

PUBLICATION

Are You a "High-Hazard" Employer? New OSHA Submission Requirements for Injury and Illness Records

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In a revival of an OSHA recordkeeping rule originally implemented under the Obama administration in 2016 and "rolled back" by the Trump administration in 2019, OSHA issued a final rule on July 21, 2023, requiring certain establishments in high-hazard industries to submit additional injury and illness data electronically to OSHA. The Final Rule is found at 29 CFR 1904 and goes into effect on January 1, 2024.

On and after January 1, 2024, OSHA will require employers with 100 or more workers in certain high-hazard industries to provide annual information from their Forms 300 and 301, in addition to the already required electronic submission of Form 300A. Form 300 is the Log of Work-Related Injuries and Illnesses, including the specific injuries or illnesses and the employee names. Form 301 is the corresponding Injury and Illness Incident Report which includes additional details on each item listed on the 300 Log. Form 300A is the corresponding Annual Summary showing the injury and illness totals for the year, including the number of cases, number of lost workdays, the injury and illness types, the average number of employees, and the total hours employees worked. This Form 300A Annual Summary must be routinely submitted by employers with more than 250 employees on or before March 2 of each year for the prior year.

According to OSHA, the "High-hazard" establishments include, but are not limited to, manufacturing, grocery stores, agriculture, construction, transportation, warehousing and storage, performing arts, and retail. A full list of the "High-hazard" industries can be found in Appendix B to Subpart E of the Final Rule ([29 CFR 1904](#)), which is a more expansive list than in the previously proposed rule. These requirements apply to establishments covered by Federal OSHA as well as establishments covered by states with their own occupational safety and health programs.

It is important to note that the Final Rule does not add or change an establishment's obligation to complete, retain, and certify injury and illness records. Instead, it requires certain establishments to electronically submit additional information from these records to OSHA over and beyond the Form 300A. Prior to the implementation of this rule, establishments with 20 to 249 workers in certain high-hazard industries were required to electronically submit information from their Forms 300A once per year. Employers with 250 or more workers, regardless of industry, were also required to electronically submit information from their Forms 300A once per year. These requirements remain in effect.

Commenters question the need for additional filings like Forms 300 and 301, citing individual privacy concerns. OSHA notes that establishments are not required to provide certain information on Forms 300 and 301 under § 1904.41(b)(9), including employee name, address, name of physician, and facility name and address if treatment was given away from the worksite. In addition, if Forms 300 and 301 are collected during an inspection and included in an enforcement case file, OSHA will redact identifying information under the Freedom of Information Act (FOIA) exemption if said records are requested.

With the above privacy protections in place, OSHA expects that the published establishment-specific, case-specific, injury and illness data will improve workplace safety and health with little harm to the establishments or employees. It further anticipates that the additional data will allow the public to "determine which workplaces

in a particular industry are the safest, . . . identify emerging injury and illness trends in particular industries[,] and "make decisions about what companies and industries they support and want to work for." 88 Fed. Reg. 27292 (July 21, 2023).

Establishments with the required number of employees must submit information from Forms 300, 300A, and 301 for the previous calendar year no later than March 2 of the following year. OSHA has created a secure website, the Injury Tracking Application (ITA), for the electronic submission of this data, including web forms for direct data entry and instructions for other means of submission. Like submission of the Form 300A, it is anticipated that the data entry process will not be onerous. Establishments should take the time prior to the Final Rule becoming effective to determine whether they are subject to the Final Rule and ensure that recordkeeping protocols are in place, up to date, and accurate.

For further information on this guidance or OSHA compliance in general, please reach out to [Ashley Meredith Strittmatter](#) or [Chelsea N. Hayes](#).