

12 DEPARTMENT OF LABOR

179 BOARD OF OCCUPATIONAL SAFETY AND HEALTH

Chapter 6: RECORDING OCCUPATIONAL INJURIES AND ILLNESSES IN THE PUBLIC SECTOR

Summary: The purpose of this chapter is to incorporate by reference rules governing the recording of occupational injuries and illnesses as promulgated by the Federal Occupational Safety and Health Administration at 29 CFR Part 1904, most recently amended on ~~June 3, 2021~~ January 1, 2024.

6.1 Incorporation by reference

The State Board of Occupational Safety and Health adopts the *Regulation and Related Interpretations for Recording and Reporting Occupational Injuries and Illnesses* as adopted by the US Department of Labor, Occupational Health and Safety Administration at Title 29 Code of Federal Regulations Part 1904, revised as of ~~June 3, 2021~~ January 1, 2024.

6.2 Exception to 29 CFR 1904.2 - Industry Exemption

The rule for "Partial Exemptions for Certain Establishments" (under 29 CFR 1904.2) does not apply to public sector establishments in the state of Maine. See the clarifications below:

- A. All public sector employers with eleven or more employees at any time during the calendar year preceding the current calendar year shall maintain records of occupational injuries and illnesses (OSHA forms 300, 300A, 301).
- B. A public sector employer who had no more than ten employees at any time during the calendar year preceding the current calendar year is exempt unless the employer is notified in advance and in writing by the Bureau of Labor Standards that it has been selected to participate in the Survey of Occupational Injuries and Illnesses (SOII). If that is the case the employer must maintain all appropriate occupational injury and illness forms (OSHA forms 300, 300A, 301).

6.3 Supplement to 29 CFR 1904.46 - Definition of "Employee"

The definition of "Employee" in 29 U.S.C. 652, as referenced by 29 CFR 1904.46, is expanded for purposes of this chapter to include: any person who is employed, required, permitted, elected, or volunteers to work on behalf of the employer.

6.4 Supplement to 29 CFR 1904.46 - Definition of "Employer"

The definition of "Employer" in 29 U.S.C. 652, as referenced by 29 CFR 1904.46, is expanded for purposes of this chapter to include: any state, county, municipal corporation, school district or

other political corporation or political subdivision having employees. For purposes of applying this chapter the Bureau shall consider the highest organizational unit to be the employer. (For example: The state department rather than the bureau, the town rather than the municipal department.)

6.5 Supplement to 29 CFR 1904.32 - Company executive for certification of annual summary

The requirement of certifying the annual summary log, a company executive under 29 CFR 1904.32 is expanded to include: a town or city manager, the commissioner of a state department, a county administrator or sheriff, a school superintendent or principal, or a manager of a special district. It may also be the highest ranking supervisor at the establishment.

6.6 Supplement to 29 CFR 1904.39 – Reporting fatalities, hospitalizations, amputations, and losses of an eye as a result of work-related incidents

The requirement of reporting a serious incident, as referenced by 29 CFR 1904.39, is expanded to include: a fracture or amputation of any body part. This notification is required regardless of whether the employee requires inpatient hospitalization.

6.7 Supplement to 29 CFR 1904.42 - Statistical Program

- A. The Bureau of Labor Standards is the State Grant Agency that conducts the annual Survey of Occupational Injuries and Illnesses (SOII) in the State of Maine under a grant provided by the U. S. Bureau of Labor Statistics. The Bureau will conduct this survey in a manner designed to produce estimates for all Maine public sector classifications which meet U. S. Bureau of Labor Statistics publication standards.
- B. The Bureau of Labor Standards will maintain a complete listing of state and local government and all other public sector employers in Maine, including pertinent addresses, employment and contact information and provide that list to the Federal Bureau of Labor Statistics in timely fashion, to be incorporated into the SOII survey sampling frame for each respective reporting year.

6.8 Electronic Submission of OSHA Injury and Illness Records

All rules detailed under 29 CFR 1904.41 apply to Maine public sector employers.

- A. Please note that the only Maine public sector establishments subject to electronic submission are those establishments covered under 1904.41(a)(1), 1904.41(a)(2) and those establishments whose NAICS code is listed under **Appendix A to Subpart E of Part 1904-Designated Industries for §1904.41(a)(2)-(1)(i)**, or **Appendix B to Subpart E of Part 1904—Designated Industries for § 1904.41(a)(2)**.
- B. Specifically, certain public sector establishments will NOT be required to electronically submit their OSHA injury and illness records but are still required to maintain the OSHA 300, 300A, 301 (or equivalent) forms and *must still comply with a request from the*

Federal Bureau of Labor Statistics under 1904.42 (The Survey of Occupational Injuries and Illnesses). These establishments include (but are not limited to): public elementary and secondary schools, public universities and colleges, police departments, fire departments, parks and recreation departments, town administration, etc.

6.9 Overlap with MRSA, Title 26, Chapter 1, Section 2

MRSA, Title 26, Chapter 1, Section 2 imposes obligations to report certain workplace injuries or deaths. Employers are required to comply with both the statute and 29 CFR Part 1904, as adopted by this Chapter. Where there is overlap between the statute and this Chapter, employers must comply with whichever requirements is more protective.

STATUTORY AUTHORITY:

26 M.R.S. §565

EFFECTIVE DATE:

January 1, 1992 – filing 91-427

AMENDED:

November 1, 1993 – filing 93-287

EFFECTIVE DATE (ELECTRONIC CONVERSION):

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NON-SUBSTANTIVE CHANGES:

August 29, 1997 - converted to Microsoft Word for Windows

AMENDED:

March 2, 2002 – filing 2002-73

June 10, 2018 – filing 2018-096

December 15, 2019 – filing 2019-225

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