2013 updates to 29 CFR 1960

- Establishes annual data collection of the OSHA 300-series data by BLS
- Changes the due date of agencies annual reports to OSHA from January 1 to May 1
- Reiterates status of volunteers as “employees” for recordkeeping purposes
Purpose of changes

• Allow federal agencies to compare their performance to other agencies and the private sector, as well as by OPM job series.

• Allow OSHA to use OSHA data to track agencies’ performance.

• Allow BLS and NIOSH to conduct more detailed analysis of federal agencies
BACKGROUND
Purpose of OSHA recordkeeping

• Aids employers/workers in identifying hazards in their workplaces
• Aids employers/workers in evaluating the effectiveness of their safety and health programs
• Aids OSHA compliance officers in doing their job
OSHA RECORDABLE vs. OWCP COMPENSABLE

• Workers’ Compensation determinations do NOT impact OSHA recordability.
  – Some cases may be OSHA recordable and compensable.
  – Some cases may be compensable, but not OSHA recordable.
  – Some cases may be OSHA recordable, but not compensable.
What’s Recordable?
1904.4 – Recording Criteria

• 1904.4 – Recording Criteria
• You must record each fatality, injury or illness that:
  – is work-related, and
  – is a new case, and
  – meets one or more of the criteria contained in sections 1904.7 through 1904.11.
1904.5 – Work-Relatedness

• Work-relatedness is presumed for injuries and illnesses resulting from events or exposures occurring in the work environment.

• A case is presumed work-related if, and only if, an event or exposure in the work environment is a discernable cause of the injury or illness or of a significant aggravation to a pre-existing condition. The work event or exposure need only be one of the discernable causes; it need not be the sole or predominant cause.
1904.5 – Work Environment

• The work environment is defined as the establishment and other locations where one or more employees are working or present as a condition of employment.

• The work environment includes not only physical locations, but also the equipment or materials used by employees during the course of their work.
1904.5 – Exceptions

• Present as a member of the general public
• Symptoms due to non-work-related event or exposure
• Voluntary participation in wellness program, etc.
• Eating, drinking or preparing food/drink for personal consumption
• Personal tasks outside assigned working hours
• Personal grooming, self medication for non-work-related condition, or intentionally self-inflicted
• Motor vehicle accident in parking lot/access road during commute
• Common cold or flu
Not exceptions for recordability

- Horseplay
- Acts of Violence
- The fault of the employee.
1904.7 – General Recording Criteria

• An injury or illness is recordable if it results in one or more of the following:
  – Death
  – Days away from work
  – Restricted work activity
  – Transfer to another job
  – Medical treatment beyond first aid
  – Loss of consciousness
  – Significant injury or illness diagnosed by a PLHCP
1904.7(b)(3) - Days Away Cases

- Record if the case involves one or more days away from work
- Check the box for days away cases and count the number of days
- Do not include the day of injury/illness
1904.7(b)(3) – Days Away Cases

- Day counts (days away or days restricted)
  - Count the number of calendar days the employee was unable to work (include weekend days, holidays, vacation days, etc.)
  - Cap day count at 180 days away and/or days restricted
  - May stop day count if employee leaves company for a reason unrelated to the injury or illness
  - If a medical opinion exists, employer must follow that opinion
1904.7(b)(4) - Restricted Duty/Job Transfer

- Record if the case involves one or more days of restricted work or job transfer.
- Check the box for restricted/transfer cases and count the number of days.
- Do not include the day of injury/illness.
- An injured or ill employee is assigned to a job other than his or her regular job for part of the day.
1904.7(b)(5) – Medical Treatment

- Medical treatment is the management and care of a patient to combat disease or disorder.
- It does not include:
  - Visits to a health Care Professional solely for observation or counseling
  - Diagnostic procedures
  - First aid
1904.7(b)(6) – Loss of Consciousness

• All work-related cases involving loss of consciousness must be recorded
The following work-related conditions must always be recorded at the time of diagnosis by a PLHCP:

- Cancer
- Chronic irreversible disease
- Punctured eardrum
- Fractured or cracked bone or tooth
Other Recording Issues

• Bloodborne Pathogen

• Medical Removal

• Hearing Loss Recordability

• TB – Positive skin test recordable when known work place exposure to active TB disease. NO presumption of work relationship in any industry.

• MSD recordable when General Recording Criteria is met.
Completing Forms

• Must enter each recordable case on the forms within 7 calendar days of receiving information that a recordable case occurred

• An equivalent form has the same information, is as readable and understandable, and uses the same instructions as the OSHA form it replaces

• Forms can be kept on a computer as long as they can be produced when they are needed, as described under 1904.35 and 1904.40
Sharing OWCP information

• An agency may use a workers' compensation form that does not contain all the OSHA-required information, provided that the form is supplemented to contain the missing information, is readable and understandable, and is completed using the same instructions as the OSHA form it replaces.

• All information that is not specifically required on one of the OSHA 300 forms must be deleted.
1904.32 – Annual Summary

• Federal agency certification (1960.67)
  – Senior establishment management official
  – Head of the Agency for which the senior establishment management official works, or
  – Any management official who is in the direct chain of command between the senior establishment management official and the head of the agency

• Must post for 3-month period from February 1 to April 30 of the year following the year covered by the summary
29 CFR 1960
Updates & Reminders
Establishments

• Preamble:
  – Reiterates the definition of establishment
  – Requires agencies to provide a list annually

• Focus of establishments is on:
  – Line of command
  – Physical location
Establishment Codes

• BLS requires a 9 character establishment code, which:
  – identifies the establishment as federal (04)
  – Identifies the department level (i.e. LD)
  – Identifies the agency level (i.e. OS)
  – Identifies the actual establishment (i.e. 001)
Employee Information

• Identifying volunteers with a “V”
• Recording volunteer hours as a separate category
• Using OPM job series codes
• Ensuring injuries of contractors supervised on a day-to-day basis by a federal employee are recorded on the agency logs
BLS/OSHA Activities

• Collecting establishment lists – Due to OSHA on **October 1, 2013**
• Developing on-line forms for submission
• Developing flat-file format
• Working with OWCP on E-COMP updates
• Preparing for data collection starting in January 2014
QUESTIONS