

Preliminary Draft Language for Recordkeeping and Reporting Phase 3

(Chapter 296-27 WAC Recordkeeping and Reporting)

January 10, 2019

NEW SECTION

WAC 296-27-001 Definitions. Amputation. The traumatic loss of an appendage, such as an upper or lower limb (or part of the limb) or other external body part that has been severed or cut off either completely or partially at the time of the injury, or is surgically removed due to irreparable damage. Amputations may or may not include bone loss.

Note: Amputations include fingertips and amputations of body parts that have since been reattached. Amputations do not include loss of an eye, broken or chipped teeth, scalplings, or avulsions, such as degloving, where the skin and tissue have been torn away from the underlying subcutaneous tissue, tendons, muscle, or bone.

Authorized employee representative. An authorized collective bargaining agent of employees.

Authorized government representative. A representative of the Secretary of Labor, conducting an inspection or investigation under the act, a representative of the Secretary of Health and Human Services (including the National Institute for Occupational Safety and Health (NIOSH)) conducting an investigation under section 20(b) of the act, or a division of occupational safety and health (DOSH) representative of the state department of labor and industries.

Department. The Washington state department of labor and industries.

Employer. A person, firm, corporation, partnership, business trust, legal representative, or other business entity which engages in any business, industry, profession, or activity in this state and employs one or more employees or who contracts with one or more persons, the essence of which is the personal labor of such person or persons and includes the state, counties, cities, and all municipal corporations, public corporations, political subdivisions of the state, and charitable organizations: Provided, That any persons, partnership, or business entity not having employees, and who is covered by the Industrial Insurance Act must be considered both an employer and employee.

Establishment. A single physical location where business is conducted or where services or industrial operations are performed. For activities where employees do not work at a single physical location, such as construction; transportation; communications, electric, gas and sanitary services; and similar operations, the establishment is represented by main or branch offices, terminals, stations, etc., that either supervise such activities or are the base from which personnel carry out these activities.

(a) Normally, one business location has only one establishment.

Under limited conditions, the employer may consider two or more separate businesses that share a single location to be separate establishments. You may divide one location into two or more establishments only when:

(i) Each of the establishments represents a distinctly separate business;

(ii) Each business is engaged in a different economic activity;

(iii) No one industry description in the North American Industrial Classification System applies to the joint activities of the establishments; and

(iv) Separate reports are routinely prepared for each establishment on the number of employees, their wages and salaries, sales or receipts, and other business information. For example, if an employer operates a construction company at the same location as a lumber yard, the employer may consider each business to be a separate establishment.

(b) You may combine two or more physical locations into a single establishment only when:

(i) You operate the locations as a single business operation under common management;

(ii) The locations are all located in close proximity to each other; and

(iii) You keep one set of business records for the locations, such as records on the number of employees, their wages and salaries, sales or receipts, and other kinds of business information. For example, one manufacturing establishment might include the main plant, a warehouse a few blocks away, and an administrative services building across the street.

(c) For employees who telecommute from home, the employee's home is not a business establishment, and a separate OSHA 300 Log is not required. Employees who telecommute must be linked to one of your establishments under WAC 296-27-02101(4).

First aid. For the purpose of this chapter, first aid only includes the following:

(a) Using a nonprescription medication at nonprescription strength (for medications available in both prescription and nonprescription form, a recommendation by a physician or other licensed health care professional to use a nonprescription medication at prescription strength is considered medical treatment for recordkeeping purposes);

(b) Administering tetanus immunizations (other immunizations, such as Hepatitis B vaccine or rabies vaccine, are considered medical treatment);

(c) Cleaning, flushing, or soaking wounds on the surface of the skin;

(d) Using wound coverings such as bandages, Band-Aids™, gauze pads, etc., or using butterfly bandages or Steri-Strips™ (other wound closing devices such as sutures, staples, etc., are considered medical treatment);

(e) Using hot or cold therapy;

(f) Using any nonrigid means of support, such as elastic bandages, wraps, nonrigid back belts, etc., (devices with rigid stays or other systems designed to immobilize parts of the body are considered medical treatment for recordkeeping purposes);

(g) Using temporary immobilization devices while transporting an accident victim (e.g., splints, slings, neck collars, back boards, etc.);

(h) Drilling of a fingernail or toenail to relieve pressure, or draining fluid from a blister;

(i) Using eye patches;

(j) Removing foreign bodies from the eye using only irrigation or a cotton swab;

(k) Removing splinters or foreign material from areas other than the eye by irrigation, tweezers, cotton swabs, or other simple means;

(l) Using finger guards;

(m) Using massages (physical therapy or chiropractic treatment are considered medical treatment for recordkeeping purposes); or

(n) Drinking fluids for relief of heat stress.

Injury or illness. 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. Injuries and illness are recordable only if they are new, work-related cases that meet one or more of this section's recording criteria.

Inpatient hospitalization. To be admitted into a hospital or equivalent facility for medical treatment.

Loss of an eye(s). The physical removal of an eye occurring either at the time of injury or is surgically removed due to irreparable damage. The loss of sight without the removal is not reportable, unless the worker is admitted as an inpatient

hospitalization after losing sight as a result of a worker-related incident, then it is reportable within the eight-hour time frame specified in WAC 296-27-031(1).

Medical treatment. The management and care of a patient to combat disease or disorder. For the purposes of this section, medical treatment does not include:

(a) Visits to a physician or other licensed health care professional solely for observation or counseling;

(b) The conduct of diagnostic procedures, such as X rays and blood tests, including the administration of prescription medications used solely for diagnostic purposes (e.g., eye drops to dilate pupils); or

(c) First aid (see definition of first aid).

OSHA. Occupational Safety and Health Administration.

Other potentially infectious materials. Includes all of the following:

(a) The following human body fluids: Semen, vaginal secretions, cerebrospinal fluid, synovial fluid, pleural fluid, pericardial fluid, peritoneal fluid, amniotic fluid, saliva in dental procedures, any body fluid that is visibly contaminated with blood, and all body

fluids in situations where it is difficult or impossible to differentiate between body fluids;

(b) Any unfixed tissue or organ (other than intact skin) from a human (living or dead);

(c) HIV-containing cell or tissue cultures, organ cultures, and HIV- or HBV-containing culture medium or other solutions; and blood, organs, or other tissues from experimental animals infected with HIV or HBV; and

(d) Blood and tissues of experimental animals infected with bloodborne pathogens.

Personal representative. Any person that the employee or former employee designates as such in writing, or the legal representative of a deceased or legally incapacitated employee or former employee.

Physician or other licensed health care professional. A physician or other licensed health care professional whose legally permitted scope of practice (i.e., license, registration, or certification) allows them to independently perform, or be delegated the responsibility to perform, the activities described by this regulation.

Preexisting condition. An injury or illness that resulted solely from a nonwork-related event or exposure.

Routine functions. For recordkeeping purposes, routine functions are those work activities the employee regularly performs at least once per week.

WISHA (WISH Act). The Washington Industrial Safety and Health Act.

Work environment. The establishment and other locations where one or more employees are working 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 their work.

You. An employer (see definition of employer).

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AMENDATORY SECTION (Amending WSR 15-11-066, filed 5/19/15, effective 7/1/15)

WAC 296-27-01101 Recording criteria. (1) Employers required to keep records by this chapter must record each fatality, injury and illness that:

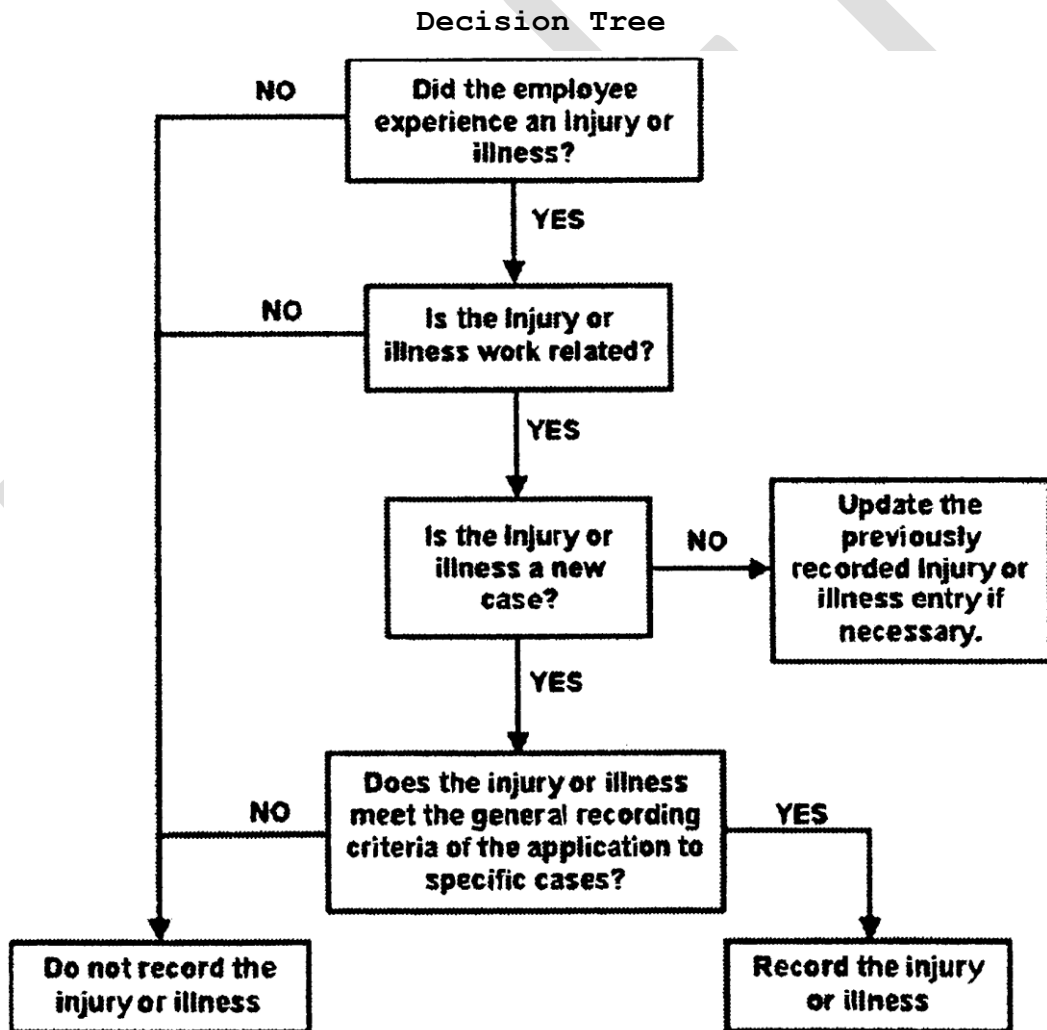
(a) Is work-related, see WAC 296-27-01103;

