

Small Plant NEWS

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Small Plant NEWS

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Reporting Work-Related Injuries and Illness



By Jane Johnson

The Occupational Safety and Health Act (OSH Act) was enacted in 1970 "to assure safe and healthful working conditions for working men and women." The OSH Act requires that employers, including small and very small plant owners and operators like you, keep records of occupational deaths, injuries, and illnesses.

The U.S. Department of Labor's Occupational Safety and Health Administration (OSHA) is the agency charged with administering the requirements of the OSH Act and enforcing the regulations stemming from it. The OSHA regulations regarding recordkeeping can be found in Title 29 of the *Code of Federal Regulations*, part 1904 (29 CFR 1904) and part 1952, section 1952.4 (29 CFR 1952.4).

Although OSHA and the U.S. Department of Agriculture's (USDA) Food Safety and Inspection Service (FSIS) have a Memorandum of Understanding regarding the procedures that meat and poultry inspection personnel use to refer serious workplace hazards affecting plant employees to OSHA, it's

your responsibility to keep the records required by OSHA. It's important to remember that recording and/or reporting work-related injuries, illnesses, and fatalities does not imply that an OSHA regulation has been violated or that an employer or employee is at fault.

So, why do you have to keep these records? Well, OSHA uses the information from the required records in several important ways:

1. Injury and illness statistics are used to help direct the efforts of OSHA inspectors to the hazards that are hurting workers. In addition, OSHA collects data through the OSHA Data Initiative to help direct its programs and measure its own performance.

2. The records are used by employers and employees to implement safety and health programs at individual workplaces. Analysis of the data is a widely recognized method for discovering workplace safety and health problems and for tracking progress in solving those problems.

3. The records provide the base data for the Bureau of Labor Statistics' Annual Survey of Occupational

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Injuries and Illnesses, the nation's primary source of occupational injury and illness data.

As you can see, keeping track of work-related injuries, illnesses, and fatalities isn't just an "exercise in paperwork," it's a necessary part of OSHA's ability to fulfill its mission.

However, not all small plant operators are required to keep OSHA records. There are two partial exemptions. Businesses that fall under these exemptions are not required to keep records of work-related injuries, illnesses, and fatalities unless they are notified in writing by OSHA or the Bureau of Labor Statistics that they must. These exemptions are listed in 29 CFR 1904.1, "Partial exemption for employers with 10 or fewer employees," and 29 CFR 1904.2, "Partial exemption for establishments in certain industries." Let's take a closer look at them.

29 CFR 1904.1, "Partial exemption for employers with 10 or fewer employees"

This is the exemption that some of the very small plant operators may fall under. Basically, if your company had **10 or fewer** employees at all times during the last calendar year, you do not need to keep OSHA injury and illness records unless OSHA or the Bureau of Labor Statistics informs you in writing that you must keep records under 29 CFR 1904.41 ("OSHA's Annual Injury/Illness Survey") or 29 CFR 1904.42 ("Bureau of Labor Statistics Data Requests"). The partial exemption for size is based on the



A plant worker using heavy equipment. (USDA photo)



A plant worker with smoking equipment. (USDA photo)

number of employees in the entire company, not just at one location or plant, and all individuals who are "employees" under the OSH Act are counted in the total. This includes all full-time, part-time, temporary, and seasonal employees. However, owners and partners of businesses that are sole proprietorships or partnerships are not considered employees.

Please note that even if your company falls under this exemption, you are still required by 29 CFR 1904.39 ("Fatality/Multiple Hospitalization Requirements") to report to OSHA any workplace incident that results in a fatality or the hospitalization of three or more employees.

If your company had 11 or more employees **at any time** during the last calendar year, you must keep OSHA injury and illness records unless your plant is classified as a partially exempt industry under 29 CFR 1904.2. To determine if you are exempt because of size, you need to determine your company's peak employment during the last calendar year. If you employed 11 or more people **at any given time** during that year, you're not eligible for the small employer exemption in the following year, and you must keep records at all plants owned by your company.

