TITLE 56: LABOR AND EMPLOYMENT
CHAPTER I: DEPARTMENT OF LABOR
SUBCHAPTER b: REGULATION OF WORKING CONDITIONS
PART 350 HEALTH AND SAFETY

SUBPART A: INSPECTIONS AND CITATIONS

SUBPART B: INJURY/ILLNESS RECORDKEEPING AND REPORTING REQUIREMENTS

AUTHORITY: Implementing and authorized by the Occupational Health and Safety Act [820 ILCS 219].

SOURCE: Emergency rules adopted at 9 Ill. Reg. 17004, effective October 17, 1985, for a maximum of 150 days; adopted at 10 Ill. Reg. 8765, effective May 14, 1986; amended at 11 Ill. Reg. 2798, effective January 28, 1987; amended at 12 Ill. Reg. 17086, effective October 11, 1988; amended at 16 Ill. Reg. 8518, effective May 26, 1992; amended at 17 Ill. Reg. 1074, effective January 19, 1993; emergency amendment at 17 Ill. Reg. 7072, effective April 27, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 14724, effective September 15, 1994; amended at 19 Ill. Reg. 11923, effective August 7, 1995; amended at 20 Ill. Reg. 7419, effective May 10, 1996; amended at 21 Ill. Reg. 12850, effective September 4, 1997; amended at 23 Ill. Reg. 3993, effective October 1, 1999; amended at 23 Ill. Reg. 12447, effective October 2, 1999; amended at 24 Ill. Reg. 13693, effective August 23, 2000; amended at 25 Ill. Reg. 860, effective January 5, 2001; amended at 25 Ill. Reg. 10196, effective July 30, 2001; old Part repealed at 30 Ill. Reg. 5531 and new Part adopted at 30 Ill. Reg. 4777, effective March 13, 2006; amended at 34 Ill. Reg. 4793, effective March 16, 2010; old Part repealed at 38 Ill. Reg. 11570, and new Part adopted at 38 Ill. Reg. 11572, effective May 16, 2014; amended at 38 Ill. Reg. 20781, effective October 20, 2014; amended at 39 Ill. Reg. 14176, effective October 19, 2015; peremptory amendment at 46 Ill. Reg. 1668, effective January 7, 2022; recodified at 46 Ill. Reg. 3465; emergency amendment at 46 Ill. Reg. 3598, effective February 15, 2022, for a maximum of 150 days; amended at 46 Ill. Reg. 3518, effective February 15, 2022; amended at 46 Ill. Reg. 9890, effective May 26, 2022.

SUBPART A: INSPECTIONS AND CITATIONS

Section 350.10 Definitions

The definitions and interpretations contained in Section 5 of the Occupational Safety and Health Act shall apply when those terms are used in this Part.

Act − the Occupational Safety and Health Act [820 ILCS 219].

Administrative Law Judge or ALJ - an attorney licensed to practice law in the State of Illinois who has been designated by the Director to conduct any hearings governed by this Part, 56 Ill. Adm. Code 120 (Rule of Procedure in Administrative Hearings), and Section 100 of the Act.

Authorized Employee Representative – any person authorized by the employees to represent their interests in collective bargaining and other labor relations matters.

Department or IDOL – the Illinois Department of Labor.

Director – the Director of the Illinois Department of Labor.

Division or Illinois OSHA – the *Division of Occupational Safety and Health within the Illinois Department of Labor*. The Illinois OSHA name will be used in all marketing and outreach efforts.

Division Manager − the employee regularly or temporarily in charge of the Division of Occupational Safety and Health within the Illinois Department of Labor, or any other person or persons who are authorized to act for that employee on a case-by-case basis.

Employee – means every person *in the service of any of the following entities, regardless of whether the service is by virtue of election, by appointment or contract, or by hire, and regardless of whether the relationship is express or implied or established orally or in writing:*

> *the State,* including *members of the General Assembly, members of the Commerce Commission, members of the Workers' Compensation Commission and any person in the service of a public university or college in Illinois;*
>
> *an Illinois county,* including *deputy sheriffs and assistant state's attorneys*; or
>
> *an Illinois city,* township, *village, incorporated town or school district,* body politic, *or other municipal corporation*.

Public Employer or Employer – *the State of Illinois or any political subdivisions of the State*. [820 ILCS 219/5]

Enforcement Inspector or Inspector − a person authorized by the Division of Occupational Safety and Health within the Illinois Department of Labor, to conduct inspections.

Inspection − any inspection of an employer's establishment or other area, workplace or environment where work is performed by an employee of an employer, and includes any inspection conducted pursuant to a complaint filed under Section 350.120(a) and (c), any re-inspection, follow-up inspection, accident investigation or other inspection conducted under Section 65 of the Act.

Regional Enforcement Manager or REM – a person authorized, by the Division of Occupational Safety and Health within the Illinois Department of Labor to manage the day-to-day operations of Enforcement Inspectors.

Working Days − Mondays through Fridays, but not including State holidays. In computing 15 working days, the day of receipt of any notice shall not be included, and the last day of the 15 working days shall be included.

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)

Section 350.20 Purpose and Scope

The Act requires, in part, that all public employers covered under the Act furnish to their employees employment and a place of employment that are free from recognized hazards that are causing or are likely to cause death or serious physical harm to the employees. The Act also requires that public employers comply with occupational safety and health standards promulgated under the Act, and that public employees comply with standards, rules, regulations and orders issued under the Act that are applicable to their own actions and conduct. The Act authorizes Illinois OSHA to conduct inspections and to issue citations and proposed penalties for alleged violations. The Act also contains provisions for adjudication of violations, periods prescribed for the abatement of violations, and proposed penalties, if contested by an employer or by an employee or authorized representative of employees, and for judicial review. The purpose of this Subpart A is to prescribe rules and regulations and to set forth general policies for dealing with the inspection of an employer's establishment, enforcement of the inspection, citation, and proposed penalty provisions of the Act.

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)

Section 350.30 Posting of Notice; Availability of the Act, Regulations and Applicable Standards

a) Job Safety and Health Poster. Each employer shall post and keep posted a notice or notices, to be furnished by Illinois OSHA, informing employees of the protections and obligations provided for in the Act, and that, for assistance and information, including copies of the Act and of specific safety and health standards, employees should contact the employer or Illinois OSHA. The notice or notices shall be posted by the employer in each establishment (see subsection (b)) in a conspicuous place or places where notices to employees are customarily posted. Each employer shall take steps to ensure that the notices are not altered, defaced or covered by other material.

b) Establishment means a single physical location where business is conducted or where services or operations are performed. (For example: An office, warehouse or central administrative office.) When distinctly separate activities are performed at a single physical location, each activity shall be treated as a separate physical establishment, and a separate notice or notices shall be posted in each establishment, to the extent that the notices have been made available by the Illinois OSHA. When employers are engaged in activities that are physically dispersed, such as construction, transportation, and electric, gas and sanitary services, the notice or notices required by this Section shall be posted at the location to which employees report each day. When employees do not usually work at, or report to, a single establishment (such as technicians, engineers, etc.), the notice or notices shall be posted at the location from which the employees operate to carry out their activities. In all cases, the notice or notices shall be posted in accordance with the requirements of subsection (a).

c) Copies of the Act, all regulations published in this Chapter, and all applicable standards will be available at all Illinois OSHA offices and on the Division's website at OSHA.illinois.gov. If an employer has obtained copies of these materials, the employer shall make them available upon request to any employee or the employee's authorized representative for review in the establishment where the employee is employed on the same day the request is made, or at the earliest time mutually convenient to the employee or their authorized representative and the employer.

d) Any employer failing to comply with the provisions of this Section shall be subject to citation and penalty in accordance with the provisions of Sections 80 and 85 of the Act.

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)

Section 350.40 Authority for Inspection

a) Enforcement Inspectors are authorized to enter without delay and at reasonable times any establishment, construction site, or other area, workplace or environment where work is performed by an employee of a public employer; to inspect and investigate during regular working hours and at other reasonable times, and within reasonable limits and in a reasonable manner, any such place of employment, and all pertinent conditions, structures, machines, apparatus, devices, equipment and materials in the place of employment; to question privately any employer, owner, operator, agent or employee; and to review records required by the Act, regulations and other records that are directly related to the purpose of the inspection.

b) Prior to inspecting areas containing information deemed classified by a State agency in the interest of national and/or State security, Inspectors shall have obtained the appropriate security clearance.

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)

Section 350.50 Objection to Inspection

a) Upon a refusal to permit the Enforcement Inspector, in exercise of their official duties, to enter without delay and at reasonable times any place of employment or any area within the place of employment to inspect, to review records, or to question any employer, owner, operator, agent or employee in accordance with Section 350.40, or upon a refusal to permit a representative of employees to accompany the Inspector during the physical inspection of any workplace, in accordance with Section 350.90, the Inspector shall terminate the inspection or confine the inspection to other areas, conditions, structures, machines, apparatus, devices, equipment, materials, records or interviews concerning which no objection is raised. The Inspector shall endeavor to ascertain the reason for the refusal and shall immediately report the refusal and the reason for the refusal to the Regional Enforcement Manager. The REM shall consult with the Division Manager and Chief Legal Counsel, who shall take appropriate action, including compulsory process, if necessary.

b) Compulsory process shall be sought in advance of an attempted inspection or investigation if, in the judgment of the Division Manager and Chief Legal Counsel, circumstances exist that make the pre-inspection process desirable or necessary. Some examples of circumstances in which it may be desirable or necessary to seek compulsory process in advance of an attempt to inspect or investigate include, but are not limited to:

1) When the employer's past practice either implicitly or explicitly puts the Director on notice that a warrantless inspection will not be allowed;

2) When an inspection is scheduled far from the local office and procuring a warrant prior to leaving to conduct the inspection would avoid, in case of refusal of entry, the expenditure of significant time and resources to return to the office, obtain a warrant and return to the worksite;

3) When an inspection includes the use of special equipment or when the presence of an expert or experts is needed in order to properly conduct the inspection, and procuring a warrant prior to an attempt to inspect would alleviate the difficulties or costs encountered in coordinating the availability of the equipment or expert.

c) With the approval of the Division Manager and Chief Legal Counsel, compulsory process may also be obtained by the REM or the REM's.

d) For purposes of this Section, the term compulsory process shall mean the institution of any appropriate action, including ex parte application for an inspection warrant or its equivalent. Ex parte inspection warrants shall be the preferred form of compulsory process in all circumstances in which compulsory process is relied upon to seek entry to a workplace under this Section.

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)

Section 350.60 Entry Not a Waiver

Any permission to enter, inspect, review records, or question any person shall not imply or be conditioned upon a waiver of any cause of action, citation or penalty under the Act. Enforcement Inspectors are not authorized to grant a waiver.

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)

Section 350.70 Advance Notice of Inspections

a) Advance notice of inspections may not be given, except in the following situations:

1) In cases of apparent imminent danger, to enable the employer to abate the danger as quickly as possible;

2) In circumstances in which the inspection can most effectively be conducted after regular business hours or when special preparations are necessary for an inspection;

3) When necessary to assure the presence of representatives of the employer and employees or the appropriate personnel needed to aid in the inspection and in other circumstances in which the Division Manager determines that the giving of advance notice would enhance the probability of an effective and thorough inspection.

b) In the situations described in subsection (a), advance notice of inspections may be given only if authorized by the Division Manager, except that, in cases of apparent imminent danger, advance notice may be given by the Enforcement Inspector without such authorization if the Division Manager or Regional Enforcement Manager is not immediately available. When advance notice is given, it shall be the employer's responsibility to promptly notify the authorized representative of employees of the inspection, if the identity of the representative is known to the employer. Upon the request of the employer, the Inspector will inform the authorized representative of employees of the inspection, provided that the employer furnishes the Inspector with the identity of the representative and with other information as is necessary to enable the Inspector to promptly inform the representative of the inspection. An employer who fails to comply with their obligation to promptly inform the authorized representative of employees of the inspection, or to furnish information necessary to enable the Inspector to promptly inform the representative of the inspection, may be subject to citation and penalty. Advance notice in any of the situations described in subsection (a) shall not be given more than 24 hours before the inspection is scheduled to be conducted, except in apparent, imminently dangerous situations and in other unusual circumstances.

c) Section 120 of the Act provides that any person who gives advance notice of any inspection to be conducted under the Act, without authority from the Director or their designees, shall have committed a Class B misdemeanor and shall be subject to all repercussions, if convicted.

