DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

DIRECTOR'S OFFICE

MIOSHA SAFETY AND HEALTH STANDARDS

(By authority conferred on the department of licensing and regulatory affairs by section 69 of 1974 PA 154 and Executive Reorganization Order No. 1996-2, 2003-1, 2008-4, and 2011-4, MCL 408.1069, 445.2001, 445.2011, 445.2025, and 445.2030)

PART 11. RECORDING AND REPORTING OF OCCUPATIONAL INJURIES AND ILLNESSES

R 408.22101 Scope.

Rule 1101. These rules provide for recordkeeping and reporting by public and private employers covered under the act as necessary or appropriate for enforcement of the act, for developing information regarding the causes and prevention of occupational injuries and illnesses, and for maintaining a program of collection, compilation, and analysis of occupational safety and health statistics. R 408.22103 lists employers who are partially exempted from keeping work-related injury and illness records.

History: 1979 AC; 2001 AACS; 2015 MR 10, Eff. May 27, 2015.

R 408.22102 Intent.

Rule 1102. (1) These rules are substantially identical to the federal occupational safety and health act (OSHA) recordkeeping and reporting requirements, as contained in 29 C.F.R., §1904 "Recording and Reporting of Occupational Injuries and Illnesses" amended 2014, as adopted in R 408.22102a, to assure that employers maintaining records pursuant to these rules are in compliance with the federal requirements and need not maintain additional records or submit additional reports pursuant to the federal regulations. R 408.21119 of this part pertains to the use of OSHA forms.

(2) This part shall not supersede the recordkeeping and reporting requirements prescribed by sections 18 and 24 of Public Law 91-596, 29 U.S.C. §§667 and 673.

(3) If an employer creates records to comply with another government agency's injury and illness recordkeeping requirements, MIOSHA will consider the records as complying with these rules if OSHA or MIOSHA accepts the other agency's records under a memorandum of understanding with that agency, or if the other agency's records contain the same information as these rules requires an employer to record. For help in determining whether an employer's records meet MIOSHA's requirements, an employer may contact the MIOSHA Management Information Systems Section at www.michigan.gov/recordkeeping, or telephone 517-322-1848.

History: 1979 AC; 1998-2000 AACS; 2001 AACS; 2015 MR 10, Eff. May 27, 2015.

R 408.22102a. Adopted and referenced standards.

Rule 1102a. (1) The following federal standards are adopted by reference in these rules:

(a) 29 C.F.R. §1903.2 "Posting of notice; availability of the Act, regulations and applicable standards." amended 1974.

(b) 29 C.F.R. §1904 "Recording and Reporting of Occupational Injuries and Illnesses," amended 2014.

(c) 45 C.F.R. § 164.512 "Uses and disclosures for which an authorization or opportunity to agree or object is not required," amended 2013.

(2) The standards adopted in these rules are available from the United States Government Printing Office website: www.ecfr.gov, at no charge as of the time of adoption of these rules.

(3) The standards adopted in these rules are available for inspection at the Department of Licensing and Regulatory Affairs, MIOSHA Regulatory Services Section, 7150 Harris Drive, Lansing, Michigan, 48909-8143.

(4) The standards adopted in these rules may be obtained as shown in subrule (3) of this rule or may be obtained from the Department of Licensing and Regulatory Affairs, MIOSHA Regulatory Services Section, 7150 Harris Drive, Lansing, Michigan, 48909-8143, plus $20.00 for shipping and handling.

(5) The following MIOSHA standards are referenced in these rules. Up to 5 copies of these standards may be obtained at no charge from the Michigan Department of Licensing and Regulatory Affairs, MIOSHA Regulatory Services Section, 7150 Harris Drive, Lansing, Michigan, 48909-8143 or via the internet at website: www.michigan.gov/mioshastandards. For quantities greater than 5, the cost, as of the time of adoption of these rules, is 4 cents per page.

(a) Occupational Health Standard Part 380 "Occupational Noise Exposure in General Industry," R 325.60101 to R 325.60128.

(b) Occupational Health Standard Part 554 "Bloodborne Infectious Diseases," R 325.70001 to R 325.70018.

History: 2015 MR 10, Eff. May 27, 2015.

R 408.22103 Exceptions; applicability; petitions.

Rule 1103. (1) Both of the following provisions apply to exemptions based on employee numbers and industry classifications:

(a) If your company had 10 or fewer employees at all times during the last calendar year, you do not need to keep MIOSHA injury and illness records unless MIOSHA, the United States bureau of labor statistics (BLS), or the United States department of labor occupational safety and health administration (OSHA), informs you, in writing, that you must keep records according to R 408.22141 or R 408.22142. However, as required by R 408.22139, all employers covered by the act shall report to MIOSHA any workplace incident that results in a fatality or the hospitalization of employees.

(b) If your company had more than 10 employees at any time during the last calendar year, you must keep MIOSHA injury and illness records unless your establishment is classified as a partially exempt industry under this rule.

(2) Both of the following provisions apply to implementation of employee number based exemptions:

(a) Is the partial exemption for size based on the size of my entire company or on the size of an individual business establishment? The partial exemption for size is based on the number of employees in the entire company.

(b) How do I determine the size of my company to find out if I qualify for the partial exemption for size? To determine if you are exempt because of size, you need to determine your company's peak employment during the last calendar year. If you did not have more than 10 employees at any time in the last calendar year, then your company qualifies for the partial exemption for size.

(3) Both of the following provisions apply to basic requirements for partial exemption for establishments in certain industries:

(a) If your business establishment is classified in a specific industry group listed in Appendix A, you do not need to keep MIOSHA injury and illness records unless MIOSHA, the United States bureau of labor statistics (BLS), or the United States department of labor occupational safety and health administration (OSHA), informs you, in writing, that you must keep the records according to R 408.22141 or R 408.22142. However, all employers must report to MIOSHA any workplace incident that results in an employee's fatality, inpatient hospitalization, amputation, or loss of an eye as required by R 408.22139.

(b) If 1 or more of your company's establishments are classified in a nonexempt industry, then you must keep MIOSHA injury and illness records for all of such establishments unless your company is partially exempted because of size under these rules.

(4) Is the partial industry classification exemption based on the industry classification of my entire company or on the classification of individual business establishments operated by my company? The partial industry classification exemption applies to individual business establishments. If a company has several business establishments engaged in different classes of business activities, some of the company's establishments may be required to keep records, while others may be partially exempt.

(5) How do I determine the correct North American industry classification system (NAICS) code for my company or for individual establishments? You can determine your NAICS code by using 1 of the following methods, or you may contact your nearest OSHA office or state agency for help in determining your NAICS code:

(a) You can use the search feature at the U.S. Census Bureau NAICS main Web page: http://www.census.gov/eos/ www/naics/. In the search box for the most recent NAICS, enter a keyword that describes your kind of business. A list of primary business activities containing that keyword and the corresponding NAICS codes will appear. Choose the 1 code that most closely corresponds to your primary business activity, or refine your search to obtain other choices.

(b) Rather than searching through a list of primary business activities, you may also view the most recent complete NAICS structure with codes and titles by clicking on the link for the most recent NAICS on the U.S. Census Bureau NAICS main Web page: http:// www.census.gov/eos/www/naics/. Then click on the 2-digit sector code to see all the NAICS codes under that sector. Then choose the 6-digit code of your interest to see the corresponding definition, as well as cross-references and index items, when available.

(c) If you know your old standard industrial classification (SIC) code, you can also find the appropriate 2002 NAICS code by using the detailed conversion (concordance) between the 1987 SIC and 2002 NAICS available in Excel format for download at the ‘‘Concordances’’ link at the U.S. Census Bureau NAICS main Web page: http:// www.census.gov/eos/www/naics/.

(6) The department of licensing and regulatory affairs shall supply copies of the forms provided for in these rules and shall compile, correct, and analyze data obtained pursuant to these rules. The department shall process petitions for exceptions to these rules from public employers. The occupational safety and health administration (OSHA) of the United States department of labor shall process petitions for exceptions from private employers to ensure uniformity between federal and state rules.

History: 1979 AC; 1983 AACS; 1998-2000 AACS; 2001 AACS; 2002 AACS; 2015 MR 10, Eff. May 27, 2015.

Editor's Note: An obvious error in R 408.22103 was corrected at the request of the promulgating agency, pursuant to Section 56 of 1969 PA 306, as amended by 2000 PA 262, MCL 24.256. The rule containing the error was published in *Michigan Register,* 2015 MR 10. The memorandum requesting the correction was published in *Michigan Register,* 2015 MR 11.

R 408.22104 Definitions; A to D.

Rule 1104. (1) "Act" means the Michigan occupational safety and health act (MIOSHA), 1974 PA 154, MCL 408.1001 to 408.1094.

(2) "Affected employee" means an employee who would be affected by the granting or denial of an exception, or an authorized representative as defined by the act.

(3) “Amputation” means the traumatic loss of a limb or other external body part. Amputation includes all of the following:

(a) A part, such as a limb or appendage, that has been severed, cut off, amputated, either completely or partially.

(b) Fingertip amputations with or without bone loss.

(c) Medical amputations resulting from irreparable damage.