(b) Is a new case, see WAC 296-27-01105; and

(c) Meets one or more of the general recording criteria of WAC 296-27-01107.

(2) Additional criteria for specific cases such as needlestick and sharps injury cases, hearing loss cases, medical removal cases, and (~~musculoskeletal disorder~~) tuberculosis cases are located in WAC 296-27-01109 through 296-27-01115.

Note: The decision tree for recording work-related injuries and illnesses below shows the steps involved in determining whether a particular injury or illness is reportable.



[Statutory Authority: RCW 49.17.010, 49.17.040, and 49.17.050. WSR 15-11-066, § 296-27-01101, filed 5/19/15, effective 7/1/15; WSR 02-01-064, § 296-27-01101, filed 12/14/01, effective 1/1/02.]

AMENDATORY SECTION (Amending WSR 15-11-066, filed 5/19/15, effective 7/1/15)

WAC 296-27-01103 Determination of work-relatedness. (1) (~~You~~)

The employer must consider an injury or illness to be work-related if an event or exposure in the work environment either caused or contributed to the resulting condition or significantly aggravated a preexisting injury or illness. Work-relatedness is presumed for injuries and illnesses resulting from events or exposures occurring in the work environment, unless an exception in subsection (2)(a) through (i) of this section specifically applies.

(2) An injury or illness occurring in the work environment is not recordable or considered work-related if it meets one of the following exceptions:

(a) At the time of the injury or illness, the employee was present in the work environment as a member of the public rather than as an employee.

(b) The injury or illness involves signs or symptoms that surface at work but result solely from a nonwork-related event or exposure that occurs outside the work environment.

(c) The injury or illness results solely from voluntary participation in a wellness program or in a medical, fitness, or recreational activity such as blood donation, physical examination, flu shot, exercise class, racquetball, or baseball.

(d) The injury or illness is solely the result of an employee eating, drinking, or preparing food or drink for personal consumption (whether bought on the employer's premises or brought in). For example, if the employee is injured by choking on a sandwich while in the employer's establishment, the case would not be considered work-related.

(e) The injury or illness is solely the result of an employee doing personal tasks (unrelated to their employment) at the establishment outside of the employee's assigned working hours.

(f) The injury or illness is solely the result of personal grooming, self-medication for a nonwork-related condition, or is intentionally self-inflicted.

(g) The injury or illness is caused by a motor vehicle accident and occurs on a company parking lot or company access road while the employee is commuting to or from work.

(h) The illness is the common cold or flu.

(i) The illness is a mental illness. Mental illness will not be considered work-related unless the employee voluntarily provides the employer with an opinion from a physician or other licensed health care professional with appropriate training and experience (psychiatrist, psychologist, psychiatric nurse practitioner, etc.) stating that the employee has a mental illness that is work-related.

Notes:

1. If the employee is made ill by ingesting food contaminated by workplace contaminants (such as lead), or gets food poisoning from food supplied by the employer, the case would be considered work-related.
2. Contagious diseases such as tuberculosis, brucellosis, hepatitis A, or plague are considered work-related if the employee is infected at work.

(3) If it is not obvious whether an event or exposure was work-related, ((you)) the employer must evaluate the employee's work duties and work environment to determine if the event or exposure was work-related and resulted in either a new injury or illness or it significantly aggravated a preexisting condition. A preexisting condition is an injury or illness that is significantly aggravated by the event or exposure occurring in the work environment if it results in any of the following:

(a) Death, provided that the preexisting injury or illness would likely not have resulted in death but for the occupational event or exposure.

(b) Loss of consciousness, provided that the preexisting injury or illness would likely not have resulted in loss of consciousness but for the occupational event or exposure.

(c) One or more days away from work, or days of restricted work, or days of job transfer that otherwise would not have occurred but for the occupational event or exposure.

(d) Medical treatment in a case where no medical treatment was needed for the injury or illness before the workplace event or exposure, or a change in medical treatment was necessitated by the workplace event or exposure.

(4) Injuries and illnesses that occur while an employee is on travel status are work-related if, at the time of the injury or illness, the employee was engaged in work activities "in the interest of the employer." Examples include travel to and from customer contacts, conducting job tasks, and entertaining or being entertained to transact, discuss, or promote business (work-related entertainment includes only entertainment activities being engaged in at the direction of the employer). Injuries or illnesses that occur when the

employee is on travel status do not have to be recorded if they meet one of the exceptions listed in Table 2 of this subsection:

Table 2

Determining Work-Related Injuries or Illnesses

During Travel Status

If the employee has:	((You)) The employer may use the following to determine if an injury or illness is work-related.
Checked into a hotel or motel for one or more days	When a traveling employee checks into a hotel, motel, or into another temporary residence, they establish a "home away from home." ((You)) The employer must evaluate the employee's activities after they check into the hotel, motel, or other temporary residence for their work-relatedness in the same manner as you evaluate the activities of a nontraveling employee. When the employee checks into the temporary residence, they are considered to have left the work environment. When the employee begins work each day, they reenter the work environment. If the employee has established a "home away from home" and is reporting to a fixed worksite each day, ((you also do)) the employer also does not consider injuries or illnesses work-related if they occur while the employee is commuting between the temporary residence and the job location.
Taken a detour for personal reasons	Injuries or illnesses are not considered work-related if they occur while the employee is on a personal detour from a reasonably direct route of travel (e.g., has taken a side trip for personal reasons).

(5) Injuries and illnesses that occur while an employee is working at home are considered work-related if the injury or illness occurs while the employee is performing work for pay or compensation in the home, and the injury or illness is directly related to the performance of work and not to the home environment.

- Note: Examples of recordable injury and illnesses that occur when an employee works at home:
1. If an employee drops a box of work documents and injures their foot, the case is considered work-related.
 2. If an employee's fingernail is punctured by a needle from a sewing machine used to perform garment work at home, becomes infected and

requires medical treatment, the injury is considered work-related.

3. If an employee is injured because they trip on the family dog while rushing to answer a work phone call, the case is not considered work-related.

4. If an employee working at home is electrocuted because of faulty home wiring, the injury is not considered work-related.

[Statutory Authority: RCW 49.17.010, 49.17.040, and 49.17.050. WSR 15-11-066, § 296-27-01103, filed 5/19/15, effective 7/1/15; WSR 02-01-064, § 296-27-01103, filed 12/14/01, effective 1/1/02.]

AMENDATORY SECTION (Amending WSR 15-11-066, filed 5/19/15, effective 7/1/15)

WAC 296-27-01105 Determination of new cases. (1) (~~You~~) The employer must consider an injury or illness to be a "new case" if:

(a) The employee has not previously experienced a recorded injury or illness of the same type that affects the same part of the body; or

(b) The employee previously experienced a recorded injury or illness of the same type that affected the same part of the body but had recovered completely (all signs and symptoms had disappeared) from the previous injury or illness, and an event or exposure in the work environment caused the signs or symptoms to reappear.

(2) For occupational illnesses where the signs or symptoms may recur or continue in the absence of an exposure in the workplace, the case must only be recorded once. Examples may include occupational cancer, asbestosis, byssinosis and silicosis.

(3) When an employee experiences the signs or symptoms of an injury or illness as a result of an event or exposure in the workplace, such as an episode of occupational asthma, ~~((you))~~ the employer must treat the episode (even if the episode is a recurrence) as a new case.

