New York State Department of Labor
Division of Safety and Health

SH 901 Instructions for Recording and Reporting Public Employees' Occupational Injuries and Illnesses
(as referenced by 12NYCRR Part 801)

901.0 Purpose

The purpose of these instructions is to provide clarification and interpretation of the basic requirements set forth in 12NYCRR part 801 titled Recording and Reporting Public Employees' Occupational Injuries and Illnesses.

Note: Recording or reporting a work-related injury, illness, or fatality does not mean that the employer or employee was at fault, that a PESH rule has been violated, or that the employee is eligible for workers' compensation or other benefits.

901.1 Reserved

901.2 Reserved

901.3 Reserved

901.4 Recording criteria.

(a) Injuries and illnesses are recordable, if:

(1) an employee experiences an injury or illness; and

(2) the injury or illness is work related; and

(3) the injury or illness is a new case; and

(4) the injury or illness meets the general recording criteria or the application to specific cases.

901.5 Determination of work-relatedness.

(a) Injuries or illnesses occurring in the work environment that fall under one of the following exemptions is not work related and the employer is not required to record, if:

(1) 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;

(2) 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;

(3) 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;

(4) 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, the case would be considered work-related;

(5) the injury or illness is solely the result of an employee doing personal tasks (unrelated to their employment) at the establishment outside of the employee's assigned working hours;

(6) the injury or illness is solely the result of personal grooming, self medication for a non-work-related condition, or is intentionally self-inflicted;

(7) 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;

(8) 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);

(9) 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 with appropriate training and experience (psychiatrist, psychologist, psychiatric nurse practitioner, etc.) stating that the employee has a mental illness that is work-related.

(b) A preexisting injury or illness has been significantly aggravated, for purposes of DOSH injury and illness recordkeeping, when an event or exposure in the work environment results in any of the following:

(1) death, provided that the preexisting injury or illness would likely not have resulted in death but for the occupational event or exposure;

(2) 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;

(3) 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;

(4) medical treatment in a case where no medical treatment was 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.

(c) 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.

(d) 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). Injuries or illnesses that occur when the employee is on travel status do not have to be recorded if they meet one of the exceptions:

(1) when a traveling employee checks into a hotel, motel, or other temporary residence, he or she establishes a "home away from home." The employer must evaluate the employee's activities after he or she checks into the hotel, motel, or other temporary residence for their work-relatedness in the same manner as the employer 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, the employer 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;

(2) 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 (e.g., has taken a side trip for personal reasons).

(e) 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.

901.6 Determination of new cases.

(a) 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 may include occupational cancer, asbestosis, byssinosis and silicosis.

(b) Employees who experience 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 treat the recurrence or exposure as a new case.

(c) In the determination of whether a case is a new case or a recurrence of an old case, the employer is not required to seek the advice of a physician or other licensed health care professional. However, if the employer does seek such advice, the employer must follow the physician or other licensed health care professional's recommendation about whether the case is a new case or a recurrence. If the employer receives recommendations from two or more physicians or other licensed health care professionals, the employer must make a decision as to which recommendation is the most authoritative (best documented, best reasoned, or most authoritative), and record or not record the case based upon that recommendation.

901.7 General recording criteria.

(a) The employer must record an injury or illness that results in death by entering a check mark on the SH 900 Log in the space for cases resulting in death. The employer must also report any work-related fatality to the Commissioner within eight (8) hours, as required by section 801.39.

(b) When an injury or illness involves one or more days away from work, the employer must record the injury or illness on the SH 900 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, the employer 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. The following criteria shall be used in recording lost time injuries and illnesses:

(1) the employer shall begin counting days away on the day after the injury occurred or the illness began;

(2) when a physician or other licensed health care professional recommends that the worker stay at home but the employee comes to work anyway, the

employer must record these injuries and illnesses on the SH 900 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, the employer should encourage the 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 the employer receives recommendations from two or more physicians or other licensed health care professionals, the employer may make a decision as to which recommendation is the most authoritative, and record the case based upon that recommendation;

(3) when a physician or other licensed health care professional recommends that the worker to return to work but the employee stays at home anyway, the employer 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;

(4) the employer 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 day(s). 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;

(5) the employer shall 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 only if the employer receives 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, the employer must record the injury or illness as a case with days away from work or restricted work, and enter the day counts, as appropriate;