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)

Section 350.80 Conduct of Inspections

a) Subject to Section 350.40, inspections shall take place at such times and in such places of employment as the Division Manager, Regional Enforcement Manager or the Inspector may direct. At the beginning of an inspection, Inspectors shall present their credentials to the owner, operator or agent in charge at the establishment; explain the nature and purpose of the inspection; and indicate generally the scope of the inspection and the records they wish to review. However, the designation of records shall not preclude access to additional records specified in Section 350.40.

b) Inspectors shall have authority to take environmental samples and to take or obtain photographs related to the purpose of the inspection, employ other reasonable investigative techniques, and question privately any employer, owner, operator, agent or employee of an establishment. (See Section 350.100, Trade Secrets.) As used in this subsection, "employ other reasonable investigative techniques" includes, but is not limited to, the use of devices to measure employee exposures and the attachment of personal sampling equipment such as dosimeters, pumps, badges and other similar devices by employees in order to monitor their exposures.

c) In taking photographs and samples, Inspectors shall take reasonable precautions to ensure that actions with flash, spark-producing or other equipment would not be hazardous. Inspectors shall comply with all employer safety and health rules and practices at the establishment being inspected, and shall wear and use appropriate protective clothing and equipment.

d) Inspections shall be conducted in a manner that avoids unreasonable disruption of the operations of the employer's establishment.

e) At the conclusion of an inspection, the Inspector shall confer with the employer or the employer's representative and informally advise the employer of any apparent safety or health violations disclosed by the inspection. During the conference, the employer shall be afforded an opportunity to bring to the attention of the Inspector any pertinent information regarding conditions in the workplace.

f) Inspections shall be conducted in accordance with this Part.

g) If needed in order to make a proper inspection, the Inspector may initiate the process to compel attendance and testimony of witnesses and the production of evidence under oath under the Director's authority.

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)

Section 350.90 Representatives of Employers and Employees

a) Enforcement Inspectors shall be in charge of inspections and questioning of persons. A representative of the employer and a representative authorized by the employees shall be given an opportunity to accompany the Inspector during the physical inspection of any

workplace for the purpose of aiding the inspection. Inspectors may permit additional employer representatives and additional representatives authorized by employees to accompany them when they determine that additional representatives will further aid the inspection. A different employer and employee representative may accompany the Inspector during each different phase of an inspection if this will not interfere with the conduct of the inspection.

b) Inspectors shall have authority to resolve all disputes concerning the identity of the representative authorized by the employer and employees for the purpose of this Section. If there is no authorized representative of employees, or if the Inspector is unable to determine with reasonable certainty who is the representative, the Inspector shall consult with a reasonable number of employees concerning matters of safety and health in the workplace.

c) The representatives authorized by employees shall be employees of the employer. However, if, in the judgment of the Inspector, good cause has been shown why accompaniment by a third party who is not an employee of the employer (such as an industrial hygienist or a safety engineer) is reasonably necessary to the conduct of an effective and thorough physical inspection of the workplace, the third party may accompany the Inspector during the inspection.

d) Inspectors are authorized to deny the right of accompaniment under this Section to any person whose conduct interferes with a fair and orderly inspection. The right of accompaniment in areas containing trade secrets shall be subject to the provisions of Section 350.100. With regard to information classified by an agency of State government in the interest of homeland security, only persons authorized to have access to the information may accompany an Inspector in areas containing the information.

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)

Section 350.100 Trade Secrets

a) *All information reported to or otherwise obtained by the Director of Labor or* the Director's *representative in connection with any inspection or proceeding under* the *Act or any standard, rule, regulation, or order adopted or issued under the Act which contains or might reveal a trade secret shall be considered confidential, except that such information may be disclosed confidentially to other officers or employees concerned with carrying out* the *Act or when relevant to any proceeding under* the *Act . In any such proceeding, the Director or the court shall issue such orders as may be appropriate, including the impoundment of files, or portions of files, to protect the confidentiality of trade secrets*. (Sec. 125 of the Act)

b) *A person who discloses a trade secret in violation of* Section 125 of the Act and this Section commits *a Class B misdemeanor*. (Sec. 125 of the Act)

c) At the commencement of an inspection, the employer may identify areas in the establishment that contain or might reveal a trade secret. If the Enforcement Inspector has no clear reason to question the identification, information obtained in those areas, including all negatives and prints of photographs and environmental samples, shall be labeled "Confidential − Trade Secret" and shall not be disclosed.

d) Upon the request of an employer, any authorized representative of employees in an area containing trade secrets shall be an employee in that area or an employee authorized by the employer to enter that area. When there is no such representative or employee, the

Inspector shall consult with a reasonable number of employees who work in that area concerning matters of safety and health.

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)

Section 350.110 Consultation with Employees

Enforcement Inspectors may consult with employees concerning matters of occupational safety and health to the extent they deem necessary for the conduct of an effective and thorough inspection. During the course of an inspection, any employee shall be afforded an opportunity to bring any violation of the Act that the employee has reason to believe exists in the workplace to the attention of the Inspector.

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)

Section 350.120 Complaints by Employees

a) Any employee or representative of employees who believes that a violation of the Act exists in any workplace where the employee is employed may request an inspection of the workplace by giving notice of the alleged violation to the Division Manager, Regional Enforcement Manager or to an Enforcement Inspector. Notice shall be in writing, shall set forth with reasonable particularity the grounds for the notice, and shall be signed by the employee or representative of employees. A copy shall be provided to the employer or the employer's agent by the Inspector no later than at the time of inspection, except that, upon the request of the person giving the notice, that person's name and the names of individual employees referred to in the notice shall not appear in the copy or on any record published, released or made available by Illinois OSHA.

b) If, upon receipt of the notification required by subsection (a), the REM determines that the complaint meets the requirements set forth in subsection (a) and that there are reasonable grounds to believe that the alleged violation exists, the REM shall cause an inspection to be made as soon as practicable to determine if the alleged violation exists. Inspections under this Section shall not be limited to matters referred to in the complaint.

c) Prior to or during any inspection of a workplace, any employee or representative of employees employed in the workplace may notify the Inspector, in writing, of any violation of the Act that the employee or representative has reason to believe exists in the workplace. The notice shall comply with the requirements of subsection (a).

d) *A person may not discharge or in any way discriminate against an employee because the employee has*:

1) *filed a complaint or instituted or caused to be instituted any proceeding under* the *Act;*

2) *testified or is about to testify in any such proceeding* under the Act*; or*

3) *exercised on* their *own behalf or on behalf of another person, any right afforded by the Act.* (Sec. 110 of the Act)

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)

Section 350.125 Discrimination Prohibited Against Employees

a) Basic Requirement

Section 110 of the Act provides in general that no person shall discharge or in any manner discriminate against any employee because the employee has:

1) Filed any complaint under the Act or related to the Act;

2) Instituted or caused to be instituted any proceeding under the Act or related to the Act;

3) Testified or is about to testify in any proceeding under the Act or related to the Act; or

4) Exercised on the employee's own behalf or on behalf of another any right afforded by the Act.

b) Any employee who believes that they have has been discriminated against in violation of Section 110 may, within 30 calendar days after the violation occurs, lodge a written complaint with the Division alleging the violation.

c) The Division shall then cause appropriate investigation to be made. If, as a result of the investigation, it is determined that the provisions of Section 110 have been violated, civil action may be instituted in any appropriate court to restrain violations of Section 110 and to obtain appropriate relief, including rehiring or reinstatement of the employee to their former position with back pay.

d) Section 110 of the Act further provides for notification of complainants by the Division of determinations made pursuant to their complaints.

e) Section 110 does not limit the actions to employers against employees. A person may be chargeable with discriminatory action against an employee of another person. It would extend to such entities as organizations representing employees for collective bargaining purposes or any other person in a position to discriminate against an employee.

f) All public employees are afforded the full protection of Section 110. The Act does not define the term "employ"; however, the broad remedial nature of the Act demonstrates a clear intent that the existence of an employment relationship is to be based upon economic realities rather than upon common law doctrines and concepts.

g) Actions taken by an employer, or others, that adversely affect an employee may be predicated upon non-discriminatory grounds. The proscriptions of Section 110 apply when the adverse action occurs because the employee has engaged in protected activities. An employee's engagement in activities protected by the Act does not automatically render that employee immune from discharge or discipline for legitimate reasons, or from adverse action dictated by non-prohibited considerations.

h) At the same time, to establish a violation of Section 110, the employee's engagement in a protected activity need not be the sole consideration behind discharge or other adverse action. If a protected activity was a substantial reason for the action, or if the discharge or other adverse action would not have taken place but for engagement in a protected activity, Section 110 has been violated. Ultimately, the issue as to whether a discharge was because of a protected activity will have to be determined on the basis of the facts in the particular case.

i) Complaints Under or Related to the Act

1) Discharge or discrimination against an employee because the employee has filed *any complaint under or related to the Act*] is prohibited by Section 110. (Sec. 110(a) of the Act) An example of a complaint made under the Act would be an employee request for inspection pursuant to Section 70 of the Act. However, this would not be the only type of complaint protected by Section 110.

2) The salutary principles of the Act would be seriously undermined if employees were discouraged from lodging complaints about occupational safety and health matters with their employers. These complaints to employers, if made in good faith, therefore would be related to the Acts, and an employee would be protected against discharge or discrimination caused by a complaint to the employer.

j) Proceedings Under or Related to the Act

1) Discharge or discrimination against an employee because the employee has *instituted or caused to be instituted any proceeding under* the *Act* is also prohibited by Section 110. (Sec. 110(a) of the Act) Examples of proceedings that could arise specifically under the Act include inspection of worksites under Section 65 of the Act, employee contest of abatement date under Section 95 of the Act, employee initiation of proceeding for promulgation of an occupational safety and health standard under Section 25 of the Act, and employee application for modification or revocation of a variance under Section 50 of the Act.

2) An employee need not directly institute the proceedings to be protected by the anti-discrimination provisions of this Section. It is sufficient if the employee sets into motion activities of others that result in proceedings under or related to the Act.

k) Testimony

1) Discharge or discrimination against an employee because the employee has *testified or is about to testify in any proceedings* under or related to the Act is also prohibited under Section 110. (Sec. 110(a) of the Act) This protection would not be limited to testimony in proceedings instituted or caused to be instituted by the employee, but would extend to any statements given in the course of judicial, quasi-judicial and administrative proceedings, including inspections, investigations and administrative rulemaking or adjudicative functions.

2) If the employee is giving or is about to give testimony in any proceeding under or related to the Act, the employee is protected against discrimination resulting from that testimony.

l) Exercise of Any Right Afforded by the Act

1) Section 110 also protects employees from discrimination occurring because of the exercise of any right afforded by the Act. Certain rights are explicitly provided in the Act; for example, there is a right to participate as a party in enforcement proceedings. Certain other rights exist by necessary implication. For example, employees may request information from the Division; these requests would constitute the exercise of a right afforded by the Act. Likewise, employees interviewed by agents of the Department in the course of inspections or investigations could not be subsequently discriminated against because of their cooperation.

2) As a general matter, there is no right afforded by the Act that entitles employees to walk off the job because of potential unsafe conditions at the workplace, because hazardous conditions that may be a violation of the Act will ordinarily be corrected by the employer, once brought to their attention. Under these circumstances, an employer would not ordinarily be in violation of Section 110 by taking action to discipline an employee for refusing to perform normal job activities because of alleged safety or health hazards. Notwithstanding the above, if corrections are not accomplished, or if there is dispute about the existence of a hazard, the employee will normally have the opportunity to request inspection of the workplace. In no circumstance shall an employee be subject to discipline solely because the employee files, or plans to file, a complaint with Illinois OSHA.

3) An employee may be confronted with a choice between performing assigned tasks or risking serious injury or death arising from a hazardous condition in the workplace. If the employee, with no reasonable alternative, refuses in good faith to be exposed to the dangerous condition, the employee would be protected against subsequent discrimination. The condition causing the employee's apprehension of death or injury must be of such a nature that a reasonable person, under the circumstances then confronting the employee, would conclude that there is a real danger of death or serious injury and that there is insufficient time, due to the urgency of the situation, to eliminate the danger through resort to regular statutory enforcement channels. In addition, in such circumstances, the employee, when possible, must also have sought from the employer, and been unable to obtain, a correction of the dangerous condition.

m) Filing of a Discrimination Complaint

1) A complaint of Section 110 discrimination may be filed by the employee or by an authorized representative of the employee.

A) Nature of Filing. The complaint must be received in a verbal or written form by the employee or authorized representative of the employee.

B) Place of Filing. A complaint should be filed with Illinois OSHA .

C) Time for Filing. Section 110 provides that an employee who believes that discrimination has occurred *may, within 30 calendar days after the violation occurs,* file a complaint with Illinois OSHA. (Sec. 110(b) of the Act)

D) Circumstances that would justify tolling of the 30-calendar-day period on recognized equitable principles or because of strongly extenuating circumstances include, but are not limited to, e.g., when the employer has concealed the nature of, or misled the employee regarding the grounds for, discharge or other adverse action; or when the discrimination is in the nature of a continuing violation. The pendency of grievance-arbitration proceedings or filing with another agency, among others, are circumstances that do not justify tolling the 30-calendar-day period. In the absence of circumstances justifying tolling of the 30-calendar-day period, untimely complaints will not be processed.

n) Notification of the Division's Determination. The complainant shall be notified of the Division's determination in a timely manner.

o) Withdrawal of Complaint. Attempts by an employee to withdraw a previously filed complaint will not necessarily result in termination of the investigation. The Division's jurisdiction cannot be foreclosed as a matter of law by unilateral action of the employee. However, a voluntary and uncoerced request from a complainant to withdraw the complaint will be given careful consideration and substantial weight as a matter of policy and sound enforcement procedure.

p) Arbitration or Other Agency Proceedings. The Division's jurisdiction to entertain Section 110 complaints, to investigate, and to determine whether discrimination has occurred is independent of the jurisdiction of other agencies or bodies. Due deference may be paid to the jurisdiction of other forums established to resolve disputes that may also be related to Section 110 complaints. Postponement of the Division's determination, and deferral to the results of the proceedings of another jurisdiction, may be warranted.

