

Latest OSHA Recordkeeping Requirements & Updates



WEBINAR HOST: Jack Fearing, CPEA
NJASSP Chapter

Today's Presenter



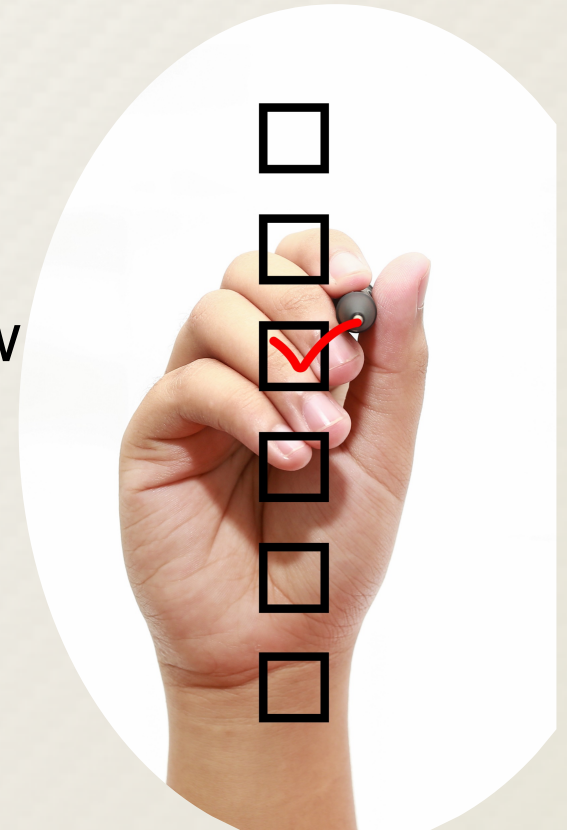
Jack Fearing, CPEA

Managing Partner
Fearing International Group LLC



Presentation Overview

- Introduction
- 2024 OSHA Recordkeeping Updates
- OSHA Recordkeeping & Reporting Review
- 2023 Electronic Data Submission
- OSHA Recordkeeping “Myths & Facts”
- Summary / Q&A



OSHA Recordkeeping Rule 1904

For Employers & Employees...

- Identify and correction hazards
- Maintain effective safety programs
- Benchmarking

For OSHA...

- Inspection & enforcement prioritization
- Standards development
- Agency resource/budget allocation
- Determining “high & low hazard” industries
- Analyzing facility safety & health performance
- VPP eligibility

For the Bureau of Labor Statistics (BLS)...

- Information source for SOII surveys
- Statistical reference for OSH stakeholders

OSHA Press Release

Effective January 1, 2024

July 17, 2023

Department of Labor announces rule expanding submission requirements for injury, illness data provided by employers in high-hazard industries

Final rule takes effect Jan. 1, 2024, for certain employers

WASHINGTON – The U.S. Department of Labor today announced a final rule that will require certain employers in designated high-hazard industries to electronically submit injury and illness information – that they are already required to keep – to the department's Occupational Safety and Health Administration.

The [final rule takes effect on Jan. 1, 2024](#), and now includes the following submission requirements:

- Establishments with 100 or more employees in certain high-hazard industries must electronically submit information from their Form 300-Log of Work-Related Injuries and Illnesses, and Form 301-Injury and Illness Incident Report to OSHA once a year. These submissions are in addition to submission of Form 300A-Summary of Work-Related Injuries and Illnesses.
- To improve data quality, establishments are required to include their legal company name when making electronic submissions to OSHA from their injury and illness records.

OSHA will publish some of the data collected on its website to allow employers, employees, potential employees, employee representatives, current and potential customers, researchers and the general public to use information about a company's workplace safety and health record to make informed decisions. OSHA believes that providing public access to the data will ultimately reduce occupational injuries and illnesses.

"Congress intended for the Occupational Safety and Health Act to include reporting procedures that would provide the agency and the public with an understanding of the safety and health problems workers face, and this rule is a big step in finally realizing that objective," explained Assistant Secretary for Occupational Safety and Health Doug Parker. "OSHA will use these data to intervene through strategic outreach and enforcement to reduce worker injuries and illnesses in high-hazard industries. The safety and health community will benefit from the insights this information will provide at the industry level, while workers and employers will be able to make more informed decisions about their workplace's safety and health."

