

COMPLIANCE OVERVIEW

Provided by Jaeger & Flynn Assoc., Inc.

OSHA's Electronic Reporting Rule

The Occupational Safety and Health Administration (OSHA) requires employers with more than 10 employees to record occupational injuries and illnesses. Certain [low-risk industries](#) are exempt from this requirement.

On **May 12, 2016**, OSHA issued a [final rule](#) that requires employers to report information from their injury and illness records to OSHA every year for any establishment that has at least 250 employees or has between 20 and 249 employees and is part of an identified high-risk industry. The rule does not create additional recordkeeping obligations, but requires some entities to submit already-required records to OSHA. The final rule also solidified anti-retaliation protections for employees that became effective on Dec. 1, 2016.

The final rule became effective on Jan. 1, 2017, but compliance with its reporting requirements will be phased in through 2019. Under the rule OSHA is required to create and maintain a secure website affected establishments can use to submit their electronic information. On a [recent update](#), OSHA has indicated that this website will not be ready by July 1, 2017, the date set by the rule as the first submission deadline.

LINKS AND RESOURCES

- OSHA recording and reporting [website](#)
- [Instructions](#) for submitting electronic records to OSHA
- OSHA electronic reporting [website](#)

HIGHLIGHTS

MAJOR PROVISIONS

- The final rule does not create additional recording requirements.
- Establishments with 250 or more employees must submit data from their OSHA Forms 300, 300A and 301.
- 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.

IMPLEMENTATION TIMELINE

- July 1, 2017 - Affected employers must submit data from OSHA Form 300A. **(This deadline is likely to be delayed)**
- 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.

This Compliance Overview 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.

AFFECTED ESTABLISHMENTS

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).

In addition, employers that would otherwise be exempt from this requirement must report work-related injury and illness information if they receive a specific request from an authorized government agency to do so.

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

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 intellectual and developmental disability, mental health and substance abuse facilities
6233	Community care facilities for the elderly

NAICS	Industry
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	Recreational vehicle (RV) parks and recreational camps
7213	Rooming and boarding houses

NAICS	Industry
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

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 Forms 300 and 301.

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

During 2017 and 2018, the final rule requires affected employers to submit required information by July 1. However, on a [recent update](#) on its recordkeeping website, OSHA has indicated that it will not be ready by July 1, 2017 to receive the first electronic reports. For 2019 and beyond, affected employers will be required to submit required information by March 2.

OSHA will provide a secure website that employers must use to submit their electronic reports. The website offers employers three submission options:

1. Manual entry;

2. Uploading a comma-separated values file or CSV file (a generic spreadsheet format that should be compatible with most spreadsheet programs, such as Microsoft Excel); and
3. Transmission via an application programming interface (API) that should accommodate most automated recordkeeping systems.

OSHA has already published some [instructions](#) and made some [sample files and templates](#) available so employers can begin preparing for their first reporting obligations in 2017.

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 the following information:

FROM OSHA FORM 300	FROM OSHA FORM 301
<ul style="list-style-type: none">• Column B (“Employee name”)	<ul style="list-style-type: none">• Field 1 (“Employee name”)• Field 2 (“Employee address”)• Field 6 (“Name of physician or other health care professional”)• Field 7 (“If treatment was given away from the worksite, where was it given?”)

ANTI-RETIALIATION PROVISIONS

The final rule contains three new provisions aimed at strengthening employee anti-retaliation protections, which took effect on **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 Jaeger & Flynn Assoc., Inc. or see the OSHA [webpage](#) on the tracking of workplace injuries and illnesses for more information.