference shall follow the procedures established in the FOM CPL 02-00-148, Chapter 3, Section VIII, as applicable to these inspections.

If the CSHO has determined the employer's recordkeeping to be accurate, the CSHO shall encourage the employer to participate in one of OSHA's cooperative compliance programs.

- XIII. Issuance of Citations. Whenever OSHA recordkeeping violations are identified, appropriate citations and penalties shall be proposed and supporting documentation shall be provided in accordance with guidelines in the FOM (OSHA Instruction CPL 02-00-148 and the Recordkeeping Policy and Procedures Manual (CPL 02-00-135).
- A. Citations for recordkeeping violations found shall be classified as other-than-serious with proposed penalties appropriate to the circumstances in each case. If violations are characterized as "willful," "repeat," or "failure to abate," the Regional Administrator or Regional Solicitor should be contacted for guidance. When determining the classification of the citation, the CSHO shall take into account the existence of incentive or disciplinary programs that potentially affect the recording of injuries and illnesses.
 - B. Violation-by-violation citation and penalty procedures shall be considered, if appropriate, in accordance with OSHA Instruction CPL 02-00-080 (CPL 2.80) and the FOM (OSHA Instruction CPL 02-00-148 and AKOSH PD 10-03).
 - C. Employers shall not be cited for over-reporting of cases. The employer shall be informed of such over-reporting and the need to eliminate these identified cases on the employer's OSHA Form 300 Log.
 - D. Other violations shall be cited, as appropriate, for a limited scope inspection.
- XIV. Recording and Tracking. In accordance with the FOM (OSHA Instruction CPL 02-00-148) the CSHO shall enter the summary line of the employer's Form 300 Logs and the hours worked for three prior calendar years into the IMIS.

OSHA-1 item "inspection type" should be coded as "Planned." OSHA-1 item "scope" should be coded as "Partial". To facilitate tracking of these inspections for evaluation of the program, an IMIS code of "RKNEP" will be entered in the Optional Information block of the OSHA-1.

<u>Type</u>	<u>ID</u>	<u>Value</u>
N	16	RKNEP

- XV. Evaluation. Copies of the logs, completed worksheets, completed interviews and copies of employer written policies for each inspection will be submitted to the Directorate of Evaluation, Office of Statistical Analysis (OSA). OSA will compile the data and develop a descriptive report of the results of the inspections conducted under this NEP.

When submitting the completed worksheets it is imperative to use unique codes as employee identifiers rather than the employees' names. These worksheets will contain personal medical information; the employees' medical privacy must be protected by using codes. The CSHO will maintain a list of codes associated with the employees' names and will retain this list in the inspection file.

APPENDIX A

Cover Letters

Letter to Employers

Dear (Employer):

Your workplace has been scheduled for a records and workplace inspection as part of OSHA's initiative to assess the quality of injury and illness data recorded by employers, as outlined in the Injury and Illness Recordkeeping National Emphasis Program. This letter explains how your establishment was selected for an inspection under this program and the procedures that will be followed.

Your establishment was selected from a list of low rate establishments in high rate industries (your establishment was identified as low rate using injury and illness data you supplied to OSHA through our annual injury and illness data collection).

This inspection will consist of three main parts: a records review for CY 2007 and CY 2008, interviews, and a walkaround (safety and health inspection) of the workplace. Each item is discussed below.

Your records from CY 2007 and CY 2008 will be intensively reviewed. As part of the review to inspect the accuracy and completeness of your company's OSHA Form 300, the OSHA compliance officer will ask you to furnish the following information:

1. Your 2007 employee roster(s). (The roster is to include labor, executive, hourly workers, salary workers, part-time workers, seasonal workers, and temporary workers that your firm directly supervised during the referenced year.)
2. Your 2007 and 2008 OSHA Form 300, Form 300A, and corresponding Form 301s. (Please note for data entry purposes the CSHO shall request three calendar years of the Form 300 and current year).
3. Workers' Compensation First Reports of Injury for employees.

