

**Comments**  
**Docket No. OSHA-2009-0044**  
**Occupational Injury and Illness Recording and Reporting Requirements**  
**Date: March 29, 2010**

**Submitted by: Jacqueline Nowell, Director, OSH Office**  
**UFCW International Union**

**I. Introduction**

The UFCW International Union represents 1.3 million workers in retail grocery stores and poultry, meat and food manufacturing plants. Workers in these industries have historically suffered from high numbers of MSDs. This union has a long history of developing prevention and training programs with our represented companies and in advocating for an OSHA standard mandating ergonomics. The primary tool utilized by employers and the union in these endeavors is the OSHA log of workplace injuries and illnesses.

In 2003, the Occupational Safety and Health Administration deleted section 1904.12 from the Recordkeeping rule. That was a mistake. The end result of the action, however, was predictable. Today, OSHA, companies and workers have less knowledge of the extent of the problem than we previously had with the "7f" column on the OSHA 200 logs. Employers are confused about what constitutes a MSD or even if they still have to be recorded. Our union has developed a database from OSHA 300 logs covering the last 5 years. Coding of MSDs from these logs has been difficult, tedious and imprecise but revelatory as to the extent of MSDs.

Unfortunately, trade groups representing meat and poultry companies have used the lack of data to misstate the situation in these industries. In 2004, shortly after OSHA stayed the MSD column and the definition of MSDs, the American Meat Institute, citing BLS year-end 2002 statistics, reported a dramatic reduction in the rate of injuries and illnesses in the (meat) industry. They attributed the drop to the industry's efforts to improve worker and workplace safety. This despite the BLS warning against comparing 2002 statistics to any other year because of the many changes to the Recordkeeping rule! (1)

And the National Chicken Council in 2010 looked at MSDs on OSHA logs over the last 25 years, stating that MSD rates had fallen over 75%. Again, this statement despite the BLS warning against comparing 2002 (and beyond) statistics to any other year because of the many changes to the Recordkeeping rule! And despite an expose in the *Charlotte Observer* in 2008 on underreporting of injuries and illnesses in poultry plants. (2)

The UFCW International Union supports this action by OSHA requiring employers to place a check mark in a MSD column. We further support the definition of MSD proposed that is identical to the one contained in the 2001 final Recordkeeping rule. And we support the proposal for an entry for the total number of MSDs on the OSHA 300A form. We also provide some input on the issue of subjective symptoms and recording on the OSHA 300 logs.

We also encourage OSHA to do outreach once these changes take effect in order to assist employers in their obligation. We believe the costs of implementing the column will be minimal, both for those who have computer software and for those who still hand-write the log entries.

## **II. MSD Column**

### **1. UFCW injury and illness database project**

In 2008 and 2009, the UFCW International Union compiled injury and illness statistics for a sample of the workers we represent. Our goals for this project were:

- to determine a "UFCW injury experience" in the industry sectors we represent, looking for ways to assist Local Unions in prevention strategies;
- to compare our industry injury statistics with the government's;
- to determine the most prevalent injuries and illnesses.

We analyzed logs from retail grocery stores, healthcare facilities, poultry, food processing and meatpacking plants represented by UFCW locals. The database we developed covers OSHA logs from 2004 through 2008. For these comments, our analysis of the logs will cover retail food stores (NAICS 445110), meatpacking (NAICS 311611) and poultry (NAICS 311615) only.

Data from retail food stores comes from eight states. Since we represent 800,000 retail food store workers in thousands of retail food stores, we only asked a few local unions to request a sampling of their stores' logs. As well, the stores failed to give us OSHA 300A summary data. Therefore, our sample size for retail food stores did not allow us to calculate injury and illness rates.

The database for meatpacking and poultry plants contains 298,000 injured workers, 79,000 workers in poultry; 210,000 workers in meatpacking. For each of the five years, there are between 35,000 and 55,000 injured workers in the database. This represents approximately one-quarter of our members in these two industry sectors.

Compiling the injury and illness statistics into a database was an enormous undertaking. OSHA does not mandate that companies keep the logs electronically. We therefore received paper logs from local unions, tallied them entry by entry and input them into an Excel spreadsheet. We found significant differences across companies/plants. Some log entries were detailed as to cause, body part and diagnosis, many others lacked any detail ("pain" with no body part, etc.). Many plants and retail grocery stores still keep handwritten logs, regardless of the size of the company (4, 5). Many of the handwritten entries are not readable. Some logs were questionable as to their accuracy. For some plants and stores, too few entries were recorded, raising issues of underreporting. The Union has anecdotal evidence from our members regarding company practices that lead to this underreporting, including the use of health insurance rather than workers compensation.