(4) ~~((You are))~~ The employer is not required to seek the advice of a physician or other licensed health care professional. However, if ~~((you do))~~ the employer does seek such advice, ~~((you))~~ they must follow the physician's or other licensed health care professional's recommendation about whether the case is a new case or a recurrence. If ~~((you))~~ the employer receives recommendations from two or more physicians or other licensed health care professionals, ~~((you))~~ the employer must make a decision as to which recommendation is the most authoritative (best documented, best reasoned, or most authoritative), and record the case based upon that recommendation.

[Statutory Authority: RCW 49.17.010, 49.17.040, and 49.17.050. WSR 15-11-066, § 296-27-01105, filed 5/19/15, effective 7/1/15; WSR 02-01-064, § 296-27-01105, filed 12/14/01, effective 1/1/02.]

AMENDATORY SECTION (Amending WSR 15-11-066, filed 5/19/15, effective 7/1/15)

WAC 296-27-01107 General recording criteria. (1) ((You)) The

employer must consider an injury or illness to meet the general recording criteria, and therefore to be recordable, if it results in any of the following:

- (a) Death;
- (b) Days away from work;
- (c) Restricted work or transfer to another job;
- (d) Medical treatment beyond first aid;
- (e) Loss of consciousness for any length of time.

(2) ((You)) The employer must also record any case that involves a **significant injury or illness** (see WAC 296-27-01107(21)) diagnosed by a physician or other licensed health care professional, even if it does not result in death, days away from work, restricted work, job transfer, medical treatment beyond first aid, or loss of consciousness.

(3) ((You)) The employer must record an injury or illness that results in death by entering a check mark on the OSHA 300 Log in the space for cases resulting in death.

(4) When an injury or illness involves one or more days away from work, ((you)) the employer must record the injury or illness on the OSHA 300 Log with a check mark in the space for cases involving days

away and an entry for the number of calendar days away from work in the number of days column. If the employee is out for an extended period, ((you)) the employer must enter an estimate for the number of days that the employee will be away, and update the day count when the actual number of days is known.

(5) ((you)) The employer begins counting days away on the day after the injury occurred or the illness began.

(6) To record an injury or illness for which the employee comes to work against the physician's or other licensed health care professional's recommendation, ((you)) the employer must do the following:

(a) Record these injuries and illnesses on the OSHA 300 Log using the check box for cases with days away from work and enter the number of calendar days away recommended by the physician or other licensed health care professional.

(b) Record the days away whether the injured or ill employee follows the physician or licensed health care professional's recommendation or not.

Notes:

1. If ((you)) the employer receives recommendations from two or more physicians or other licensed health care professionals, ((you)) the employer may make a decision as to which recommendation is the most authoritative and record the case based upon that recommendation.
2. Encourage your employee to follow the recommendation.

(7) When an employee decides to stay at home after the date a physician or other licensed health care professional recommends that the employee return to work, ((you)) the employer must end the count of days away from work on the date the physician or other licensed health care professional recommends that the employee return to work.

(8) ((You)) The employer must count the number of calendar days the employee was unable to work as a result of the injury or illness, regardless of whether or not the employee was scheduled to work on those day(s). Weekend days, holidays, vacation days or other days off are included in the total number of days recorded if the employee would not have been able to work on those days because of a work-related injury or illness.

(9) When a worker is injured or becomes ill on a Friday and reports to work on a Monday, and was not scheduled to work on the weekend, ((you)) the employer only needs to record this case if ((you)) they receive information from a physician or other licensed health care professional indicating that the employee should not have worked, or should have performed only restricted work, during the weekend. If so, ((you)) the employer must record the injury or illness as a case with days away from work or restricted work and enter the day counts as appropriate.

(10) If a worker is injured or becomes ill on the day before scheduled time off such as a holiday, a planned vacation, or a temporary plant closing, ((you)) the employer only needs to record the case if ((you)) they receive information from a physician or other licensed health care professional indicating that the employee should not have worked, or should have performed only restricted work, during the scheduled time off. If so, ((you)) the employer must record the injury or illness as a case with days away from work or restricted work and enter the day counts as appropriate.

(11) ((You are)) The employer is not required to keep track of the number of calendar days away from work if the injury or illness resulted in more than one hundred eighty calendar days away from work or days of job transfer or restriction. In such a case, entering one hundred eighty in the total days away column will be considered adequate.

(12) If the employee leaves your company for some reason unrelated to the injury or illness, such as retirement, a plant closing, or to take another job, ((you)) the employer may stop counting days away from work, days of restriction, or days of job transfer. If the employee leaves your company because of the injury or illness, ((you)) the employer must estimate the total number of days

away, days of restriction, or days of job transfer and enter the day count on the OSHA 300 Log.

(13) If a case occurs in one calendar year but results in days away during the next calendar year, (~~you~~) the employer only records the injury or illness once. (~~You~~) The employer must enter the number of calendar days away for the injury or illness on the OSHA 300 Log for the year in which the injury or illness occurred. If the employee is still away from work because of the injury or illness when you prepare the annual summary, estimate the total number of calendar days you expect the employee to be away from work. Then use this number to calculate the total for the annual summary. Update the initial log entry later when the day count is known or reaches the one hundred eighty day cap.

(14) (~~You~~) The employer must meet the following requirements for recording restricted work or job transfer.

(a) When an injury or illness involves restricted work or job transfer but does not involve death or days away from work, (~~you~~) the employer must record the injury or illness on the OSHA 300 Log by placing a check mark in the space for job transfer or restriction and enter the number of restricted or transferred days in the restricted workdays column.

(b) Restricted work occurs when, as the result of a work-related injury or illness:

(i) (~~You~~) The employer keeps the employee from performing one or more of the routine functions of their job, or from working the full workday that they would otherwise have been scheduled to work; or

(ii) A physician or other licensed health care professional recommends that the employee not perform one or more of the routine functions of their job, or not work the full workday that they would otherwise have been scheduled to work.

(c) (~~You do~~) The employer does not have to record restricted work or job transfers if you, the physician, or other licensed health care professional impose the restriction or transfer only for the day on which the injury occurred or the illness began.

(d) A recommended work restriction is recordable only if it affects one or more of the employee's routine job functions. To determine whether this is the case, (~~you~~) the employer must evaluate the restriction in light of the routine functions of the injured or ill employee's job. If the restriction from you, the physician, or other licensed health care professional keeps the employee from performing one or more of their routine job functions, or from working the full workday the injured or ill employee would otherwise have

worked, the employee's work has been restricted and you must record the case.

(e) If an employee works only for a partial work shift because of the work-related injury or illness, ((you)) the employer must record the partial day of work as a day of job transfer or restriction. However, ((you)) the employer need not record the partial day of work if it is the same day the injury occurred or the illness began.

Note: The case is considered restricted work only if the worker does not perform all of the routine functions (see definition in this chapter) of their job or does not work the full shift that they would otherwise have worked.

(15) If ((you are)) the employer is not clear about the physician or other licensed health care professional's recommendation (i.e., engage only in "light duty" or "take it easy for the week"), ((you)) the employer may ask the physician or other licensed health care professional:

(a) "Can the employee do all of their routine job functions?"

(b) "Can the employee work all of their normally assigned work shift?"

(i) If the answer to both of these questions is "Yes," then the case does not involve a work restriction and does not have to be recorded.

(ii) If the answer to one or both of these questions is "No," the case involves restricted work and must be recorded as a restricted work case.

(iii) If (~~you are~~) the employer is unable to obtain this additional information from the physician or other licensed health care professional who recommended the restriction, record the injury or illness as a case involving restricted work.

(16) To record an injury or illness for which a physician or other licensed health care professional recommends a job restriction, but the employee does all of their routine job functions, (~~you~~) the employer must do the following:

(a) Record the injury or illness on the OSHA 300 Log as a restricted work case.

(b) Record this job restriction even if the employee chooses to do all of their routine job functions.

Notes:

1. If you receive recommendations from two or more physicians or other licensed health care professionals, you may make a decision as to which recommendation is the most authoritative and record the case based upon that recommendation.
2. If a physician or other licensed health care professional recommends a job restriction, you should ensure that the employee complies with that restriction.

(17) If (~~you~~) the employer assigns an injured or ill employee to a job other than their regular job for part of the day, (~~you~~) the employer must record the case as a job transfer.

Notes:

1. This does not include the day on which the injury or illness occurred.

2. Transfers to another job are recorded in the same way as restricted work cases on the OSHA 300 Log. Example: If you assign, or a physician or other licensed health care professional recommends that you assign, an injured or ill worker to their routine job duties for part of the day and to another job for the rest of the day, the injury or illness involves a job transfer. You must record an injury or illness that involves a job transfer by placing a check in the box for job transfer.

(18) (~~You~~) The employer counts days of job transfer or restriction in the same way (~~you~~) they count days away from work. The only difference is that, if (~~you~~) the employer permanently assigns the injured or ill employee to a job that has been modified or permanently changed in a manner that eliminates the routine functions the employee was restricted from performing, (~~you~~) the employer may stop the day count when the modification or change is made permanent. (~~You~~) The employer must count at least one day of restricted work or job transfer for such cases.

