

HAWAII ADMINISTRATIVE RULES

TITLE 12

DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

SUBTITLE 8

HAWAII OCCUPATIONAL SAFETY AND HEALTH DIVISION

PART 1

GENERAL, LEGAL, AND ADMINISTRATIVE PROVISIONS
FOR OCCUPATIONAL SAFETY AND HEALTH

CHAPTER 52.1

RECORDING AND REPORTING OCCUPATIONAL INJURIES AND
ILLNESSES

§12-52.1-1 State amendments to 29 C.F.R. §1904
§12-52.1-2 Incorporation of federal standard

Historical Note: Chapter 12-52.1 is based
substantially upon chapter 12-52. [Eff 7/12/82;
am 5/28/83; am 8/15/87; am 9/30/94; am 2/8/97; am
7/10/97; am 7/6/99; R 12/29/01; am 10/27/18]

§12-52.1-1 State amendments to 29 C.F.R. §1904.

(a) 29 C.F.R. §1904.1(a)(1) is amended to read as follows:

Basic requirement. (1) If your company had ten (10) or fewer employees at all times during the last calendar year, you do not need to keep OSHA injury and illness records unless HIOSH, OSHA, or the Bureau of Labor and Statistics (BLS) informs you in writing that you must keep records under 29 C.F.R. §1904.37, §1904.41, or §1904.42. However, as required by 29 C.F.R. §1904.39 all employers covered by chapter 396, HRS, Hawaii Occupational Safety and Health Law, must report to HIOSH any workplace incident that results in an employee fatality or the inpatient hospitalization of an employee, employee's amputation, employee's loss of an eye, or property damage greater than \$25,000.

(b) 29 C.F.R. §1904.2(a)(1) is amended to read as follows:

(a) Basic requirement. (1) If your business establishment is classified in a specific low hazard retail, service, finance, insurance, or real estate industry listed in Appendix A, titled "Non-Mandatory Appendix A to Subpart B - Partially Exempt Industries", dated March 17, 2017, which is made part of this section and located at the end of this section, you do not need to keep OSHA injury and illness records unless the government asks you to keep records under 29 C.F.R. §1904.37, §1904.41, or §1904.42. However, all employers must report to HIOSH any workplace incident that results in an employee fatality or the inpatient hospitalization of an employee, employee's amputation, employee's loss of an eye, or property damage greater than \$25,000 (see 29 C.F.R. §1904.39(a)).

(c) 29 C.F.R. §1904.29(b)(2) is amended to read as follows:

(2) What do I need to do to complete an OSHA 301 Incident Report? You must complete an OSHA 301 Incident Report form, or an equivalent form that

contains the same information required on the OSHA 301 Incident Report form, for each recordable injury or illness that is required to be entered on the OSHA 300 Log.

(d) 29 C.F.R. §1904.37(c) is added to read as follows:

(c) If you receive an OSHA occupational injury and illness data collection form or any other type of injury and illness survey authorized by HIOSH, you must respond to the survey or request, and return it to the designated recipient within the specified time limit.

(e) 29 C.F.R. §1904.39(a) is amended to read as follows:

(a) Basic requirement. Within eight (8) hours after the death of any employee from a work-related incident, and within twenty-four (24) hours of the inpatient hospitalization of an employee, employee's amputation, employee's loss of an eye as a result of a work-related incident, or property damage in excess of \$25,000 as a result of a work-related incident, you must orally report the fatality, inpatient hospitalization, amputation, loss of an eye, or property damage by telephone, (808) 586-9102, or in person at the HIOSH office in Honolulu.

(f) 29 C.F.R. §1904.39(b)(1) is amended to read as follows:

(b) Implementation. (1) If the HIOSH office is closed, may I report the incident by leaving a message on HIOSH's answering machine, faxing the area office, or sending an e-mail? When the HIOSH office is closed, the (808) 586-9102 telephone number will allow you to leave a phone message. In order for the message to be considered officially reported, all of the information in 29 C.F.R. §1904.39(b)(2) must be provided on the answering machine message.

(g) 29 C.F.R. §1904.39(b)(11) is amended to read as follows:

(11) How does HIOSH define "amputation"? An amputation is the traumatic loss of a limb or other external body part. Amputations include a part, such as a limb or appendage, which has been severed, cut off, amputated (either completely or partially); fingertip amputations with or without bone loss; medical amputations resulting from irreparable damage; and amputations of body parts that have since been reattached.