(6) the employer shall 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 only if the employer receives 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, the employer 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) the employer may "cap" the total days away at 180 calendar days. The employer is 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 and/or days of job transfer or restriction. In such a case, entering 180 in the total days away column will be considered adequate;

(8) if the employee leaves the employer's employ for some reason unrelated to the injury or illness, such as retirement, a closing, or to take another job, the employer may stop counting days away from work or days of restriction/job transfer. If the employee leaves the employer's employ because of the injury or illness, the employer must estimate the total number of days away or days of restriction/job transfer and enter the day count on the SH 900 Log;

(9) the employer shall enter the number of calendar days away for the injury or illness on the SH 900 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 the employer prepares the annual summary, the employer must estimate the total number of calendar days the employer expects 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.

(c) When an injury or illness involves restricted work or job transfer but does not involve death or days away from work, the employer must record the injury or illness on the SH 900 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. Restricted work occurs when, as the result of a work-related injury or illness:

(1) the employer keep the employee from performing one 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;

(2) a physician or other licensed health care professional recommends that the employee not perform one 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.

(d) For recordkeeping purposes, an employee's routine functions are those work activities the employee regularly performs at least once per week.

(e) The employer does not have to record restricted work or job transfers if the employer, or the physician or other licensed health care professional, imposes the restriction or transfer only for the day on which the injury occurred or the illness began.

(f) A recommended work restriction is recordable only if it affects one or more of the employee's routine job functions. To determine whether this is the case, the employer must evaluate the restriction in light of the routine functions of the injured or ill employee's job. If the restriction from the employer or the physician or other licensed health care professional keeps the employee from performing one 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 the employer must record the case.

(g) 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.

(h) If the employer is not clear about the physician or other licensed health care professional's recommendation, the employer 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 one or both of these questions is "No," the case involves restricted work and must be recorded as a restricted work case. If the employer is unable to obtain this additional information from the physician or other licensed health care professional who recommended the restriction, the employer must record the injury or illness as a case involving restricted work.

(i) The employer must record the injury or illness on the SH 900 Log as a restricted work case if a physician or other licensed health care professional recommends a job restriction, even if the employee voluntarily performs all his or her routine job functions anyway. The employer should ensure that the employee complies with that restriction. If the employer receives recommendations from two or more physicians or other licensed health care professionals, the employer may make a decision as to which recommendation is the most authoritative, and record the case based upon that recommendation.

(j) If the employer assigns 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.

(k) Both job transfer and restricted work cases are recorded in the same box on the SH 900 Log. For example, if the employer assigns, or a physician or other licensed health care professional recommends that the employer 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. The employer must record an injury or illness that involves a job transfer by placing a check in the box for job transfer.

(l) The employer must count days of job transfer or restriction in the same way the employer counts days away from work, using 901.7(b)(2) to (7), above. The only difference is that, if the employer permanently assigns 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, the employer may stop the day count when the modification or change is made permanent. The employer must count at least one day of restricted work or job transfer for such cases.

(m) If a work-related injury or illness results in medical treatment beyond first aid, the employer must record it on the SH 900 Log. If the injury or illness did not involve death, one or more days away from work, one or more days of restricted work, or one or more days of job transfer, the employer 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 according to the following:

(1) medical treatment means the management and care of a patient to combat disease or disorder. For the purposes of Part 801, medical treatment does not include:

(i) visits to a physician or other licensed health care professional solely for observation or counseling;

(ii) the conduct of diagnostic procedures, such as x-rays and blood tests, including the administration of prescription medications used solely for diagnostic purposes (e.g., eye drops to dilate pupils); or

(iii) "First aid" as defined in 901.7(m)(2) below.