(19) If a work-related injury or illness results in medical treatment beyond first aid, (~~you~~) the employer must record the case on the OSHA 300 Log. If the injury or illness did not involve death, one or more days away from work, one or more days of restricted work, or one or more days of job transfer, (~~you~~) the employer enters a check mark in the box for cases where the employee received medical treatment but remained at work and was not transferred or restricted.

Note: The professional status of the person providing treatment has no effect on what is considered first aid or medical treatment as defined in WAC 296-27-051.

(20) ((You)) The employer must record a case even if the injured or ill employee does not follow the physician or other licensed health care professional's recommendation for medical treatment.

(21) ((You)) The employer must record "significant" diagnosed injuries or illnesses, such as work-related cases involving cancer, chronic irreversible disease, a fractured or cracked bone, or a punctured eardrum at the time of diagnosis by a physician or other licensed health care professional even if it does not result in death, days away from work, restricted work or job transfer, medical treatment beyond first aid, or loss of consciousness.

Note: OSHA believes that most significant injuries and illnesses will result in one of the criteria listed in WAC 296-27-01107(1): Death, days away from work, restricted work or job transfer, medical treatment beyond first aid, or loss of consciousness. However, there are some significant injuries, such as a punctured eardrum or a fractured toe or rib, for which neither medical treatment nor work restrictions may be recommended. In addition, there are some significant progressive diseases, such as byssinosis, silicosis, and some types of cancer, for which medical treatment or work restrictions may not be recommended at the time of diagnosis but are likely to be recommended as the disease progresses. Cancer, chronic irreversible diseases, fractured or cracked bones, and punctured eardrums are generally considered significant injuries and illnesses, and must be recorded at the initial diagnosis, even if medical treatment or work restrictions are not recommended, or are postponed, in a particular case.

[Statutory Authority: RCW 49.17.010, 49.17.040, and 49.17.050. WSR 15-11-066, § 296-27-01107, filed 5/19/15, effective 7/1/15. Statutory Authority: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060. WSR 07-03-163, § 296-27-01107, filed 1/24/07, effective 4/1/07. Statutory Authority: RCW 49.17.010, [49.17].040, and [49.17].050. WSR 02-01-064, § 296-27-01107, filed 12/14/01, effective 1/1/02.]

AMENDATORY SECTION (Amending WSR 15-11-066, filed 5/19/15, effective 7/1/15)

WAC 296-27-01109 Recording criteria for needlestick and sharps

injuries. (1) (~~You~~) The employer must record all work-related needlestick injuries and cuts from sharp objects that are contaminated with another person's blood or other potentially infectious material (as defined in this chapter and by chapter 296-823 WAC, Occupational exposure to bloodborne pathogens). (~~You~~) The employer must enter the case on the OSHA 300 Log as an injury. To protect the employee's privacy, (~~you~~) the employer may not enter the employee's name on the OSHA 300 Log (see the requirements for privacy concern cases in WAC 296-27-01119 (3) and (4)).

(2) (~~You~~) The employer must record cuts, lacerations, punctures, and scratches only if they are work-related and involve contamination with another person's blood or other potentially infectious material. If the cut, laceration, or scratch involves a clean object, or a contaminant other than blood or other potentially infectious material, (~~you~~) the employer needs to record the case only if it meets one or more of the general recording criteria in WAC 296-27-01107.

(3) If after recording the initial injury, the employee is later diagnosed with an infectious bloodborne disease, (~~you~~) the employer must update both of the following on the OSHA 300 Log if it resulted in death, days away from work, restricted work, or job transfer:

(a) The classification of the case from an injury to an illness;
and

(b) The description to identify the infectious disease.

(4) (~~You~~) The employer must record incidents where an employee is splashed or exposed to blood or other potentially infectious material without being cut or scratched on the OSHA 300 Log as an illness if:

(a) It results in the diagnosis of a bloodborne illness, such as HIV, hepatitis B, or hepatitis C; or

(b) It meets one or more of the general recording criteria in WAC 296-27-01107.

[Statutory Authority: RCW 49.17.010, 49.17.040, and 49.17.050. WSR 15-11-066, § 296-27-01109, filed 5/19/15, effective 7/1/15. Statutory Authority: RCW 49.17.010, 49.17.040, 49.17.050, and 49.17.060. WSR 03-09-110, § 296-27-01109, filed 4/22/03, effective 8/1/03. Statutory Authority: RCW 49.17.010, [49.17].040, and [49.17].050. WSR 02-01-064, § 296-27-01109, filed 12/14/01, effective 1/1/02.]

AMENDATORY SECTION (Amending WSR 15-11-066, filed 5/19/15, effective 7/1/15)

WAC 296-27-01111 Recording criteria for medical removal cases.

(1) (~~(Under the medical surveillance requirements, you)~~) The employer must record any case that involves the medical removal of an employee on the OSHA 300 Log under the medical surveillance requirements.

(2) (~~(You)~~) The employer must enter each medical removal case as either a case involving days away from work or a case involving restricted work activity. For medical removal cases that resulted from chemical exposure, you must check the "poisoning" column.

- Notes:
1. Standards that do not include medical removal provisions include bloodborne pathogens and noise.
 2. Standards that cover specific chemical substances have medical removal provisions. These standards include, but are not limited to, lead, cadmium, methylene chloride, formaldehyde, and benzene.
 3. If you voluntarily remove an employee from exposure before the medical removal criteria are met, you do not have to record the case.

[Statutory Authority: RCW 49.17.010, 49.17.040, and 49.17.050. WSR 15-11-066, § 296-27-01111, filed 5/19/15, effective 7/1/15; WSR 02-01-064, § 296-27-01111, filed 12/14/01, effective 1/1/02.]

AMENDATORY SECTION (Amending WSR 15-11-066, filed 5/19/15, effective 7/1/15)

WAC 296-27-01113 Recording criteria for occupational hearing

loss cases. (1) (~~You~~) The employer must record a hearing loss case on the OSHA 300 Log by checking the column for hearing loss if an employee's hearing test (audiogram) reveals that a recordable threshold shift (RTS) in one or both ears has occurred.

(2) (~~To determine whether a RTS has occurred, you~~) The employer must evaluate the employee's current audiogram with their baseline audiogram to determine whether a RTS has occurred. If the employee has previously experienced a recorded hearing loss, you must compare the employee's current audiogram with the audiogram reflecting the employee's previously recorded hearing loss case.

Note: Audiometric test results reflect the employee's overall hearing ability in comparison to audiometric zero. Therefore, using the employee's current audiogram, you must use the average hearing level at 2000, 3000, and 4000 Hz to determine whether or not the employee's total hearing level is 25 dB or more.

(3) To determine whether RTS has occurred, (~~you~~) the employer may age adjust the employee's current audiogram results by using Tables A-1 or A-2 in Appendix A of this chapter. (~~You~~) The employer may not use an age adjustment when determining whether the employee's total hearing level is 25 dB or more above audiometric zero.

(4) (~~You are~~) The employer is not required to record the hearing loss case on the OSHA 300 Log if (~~you~~) they retest the employee's hearing within thirty days of the first test, and the

retest does not confirm the RTS. If the retest confirms the RTS, ((you)) the employer must record the hearing loss illness within seven calendar days of the retest. If subsequent audiometric testing indicates that an RTS is not persistent, ((you)) the employer may erase or line-out the recorded entry.

(5) ((You)) The employer must consider the case to be work-related if an event or exposure in the work environment either caused or contributed to the hearing loss or significantly aggravated a preexisting hearing loss.

(6) ((You are)) The employer is not required to consider the case work-related or recordable if a physician or other licensed health care professional determines that the hearing loss is not work-related or has not been significantly aggravated by occupational noise exposure.

[Statutory Authority: RCW 49.17.010, 49.17.040, and 49.17.050. WSR 15-11-066, § 296-27-01113, filed 5/19/15, effective 7/1/15. Statutory Authority: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060. WSR 07-03-163, § 296-27-01113, filed 1/24/07, effective 4/1/07; WSR 03-24-085, § 296-27-01113, filed 12/2/03, effective 1/1/04; WSR 02-22-029, § 296-27-01113, filed 10/28/02, effective 1/1/03. Statutory Authority: RCW

49.17.010, [49.17].040, and [49.17].050. WSR 02-01-064, § 296-27-01113, filed 12/14/01, effective 1/1/02.]

AMENDATORY SECTION (Amending WSR 15-11-066, filed 5/19/15, effective 7/1/15)

WAC 296-27-01115 Recording criteria for work-related

tuberculosis cases. (~~You~~) The employer must record a tuberculosis (TB) case on the OSHA 300 Log by checking the "respiratory condition" column if any employee has been occupationally exposed to anyone with a known case of active TB, and that employee subsequently develops a TB infection that is confirmed by a positive skin test or diagnosis by a physician or other licensed health care professional.

Notes:

1. (~~You do~~) The employer does not have to record a positive TB skin test result obtained at a preemployment physical because the employee was not occupationally exposed to a known case of active TB in your workplace.
2. (~~You~~) The employer may line-out or erase a TB case from the log under the following circumstances:
 - a. The worker contracted TB while living in a household with a person who had been previously diagnosed with active TB;
 - b. The public health department has identified the worker as a contact of an individual with a case of active TB unrelated to the workplace; or
 - c. A medical investigation shows that the employee's infection was caused by exposure to TB away from work, or proves that the case was not related to the workplace TB exposure.