(d) Amputations of body parts that have since been reattached.

Amputations do not include avulsions, enucleations, deglovings, scalpings, severed ears, or broken or chipped teeth.

(4) "Department" means the department of licensing and regulatory affairs.

(5) "Director" means the director of the department of licensing and regulatory affairs.

History: 1979 AC; 1998-2000 AACS; 2015 MR 10, Eff. May 27, 2015.

R 408.22105 Definitions; E, F.

Rule 1105. (1) “Employer” means an individual or organization, including the state or a political subdivision, which employs 1 or more person.

(2) “Establishment” means 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, and the like that either supervise the activities or are the base from which personnel carry out the activities. The following are examples of an establishment:

(a) Factory.

(b) Mill.

(c) Store.

(d) Hotel.

(e) Restaurant.

(f) Movie theater.

(g) Farm.

(h) Ranch.

(i) Bank.

(j) Sales office.

(k) Warehouse.

(l) Central administrative office.

(m) Single school within a school district.

(n) City garage within the department of public works.

(o) Branch office of the department of state.

(p) Police station within the police department of a city.

(3) "First-aid" means any of 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^{tm}, gauze pads, or the like; or using butterfly bandages or Steri-strips^{tm}. Other wound closing devices, such as sutures, staples, and the like, 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, or the like. Devices that have 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, such as splints, slings, neck collars, backboards, and the like.

(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 is considered medical treatment for recordkeeping purposes.

(n) Drinking fluids for relief of heat stress.

History: 1979 AC; 1983 AACS; 1986 AACS; 2001 AACS; 2015 MR 10, Eff. May 27, 2015.

R 408.22106 Definitions; H to M.

Rule 1106. (1) "Hospitalization" means the inpatient admission to a hospital for treatment, observation, or any other reason.

(2) "Inpatient hospitalization" means the formal admission to the inpatient service of a hospital or clinic for care or treatment.

(3) "Medical treatment" means the management and care of a patient to combat disease or disorder. For the purposes of these rules, "medical treatment" does not include any of the following:

(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, for example, eye drops to dilate pupils.

(c) "First-aid" as defined in R 408.22105(3).

History: 1979 AC; 1983 AACS; 2001 AACS; 2015 MR 10, Eff. May 27, 2015.

R 408.22107 Definitions; O to Y.

Rule 1107. (1) "Occupational injury or illness" means an abnormal condition or disorder. Occupational injury is a result of a work accident or from an exposure involving a single incident in the work environment and includes, but is not limited to, a cut, fracture, sprain, or amputation. Occupational illnesses include both acute and chronic illnesses, including, but not limited to, a skin disease, respiratory disorder, or poisoning. Injuries and illnesses are recordable only if they are new, work-related cases that meet 1 or more of the recording criteria of these rules.

(2) "Other potentially infectious material" means other potentially infectious material as defined in Occupational Health Standard Part 554 "Bloodborne Infectious Diseases," as referenced in R 408.22102a. These materials include the following:

(a) Human bodily fluids, tissues, and organs.

(b) Other materials infected with the HIV or hepatitis B (HBV) virus, such as laboratory cultures or tissues from experimental animals.

(3) "Physician or other licensed health care professional" means a physician or other licensed health care professional who is an individual and whose legally permitted scope of practice, that is, license, registration, or certification, allows him or her to independently perform, or be delegated the responsibility to perform, the activities described by these rules.

(4) "Recordable injuries and illness" means an injury or illness that meets the general recording criteria, and therefore is 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.

An employer must also consider a case as meeting the general recording criteria if it involves a significant injury or illness diagnosed 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.

(5) "Standard threshold shift" means a change in the hearing threshold relative to the baseline audiogram of an average of 10 dB or more at 2000, 3000, and 4000 Hz in either ear.

(6) "You" means an employer as defined in section 5 of 1974 PA 154, MCL 408.1005.

History: 1979 AC; 2001 AACS; 2002 AACS; 2015 MR 10, Eff. May 27, 2015.

R 408.22108 Rescinded.

History: 1986 AACS; 2001 AACS.

R 408.22109 Recording criteria.

Rule 1109. (1) Each employer required to keep records of fatalities, injuries, and illnesses must record each fatality, injury, and illness that involves all of the following:

(a) Is work-related.

(b) Is a new case.

(c) Meets 1 or more of the general recording criteria of R 408.22112 to R 408.22112f or the application to specific cases of R 408.22113 to R 408.22119.

(2) What sections of this rule describe recording criteria for recording work-related injuries and illnesses? The following list indicates which rules address each topic:

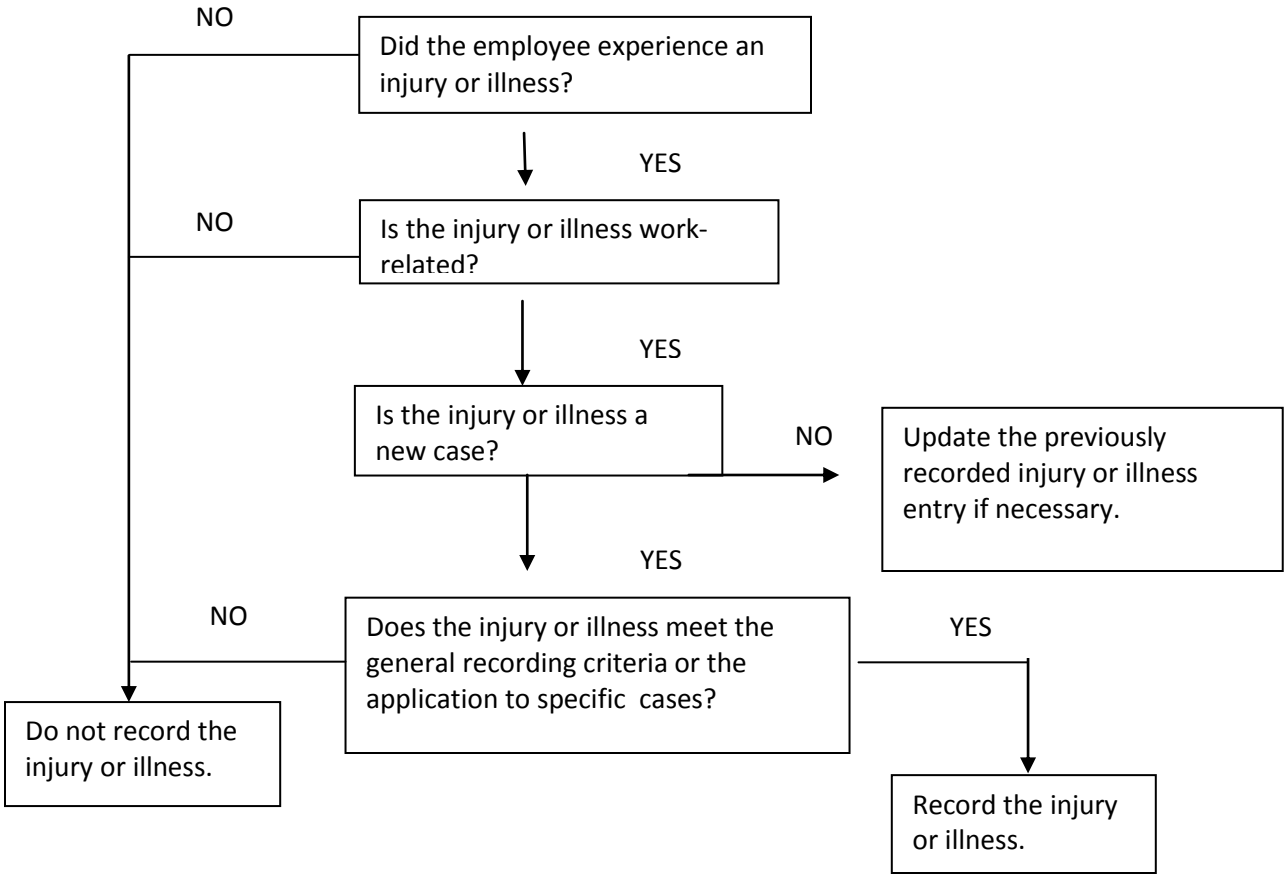
(a) Determination of work-relatedness. See R 408.22110 to R 408.22110b.

(b) Determination of a new case. See R 408.22111.

(c) General recording criteria. See R 408.22112 to R 408.22112f.

(d) Additional criteria such as needlestick and sharps injury cases, tuberculosis cases, and medical removal cases. See R 408.22113 to R 408.22119.

(3) How do I decide whether a particular injury or illness is recordable? The following decision tree for recording work-related injuries and illnesses shows the steps involved in making this determination:



History: 2001 AACS; 2015 MR 10, Eff. May 27, 2015.

R 408.22110 Basic requirement.

Rule 1110. You 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 R 408.22110a(4) specifically applies.

History: 2001 AACS; 2015 MR 10, Eff. May 27, 2015.

R 408.22110a Implementation.

Rule 1110a. (1) What is the "work environment"? MIOSHA defines the work environment as “the establishment and other locations where 1 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 his or her work.”