1) Postponement of Determination. Postponement of determination would be justified when the rights asserted in other proceedings are substantially the same as rights under Section 110, and those proceedings are not likely to violate the rights guaranteed under Section 110. The factual issues in such proceedings must be substantially the same as those raised by the Section 110 complaint, and the forum hearing the matter must have the power to determine the ultimate issue of discrimination.

2) Deferral to Outcome of Other Proceedings. A determination to defer to the outcome of other proceedings initiated by a complainant must necessarily be made on a case-by-case basis, after careful scrutiny of all available information. Before deferring to the results of other proceedings, it must be clear that those proceedings dealt adequately with all factual issues, that the proceedings were fair, regular and free of procedural infirmities, and that the outcome of the proceedings was not repugnant to the purpose and policy of the Act. In this regard, if the other actions initiated by a complainant are dismissed without adjudicatory hearing, that dismissal will not ordinarily be regarded as determinative of the Section 110 complaint.

q) Employee Refusal to Comply with Safety Rules. Employees who refuse to comply with occupational safety and health standards or valid safety rules implemented by the employer in furtherance of the Act are not exercising any rights afforded by the Act. Disciplinary measures taken by an employer solely in response to an employee's refusal to comply with appropriate safety rules and regulations will not ordinarily be regarded as discriminatory action prohibited by Section 110. This situation should be distinguished from refusals to work as discussed in subsection (l).

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)

Section 350.130 Inspection not Warranted; Informal Review

a) If the Regional Enforcement Manager determines that an inspection is not warranted because there are no reasonable grounds to believe that a violation or danger exists with respect to a complaint under Section 350.120, the REM shall notify the complaining party in writing of that determination. The complaining party may obtain review of the determination by submitting a written statement of position to the Division Manager and, at the same time, providing the employer with a copy of the statement by certified mail. The employer may submit an opposing written statement of position with the Division Manager and, at the same time, provide the complaining party with a copy of such statement by certified mail. Upon the request of the complaining party or the employer, the Division Manager has discretion to hold an informal conference in which the complaining party and

the employer may orally present their views. After considering all written and oral views presented, the Division Manager shall affirm, modify or reverse the determination of the REM and furnish the complaining party and the employer written notification of this decision and the reasons for the decision. The decision of the Division Manager shall be final and not subject to further review.

b) If the REM determines that an inspection is not warranted because the requirements of Section 350.120(a) have not been met, the REM shall notify the complaining party in writing of that determination. The determination shall be without prejudice to the filing of a new complaint meeting the requirements of Section 350.120(a).

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)

Section 350.140 Imminent Danger

Whenever, and as soon as, an Enforcement Inspector concludes on the basis of an inspection that conditions or practices exist in any place of employment that could reasonably be expected to immediately cause death or serious physical harm or before the imminence of the danger can be eliminated through the enforcement procedures otherwise provided by the Act, the Inspector shall inform the affected employees and employers of the danger and inform them that the Inspector is recommending a civil action to restrain the conditions or practices and for other appropriate relief in accordance with the provisions of Section 115 of the Act. Appropriate citations and notices of proposed penalties may be issued with respect to an imminent danger even though, after being informed of the danger by the Inspector, the employer immediately eliminates the imminence of the danger and initiates steps to abate the danger.

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)

Section 350.150 Citations; Policy Regarding Employee Rescue Activities

a) The Regional Enforcement Manager, on behalf of the Division Manager, shall review the inspection report of the Enforcement Inspector. If, on the basis of the report, the REM believes that the employer has violated a requirement of Section 20 of the Act, of any standard, rule or order promulgated pursuant to Section 20 of the Act, or of this Chapter, the REM shall, if appropriate, consult with the Chief Legal Counsel and issue to the employer a citation on behalf of the Division Manager. An appropriate citation shall be issued even if, after being informed of an alleged violation by the Inspector, the employer immediately abates, or initiates steps to abate, the alleged violation. Any citation shall be issued with reasonable promptness after completion or termination of the inspection. No citation may be issued under this Section after the expiration of 6 months following the occurrence of any alleged violation.

b) Any citation shall describe with particularity the nature of the alleged violation, including a reference to the provisions of the Act, standard, rule, regulation or order alleged to have been violated. Any citation shall also fix a reasonable time or times for the abatement of the alleged violation.

c) If a citation is issued for a violation alleged in a request for inspection under Section 350.120(a) or a notification of violation under Section 350.120(c), a copy of the citation shall also be sent to the employee or representative of employees who made the request or notification.

d) After an inspection, if the REM determines that a citation is not warranted with respect to a danger or violation alleged to exist in a request for inspection under Section 350.120(a) or a notification of violation under Section 350.120(c), the informal review procedures

prescribed in Section 350.130 shall be applicable. After considering all views presented, the Division Manager shall affirm the determination of the REM, order a re-inspection, or issue a citation if the Division Manager believes that the inspection disclosed a violation. The Division Manager shall furnish the complaining party and the employer with written notification of this determination and the reasons for the determination. The determination of the Division Manager shall be final and not subject to review.

e) Every citation shall state that the issuance of a citation does not constitute a finding that a violation of the Act has occurred unless there is a failure to contest as provided for in the Act or, if contested, unless the citation is affirmed by the Administrative Law Judge.

f) No citation may be issued to an employer because of a rescue activity undertaken by an employee of that employer with respect to an individual in imminent danger unless:

1) the employee is designated or assigned by the employer to have responsibility to perform or assist in rescue operations, and the employer fails to provide protection of the safety and health of the employee, including failing to provide appropriate training and rescue equipment;

2) the employee is directed by the employer to perform rescue activities in the course of carrying out the employee's job duties, and the employer fails to provide protection of the safety and health of the employee, including failing to provide appropriate training and rescue equipment; or

3) the employee:

A) is employed in a workplace that requires the employee to carry out duties that are directly related to a workplace operation where the likelihood of life-threatening accidents is foreseeable, such as a workplace operation where employees are located in confined spaces or trenches, handle hazardous waste, respond to emergency situations, perform excavations, or perform construction over water;

B) the employee has not been designated or assigned to perform or assist in rescue operations and voluntarily elects to rescue such an individual; and

C) the employer has failed to instruct employees not designated or assigned to perform or assist in rescue operations of the arrangements for rescue and not to attempt rescue, and to instruct employees of the hazards of attempting rescue without adequate training or equipment.

g) For purposes of this Section, the term imminent danger means the existence of any condition or practice that could reasonably be expected to cause death or serious physical harm before the condition or practice can be abated.

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)

Section 350.160 Petitions for Modification of Abatement Date

a) An employer may file a petition for modification of an abatement date when he or she has made a good faith effort to comply with the abatement requirements of a citation, but the abatement has not been completed because of factors beyond his or her reasonable control.

b) A petition for modification of an abatement date shall be in writing and shall include the following information:

1) All steps taken by the employer, and the dates of the action, in an effort to achieve compliance during the prescribed abatement period.

2) The specific additional abatement time necessary to achieve compliance.

3) The reasons the additional time is necessary, including the unavailability of professional or technical personnel or of materials and equipment, or because necessary construction or alteration of facilities cannot be completed by the original abatement date.

4) All available interim steps being taken to safeguard the employees against the cited hazard during the abatement period.

5) A certification that a copy of the petition has been posted and, if appropriate, served on the authorized representative of affected employees, in accordance with subsection (c)(1) and a certification of the date upon which the posting and service was made.

c) A petition for modification of abatement date shall be filed with the Division Manager or his or her designee who issued the citation no later than the close of the next working day following the date on which abatement was originally required. A later-filed petition shall be accompanied by the employer's statement of exceptional circumstances explaining the delay.

1) A copy of the petition shall be posted in a conspicuous place where all affected employees will have notice of the petition or near the location where the violation occurred. The petition shall remain posted for a period of 10 working days. When affected employees are represented by an authorized representative, the representative shall be served with a copy of the petition.

2) Affected employees or their representatives may file an objection in writing to the petition with the Division Manager. Failure to file the objection within 10 working days after the date of posting of the petition or after service upon an authorized representative shall constitute a waiver of any further right to object to the petition.

3) The Director or his or her duly authorized agent shall have the authority to approve any petition for modification of an abatement date filed pursuant to subsection (b) and this subsection (c). Uncontested petitions shall become final orders [820 ILCS 220/2.4(a)(3)].

4) The Director or his or her authorized representative shall not exercise his or her approval power until the expiration of 15 working days from the date the petition was posted or served by the employer pursuant to subsections (c)(1) and (2).

d) When any petition is objected to by the Director or affected employees, the petition, citation and any objections shall be forwarded to the Chief Administrative Law Judge within 3 working days after the expiration of the 15 day period set out in subsection (c)(4).

Section 350.170 Proposed Penalties

a) After, or concurrent with, the issuance of a citation, and within a reasonable time after the termination of the inspection, the Division Manager shall notify the employer by certified mail or by personal service by the Enforcement Inspector of the proposed penalty under Section 85 of the Act or that no penalty is being proposed. Any notice of proposed penalty shall state that the proposed penalty is the final order of the Director of Labor and not subject to review by any court or agency unless, within 15 working days from the date of receipt of the notice, the employer notifies the Division Manager in writing of the employer's intention to contest the citation or the notification of proposed penalty before an Administrative Law Judge.

b) The Division Manager shall determine the amount of any proposed penalty, giving due consideration to the appropriateness of the penalty with respect to the size of the business of the employer being charged, the gravity of the violation, the good faith of the employer, and the history of previous violations, in accordance with Section 85 of the Act.

c) Appropriate penalties may be proposed with respect to an alleged violation even though, after being informed of the alleged violation by the Inspector, the employer immediately abates, or initiates steps to abate, the alleged violation.

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)

Section 350.180 Posting of Citations

a) Upon receipt of any citation under the Act, the employer shall immediately post the citation, or a copy of the citation, unedited, at or near each place an alleged violation referred to in the citation occurred, except as provided in this subsection. When, because of the nature of the employer's operations, it is not practicable to post the citation at or near each place of alleged violation, the citation shall be posted, unedited, in a prominent place where it will be readily observable by all affected employees. For example, when employers are engaged in activities that are physically dispersed (see Section 350.30(b)), the citation may be posted at the location to which employees report each day. When employees do not primarily work at or report to a single location, the citation may be posted at the location from which the employees operate to carry out their activities. The employer shall take steps to ensure that the citation is not altered, defaced or covered by other material.

b) Each citation, or a copy, shall remain posted until the violation has been abated, or for 3 working days, whichever is later. The filing by the employer of a notice of intention to contest under Section 350.190 shall not affect the posting responsibility under this Section unless and until the Administrative Law Judge issues a final order vacating the citation.

c) An employer to whom a citation has been issued may post a notice in the same location where the citation is posted indicating that the citation is being contested before an ALJ, the notice may explain the reasons for the contest. The employer may also indicate that specified steps have been taken to abate the violation.

d) Any employer failing to comply with the provisions of subsections (a) and (b) shall be subject to citation and penalty in accordance with provisions of Sections 80 and 85 of the Act.

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)

Section 350.190 Employer and Employee Contests before the Administrative Law Judges of the Hearings Division

a) Any employer to whom a citation or notice of proposed penalty has been issued may, under Section 100 of the Act, notify the Division Manager in writing that the employer intends to contest the citation or proposed penalty before an Administrative Law Judge. The notice of intention to contest shall be postmarked within 15 working days after receipt by the employer of the notice of proposed penalty. Every notice of intention to contest shall specify whether it is directed to the citation or to the proposed penalty, or both. The Division Manager shall immediately transmit the notice to the Chief ALJ in accordance with IDOL's Rules of Procedure in Administrative Hearings (56 Ill. Adm. Code 120).

b) Any employee or representative of employees of an employer to whom a citation has been issued may, under Section 95 of the Act, file a written notice with the Division Manager alleging that the period of time fixed in the citation for the abatement of the violation is unreasonable. The notice shall be postmarked within 15 working days after the receipt by the employer of the notice of proposed penalty or notice that no penalty is being proposed. The Division Manager shall immediately transmit the notice to the Chief ALJ in accordance with 56 Ill. Adm. Code 120.