[Statutory Authority: RCW 49.17.010, 49.17.040, and 49.17.050. WSR 15-11-066, § 296-27-01115, filed 5/19/15, effective 7/1/15; WSR 02-01-064, § 296-27-01115, filed 12/14/01, effective 1/1/02.]

AMENDATORY SECTION (Amending WSR 15-11-066, filed 5/19/15, effective 7/1/15)

WAC 296-27-01119 Forms. (1) (~~You~~) The employer must use the following OSHA forms (or equivalent forms), for recording work-related injuries and illnesses:

(a) OSHA 300, Log of Work-Related Injuries and Illnesses;

(b) OSHA 300-A, Summary of Work-Related Injuries and Illnesses;

and

(c) OSHA 301, Injury and Illness Incident Report.

(2) (~~You~~) The employer must complete the OSHA forms as follows:

(a) At the top of the OSHA 300 Log, enter your business information and enter a one or two line description for each recordable injury or illness. Summarize this information on the OSHA 300-A form at the end of the year.

(b) Complete an OSHA 301 Incident Report form, or an equivalent form, for each recordable injury or illness entered on the OSHA 300 Log.

(c) Enter each recordable injury or illness on the OSHA 300 Log and 301 Incident Report within seven calendar days of receiving information that a recordable injury or illness has occurred.

Note: You may keep your injury and illness forms on a computer if you can produce equivalent forms when they are needed, as described under WAC 296-27-02111, 296-27-03101(1), and 296-27-03103.

(3) ((For ~~privacy concern cases~~, you)) The employer must follow these requirements for **privacy concern cases** when filling out the OSHA 300 Log:

(a) ((~~You~~)) The employer may not enter the employee's name on the OSHA 300 Log. Instead, enter "privacy case" in the space normally used for the employee's name in order to protect the identity of the injured or ill employee when another employee, a former employee, or an authorized employee representative is provided access to the OSHA 300 Log under WAC 296-27-02111.

(b) ((~~You~~)) The employer must keep a separate, confidential list of the case numbers and employee names for ((~~your~~)) their privacy concern cases so ((~~you~~)) they can update the cases and provide the information to the government if asked to do so.

(c) The following injuries or illnesses are the **only** types of privacy concern cases recognized by this section:

(i) An injury or illness to an intimate body part or the reproductive system;

(ii) An injury or illness resulting from a sexual assault;

(iii) Mental illnesses;

(iv) HIV infection, hepatitis, or tuberculosis;

(v) Needlestick injuries and cuts from sharp objects that are contaminated with another person's blood or other potentially infectious material (see definition in WAC 296-27-051 of this chapter); **and**

(vi) Other illnesses if the employee independently and voluntarily requests that their name not be entered on the log.

(4) If (~~you have~~) the employer has a reasonable basis to believe that information describing the privacy concern case may be personally identifiable even though the employee's name has been omitted, (~~you~~) they may use discretion in describing the injury or illness on both the OSHA 300 and 301 forms. (~~You~~) The employer must enter enough information to identify the cause of the incident and the general severity of the injury or illness, but (~~you~~) they do not need to include details of an intimate or private nature. For example, a sexual assault case could be described as "injury from assault," or an injury to a reproductive organ could be described as "lower abdominal injury."

(5) If (~~you~~) the employer decides to voluntarily disclose the forms to persons other than government representatives, employees, former employees or authorized representatives (as required by WAC 296-27-02111 and 296-27-03103), (~~you~~) the employer must remove or

hide the employees' names and other personally identifying information, except for the following cases. (~~You~~) The employer may disclose the forms with personally identifying information only:

(a) To an auditor or consultant hired by the employer to evaluate the safety and health program;

(b) To the extent necessary for processing a claim for workers' compensation or other insurance benefits; or

(c) To a public health authority or law enforcement agency for uses and disclosures for which consent, an authorization, or opportunity to agree or object is not required under Department of Health and Human Services Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R. 164.512.

(6) Falsification, failure to keep records or reports.

(a) RCW 49.17.190(2) of the act provides that "whoever knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this chapter shall, upon conviction be guilty of a gross misdemeanor and be punished by a fine of not more than ten thousand dollars, or by imprisonment for not more than six months or by both."

(b) Failure to maintain records or file reports required by this chapter, or in the detail required by the forms and instructions issued under this chapter, may result in the issuance of citations and assessment of penalties as provided for in chapter 296-900 WAC, Administrative rules.

[Statutory Authority: RCW 49.17.010, 49.17.040, and 49.17.050. WSR 15-11-066, § 296-27-01119, filed 5/19/15, effective 7/1/15. Statutory Authority: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060. WSR 07-03-163, § 296-27-01119, filed 1/24/07, effective 4/1/07; WSR 03-24-085, § 296-27-01119, filed 12/2/03, effective 1/1/04; WSR 02-22-029, § 296-27-01119, filed 10/28/02, effective 1/1/03. Statutory Authority: RCW 49.17.010, [49.17].040, and [49.17].050. WSR 02-01-064, § 296-27-01119, filed 12/14/01, effective 1/1/02.]

AMENDATORY SECTION (Amending WSR 15-11-066, filed 5/19/15, effective 7/1/15)

WAC 296-27-02101 Multiple business establishments. (1) ((You))

The employer must keep a separate OSHA 300 Log for each establishment that is expected to be in operation for one year or longer.

(2) ~~((You))~~ The employer must keep injury and illness records for short-term establishments (i.e., establishments that will exist for less than a year). ~~((You do))~~ The employer does not have to keep a separate OSHA 300 Log for each such establishment. ~~((You))~~ The employer may keep one OSHA 300 Log that covers all of your short-term establishments. ~~((You))~~ The employer may also include the short-term establishments' recordable injuries and illnesses on an OSHA 300 Log that covers short-term establishments for individual company divisions or geographic regions.

(3) If ~~((you))~~ the employer keeps records for an establishment at ~~((your))~~ their headquarters or other central location, ~~((you))~~ the employer must be able to:

(a) Transmit information about the injuries and illnesses from the establishment to the central location within seven calendar days of receiving information that a recordable injury or illness has occurred; **and**

(b) Produce and send the records from the central location to the establishment within the time frames required by WAC 296-27-02111, 296-27-03101(1), and 296-27-03103 when ~~((you are))~~ the employer is required to provide records to a government representative, employees, former employees, or employee representatives.

(4) If (~~you have~~) the employer has employees that work at different locations or do not work at any of (~~your~~) their establishments, (~~you~~) they must link each of (~~your~~) their employees with one of (~~your~~) their establishments for recordkeeping purposes. (~~You~~) The employer must record the injury and illness on the OSHA 300 Log of the injured or ill employee's establishment, or on an OSHA 300 Log that covers that employee's short-term establishment.

(5) If an employee of one of your establishments is injured or becomes ill while visiting or working at another of your establishments, or while working away from any of your establishments, (~~you~~) the employer must record the injury or illness on the OSHA 300 Log of the establishment at which the injury or illness occurred. If the employee is injured or becomes ill and is not at one of your establishments, (~~you~~) the employer must record the case on the OSHA 300 Log at the establishment at which the employee normally works.

[Statutory Authority: RCW 49.17.010, 49.17.040, and 49.17.050. WSR 15-11-066, § 296-27-02101, filed 5/19/15, effective 7/1/15; WSR 02-01-064, § 296-27-02101, filed 12/14/01, effective 1/1/02.]

AMENDATORY SECTION (Amending WSR 15-11-066, filed 5/19/15, effective 7/1/15)

WAC 296-27-02103 Covered employees. (1) (~~You~~) The employer

must record on the OSHA 300 Log the recordable injuries and illnesses of all employees on (~~your~~) their payroll, whether they are labor, executive, hourly, salary, part-time, seasonal, or migrant workers.

(~~You~~) The employer also must record the recordable injuries and illnesses that occur to employees who are not on (~~your~~) their payroll if you supervise these employees on a day-to-day basis. If (~~your~~) the employer's business is organized as a sole proprietorship or partnership, the owner or partners are not considered employees for recordkeeping purposes.

Note: If a self-employed person is injured or becomes ill while working for you, (~~you are~~) the employer is not required to report the injury or illness because they are not covered under WISHA or the recordkeeping requirements.

(2) (~~You~~) The employer must record injuries and illnesses of employees from a temporary help service, employee-leasing service, or personnel supply service if (~~you~~) they supervise these employees on a day-to-day basis.

(3) (~~You~~) The employer must record an injury or illness of a contractor's employee who is working in your establishment if (~~you~~) they supervise them on a day-to-day basis. However, if the contractor's employee is under the day-to-day supervision of the contractor, the contractor is responsible for recording the injury or illness.

(4) (~~You~~) The employer must make sure that each injury and illness is recorded only once:

(a) Either on (~~your~~) their OSHA 300 Log (if (~~you~~) they provide day-to-day supervision); or

(b) On the other employer's OSHA 300 Log (if that company provides day-to-day supervision).