(h) 29 C.F.R. §1904 Non-Mandatory Appendix A to Subpart B - Partially Exempt Industries is amended for the duration of the HIOSH Strategic Plan. The industries with NAICS codes 4812, 4879, and 4885 have been included in the HIOSH Strategic Plan and will continue to be required to maintain the injury and illness log for the duration of HIOSH's Strategic Plan unless the establishment has less than eleven (11) employees. 29 C.F.R. §1904 Non-Mandatory Appendix A to Subpart B - Partially Exempt Industries is amended to read as follows:

Employers are not required to keep OSHA injury and illness records for any establishment classified in the following North American Industry Classification System (NAICS) codes, unless they are asked in writing to do so by OSHA, the Bureau of Labor Statistics (BLS), or a state agency operating under the authority of OSHA or the BLS. All employers, including those partially exempted by company size or industry classification, must report to OSHA any workplace incident that results in a fatality, the inpatient hospitalization, amputation, or loss of an eye of an employee (see 29 C.F.R. §1904.39).

Non-Mandatory Appendix A to Subpart B-
Partially Exempt Industries

March 17, 2017

NAICS CODE	INDUSTRY DESCRIPTION	NAICS CODE	INDUSTRY DESCRIPTION
4431..	Electronics and Appliance Stores	5259..	Other Investment Pools and Funds
4461..	Health and Personal Care Stores	5331..	Lessors of Nonfinancial Intangible Assets (except Copyrighted Works).
4471..	Gasoline Stations	5411..	Legal Services
4481..	Clothing Stores	5412..	Accounting, Tax Preparation, Bookkeeping, and Payroll Services
4482..	Shoe Stores	5413..	Architectural, Engineering, and Related Services
4483..	Jewelry, Luggage, and Leather Goods Stores	5414..	Specialized Design Services
4511..	Sporting Goods, Hobby, and Musical Instrument Stores	5415..	Computer Systems Design and Related Services
4512..	Book, Periodical, and Music Stores	5416..	Management, Scientific, and Technical Consulting Services
4531..	Florists	5417..	Scientific Research and Development Services
4532..	Office Supplies, Stationary, and Gift Stores	5418..	Advertising and Related Services
5121..	Motion Picture and Video Industries	5511..	Advertising and Related Services
5122..	Sound Recording Industries		
5151..	Radio and Television Broadcasting		
5172..	Wireless Telecommunications Carriers (except Satellite).		
5179..	Other Telecommunications		
5182..	Data Processing, Hosting, and Related Services		
5191..	Other Information Services		

5221..	Depository Credit Intermediation	5615..	Management of Companies and Enterprises
5222..	Nondepository Credit Intermediation	5616..	Travel
5223..	Activities Related to Credit Intermediation	6111..	Arrangement and Reservation Services
5231..	Securities and Commodity Contracts Intermediation and Brokerage	6112..	Investigation and Security Services
5232..	Securities and Commodity Exchange	6113..	Elementary and Secondary Schools
5239..	Other Financial Investment Activities	6114..	Junior College Colleges, Universities, and Professional Schools
5241..	Insurance Carriers Agencies, Brokerages, and Other Insurance Related Activities	6115..	Business Schools and Computer and Management Training
5242..	Insurance and Employee Benefit Funds	6116..	Technical and Trade Schools
5251..		6117..	Other Schools and Instruction
		6211..	Educational Support Services
		6212..	Offices of Physicians
		6213..	Offices of Dentists
		6214..	Offices of Other Health Practitioners
		6215..	Outpatient Care Centers
			Medical and Diagnostic Laboratories

[Eff 12/29/01; am 4/29/02; am 1/10/03; am 2/19/17; am and comp 10/27/18] (Auth: HRS §396-4) (Imp: HRS §396-4)

§12-52.1-2 Incorporation of federal standard.

Title 29, Part 1904 of the Code of Federal Regulations, 2017 Edition published as of July 1, 2017, by the U.S. Government Printing Office, U.S. Superintendent of Documents, Washington, DC 20402-0001, is made part of this chapter, except as provided in section 12-52.1-1. [Eff 12/29/01; am 1/10/03; am 5/21/04; am 5/5/05; am 2/13/12; am 2/19/17; am and comp 10/27/18] (Auth: HRS §396-4) (Imp: HRS §396-4)