We defined MSDs in three ways. In some cases, the company recorded them as a MSD. The entry may have listed symptoms, body part and cause. However, most were less complete. We therefore included "pain" of an upper extremity and "strains and sprains" if the entry included a cause, such as repetitive motion of an upper extremity but was NOT identified as a one-time event. It was obvious that some plants only wanted to record injuries, such as strains and sprains, rather than naming them "MSDs". We made judgements in counting these. We coded everything as "back injury" whether it occurred as the result of a fall or was a lifting injury and we counted them separately from identified upper extremity MSDs..

### What we found

We analyzed the OSHA 300 logs for several types of illnesses and injuries. We were interested in which injuries and illnesses were the most prevalent.

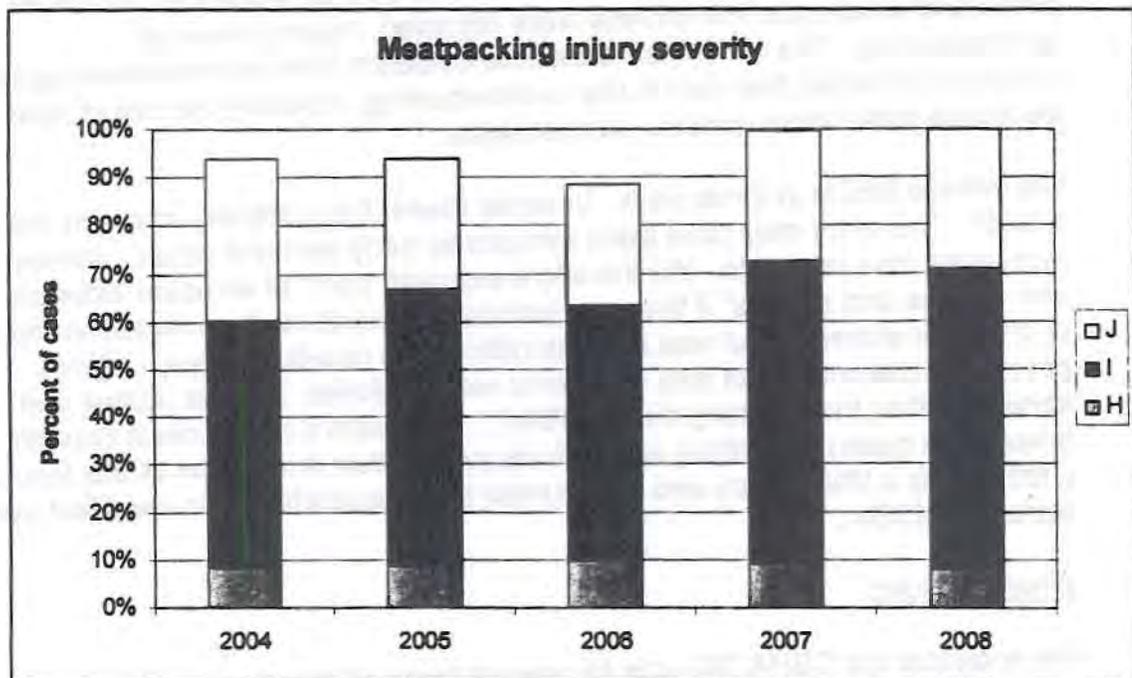
In meatpacking, MSDs accounted for 36% of all reported injuries and illnesses, followed by lacerations (11%) and strains and sprains (8%). In poultry, lacerations accounted for the greatest number of injuries (15% of all reported injuries and illnesses) followed by MSDs (14%) and strains and sprains (8%).

In retail grocery stores, lacerations were most frequently reported, followed by strains and sprains, back injuries and MSDs.

The logs from retail grocery stores were the most problematic. Few stores completed Column F on the OSHA 300 log correctly including a description of the injury or illness, parts of body affected, and object/substance that directly injured or made person ill.

A significant finding in this project is that in the majority of cases in meatpacking and poultry, sometimes as high as 88 % of the cases, workers were either put on some kind of restrictions on their own job or transferred to another job to heal. In

the meatpacking plants in our database, the average of the five years for injuries that required some kind of restrictions or job transfer to heal was 57 %. And the number of days that these workers were put on some kind of restrictions or transferred to another job was staggering – 14,000 days in one plant of 2200 workers and 43,000 days in another plant of 2400 workers. The majority of these cases were MSDs.



Columns H (days away from work); I (job transfer or restriction) and J (other recordable cases) from the OSHA 300 log

### Limitations of the database

We intended this database to be for discussion purposes. It allows us to compare the UFCW experience to that in the government's database and assist us in determining the most prevalent injuries. We make no claim that it is precise or accurate. Several of us analyzed the data and input the information into the database.

Most OSHA 300A forms were missing although requested along with the OSHA 300 logs and therefore much hand-counting was required and rates were difficult to calculate. There are also years missing, especially poultry plants for 2008. For some years, we do not have all five years of data for each plant.