29 CFR 1904.2, "Partial exemption for establishments in certain industries"

Most small plant owners or operators will not qualify for this exemption because it's based on the classification of your business under the Standard Industrial Classification (SIC) code. If your facility is classified in the specific low hazard retail, service, finance, insurance, or real estate

OSHA Recordkeeping Coordinators

OSHA has offices throughout the United States and its territories that are available to answer your questions about requirements mandated by the Occupational Safety and Health Act. These offices can also determine under which classification your business falls within the SIC code.

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Commonly Asked Questions & Answers

Q. Can a plant use ultraviolet light (UV radiation) as an antimicrobial treatment applied to the surface of primals/subprimals cuts of meat or poultry product?

A. Yes. The U.S. Food and Drug Administration has determined conditions of use for UV radiation as a surface antimicrobial treatment for food (21 CFR 179.39). When UV radiation sources consist of low-pressure mercury lamps, it can be safely used as a surface antimicrobial treatment.

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industry listed in the Appendix A to Subpart B of 29 CFR 1904, you do not need to keep OSHA injury and illness records.

However, as is the case with the exemption based on size, you must keep OSHA injury and illness records if OSHA or the Bureau of Labor Statistics informs you in writing and you are required to report to OSHA any workplace incident that results in a fatality or the hospitalization of three or more employees. Facilities classified in agriculture; mining; construction; manufacturing; transportation; communication; electric, gas, and sanitary services; or wholesale trade are not eligible for the partial industry classification exemption.

Unlike the first exemption, the partial industry classification exemption applies to individual plants or facilities. If you have several facilities engaged in different classes of business activities, some of your facilities may be required to keep records, while others may be exempt.

You may determine your SIC code by using the *Standard Industrial Classification Manual*. It's available on the OSHA Web site at www.osha.gov/pls/imis/sic_manual.html. Or, you may prefer to contact your nearest OSHA office or State agency for help in determining your SIC. For the most part, you'll probably fall under the following classification:

- Division D: Manufacturing
 - Major Group 20: Food and Kindred Products
 - Industry Group 201: Meat Products
 - Code 2011: Meat Packing Plants;
 - Code 2013: Sausages and Other Prepared Meat Products; or
 - Code 2015: Poultry Slaughtering and Processing

As previously mentioned, facilities classified as "manufacturing" are not eligible for this exemption.

If you don't fall under one of these exemptions, you'll have to keep the appropriate records. The forms you will use are OSHA Form 300, "Log of Work-Related Injuries and Illnesses"; OSHA Form 300A, "Summary of Work-Related Injuries and Illnesses"; and if you have an incident

at your plant, OSHA Form 301, "Injury and Illness Incident Report." OSHA Form 301 must be filled out within 7 days of a recordable work-related injury or illness.

Remember, you must keep individual records for each facility owned by your company. OSHA Form 300A must be posted in a conspicuous place at your plant so that employees may review it and be aware of the injuries and illnesses that have occurred during the past year. It must be posted by the beginning of February of the year following the summary year, and remain posted until the end of April. (For example, the OSHA Form 300A for 2010 must be posted by February 1, 2011, and remain posted until April 30, 2011.)

The *Recordkeeping Handbook* found on OSHA's Web site at www.osha.gov/recordkeeping/handbook/index.html contains a significant amount of helpful information that explains OSHA's recordkeeping requirements. The handbook is divided into sections and is laid out in the same order as the regulations, beginning with 29 CFR 1904.0 through 1904.46, and ending with a section on 29 CFR 1952.4. Each section begins by stating the regulation and then proceeds to provide a discussion; a list of frequently asked questions and answers; and for some of the regulations, letters of interpretation. Unfortunately, this publication is unavailable in hard copy (printed) format at this time.

OSHA has many other helpful forms and publications available on its Web site at www.osha.gov/pls/publications/publication.html, including Forms 300, 300A, and 301 and the pamphlet, OSHA 3169 - 2001, "RECORDKEEPING - It's new, it's improved, and it's easier..." For those without Internet access, you may obtain a list of available OSHA publications by phoning the OSHA Publications Office at (202) 693-1888 or faxing (202) 693-2498. You may also write to this address:

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