(2) for the purposes of Part 801, first aid includes and is limited to the following;

(i) using a nonprescription medication at nonprescription strength (for medications available in both prescription and non-prescription form, a recommendation by a physician or other licensed health care professional to use a non-prescription medication at prescription strength is considered medical treatment for recordkeeping purposes);

(ii) administering tetanus immunizations (other immunizations, such as Hepatitis B vaccine or rabies vaccine, are considered medical treatment);

(iii) cleaning, flushing or soaking wounds on the surface of the skin;

(iv) using wound coverings such as bandages, Band-Aids™, gauze pads, etc.; or using butterfly bandages or Steri-Strips™ (other wound closing devices such as sutures, staples, etc. are considered medical treatment);

(v) using hot or cold therapy;

(vi) using any non-rigid means of support, such as elastic bandages, wraps, non-rigid back belts, etc. (devices with rigid stays or other systems designed to immobilize parts of the body are considered medical treatment for recordkeeping purposes);

(vii) using temporary immobilization devices while transporting an accident victim (e.g., splints, slings, neck collars, back boards, etc.);

(viii) drilling of a fingernail or toenail to relieve pressure, or draining fluid from a blister;

(ix) using eye patches;

(x) removing foreign bodies from the eye using only irrigation or a cotton swab;

(xi) removing splinters or foreign material from areas other than the eye by irrigation, tweezers, cotton swabs or other simple means;

(xii) using finger guards;

(xiii) using massages (physical therapy or chiropractic treatment are considered medical treatment for recordkeeping purposes);

(xiv) Drinking fluids for relief of heat stress.

(3) PESH considers the treatments listed in 901.7(m)(2) of these instructions 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 for the purposes of 12NYCRR Part 801. Similarly, PESH 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.

(4) if a physician or other licensed health care professional recommends medical treatment, the employer should encourage the injured or ill employee to follow that recommendation. However, the employer must

record the case even if the injured or ill employee does not follow the physician or other licensed health care professional's recommendation.

(n) The employer must record a work-related injury or illness if the worker becomes unconscious, regardless of the length of time the employee remains unconscious.

(o) A significant diagnosed injury or illness 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, 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.

901.8 Recording criteria for needlesticks and sharps injuries.

(a) "Other potentially infectious materials" is defined in the PESH Bloodborne Pathogens standard (29 CFR 1910.1030(b)). These materials include:

(i) Human bodily fluids, tissues and organs; and

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

(b) To protect the employee's privacy, the employer may not enter the employee's name on the SH 900 Log (see the requirements for privacy cases in instructions 901.29(e) through 901.29(g).

(c) The employer needs 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, the employer needs to record the case only if it meets one or more of the recording criteria in 901.7 of the instructions.

(d) The employer must update the classification of any case with an injury to an employee that is later diagnosed with an infectious bloodborne disease on the SH 900 Log if the case results in death, days away from work, restricted work, or job transfer. The employer must also update the description to identify the infectious disease and change the classification of the case from an injury to an illness.

(e) If an employees is splashed or exposed to blood or other potentially infectious material without being cut or scratched, the employer must record such an incident on the SH 900 Log as an illness if:

(1) it results in the diagnosis of a bloodborne illness, such as HIV, hepatitis B, or hepatitis C;

(2) it meets one or more of the recording criteria in section 801.7.

901.9 Recording criteria for cases involving medical removal under PESH standards.

(a) The employer must enter each medical removal case on the SH 900 Log as either a case involving days away from work or a case involving restricted work activity, depending on how the employer decides to comply with the medical removal requirement. If the medical removal is the result of a chemical exposure, the employer must enter the case on the SH 900 Log by checking the "poisoning" column.

(b) If a case involves voluntary medical removal before the medical removal levels required by PESH standards (29 CFR 1910, 1915, 1917, 1918, 1926, or 1928), the employer does not need to record the case on the SH 900 Log.

901.10 Recording criteria for cases involving occupational hearing loss.

(a) A Standard Threshold Shift, or STS, is defined in the occupational noise exposure standard at 29 CFR 1910.95(c)(10)(i) 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 one or both ears.

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

(c) Audiometric test results reflect the employee’s overall hearing ability in comparison to audiometric zero. Therefore, using the employee’s current audiogram, the employer must use the average hearing level at 2000, 3000, and 4000 Hz to determine whether or not the employee’s total hearing level is 25 dB or more.

(d) When the employer is determining whether an STS has occurred, the employer may age adjust the employee's current audiogram results by using Tables F-1 or F-2, as appropriate, in Appendix F of 29 CFR 1910.95. The employer may not use an age adjustment when determining whether the employee’s total hearing level is 25 dB or more above audiometric zero.