The final rule retains the current requirements for electronic submission of information from Form 300A from establishments with 20-249 employees in certain high-hazard industries and from establishments with 250 or more employees in industries that must routinely keep OSHA injury and illness records.

The announcement follows proposed amendments announced in March 2022 to regulations for requiring specific establishments in certain high-hazard industries to electronically submit information from their Log of Work-Related Injuries and Illnesses, and Injury and Illness Incident Report.

[Learn more about OSHA](#) and its [injury and illness recordkeeping and reporting requirements](#).

Media Contact:

Victoria Godinez, 202-693-4667, godinez.victoria.c@dol.gov

Release Number: 23-1406-NAT

Press Release Highlights

The final rule is effective **Jan.1, 2024** and includes the following requirements:

- Establishments with 100 or more employees in *certain* high-hazard industries must electronically submit information from their Form 300 & 301 to OSHA once a year. These submissions are in addition to the submission of the Form 300A.
- To improve data quality, establishments are required to include their legal company name when making electronic submissions to OSHA from their injury & illness records.

Examples of *Certain* “High-Hazard” Industries

Appendix B to Subpart E of Part 1904—Designated Industries for §1904.41(a)(2) Annual Electronic Submission of Information From OSHA Form 300 Log of Work-Related Injuries and Illnesses and OSHA Form 301 Injury and Illness Incident Report by Establishments With 100 or More Employees in Designated Industries

NAICS	Industry
1111	Oilseed and Grain Farming.
1112	Vegetable and Melon Farming.
1113	Fruit and Tree Nut Farming.
1114	Greenhouse, Nursery, and Floriculture Production.
1119	Other Crop Farming.
1121	Cattle Ranching and Farming.
1122	Hog and Pig Farming.
1123	Poultry and Egg Production.
1129	Other Animal Production.
1133	Logging.
1141	Fishing.

NAICS Classification System

The North American Industrial Classification System (NAICS) is a 2-6 digit classification system developed by the Office of Management & Budget (OMB) for use in the collection, tabulation, analysis, and dissemination of statistical data by certain US Federal agencies (e.g., OSHA & EPA), trade associations and regulatory boards. A complete and valid NAICS code contains six digits.



OSHA Injury & Illness Metrics

- **TCIR** = Total Case Incidence Rate:
$$(N / EH) \times 200,000 = \text{TCIR}$$

N = Columns G-J on OSHA 300 Log
- **DART** = Days Away From Work, Restricted Work Activity, and/or Job Transfer:

$$(N^* / EH) \times 200,000 = \text{DART}$$

N = Columns H&I on OSHA 300 Log*

N = The total number of recordable cases (injuries & illnesses)

N* = The total number of lost, restricted and job transfer days

EH = The total number of exposure hours (hours worked)

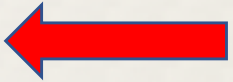
200,000 = 100 employees working 40 hours per week for 50 weeks (OSHA standard for all industries)

Recent Recordkeeping Related Letters of Interpretation

- September

9/22/23 – Respirable Crystalline Silica Focused Inspections in the Engineered Stone Fabrication and Installation Industries – 1910.1053;1926.1153

- May

5/17/23 - Determining if injuries & illnesses are work-related if they result from an act of violence - 1904.5 (a-b) 

- February

2/8/23 – Is a single-handed blade removal device an engineering control under the Bloodborne Pathogen Standard? - 1910.1039 (b-d)

Examples of Workplace Violence

- Homicide
- Direct Physical Assault (with or w/o a weapon)
- Physical or Verbal Harassment
- Written or Verbal Threats

Recent Recordkeeping Related Letters of Interpretation

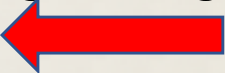
- September

9/22/23 – Respirable Crystalline Silica Focused Inspections in the Engineered Stone Fabrication and Installation Industries – 1910.1053;1926.1153 



- May

5/17/23 - Determining if injuries & illnesses are work-related if they result from an act of violence - 1904.5 (a-b)

- February

2/8/23 – Is a single-handed blade removal device an engineering control under the Bloodborne Pathogen Standard? - 1910.1039 (b-d) 

Employee's Right to Report Injuries & Illnesses



Job Safety and Health
IT'S THE LAW!