(2) May 1 business location include 2 or more establishments? Normally, 1 business location has only 1 establishment. Under limited conditions, an employer may consider 2

or more separate businesses that share a single location to be separate establishments. An employer may divide 1 location into 2 or more establishments only when all of the following provisions apply:

(a) Each of the establishments represents a distinctly separate business.

(b) Each business is engaged in a different economic activity.

(c) A single industry description in the standard industrial classification manual (1987) does not apply to the joint activities of the establishments.

(d) 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.

(3) May an establishment include more than 1 physical location? Yes, but only under certain conditions. An employer may combine 2 or more physical locations into a single establishment only when all of the following provisions apply:

(a) The employer operates the locations as a single business operation under common management.

(b) The locations are all located in close proximity to each other.

(c) The employer keeps 1 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, 1 manufacturing establishment might include the main plant, a warehouse a few blocks away, and an administrative services building across the street.

(4) If an employee telecommutes from home, is his or her home considered a separate establishment? No. For an employee who telecommutes from home, the employee's home is not a business establishment and a separate 300 log is not required. An employee who telecommutes must be linked to 1 of your establishments under R 408.22130(4).

(5) Are there situations where an injury or illness occurs in the work environment and is not considered work-related? Yes. An injury or illness occurring in the work environment that falls under any of the following exceptions is not work-related, and therefore is not recordable:

R 408.22110 a(5)	YOU ARE NOT REQUIRED TO RECORD INJURIES AND ILLNESSES IF...
(a)	At the time of the injury or illness, the employee was present in the work environment as a member of the general public rather than as an employee.
(b)	The injury or illness involves signs or symptoms that surface at work but result solely from a non-work-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. Note: 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, then the case would be considered work-related.
(e)	The injury or illness is solely the result of an employee doing personal tasks, unrelated to his or her 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 non-work-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. Note: Contagious diseases such as tuberculosis, brucellosis, hepatitis A, or plague are considered work-related if the employee is infected at work.
(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 who has appropriate training and experience, such as a psychiatrist, psychologist, psychiatric nurse practitioner, or the like, stating that the employee has a mental illness that is work-related.

History: 2015 MR 10, Eff. May 27, 2015.

R 408.22110b How to handle unusual cases.

Rule 1110b. (1) How do I handle a case if it is not obvious whether the precipitating event or exposure occurred in the work environment or occurred away from work? In these situations, you must evaluate the employee's work duties and environment to decide whether or not 1 or more events or exposures in the work environment either caused or contributed to the resulting condition or significantly aggravated a preexisting condition.

(2) How do I know if an event or exposure in the work environment "significantly aggravated" a preexisting injury or illness? A preexisting injury or illness has been significantly aggravated, for purposes of MIOSHA injury and illness recordkeeping, when an event or exposure in the work environment results in any of the following:

(a) Death, if 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 medical treatment was not 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.

(2) Which injuries and illnesses are considered preexisting conditions? An injury or illness is a preexisting condition if it resulted solely from a non-work-related event or exposure that occurred outside the work environment.

(3) How do I decide whether an injury or illness is work-related if the employee is on travel status at the time the injury or illness occurs? 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 of such activities 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.

(4) Injuries or illnesses that occur when the employee is on travel status do not have to be recorded if the injuries or illnesses meet any of the following exceptions:

R 408.22110 b(4)	If the employee has ...:	You may use the following to determine if an injury or illness is work-related.
(a)	Checked into a hotel or motel for 1 or more days.	When a traveling employee checks into a hotel, motel, or other temporary residence, he or she establishes a "home away from home." You must evaluate the employee's activities after he or she checks into the hotel, motel, or other temporary residence for his or her work-relatedness in the same manner as you evaluate the activities of a non-traveling employee. When the employee checks into the temporary residence, he or she is considered to have left the work environment. When the employee begins work each day, he or she re-enters 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 not consider injuries or illnesses work-related if they occur while the employee is commuting between the temporary residence and the job location.
(b)	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, that is, has taken a side trip for personal reasons.

(5) How do I decide if a case is work-related when the employee is working at home? Injuries and illnesses that occur while an employee is working at home, including work in a home office, will be 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 rather than to the general home environment or setting. For example, if an employee drops a box of work documents and injures his or her foot, the case is considered work-related. 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. If an employee is injured because he or she trips on the family dog while rushing to answer a work phone call, the case is not considered work-related. If an employee working at home is electrocuted because of faulty home wiring, the injury is not considered work-related.

History: 2015 MR 10, Eff. May 27, 2015.

R 408.22111 Determination of new cases.

Rule 1111. (1) Basic requirement. You must consider an injury or illness to be a "new case" if either of the following applies:

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

(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) Implementation. When an employee experiences the signs or symptoms of a chronic work-related illness, do I need to consider each recurrence of signs or symptoms to be a new case? No, 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 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, must I treat the episode as a new case? Yes, because the episode or recurrence was caused by an event or exposure in the workplace, the incident must be treated as a new case.

(4) May I rely on a physician or other licensed health care professional to determine whether a case is a new case or a recurrence of an old case? You are not required to seek the advice of a physician or other licensed health care professional. However, if you do seek such advice, you must follow the physician or other licensed health care professional's recommendation about whether the case is a new case or a recurrence. If you receive recommendations from 2 or more physicians or other licensed health care professionals, you 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.

History: 1979 AC; 2001 AACS.

GENERAL RECORDING CRITERIA

R 408.22112 Basic requirement.

Rule 1112. (1) You must consider an injury or illness to meet the general recording criteria, and therefore to be recordable, if the injury or illness ~~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.

(2) You must consider a case to meet the general recording criteria if it involves a significant injury or illness diagnosed 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.

History: 1979 AC; 2001 AACS; 2002 AACS; 2015 MR 10, Eff. May 27, 2015.

R 408.22112a Implementation.

Rule 1112a. (1) How do I decide if a case meets 1 or more of the general recording criteria? A work-related injury or illness must be recorded if it results in 1 or more of the following:

(a) Death. See subrule (2) of this rule.

(b) Days away from work. See R 408.22112b.

(c) Restricted work or transfer to another job. See R 408.22112c.

(d) Medical treatment beyond first-aid. See R 408.22112d.

(e) Loss of consciousness. See R 408.22112e.

(f) A significant injury or illness diagnosed by a physician or other licensed health care professional. See R 408.22112f.

(2) How do I record a work-related injury or illness that results in the employee's death? You must record an injury or illness that results in death by entering a check mark on the MIOSHA 300 log in the space for cases resulting in death. You must also report any work-related fatality to MIOSHA within 8 hours, as required by R 408.22139.

History: 2015 MR 10, Eff. May 27, 2015.

R 408.22112b Record work-related injury or illness that results in days away from work.

Rule 1112b. (1) How do I record a work-related injury or illness that results in days away from work? When an injury or illness involves 1 or more days away from work, you must record the injury or illness on the MIOSHA 300 log with a check mark in the space for cases involving days away and an entry of the number of calendar days away from work in the number of days column. If the employee is out for an extended period of time, you must enter an estimate of the days that the employee will be away, and update the day count when the actual number of days is known.

(2) Do I count the day on which the injury occurred or the illness began? No. You begin counting days away on the day after the injury occurred or the illness began.

(3) How do I record an injury or illness when a physician or other licensed health care professional recommends that the worker stay at home but the employee comes to work anyway? You must record these injuries and illnesses on the MIOSHA 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. If a physician or other licensed health care professional recommends days away, you should encourage your employee to follow that recommendation. However, the days away must be recorded whether the injured or ill employee follows the physician or licensed health care professional's recommendation or not. If you receive recommendations from 2 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.

(4) How do I handle a case when a physician or other licensed health care professional recommends that the worker return to work but the employee stays at home anyway? In this situation, you 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.

(5) How do I count weekends, holidays, or other days the employee would not have worked anyway? You 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 days. 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.

(6) How do I record a case in which 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 need to record this case only if you 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 must record the injury or illness as a case with days away from work or restricted work, and enter the day counts, as appropriate.

(7) How do I record a case in which 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 need to record a case of this type only if you 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 must record the injury or illness as a case with days away from work or restricted work, and enter the day counts, as appropriate.

(8) Is there a limit to the number of days away from work I must count? Yes. You may "cap" the total days away at 180 calendar days. You are not required to keep track of the number of calendar days away from work if the injury or illness resulted in more than 180 calendar days away from work or days of job transfer or restriction, or both. In such a case, entering 180 in the total days away column will be considered adequate.

(9) May I stop counting days if an employee who is away from work because of an injury or illness retires or leaves my company? Yes. 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 may stop counting days away from work or days of restriction or job transfer. If the employee leaves your company because of the injury or illness, you must estimate the total number of days away or days of restriction or job transfer and enter the day count on the MIOSHA 300 log.

(10) If a case occurs in one year but results in days away during the next calendar year, do I record the case in both years? No. You only record the injury or illness once. You must enter the number of calendar days away for the injury or illness on the MIOSHA 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, use this number to calculate the total for the annual summary, and then update the initial log entry later when the day count is known or reaches the 180-day cap.

History: 2015 MR 10, Eff. May 27, 2015.