(e) If the employer retests the employee's hearing within 30 days of the first test, and the retest does not confirm the recordable STS, the employer is not required to record the hearing loss case on the SH 900 Log. If the retest confirms the recordable STS, the employer must record the hearing loss illness within seven

(7) calendar days of the retest. If subsequent audiometric testing performed under the testing requirements of the 29 CFR 1910.95 noise standard indicates that an STS is not persistent, the employer may erase or line-out the recorded entry.

(f) The employer must use the rules in § 801.5 and instructions in SH 901.5 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, the employer must consider the case to be work related.

(g) 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, the employer is not required to consider the case work-related or to record the case on the SH 900 Log.

(h) When the employer enters a recordable hearing loss on the SH 900 log, after January 1, 2004, the employer must check the column for hearing loss.

901.11 Recording criteria for work-related tuberculosis cases.

(a) A positive TB skin test result obtained at a pre-employment physical does not have to be recorded because the employee was not occupationally exposed to a known case of active tuberculosis in the employer's workplace.

(b) The employer may line-out or erase a recorded TB case if:

(1) the worker is living in a household with a person who has been diagnosed with active TB; or

(2) the Public Health Department has identified the worker as a contact of an individual with a case of active TB unrelated to the workplace; or

(3) 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.

901.12 Recording criteria for cases involving work-related musculoskeletal disorders.

(a) Musculoskeletal disorders (MSDs) are disorders of the muscles, nerves, tendons, ligaments, joints, cartilage and spinal discs. MSDs do not include disorders caused by slips, trips, falls, motor vehicle accidents, or other similar accidents. Examples of MSDs include: Carpal tunnel syndrome, Rotator cuff syndrome, De Quervain's disease, Trigger finger, Tarsal tunnel syndrome, Sciatica, Epicondylitis, Tendinitis, Raynaud's phenomenon, Carpet layers knee, Herniated spinal disc, and Low back pain.

(b) There are no special criteria for determining which musculoskeletal disorders to record. An MSD case is recorded using the same process the employer would use for any other injury or illness. If a musculoskeletal disorder is work-related, and is a new case, and meets one or more of the general recording criteria, the employer must record the musculoskeletal disorder. The following table will guide the employer to the appropriate section of the rule for guidance on recording MSD cases.

(1) Determining if the MSD is work-related. See § 801.5 and instruction 901.5.

(2) Determining if the MSD is a new case. See § 801.6 and instruction 901.6.

(3) Determining if the MSD meets one or more of the general recording criteria:

(i) Days away from work, see § 801.7 and instruction 901.7(b).

(ii) Restricted work or transfer to another job, or see § 801.7 and instruction 901.7(c).

(iii) Medical treatment beyond first aid. See § 801.7 and instruction 901.7(m).

(c) The symptoms of an MSD are treated the same as symptoms for any other injury or illness. If an employee has pain, tingling, burning, numbness or any other subjective symptom of an MSD, and the symptoms are work-related, and the case is a new case that meets the recording criteria, the employer must record the case on the SH 900 Log as a musculoskeletal disorder.

Note to Instruction 901.12: This section is effective January 1, 2004. From January 1, 2003 until December 31, 2003, the employer is required to record work-related injuries and illnesses involving muscles, nerves, tendons, ligaments, joints, cartilage and spinal discs in accordance with the requirements applicable to any injury or illness under § 801.5, § 801.6, § 801.7, and § 801.29. For entry (M) on the SH 900 Log, the employer must check either the entry for "injury" or "all other illnesses."

901.13 – 901.28 Reserved

901.29 Forms

(a) The employer must enter information about the employer's business at the top of the SH 900 Log, enter a one or two line description for each recordable injury or illness, and summarize this information on the SH 900.1 at the end of the year.

(b) The employer must complete an SH 900.2 Incident Report form, or an equivalent form, for each recordable injury or illness entered on the SH 900 Log.

(c) The employer must enter each recordable injury or illness on the SH 900 Log and SH 900.2 Incident Report within seven (7) calendar days of receiving information that a recordable injury or illness has occurred.

(d) An equivalent form is one that has the same information, is as readable and understandable, and is completed using the same instructions as the DOSH form it replaces. If the employer's computer can produce equivalent forms when they are needed, as described under sections 801.35 and 801.40, the employer may keep the employer's records using the computer system.