All workers have the right to:

- A safe workplace.
- Raise a safety or health concern with your employer or OSHA, or report a work-related injury or illness, without being retaliated against.
- Receive information and training on job hazards, including all hazardous substances in your workplace.
- Request a confidential OSHA inspection of your workplace if you believe there are unsafe or unhealthy conditions. You have the right to have a representative contact OSHA on your behalf.
- Participate (or have your representative participate) in an OSHA inspection and speak in private to the inspector.
- File a complaint with OSHA within 30 days (by phone, online or by mail) if you have been retaliated against for using your rights.
- See any OSHA citations issued to your employer.
- Request copies of your medical records, tests that measure hazards in the workplace, and the workplace injury and illness log.


Employers must:

- Provide employees a workplace free from recognized hazards. It is illegal to retaliate against an employee for using any of their rights under the law, including raising a health and safety concern with you or with OSHA, or reporting a work-related injury or illness.
- Comply with all applicable OSHA standards.
- Notify OSHA within 8 hours of a workplace fatality or within 24 hours of any work-related inpatient hospitalization, amputation, or loss of an eye.
- Provide required training to all workers in a language and vocabulary they can understand.
- Prominently display this poster in the workplace.
- Post OSHA citations at or near the place of the alleged violations.

On-Site Consultation services are available to small and medium-sized employers, without citation or penalty, through OSHA-supported consultation programs in every state.

This poster is available free from OSHA.

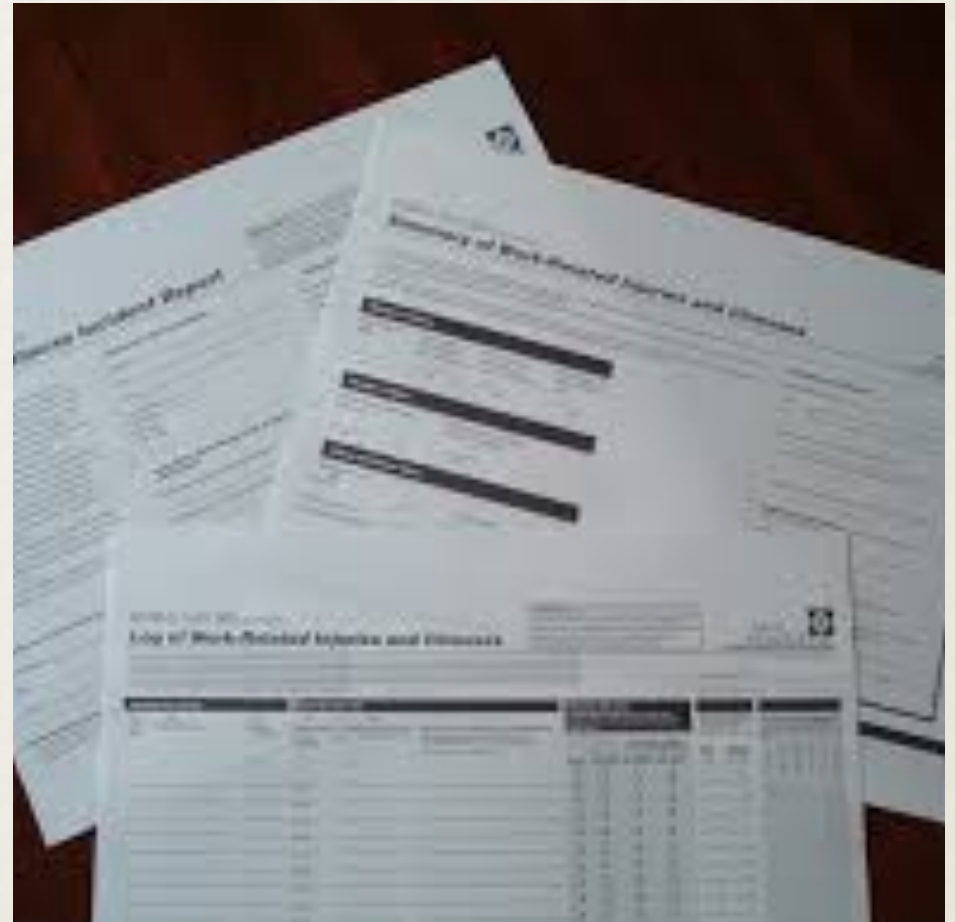
Contact OSHA. We can help.