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)

Section 350.200 Failure to Correct a Violation for which a Citation has been Issued

a) If an inspection discloses that an employer has failed to correct an alleged violation for which a citation has been issued within the period permitted for its correction, the Division Manager shall, if appropriate, consult with the Chief Legal Counsel and notify the employer by certified mail or by personal service by the Enforcement Inspector of that failure and of the penalty proposed to be assessed under Section 85 of the Act. The period for the correction of a violation for which a citation has been issued shall not begin to run until the entry of a final order of the Administrative Law Judge in the case of any review proceedings initiated by the employer in good faith and not solely for delay or avoidance of penalties.

b) Any employer receiving a notification of failure to correct a violation and of proposed additional penalty may, under Section 95 of the Act, notify the Division Manager in writing that the employer intends to contest the notification or proposed additional penalty before an ALJ. The notice of intention to contest shall be postmarked within 15 working days after the receipt by the employer of the notification of failure to correct a violation and of the proposed additional penalty. The Division Manager shall immediately transmit the notice to the Chief ALJ in accordance with 56 Ill. Adm. Code 120.

c) Each notification of failure to correct a violation and of proposed additional penalty shall state that it is the final order of the ALJ and not subject to review by any court or agency unless, within 15 working days from the date of receipt of the notification, the employer notifies the Division Manager in writing that the employer intends to contest the notification or the proposed additional penalty before an ALJ.

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)

Section 350.210 Abatement Verification

Illinois OSHA inspections are intended to result in the abatement of violations of the Act. This Section sets forth the procedures the Division will use to ensure abatement. These procedures are tailored to the nature of the violation and the employer's abatement actions.

a) Scope and Application
This Section applies to employers who receive a citation for a violation of the Act.

b) Definitions

1) Abatement means action by an employer to comply with a cited standard or regulation or to eliminate a recognized hazard identified by the Division during an inspection.

2) Abatement date means:

A) For an uncontested citation item, the later of:

i) The date in the citation for abatement of the violation;

ii) The date approved by the Division or established in litigation as a result of a petition for modification of the abatement date (PMA); or

iii) The date established in a citation by an informal settlement agreement.

B) For a contested citation item for which the Administrative Law Judge has issued a final order affirming the violation, the later of:

i) The date identified in the final order for abatement; or

ii) The date computed by adding the period allowed in the citation for abatement to the final order date;

iii) The date established by a formal settlement agreement.

3) Affected employees means those employees who are exposed to the hazards identified as violations in a citation.

4) Final order date means:

A) For an uncontested citation item, the 15th working day after the employer's receipt of the citation;

B) For a contested citation item:

i) The 30th calendar day after the date on which a decision or order of an ALJ has been docketed; or

ii) When review has been directed, the 30th calendar day after the date on which the ALJ issues a or order disposing of all or pertinent parts of a case; or

iii) The date on which an appeals court issues a decision affirming the violation in a case in which a final order of an ALJ has been stayed.

5) Movable equipment means a hand-held or non-hand-held machine or device, powered or unpowered, that is used to do work and is moved within or between

worksites.

c) Abatement Certification

1) Within 10 calendar days after the abatement date, the employer must certify to the Division Manager that each cited violation has been abated, except as provided in subsection (c)(2).

2) The employer is not required to certify abatement if the Enforcement Inspector, during the on-site portion of the inspection:

A) Observes, within 24 hours after a violation is identified, that abatement has occurred; and

B) Notes in the citation that abatement has occurred.

3) The employer's certification that abatement is complete must include, for each cited violation, in addition to the information required by subsection (h), the date and method of abatement and a statement that affected employees and their representatives have been informed of the abatement.

d) Abatement Documentation

1) The employer must submit to the Division Manager, along with the information on abatement certification required by subsection (c)(3), documents demonstrating that abatement is complete for each willful or repeat violation and for any serious violation for which the Division Manager indicates in the citation that abatement documentation is required.

2) Documents demonstrating that abatement is complete may include, but are not limited to, evidence of the purchase or repair of equipment, photographic or video evidence of abatement, or other written records.

e) Abatement Plans

1) The Division Manager may require an employer to submit an abatement plan for each cited violation when the time permitted for abatement is more than 90 calendar days. If an abatement plan is required, the citation must so indicate.

2) The employer must submit an abatement plan for each cited violation within 25 calendar days from the final order date when the citation indicates that a plan is required. The abatement plan must identify the violation and the steps to be taken to achieve abatement, including a schedule for completing abatement and, when necessary, how employees will be protected from exposure to the violative condition in the interim until abatement is complete.

f) Progress Reports

1) An employer who is required to submit an abatement plan may also be required to submit periodic progress reports for each cited violation. The citation must indicate:

A) That periodic progress reports are required and the citation items for which they are required;

B) The date on which an initial progress report must be submitted, which may be no sooner than 30 calendar days after submission of an abatement plan;

C) Whether additional progress reports are required; and

D) The dates on which additional progress reports must be submitted.

2) For each violation, the progress report must identify, in a single sentence if possible, the action taken to achieve abatement and the date the action was taken.

g) Employee Notification

1) The employer must inform affected employees and their representatives about abatement activities covered by this Section by posting a copy of each document submitted to the Division Manager or a summary of the document near the place where the violation occurred.

2) When the posting does not effectively inform employees and their representatives about abatement activities (e.g., for employers who have mobile work operations), the employer must:

A) Post each document or a summary of the document in a location where it will be readily observable by affected employees and their representatives; or

B) Take other steps to communicate fully to affected employees and their representatives about abatement activities.

3) The employer must inform employees and their representatives of their right to examine and copy all abatement documents submitted to the Division Manager.

A) An employee or an employee representative must submit a request to examine and copy abatement documents within 3 working days after receiving notice that the documents have been submitted.

B) The employer must comply with an employee's or employee representative's request to examine and copy abatement documents within 5 working days after receiving the request.

4) The employer must ensure that notice to employees and employee representatives is provided at the same time or before the information is provided to the Division Manager and that abatement documents are:

A) Not altered, defaced or covered by other material; and

B) Remain posted for 3 working days after submission to the Division Manager.

h) Transmitting Abatement Documents

1) The employer must include, in each submission required by this Section, the following information:

A) The employer's name and address;

B) The inspection number to which the submission relates;

C) The citation and item numbers to which the submission relates;

D) A statement that the information submitted is accurate; and

E) The signature of the employer or the employer's authorized representative.

2) The date of postmark is the date of submission for mailed documents. For documents transmitted by other means, the date the Division Manager receives the document is the date of submission.

i) Movable Equipment

1) For serious, repeat and willful violations involving movable equipment, the employer must attach a warning tag or a copy of the citation to the operating controls or to the cited component of equipment that is moved within the worksite or between worksites. Attaching a copy of the citation to the equipment is deemed to meet the tagging requirement of this Section, as well as the posting requirements of Section 350.180.

2) The employer must use a warning tag that properly warns employees about the nature of the violation involving the equipment and identifies the location of the citation issued.

3) If the violation has not already been abated, a warning tag or copy of the citation must be attached to the equipment:

A) For hand-held equipment, immediately after the employer receives the citation; or

B) For non-hand-held equipment, prior to moving the equipment within or between worksites.

4) For the construction industry, a tag that is designed and used in accordance with 29 CFR 1926.20(b)(3) and 1926.200(h) is deemed to meet the requirements of this Section when the information required by subsection (i)(2) is included on the tag.

5) The employer must assure that the tag or copy of the citation attached to movable equipment is not altered, defaced or covered by other material.

6) The employer must assure that the tag or copy of the citation attached to movable equipment remains attached until:

A) The violation has been abated and all abatement verification documents required by this Section have been submitted to the Division Manager;

B) The cited equipment has been permanently removed from service or is no longer within the employer's control; or

C) The ALJ issues a final order vacating the citation.

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)

Section 350.220 Informal Conferences

At the request of an affected employer, employee or representative of employees, the Division Manager or designee may hold an informal conference for the purpose of discussing any issues raised by an inspection, citation, notice of proposed penalty, or notice of intention to contest. The settlement of any issue at the conference shall be subject to 56 Ill. Adm. Code 120. If the conference is requested by the employer, an affected employee or their representative shall be afforded an opportunity to participate, at the discretion of the Division Manager or designee. If the conference is requested by an employee or representative of employees, the employer shall be afforded an opportunity to participate, at the discretion of the Division Manager or designee. Any party may be represented by counsel at the conference. No conference or request for a conference shall operate as a stay of any 15-working-day period for filing a notice of intention to contest as prescribed in Section 350.190.

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)

SUBPART B: INJURY/ILLNESS RECORDKEEPING AND REPORTING REQUIREMENTS

Section 350.250 Purpose, Scope and Definitions

a) Purpose
The purpose of this Subpart B is to require employers to record and report work-related fatalities, injuries and illnesses. Recording or reporting a work-related injury, illness or fatality does not mean that the employer or employee was at fault, that a standard or rule has been violated, or that the employee is eligible for workers' compensation or other benefits.

b) Scope. All public employers are required to maintain records of work-related injuries and illnesses under this Subpart B.

c) Definitions
For purposes of this Subpart B, the following terms have the meanings ascribed in this subsection:

Establishment − a single physical location where business is conducted or where services or industrial operations are performed. For activities in which employees do not work at a single physical location, such as construction, transportation, and electric, gas and sanitary services, and similar operations, the establishment is represented by main or branch offices, terminals, stations, etc., that either supervise those activities or are the base from which personnel carry out those activities.

One location contains two or more establishments if:

Each group represents a distinctly separate function (i.e., police, fire); or

Each establishment is engaged in different economic activity;

No one NAICS (North American Industry Classification System) Code applies to the joint activities; or

Separate reports are routinely prepared for each group on the number of employees and/or wages.

An establishment can include more than one physical location if:

The employer operates the locations as a single operation under common management;

The locations are all located in close proximity to each other; and

The employer keeps one set of records for the locations, such as records on the number of employees, their wages and salaries and other kinds of business information. For example, one establishment might include the main plant, a warehouse a few blocks away, and an administrative services building across the street.

When an employee telecommutes from home, the employee's home is not a business establishment and a separate OSHA Form 300 Log (Log of Work-Related Injuries and Illnesses) is not required. Employees who telecommute must be linked to one establishment.

Forms – the required forms for documenting work-related deaths, injuries and illnesses are the OSHA Form 300 (Log of Work-Related Injuries and Illnesses), the OSHA 300A (Summary of Injuries/Illnesses) and the OSHA 301 (Injury/Illness Incident Form). The Illinois Workers' Compensation Commission IWCC Form 45 (Employer's First Report of Injury) may be substituted for the OSHA Form 301 as long as the information is equivalent.

Injury or Illness − an abnormal condition or disorder. Injuries include, but are but not limited to, a cut, fracture, sprain or amputation. Illnesses include both acute and chronic illnesses, such as, but not limited to, a skin disease, respiratory disorder or poisoning. Injuries and illnesses are recordable only if they are new, work-related cases that meet one or more of this Subpart's recording criteria.

Physician or Other Licensed Health Care Professional − an individual whose legally permitted scope of practice (i.e., license, registration or certification) allows the individual to independently perform, or be delegated the responsibility to perform, the activities described by this Subpart.

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)

Section 350.260 Recording Criteria

a) Basic Requirement
Every public employer that is required by this Part to keep records of fatalities, injuries and illnesses must record each fatality, injury and illness that:

1) is work-related;

2) is a new case; and

3) meets one or more of the general recording criteria of Section 350.290 or the recording criteria applying to specific cases in Sections 350.300 through 350.330.

b) Implementation

1) Criteria for Recording Work-Related Injuries and Illnesses

The criteria for recording work-related injuries and illnesses are found in various Sections of this Part as follows:

A) Determination of work-relatedness: Section 350.270.

B) Determination of a new case: Section 350.280.

C) General recording criteria: Section 350.290.

D) Additional criteria (needlestick and sharps injury cases, tuberculosis cases, hearing loss cases, medical removal cases, and musculoskeletal disorder cases): Sections 350.300 through 350.330.

2) Appendix A includes a decision tree to assist reporters in determining what particular injuries or illnesses are recordable.

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)

Section 350.270 Determination of Work-Relatedness

a) Basic Requirement
An injury or illness is 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, unless an exception in subsection (b)(2) specifically applies.

b) Implementation

1) Work Environment
The work environment is defined as the establishment and other locations where one or more employees are working or are present as a condition of their employment. The work environment includes not only physical locations, but also the equipment or materials used by the employee during the course of work.

2) Exceptions
An injury or illness occurring in the work environment that falls under one or more of the following exceptions is not work-related and, therefore, is not recordable:

A) At the time of the injury or illness, the employee was present in the work environment as a member of the general public rather than as an employee.

B) The injury or illness involves signs or symptoms that surface at work but result solely from a non-work-related event or exposure that occurs outside the work environment.

C) The injury or illness results solely from voluntary participation in a wellness program or in a medical, fitness or recreational activity such as blood donation, physical examination, flu shot, exercise class, racquetball or baseball.

D) The injury or illness is solely the result of an employee eating, drinking or preparing food or drink for personal consumption (whether bought on the employer's premises or brought in). 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. However, 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.