[Statutory Authority: RCW 49.17.010, 49.17.040, and 49.17.050. WSR 15-11-066, § 296-27-02103, filed 5/19/15, effective 7/1/15; WSR 02-01-064, § 296-27-02103, filed 12/14/01, effective 1/1/02.]

AMENDATORY SECTION (Amending WSR 15-11-066, filed 5/19/15, effective 7/1/15)

WAC 296-27-02105 Annual summary. (1) At the end of each calendar year, (~~you~~) the employer must:

(a) Review the OSHA 300 Log to verify that the entries are complete and accurate, and correct any deficiencies identified;

(b) Use the OSHA 300-A Log or equivalent form of your recorded injuries and illnesses to create your annual summary;

(c) Certify the annual summary; and

(d) Post the annual summary.

(2) (~~You~~) The employer must complete the annual summary by doing the following:

(a) Total the columns on the OSHA 300 Log (if you had no recordable cases, enter zeros for each column total); and

(b) Enter the calendar year covered, the company's name, establishment name, establishment address, annual average number of employees covered by the OSHA 300 Log, and the total hours worked by all employees covered by the OSHA 300 Log.

(c) Include the employee access and employer penalty statements found on the OSHA 300-A summary form when using an equivalent form as permitted by this chapter. For the definition of "equivalent form" see WAC 296-27-051.

(3) A company executive must certify that they have examined the OSHA 300 Log and that they reasonably believe, based on their knowledge of the process by which the information was recorded, that the annual summary is correct and complete.

(4) The company executive who certifies the log must be one of the following persons:

(a) An owner of the company (only if the company is a sole proprietorship or partnership);

(b) An officer of the corporation;

(c) The highest ranking company official working at the establishment; or

(d) The immediate supervisor of the highest ranking company official working at the establishment.

(5) ~~((You))~~ The employer must post a copy of the annual summary in each establishment in a conspicuous place or places where notices to employees are customarily posted. ~~((You))~~ The employer must ensure that the posted annual summary is not altered, defaced or covered by other material.

(6) ~~((You))~~ The employer must post the summary no later than February 1 of the year following the year covered by the records and keep the posting in place until April 30.

[Statutory Authority: RCW 49.17.010, 49.17.040, and 49.17.050. WSR 15-11-066, § 296-27-02105, filed 5/19/15, effective 7/1/15; WSR 02-01-064, § 296-27-02105, filed 12/14/01, effective 1/1/02.]

AMENDATORY SECTION (Amending WSR 15-11-066, filed 5/19/15, effective 7/1/15)

WAC 296-27-02107 Retention and updating. (1) ~~((You))~~ The employer must save the OSHA 300 Log, the privacy case list (if one

exists), the OSHA 300-A Annual Summary, and the OSHA 301 Incident Report forms for five years following the end of the calendar year that each of these records cover.

(2) (~~You~~) The employer must update your stored OSHA 300 Logs during the five-year retention period to include newly discovered recordable injuries or illnesses and to show any changes that have occurred in the classification of previously recorded injuries and illnesses. If the description or outcome of a case changes, (~~you~~) the employer must remove or line-out the original entry and enter the new information.

Note: During the five-year retention period, (~~you are~~) the employer is not required to update the OSHA 300-A Annual Summary of Work-Related Injuries or Illnesses, or the OSHA 301 Incident Reports, but you may do so if you wish.

[Statutory Authority: RCW 49.17.010, 49.17.040, and 49.17.050. WSR 15-11-066, § 296-27-02107, filed 5/19/15, effective 7/1/15; WSR 02-01-064, § 296-27-02107, filed 12/14/01, effective 1/1/02.]

AMENDATORY SECTION (Amending WSR 15-11-066, filed 5/19/15, effective 7/1/15)

WAC 296-27-02111 Employee involvement. (1) Your employees and their representatives must be involved in the recordkeeping system in several ways. (~~You~~) The employer must do the following:

(a) (~~Establish a process for how employees report work-related injuries and illnesses to you.~~

~~(b))~~ Inform each employee of how they are to report an injury or illness to you.

(b) Provide employees with the information described in subsection (2) of this section.

(c) Provide (~~limited~~) access to your injury and illness records for your employees and their representatives as described in subsection (3) of this section.

(2) The employer must do the following to ensure employees report work-related injuries and illnesses to them:

(a) Establish a reasonable procedure for employees to report work-related injuries and illnesses promptly and accurately. A procedure is not reasonable if it would deter or discourage a reasonable employee from accurately reporting a workplace injury or illness;

(b) Inform each employee of your procedure for reporting work-related injuries and illnesses;

(c) Inform each employee that:

(i) Employees have the right to report work-related injuries and illnesses; and

(ii) The employer is prohibited from discharging or, in any manner, discriminating against employees for reporting work-related injuries or illnesses.

(d) The employer must not discharge or, in any manner, discriminate against any employee for reporting a work-related injury or illness.

(3) Your employees, former employees, their personal representatives, and their authorized employee representatives have the right to access the OSHA injury and illness records, with some limitations, as discussed in subsections ~~((3))~~ (4) through ~~((7))~~ (8) of this section.

~~((3))~~ (4) When an employee, former employee, personal representative, or authorized employee representative asks for copies of your current or stored OSHA 300 Log(s) for an establishment the employee or former employee has worked in, ~~((you))~~ the employer must give the ~~((requester))~~ requestor a copy of the relevant OSHA 300 Log(s) by the end of the next business day.

~~((4) You))~~ (5) The employer must leave employee names and any other information on the OSHA 300 Log before giving copies to an employee, former employee, or an employee representative. However, to protect the privacy of injured and ill employees, ~~((you))~~ the employer

may not record the employee's name on the OSHA 300 Log for certain "privacy concern cases," as specified in WAC 296-27-01119(3).

~~((5))~~ (6) When an employee, former employee, or personal representative asks for a copy of the OSHA 301 Incident Report describing an injury or illness to that employee or former employee, ~~((you))~~ the employer must give the ~~((requester))~~ requestor a copy of the OSHA 301 Incident Report containing that information by the end of the next business day.

~~((6))~~ (7) When an authorized employee representative asks for copies of the OSHA 301 Incident Reports for an establishment where the agent represents employees under a collective bargaining agreement, ~~((you))~~ the employer must give copies of those forms to the authorized employee representative within seven calendar days. ~~((You are))~~ The employer is only required to give the authorized employee representative information from the OSHA 301 Incident Report section titled "Tell us about the case." ~~((You))~~ The employer must remove all other information from the copy of the OSHA 301 Incident Report or the equivalent substitute form that ~~((you))~~ they give to the authorized employee representative.

~~((7-You))~~ (8) The employer may not charge for these copies the first time they are provided. However, if one of the designated

persons asks for additional copies, (~~you~~) the employer may assess a reasonable charge for retrieving and copying the records. An example of what a "reasonable charge" would be is what a print company would charge for copying the same documents.

[Statutory Authority: RCW 49.17.010, 49.17.040, and 49.17.050. WSR 15-11-066, § 296-27-02111, filed 5/19/15, effective 7/1/15; WSR 02-01-064, § 296-27-02111, filed 12/14/01, effective 1/1/02.]

AMENDATORY SECTION (Amending WSR 15-11-066, filed 5/19/15, effective 7/1/15)

WAC 296-27-02113 Prohibition against discrimination. (1)

~~((Employers are prohibited))~~ The WISH Act prohibits employers from discriminating against an employee for reporting a work-related fatality, injury or illness. ~~((Employees are also protected when they))~~ It also protects the employee who files a safety and health complaint, or asks for access to chapter 296-27 WAC records ~~((which are required to be maintained by this section or exercise rights extended))~~, or otherwise exercises any rights afforded under ~~((WISHA))~~ this act.

(2) DOSH may not issue an injury and illness recordkeeping variance to a private sector employer. However, DOSH must recognize all recordkeeping variances issued by federal OSHA.

(3) DOSH may only grant an injury and illness recording and reporting variance to a state or local government employer within the state after obtaining approval to grant the variance from federal OSHA.

[Statutory Authority: RCW 49.17.010, 49.17.040, and 49.17.050. WSR 15-11-066, § 296-27-02113, filed 5/19/15, effective 7/1/15; WSR 02-01-064, § 296-27-02113, filed 12/14/01, effective 1/1/02.]

AMENDATORY SECTION (Amending WSR 15-11-066, filed 5/19/15, effective 7/1/15)

WAC 296-27-02117 Variances from the recordkeeping rule. (1) If ~~((you wish))~~ the employer wishes to keep records in a different manner from that prescribed in this section, ~~((you))~~ the employer may submit a variance petition to the Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, Washington, DC 20210. ~~((You))~~ The employer can obtain a variance only if ~~((you))~~ they can show that ~~((your))~~ their alternative recordkeeping system:

(a) Collects the same information as this section requires;

(b) Meets the purposes of the federal Occupational Safety and Health Act; and

(c) Does not interfere with the administration of the federal Occupational Safety and Health Act.

