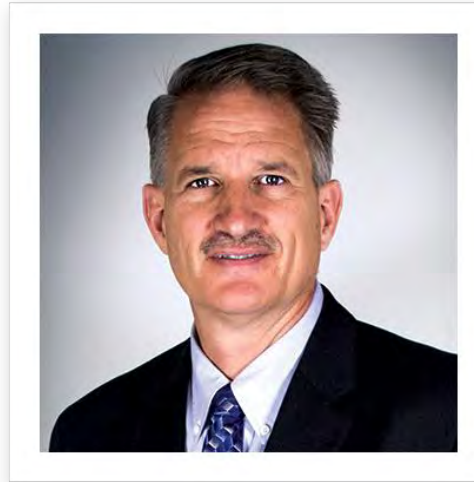




# OSHA Injury and Illness Recordkeeping and Reporting

*January 9, 2019*

# Opening Remarks



## **David Manke**

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# Featured Presenter

*George Gruetzmacher, PhD, CIH, CSP, PE*  
*Industrial Hygienist / Engineer*





# George Gruetzmacher

## Credentials

**Professional Engineer (PE)**  
**Ergonomist (Masters / PhD)**  
**Industrial Hygienist (CIH)**  
**Safety Professional (CSP)**  
**AIHA Fellow**

## Education

**BS** Aeronautics and Astronautics  
**MS** Industrial Engineering  
Human Factors  
**PhD** – Industrial Engineering  
Workplace Health and Safety

## Current Employment

**Field Industrial Hygienist:**  
OSHA Onsite Consultation Program  
**Adjunct Instructor/Faculty:**  
UW Whitewater OESH Dept





# History

1971 OSHA Begins inspections,

Identify high injury **companies**

Identify companies **any way**

- 1977 Barlow challenge
- Administratively neutral

Identify high injury **industries**

- 1979 – Use BLS data, random by industry

- 1995 – OSHA Data Initiative (ODI)
  - Survey of employers
  - Notices sent to high rate
  - CCP/SST inspection process
  - Parallel (duplicates) BLS survey
    - BLS confidential, ODI not-confidential
- 2016 – Injury Tracking Application (ITA)
  - Companies submitted by Dec 2016
  - Notices sent to high rate establishments
  - SST-16 started October 2018



# Establishment Employment



## Establishment

- Each fixed location

## Employment

- Peak during previous calendar year
- Payroll,  
Temp agency and Contract (while under supervision)
- All employees must be assigned an establishment, including transient employees like sales staff and drivers



# Who **Does Not** Electronically Submit?

The establishment's

- **Peak employment** during the previous calendar year was **19 or fewer**, regardless of the establishment's industry.
- Industry does not keep logs at all, regardless of the size of the establishment. (**is on this list**)
- Peak employment between **20 and 249** employees during the previous calendar year  
**AND**  
Higher hazard industry (**is not on this list**).



# OSHA 300 and 301

OSHA 300 and 301, establishments with 250 or more

- Initial deadline July 1, 2018.
- OSHA published a Notice of Proposed Rulemaking (NPRM) to amend
- OSHA will not enforce this deadline for these two forms without further notice while this rulemaking is underway.