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

F) The injury or illness is solely the result of personal grooming, self-medication for a non-work-related condition, or intentionally self-inflicted.

G) The injury or illness is caused by a motor vehicle accident and occurs on a company parking lot or company access road while the employee is commuting to or from work.

H) The illness is the common cold or flu. Contagious diseases such as tuberculosis, brucellosis, hepatitis A, illness resulting from variants of SARS-CoV (including COVID-19), or plague are considered work-related if the employee is infected at work.

I) The illness is a mental illness. Mental illness will not be considered work-related unless the employee voluntarily provides the employer with an opinion from a physician or other licensed health care professional with appropriate training and experience (psychiatrist, psychologist, psychiatric nurse practitioner, etc.) stating that the employee has a mental illness that is work-related.

3) Determining whether the Precipitating Event Occurred in the Work Environment
If it is not obvious whether the precipitating event or exposure occurred in the work environment, the employer must evaluate the employee's work duties and environment to decide whether one or more events or exposures in the work environment either caused or contributed to the resulting condition or significantly aggravated a pre-existing condition.

4) Aggravating Pre-Existing Conditions
A pre-existing injury or illness has been significantly aggravated, for purposes of injury and illness recordkeeping, when an event or exposure in the work environment results in any of the following:

A) Death, provided that the pre-existing injury or illness would likely not have resulted in death but for the occupational event or exposure.

B) Loss of consciousness, provided that the pre-existing injury or illness would likely not have resulted in loss of consciousness but for the occupational event or exposure.

C) One or more days away from work, or days of restricted work, or days of job transfer that otherwise would not have occurred but for the occupational event or exposure.

D) Medical treatment in a case in which 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.

5) Pre-existing Conditions
An injury or illness is a pre-existing condition if it resulted solely from a non-work-related event or exposure that occurred outside the work environment.

6) Travel Status
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 these 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 following exceptions:

A) When a traveling employee checks into a hotel or motel, or other temporary residence, the employee establishes a home away from home. The employee's activities after the employee checks into the temporary residence must be evaluated by the employer for work-relatedness in the same manner as the employer evaluates the activities of a non-traveling employee. When the employee checks into the temporary residence, the employee is considered to have left the work environment. When the employee begins work each day, the employee re-enters the work environment. If the employee has established a home away from home and is reporting to a fixed worksite each day, injuries or illnesses are not work-related if they occur while the employee is commuting between the temporary residence and the job location.

B) 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).

7) Work at Home
Injuries and illnesses that occur while an employee is working at home, including work in a home office, will be considered work-related if the injury or illness occurs while the employee is performing work for pay or compensation in the home, and the injury or illness is directly related to the performance of work rather than to the general home environment or setting. EXAMPLE: If an employee drops a box of work documents and injures their foot, the case is considered work-related. If an employee is injured because the employee trips on the family dog while rushing to answer a work phone call, the case is not considered work-related. If an employee working at home is electrocuted because of faulty home wiring, the injury is not considered work-related.

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)

Section 350.280 Determination of New Cases

a) Basic Requirement
An injury or illness is a new case if:

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

2) The employee previously experienced a recorded injury or illness of the same type that affected the same part of the body but had recovered completely (all signs and symptoms had disappeared) from the previous injury or illness and an event or exposure in the work environment caused the signs or symptoms to reappear.

b) Implementation

1) Recurrences
For occupational illnesses in which the signs or symptoms recur or continue in the absence of an exposure in the workplace, the case must only be recorded once. EXAMPLES: Occupational cancer, asbestosis, byssinosis and silicosis.

2) New Cases
When an employee experiences the signs or symptoms of an injury or illness as a result of an event or exposure in the workplace, such as an episode of occupational asthma, the incident must be treated as a new case because the episode or recurrence was caused by an event or exposure in the workplace.

3) Advice of a Health Care Professional
The employer is not required to seek the advice of a physician or other licensed health care professional. However, if such advice is sought, the employer must follow the licensed health care professional's recommendation about whether the case is a new case or a recurrence. If the employer receives recommendations from 2 or more licensed health care professionals, he or she must make a decision as to which recommendation is the most authoritative, best documented or best reasoned and record the case based upon that recommendation.

Section 350.290 General Recording Criteria

a) Basic Requirement
An injury or illness meets the general recording criteria, and is, therefore recordable, if it results in any of the following: death, days away from work, restricted work or transfer to another job, medical treatment beyond first aid, or loss of consciousness. A case meets the general recording criteria if it involves a significant injury or illness diagnosed by a physician or other licensed health care professional, even if it does not result in death, days away from work, restricted work or job transfer, medical treatment beyond first aid, or loss of consciousness.

b) Implementation

1) Recording Required
A work-related injury or illness must be recorded if it results in one or more of the following:

A) Death (see subsection (b)(2)).

B) Days away from work (see subsection (b)(3)).

C) Restricted work or transfer to another job (see subsection (b)(4)).

D) Medical treatment beyond first aid (see subsection (b)(5)).

E) Loss of consciousness (see subsection (b)(6)).

F) A significant injury or illness diagnosed by a physician or other licensed health care professional (see subsection (b)(7)).

2) Employee Death
The employer must record an injury or illness that results in death by entering a check mark on the OSHA 300 Log in the space for cases resulting in death. He or she must also report any work-related fatality to IDOL within 8 hours, as required by Section 350.410.

3) Days Away from Work
When an injury or illness involves one or more days away from work, record the injury or illness on the OSHA 300 Log with a check mark in the space for cases involving days away and an entry of the number of calendar days away from work in the number of days column. If the employee is out for an extended period of time, 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. Begin counting days away on the day after the injury occurred or the illness began.

4) Advice of Health Care Professional

A) When a physician or other licensed health care professional recommends that the worker stay at home but the employee comes to work anyway, record the injuries and illnesses on the OSHA 300 Log using the check box for cases with days away from work and enter the number of calendar days away recommended by the physician or other licensed health care professional. If the licensed health care professional recommends days away, encourage the employee to follow that recommendation. The days away must be recorded whether or not the employee follows the licensed health care professional's recommendation. If recommendations are received from 2 or more licensed health care professionals, the employer must decide which is the most authoritative and record the case based upon that recommendation.

B) When a licensed health care professional recommends that the worker return to work but the employee stays at home anyway, end the count of days away from work on the date the physician or other licensed health care professional recommends that the employee return to work.

5) Non-Work Days

A) The number of calendar days the employee was unable to work as a result of the injury or illness shall be counted, regardless of whether the employee was scheduled to work on those days. Weekend days, holidays, vacation days or other days off are included in the total number of days recorded if the employee would not have been able to work on those days because of a work-related injury or illness.

B) When 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, record the case only if the employer receives information from a licensed health care professional indicating that the employee should not have worked or should have performed only restricted work during the weekend. The injury or

illness must be recorded as a case with days away from work or restricted work and the day counts must be entered, as appropriate.

6) Day Before Scheduled Time Off

When a worker is injured or becomes ill on the day before scheduled time off, such as a holiday, planned vacation, or temporary closing, the case needs to be recorded only if the employer receives information from a licensed health care professional indicating that the employee should not have worked, or should have performed only restricted work, during the scheduled time off. The injury or illness shall be recorded as a case with days away from work or restricted work and the day counts shall be entered, as appropriate.

7) Limitation on Days Counted

A) 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.

B) The employer may stop counting days if an employee who is away from work because of an injury or illness retires or leaves employment. If the employee leaves employment for some reason unrelated to the injury or illness, such as retirement, or to take another job, stop counting days away from work or days of restriction/job transfer. If the employee leaves because of the injury or illness, estimate the total number of days away or days of restriction/job transfer and enter the day count on the OSHA 300 Log.

C) If a case occurs in one year but results in days away during the next calendar year, only record the injury or illness once. Enter the number of calendar days away for the injury or illness on the OSHA 300 Log for the year in which the injury or illness occurred. If the employee is still away from work because of the injury or illness when the annual summary is prepared, estimate the total number of calendar days the employee is expected to be away from work, use this number to calculate the total for the annual summary, and update the initial log entry later when the day count is known or reaches the 180-day cap.

8) Restricted Work or Job Transfer

A) When an injury or illness involves restricted work or job transfer but does not involve death or days away from work, record the injury or illness on the OSHA 300 Log by placing a check mark in the space for job transfer or restriction and entering 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:

i) The employer keeps 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; or

ii) 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.

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

C) Do not record restricted work or job transfers if the employer or the licensed health care professional imposes the restriction or transfer only for the day on which the injury occurred or the illness began.

D) 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, evaluate the restriction in light of the routine functions of the injured or ill employee's job. If the restriction from the employer or 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 case must be recorded.

E) 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.

F) The case is not considered restricted work if the injured or ill worker produces fewer services than he or she would have produced prior to the injury or illness but otherwise performs all of the routine functions of his or her work. The case is considered restricted work only if the worker does not perform all of the routine functions of his or her job or does not work the full shift that he or she would otherwise have worked.

G) Restrictions from a licensed health care professional may be vague, such as limiting the employee to only "light duty" or instructing the employee to "take it easy for a week". If the licensed health care professional's recommendation is not clear, ask 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", 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 you are unable to obtain this additional information from the licensed health care professional who recommended the restriction, record the injury or illness as a case involving restricted work.

H) If a licensed health care professional recommends a job restriction meeting the definition, but the employee does all of his or her routine job functions anyway, record the injury or illness on the OSHA 300 Log as a restricted work case. If a licensed health care professional recommends a job restriction, ensure that the employee complies with that restriction. If recommendations are received from 2 or more physicians or other licensed health care professionals, make a decision as to which recommendation is the most authoritative and record the case based upon that recommendation.

I) Job Transfers

i) If an injured or ill employee assigned to a job other than his or her regular job for part of the day, the case involves transfer to another job. This does not include the day on which the injury or illness occurred.

ii) Both job transfer and restricted work cases are recorded in the same box on the OSHA 300 Log. EXAMPLE: if the employer assigns, or a 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. Record an injury or illness that involves a job transfer by placing a check in the box for job transfer.

J) Count days of job transfer or restriction in the same way days away from work are counted, using subsection (b)(3) through (b)(7). The only difference is that, if the injured or ill employee is assigned to a job that has been modified or permanently changed in a manner that eliminates the routine functions the employee was restricted from performing, stop the day count when the modification or change is made permanent. You must count at least one day of restricted work or job transfer for the cases.

9) Medical Treatment Beyond First Aid

A) If a work-related injury or illness results in medical treatment beyond first aid, record it on the OSHA 300 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, enter a check mark in the box for cases in which the employee received medical treatment but remained at work and was not transferred or restricted.

B) Medical treatment means the management and care of a patient to combat disease or disorder. For the purposes of this Subpart B, 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 subsection (b)(9)(C).

C) For the purposes of Subpart B, first aid means the following:

i) Using a non-prescription medication at non-prescription strength (for medications available in both prescription and non-prescription form, a recommendation by a 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); or

xiv) Drinking fluids for relief of heat stress.

D) No other treatments are considered first aid for the purposes of this Subpart B.

E) The professional status of the person providing the treatment has no effect on what is considered first aid or medical treatment.
Even when these treatments are provided by a licensed health care professional, they are considered first aid. Similarly, treatment beyond first aid is considered to be medical treatment even when it is provided by someone other than a physician or other licensed health care professional.

10) Refusal of Medical Treatment
If a licensed health care professional recommends medical treatment, encourage the injured or ill employee to follow that recommendation. However, the case must be recorded even if the injured or ill employee does not follow the licensed health care professional's recommendation.

11) Loss of Consciousness

Record a work-related injury or illness if the worker becomes unconscious, regardless of the length of time the employee remains unconscious.

12) Significant Diagnosed Injury or Illness

A) 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, 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.

B) Most significant injuries and illnesses will result in one of the criteria listed in this Part, i.e., death, days away from work, restricted work or job transfer, medical treatment beyond first aid, or loss of consciousness. However, there are some significant injuries, such as a punctured eardrum or a fractured toe or rib, for which neither medical treatment nor work restrictions may be recommended. In addition, there are some significant progressive diseases, such as byssinosis, silicosis and some types of cancer, for which medical treatment or work restrictions may not be recommended at the time of diagnosis but are likely to be recommended as the disease progresses. Cancer, chronic irreversible diseases, fractured or cracked bones, and punctured eardrums are generally considered significant injuries and illnesses and must be recorded at the initial diagnosis even if medical treatment or work restrictions are not recommended, or are postponed, in a particular case.

Section 350.300 Recording Criteria for Needlestick and Sharps Injuries

a) Basic Requirement
Record all work-related needlestick injuries and cuts from sharp objects that are contaminated with another person's blood or other potentially infectious material (as defined by 29 CFR 1910.1030). Enter the case on the OSHA 300 Log as an injury. To protect the employee's privacy, do not enter the employee's name on the OSHA 300 Log (see the requirements for privacy cases in Section 350.340(b)(6) through (b)(9)).

b) Implementation

1) Other potentially infectious materials is defined in the Bloodborne Pathogens standard at 29 CFR1910.1030(b). These materials include:

A) Human bodily fluids, tissues and organs; and

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

2) All cuts, lacerations, punctures and scratches need to be recorded 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 record the case only if it meets one or more of the recording criteria in Section 350.290.