## 2. Current employer practices, MSD recordkeeping

### Lack of Attention

The OSHA 300 Logs project we just completed served to reinforce our experience over the years with these documents. Column (F) (Describe injury or illness, parts of body affected, and object/substance that directly injured or made person ill) entries range from no detail ("pain"), (no part of body or cause listed), (body part but no cause), to great, complete detail ["pain R upper extremity, tendonitis flexor radialis wrist, DeQuervain's tenosynovitis, Obj/Sub: Repetitive Twisting" (Tyson pork plant)]. The qualifications and training of company personnel completing the logs are uncertain. Oversight and involvement of store and plant upper management is clearly missing.

### Use of computer software to track worker injuries

Many OSHA 300 logs are kept electronically in a database at the worksite. I recently visited a local union who represents meatpacking workers in a large company. We had requested the logs a week before so that we would have them for Safety Committee training. When I arrived, the logs had not been given to the local union. We called the plant's safety director and she informed us that she didn't have to give them to us for 15 working days! Once we had educated her as to the change in Recordkeeping regulation (2002!!!) she emailed them to us within the hour. The logs for many companies are readily available in their computers.

Other plants and stores, however, are still hand-writing their cases on the logs. These are usually difficult to read.

### Use in prevention/analysis of MSDs

In 2008, Tyson Foods Inc., Fresh Meats Division and the UFCW International Union and Local Unions representing five beef and pork slaughter plants in Iowa, Nebraska, Indiana and Illinois began an ergonomics project. These five plants were formerly IBP-owned and under an OSHA Corporate-wide Settlement Agreement for an ergonomics program. Based on MSD reporting on the OSHA 300 logs, we discovered high numbers of MSDs and MSD cases with job transfer or restricted days. Tyson Foods Inc., Fresh Meats Division refined their medical management program and tracks MSDs in their computer. They further categorize them by severity of the cases as one evaluation tool of the current ergonomic program in the 1990s. This is an example of a company not only keeping statistics on MSDs as part of their injury and illness recordkeeping but using the data to further prevention efforts. (3)

### 3. How the union uses the injury and illness data

UFCW International Union's analysis of logs from plants allows us to work with local unions in developing prevention strategies. Restoration of the MSD column will make it easier for local union staff, safety committee members and stewards to conduct their own analysis. The logs serve as a valuable tool for determining the high hazard jobs and departments where workers are getting MSDs. Specific jobs can be identified for analysis and control. In plants where a thousand or more workers are in hundreds of jobs and injury rates are 10 – 30%, a quick and easy way to identify problems should be the OSHA 300 logs. These records should be convenient, readable and the data readily available in a single column which will save time and be more useful.

As well, we use the information on the logs to:

- assist local unions in addressing safety and health with their represented employers
- bargain more effectively over ergonomic and safety programs
- develop ergonomic programs, such as the current one at Tyson Foods Inc. Fresh Meats Division
- determine extent of problems
- compare across and among our industries and companies
- compare with BLS statistics

### 4. Why do we need the column?

#### OSHA 300 logs are difficult to analyze and confusing

Many are still handwritten, they are difficult to read, there is a lack of detail as to cause, part of body and description of injury and it's difficult to establish if an injury or illness is a MSD. When the facts and the circumstances are fresh at the time of the injury or illness, it is easy to determine if it is a MSD and record accordingly. Two 2009 examples from a pork plant OSHA 300 log illustrate this issue. One Column F entry states: "Sprain/Strain Right Multiple Upper Extrem., Obj/Sub: Repetitive Motions." The person whose responsibility is recordkeeping if required to check a "MSD" box would know at the time whether or not it is a MSD or a sprain/strain. For anyone else, it is confusing to code. Is this a MSD or is it a sprain/strain? Another entry: Column F states "Sprain/Strain Right Wrist(s) and Hand(s), Obj/Sub: Repetitive Gripping/Cutting w/Dull Knife." This is a job activity that is frequently associated with MSDs. Again, the person whose responsibility is recordkeeping if required to check a "MSD" box would know whether or not it is a MSD or a sprain/strain. For anyone else, it is confusing to code. Is this a MSD or is it a sprain/strain? (6, 7)

A MSD column and summary on the OSHA 300A form will make it easy for employers and employees, unions, safety committees and safety representatives to analyze. While information will still be missing from Column F, with coding in

the MSD column at the time of recording the injury and illness, there will be a more accurate count of MSDs in the industry and national statistics.

#### The logs are used as a tool in prevention

Most company management and those involved in safety in plants or stores use OSHA logs to base prevention efforts and budgets. These records, while lagging indicators of problems, when properly and accurately completed, serve as a tool for addressing the worst problems first. A MSD column will make it easier to quantify these injuries and illnesses and address them accordingly.