1-800-321-OSHA (6742) • TTY 1-877-889-5627 • www.osha.gov

OSHA Recordkeeping Forms

- **OSHA Form 300**, Log of Work-Related Injuries and Illnesses
- **OSHA Form 300A**, Annual Summary of Work-Related Injuries and Illnesses
- **OSHA Form 301**, Injury and Illness Incident Report (aka First Report)



Note: All OSHA recordkeeping documents must be retained for the current year and the previous 5 years. Only the OSHA Form 300 is required to be updated if any of the pertinent data changes.

The Recording Criteria

Covered employers must record each fatality, injury or illness to employees and/or contractors that:

- Is ***work-related***, and/or
- Is a new case, and/or
- Meets one or more of the criteria contained in 1904

Note: Employers must enter each recordable case on the Form 300 within **7 calendar days** of receiving information that a recordable case occurred.

Establishing Work-Relatedness

Basic requirement:

- 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 pre-existing injury or illness. Work-relatedness is presumed for injuries and illnesses resulting from events or exposures occurring in the **work environment** (e.g., work from home).

Work environment:

- OSHA defines the **work environment** as "the establishment and other locations (e.g., Home) where one or more employees are working or are present as a condition of their employment. The **work environment** also includes the equipment or materials used by the employee during the course of his or her work."

The Recording Criteria

Covered employers must record each fatality, injury or illness to employees and/or contractors that:

- Is ***work-related***, and/or
- Is a new case, and/or
- Meets one or more of the criteria contained in 1904

Note: Employers must enter each recordable case on the Form 300 within **7 calendar days** of receiving information that a recordable case occurred.

Recording “Work from Home” Cases

Injuries and illnesses that occur while an employee is working from home are **work-related** if they:

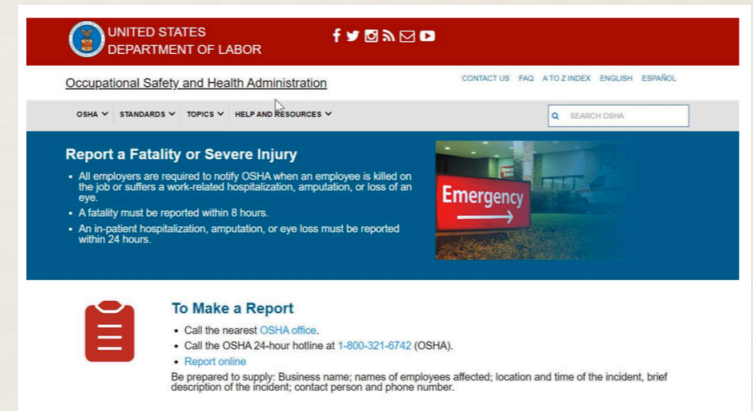
- Occur while the employee is performing work for pay or compensation in the home
- Are **directly** related to the performance of work rather than the general home environment



Injury/Illness Reporting & Recording

Employers must report:

- All work-related fatalities:
Within 8 hours
- Other work-related within 24 hours:
 - In-patient hospitalization
 - Amputations
 - Loss of an eye



Note: Failure to report can bring fines up to \$15,625. per instance.