(e) If an ill employee designates or requests that someone designate on the SH 900.2 that he or she independently and voluntarily requests that his or her name not be entered on the log in case of illness, then the case must be considered a privacy concern case. If it is to be considered a "privacy concern case," the employer may not enter the employee's name on the SH 900 Log. Instead, the employer must 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 SH 900 Log under section 801.35. The employer must keep a separate, confidential list of the case numbers and employee names for the employer's privacy concern cases so the employer can update the cases and provide the information to the government if asked to do so.

(f) The employer must consider the following injuries or illnesses to be privacy concern cases:

(1) an injury or illness to an intimate body part or the reproductive system;

(2) an injury or illness resulting from a sexual assault;

(3) mental illnesses;

(4) HIV infection, hepatitis, or tuberculosis;

(5) needlestick injuries and cuts from sharp objects that are contaminated with another person's blood or other potentially infectious material (see 801.7 for definitions); and

(6) other illnesses, if the employee independently and voluntarily requests that his or her name not be entered on the log. Effective January 1, 2004, Musculoskeletal disorders (MSDs) are not considered privacy concern cases.

This is a complete list of all injuries and illnesses considered privacy concern cases. No other types of injuries or illnesses may be classified as privacy concern cases.

(g) If the employer has 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, the employer may use discretion in describing the injury or illness on both the SH 900 and SH 900.2 forms. The employer must enter enough information to identify the cause of the incident and the general severity of the injury or illness, but the employer does 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."

(h) If the employer decides to voluntarily disclose the Forms to persons other than government representatives, employees, former employees or authorized representatives (as required by sections 801.35 and 801.40), the employer must remove or hide the employees' names and other personally identifying information, except for the following cases. The employer may disclose the Forms with personally identifying information only:

(1) to an auditor or consultant hired by the employer to evaluate the safety and health program;

(2) to the extent necessary for processing a claim for workers' compensation or other insurance benefits;

(2) 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 Department of Health and Human Services Standards for Privacy of Individually Identifiable Health Information, 45 CFR164.512.

Section 901.30 Multiple establishments

(a) The employer does not have to keep a separate SH 900 Log for each establishment that will exist for less than a year. The employer may keep one SH 900 Log that covers all of the employer’s short-term establishments. The employer may also include the short-term establishments' recordable injuries and illnesses on a SH 900 Log that covers short-term establishments for individual divisions or geographic regions.

(b) The employer may keep the records for an establishment at its headquarters or other central location if the employer can:

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

(2) produce and send the records from the central location to the establishment within the time frames required by sections 801.35 and 801.40 when the employer is required to provide records to a government representative, employees, former employees or employee representatives.

(c) The employer must link each of the employer's employees with one of the employer's establishments, for recordkeeping purposes. The employer must record the injury and illness on the SH 900 Log of the injured or ill employee's establishment, or on a SH 900 Log that covers that employee's short-term establishment.

(d) If the injury or illness occurs at one of the employer's establishments, the employer must record the injury or illness on the SH 900 Log of the establishment at which the injury or illness occurred. If the employee is injured or becomes ill and is not at one of the employer's establishments, the employer must record the case on the SH 900 Log at the establishment at which the employee normally works.

901.31 **Covered employees**

(a) An injury or illness occurring to employees from a temporary help service, employee leasing service, or personnel supply service, must be recorded by the employer who supervises these employees on a day-to-day basis.

(b) If a contractor's employee is under the day-to-day supervision of the contractor, the contractor is responsible for recording the injury or illness. If the employer supervises the contractor employee's work on a day-to-day basis, the employer must record the injury or illness.

(c) The employer and the temporary help service, employee leasing service, personnel supply service, or contractor should coordinate efforts to make sure that each injury and illness is recorded only once: either on the employer's SH 900 Log (if the employer provides day-to-day supervision) or on the temporary help service, employee leasing service, personnel supply service, or contractor's SH 900 Log (if that company provides day-to-day supervision).

901.32 Annual Summary

(a) The employer must:

(1) total the columns on the SH 900 Log (if the employer had no recordable cases, enter zeros for each column total);

(2) enter the calendar year covered, the employer's name, establishment name, establishment address, annual average number of employees covered by the SH 900 Log, and the total hours worked by all employees covered by the SH 900 Log;

(3) if the employer is using an equivalent form other than the SH 900.1 summary form, as permitted under 801.29, the summary the employer uses must also include the employee access and employer penalty statements found on the SH 900.1 Summary form.

