

COMPLIANCE OVERVIEW

Provided by Reseco Insurance Advisors

OSHA Electronic Reporting Rule

On May 12, 2016, the Occupational Safety and Health Administration (OSHA) issued a [final rule](#) that requires certain establishments to report information from their injury and illness records to OSHA electronically. The final rule also solidified anti-retaliation protections for employees.

The 2016 rule did not create additional recordkeeping obligations, but instead requires some entities to electronically submit already-required records to OSHA. These requirements became effective on Jan. 1, 2017, but the initial compliance deadlines were phased in through 2019.

Under the rule, covered establishments with 250 or more employees were required to report information from OSHA Forms 300, 300A, and 301, and smaller covered establishments were required to submit information only from OSHA Form 300A, every year. On Jan. 25, 2019, however, OSHA issued a [new final rule](#) that removes the electronic submission requirements for data from **Forms 300 and 301**.

This Compliance Overview provides an overview of the electronic reporting requirements under the 2016 final rule, as amended in 2019.

HIGHLIGHTS

MAJOR PROVISIONS

- Establishments with 250 or more employees must electronically submit data from their OSHA 300A forms by March 2 every year.
- 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

- **Dec. 15, 2017** (extended from July 1, 2017): First deadline under the 2016 final rule; electronic reports on 2016 data were due.
- **July 1, 2018**: Electronic reports on 2017 data were due.
- **March 2, 2019**: Deadline for electronic reports on 2018 data.
- **March 2**: Annual deadline for electronic reports on Form 300A data from the previous year.

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.

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AFFECTED ESTABLISHMENTS

OSHA’s electronic reporting rule affects establishments that:

- Are already required to create and maintain OSHA injury and illness records and have 250 or more employees;
- Have between 20 and 249 employees and belong to a [high-risk industry](#) (see table below); or
- Receive a specific request from OSHA to create, maintain and submit electronic records, even if they would otherwise be exempt from OSHA recordkeeping requirements.

The electronic reporting rule applies to establishments, not employers. An employer may have several worksites or establishments. In these situations, some establishments may be affected while others are not. To determine whether an establishment is affected, employers must determine each establishment’s peak employment during the calendar year. During this determination, employers must count every individual that worked at that establishment, regardless of whether he or she worked full-time, part-time, or was a temporary or seasonal worker. A firm with more than one establishment may submit establishment-specific data for multiple establishments.

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.

HIGH-RISK INDUSTRIES BY NAICS CODE

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

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

LINKS AND RESOURCES

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

4421	Furniture stores
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5152	Cable and other subscription programming
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NAICS	INDUSTRY
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	Recreational vehicle (RV) parks and recreational camps
7213	Rooming and boarding houses

NAICS	INDUSTRY
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
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

REPORTING REQUIREMENTS

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The data an employer must submit and the timeline for submitting this information to OSHA depends on the establishment size. Reporting deadlines for 2017, 2018, 2019 and beyond are as follows:

Submission Deadline	Number of Employees (per establishment)	
	250+	20-249
Dec. 15, 2017	Form 300A	Form 300A
July 1, 2018	Form 300A*	Form 300A
March 2 (2019 and beyond)	Form 300A*	Form 300A

** The 2016 final rule also required information from Forms 300 and 301, but OSHA eliminated those requirements in a new final rule issued on Jan. 25, 2019*

Under the rule, establishments in high-risk industries with 20-249 employees, and establishments with 250 or more employees, are required to submit information from their OSHA Form 300A.

Establishments with 250 or more employees were originally required to submit information from their OSHA Forms 300 and 301 as well. On Jan. 25, 2019, however, OSHA issued a [new final rule](#) that removes the electronic reporting requirements for data from Forms 300 and 301. OSHA had earlier indicated that it would not enforce the final rule’s 2018 deadline for electronic submission of data from those two forms. The 2016 final rule, itself, did not require information from Forms 300 and 301 in 2017.

OSHA’s new final rule does **not** affect the 2016 final rule’s requirements for establishments to electronically submit data from **Form 300A**.

SUBMITTING THE REPORT

The [ITA](#) is a secure website that OSHA created specifically for the data required by the electronic reporting rule. The ITA allows employers three options to submit their reports:

1. Manual entry;
2. Comma-separated value (CSV) file upload; and
3. Application programming interface (API) transmission.

The ITA offers affected establishment instructions and sample files and templates to help them complete the submission process.

OSHA-APPROVED STATE PLANS

The final rule required OSHA-approved State Plans to adopt the electronic rule or “substantially identical” requirements within six months of the final rule’s publication date. This means that OSHA-approved State Plans have the authority to adopt reporting requirements that go above and beyond what is required by the federal rule. For this reason, establishments located in OSHA-approved State Plan jurisdictions should consult with their local OSHA offices to make sure they are satisfying all electronic reporting requirements.

ANTI-RETALIATION 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 Reseco Insurance Advisors or see the OSHA [webpage](#) on the tracking of workplace injuries and illnesses for more information.