(2) (~~you~~) The employer must include the following items in (~~your~~) their variance petition:

(a) (~~Your~~) The employer's name and address;

(b) A list of the state(s) where the variance would be used;

(c) The address(es) of the business establishment(s) involved;

(d) A description of why (~~you are~~) the employer is seeking a variance;

(e) A description of the different recordkeeping procedures you propose to use;

(f) A description of how (~~your~~) the employer's proposed procedures will collect the same information as would be collected by this section and achieve the purpose of the act; and

(g) A statement that (~~you have~~) the employer has informed (~~your~~) their employees of the petition by giving them or their authorized representative a copy of the petition and by posting a

statement summarizing the petition in the same way as notices are posted under 29 C.F.R. 1903.2(a).

(3) The assistant secretary will take the following steps to process your variance petition.

(a) The assistant secretary will offer your employees and their authorized representatives an opportunity to submit written data, views, and arguments about your variance petition.

(b) The assistant secretary may allow the public to comment on your variance petition by publishing the petition in the *Federal Register*. If the petition is published, the notice will establish a public comment period and may include a schedule for a public meeting on the petition.

(c) After reviewing your variance petition and any comments from your employees and the public, the assistant secretary will decide whether or not your proposed recordkeeping procedures will meet the purposes of the act, will not otherwise interfere with the act, and will provide the same information as required by this section. If your procedures meet these criteria, the assistant secretary may grant the variance subject to such conditions as he or she finds appropriate.

(d) If the assistant secretary grants your variance petition, OSHA will publish a notice in the *Federal Register* to announce the

variance. The notice will include the practices the variance allows you to use, any conditions that apply, and the reasons for allowing the variance.

(4) (~~You~~) The employer must comply with this section's requirements while the assistant secretary is reviewing (~~your~~) their variance petition.

(5) The assistant secretary may elect not to review your variance petition if it includes an element for which you have been cited and the citation is still under review by a court, an administrative law judge (ALJ), or the OSH Review Commission.

(6) A variance may be revoked for good cause. The variance revocation procedures are the same as those followed to request the exception. In cases of willfulness or where necessary for public safety, the assistant secretary will:

(a) Notify you in writing of the facts or conduct that may warrant revocation of your variance; and

(b) Provide you, your employees, and authorized employee representatives with an opportunity to participate in the revocation procedures.

(7) DOSH must recognize any recordkeeping or reporting variance issued by federal OSHA.

[Statutory Authority: RCW 49.17.010, 49.17.040, and 49.17.050. WSR 15-11-066, § 296-27-02117, filed 5/19/15, effective 7/1/15; WSR 02-01-064, § 296-27-02117, filed 12/14/01, effective 1/1/02.]

AMENDATORY SECTION (Amending WSR 16-23-138, filed 11/22/16, effective 12/23/16)

WAC 296-27-031 Reporting fatalities, inpatient hospitalizations, amputations, and losses of an eye as the result of work-related

incidents. (1) (~~You~~) The employer must report to DOSH within eight hours of a work-related incident that results in:

- (a) A fatality; or
- (b) An inpatient hospitalization of any employee.

Notes: 1. Secure the scene of work-related events that result in the death or inpatient hospitalization of any worker, refer to WAC 296-800-320.
2. Do not move equipment involved (i.e., personal protective equipment (PPE), tools, machinery or other equipment), unless it is necessary to remove the victim or prevent further injuries, refer to WAC 296-800-32010.

(2) (~~You~~) The employer must report to DOSH within twenty-four hours of a work-related incident that results in either an amputation or the loss of an eye that does not require inpatient hospitalization.

Notes: 1. If the amputation or loss of an eye requires inpatient hospitalization, follow the eight-hour reporting requirement in WAC 296-27-031(1).
2. Inpatient hospitalization that involves only observation or diagnostic testing is not a reportable inpatient hospitalization.

(3) If (~~you do~~) the employer does not learn about a reportable fatality, inpatient hospitalization, amputation, or loss of an eye at

the time it takes place, (~~you~~) the employer must make the report to DOSH within the following time periods after the fatality, inpatient hospitalization, amputation, or loss of an eye is reported to you or any of your agents:

(a) Eight hours for a fatality or an inpatient hospitalization of one or more employees.

(b) Twenty-four hours for an amputation or a loss of an eye that does not require inpatient hospitalization.

(4) If (~~you do~~) the employer does not learn right away that the reportable fatality, inpatient hospitalization, amputation, or loss of an eye was the result of a work-related incident, (~~you~~) the employer must make the report to DOSH within the following time periods after you or any of your agents learn that the reportable fatality, inpatient hospitalization, amputation, or loss of an eye was the result of a work-related incident:

(a) Eight hours for a fatality or an inpatient hospitalization of one or more employees.

(b) Twenty-four hours for an amputation or a loss of an eye that does not require inpatient hospitalization.

(5) (~~You~~) The employer must report the fatality, inpatient hospitalization, amputation, or loss of an eye in the required time frame using one of the following methods:

(a) By telephone to the department's toll-free telephone number, 1-800-4BE-SAFE (1-800-423-7233) or in person to the Labor and Industries' Division of Occupational Safety and Health (DOSH) office located nearest to the site of the incident;

(b) By telephone to the OSHA toll-free telephone number, 1-800-321-OSHA (1-800-321-6742); or

(c) To DOSH by any other means.

(6) If the local office is closed, (~~you~~) the employer must report a fatality, inpatient hospitalization, amputation, or the loss of an eye incident by:

(a) Calling the department at 1-800-4BE-SAFE (1-800-423-7233); or

(b) Calling OSHA's toll-free telephone number at 1-800-321-6742.

(7) (~~You~~) The employer must provide DOSH with the following information for each fatality, inpatient hospitalization, amputation, or loss of an eye:

(a) The establishment name;

(b) The location of the work-related incident;

(c) The time and date of the work-related incident;

(d) The type of reportable event (i.e., fatality, inpatient hospitalization, amputation, or loss of an eye);

(e) The number of employees who suffered a fatality, inpatient hospitalization, amputation, or loss of an eye;

(f) The names of the employees who suffered a fatality, inpatient hospitalization, amputation, or loss of an eye;

(g) Your contact person and their phone number; and

(h) A brief description of the work-related incident.

(8) If a fatality does not occur during or right after the work-related incident, ~~((you))~~ the employer must only report it to DOSH if the fatality occurs within thirty days of the work-related incident.

(9) ~~((You do))~~ The employer does not have to report an incident that resulted in a fatality, inpatient hospitalization, amputation, or loss of an eye to DOSH if it occurred on a commercial or public transportation system (e.g., airplane, train, subway, or bus).

However, the fatality, inpatient hospitalization, amputation, or loss of an eye must be recorded on your OSHA injury and illness records, if ~~((you are))~~ the employer is required to keep such records.

(10) ~~((You))~~ The employer must report to DOSH when a heart attack occurs in the work environment that results in a fatality or inpatient

hospitalization. DOSH will decide whether to investigate the event, depending on the circumstances of the heart attack.

(11) (~~You~~) The employer must only report to DOSH each inpatient hospitalization that involves medical care or treatment. Inpatient hospitalization involving only observation or diagnostic testing need not be reported.

[Statutory Authority: RCW 49.17.010, 49.17.040, and 49.17.050. WSR 16-23-138, § 296-27-031, filed 11/22/16, effective 12/23/16; WSR 15-11-066, § 296-27-031, filed 5/19/15, effective 7/1/15. Statutory Authority: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060. WSR 09-01-158, § 296-27-031, filed 12/23/08, effective 3/1/09. Statutory Authority: RCW 49.17.010, [49.17].040, and [49.17].050. WSR 02-01-064, § 296-27-031, filed 12/14/01, effective 1/1/02.]

AMENDATORY SECTION (Amending WSR 15-11-066, filed 5/19/15, effective 7/1/15)

WAC 296-27-03101 Providing records to government

representatives. (1) The employer must provide copies of the records within four business hours when an authorized government

representative asks for the records you keep under this section(~~(, you must provide copies of the records within four business hours)~~).

(2) If (~~you~~) the employer maintains the records at a location in a different time zone, (~~you~~) they may use the business hours of the establishment at which the records are located when calculating the deadline.

[Statutory Authority: RCW 49.17.010, 49.17.040, and 49.17.050. WSR 15-11-066, § 296-27-03101, filed 5/19/15, effective 7/1/15; WSR 02-01-064, § 296-27-03101, filed 12/14/01, effective 1/1/02.]

AMENDATORY SECTION (Amending WSR 15-11-066, filed 5/19/15, effective 7/1/15)

WAC 296-27-03103 (~~(Annual OSHA injury and illness survey.)~~)

Electronic submission of injury and illness records to OSHA. (~~(1) If~~)

~~you receive OSHA's annual survey form, you must fill it out and send it to OSHA or OSHA's designee, as stated on the survey form. You must report the following information for the year described on the form:~~

~~(a) The number of workers you employed;~~

~~(b) The number of hours worked by your employees; and~~

~~(c) The requested information from the records that you keep under this section.~~

~~(2) Each year, OSHA sends injury and illness survey forms to employers in certain industries. You do not have to send injury and illness data to OSHA unless you receive a survey form.~~

~~(3) You must send the survey reports to OSHA, or OSHA's designee, by mail or other means described in the survey form, within thirty calendar days, or by the date stated in the survey form, whichever is later.~~

~~(4) If you are exempt from keeping injury and illness records under WAC 296-27-00103 through 296-27-00107, OSHA may inform you in writing that it will be collecting injury and illness information from you in the following year. If you receive such a letter, you must keep the injury and illness records required by WAC 296-27-01103 through 296-27-01115 and make a survey report for the year covered by the survey.~~

~~(5) Washington state employers must respond to the OSHA survey form if they receive one.~~

~~(6) Nothing in this section affects DOSH's or federal OSHA's statutory authority to investigate conditions related to occupational safety and health.))~~

Note: The information required by this section is reported and tracked by OSHA for their own injury and illness data analysis. DOSH is not notified when employers submit this information to OSHA.