3) If an injury is recorded and the employee is later diagnosed with an infectious bloodborne disease, update the OSHA 300 Log. The classification of the case on the OSHA 300 Log must be updated if the case results in death, days away from work, restricted work or job transfer. The description must also be updated to identify the infectious disease and change the classification of the case from an injury to an illness.

4) If an employee is splashed with or exposed to blood or other potentially infectious material without being cut or scratched, record the incident on the OSHA 300 Log as an illness if:

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

B) It meets one or more of the recording criteria in Section 350.290.

Section 350.310 Recording Criteria for Cases Involving Medical Removal under IDOL-Adopted OSHA Standards

a) Basic requirement
If an employee is medically removed under the medical surveillance requirements of an OSHA standard, record the case on the OSHA Form 300.

b) Implementation

1) Enter each medical removal case on the OSHA Form 300 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, enter the case on the OSHA Form 300 by checking the poisoning column.

2) Some OSHA standards, such as the standards covering bloodborne pathogens and noise, do not have medical removal provisions. Many OSHA standards that cover specific chemical substances have medical removal provisions. These standards include, but are not limited to, lead, cadmium, methylene chloride, formaldehyde and benzene.

3) When the employer voluntarily removes the employee from exposure before the medical removal criteria in an OSHA standard are met, the case does not need to be recorded on the OSHA Form 300.

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)

Section 350.320 Recording Criteria for Cases Involving Occupational Hearing Loss

a) Basic Requirement
If an employee's hearing test (audiogram) reveals that the employee has experienced a work-related Standard Threshold Shift (STS) in hearing in one or both ears, and the employee's total hearing level is 25 dB or more above audiometric zero (averaged at 2000, 3000 and 4000 Hz) in the same ear or ears as the STS, record the case on the OSHA 300 Log.

b) Implementation

1) An STS is defined in the occupational noise exposure standard (29 CFR 1910.95(g)(10)(i)) as a change in hearing threshold, relative to the baseline audiogram for that employee, of an average of 10 dB or more at 2000, 3000 and 4000 Hz in one or both ears.

2) Evaluating the Current Audiogram to Determine Whether an Employee has an STS and a 25-dB Hearing Level

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

B) 25-dB Loss. Audiometric test results reflect the employee's overall hearing ability in comparison to audiometric zero. Therefore, using the employee's current audiogram, you must use the average hearing level at 2000, 3000 and 4000 Hz to determine whether the employee's total hearing level is 25 dB or more.

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

4) If the employee's hearing is retested 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 OSHA 300 Log. If the retest confirms the recordable STS, record the hearing loss illness within 7 calendar days after 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, you may erase or line-out the recorded entry.

5) In determining whether a hearing loss case is work-related, use Section 350.270 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, consider the case to be work-related.

6) 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 OSHA 300 Log.

7) When entering a recordable hearing loss case on the OSHA 300 Log, check the 300 Log column for hearing loss.

Section 350.330 Recording Criteria for Work-Related Tuberculosis Cases

a) Basic Requirement
If any employee has been occupationally exposed to anyone with a known case of active tuberculosis (TB), and that employee subsequently develops a TB infection, as evidenced by a positive skin test or diagnosis by a physician or other licensed health care professional, record the case on the OSHA 300 Log by checking the respiratory condition column.

b) Implementation

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

2) If the employer obtains evidence that the case was not caused by occupational exposure, the employer may line-out or erase the case from the Log under the following circumstances:

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

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

C) A medical investigation shows that the employee's infection was caused by exposure to TB away from work or proves that the case was not related to the workplace TB exposure.

Section 350.340 Forms

a) Basic Requirement
Use the OSHA Form 300 (Log of Work-Related Injuries and Illnesses), 300A (Summary of Work-Related Injuries and Illnesses) and 301 (Injury and Illness Incident Report), or equivalent forms for recorded injuries or illnesses.

b) Implementation

1) Enter information about the employer's business at the top of the OSHA Form 300, enter a one or two line description for each recordable injury or illness, and summarize this information on the OSHA Form 300A at the end of the year.

2) Complete an OSHA Form 301 (Injury and Illness Incident Report) or an equivalent form (i.e., IWCC Form 45) for each recordable injury or illness entered on the OSHA Form 300.

3) Enter each recordable injury or illness on the OSHA Form 300 and OSHA Form 301 (Injury and Illness Incident Report) within 7 calendar days after receiving information that a recordable injury or illness has occurred.

4) An equivalent form is one that has the same information, is as readable and understandable, and is completed using the same instructions as the OSHA form it replaces. Many employers use an insurance form instead of the OSHA Form 301 (Injury and Illness Incident Report) or supplement an insurance form by adding any additional information required.

5) Records may be kept on a computer if the computer can produce equivalent forms when they are needed, as described under Sections 350.390 and 350.420.

6) If there are privacy concerns, do not enter the employee's name on the OSHA Form 300. Instead, enter "privacy case" in the space normally used for the employee's

name. This will protect the privacy of the injured or ill employee when another employee, a former employee, or an authorized employee representative is provided access to the OSHA Form 300 under Section 350.390(b)(2). Keep a separate, confidential list of the case numbers and employee names for privacy concern cases so the cases can be updated and provide the information to the government if asked to do so.

7) Consider only the following injuries or illnesses to be privacy concern cases:

A) An injury or illness to an intimate body part or the reproductive system;

B) An injury or illness resulting from a sexual assault;

C) Mental illnesses;

D) HIV infection, hepatitis, or tuberculosis;

E) Needlestick injuries and cuts from sharp objects that are contaminated with another person's blood or other potentially infectious material; and

F) Other illnesses, if the employee voluntarily requests that the employee's name not be entered on the log.

8) 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 OSHA 300 and 301 forms. Enter enough information to identify the cause of the incident and the general severity of the injury or illness, but do not include details of an intimate or private nature. 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".

9) If the employer decides to voluntarily disclose the OSHA forms to persons other than government representatives, employees, former employees or authorized representatives, remove or hide the employees' names and other personally identifying information, except in the following instances. Disclose the forms with personally identifying information only to:

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

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

C) 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 CFR 164.512).

c) Log of Injuries and Illnesses – OSHA Form 300

1) Each employer shall maintain in each workplace an OSHA Form 300 of all recordable occupational injuries and illnesses for that workplace. The name of the establishment, the city and state where the establishment is located, and the year

must be designated at the top of the log. Within 7 calendar days after receiving information about a case, the employer shall:

A) Decide if the case is recordable under the recordkeeping provisions of Section 350.220.

B) Determine whether the incident is a new case or a recurrence of an existing one.

C) Establish whether the case was work-related.

E) Decide which form to fill out as the injury/illness incident report form required under Section 350.340(a), OSHA Form 301 (Injury and Illness Incident Report), IWCC Form 45, or a suitable substitute that contains the same information as either of those two forms.

2) The OSHA Form 300 shall contain the following information for each recordable injury and illness:

A) A unique case number assigned by the employer to this specific illness or injury to facilitate comparisons with the supplementary record of the illness or injury;

B) The name of the affected employee, unless protected as a privacy case due to the nature of the injury or illness;

C) The job title of the employee;

D) The date of the injury or onset of illness;

E) Location where the event occurred;

F) A description of the injury or illness, parts of the body affected, and object or substance that directly injured or made the person ill (e.g., second degree burns on right forearm from acetylene torch);

G) The most serious result from each case:

i) Death;

ii) Days away from work;

iii) Remained at work; job transfer or restriction (see federal form);

iv) Remained at work; other recordable cases (see federal form);

H) The designation of injury or the type of illness (e.g., skin disorder, respiratory condition, poisoning, hearing loss, all other illnesses);

I) The number of days the injured or ill worker was either on job transfer or restriction or away from work.

3) The OSHA Form 300 and its supplementary information must be retained by the employer for five years.

d) Injury and Illness Incident Report – OSHA Form 301

1) In addition to the OSHA Form 300 of injuries and illnesses, each employer shall maintain in each workplace a supplementary record of each recordable occupational injury and illness for that workplace. The employer shall complete the incident report and make it available as early as practicable, but no later than 7 calendar days after receiving information that a recordable injury or illness has occurred. The OSHA Form 301, IWCC Form 45, or a suitable substitute that contains the same information as either of those two forms may be used as the supplementary record. Records shall be available to any agency requesting them pursuant to Section 60 of the Act.

2) The OSHA Form 301 (Injury and Illness Incident Report) shall contain the following information for each recordable injury and illness:

A) Information about the employee:

i) Full name and address.

ii) Date of birth and date of hire.

iii) Gender.

B) Information about the physician or other health care professional:

i) Name of physician or health care professional.

ii) Location where treatment was administered.

iii) If an emergency room was visited or if the employee was hospitalized overnight as an in-patient.

C) Information about the case:

i) Case number corresponding to the Log of Injuries/Illnesses.

ii) Date of Injury or Illness.

iii) Time employee began work and time of event, if known.

iv) What the employee was doing just before the incident occurred.

v) What happened.

vi) What was the injury or the illness.

vii) What object or substance directly harmed the employee.

viii) If the employee died, date of death.

3) The name and title of the individual who completed the form, along with the telephone number and the date of completion.

4) This form must be kept on file for 5 years following the year to which it pertains. The Incident Report Form has to be completed within 7 calendar days after notice of the injury or illness. These forms shall be maintained for at least 5 years.

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)

Section 350.350 Multiple Establishments

a) Basic Requirement
Keep a separate OSHA 300 Log for each establishment that is expected to be in operation for one year or longer.

b) Implementation

1) Keep OSHA injury and illness records for short-term establishments (i.e., establishments that will exist for less than a year), but the employer does not have to keep a separate OSHA 300 Log for each such establishment. One OSHA 300 Log may be kept that covers all of the employees short-term establishments. Include the short-term establishments' recordable injuries and illnesses on an OSHA 300 Log that covers short-term establishments for individual company divisions or geographic regions.

2) Keep the records for an establishment at the employer's headquarters or other central location if the employer can:

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

B) Produce and send the records from the central location to the establishment within the time frames required by Sections 350.390 and 350.420 when the employer is required to provide records to a government representative, employees, former employees or employee representatives.

3) Each employee must be linked to one of the employer's establishments for recordkeeping purposes. Record the injury and illness on the OSHA 300 Log of the injured or ill employee's establishment or on an OSHA 300 Log that covers that employee's short-term establishment.

4) When an employee of one of the employer's establishments is injured or becomes ill while visiting or working at another of the employer's establishments, or while working away from any of the employer's establishments the injury or illness must be recorded. If the injury or illness occurs at one of the employer's establishments, record the injury or illness on the OSHA 300 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, record the case on the OSHA 300 Log at the establishment at which the employee normally works.

Section 350.360 Covered Employees

a) Basic Requirement
Record on the OSHA 300 Log the recordable injuries and illnesses of all employees on the employer's payroll, whether they are labor, executive, hourly, salary, part-time, seasonal or migrant workers. Record the recordable injuries and illnesses that occur to employees who

are not on the employer's payroll if the employer supervises these employees on a day-to-day basis.

b) Implementation

1) A self-employed person who is injured or becomes ill while doing work at an establishment is not covered by this Part.

2) Injury or illness to employees obtained from a temporary help service, employee leasing service or personnel supply service (the direct employer) must be recorded if the establishment employer supervises these employees on a day-to-day basis.

3) 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 in the establishment supervises the contractor employee's work on a day-to-day basis, that employer must record the injury or illness.

4) A direct employer or contractor does not also record the injuries or illnesses occurring to temporary, leased or contract employees supervised by the establishment employer on a day-to-day basis. The establishment employer and the direct employer or contractor should coordinate efforts to make sure that each injury and illness is recorded only once, either on the establishment employer's OSHA 300 Log (if the establishment employer provides day-to-day supervision) or on the direct employer's or contractor's OSHA 300 Log (if that entity provides day-to-day supervision).

Section 350.370 Annual Summary

a) Basic Requirements
At the end of each calendar year:

1) Review the OSHA Form 300 to verify that the entries are complete and accurate, and correct any deficiencies identified;

2) Create an annual summary of injuries and illnesses recorded on the OSHA Form 300;

3) Certify the summary;

4) Post the annual summary; and

5) File such report electronically if required by Section 350.375

b) Implementation

1) The employer must review the entries as extensively as necessary to make sure that they are complete and correct.

2) To complete the annual summary:

A) Total the columns on the OSHA Form 300 (if no recordable cases, enter zeros for each column total);

B) Enter the calendar year covered, the employer's name, establishment name, establishment address, annual average number of employees covered by the OSHA Form 300, and the total hours worked by all employees covered by the OSHA Form 300; and

C) If using an equivalent form other than the OSHA Form 300A (Summary of Work-Related Injuries and Illnesses) form, the summary used must also include the employee access and employer penalty statements found on the OSHA Form 300A.