R 408.22112c Record work-related injury or illness that results in restricted work or job transfer.

Rule 1112c. (1) How do I record a work-related injury or illness that results in restricted work or job transfer? When an injury or illness involves restricted work or job transfer but does not involve death or days away from work, you must record the injury or illness on the MIOSHA 300 log by placing a check mark in the space for job transfer or restriction and an entry of the number of restricted or transferred days in the restricted workdays column.

(2) How do I decide if the injury or illness resulted in restricted work? Restricted work occurs when, as the result of a work-related injury or illness, either of the following occurs:

(a) You keep the employee from performing 1 or more of the routine functions of his or her job, or from working the full workday that he or she would otherwise have been scheduled to work.

(b) A physician or other licensed health care professional recommends that the employee not perform 1 or more of the routine functions of his or her job, or not work the full workday that he or she would otherwise have been scheduled to work.

(3) What is meant by "routine functions"? For recordkeeping purposes, an employee's routine functions are those work activities the employee regularly performs at least once per week.

(4) Do I have to record restricted work or job transfer if it applies only to the day on which the injury occurred or the illness began? No. You do not have to record restricted work or job transfers if you, or 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.

(5) If you or a physician or other licensed health care professional recommends a work restriction, is the injury or illness automatically recordable as a "restricted work" case? No. A recommended work restriction is recordable only if it affects 1 or more of the employee's routine job functions. To determine whether this is the case, you must evaluate the restriction in light of the routine functions of the injured or ill employee's job. If the restriction from you or the physician or other licensed health care professional keeps the employee from performing 1 or more of his or her 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.

(6) How do I record a case where the worker works only for a partial work shift because of a work-related injury or illness? A partial day of work is recorded as a day of job transfer or restriction for recordkeeping purposes, except for the day on which the injury occurred or the illness began.

(7) If the injured or ill worker produces fewer goods or services than he or she would have produced before the injury or illness, but otherwise performs all of the routine functions of his or her work, is the case considered a restricted work case? No.

The case is considered restricted work only if the worker does not perform all of the routine functions of his or her job or does not work the full shift that he or she would otherwise have worked.

(8) How do I handle vague restrictions from a physician or other licensed health care professional, such as that the employee engage only in "light duty" or "take it easy for a week"? If you are not clear about the physician or other licensed health care professional's recommendation, you may ask that person whether the employee can do all of his or her routine job functions and work all of his or her normally assigned work shift. 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 as such. If the answer to 1 or both of these questions is "no," the case involves restricted work and must be recorded as a restricted work case. If you are unable to obtain this additional information from the physician or other licensed health care professional who recommended the restriction, then record the injury or illness as a case involving restricted work.

(9) What do I do if a physician or other licensed health care professional recommends a job restriction meeting MIOSHA's definition, but the employee does all of his or her routine job functions anyway? You must record the injury or illness on the MIOSHA 300 log as a restricted work case. If a physician or other licensed health care professional recommends a job restriction, you should ensure that the employee complies with that restriction. If you receive recommendations from 2 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.

(10) How do I decide if an injury or illness involved a transfer to another job? If you assign an injured or ill employee to a job other than his or her regular job for part of the day, the case involves transfer to another job. Note: This does not include the day on which the injury or illness occurred.

(11) Are transfers to another job recorded in the same way as restricted work cases? Yes. Both job transfer and restricted work cases are recorded in the same box on the MIOSHA 300 log. For example, if you assign, or a physician or other licensed health care professional recommends that you assign, an injured or ill worker to his or her 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.

(12) How do I count days of job transfer or restriction? You count days of job transfer or restriction in the same way you count days away from work, using R 408.22112b (2) to (9). The only difference is that, if you permanently assign 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 may stop the day count when the modification or change is made permanent. You must count at least 1 day of restricted work or job transfer for such cases.

History: 2015 MR 10, Eff. May 27, 2015.

R 408.22112d Recording injury or illness that involves medical treatment beyond first-aid.

Rule 1112d. (1) How do I record an injury or illness that involves medical treatment beyond first-aid? If a work-related injury or illness results in medical treatment beyond first-aid, you must record it on the MIOSHA 300 log. If the injury or illness did not involve death, 1 or more days away from work, 1 or more days of restricted work, or 1 or more days of job transfer, you enter a check mark in the box for cases where the employee received medical treatment but remained at work and was not transferred or restricted.

(2) What is the definition of medical treatment? "Medical treatment" means the management and care of a patient to combat disease or disorder. For the purposes of these rules, medical treatment does not include any of the following:

(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, such as eye drops to dilate pupils.

(c) "First-aid" as defined in subrule (3) of this rule.

(3) What is "first-aid"? For the purposes of these rules, "first-aid" means any of 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. Administering other immunizations, such as hepatitis B vaccine or rabies vaccine, is 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, or the like; or using butterfly bandages or Steri-strips™. Using other wound closing devices, such as sutures, staples, or the like, is considered medical treatment.

(e) Using hot or cold therapy.

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

(g) Using temporary immobilization devices while transporting an accident victim, such as splints, slings, neck collars, back boards, and the like.

(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 is considered medical treatment for recordkeeping purposes.

(n) Drinking fluids for relief of heat stress.

(4) Are any other procedures included in first-aid? No. This is a complete list of all treatments considered first-aid for the purposes of these rules.

(5) Does the professional status of the person providing the treatment have any effect on what is considered first-aid or medical treatment? No. MIOSHA considers the treatments listed in subrule (3) of this rule to be first-aid regardless of the professional status of the person providing the treatment. Even when these treatments are provided by a physician or other licensed health care professional, they are considered first-aid. Similarly, MIOSHA considers treatment beyond first-aid to be medical treatment even when it is provided by someone other than a physician or other licensed health care professional

(6) What if a physician or other licensed health care professional recommends medical treatment but the employee does not follow the recommendation? If a physician or other licensed health care professional recommends medical treatment, you should encourage the injured or ill employee to follow that recommendation. However, you must record the case even if the injured or ill employee does not follow the physician or other licensed health care professional's recommendation.

History: 2015 MR 10, Eff. May 27, 2015.

R 408.22112e Record of work-related injury or illness case involving loss of consciousness recordable.

Rule 1112e. Is every work-related injury or illness case involving a loss of consciousness recordable? Yes. You must record a work-related injury or illness if the worker becomes unconscious, regardless of the length of time the employee remains unconscious.

History: 2015 MR 10, Eff. May 27, 2015.

R 408.22112f "Significant" diagnosed injury or illness that is recordable,

Rule 1112f. What is a "significant" diagnosed injury or illness that is recordable under the general criteria, 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? Work-related cases involving cancer, a chronic irreversible disease, a fractured or cracked bone, or a punctured eardrum must always be recorded under the general criteria at the time of diagnosis by a physician or other licensed health care professional.

Note: Most significant injuries and illnesses will result in 1 of the criteria listed in R 408.22112, such as 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 certain significant progressive diseases, such as byssinosis, silicosis, and certain 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.

History: 2015 MR 10, Eff. May 27, 2015.

R 408.22113 Recording criteria for needlestick and sharps injuries.

Rule 1113. (1) You 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 Occupational Health Standard Part 554 "Bloodborne Infectious Diseases," as referenced in R 408.22102a. You must enter the case on the MIOSHA 300 log as an injury. To protect the employee's privacy, you may not enter the employee's name on the MIOSHA 300 log (see the requirements for privacy cases in R 408.22129(7) to (10).

(2) What does "other potentially infectious material" mean? The term "other potentially infectious material" is defined in R 408.22107(2). These materials include the following:

(a) Human bodily fluids, tissues, and organs.

(b) Other materials infected with the HIV or hepatitis B (HBV) virus, such as laboratory cultures or tissues from experimental animals.

(3) Does this mean that I must record all cuts, lacerations, punctures, and scratches? No, you need to 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 need to record the case only if it meets 1 or more of the recording criteria in R 408.22112 to R 408.22112f.

(4) If I record an injury and the employee is later diagnosed with an infectious bloodborne disease, do I need to update the MIOSHA 300 log? Yes, you must update the classification of the case on the MIOSHA 300 log if the case results in death, days away from work, restricted work, or job transfer. You must also update the description to identify the infectious disease and change the classification of the case from an injury to an illness.

(5) What if one of my employees is splashed or exposed to blood or other potentially infectious material without being cut or scratched? Do I need to record this incident? You need to record such an incident on the MIOSHA 300 log as an illness if any of the following provisions apply:

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

(b) It meets 1 or more of the recording criteria in R 408.22112 to R 408.22112f.

History: 1979 AC; 2001 AACS; 2015 MR 10, Eff. May 27, 2015.

R 408.22114 Recording criteria for cases involving medical removal under MIOSHA standards.

Rule 1114. (1) Basic requirement. If an employee is medically removed under the medical surveillance requirements of an MIOSHA standard, you must record the case on the MIOSHA 300 log.

(2) Implementation.

(a) How do I classify medical removal cases on the MIOSHA 300 log? You must enter each medical removal case on the MIOSHA 300 log as either a case involving days away from work or a case involving restricted work activity, depending on how you decide to comply with the medical removal requirement. If the medical removal is the result of a chemical exposure, you must enter the case on the MIOSHA 300 log by checking the "poisoning" column.