In addition, the compliance officer will need to see other related records for employees such as, but not limited to, nurse/doctor/clinic logs, company first-aid reports, company accident reports, insurers' accident reports, accident and health benefit insurance records, within-plant employee transfer records, absentee records, and employee/payroll records. Company policies pertaining to injury and illness reporting and recording will also be requested.

As part of the recordkeeping inspection, the compliance officer will conduct interviews with employees, management, the recordkeepers, and medical staff. We will make reasonable efforts to avoid disruption of your workplace activities during the interview process.

Finally, a walkaround (safety and health) inspection of the workplace will take place on the first day of the inspection. This component is necessary to observe the consistency of the recorded injuries and illnesses with the workplace conditions. The compliance officer will address any violations that are observed in plain view during the walkaround. In addition, any other Emphasis Programs that apply to your workplace will be addressed during the inspection.

We appreciate your cooperation in this program. If you have any questions, your compliance officer is available to discuss them with you.

Sincerely,

Area Director

APPENDIX B

Worksheet and Questionnaires

RECORDKEEPING VIOLATION DOCUMENTATION WORKSHEET

1. **UNIQUE CASE NUMBER:** _____ (**Do not enter the employee's name**)
 (Designate a number that will stay the same at all times. Example: OSHA-1-07, where OSHA means it was discovered by us, 2007 is the year, and the numbers will be in sequence.)

2. **DATE OF INJURY/ILLNESS:** _____

3. **Was case recorded on log? (Please check one)**
 Yes (If yes, enter log case number here _____; continue to **Table 1** then to **Table 2**)
 No (If no, then continue to **Table 2**)

Table 1. If yes, copy information from columns **G** through **L** of the employer's 300 log entry.

G	H	I	J	K	L

Table 2. If recorded incorrectly in Table 1, or not recorded at all, correctly record here.

G	H	I	J	K	L

4. **INJURY/ILLNESS INFORMATION:** (From 300 Log, Items 1-6 of Column M)
 1). If Injury check here

If Illness, check type: 2) Skin Disorder 3) Respiratory Condition 4) Poisoning 5) Hearing Loss
 6) All Other Illnesses

5. **WORK RELATIONSHIP AND NATURE OF INJURY OR ILLNESS:** Describe event or exposure including placement of employee on or off premises; OSHA 301 equivalent or company accident report often provides this information. Ex: Cut finger while loading scrap metal at work; broke arm in auto accident while driving to customer's office, develops dermatitis from cleaning parts with solvent on premises; or sustained a back injury or illness while lifting boxes.

6. **BASIS FOR RECORDABILITY:** (Check all that apply and provide details in comments section, below)

- Death (**D**)
- Days Away (**DA**)
- Restriction or Job Transfer (**RT**)
- Loss of Consciousness (**LC**)
- Medical Treatment beyond First Aid (**MT**)
- Significant injury or illness diagnosed by a physician or other healthcare professional (**SI**)
- Recordable condition under 1904.8 thru 1904.11 (needlestick, TB, hearing loss, etc.)

7. **COMMENTS:** (Be specific and show all relevant information.) Examples: MT-Naprosyn 440 mg BID (twice a day); DART - give dates (9/14/07-9/21/07); SI - Aplastic Anemia from Benzene exposure.

8. **SUPPORTING DOCUMENTATION OR EVIDENCE:** (Check all documentation used for substantiating case recordability.)

OSHA 300 Form Employee roster (payroll) Medical Records/Files
 Nurse/Doctor/Clinic logs Insurers' accident reports Company Accident Reports
 Absentee Record Company First-Aid Reports Union Records
 Accident and Health Benefit Insurance
 OSHA 301 Form or Workers' Comp. Equivalent
 State Workers' Compensation Form
 Other (Specify) _____

RECORDKEEPER QUESTIONNAIRE

The questionnaire is used to record responses to the interview with the manager and the Recordkeeper.