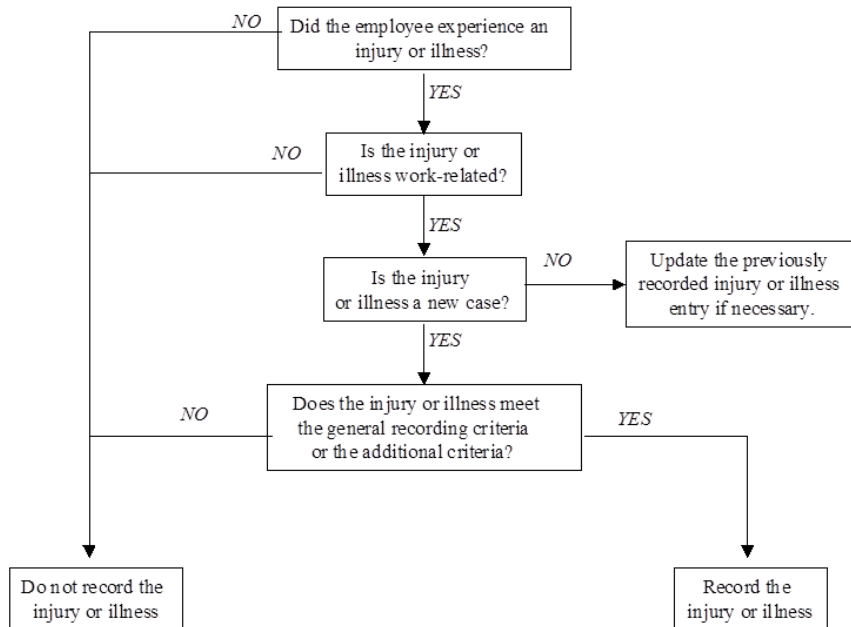


# Recording Process

- Injury or Illness?
- My Employee?
- New Case or Update Old Case?
- Work Related?

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- Death, Loss of Consciousness?
- Limited Work?
- Medical treatment beyond first aid?
- Special condition?





# Form 300A, Posted in February, Submitted in March

OSHA's Form 300A (Rev. 01/2004)

## Summary of Work-Related Injuries and Illnesses

Year 20\_\_



U.S. Department of Labor  
Occupational Safety and Health Administration

Form approved OMB no. 1218-0176

All establishments covered by Part 1904 must complete this Summary page, even if no work-related injuries or illnesses occurred during the year. Remember to review the Log to verify that the entries are complete and accurate before completing this summary.

Using the Log, count the individual entries you made for each category. Then write the totals below, making sure you've added the entries from every page of the Log. If you had no cases, write "0."

Employees, former employees, and their representatives have the right to review the OSHA Form 300 in its entirety. They also have limited access to the OSHA Form 301 or its equivalent. See 29 CFR Part 1904.35, in OSHA's recordkeeping rule, for further details on the access provisions for these forms.

### Number of Cases

Total number of deaths	Total number of cases with days away from work	Total number of cases with job transfer or restriction	Total number of other recordable cases
_____	_____	_____	_____
(G)	(H)	(I)	(J)

### Number of Days

Total number of days away from work	Total number of days of job transfer or restriction
_____	_____
(K)	(L)

### Injury and Illness Types

Total number of . . . (M)	
(1) Injuries _____	(4) Poisonings _____
(2) Skin disorders _____	(5) Hearing loss _____
(3) Respiratory conditions _____	(6) All other illnesses _____

Post this Summary page from February 1 to April 30 of the year following the year covered by the form.

Public reporting burden for this collection of information is estimated to average 50 minutes per response, including time to review the instructions, search and gather the data needed, and complete and review the collection of information. Persons are not required to respond to the collection of information unless it displays a currently valid OMB control number. If you have any comments about these estimates or any other aspects of this data collection, contact: US Department of Labor, OSHA Office of Statistical Analysis, Room N-3644, 200 Constitution Avenue, NW, Washington, DC 20210. Do not send the completed forms to this office.

### Establishment Information

Your establishment name \_\_\_\_\_  
Street \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ ZIP \_\_\_\_\_

Industry description (e.g., *Manufacture of motor truck trailers*) \_\_\_\_\_

Standard Industrial Classification (SIC), if known (e.g., 3715) \_\_\_\_\_

OR

North American Industrial Classification (NAICS), if known (e.g., 336212) \_\_\_\_\_

**Employment Information** (If you don't have these figures, see the Worksheet on the back of this page to estimate.)

Annual average number of employees \_\_\_\_\_

Total hours worked by all employees last year \_\_\_\_\_

### Sign here

Knowingly falsifying this document may result in a fine.

I certify that I have examined this document and that to the best of my knowledge the entries are true, accurate, and complete.

Company executive \_\_\_\_\_ Title \_\_\_\_\_  
( ) - / /  
Phone \_\_\_\_\_ Date \_\_\_\_\_



# Missed Deadlines



## CY 2016, 2017 Data

- Changes no longer possible for submissions

## CY 2019 Data

- Submissions after Mar 2, 2019 will be flagged as "Late".