(b) Do all of MIOSHA's standards have medical removal provisions? No, some MIOSHA standards, such as the standards covering bloodborne pathogens and noise, do not have medical removal provisions. Many MIOSHA 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.

(c) Do I have to record a case where I voluntarily removed the employee from exposure before the medical removal criteria in a MIOSHA standard are met? No, if the case involves voluntary medical removal before the medical removal levels required by a MIOSHA standard, you do not need to record the case on the MIOSHA 300 log.

History: 1979 AC; 1983 AACS; 2001 AACS.

R 408.22115 Recording criteria for cases involving occupational hearing loss, after January 1, 2003.

Rule 1115. (1) If an employee's hearing test (audiogram) reveals that the employee has experienced a work-related standard threshold shift (STS) in hearing in 1 or both ears, and the employee's total hearing level is 25 decibels (dB) or more above audiometric zero (averaged at 2000, 3000, and 4000 Hz) in the same ear or ears as the STS, you must record the case on the MIOSHA 300 Log, column 5.

(2) What is a standard threshold shift? A standard threshold shift, or STS, is defined in Occupational Health Standard Part 380 “Occupational Noise Exposure in General Industry” as referenced in R 408.22102a, as a change in hearing threshold, relative to the baseline audiogram for that employee, of an average of 10 decibels (dB) or more at 2000, 3000, and 4000 hertz (Hz) in 1 or both ears.

(3) How do I evaluate the current audiogram to determine whether an employee has an STS and a 25 dB hearing level?

(a) If the employee has never previously experienced a recordable hearing loss, then you must compare the employee's current audiogram with that employee's baseline audiogram. If the employee has previously experienced a recordable hearing loss, then you must compare the employee's current audiogram with the employee's revised baseline audiogram, which is the audiogram reflecting the employee's previous recordable hearing loss case.

(b) 25 dB loss. 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 if the employee's total hearing level is 25 dB or more.

(4) May I adjust the current audiogram to reflect the effects of aging on hearing? Yes. When you are determining whether an STS has occurred, you may age adjust the employee's current audiogram results by using Table 4, as appropriate, from Occupational Health Standard Part 380 "Occupational Noise Exposure in General Industry" as referenced in R 408.22102a. You may not use an age adjustment when determining whether the employee's total hearing level is 25 dB or more above audiometric zero.

(5) Do I have to record the hearing loss if I am going to retest the employee's hearing? No. If you retest the employee's hearing within 30 days of the first test, and the retest does not confirm the recordable STS, you are not required to record the hearing loss case on the MIOSHA 300 log. If the retest confirms the recordable STS, you must record the hearing loss illness within 7 calendar days of the retest. If subsequent audiometric testing performed under the testing requirements of Occupational Health Standard Part 380 "Occupational Noise Exposure in General Industry" as referenced in R 408.22102a, indicates that an STS is not persistent, then you may erase or line-out the recorded entry.

(6) Are there any special rules for determining whether a hearing loss case is work-related? No. You must use the requirements in R 408.22110 to R 408.22110b to determine if the hearing loss is work-related. If an event or exposure in the work environment either caused or contributed to the hearing loss, or significantly aggravated a pre-existing hearing loss, you must consider the case to be work-related.

(7) 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, you are not required to consider the case work-related or to record the case on the MIOSHA 300 log.

(8) How do I complete the MIOSHA 300 log for a hearing loss case? When you enter a recordable hearing loss case on the MIOSHA 300 log, you must check the 300 log column for hearing loss.

History: 1979 AC; 2001 AACS; 2002 AACS; 2015 MR 10, Eff. May 27, 2015.

R 408.22116 Rescinded.

History: 1979 AC; 1983 AACS; 1998-2000 AACS; 2001 AACS.

R 408.22117 Recording criteria for work-related tuberculosis cases.

Rule 1117. (1) If any of your employees has been occupationally exposed to anyone with a known case of active tuberculosis (TB), and that employee subsequently develops a tuberculosis infection, as evidenced by a positive skin test or diagnosis by a physician or other licensed health care professional, you must record the case on the MIOSHA 300 log by checking the "respiratory condition" column.

(2) Do I have to record, on the log, a positive TB skin test result obtained at a pre-employment physical? No. You do not have to record it because the employee was not occupationally exposed to a known case of active tuberculosis in your workplace.

(3) May I line-out or erase a recorded TB case if I obtain evidence that the case was not caused by occupational exposure? Yes. You may line-out or erase the case from the log under any of the following circumstances:

(a) The worker is living in a household with a person who has been diagnosed with active TB.

(b) The department of community health has identified the worker as a contact of an individual with a case of active TB unrelated to the workplace.

(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.

History: 1979 AC; 1983 AACS; 1998-2000 AACS; 2001 AACS; 2015 MR 10, Eff. May 27, 2015.

R 408.22118 Falsification, or failure to keep records or reports.

Rule 1118.(1) Whoever knowingly makes a false statement, representation, or certification in an application, record, report, plan or other document filed or required to be maintained pursuant to the act, or fails to maintain or transmit records or reports as required under the act, shall be subject to the provisions of section 35(7) of the act.

(2) Failure to maintain records or file reports required by this part, or in the details required by forms and instructions issued under this part, is a violation of the act and may result in the issuance of citations and assessment of penalties as provided for in sections 33, 35, 41, and 42 of the act.

History: 1979 AC.

R 408.22119 Record keeping on federal OSHA forms.

Rule 1119. Records maintained by an employer pursuant to this part on the federal record keeping forms OSHA 301, OSHA 300, and OSHA 300A shall be regarded as in compliance with the state requirements as provided in this part.

History: 1979 AC; 2001 AACS; 2015 MR 10, Eff. May 27, 2015.

R 408.22120 Rescinded.

History: 1979 AC; 1998-2000 AACS; 2001 AACS.

R 408.22121 Rescinded.

History: 1979 AC; 2001 AACS.

R 408.22122 Rescinded.

History: 1979 AC; 1983 AACS; 1986 AACS; 1998-2000 AACS; 2001 AACS.

R 408.22129 Forms.

Rule 1129 (1) You must use MIOSHA 300, 300A, and 301 forms, or equivalent forms, and shall complete the forms in the detail required by the forms and the instructions contained in the forms for the purpose of recording recordable injuries and illnesses. The MIOSHA 300 form is called the log of work-related injuries and illnesses, the 300A is the summary of work-related injuries and illnesses, and the MIOSHA 301 form is called the injury and illness incident report.

(2) What do I need to do to complete the MIOSHA 300 log? You must enter information about your business at the top of the MIOSHA 300 log, enter a 1 or 2-line description for each recordable injury or illness, and summarize this information on the MIOSHA 300A at the end of the year.

(3) What do I need to do to complete the MIOSHA 301 incident report? You must complete a MIOSHA 301 incident report form, or an equivalent form, for each recordable injury or illness entered on the MIOSHA 300 log.

(4) How quickly must each injury or illness be recorded? You must enter each recordable injury or illness on the MIOSHA 300 log and 301 incident report within 7 calendar days of receiving information that a recordable injury or illness has occurred.

(5) What is an equivalent form? An equivalent form is a form that has the same information, is as readable and understandable, and is completed using the same instructions as the MIOSHA form it replaces. Many employers use an insurance form instead of the MIOSHA 301 incident report, or supplement an insurance form by adding any additional information required by MIOSHA.

(6) May I keep my records on a computer? Yes. If the computer can produce equivalent forms when they are needed, as described under R 408.22135 and R 408.22140, you may keep your records using the computer system.

(7) Are there situations where I do not put the employee's name on the forms for privacy reasons? Yes. If you have a "privacy concern case," you may not enter the employee's name on the MIOSHA 300 log. Instead, enter "privacy case" in the space normally used for the employee's name. This will protect the privacy of the injured or ill employee when another employee, a former employee, or an authorized employee representative is provided access to the MIOSHA 300 log under R 408.22135(3). You must keep a separate, confidential list of the case numbers and employee names for your privacy concern cases so you can update the cases and provide the information to the government if asked to do so.

(8) How do I determine if an injury or illness is a privacy concern case? You must consider all of the following injuries or illnesses to be privacy concern cases:

(a) An injury or illness to an intimate body part or the reproductive system.

(b) An injury or illness resulting from a sexual assault.

(c) Mental illnesses.

(d) HIV infection, hepatitis, or tuberculosis.

(e) Needlestick injuries and cuts from sharp objects that are contaminated with another person's blood or other potentially infectious material. See R 408.22113(2) and R 408.22107(2) for definitions.

(f) Other illnesses, if the employee independently and voluntarily requests that his or her name not be entered on the log. After January 1, 2003, musculoskeletal disorders (MSDs) are not considered privacy concern cases.

(9) May I classify any other types of injuries and illnesses as privacy concern cases? No. The list in subrule (8) of this rule is a complete list of all injuries and illnesses considered privacy concern cases for the purposes of these rules.