OSHA Form 300A

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

Summary of Work-Related Injuries and Illnesses

Year

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

Form approved OMB no. 1218-0176

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

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

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

Number of Cases

Total number of deaths	Total number of cases with days away from work	Total number of cases with job transfer or restriction	Total number of other recordable cases
<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
(G)	(H)	(I)	(J)

Number of Days

Total number of days away from work	Total number of days of job transfer or restriction
<u>0</u>	<u>0</u>
(K)	(L)

Injury and Illness Types

Total number of . . . (M)			
(1) Injuries	<u>0</u>	(4) Poisonings	<u>0</u>
(2) Skin disorders	<u>0</u>	(5) Hearing loss	<u>0</u>
(3) Respiratory conditions	<u>0</u>	(6) All other illnesses	<u>0</u>

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

Public reporting burden for this collection of information is estimated to average 58 minutes per response, including time to review the instructions, search and gather the data needed, and complete and review the collection of information. Persons are not required to respond to the collection of information unless it displays a currently valid OMB control number. If you have any comments about these estimates or any other aspects of this data collection, contact: US Department of Labor, OSHA Office of Statistical Analysis, Room N-3644, 200 Constitution Avenue, NW, Washington, DC 20210. Do not send the completed forms to this office.

Establishment information

Your establishment name

Street

City State Zip

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

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

Employment information (If you don't have these figures, see the instructions on the next page to estimate.)

Annual average number of employees

Total hours worked by all employees last year

Sign here

Knowingly falsifying this document may result in a fine.

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

Company executive Title

Phone Date

COVID-19 NEP

Issued: March 12, 2021

Revised: July 7, 2021



U.S. DEPARTMENT OF LABOR

OSHA DIRECTION

Occupational Safety and Health Administration

DIRECTIVE NUMBER: DIR 2021-03 (CPL 03) | **EFFECTIVE DATE:** July 7, 2021

SUBJECT: Revised National Emphasis Program – Coronavirus Disease 2019 (COVID-19)

This revised Direction describes policies and procedures for implementing a National Emphasis Program (NEP) to ensure that employees in high-hazard industries or work tasks are protected from the hazard of contracting the Coronavirus Disease 2019 (COVID-19). The NEP augments OSHA's efforts addressing unprogrammed COVID-19-related activities, *e.g.*, complaints, referrals, and severe incident reports, by adding a component to target specific high-hazard industries or activities where this hazard is prevalent. The NEP targets establishments that have workers with increased potential exposure to this hazard, and that puts the largest number of workers at serious risk. **This Direction applies OSHA-wide.**

Employee Protection from Retaliation



OSHA® FactSheet

OSHA's Whistleblower Protection Program

OSHA's Whistleblower Protection Program enforces the provisions of more than 20 federal laws protecting employees from retaliation for, among other things, raising or reporting concerns about hazards or violations of various workplace safety and health, aviation safety, commercial motor carrier, consumer product, environmental, financial reform, food safety, health insurance reform, motor vehicle safety, nuclear, pipeline, public transportation agency, railroad, maritime, and securities laws. Employees who believe that they have experienced retaliation in violation of one of these laws may file a complaint with OSHA.

Whistleblower Laws Enforced by OSHA

Following is a list of statutes over which OSHA has jurisdiction. Each statute has a different time frame in which a complaint can be filed.

- *Asbestos Hazard Emergency Response Act (90 days)*
- *Clean Air Act (30 days)*
- *Comprehensive Environmental Response, Compensation and Liability Act (30 days)*
- *Consumer Financial Protection Act of 2010 (180 days)*
- *Consumer Product Safety Improvement Act (180 days)*
- *Energy Reorganization Act (180 days)*
- *Federal Railroad Safety Act (180 days)*
- *Federal Water Pollution Control Act (30 days)*
- *International Safe Container Act (60 days)*
- *Moving Ahead for Progress in the 21st Century Act (motor vehicle safety) (180 days)*
- *National Transit Systems Security Act (180 days)*
- *Occupational Safety and Health Act (OSH Act) (30 days)*
- *Pipeline Safety Improvement Act (180 days)*
- *Safe Drinking Water Act (30 days)*
- *Sarbanes-Oxley Act (180 days)*
- *Seaman's Protection Act (180 days)*
- *Section 402 of the FDA Food Safety Modernization Act (180 days)*
- *Section 1558 of the Affordable Care Act (180 days)*
- *Solid Waste Disposal Act (30 days)*
- *Surface Transportation Assistance Act (180 days)*
- *Toxic Substances Control Act (30 days)*
- *Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (90 days)*

What Is Retaliation?