OSHA Recordkeeper Questions

(Name) Last:

First:

Middle:

Title:

1. In keeping the OSHA records, what informational resources do you use?
 - a. The OSHA Regulation 29 CFR Part 1904
 - b. Instructions on the OSHA forms
 - c. OSHA website
 - d. Internal guidelines
 - e. Other (list)
 - f. None

2. Do you have a computerized recordkeeping system?
 Yes No

3. a. Does this company have other establishments or locations?
 Yes No

- b. If yes, do you use centralized recordkeeping?
 Yes No

4. a. Do you have a completed supplementary record for each case entered on the log?
 Yes No

- b. If yes, which form(s) do you use as the supplementary record?
 - (1) OSHA Form 301
 - (2) State Workers' Compensation Form
 - (3) Insurer's Form
 - (4) Other

5. How do you get information about workplace injuries and illnesses? For example, are supervisors required to report to you any injury or illness that occurs?

6. How were you trained to handle the duties of completing the OSHA Log?
 Self-taught/no formal training
 Trained by supervisor, colleague, or previous Recordkeeper
 Classroom training
 Other (please specify) _____

7. If you need assistance in determining if a case should be recorded, how is it obtained?

8. Do employees in your establishment request access to the OSHA Log?
 Frequently Occasionally Never

9. Have you ever been encouraged to not record an incident? If yes, how?

10. Are you aware of any safety incentive programs, contests, promotions or disciplinary programs sponsored by the company? Explain. If written, please supply a copy.

11. Comments:

EMPLOYEE INTERVIEW QUESTIONNAIRE

The questionnaire is used to record responses to the interviews with a sample of employees.

Name/Employment Information

Last:

First:

Middle:

Occupation (regular job title):

Department/Division:

Tenure:

Recordkeeping Questions

1. a. Have you ever seen an OSHA Form 300, the Log of Occupational Injuries and Illnesses, for your establishment?
 Yes No
- b. If yes, did you see it by:
 Viewing the 300A summary portion of the log posted by the employer?
 Requesting access to see the entire OSHA Log?
2. Did you experience a work related injury or illness during CY 2007 or 2008?
 Yes (go to Question 3) No (go to Question 7)
3. Briefly describe this injury and/or illness.
4. a. Did you report the injury or illness to your employer?
 Yes No
- b. If yes, was the case recorded on the OSHA Log?
 Yes No Don't Know
- c. If no, why not?
5. Have you or your employer filed for workers' compensation for this injury or illness?
 Yes No
6. a. Did your injury and/or illness involve any days away from work or days of restricted work activity? If yes, explain.
 Yes No
- b. If yes, how many workdays?
_____ Number of days away from work
_____ Number of days restricted work activity
7. a. Are you aware of any of your coworkers experiencing a job-related injury or illness?
 Yes No
- b. If yes, who?
8. Did your employer inform you how to report work-related injuries and illnesses? If yes, by what means
9. Have you ever been encouraged to not report an injury or illness or been encouraged to report an injury or illness as a non-work-related event or exposure.
10. Are there any safety incentive programs, contests, or promotions or any disciplinary programs here? Do these - or anything else - affect your decision whether to report an injury or illness?
11. Comments:

SUPPLEMENTAL EMPLOYEE QUESTIONNAIRE

Include these questions in the employee interviews if a calculated “Days Away from Work case rate for musculoskeletal disorder cases” is greater than or equal to twice the industry rate listed in Appendix D.