(10) If I have removed the employee's name, but still believe that the employee may be identified from the information on the forms, is there anything else that I can do to further protect the employee's privacy? Yes. If you have 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 may use discretion in describing the injury or illness on both the MIOSHA 300 and 301 forms. You must enter enough information to identify the cause of the incident and the general severity of the injury or illness, but you 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."

(11) What must I do to protect employee privacy if I wish to provide access to the MIOSHA forms 300 and 301 to persons other than government representatives, employees, former employees, or authorized representatives? If you decide to voluntarily disclose the forms to persons other than government representatives, employees, former employees, or authorized representatives, as required by R 408.22135 and R 408.22140, you must remove or hide the employees' names and other personally identifying information, except for the following cases. You may disclose the forms with personally identifying information only as follows:

(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.

(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 the United States department of health and human services standards for privacy of individually identifiable health information, 45 C.F.R. §164.512 “Uses and disclosures for which an authorization or opportunity to agree or object is not required,” amended 2013, as adopted in R 408.22102a.

History: 2001 AACS; 2015 MR 10, Eff. May 27, 2015.

R 408.22130 Multiple business establishments.

Rule 1130. (1) You must keep a separate MIOSHA 300 log for each establishment that is expected to be in operation for 1 year or longer.

(2) Do I need to keep MIOSHA injury and illness records for short-term establishments, that is, establishments that will exist for less than a year? Yes. However, you do not have to keep a separate MIOSHA 300 log for each such establishment. You

may keep 1 MIOSHA 300 log that covers all of your short-term establishments. You may also include the short-term establishments' recordable injuries and illnesses on a MIOSHA 300 log that covers short-term establishments for individual company divisions or geographic regions.

(3) May I keep the records for all of my establishments at my headquarters location or at some other central location? Yes. You may keep the records for an establishment at your headquarters or other central location if you comply with both of the following provisions:

(a) Transmit information about the injuries and illnesses from the establishment to the central location within 7 calendar days of receiving information that a recordable injury or illness has occurred.

(b) Produce and send the records from the central location to the establishment within the time frames required by R 408.22135 and R 408.22140 when you are required to provide records to a government representative, employees, former employees, or employee representatives.

(4) Some of my employees work at several different locations or do not work at any of my establishments at all. How do I record cases for these employees? You must link each of your employees with 1 of your establishments, for recordkeeping purposes. You must record the injury and illness on the MIOSHA 300 log of the injured or ill employee's establishment, or on a MIOSHA 300 log that covers that employee's short-term establishment.

(5) How do I record an injury or illness when an employee of 1 of my establishments is injured or becomes ill while visiting or working at another of my establishments, or while working away from any of my establishments? If the injury or illness occurs at 1 of your establishments, you must record the injury or illness on the MIOSHA 300 log of the establishment at which the injury or illness occurred. If the employee is injured or becomes ill and is not at 1 of your establishments, you must record the case on the MIOSHA 300 log at the establishment at which the employee normally works.

History: 2001 AACS; 2015 MR 10, Eff. May 27, 2015.

R 408.22131 Covered employees.

Rule 1131. (1) Basic requirement. You must record on the MIOSHA 300 log the recordable injuries and illnesses of all employees on your payroll, whether they are labor, executive, hourly, salary, part-time, seasonal, or migrant workers. You also must record the recordable injuries and illnesses that occur to employees who are not on your payroll if you supervise these employees on a day-to-day basis. If your business is organized as a sole proprietorship or partnership, the owner or partners are not considered employees for recordkeeping purposes.

(2) Implementation.

(a) If a self-employed person is injured or becomes ill while doing work at my business, do I need to record the injury or illness? No, self-employed individuals are not covered by these rules.

(b) If I obtain employees from a temporary help service, employee leasing service, or personnel supply service, do I have to record an injury or illness

occurring to one of those employees? You must record these injuries and illnesses if you supervise these employees on a day-to-day basis.

(c) If an employee in my establishment is a contractor's employee, must I record an injury or illness occurring to that employee? 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. If you supervise the contractor employee's work on a day-to-day basis, you must record the injury or illness.

(d) Must the personnel supply service, temporary help service, employee leasing service, or contractor also record the injuries or illnesses occurring to temporary, leased, or contract employees that I supervise on a day-to-day basis? No, you and the temporary help service, employee leasing service, personnel supply service, or contractor should coordinate your efforts to make sure that each injury and illness is recorded only once: either on your MIOSHA 300 log if you provide day-to-day supervision or on the other employer's MIOSHA 300 log if that company provides day-to-day supervision.

History: 1979 AC; 1998-2000 AACS; 2001 AACS.

R 408.22132 Annual summary.

Rule 1132. (1) Basic requirement. At the end of each calendar year, you must do all of the following:

(a) Review the MIOSHA 300 log to verify that the entries are complete and accurate, and correct any deficiencies identified.

(b) Create an annual summary of injuries and illnesses recorded on the MIOSHA 300 log.

(c) Certify the summary.

(d) Post the annual summary.

(2) Implementation.

(a) How extensively do I have to review the MIOSHA 300 log entries at the end of the year? You must review the entries as extensively as necessary to make sure that they are complete and correct.

(b) How do I complete the annual summary? You must do all of the following:

(i) Total the columns on the MIOSHA 300 log. If you had no recordable cases, enter zeros for each column total.

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

(iii) If you are using an equivalent form other than the MIOSHA 300-a summary form, as permitted under R 408.22129(5), the summary you use must also include the employee access and employer penalty statements found on the MIOSHA 300 A summary form.

(c) How do I certify the annual summary? A company executive must certify that he or she has examined the MIOSHA 300 log and that he or she reasonably

believes, based on his or her knowledge of the process by which the information was recorded, that the annual summary is correct and complete.

(d) Who is considered a company executive? The company executive who certifies the log must be any of the following persons:

(i) An owner of the company, only if the company is a sole proprietorship or partnership.

(ii) An officer of the corporation.

(iii) The highest ranking company official working at the establishment.

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

(e) How do I post the annual summary? You 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 must ensure that the posted annual summary is not altered, defaced, or covered by other material.

(f) When do I have to post the annual summary? You must post the summary not later than February 1 of the year following the year covered by the records and keep the posting in place until April 30.

History: 1979 AC; 2001 AACS.

R 408.22133 Retention and updating.

Rule 1133. (1) Basic requirement. You must save the MIOSHA 300 log, the privacy case list, if one exists, the annual summary 301-A, and the MIOSHA 301 incident report forms for 5 years following the end of the calendar year that these records cover.

(2) Implementation.

(a) Do I have to update the MIOSHA 300 log during the 5-year storage period? Yes, during the storage period, you must update your stored MIOSHA 300 logs 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 must remove or line out the original entry and enter the new information.

(b) Do I have to update the annual summary? No, you are not required to update the annual summary, but you may do so if you wish.

(c) Do I have to update the MIOSHA 301 incident reports? No, you are not required to update the MIOSHA 301 incident reports, but you may do so if you wish.

History: 1979 AC; 2001 AACS.

R 408.22134 Change in business ownership.

Rule 1134. If your business changes ownership, you are responsible for recording and reporting work-related injuries and illnesses only for that period of the year during which you owned the establishment. You must transfer your records under this part to the new owner. The new owner must save all records of the

establishment kept by the prior owner, as required by R 408.22133, but need not update or correct the records of the prior owner.

History: 1979 AC; 2001 AACS.

R 408.22135 Employee involvement.

Rule 1135. (1) Basic requirement. Your employees and their representatives must be involved in the recordkeeping system as follows:

(a) You must inform each employee of how he or she is to report an injury or illness to you.

(b) You must provide limited access to your injury and illness records for your employees and their representatives.

(2) Implementation. What must I do to make sure that employees report work-related injuries and illnesses to me?

(a) You must set up a way for employees to report work-related injuries and illnesses promptly.

(b) You must tell each employee how to report work-related injuries and illnesses to you.

(3) Do I have to give my employees and their representatives access to the MIOSHA injury and illness records? Yes, your employees, former employees, their personal representatives, and their authorized employee representatives have the right to access the MIOSHA injury and illness records, with some limitations, as follows:

(a) Who is an authorized employee representative? An authorized employee representative is an authorized collective bargaining agent of employees.

(b) Who is a "personal representative" of an employee or former employee? A personal representative is either of the following:

(i) Any person who the employee or former employee designates in writing.

(ii) The legal representative of a deceased or legally incapacitated employee or former employee.

(c) If an employee or representative asks for access to the MIOSHA 300 log, when do I have to provide it? When an employee, former employee, personal representative, or authorized employee representative asks for copies of your current or stored MIOSHA 300 log or logs for an establishment the employee or former employee has worked in, you must give the requester a copy of the relevant MIOSHA 300 log or logs by the end of the next business day.

(d) May I remove the names of the employees or any other information from the MIOSHA 300 log before I give copies to an employee, former employee, or employee representative? No, you must leave the names on the 300 log.

However, to protect the privacy of injured and ill employees, you may not record the employee's name on the MIOSHA 300 log for certain "privacy concern cases," as specified in R 408.22129(7) to (10).

(e) If an employee or representative asks for access to the MIOSHA 301 incident report, when do I have to provide it?