(1) Employers must comply with OSHA's electronic submission of injury and illness records requirements as set forth in this section.

(2) To meet the criteria for number of employees in WAC 296-27-03103, the employer must count each individual employed in the establishment at any time during the calendar year as one employee, including full-time, part-time, seasonal, and temporary.

(3) If the employer's enterprise or corporate office had ownership of or control over one or more establishments required to submit information under subsection (4) or (7) of this section, then the enterprise or corporate office may collect and electronically submit the information for the establishment(s).

IMPORTANT: Read before continuing into the requirements below.

1. The rest of this section is broken out into subparts specific to the type of industry that must electronically report annually or upon written notification. There are two types of establishments (known as category 1 and 2) that must submit records annually and a third type of establishment that would submit only "Upon Written Notification" from OSHA.

2. Unlike the employee count for determining if your need to comply with the recordkeeping requirements, electronic submission for category 1 and 2 establishments is based on size of the establishment at a given location and not the entire business. Therefore, only those establishments at locations having 250 or more employees (or 20-249 employees and are listed in Table 4 of Appendix B) must electronically submit their records to OSHA. A site/establishment with fewer than 20 employees must only comply with the electronic submission requirements upon written notification from OSHA.

3. Contact OSHA directly if you have questions about the secure web site they are providing for records submission or if you are experiencing problems. OSHA does not accept paper copies.

Category 1: Establishments (250 or more employees)

(4) If your establishment had 250 or more employees at any time during the previous calendar year, and chapter 296-27 WAC, Recordkeeping and reporting, requires your establishment to keep records, then you must electronically submit information from the following three recordkeeping forms to OSHA or OSHA's designee once a year:

(a) OSHA Form 300A, Summary of Work-Related Injuries and

Illnesses;

(b) OSHA Form 300, Log of Work-Related Injuries and Illnesses;

and

(c) OSHA Form 301, Injury and Illness Incident Report.

(5) When submitting information under subsection (4) of this section, the employer is required to submit all of the information from the recordkeeping forms, **except** the following:

(a) OSHA 300 Log of Work-Related Injuries and Illnesses form:

Employee name (column B);

(b) OSHA 301 Injury and Illness Incident Report form:

(i) Employee name (field 1);

(ii) Employee address (field 2);

(iii) Name of physician or other health care professional (field

6); and

(iv) Facility name and address if treatment was given away from the worksite (field 7).

(6) The employer must submit the information no later than the date listed in subsection (10) of this section of the year after the calendar year covered by the form(s). For example, 2017 for the 2016 forms.

Notes:

1. OSHA will not notify you about your routine/annual submittal.

2. OSHA will provide a secure web site for the electronic submission of information.

Category 2: Establishments (20-249 Employees)

(7) If your establishment had 20-249 employees at any time during the previous calendar year, and your establishment is classified in an industry listed in Table 4 of Appendix B, then you must electronically submit information from OSHA Form 300A, Summary of Work-Related Injuries and Illnesses, to OSHA or OSHA's designee once a year, but no later than the date listed in subsection (10) of this section of the year after the calendar year covered by the form(s). For example, 2017 for the 2016 forms.

- Notes:
1. Establishments who had 20-249 employees at any time during the previous calendar year, but are not listed in Table 4, do not need to electronically submit records. For subsection (7) of this section to apply, the establishment must meet both criteria for number of employees and be an industry listed in Table 4 of Appendix B.
 2. OSHA will not notify you about your routine/annual submittal.
 3. OSHA will provide a secure web site for the electronic submission of information.

Upon Written Notification

(8) Upon written notification from OSHA as a part of an individual data collection, the employer must electronically submit the requested information from your chapter 296-27 WAC injury and illness records to OSHA or OSHA's designee as often as specified in the notification.

(9) If your establishment is partially exempt from keeping injury and illness records under WAC 296-27-00103 and/or 296-27-00105, then you must only submit information if OSHA informs you in writing that

it will collect injury and illness records information from you. If you receive a written notification for individual data collection, then you must keep the injury and illness records required by chapter 296-27 WAC and submit information as directed in the written notification.

Notes: 1. Tables 3 and 4 do not apply to establishments who receive written notification from OSHA for individual data collection.
2. If OSHA notifies you by mail, they will include the web site location in the notification for the data collection. OSHA will also announce individual data collection through publication in the *Federal Register* and the OSHA newsletter, and announcements on the OSHA web site.

Reporting Dates for Electronic Submission (Applies to Category 1 and Category 2 establishments only)

(10) Reporting dates for electronic submission:

(a) In 2017 and 2018, establishments required to submit under subsection (4) or (7) of this section must submit the required information according to Table 3, Records Submission Dates.

(b) Beginning in 2019, establishments that are required to submit under subsection (4) or (7) of this section will have to submit all of the required information by March 2nd of the year after the calendar year covered by the form(s). For example, by March 2, 2019, for the form(s) covering 2018.

Table 3: Records Submission Dates

<u>Submission Year</u>	<u>Establishments with 250 or more employees must submit the required information from form(s):</u>	<u>Establishments with 20 to 249 employees must submit the required information from form:</u>	<u>Submission Deadline</u>
<u>2017</u>	<u>300A</u>	<u>300A</u>	<u>July 1, 2017</u>

<u>Submission Year</u>	<u>Establishments with 250 or more employees must submit the required information from form(s):</u>	<u>Establishments with 20 to 249 employees must submit the required information from form:</u>	<u>Submission Deadline</u>
2018	300A, 300, 301	300A	July 1, 2018

[Statutory Authority: RCW 49.17.010, 49.17.040, and 49.17.050. WSR 15-11-066, § 296-27-03103, filed 5/19/15, effective 7/1/15; WSR 02-01-064, § 296-27-03103, filed 12/14/01, effective 1/1/02.]

NEW SECTION

WAC 296-27-071 Appendix B to WAC 296-27-03103(7)—Annual Electronic Submission of OSHA Form 300A by Establishments with 20 to 249 Employees in Industries Shown in Table 4. Table 4: Designated Industries.

NAICS	INDUSTRY
11	Agriculture, forestry, fishing and hunting
22	Utilities
23	Construction
31-33	Manufacturing
42	Wholesale trade
4413	Automotive parts accessories, and tire stores
4421	Furniture stores
4422	Home furnishings stores
4441	Building material and supplies dealers
4442	Lawn and garden equipment and supplies stores
4451	Grocery stores
4452	Specialty food stores
4521	Department stores
4529	Other general merchandise stores
4533	Used merchandise stores
4542	Vending machine operators
4543	Direct selling establishments
4811	Scheduled air transportation

NAICS	INDUSTRY
4841	General freight trucking
4842	Specialized freight trucking
4851	Urban transit systems
4852	Interurban and rural bus transportation
4853	Taxi and limousine service
4854	School and employee bus transportation
4855	Charter bus industry
4859	Other transit and ground passenger transportation
4871	Scenic and sightseeing transportation, land
4881	Support activities for air transportation
4882	Support activities for rail transportation
4883	Support activities for water transportation
4884	Support activities for road transportation
4889	Other support activities for transportation
4911	Postal service
4921	Couriers and express delivery services
4922	Local messengers and local delivery
4931	Warehousing and storage
5152	Cable and other subscription programming
5311	Lessors of real estate
5321	Automotive equipment rental and leasing
5322	Consumer goods rental
5323	General rental centers
5617	Services to buildings and dwellings
5621	Waste collection
5622	Waste treatment and disposal
5629	Remediation and other waste management services
6219	Other ambulatory health care services
6221	General medical and surgical hospitals
6222	Psychiatric and substance abuse hospitals
6223	Specialty (except psychiatric and substance abuse) hospitals
6231	Nursing care facilities
6232	Residential mental retardation, mental health and substance abuse facilities
6233	Community care facilities for the elderly
6239	Other residential care facilities
6242	Community food and housing, and emergency and other relief services
6243	Vocational rehabilitation services
7111	Performing arts companies
7112	Spectator sports

NAICS	INDUSTRY
7121	Museums, historical sites, and similar institutions
7131	Amusement parks and arcades
7132	Gambling industries
7211	Traveler accommodation
7212	RV (recreational vehicle) parks and recreational camps
7213	Rooming and boarding houses
7223	Special food services
8113	Commercial and industrial machinery and equipment (except automotive and electronic) repair and maintenance
8123	Dry-cleaning and laundry services

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REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 296-27-051 Definitions.
- WAC 296-27-05101 Definitions.