Without data over the last eight years, OSHA has missed an opportunity to be tracking programs. Injury and illness statistics can be used to present a false picture of MSDs (i.e., the AMI and the NCC reports, page 1) or they can be used to measure successful programs. Tyson Foods Inc., Fresh Meats Division is measuring success with software developed for their recordkeeping, including coding MSDs at the time of recording, and therefore already doing what OSHA is proposing by adding back a column for MSDs.

#### Lack of national data on MSDs (only lost time MSD cases counted)

Over the last eight years, OSHA has lost data on the number and rate of MSDs across industry. The only cases that are counted by BLS are those with days away from work.

In the UFCW International Union's Recordkeeping comments in 2002, we noted that the employer practice of keeping injured workers at work and on job transfer or restrictions was on the rise. [ . . . progress on MSDs and indeed we have seen much progress in those industries that OSHA targeted for enforcement in the 1980s and early 1990s. However, the statistics are not being accurately presented. Lost workday injury and illness cases are going down, but while workers are not missing work as a result of a MSD, they are on "restricted duty." These cases are classified as restricted duty, not "days away from work," which can consist of sitting in the break room, or in the safety office, or being assigned to a different job. Workers who are diagnosed with work-related carpal tunnel syndrome and undergo carpal tunnel release surgery are scheduled for surgery on Friday and are expected to report for work on Monday. This is a restricted duty case, not a days away case, but the BLS doesn't keep statistics on restricted days, and so it looks like things are getting better. Therefore the drop in the lost workday cases merely reflects the current medical management of MSDs, a shifting of cases from time off the job to restricted duty. ]

This trend continues. (see table page 4, UFCW meatpacking and poultry plants) Under the current system, none of these job transfer or restriction MSD cases are counted. If the rate of MSDs that are lost time are approximately 30% of all total lost time cases, then it's fair to assume that the rate of MSDs among all illness cases reported is also 30%. From our database representing 25% of

UFCW meatpacking plants, the number of cases would be higher if MSDs with job transfer or restriction were counted.

### **III. MSD Definition**

The UFCW supports the definition in the proposed rule as it is an established one. Again, there is employer confusion as to both the definition of MSDs and what is to be recorded since the stay in 2003.

The proposed definition is similar to the one used for Recordkeeping for over a decade before being stayed in 2003 and used by OSHA in the 2001 Recordkeeping standard. It is also similar to the one used in the 1990 Red Meat Guidelines.

The UFCW asked two red meat employers what MSD definition they are using. One uses: "injuries and disorders to muscles, nerves, tendons, ligaments, joints, cartilage, and spinal discs. MSDs result from bodily reactions due to bending, climbing, crawling, reaching or twisting and from overexertion and repetitive motion." It is for health management purposes, not for OSHA recordkeeping purposes. And it is focused on the upper extremities since that is the majority of cases in their plants.

The other uses a broader, less defined definition. They categorize any weakness or damaged tissue, all body parts, not just upper extremities as MSDs. As well, they include "cause" in their definition. These cases include a medical provider's diagnosis and treatment but also a nurse or supervisor placing a worker on job restriction or transfer. They believe a MSD column would be helpful.

### **IV. Subjective Symptoms**

Employers are confused since the stay on the definition of MSDs and the lack of a MSD column. And there is not only a lack of data due to BLS reporting only those MSDs with days away from work but a general lack of recording, as evidenced by our limited analysis of OSHA 300 logs in three industries. These efforts by OSHA will close loopholes used by employers to NOT record and will reduce confusion as to what needs to be recorded.

At present, one meatpacker told us they are not recording as a restricted duty case a job restriction of less than a 50% change in "count" placed on the worker by a supervisor. This practice we believe leads to arbitrary recording of MSD cases. How long are workers kept in this job restriction before they become a recordable case? When is Health Services Department consulted for an evaluation of the worker? Is there sufficient education of the supervisor to make medical decisions as to whether or not the worker is responding to this reduction in work? Is there a point in time when the supervisor is required to have the worker evaluated by a healthcare provider?

This type of arbitrary limbo should be eliminated by OSHA's actions in removing language from the Recordkeeping Compliance Directive regarding "minor musculoskeletal discomfort" and by including language in this rule revision that symptoms of a MSD are to be treated in exactly the same manner as symptoms for any other injury or illness.

**List of Attachments:**

1. Press Release, AMI, January 14, 2004
2. Portion of a report, *Ergonomics in the Poultry Industry, A Review of 25 Years of Industry Efforts*, January 2010, National Chicken Council
3. Article, Tyson Ergo Program

**Sample logs:**

4. 2 meatpacking plants, one handwritten, one electronic
5. 2 retail grocery store, one with detail Column F, one no detail, handwritten
6. Strain/sprain, using dull knife, Column F
7. Strain/sprain and repetitive motions, Column F