(i) When an employee, former employee, or personal representative asks for a copy of the MIOSHA 301 incident report describing an injury or illness to that employee or

former employee, you must give the requester a copy of the MIOSHA 301 incident report containing that information by the end of the next business day.

(ii) When an authorized employee representative asks for copies of the MIOSHA 301 incident reports for an establishment where the agent represents employees under a collective bargaining agreement, you must give copies of those forms to the authorized employee representative within 7 calendar days.

You are only required to give the authorized employee representative information from the MIOSHA 301 incident report section titled "tell us about the case." You must remove all other information from the copy of the MIOSHA 301 incident report or the equivalent substitute form that you give to the authorized employee representative.

(f) May I charge for the copies? No, you may not charge for these copies the first time they are provided. However, if one of the designated persons asks for additional copies, you may assess a reasonable charge for retrieving and copying the records.

History: 1979 AC; 2001 AACS; 2002 AACS.

R 408.22136 Prohibition against discrimination.

Rule 1136. Section 65 of the act prohibits you from discriminating against an employee for reporting a work-related fatality, injury, or illness.

Section 65 of the act also protects the employee who files a safety and health complaint, asks for access to the records under this part, or otherwise exercises any rights afforded by the act.

History: 1979 AC; 1998-2000 AACS; 2001 AACS.

R 408.22137 Revocation.

Rule 1137. The director may revoke an exception granted under this part for failure to comply with the conditions of the exception. An opportunity for informal hearing or conference shall be afforded to the employers and affected employees, or their representatives. Except in cases of wilful noncompliance or where employee safety or health requires otherwise, before the commencement of an informal proceeding, the employer shall be:

(a) Notified in writing of the facts or conduct which may warrant the action.

(b) Given an opportunity to demonstrate or achieve compliance.

History: 1979 AC.

R 408.22138 Private sector variances from recordkeeping rule.

Rule 1138. (1) If you are a private employer and wish to keep records in a different manner from the manner prescribed by these rules, you 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 can obtain a variance only if you can show that your alternative recordkeeping system provides all of the following:

(a) Collects the same information as this part requires.

(b) Meets the purposes of the act.

(c) Does not interfere with the administration of the occupational safety and health act of 1970, 29 U.S.C. §651 et seq.

(2) What do I need to include in my variance petition? You must include all of the following items in your petition:

(a) Your name and address.

(b) A list of the state or states where the variance would be used.

(c) The address or addresses of the business establishment or establishments involved.

(d) A description of why you are seeking a variance.

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

(f) A description of how your proposed procedures will collect the same information as would be collected by these rules and achieve the purpose of the occupational safety and health act of 1970, 29 U.S.C. §651 et seq.

(g) A statement that you have informed your 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 "Posting of notice; availability of the Act, regulations and applicable standards" rule (a), as adopted in R 408.22102a.

(3) How will the assistant secretary handle my variance petition? 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 if your proposed recordkeeping procedures will meet the purposes of the occupational safety and health act of 1970, 29 U.S.C. §651 et seq., will not otherwise interfere with the act, and will provide the same information as the 29 C.F.R. §1904 "Recording and Reporting of Occupational Injuries and Illnesses" as amended 2014, as adopted in R 408.22102a, regulations provide. 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) If I apply for a variance, may I use my proposed recordkeeping procedures while the assistant secretary is processing the variance petition? No. Alternative recordkeeping practices are only allowed after the variance is approved. You must comply with the 29

C.F.R §1904 "Recording and Reporting of Occupational Injuries and Illnesses," as amended 2014, as adopted in R 408.22102a, regulations while the assistant secretary is reviewing your variance petition.

(5) If I have already been cited by MIOSHA for not following these rules, will my variance petition have any effect on the citation and penalty? No. In addition, 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 MIOSHA review commission.

(6) If I receive a variance, may the assistant secretary revoke the variance at a later date? Yes, the assistant secretary may revoke your variance if he or she has good cause. The procedures revoking a variance will follow the same process as OSHA uses for reviewing variance petitions, as provided in subrule (3) of this rule. Except in cases of willfulness or where necessary for public safety, the assistant secretary will do both of the following:

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

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

History: 1979 AC; 2001 AACS; 2015 MR 10, Eff. May 27, 2015.

R 408.22139 Reporting fatalities, hospitalizations, amputations, and losses of an eye as a result of work-related incidents to MIOSHA.

Rule 1139. (1) Fatalities. Within 8 hours after the death of any employee from a work-related incident, you must report the fatality by telephone to the MIOSHA toll-free central telephone number: 1-800-858-0397.

(2) Hospitalizations, amputations, and losses of an eye. Within 24 hours after the inpatient hospitalization of 1 or more employees or an employee's amputation or an employee's loss of an eye, as a result of a work-related incident, you must report the inpatient hospitalization, amputation, or loss of an eye to MIOSHA.

(3) You must report the inpatient hospitalization, amputation, or loss of an eye using 1 of the following methods:

(a) By telephone or in person to the MIOSHA office that is nearest to the site of the incident.

(b) By telephone to the MIOSHA toll-free central telephone number: 1-844-464-6742.

(c) By electronic submission using the reporting application located on MIOSHA's web site at www.michigan.gov/recordkeeping..

(4) If the MIOSHA office is closed, may I report the inpatient hospitalization, amputation, or loss of an eye by leaving a message on MIOSHA's answering machine, faxing the bureau office, or sending an e-mail? No. If the MIOSHA office is closed, you must report the inpatient hospitalization, amputation, or loss of an eye using either the toll-free central telephone number: 1-844-464-6742or the reporting application located on MIOSHA's web site at www.michigan.gov/recordkeeping..

(5) What information do I need to give to MIOSHA about the fatality, inpatient hospitalization, amputation, or loss of an eye? You must give MIOSHA all of the

following information for each fatality, inpatient hospitalization, amputation, or loss of an eye:

(a) The establishment's name.

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

(c) The time of the work-related incident.

(d) The type of reportable event, 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 his or her phone number.

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

(6) Do I have to report the fatality, inpatient hospitalization, amputation, or loss of an eye if it resulted from a motor vehicle accident on a public street or highway? If the motor vehicle accident occurred in a construction work zone, you must report the fatality, inpatient hospitalization, amputation, or loss of an eye. If the motor vehicle accident occurred on a public street or highway, but not in a construction work zone, you do not have to report the fatality, inpatient hospitalization, amputation, or loss of an eye to MIOSHA. However, the fatality, inpatient hospitalization, amputation, or loss of an eye must be recorded on your MIOSHA injury and illness records, if you are required to keep such records.

(7) Do I have to report the fatality, inpatient hospitalization, amputation, or loss of an eye if it occurred on a commercial or public transportation system? No. You do not have to report the fatality, inpatient hospitalization, amputation, or loss of an eye to MIOSHA if it occurred on a commercial or public transportation system, such as an airplane, a train, subway, or bus. However, the fatality, inpatient hospitalization, amputation, or loss of an eye must be recorded on your MIOSHA injury and illness records, if you are required to keep these records.

(8) Do I have to report a work-related fatality or inpatient hospitalization caused by a heart attack? Yes. The MIOSHA director will decide whether to investigate the incident, depending on the circumstances of the heart attack.

(9) What if the fatality, inpatient hospitalization, amputation, or loss of an eye does not occur during or right after the work-related incident? You must report a fatality to MIOSHA only if the fatality occurs within 30 days of the work-related incident. For an inpatient hospitalization, amputation, or loss of an eye, you must report the event to MIOSHA only if it occurs within 24 hours of the work-related incident. However, the fatality, inpatient hospitalization, amputation, or loss of an eye must be recorded on your MIOSHA injury and illness records, if you are required to keep these records.

(10) What if I don't learn about a reportable fatality, inpatient hospitalization, amputation, or loss of an eye right away? If you do not learn about a reportable fatality, inpatient hospitalization, amputation, or loss of an eye at the time it occurred, you must make the report to MIOSHA within the following time period after the fatality, inpatient hospitalization, amputation, or loss of an eye is reported to you or to any of your agents: 8 hours for a fatality, and 24 hours for an inpatient hospitalization, an amputation, or a loss of an eye.

(11) What if I don’t learn right away that the reportable fatality, inpatient hospitalization, amputation, or loss of an eye was the result of a work-related incident? If you do 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 must make the report to MIOSHA within the following time period 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: 8 hours for a fatality, and 24 hours for an inpatient hospitalization, an amputation, or a loss of an eye.

(12) How does MIOSHA define ‘‘inpatient hospitalization’’? MIOSHA defines inpatient hospitalization as a formal admission to the inpatient service of a hospital or clinic for care or treatment.

(13) Do I have to report an inpatient hospitalization that involves only observation or diagnostic testing? No. You do not have to report an inpatient hospitalization that involves only observation or diagnostic testing. You must report to MIOSHA each inpatient hospitalization that involves care or treatment.

(14) How does MIOSHA define ‘‘amputation’’? An amputation is the traumatic loss of a limb or other external body part. Amputation includes all of the following:

(a) A part, such as a limb or appendage, that has been severed, cut off, amputated, either completely or partially.

(b) Fingertip amputations with or without bone loss.

(c) Medical amputations resulting from irreparable damage.