3) A management executive must certify that the management executive has examined the OSHA 300 Log and reasonably believes, based on the management executive's knowledge of the process by which the information was recorded, that the annual summary is correct and complete.

4) The management executive who certifies the log must be:

A) The highest-ranking management official working at the establishment; or

B) The highest-ranking supervisor at the establishment who has signature authority for the highest-ranking management official.

5) Post a copy of the annual summary in each establishment in a conspicuous place or places where notices to employees are customarily posted and ensure the posted annual summary is not altered, defaced or covered by other material.

6) 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.

7) Electronically report no later than March 2nd for the prior calendar year.

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)

Section 350.375 Electronic Submission of OSHA Form 300A

a) Basic Requirement

1) Annual electronic submission of OSHA Form 300A (Summary of Work-Related Injuries and Illnesses).

A) If the establishment had 250 or more employees at any time during the previous calendar year, then the establishment must electronically submit information from OSHA Form 300A (Summary of Work-Related Injuries and Illnesses) to Illinois OSHA or Illinois OSHA's designee. The establishment must submit the information once a year, no later than March 2nd of the year after the calendar year covered by the form (e.g., 2020 for the 2019 form).

B) If the establishment had 20 or more employees but fewer than 250 employees at any time during the previous calendar year, and the establishment is classified in an industry listed in Appendix B, then the establishment must electronically submit information from OSHA Form 300A (Summary of Work-Related Injuries and Illnesses) to Illinois OSHA or Illinois OSHA’s designee. The establishment must submit the information

once a year, no later than March 2nd of the year after the calendar year covered by the form.

C) Upon notification by Illinois OSHA, additional establishments and/or industries may be subject to these reporting requirements and must electronically submit information to Illinois OSHA or Illinois OSHA's designee.

D) Establishments subject to these reporting requirements must provide the Employer Identification Number (EIN) used by the establishment.

b) Implementation

1) Each individual employed in the establishment at any time during the calendar year counts as one employee, including full-time, part-time, seasonal, and temporary workers.

2) Establishments required to submit information will notified by email. Illinois OSHA will also announce individual data collections through press releases and announcements on the IDOL website.

3) Establishments required to submit information must submit the information once a year by March 2nd.

4) Illinois OSHA shall provide a secure website for the electronic submission of information.

(Source: Added at 46 Ill. Reg. 3518, effective February 15, 2022)

Section 350.380 Retention and Updating

a) Basic Requirement
Save the OSHA 300 Log, the privacy case list (if one exists), the annual summary, and the OSHA 301 Incident Report forms for 5 years following the end of the calendar year that these records cover.

b) Implementation

1) During the storage period, update the stored OSHA 300 Logs to include newly discovered recordable injuries or illnesses and to show any changes that have occurred in the classification of previously recorded injuries and illnesses. If the description or outcome of a case changes, remove or line out the original entry and enter the new information.

2) The employer is not required to update the annual summary, but may do so if he or she wishes.

3) The employer is not required to update the OSHA 301 Incident Reports, but may do so if he or she wishes.

Section 350.390 Employee Involvement

a) Basic Requirement

Employees and their representatives must be involved in the recordkeeping system in several ways.

1) The employer must inform each employee of how to report an injury or illness to the employer.

2) The employer must provide limited access to its injury and illness records for its employees and their representatives.

b) Implementation

1) The employer must establish a process for employees to report work-related injuries and illnesses promptly and must inform each employee regarding the process to report work-related injuries and illnesses.

2) The employer must give its employees and their representatives access to the OSHA injury and illness records. Employees, former employees, their personal representatives, and their authorized employee representatives have the right to access the injury and illness records, with the limitations provided in this subsection (b).

3) An authorized employee representative means an authorized collective bargaining agent of employees.

4) A personal representative is:

A) Any person that the employee or former employee designates as such, in writing; or

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

5) When an employee, former employee, personal representative, or authorized employee representative asks for copies of the current or stored OSHA Form 300 for an establishment the employee or former employee has worked in, the employer must give the requester a copy of the relevant OSHA Form 300s by the end of the next business day.

6) Privacy

A) The employer shall not remove the names of the employees or any other information from the OSHA Form 300 before giving copies to an employee, former employee, personal representative, or employee representative. However, to protect the privacy of injured and ill employees, the employer shall not record the employee's name on the OSHA Form 300 for privacy concern cases (see Section 350.340(b)).

B) When an employee, former employee, or personal representative asks for a copy of the OSHA Form 301 (Injury and Illness Incident Report) describing an injury or illness to the employee or former employee, the employer shall give the requester a copy of the OSHA Form 301 (Injury and Illness Incident Report) containing that information by the end of the next business day. When an authorized employee representative asks for copies of the OSHA Form 301s (Injury and Illness Incident Report) for an establishment where

the authorized employee representative represents employees under a collective bargaining agreement, the employer shall 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 OSHA 301 (Injury and Illness Incident Report) section titled "Tell us about the case". The employer shall remove all other information from the copy of the OSHA Form 301 (Injury and Illness Incident Report) or the equivalent substitute form given to the authorized employee representative.

7) The employer shall not charge for copies of OSHA reports 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.

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)

Section 350.400 Prohibition Against Discrimination

Section 110 of the Act prohibits employers from discriminating against an employee for reporting a work-related fatality, injury or illness. That provision of the Act also protects the employee who files a safety and health complaint, asks for access to the Subpart B records, or otherwise exercises any right afforded by the Act.

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)

Section 350.405 Variance from Recordkeeping Requirements

Variance. If a public employer wishes to keep records in a manner different from this Subpart B, the employer must submit a variance petition in accordance with Section 350.500.

(Source: Added at 38 Ill. Reg. 20781, effective October 20, 2014)

Section 350.410 Reporting Fatalities, Hospitalizations, Amputations and Loss of Eye Incidents to the Illinois Department of Labor

a) Basic Requirements

1) All public sector employers must report:

A) All work-related fatalities within 8 hours; and

B) All work-related inpatient hospitalizations, all amputations, and all losses of an eye within 24 hours.

2) Employers must orally report by calling Illinois OSHA's 24/7 confidential number at (217)-782-7860.

b) Implementation

1) The reporter must give the following information for each fatality, hospitalization, amputation, or loss of an eye incident:

A) The establishment name;

B) The location of the incident;

C) The time of the incident;

D) The number of fatalities or hospitalized employees;

E) The names of any injured employees;

F) The reporter's contact person and his or her phone number; and

G) A brief description of the incident.

2) Every fatality or hospitalization incident resulting from a motor vehicle accident must be reported.

3) Fatalities caused by a heart attack at work must be reported. The Division Manager or designee will decide whether to investigate the incident, depending on the circumstances of the heart attack.

4) If the employer does not learn of a reportable incident at the time it occurs and the incident would otherwise be reportable under this Section, the employer shall make the report within 8 hours after the incident is reported to the employer or any agent or employee of the employer.

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)

Section 350.420 Providing Records to Government Representatives

a) Basic Requirement
When an authorized government representative asks for the records kept under this Subpart B, the employer shall provide copies of the records within 4 business hours.

b) Implementation Authorized representatives of the IDOL Director conducting an inspection or investigation under the Act have the right to obtain copies of injury and illness records.

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)

Section 350.430 Requests from the Illinois Department of Public Health/Bureau of Labor Statistics for Data

a) Basic Requirement
If the Illinois Department of Public Health submits to the employer a Survey of Occupational Injuries and Illnesses Form on behalf of the Bureau of Labor Statistics, the employer shall promptly complete the form, and return it following the instructions contained on the survey form.

b) Implementation
Each year, injury and illness survey forms are sent to randomly selected employers and the Bureau of Labor Statistics uses that information to publish statistics on occupational

injuries and illnesses in the United States. In any year, some employers will receive a survey form and others will not. Employers do not have to send injury and illness data to the Illinois Department of Public Health unless they receive a survey form.

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)

SUBPART C: FEDERAL STANDARDS

Section 350.500 Petition for Variance from Standards

a) General
The Director may grant a temporary or permanent variance from any State occupational safety and health standard upon application by a public employer. (Sec. 40 of the Act) The petition shall be filed by the employer as soon as practicable when the employer finds that compliance is unable to be achieved. Any variance from State health and safety standards may only have future effect.

b) The petition for a variance from a standard shall be granted if it meets the requirements of this Section and establishes:

1) The reasons for the employer's inability to achieve compliance by the required date, such as the unavailability of necessary professional or technical personnel or of materials and equipment, or because necessary construction or alteration of facilities cannot be completed by the effective date;

2) A description of interim steps being taken to safeguard the employees against the hazard during the period of noncompliance;

3) The details of an effective program for coming into compliance as quickly as practicable; and

4) A statement certifying that the employees have been notified of the petition and that a copy of the petition has been posted in a conspicuous location in the workplace for a period of at least 10 working days. This statement must summarize the application, specify where a copy may be examined, and describe how the employees were informed and their rights to petition the Director for a hearing.

c) Affected employees or their authorized representatives may participate in the hearing on the petition by filing a request to participate with the Department within 10 working days after the date of the posting of the petition or the service of the petition.

d) Within 15 working days after receipt of the petition, the Department shall schedule a hearing on the petition, appoint an impartial hearing officer to conduct the hearing, and serve notice of the time and location of the hearing on the employer and any employees and employee representatives who have filed a request to participate in the hearing. The hearing shall be held within 45 calendar days after receipt of the petition.

e) The Department shall fully consider the petition and any testimony presented by the employer, employees, and employee representatives.

1) The requested variance shall be granted when the Department finds that:

A) the employer has made and is making a good faith effort to achieve compliance (e.g., ordering necessary materials and designing, planning and scheduling alterations);

B) that the health and safety of the employees is being safeguarded during the noncompliance period (such as by the use of barriers, prohibition of access to the hazardous area, or posting of warning notices); and

C) that the noncompliant condition is due to circumstances beyond the control of the employer.

2) If the Department finds that the conditions of subsection (e)(1)have not been met, the variance shall be denied.

f) If the employees or their authorized representatives do not file a request to participate or otherwise raise objections to the petition and the Department finds that the information contained in the request for a variance meets the conditions set forth in subsection (e), the Department shall issue the requested variance without holding a hearing.

g) No order for a temporary variance may be in effect for longer than the period needed by the employer to achieve compliance or one year, whichever is shorter, except that such a variance may be renewed not more than twice, so long as the requirements of this Section are met and if an application for renewal is filed at least 90 calendar days prior to the expiration date of the variance. No interim renewal of a variance may remain in effect for longer than 180 calendar days.

h) Application. An application for a temporary order shall contain:

1) The name and address of the applicant;

2) The address of the affected establishments;

3) A statement establishing that the applicant;

A) is unable to comply with a standard by its effective date because of:

i) the unavailability of professional or technical personnel;

ii) the unavailability of materials and equipment needed to come into compliance with the standard; or

iii) the necessary construction or alteration of facilities cannot be completed by the effective date;

B) is taking all available steps to safeguard employees against the hazards covered by the standard; and

C) has an effective program for coming into compliance with a standard as quickly as possible.

4) The standard or portion of a standard from which the employer seeks the variance;

5) A representation by the employer, along with qualified support, of the reasons for not being able to comply with the standard;

6) A statement of when, with specific dates, the employer expects to comply with the standard; and

7) A certification that the employer has informed the employees and their authorized representatives of the application and their right to petition the Department for a hearing, and has provided them a copy of the posting.

i) Permanent Variance

1) The Director may issue an order for permanent variance from a safety standard when:

A) notice has been given to affected employees and the employees have been afforded the opportunity to participate in the hearing process; and

B) a preponderance of the evidence demonstrates that the conditions, practices, means, methods, operations, or processes used or proposed to be used will provide employment and places of employment as safe and healthful as those that would be produced by compliance with the standard.

2) The order may be modified or revoked upon application by an affected employer or affected employee at any time after 6 months following its issuance.

j) Modification or Revocation

1) An affected employer or an affected employee may apply in writing to the Director for a modification or revocation of a rule or order. The application shall contain:

A) The name and address of the applicant;

B) A description of the relief sought;

C) A statement setting forth with particularity the grounds for relief;

D) If the applicant is an employer, a certification that the applicant has informed affected employees of the application by:

i) Giving a copy of the application to the authorized employee representative;

ii) Posting, at the place or places where the notices to employees are normally posted, a statement giving a summary of the application and specifying where a copy of the full application may be examined (or, in lieu of the summary, posting the application itself); and

iii) Other appropriate means.