# You Must Report

## Certain Cases Directly to OSHA

- Fatalities, within 8 hours
- Amputations, Loss of Eye, Hospitalization, within 24 hours

## Log Summary to OSHA

- Annually if ESTABLISHMENT is 20 or more employees

## Logs to BLS

- If included in the annual survey





# Reporting Incentives

1904.35(b)(1)(iv) does not prohibit workplace safety incentive programs or post-incident drug testing



Does the employer consistently enforces legitimate work rules (whether or not an injury or illness is reported)?

2018, Oct 11 Memorandum to **Regional Administrators on Clarification of OSHA's Position on Workplace Safety Incentive Programs and Post-Incident Drug Testing Under 29 C.F.R. § 1904.35(b)(1)(iv)**  
<https://www.osha.gov/laws-regs/standardinterpretations/2018-10-11>



# Reporting Incentives

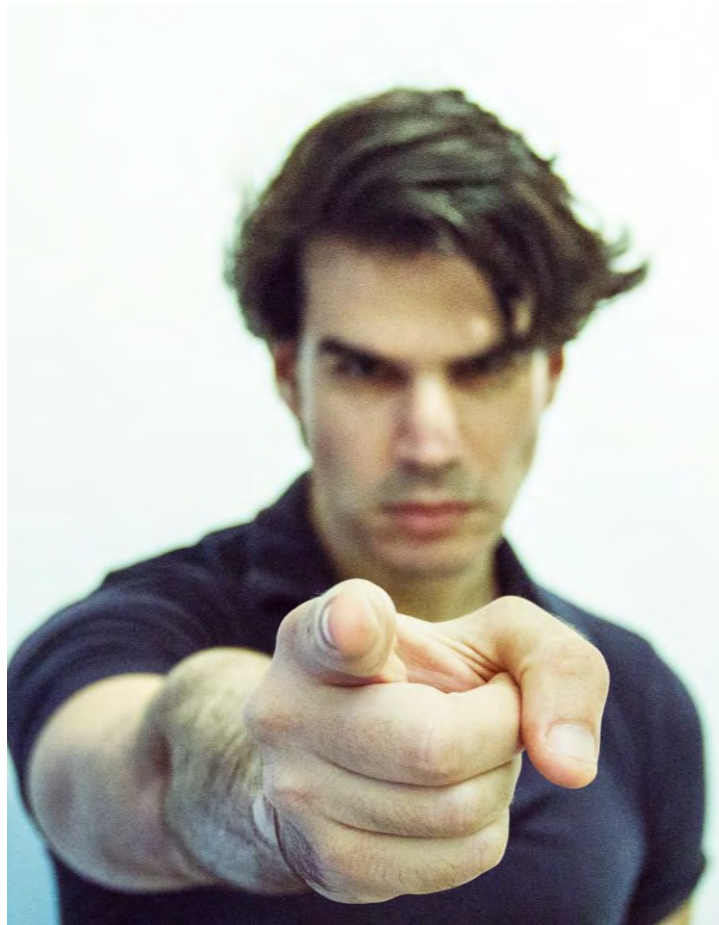


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It is a violation of 1904.35(b)(1)(iv) **only if**

the employer took the action to **penalize an employee for reporting** a work-related injury or illness

rather than for the **legitimate purpose of promoting workplace safety and health**



# Incentive programs can be an important tool to promote workplace safety and health.

One type of incentive program rewards workers **for reporting near-misses or hazards, and encourages involvement** in a safety and health management system.

- Positive action taken under this type of program is always permissible under § 1904.35(b)(1)(iv).