(d) Amputations of body parts that have since been reattached.

Amputations do not include avulsions, enucleations, deglovings, scalpings, severed ears, or broken or chipped teeth.

History: 2001 AACS; 2015 MR 10, Eff. May 27, 2015.

Editor's Note: An obvious error in R 408.22139 was corrected at the request of the promulgating agency, pursuant to Section 56 of 1969 PA 306, as amended by 2000 PA 262, MCL 24.256. The rule containing the error was published in *Michigan Register*, 2015 MR 10. The memorandum requesting the correction was published in *Michigan Register*, 2015 MR 11.

R 408.22140 Providing records to government representatives.

Rule 1140. (1) Basic requirement. When an authorized government representative asks for the records you keep under these rules, you must provide copies of the records within 4 business hours.

(2) Implementation.

(a) What government representatives have the right to get copies of my records as required by these rules? The government representatives authorized to receive the records are any of the following:

(i) A representative of the secretary of labor conducting an inspection or investigation under the act.

(ii) 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 occupational safety and health act of 1970, 29 U.S.C. 669.

(iii) A representative of MIOSHA responsible for administering a state plan approved under section 18 of the occupational safety and health act of 1970, 29 U.S.C. 667.

(b) Do I have to produce the records within 4 hours if my records are kept at a location in a different time zone? MIOSHA will consider your response to be timely if you give the records to the government representative within 4 business hours of the request. If you maintain the records at a location in a different time zone, you may use the business hours of the establishment at which the records are located when calculating the deadline.

History: 2001 AACS.

R 408.22141 Annual OSHA injury and illness survey of 11 or more employees.

Rule 1141. (1) Basic requirement. 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 all of 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.

(c) The requested information from the records that you keep under these rules.

(2) Implementation.

(a) Does every employer have to send data to OSHA? No, each year, OSHA sends injury and illness survey forms to employers in certain industries. In any year, some employers will receive an OSHA survey form and others will not. You do not have to send injury and illness data to OSHA unless you receive a survey form.

(b) How quickly do I need to respond to an OSHA survey form? You must send the survey reports to OSHA, or OSHA's designee, by mail or other means described in the survey form, within 30 calendar days or by the date stated in the survey form, whichever is later.

(c) Do I have to respond to an OSHA survey form if I am normally exempt from keeping MIOSHA injury and illness records? Yes, even if you are exempt from keeping injury and illness records under R 408.22103, 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 as required by R 408.22110 to R 408.22119 and make a survey report for the year covered by the survey.

(d) Do I have to answer the OSHA survey form if I am located in a state-plan state? Yes, Michigan is a state-plan state and all employers who receive survey forms must respond to the survey.

(e) Does this rule affect MIOSHA's authority to inspect my workplace? No, nothing in this rule affects MIOSHA's statutory authority to investigate conditions related to occupational safety and health.

History: 1979 AC; 1998-2000 AACS; 2001 AACS; 2002 AACS.

R 408.22142 Requests from the bureau of labor statistics for data.

Rule 1142. (1) Basic requirement. If you receive a survey of occupational injuries and illnesses form from the bureau of labor statistics (BLS), or a BLS designee, you must promptly complete the form and return it following the instructions contained on the survey form.

(2) Implementation.

(a) Does every employer have to send data to the BLS? No, each year, the BLS sends injury and illness survey forms to randomly selected employers and uses the information to create the nation's occupational injury and illness statistics. In any year, some employers will receive a BLS survey form and others will not. You do not have to send injury and illness data to the BLS unless you receive a survey form.

(b) If I get a survey form from the BLS, what do I have to do? If you receive a survey of occupational injuries and illnesses form from the bureau of labor statistics (BLS), or a BLS designee, you must promptly complete the form and return it, following the instructions contained on the survey form.

(c) Do I have to respond to a BLS survey form if I am normally exempt from keeping MIOSHA injury and illness records? Yes, even if you are exempt from keeping injury and illness records under R 408.22103, the BLS may inform you in writing that it will be collecting injury and illness information from you in the coming year. If you receive such a letter, you must keep the injury and illness records required by R 408.22110 to R 408.22119 and make a survey report for the year covered by the survey.

(d) Do I have to answer the BLS survey form if I am located in a state-plan state? Yes, all employers who receive a survey form must respond to the survey, even those in Michigan, a state-plan state.

History: 1979 AC; 2001 AACS.

R 408.22143 Summary and posting of the 2001 data.

Rule 1143. (1) Basic requirement. If you were required to keep MIOSHA 200 logs in 2001, you must post a 2001 annual summary from the MIOSHA 200 log of occupational injuries and illnesses for each establishment.

(2) Implementation.

(a) What do I have to include in the summary?

(i) You must include a copy of the totals from the 2001 MIOSHA 200 log and all of the following information from that form:

(A) The calendar year covered.

(B) Your company name.

(C) The name and address of the establishment.

(D) The certification signature, title and date.

(ii) If no injuries or illnesses occurred at your establishment in 2001, you must enter zeros on the totals line and post the 2001 summary.

(b) When am I required to summarize and post the 2001 information?

(i) You must complete the summary by February 1, 2002.

(ii) You must post a copy of the summary in each establishment in a conspicuous place or places where notices to employees are customarily

posted. You must ensure that the summary is not altered, defaced, or covered by other material.

(c) You must post the 2001 summary from February 1, 2002, to March 1, 2002.

History: 2001 AACS.

R 408.22144 Retention and updating of old forms.

Rule 1144. You must save your copies of the MIOSHA 200 and 101 forms for 5 years following the year to which they relate and continue to provide access to the data as though these forms were the MIOSHA 300 and 301 forms.

You are not required to update your old 200 and 101 forms.

History: 2001 AACS.

R 408.22151 Public employer petition for alternate record maintenance.

Rule 1151. A public employer who wishes to maintain records in a manner different from that required by this part shall submit a petition containing the information prescribed in R 408.22153 to the Department of Licensing and Regulatory Affairs, MIOSHA, 7150 Harris Drive, Box 30643, Lansing, Michigan 48909.

History: 2001 AACS; 2015 MR 10, Eff. May 27, 2015.

R 408.22152 Opportunity for comment.

Rule 1152. Affected employees or their representatives shall have an opportunity to submit written data, views, or arguments concerning the petition to the director within 10 working days following the receipt of notice prescribed in R 408.22153(e).

History: 2001 AACS.

R 408.22153 Contents of petitions.

Rule 1153. A petition filed by a public employer shall include all of the following:

(a) The name and address of the applicant.

(b) The address of the place or places of employment involved.

(c) Specifications of the reasons for seeking relief.

(d) A description of the different record keeping procedures that are proposed by the applicant.

(e) A statement that the applicant has informed his or her affected employees of the petition by giving a copy of the petition to them, or to their authorized representative, and by posting a statement giving a summary of the petition. A statement posted pursuant to this subdivision shall be posted in each establishment in the same manner that notices are required to be posted under section

67(1) of the act, that is, in a central and conspicuous location or for normal observation by employees. The applicant shall state that he or she has informed his or her affected employees of their rights as prescribed in R 408.22152.

History: 2001 AACS.

R 408.22154 Additional notices and conferences.

Rule 1154. (1) In addition to the actual notice provided for in R 408.22153(e), the director may provide or cause to be provided such additional notice of the petition as he or she deems appropriate.

(2) The director may afford an opportunity to interested parties for an informal conference or hearing concerning the petition.

History: 2001 AACS.

R 408.22155 Action.

Rule 1155 After review of the petition and of comments submitted in regard to the petition, and upon completion of any necessary appropriate investigation concerning the petition, if the director finds that the alternative procedure proposed will not hamper or interfere with the purposes of the act and will provide equivalent information, he or she may grant the petition subject to any conditions as he or she may determine appropriate, and subject to revocation for cause.

History: 2001 AACS.

R 408.22156 Notice of exception; publication.

Rule 1156. Notice that an exception has been granted as prescribed by this part shall be published in the MIOSHA News, a quarterly publication of the department of licensing and regulatory affairs. This notice may summarize the alternative to the rules involved which the particular exception permits.

History: 2001 AACS; 2015 MR 10, Eff. May 27, 2015.

R 408.22157 Revocation.

Rule 1157. The director may revoke an exception granted under this part for failure to comply with the conditions of the exception. An opportunity for informal hearing or conference shall be afforded to the employers and affected employees or their representatives. Except in cases of wilful noncompliance or where employee safety or health requires otherwise, before the commencement of an informal proceeding, the employer shall be notified in writing of the facts or conduct that may warrant the action and be given an opportunity to demonstrate or achieve compliance.

History: 2001 AACS.

R 408.22158 Compliance after submission of petition.

Rule 1158. The submission of a petition, or a delay by the director in acting upon a petition, shall not relieve an employer from any obligation to comply with this part. The director shall give notice of the denial of a petition within a reasonable time.

History: 2001 AACS.

R 408.22161 Rescinded.

History: 2001 AACS; 2015 MR 10, Eff. May 27, 2015.

R 408.22162 Rescinded.

History: 2001 AACS; 2015 MR 10, Eff. May 27, 2015.