1. Have you ever taken called in sick due to pain from performing tasks at work?
 Yes No
2. Have you ever taken vacation days due to pain from performing tasks at work?
 Yes No
3. Do you take over the counter medication (Advil, Tylenol, etc.) for an unreported but work-related injury?
 Yes No
4. Do you know of anyone who has quit because of pain or injury? Who?
 Yes No
5. Do you know of anyone who has quit because the work tasks are too physically demanding? Who?
 Yes No
6. Are there specific departments, shifts, tasks that you know are more at risk for injury? If yes, which ones?
 Yes No

HEALTH CARE PROFESSIONAL INTERVIEW

Name of establishment being inspected: _____

Full Name: _____ Job Title: _____

Date of Interview: _____

1. What is your business relationship with the company?
 Employee
 Contractor hired by the company
 Independent medical or first-aid provider
 Other _____
2. Are you familiar with the job functions of employees in the establishment?
 Yes No
3. What is your level of medical or first-aid training?
 Physician Nurse or Nurse Practitioner
 Paramedic or EMT First aid/CPR
 Other: _____
4. a) In the calendar year _____, did you provide medical treatment or first aid to employees from this company?
 Yes No
b) If yes, did you provide these services at the worksite? Yes No
5. Are you familiar with OSHA Recordkeeping? Yes No
6. Did you provide medical treatment or first aid to employees from this company with work-related injuries or illnesses? Yes No
7. Did you provide medical treatment or first aid to employees from this company with injuries or illnesses not related to their work? Yes No
8. How are injured or ill employees from this company referred to you for treatment?
 Employee self-referral
 Referred by employer
 Other _____
9. a) Has a company representative accompanied the employee when they sought treatment?
 Always Sometimes Infrequently Never
b) If yes, did a company representative remain with the employee during treatment?
 Always Sometimes Infrequently Never
10. Has a company representative offered any instructions or suggestions regarding the medical or first-aid treatment of the injured or ill employee? Yes No
11. a) Are you the person normally responsible for determining whether or not a case is recordable on the OSHA 300 log?
 Yes No
b) If not, who is? _____
c) If not, do you participate in the decision-making for recordability? Yes No
12. Has OSHA recordability ever entered into your decision on how to treat the injured worker? If yes, in what way?
 Yes No

13. a) Have you ever been asked to override or change the treatment of an employee when receiving a recommendation from a different Healthcare Professional?
 Yes No
b) If yes, what criteria are evaluated for overriding a case? _____
14. a) Does anyone review your overrides? Yes No
b) If yes, who? _____
15. a) Are you aware of any safety incentive programs, contests, or promotions sponsored by the company?
 Yes No
b) If yes, please describe: _____
c). If written, provide a copy
16. a) Are you aware of any disciplinary programs or other policy practices tied to injury and illness reporting?
 Yes No
b) If yes, please describe: _____
c). If written, provide a copy

NOTES: _____

SUPPLEMENTAL HEALTH CARE PROFESSIONAL QUESTIONNAIRE

Include these questions in the employee interviews if a calculated “Days Away from Work case rate for musculoskeletal disorder cases” is greater than or equal to twice the industry rate listed in Appendix D.

1. Are there specific departments, shifts, tasks that you know are more at risk for MSD injury?
 Yes No

2. Do you know of employees taking OTC medication or other treatments (chiropractor) for work-related aches and pains?
 Yes No

