

DEALER ALERT

TO: Clients
FROM: Sam Celly, BChE MChE JD CSP
DATE: November 30, 2016
SUBJECT: INJURY LOG REQUIREMENTS & ACCIDENT REPORTING TO FED-OSHA

LOG 300, 300A & 301 REQUIRED FOR AUTO DEALERS

Background: Cal/OSHA now requires auto dealers and other employers to keep a record of occupational injuries and illnesses using OSHA Log 300. We note that Fed-OSHA had issued these requirements to auto dealers in 2015.

Forms & Guidance to Fill: Fed-OSHA and Cal/OSHA forms are identical in nature.

California Forms: <http://www.dir.ca.gov/dosh/etools/recordkeeping/CASstandard/CalStandard.htm> (1st link)

Federal-OSHA: <https://www.osha.gov/recordkeeping/RKforms.html> (3rd link)

- OSHA Form 300 – Log of Work-Related Injuries & Illnesses
- OSHA Form 300A – Summary of Work-Related Injuries & Illnesses
- OSHA Form 301 – Injury & Illness Incident Report

Excel: We recommend using the excel forms as entry by hand in the limited space provided on PDF forms can make things cumbersome. Furthermore, the excel forms automatically calculate the Summary Log (which needs to be posted).

Posting Requirements: Form 300A (Summary of Work-Related Injuries & Illnesses) for 2016 must be posted on the employee notice board from February 1, 2017 to April 30, 2017. ONLY Form 300A needs to be posted. Disclosing injured employee name on the notice board is a big no-no.

Cal/OSHA Guide on Completing Forms: http://www.dir.ca.gov/dosh/dosh_publications/reckeeperoverview.pdf

Fed-OSHA Guide on Completing Forms: <https://www.osha.gov/recordkeeping/new-osha300form1-1-04.pdf>

Tutorial for Completing Forms: A tutorial is available to assist in completing the forms at <https://www.osha.gov/recordkeeping/tutorial.html>.

Recordkeeping Questions & Answers: See https://www.osha.gov/dte/grant_materials/fy10/sh-20856-10/Recordkeeping_Questions_w_Answers.pdf.

First-Aid Not Recordable on Log 300: First-aid is https://www.osha.gov/recordkeeping/firstaid_list.pdf.

Serious Injury: Call your local OSHA office to report serious injury. California and Federal definitions of serious injury differ. California Code on reporting serious injury is <https://www.dir.ca.gov/title8/342.html>. Also, see newsletter at <http://epaoshablog.com/2014/10/23/accident-reporting-to-osha-injury-log-requirements/>.

Commentary: The forms are provided as a tool for the employer to document injuries, inform employees of accidents at the facility and allow OSHA inspectors to obtain a quick summary of accidents at the workplace. Employers must use this log as a management tool to gauge the nature and frequency of injuries in order to determine corrective measures for accident elimination, and to counsel employees who show up on the accident log on a repeated basis. Certain highlights of the forms are as follows:

- Requires records to include any work-related injury or illness resulting in one of the following: death, days away from work, restricted work or transfer to another job, medical treatment *beyond* first-aid, loss of consciousness, or diagnosis of a significant injury or illness by a physician or other licensed health care professional.
- Requires a *significant* degree of aggravation before a preexisting injury or illness becomes recordable.
- Requires employers to record cases when injured or ill employees are restricted from their “normal duties,” which are defined as work activities employees regularly perform at least once per week.
- You may stop counting days of restricted work activity or days away from work once the total of either or the combination of both reaches 180 days.
- Focus on days away or days restricted or transferred. Rules rely on calendar days instead of workdays!
- Requires employers to establish a procedure for employees to report injuries and illnesses and to tell their employees how to report. Employers are prohibited from discriminating against employees who report. Employee representatives will have access to those parts of OSHA Form 301 relevant to the employees they represent.
- Protects employee privacy by (1) prohibiting employers from entering an individual’s name on Form 300 for certain types of injuries or illnesses (i.e. sexual assault, HIV infection, mental illness, etc.); (2) providing employers the right not to describe the nature of sensitive injuries in which the employees’ identity would be known; (3) giving employee representatives access only to the portion of Form 301 which contains no personal identifiers; and (4) requiring employers to remove employees’ names before providing the data to persons not provided access rights under the rule.
- Requires the annual summary to be posted from February 1 to April 30 in the following year. Requires certification of the summary by a company executive.

Minor Case Study: An employee trips in the service driveway of your dealership during normal course of business. Employee states that his knee is hurt and the employee seeks medical treatment. Employee comes back to work the next day but continues treatment of massage therapy, pain killers, and physiotherapy. After 6 months, the MD states that only surgery can cure the knee problem and the employee proceeds with knee surgery. The issue is whether this knee accident is now OSHA reportable as a serious accident. The answer is yes. OSHA must be informed of this accident under the *serious injury* reporting statutes.

Electronic Recordkeeping Submission: Establishments with 250 or more employees that are currently required to keep OSHA injury and illness records must electronically submit information from OSHA Forms 300 — Log of Work-Related Injuries and Illnesses, 300A — Summary of Work-Related Injuries and Illnesses, and 301 — Injury and Illness Incident Report. See <https://www.osha.gov/Publications/OSHA3862.pdf>.

Information from www.osha.gov was used to prepare part of this newsletter. Employers must consult their lawyer for legal matters and safety consultants for matters related to safety. The article was authored by Sam Celly of Celly Services, Inc. who has been helping automobile dealers comply with EPA & OSHA regulations since 1987. Sam received his BE (1984) and MS (1986) in Chemical Engineering followed by a J.D. from Southwestern University School of Law (1997). Our newsletters can be accessed at www.epaoshablog.com. Your comments/questions are always welcome. Please send them to sam@cellyservices.com.