



COMPLIANCE BULLETIN

OSHA Final Rule on Electronic Reporting

HIGHLIGHTS

- The final rule does not create additional recording requirements.
- Establishments with 250 or more employees must submit data from their OSHA 300, 300A and 301 forms.
- Establishments with between 20 and 249 employees must submit data from their OSHA 300A forms if they are part of an identified high-risk industry.

IMPORTANT DATES

July 1, 2017

Affected employers must submit data from OSHA Form 300A.

July 1, 2018

Affected employers must submit data from OSHA Forms 300A, 300 and 301.

March 2 (2019 and beyond)

Affected employers must submit required data.

OVERVIEW

On **May 12, 2016**, the Occupational Safety and Health Administration (OSHA) issued a [final rule](#) requiring certain employers to electronically submit data from their work-related injury records to OSHA. The final rule also solidifies employee anti-retaliation protections for reporting work-related injuries and illnesses.

The final rule becomes effective on **Jan. 1, 2017**, but compliance with anti-retaliation provisions and reporting deadlines will be phased in through **2019**.

ACTION STEPS

Affected employers should consider the following action steps as a result of the final rule:

- ✓ Become familiar with the requirements in the final rule;
- ✓ Review their recordkeeping and anti-retaliation policies and procedures to ensure they are in compliance with OSHA requirements; and
- ✓ Consider transitioning their OSHA recordkeeping practices to an electronic format once details on how and where to submit electronic information to OSHA have been released.

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Affected Employers

OSHA's final rule on mandatory electronic reporting of occupational injuries and illness data updates OSHA recordkeeping obligations for establishments that:

- ✓ Have at least 250 employees; or
- ✓ Have between 20 and 249 employees and are in a high-risk industry (as shown in the table below).

OSHA will collect information on injuries and illnesses to identify emerging hazards, characterize specific areas of concern or target inspection and outreach initiatives under OSHA's emphasis program.

| NAICS | Industry |
|-------|--|
| 11 | Agriculture, forestry, fishing and hunting |
| 22 | Utilities |
| 23 | Construction |
| 31-33 | Manufacturing |
| 42 | Wholesale trade |
| 4413 | Automotive parts, accessories, and tire stores |
| 4421 | Furniture stores |
| 4422 | Home furnishings stores |
| 4441 | Building material and supplies dealers |
| 4442 | Lawn and garden equipment and supplies stores |
| 4451 | Grocery stores |
| 4452 | Specialty food stores |
| 4521 | Department stores |
| 4529 | Other general merchandise stores |
| 4533 | Used merchandise stores |
| 4542 | Vending machine operators |
| 4543 | Direct selling establishments |
| 4811 | Scheduled air transportation |
| 4841 | General freight trucking |
| 4842 | Specialized freight trucking |
| 4851 | Urban transit systems |
| 4852 | Interurban and rural bus transportation |
| 4853 | Taxi and limousine service |
| 4854 | School and employee bus transportation |
| 4855 | Charter bus industry |
| 4859 | Other transit and ground passenger transportation |
| 4871 | Scenic and sightseeing transportation, land |
| 4881 | Support activities for air transportation |
| 4882 | Support activities for rail transportation |
| 4883 | Support activities for water transportation |
| 7211 | Traveler accommodation |
| 7212 | RV (recreational vehicle) parks and recreational camps |
| 7213 | Rooming and boarding houses |

| NAICS | Industry |
|-------|---|
| 4884 | Support activities for road transportation |
| 4889 | Other support activities for transportation |
| 4911 | Postal service |
| 4921 | Couriers and express delivery services |
| 4922 | Local messengers and local delivery |
| 4931 | Warehousing and storage |
| 5152 | Cable and other subscription programming |
| 5311 | Lessors of real estate |
| 5321 | Automotive equipment rental and leasing |
| 5322 | Consumer goods rental |
| 5323 | General rental centers |
| 5617 | Services to buildings and dwellings |
| 5621 | Waste collection |
| 5622 | Waste treatment and disposal |
| 5629 | Remediation and other waste management services |
| 6219 | Other ambulatory health care services |
| 6221 | General medical and surgical hospitals |
| 6222 | Psychiatric and substance abuse hospitals |
| 6223 | Specialty (except psychiatric and substance abuse) hospitals |
| 6231 | Nursing care facilities |
| 6232 | Residential mental retardation, mental health and substance abuse facilities |
| 6233 | Community care facilities for the elderly |
| 6239 | Other residential care facilities |
| 6242 | Community food and housing, and emergency and other relief services |
| 6243 | Vocational rehabilitation services |
| 7111 | Performing arts companies |
| 7112 | Spectator sports |
| 7121 | Museums, historical sites, and similar institutions |
| 7131 | Amusement parks and arcades |
| 7132 | Gambling industries |
| 7223 | Special food services |
| 8113 | Commercial and industrial machinery and equipment (except automotive and electronic repair and maintenance) |
| 8123 | Dry-cleaning and laundry services |

This Compliance Bulletin is not intended to be exhaustive nor should any discussion or opinions be construed as legal advice. Readers should contact legal counsel for legal advice.

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Submitting Electronic Data

The final rule requires certain employers to electronically submit the injury and illness information they are already required to keep under existing OSHA regulations. The data an employer must submit and the timeline for submitting this information to OSHA depends on the establishment size.

Establishments in high-risk industries with between 20 and 249 employees will be required to submit some information from their OSHA Form 300A. Establishments with 250 or more employees will be required to submit information from their OSHA Forms 300A, 300 and 301. However, establishments with 250 or more employees have an additional year to file data from their 300 and 301 forms.

During 2017 and 2018, the final rule requires affected employers to submit required information by July 1. For 2019 and beyond, affected employers will be required to submit required information by March 2.

| Submission Deadline | Number of Employees (per establishment) | |
|------------------------------|---|--------------------|
| | 250 or more | Between 20 and 249 |
| July 1, 2017 | Form 300A | Form 300A |
| July 1, 2018 | Forms 300A, 300, 301 | Form 300A |
| March 2 (2019 and beyond) | Forms 300A, 300, 301 | Form 300A |

Employee Privacy

The final rule allows OSHA to publicize the electronic data it collects from employers on a public website. The public may use this information to learn about the safety and health hazards associated with working for certain employers. For this reason, the final rule also stipulates that certain personal identifying information must be omitted from electronic submissions mentioned above. Specifically employers should **not** submit:

- ✓ Information from **Column B** (“Employee name”) on OSHA Form 300
- ✓ Information from **Field 1** (“Employee name”), **Field 2** (“Employee address”), **Field 6** (“Name of physician or other health care professional”) or **Field 7** (“If treatment was given away from the worksite, where was it given?”) on OSHA Form 301.

Anti-discrimination Provisions

The final rule contains three new provisions aimed at strengthening employee anti-retaliation protections, which were set to become effective on Aug. 10, 2016 but have now been delayed to **Dec. 1, 2016**. These provisions:

- ✓ Require employers to inform employees of their right to report work-related injuries and illnesses free from retaliation;
- ✓ Clarify that work-related injury and illness reporting methods must be reasonable and should not deter or discourage employees from reporting health and safety incidents; and
- ✓ Prohibit employers from retaliating against employees for reporting work-related injuries or illnesses.

More Information

Contact ECM Solutions or see the OSHA [web page](#) on the tracking of workplace injuries and illnesses for more information.