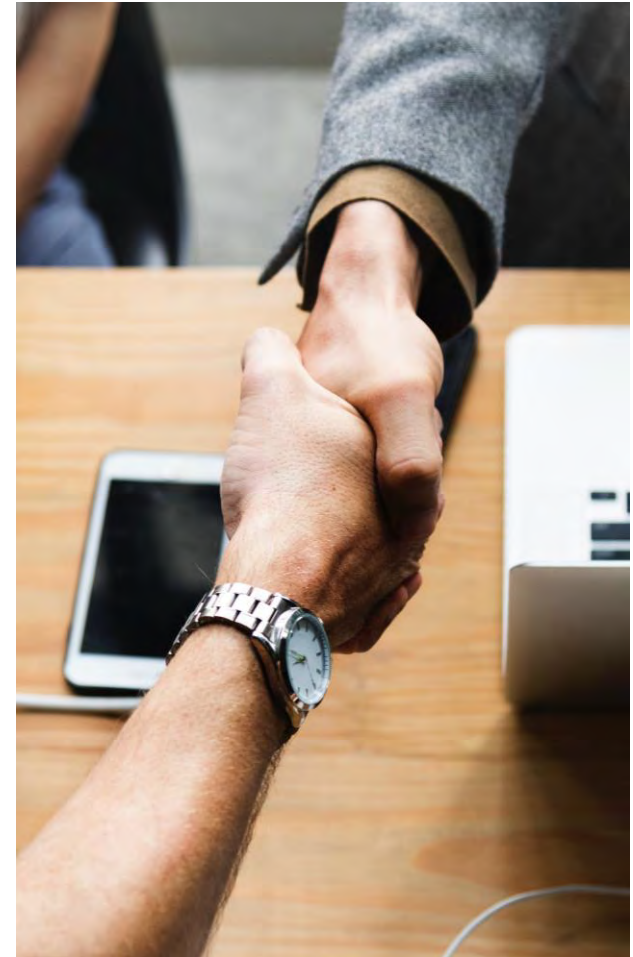


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## Incentive programs can be an important tool to promote workplace safety and health.

Another type of incentive program is rate-based and focuses on reducing the number of reported injuries and illnesses.

- This type of program typically rewards employees with a prize or bonus at the **end of an injury-free month** or evaluates managers based on their work unit's lack of injuries.







# Incentive programs can be an important tool to promote workplace safety and health.

Rate-based incentive programs are also permissible under § 1904.35(b)(1)(iv) **as long as they are not implemented in a manner that discourages reporting.**

- Thus, if an employer takes a negative action against an employee under a rate-based incentive program, such as withholding a prize or bonus because of a reported injury, OSHA would not cite the employer under § 1904.35(b)(1)(iv) **as long as the employer has implemented adequate precautions to ensure that employees feel free to report an injury or illness.**





# Adequate precautions to ensure that employees feel free to report an injury or illness



A statement **may not, by itself**, be adequate

Could take **positive steps to create a workplace culture that emphasizes safety,**

- An incentive program that **rewards employees for identifying unsafe conditions** in the workplace;
- A training program for all employees to reinforce reporting rights and responsibilities and **emphasizes the employer's non-retaliation policy;**
- A mechanism for accurately **evaluating employees' willingness** to report injuries and illnesses.

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# Most instances of workplace drug testing are permissible under 1904.35(b)(1)(iv)



- ❖ **Random** drug testing.
- ❖ Drug testing **unrelated** to the reporting of a work-related injury or illness.
- ❖ Drug testing under a state **workers' compensation** law.
- ❖ Drug testing under **other federal law**, such as a U.S. Department of Transportation rule.
- ❖ Drug testing to **evaluate the root cause** of a workplace incident that harmed or could have harmed employees.
  - If the employer chooses to use drug testing to investigate the incident, the employer should test all employees whose conduct could have contributed to the incident, not just employees who reported injuries.



# Resources and Assistance



# Osha.gov

OSHA Injury and Illness Record X +

https://www.osha.gov/recordkeeping/

Recordkeeping and Reporting Requirements    What's New ▾    Forms ▾    Requirements ▾    Related Documents and Information ▾    Training ▾

## OSHA Injury and Illness Recordkeeping and Reporting Requirements

On July 30, 2018 the Occupational Safety and Health Administration (OSHA) issued a [Notice of Proposed Rulemaking \(NPRM\)](#) to eliminate the requirement to electronically submit information from OSHA Form 300 (Log of Work-Related Injuries and Illnesses), and OSHA Form 301 (Injury and Illness Incident Report) for establishments with 250 or more employees that are currently required to maintain injury and illness records. These establishments would be required to electronically submit information only from OSHA Form 300A (Summary of Work-Related Injuries and Illnesses). In addition, OSHA is proposing to require covered employers to submit their Employer Identification Number (EIN) electronically along with their injury and illness data submission.