(b) An officer of the employer or the highest ranking official working at the establishment or place of maintenance of the records must certify that he or she has examined the SH 900 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.

(c) The employer must post a copy of the annual summary in each establishment in a conspicuous place or places where notices to employees are customarily posted. The employer must ensure that the posted annual summary is not altered, defaced or covered by other material.

(d) The employer must post the summary no later than February 1 of the year following the year covered by the records and keep the posting in place until April 30.

901.33 Retention and updating

(a) During the storage period, the employer must update its stored SH 900 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, the employer must remove or line out the original entry and enter the new information.

(b) The employer is not required to update the SH 900.2 Incident Reports, but may do so if desired.

(c) The employer is not required to update the annual summary, but may do so if desired.

901.34 Reserved

901.35 Employee involvement

(a) The employer must set up a way for employees to report work-related injuries and illnesses promptly and the employer must tell each employee how to report work-related injuries and illnesses to the employer.

(b) The employer's employees, former employees, their personal representatives, and their authorized employee representatives have the right to access the DOSH injury and illness records, with some limitations, as discussed below.

(1) An authorized employee representative is an authorized collective bargaining agent of employees.

(2) A personal representative is:

(i) any person that the employee or former employee designates as such, in writing;

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

(3) When an employee, former employee, personal representative, or authorized employee representative asks for copies of the employer's current or stored SH 900 Log(s) for an establishment the employee or former employee has worked in, the employer must give the requester a copy of the relevant SH 900 Log(s) by the end of the next business day.

(4) The employer must leave the names on the SH 900 Log. However, to protect the privacy of injured and ill employees, the employer may not record the employee's name on the SH 900 Log for certain "privacy concern cases," as specified in instructions 901.29(e) through 901.29(g).

(5) When an employee, former employee, or personal representative asks for a copy of the SH 900.2 Incident Report describing an injury or illness to that employee or former employee, the employer must give the requester a copy of the SH 900.2 Incident Report containing that information by the end of the next business day.

(6) When an authorized employee representative asks for a copy of the SH 900.2 Incident Reports for an establishment where the agent represents employees under a collective bargaining agreement, the employer must give copies of those forms to the authorized employee representative within 7 calendar days. The employer is only required to give the authorized employee representative information from the SH 900.2 Incident Report section titled "Tell us about the case." The employer must remove all other information from the copy of the SH 900.2 Incident Report or the equivalent substitute form that the employer gives to the authorized employee representative.

(7) The employer may not charge for these copies the first time they are provided. However, if one of the designated persons asks for additional copies, the employer may assess a reasonable charge for retrieving and copying the records.

901.36 Reserved

901.37 Reserved

901.38 Reserved

901.39 Reporting fatalities and multiple hospitalization incidents to PESH.

(a) If the local office is closed the employer must leave a message on the answering service of that office with the information required in (b) below and the time and date of the call.

(b) The employer must give DOSH the following information for each fatality or multiple hospitalization incident:

(1) the establishment name;

(2) the location of the incident;

(3) the time of the incident;

(4) the number of fatalities or hospitalized employees;

(5) the names of any injured employees;

(6) the employer's contact person and his or her phone number;

(7) a brief description of the incident.

(c) If the employer does not learn of a reportable accident at the time it occurs (for example, an employment accident involving workers traveling on work time) and the accident would otherwise be reportable under 12NYCRR Part 801.39, the employer shall report to the nearest DOSH office within eight hours of learning of such accident.

(d) Whether or not an accident is immediately reportable, if a worker dies of the effects of an employment accident within six months of that accident, the employer shall report to the DOSH office within eight hours after learning of such death.

(e) If a fatality or serious incident occurs in a place of employment covered by the Public Employee Safety and Health Act, the employer shall take appropriate measures to prevent the destruction or alteration of any evidence that would assist in investigating the fatality or serious accident.

901.40 Providing records to government representatives.

No instructions

901.41 Annual DOSH injury and illness survey

(a) The employer must send the survey reports to DOSH, or the DOSH 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.

901.42 Requests from the Bureau of Labor Statistics for data.

No instructions

901.43 Summary and posting of the 2001 data.

No instructions

901.44 Retention and updating of old forms.

No instructions

901.45 Reserved

901.46 Definitions

No instructions

901.47 Posters for Public Employees

No instructions