3. Do you know of employees who were put on work restrictions that the company did not honor?
 Yes No

MANAGEMENT/COMPANY REPRESENTATIVE INTERVIEW QUESTIONNAIRE

Name of establishment being inspected: _____

Full Name: _____ Job Title: _____

Date of Interview: _____

1. Does the company maintain a record of occupational injuries and illnesses? Yes No
2. What are the name and job title of the individual(s) who maintain this information?
3. Does the company have a computerized recordkeeping system? Yes No
4. a) Does the company have other establishments or locations? Yes No
b) If yes, do you use centralized recordkeeping? Yes No
5. Do you have a completed OSHA Form 300 Log and OSHA Form 300A Summary of Occupational Injuries and Illnesses, for the calendar years _____? Yes No
6. When an employee experiences a work-related injury or illness, to whom do they make the first report of injury or illness? (List name and/or job title):
7. a) Does the company investigate the circumstances of occupational injuries and illnesses?
 Yes No
b) If yes, is a written report produced? Yes No
8. a) Does the company have on-site first-aid staff? Yes No
b) Does the company have on-site medical staff? Yes No
c) If yes, what is their level of medical training? _____
c) If no, who provides treatment?
 Employee's personal physician
 Offsite company healthcare professional
 Ambulance Staff (EMT, Paramedic)
 Health clinic or hospital
 Other healthcare provider: _____
9. a) Does the company use temporary help agency workers? Yes No
b) If yes, does the company supervise them on a daily basis? Yes No
c) If yes, are their injuries and illnesses recorded on your OSHA Log? Yes No
10. Does the company have any incentive programs, disciplinary programs, contests, or promotions tied to injuries and illnesses? (If written policy, please provide copy)
11. Did you inform your employees how to report work-related injuries and illnesses? How?
12. What steps do you take to meet the certification requirement for the 300A?

NOTES: _____

SUPPLEMENTAL MANAGEMENT QUESTIONNAIRE

Include these questions in the employee interviews if a calculated “Days Away from Work case rate for musculoskeletal disorder cases” is greater than or equal to twice the industry rate listed in Appendix D.

1. Do you have a S&H team and do they specifically investigate MSD-related injuries and provide abatement recommendations?
 Yes No
2. Are there specific departments, shifts, tasks that you know are more at risk for MSD injury?
 Yes No
3. Do you know of anyone who has quit because of pain or injury from work tasks? Who?
 Yes No
4. Do you know of any employees who have asked for changes to be made to the task or to be moved to a different task due to being injured or fear of being injured?
 Yes No
5. Has your WC carrier ever recommended equipment or process changes to reduce risk to employees? Were those recommendations implemented?
 Yes No

APPENDIX C

Sample Recordkeeping Citations

When an employer fails to record an injury or illness case on the OSHA 300 log or equivalent form

29 CFR 1904.4 (a): Each employer required by this part to keep records of fatalities, injuries, and illnesses did not record each fatality, injury and illness that was work-related, a new case, and meets one or more of the general recording criteria:

- Located at the (Company Name, Middletown, USA): On or about (date of inspection), the employer did not record the following workplace injuries and illnesses on the OSHA 300 Log for calendar year 0000.
 - a) On or about (date of injury or illness), (Job Title) - An employee received stitches due to a laceration on the left forearm from a shear machine.

When an employer fails to record an injury or illness case correctly on the OSHA 300 log or equivalent form

(Such as: incorrectly recorded a Days Away case as a Restricted Work/Job Transfer or as an Other recordable case.)

29 CFR 1904.7(b)(3) When an injury or illness involves one or more days away from work, you must record the injury or illness on the OSHA 300 log with a check mark in the space for cases involving days away from work.

- Located at the (Company Name, Middletown, USA): On or about (date of inspection), the employer did not record the following workplace injuries and illnesses correctly on the OSHA 300 Log for calendar year 0000.
 - a) On or about (date of injury or illness), (Job Title) - an employee was burned on the face from steam and the case was recorded as a job transfer, when the case resulted in days away from work.

OR

29 CFR 1904.7(b)(4) When an injury or illness involves restricted work or job transfer but does not involve death or days away from work the employer must record the injury or illness on the OSHA 300 log by placing a check mark in the space.

- a) On or about (date of injury or illness), (Job Title) - an employee broke his hand resulting in two weeks of restricted work activity. The employer incorrectly recorded a day(s) of restricted work activity case 1904.7(b)(4) as a medical treatment case on the log.

When an employer fails to (fill out) or (did not accurately complete) an OSHA 301 or equivalent form for each injury or illness case

(Workers' compensation, Insurance or other reports are acceptable alternative records if they contain the information required by the 301, or are supplemented to do so.)