Retaliation is an adverse action against an employee because of activity protected by one of these whistleblower laws. Retaliation can include several types of actions, such as:

- Firing or laying off
- Blacklisting
- Demoting
- Denying overtime or promotion
- Disciplining
- Denying benefits
- Failing to hire or rehire
- Intimidation
- Reassignment affecting promotion prospects
- Reducing pay or hours
- Making threats

Filing a Complaint

Employees who believe that their employers retaliated against them because they engaged in protected activity should contact OSHA as soon as possible because they must file any complaint within the legal time limits.

An employee can file a complaint with OSHA by visiting or calling his or her local OSHA office, sending a written complaint to the closest OSHA office, or filing a complaint online. No particular form is required and complaints may be submitted in any language.

Written complaints may be filed by fax, electronic communication, hand delivery during business hours, U.S. mail (confirmation services recommended), or other third-party commercial carrier.

Injury Tracking Application (ITA)

New login procedures (using Login.gov) became effective October 2022. Watch our How-to Video.

OSHA provides a [secure website](#) that offers three options for injury and illness data submissions. You can manually enter your data, upload a CSV file to add multiple establishments at the same time, or transmit data electronically via an API (application programming interface).



Launch the Application



FAQs



Job Aids (How-To)

<https://www.youtube.com/watch?v=-e6i7xHuv7Y>

2024 Electronic Submission Requirements

These would include:

- Remove the current requirement for establishments with 250 or more employees not in a designated industry to electronically submit their information on the OSHA Forms 300, 300A & 301 annually;
- Require establishments with 100 or more employees in certain high hazard industries to electronically submit their OSHA forms 300, 300A & 301 once a year;
- Update the classification system (e.g., NAICS) used to determine industries covered by their submissions;
- Require all establishments to include their company name when making electronic submissions to OSHA via the ITA system

Electronic Submission Requirements

Submission Year	Establishments with 250 or more employees	Establishments with 20-249 employees	Submission Deadline
2018	Form 300, 300A, & 301	Form 300A	July 1, 2019
2021	Form 300A Annual Summary	Form 300A Annual Summary	March 2, 2022
2022	Form 300A Annual Summary	Form 300A Annual Summary	March 2, 2023
2023	Form 300A Annual Summary	Form 300A Annual Summary	March 2, 2024

Note: State plans must adopt identical rules.

Promoting a Culture of Safety

- Maintain complete & accurate injury and Illness records & protect privacy rights
- Train all employees of recordkeeping rights & procedures
- Timely submission of annual 300A data
- Ensure a culture of open communications
- Review disciplinary policies, safety incentives & post-accident drug testing programs
- Analyze data for patterns and identify root causes
- Identify and control hazards, implement a systematic procedure for finding & fixing hazards

Current OSHA Citations & Penalties

TYPE OF VIOLATION	MINIMUM PENALTY	MAXIMUM PENALTY
OTHER THAN SERIOUS SERIOUS POSTING REQUIREMENTS	OTS - \$0. per violation Serious - >\$1000. per violation Posting - \$0. per violation	\$15,625. max. per violation
WILLFUL & REPEAT	>\$10,000. per violation	\$156,259. max. per violation
FAILURE TO ABATE	N/A	\$15,625. per day beyond the abatement date.

Bipartisan Budget Act of 2015 – Aug 2016 (Effective Jan 2023)

Note: State Plan states that operate their own OSHA Plans are required to adopt maximum penalty levels that are at least as much as federal OSHA.

OSHA Recordkeeping Myths & Facts

Myth #1: If an employee has a pre-existing injury or illness and reinjures it at work it is not recordable.

Myth #2: Injuries & illnesses to non-employees do not have to be recorded.

Myth #3: If an employee is bit by an animal or stung by an insect it's not work related.

Myth #4: If Workers' Compensation denies an injury or illness claim as not work-related, it doesn't have to go on the OSHA 300 log.

Myth #5: All injuries & illnesses that occur during normal work hours are recordable.

Questions?



Thank You for Your Participation

Jack Fearing, CPEA

(908) 303-8359 / jack@fearing-international.com



**For more information or additional questions, please email
mmyers@successfuel.com**

Safety|NewsAlert