### Recordkeeping Requirements

Many employers with more than 10 employees are required to keep a record of serious work-related injuries and illnesses. [\(Certain low-risk industries are exempted.\)](#) Minor injuries requiring first aid only do not need to be recorded.

- [How does OSHA define a recordable injury or illness?](#)
- [How does OSHA define first aid?](#)

This information helps employers, workers and OSHA evaluate the safety of a workplace, understand industry hazards, and implement worker protections to reduce and eliminate hazards –preventing future workplace injuries and illnesses.

### Maintaining and Posting Records

The records must be maintained at the worksite for at least five years. Each February through April, employers must post a summary of the injuries and illnesses recorded the previous year. Also, if requested, copies of the records must be provided to current and former employees, or their representatives.

- [Get recordkeeping forms 300, 300A, 301, and additional instructions.](#)



# WisCon Program

[www.slh.wisc.edu/wiscon](http://www.slh.wisc.edu/wiscon)



Wisconsin State Laboratory of Hygiene  
UNIVERSITY OF WISCONSIN-MADISON

ABOUT WSLH | WSLH SERVICES | LAB NETWORKS & SURVEILLANCE | RESEARCH SUPPORT CENTER | NEWS & PUBLICATIONS

CLINICAL TESTING | WATER & OTHER ENVIRONMENTAL TESTING | OCCUPATIONAL HEALTH & SAFETY SERVICES | FORENSIC TOXICOLOGY | PROFICIENCY TESTING

- 4 Occupational Health
  - ▷ WOHL
  - 4 Safety & Health Consultation
    - ▷ Client Endorsements Making A Request
    - ▷ Safety and Health (WisCon) Training
    - Online Resources
    - Wisconsin SHARP Companies
    - OSHA Partnerships & Alliances
    - Program Staff
    - ▷ Injury Statistics



Onsite Safety & Health Consultation in Wisconsin

>>Consultation Services Request Form<<

The Wisconsin State Laboratory of Hygiene's WisCon Program, as part of the University of Wisconsin-Madison and in conjunction with the U.S. Department of Labor, currently offers on-site consultation services to assist private sector Wisconsin employers in meeting their obligations and responsibilities under the federal Occupational Safety and Health Act.

# Closing Remarks

*David Manke*

*Johnson Financial Group*

# Closing Remarks

- Post work injury controlled substance testing
  - » *Client feedback is related to “how they assure employees are drug and alcohol free, including post accident.”*
  - » *This rule change offers us the opportunity to revert back to our previous plan - test 100% of post incident employees who:*
    - Are treated for a work related injury
    - Have property damage
    - Have a moving violation while driving
  - » *Additionally there is a provision that if the impairment can be proven as a direct cause of the injury, temporary partial payments can be denied.*





# Closing Remarks

- Incentives

- » *Post accident and preventative are now acceptable:*

- Post accident can not be linked to methods to disincentive the employee from reporting the injury.
    - Post accident incentives can also be a measured part of supervisor and manager annual reviews.

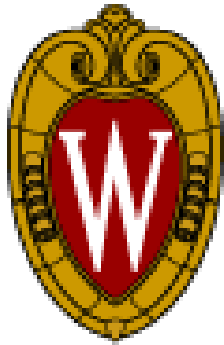
- » *Recommendations:*

- Preventive and participation incentives to help involve and educate.
      - *Catch them helping or staying involved!*
    - Do not count on post injury only or “we're only playing catch up” on risks that have caused the injury vs. beforehand.





# Contact Information



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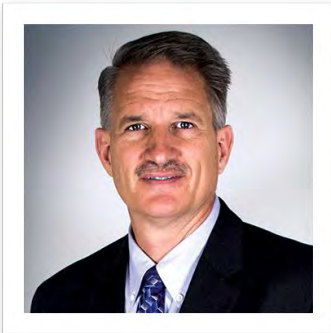
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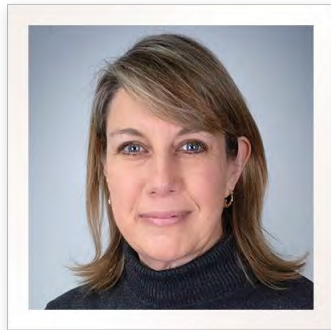
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**Thank you for attending!**