E) If the applicant is an affected employee, a certification that a copy of the application has been furnished to the employer; and

F) Any request for a hearing, as provided in this Part.

k) The Director may proceed to modify or revoke a rule, in accordance with the Illinois Administrative Procedure Act [5 ILCS 100], or to modify or revoke an order issued under Section 40 of the Act. In that event, the Director shall cause to be published in the Illinois Register a notice of this intention, affording interested persons an opportunity to submit written data, views or arguments regarding the proposal and informing the affected employer and employees of their right to request a hearing, and shall take other appropriate action to notify affected employees. Any request for a hearing shall include a short and plain statement of:

1) how the proposed modification or revocation would affect the requesting party; and

2) what the requesting party would seek to show on the subjects or issues involved.

l) Defective Applications

1) If an application for variance does not conform to the applicable portions of this Section, the Director may deny the application.

2) Prompt notice of denial of an application shall be given to the applicant.

3) A notice of denial shall include, or be accompanied by, a brief statement of the grounds for the denial.

4) A denial of an application pursuant to this subsection (l) shall be without prejudice to the filing of another application.

m) Adequate Applications

1) If an application has not been denied pursuant to subsection (l), the Director shall cause to be published in the Illinois Register a notice of the filing of the application.

2) A notice of the filing of an application shall include:

A) The terms or an accurate summary of the application;

B) A reference to the Section of the Act under which the application has been filed;

C) An invitation to interested persons to submit, within a stated period of time, written data, views, or arguments regarding the application; and

D) Information to affected employers and employees covered in the application of any right to request a hearing on the application.

n) Request for Hearings on Applications

1) Within the time allowed by a notice of the filing of an application, any affected employer or employee may file with the Director a request for a hearing on the application.

2) Contents of a Request for a Hearing. A request for a hearing filed pursuant to this Section shall include:

A) A concise statement of facts showing how the employer or employee would be affected by the relief applied for;

B) A specification of any statement or representation in the application that is denied and a concise summary of the evidence that would be adduced in support of each denial; and

C) Any views or arguments on any issue of fact or law presented.

3) All hearings held pursuant to this Section will abide by IDOL's Rules of Procedure in Administrative Hearings (56 Ill. Adm. Code 120).

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)

SUBPART D: CONSULTATION PROGRAM

Section 350.600 Purpose

The Illinois On-Site Safety and Health Consultation Program will provide compliance assistance to small businesses and the public sector establishments in Illinois. This program was established under the Cooperative Agreement between Illinois and the federal Occupational Safety and Health Administration (29 USC 670(d)), under which OSHA will utilize state personnel to provide consultative services to employers. The provisions for the Illinois On-Site Safety and Health Consultation Program funded under Sections 21(d) and 23(g) of the federal Occupational Safety and Health Act (29 USC 672(g)) are detailed in 29 CFR 1908.

SUBPART E: ADOPTION OF FEDERAL STANDARDS

Section 350.700 Adoption of Federal Standards

a) State Standards and Rulemaking. Section 25 of the Act outlines the Director's authority to promulgate, amend and revoke State standards. Any promulgation, amendment or revocation of State standards will be done in accordance with the Illinois Administrative Procedure Act [5 ILCS 100].

b) Incorporation of Federal Regulations

1) Pursuant to Section 25 of the Act, the Department hereby incorporates by reference designated federal occupational safety and health standards which the United States Secretary of Labor has promulgated or modified in accordance with the federal Occupational Safety and Health Act of 1970 (29 U.S.C. 651) and that are in effect on January 1, 2015, unless an alternate State standard has been adopted and is listed in subsection (c). These designated standards are located at 29 CFR 1904, 1908, 1910, 1915, 1926 and 1977. All materials incorporated by this Section are incorporated as of the date specified and do not include any later amendments or editions.

2) Pursuant to Section 25 of the Act, all amendments, after January 1, 2015, to the federal occupational safety and health standards in subsection (1) *shall become rules of the Department within 6 months after their federal promulgation date,* unless:

A) There is a current alternate State standard in effect; or

B) Within 45 calendar days of the federal promulgation date, the State files first notice with the Secretary of State to amend section (c) with an alternate State standard. (Sec. 25(b) of the Act)

c) Incorporation of Interpretations of Federal Regulations

1) The following interpretations of 29 CFR 1910.134, Respiratory Protection Standard (1998) are incorporated into this Part. Copies of the federal Occupational Safety and Health Administration material may also be obtained at http://www.osha-slc.gov/SLTC/respiratoryprotection/index.html.

Preamble: Respiratory Protection; Final Rule, 63 Fed. Reg. 1152 (Jan. 8, 1998)

Questions & Answers on the Respiratory Protection Standard, OSHA Memorandum (Aug. 17, 1998)

Inspection Procedure for the Respiratory Protection Standard, CPL 2-0.120 (Sept. 18, 1998)

Small Entity Compliance Guide for the Revised Respiratory Protection Standard, OSHA Directorate of Health Standards Programs (Sept. 30, 1998)

2) The following interpretation of 29 CFR 1910 and 1926, Standards Improvement (Miscellaneous Changes) for General Industry and Construction Standards; Paperwork Collection for Coke Oven Emissions and Inorganic Arsenic (1998); 29 CFR 1915 and 1926, Occupational Exposure to Asbestos (1998); 29 CFR 1910, Methylene Chloride (1998); 29 CFR 1910, Permit-Required Confined Spaces (1998); and 29 CFR 1910, 1915, 1917, 1918 and 1926, Powered Industrial Truck Operator Training (1999) are incorporated into this Part. Copies are available at the Department's Chicago office. Copies may also be obtained at http://www.osha.gov/comp-links.html.

Preamble: Standards Improvement (Miscellaneous Changes) for General Industry and Construction Standards; Paperwork Collection for Coke Oven Emissions and Inorganic Arsenic; Final Rule, 63 Fed. Reg. 33450 (June 18, 1998)

Preamble: Occupational Exposure to Asbestos; 63 Fed. Reg. 35137 (June 29, 1998)

Preamble: Methylene Chloride; Final Rule, 63 Fed. Reg. 50711 (Sept. 22, 1998)

Preamble: Permit-Required Confined Spaces; Final Rule, 63 Fed. Reg. 66018 (Dec. 1, 1998)

Preamble: Powered Industrial Truck Operator Training; Final Rule, 63 Fed. Reg. 66238 (Dec. 1, 1998)

3) The following interpretation of 29 CFR 1910, Dipping and Coating Operations (1999) is incorporated into this Part. Copies are available at the Department's Chicago office. Copies may also be obtained at http://www.osha.gov/comp-links.html.

Preamble: Dipping and Coating Operations; Final Rule, 64 Fed. Reg. 13897 (Mar. 23, 1999)

4) The following interpretation of 29 CFR 1926, Safety Standards for Steel Erection (2001), and 29 CFR 1910, Occupational Exposure to Bloodborne Pathogens; Needlesticks and Other Sharps Injuries (2001), are incorporated into this Part. Copies are available at the Department's Chicago office. Copies may also be obtained at http://www.osha.gov/comp-links.html.

Preamble: Safety Standards for Steel Erection; Final Rule, 66 Fed. Reg. 5196 (Jan. 18, 2001)

Preamble: Occupational Exposure to Bloodborne Pathogens; Needlesticks and Other Sharps Injuries; Final Rule, 66 Fed. Reg. 5318 (Jan. 18, 2001)

5) The following interpretation of 29 CFR 1910.36, 1910.37, 1910.38 and 1910.39, Exit Routes, Emergency Action Plans and Fire Prevention Plans, Final Rule (Nov. 11, 2002); 29 CFR 1904, Occupational Injury and Illness Recording and Reporting, Final Rule (July 1, 2002 and Dec. 17, 2002 update); 29 CFR 1910.139, Termination of Rulemaking Respiratory Protection for M. Tuberculosis, Final Rule (Dec. 31, 2003); 29 CFR 1915.52, Fire Protection in Shipyard Employment, Final Rule (Sept. 15, 2004); and 29 CFR 1910 et al., Standards Improvement Project – Phase II (Jan. 5, 2005) are incorporated into this Part. Copies are available at any of the Department's offices. Copies may also be obtained at http://www.osha.gov.

6) The following interpretations of 29 CFR 1910, 1915 and 1926, Assigned Protection Factors, Final Rule (Aug. 24, 2006); 29 CFR 1926, Roll-Over Protective Structure, Final Rule (Dec. 29, 2005, corrected July 20, 2006); 29 CFR 1910.1026, Occupational Exposure to Hexavalent Chromium, Final Rule (Feb. 28, 2006, corrected June 23, 2006); 29 CFR 1926, Steel Erection: Slip Resistance of Skeletal Structural Steel, Final Rule (Jan. 18, 2006); 29 CFR 1910, 1915 and 1926, Electrical Installation Requirements, subpart S, Final Rule (Feb. 14, 2007, corrected Oct. 29, 2008); 29 CFR 1915, Updating National Consensus Standards in OSHA Standard for Fire Protection in Shipyard Employment, Final Rule (Jan. 3, 2007); 29 CFR 1910, Employer Payment for Personal Protective Equipment, Final Rule (Nov. 15, 2007, clarified Dec. 12, 2008); and 29 CFR 1910, Updating OSHA Standards Based on National Consensus Standards, Final Rule (Mar. 14, 2008, Dec. 14, 2007, Sept. 9, 2009) are incorporated into this Part. Copies are available at any of the Department's offices, on the Department website at www.state.il.us/agency/idol or the OSHA website at http://www.osha.gov.

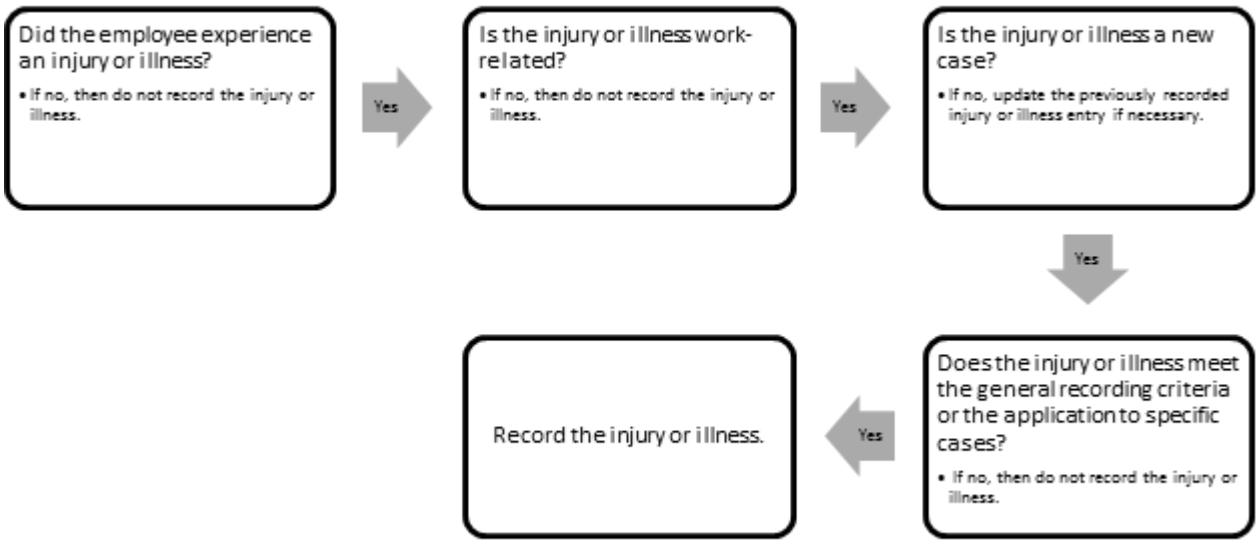
7) The following interpretations of 29 CFR 1910, 1915 and 1926 as appropriate, Standards Improvement Project, Phase III (June 8, 2011); Cranes and Derricks in Construction (Aug. 9, 2010); Technical Amendment concerning Safety Standards for Steel Erection (May 17, 2010); 29 CFR Revising the Notification Requirements in the Exposure Determination Provisions of the Hexavalent Chromium Standards (May 14, 2010); Revising Standards Referenced in the Acetylene Standard (Nov. 10, 2009);

d) Clarification of Effective Dates
The effective dates for 29 CFR 1910.119(e)(1)(i), (ii), (iii), and (iv), which establish timelines for hazard analyses for hazardous materials, are 1, 2, 3 and 4 years, respectively, after August 1, 1994.

e) Conformity with Federal Regulations
The Department shall consider any subsequent amendments to the health and safety standards adopted by the federal Occupational Safety and Health Administration. Those amendments will be incorporated by reference or substitute provisions that provide equivalent protection will be adopted. Amendments will be adopted in accordance with the Illinois Administrative Procedure Act.

(Source: Amended at 46 Ill. Reg. 9890, effective May 26, 2022)

350.APPENDIX A Decision Tree



350.APPENDIX B Annual Electronic Submission of OSHA Form 300A (Summary of Work-Related Injuries and Illnesses) by Establishments With 20 or More Employees but Fewer Than 250 Employees in Designated Industries

Reference: 350.375(a)(1)(B)

NAICS	Industry
237310	Road Maintenance/Construction
922160	Local Fire Protection
221310	Water Supply/Distribution
221320	Sewage Treatment

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)