29 CFR 1904.29(b)(2) Employer must complete and OSHA 301 Incident Report form, or an equivalent form, for each recordable injury or illness entered on the OSHA 300 log.

Located at the (Company Name, Middletown, USA): On or about (date of inspection), An incident Report (OSHA 301 or equivalent) for each injury or illness was not (filled out) or (accurately completed) as required by the regulation.

- a) On or about (date of injury or illness), (Job Title) - A 301 or equivalent was not filled out due to a work-related injury or illness to an employee resulting in the general recording criteria;

or

- b) On or about (date), (Job Title) - A 301 or equivalent was not accurately completed (SPECIFY WHAT WAS INCOMPLETE on the OSHA Form 301).

When an employer fails to create, certify or post an OSHA form 300A

29 CFR 1904.32(a)(2): The Summary of Work-Related Injuries and Illnesses (OSHA Form 300A or equivalent) was not created, certified or posted:

(STATE WHAT WAS FOUND INCOMPLETE UNDER SPECIFIC PARAGRAPHS UNDER 1904.32)

Note: The employer shall not be cited for where no records are kept and there have been no injuries or illnesses. See CPL 0-2.135.

Note: When determining the classification of the citation, the CSHO shall take into account the existence of incentive or disciplinary programs that potentially affect the recording of injuries and illnesses.

APPENDIX D
Days Away From Work Case Rates for Musculoskeletal Disorders, 2007

Industry	NAICS	MSD DAW
Animal (except poultry) slaughtering	311611	42.3
Scheduled passenger air transportation	481111	240.1
Steel foundries (except investment)	331513	53.9
Other nonferrous foundries (except die-casting)	331528	140.3
Concrete pipe manufacturing	327332	32.7
Soft drink manufacturing	312111	130.7
Couriers	492110	136.3
Manufactured home (mobile home) manufacturing	321991	61.2
Rolling mill machinery and equipment manufacturing*	333516	36.0
Iron foundries	331511	95.9
Nursing care facilities	623110	134.7
Fluid milk manufacturing	311511	96.8
Seafood canning	311711	99.8
Marine cargo handling	488320	85.5
Copper foundries (except die-casting)	331525	51.8
Bottled water manufacturing	312112	96.0
Refrigerated warehousing and storage	493120	70.0
Motor vehicle seating and interior trim manufacturing	336360	78.0
Pet and pet supplies stores	453910	89.5
Poultry Processing	311615	21.1
Support Activities for Animal Production	115210	27.6

Incidence rates represent the number of injuries and illnesses per 10,000 full-time workers and were calculated as:
 $(N / EH) \times 20,000,000$ where,

N = number of injuries and illnesses,
 EH = total hours worked by all workers during the calendar year,
 20,000,000 = base for 10,000 full-time equivalent workers (working 40 hours per week, 50 weeks per year).

* A 2007 MSD days away from work rate for NAICS 333516 was not published. The rate for the broader industry NAICS 333510 is used in its place.

APPENDIX E
CSHO CHECKLIST

**Prior to inspection of establishment obtained the following documents:
Letter to employer, MAO and (Administrative Subpoena if needed)**

Year	Obtain a Copy of Form 300, 301 and 300A and include in case file?	Calculate and check the DART against the ER's?	Obtain employee rooster from this year?	Check to make sure all cases on Form 300 are correct? (this would include over-recorded cases)	Look at all employee documents for employees in the sample and reconstruct the recordable cases?	Interview employees using the employee rooster about injuries/illnesses in the indicated cycle years	Enter Form 300A data into IMIS system?	Data should be sent to the National Office?
2007	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
2008	Yes	No	No	Yes	Yes (even though the list is made from 2007 employees; we also reconstruct this log)	Yes (even though the list is made from 2007 employees)	Yes	Yes
2006	Yes	No	No	Review as usual procedure but do not verify each case	No	No	Yes	No
2009	Yes	No	No	Review as usual procedure but do not verify each case	No	No	Yes	No