Legal Update

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OSHA's Final Rule to Improve Injury and Illness Tracking Starts Jan. 1, 2024

OSHA requires certain employers to electronically submit workplace injury and illness information to the agency through its Injury Tracking Application (ITA) every year. On July 17, 2023, OSHA announced a final rule that requires certain employers in designated high-hazard industries to electronically submit additional injury and illness information. This additional information can be gathered from records that employers are already required to keep.

The final rule becomes effective on Jan. 1, 2024. The ITA will begin accepting 2023 injury and illness data on Jan. 2, 2024.

Injury and Illness Submission Expansion Overview

Under this OSHA final rule, establishments in certain high-hazard industries must electronically submit information from their Log of Work-Related Injuries and Illnesses and their Injury and Illness Incident Report.

The final rule includes the following submission requirements:

- Certain establishments must electronically submit detailed information about each recordable injury and illness entered on their previous calendar year's OSHA 300 Log and 301 Incident Report forms (29 CFR 1904.41) to OSHA. This includes the date, physical location, and severity of the injury or illness; details about the worker who was injured; and details about how the injury or illness occurred;
- Only establishments with 100 or more employees in designated industries are required to submit case-specific information from the OSHA Form 300 Log and the OSHA Form 301 Incident Report; and
- The data must be electronically submitted through OSHA's ITA. Establishments are also required to include their legal company name when making electronic submissions to OSHA from their injury and illness records to improve data quality.

The final rule retains the current requirements for electronic submission of Form 300A information from establishments with 20-249 employees in certain high-hazard industries and establishments with 250 or more employees in industries that must routinely keep OSHA injury and illness records.

Some of the data collected on the OSHA website will be published to allow employers, employees, potential employees, employee representatives, current and potential customers, researchers and the general public to use information about a company's workplace safety and health record to make informed decisions. OSHA stated that it believes that providing public access to the data will ultimately reduce occupational injuries and illnesses.

Designated Industries

Establishments with 100 or more employees in designated industries are required to submit case-specific information from the OSHA Form 300 Log and the OSHA Form 301 Incident Report. Establishments that had a peak employment of 100 or more employees during the previous calendar year meet this size criteria.

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IMPORTANT DATES

July 17, 2023

OSHA announced a final rule to require certain employers in designated high-hazard industries to electronically submit injury and illness information.

July 21, 2023

The new rule will be published in the Federal Register.

Jan. 1, 2024

Effective date for the final rule for designated high-hazard industries.

The designated industries are listed in Appendix B to Subpart E of 29 C.F.R. Part 1904 under their North American Industry Classification System (NAICS) code. The final Appendix B to Subpart E is as follows from the final rule in the Federal Register:

NAICS	Industry
1111	Oilseed and Grain Farming
1112	Vegetable and Melon Farming
1113	Fruit and Tree Nut Farming
1114	Greenhouse, Nursery and Floriculture Production
1119	Other Crop Farming
1121	Cattle Ranching and Farming
1122	Hog and Pig Farming
1123	Poultry and Egg Production
1129	Other Animal Production
1133	Logging
1141	Fishing
1142	Hunging and Trapping
1151	Support Activities for Crop Production
1152	Support Activities for Animal Production
1152	Support Activities for Forestry
2213	Water, Sewage and Other Systems
2381	Foundation, Structure and Building Exterior Contractors
3111	Animal Food Manufacturing
3113	Sugar and Confectionery Product Manufacturing
3114	Fruit and Vegetable Preserving and Specialty Food Manufacturing
3115	Dairy Product Manufacturing
3116	Animal Slaughtering and Processing
3117	Seafood Product Preparation and Packaging
3118	Bakeries and Tortilla Manufacturing
3119	Other Food Manufacturing
3121	Beverage Manufacturing
3161	Leather and Hide Tanning and Finishing
3162	Footwear Manufacturing
3211	Sawmills and Wood Preservation
3212	Veneer, Plywood and Engineeered Wood Product Manufacturing
3219	Other Wood Product Manufacturing
3261	Plastics Product Manufacturing
3262	Rubber Product Manufacturing
3271	Clay Product and Refractory Manufacturing
3272	Glass and Glass Product Manufacturing
3273	Cement and Concrete Product Manufacuring
3279	Other Nonmetallic Mineral Product Manufacturing
3312	Steel Product Manufacturing from Purchased Steel
3314	Nonferrous Metal (Except Aluminum) Production and Processing
3315	Foundries
3321	Forging and Stamping

NAICS	Industry
3323	Architectural and Structural Metals Manufacturing
3324	Boiler, Tank and Shipping Container Manufacturing
3325	Hardward Manufacturing
3326	Sprint and Wire Product Manufacturing
3327	Machine Shops; Turned Product; and Screw, Nut and Bold Manufacturing
3328	Coating, Engraving, Heat Treating and Allied Activities
3331	Agriculture, Construction and Mining Machinery Manufacuting
3335	Metalworking Machinery Manufacturing
3361	Motor Vehicle Manufacturing
3352	Motor Vehicle Body and Trailer Manufacturing
3363	Motor Vehicle Parts Manufacturing
3366	Ship and Boat Building
3371	Household and Institutional Furniture and Kitchen Cabinet Manufacturing
3372	Office Furniture (Including Fixtures) Manufacturing
3379	Other Furniture-related Product Manufacturing
4231	Motor Vehicle and Motor Vehicle Parts and Supplies Merchant Wholesalers
4233	Lumber and Other Construction Materials Merchant Wholesalers
4235	Metal and Mineral (Except Petroleum) Merchant Wholesalers
4239	Miscellaneous Durable Goods Merchant Wholesalers
4244	Grocery and Related Product Merchant Wholesalers
4248	Beer, Wine and Distilled Alcoholic Beverage Merchant Wholesalers
4413	Automotive Parts, Accessories and Tire Stores
4422	Home Furnishings Stores
4441	Building Material and Supplies Dealers
4442	Lawn and Garden Equipment and Supplies Stores
4451	Grocery Stoers
4522	Department Stores
4523	General Merchandise Stores, Including Warehouse Clubs and Supercenters
4533	Used Merchandise Stores
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
4859	Other Transit and Ground Passenger Transportation
4871	Scenic and Sightseeing Transportation, Land
4881	Support Activities for Air Transportation
4883	Support Activities for Water Transportation
4889	Other Support Activities for Transportation

NAICS	Industry
4911	Postal Service
4921	Couriers and Express Delivery Services
4931	Warehousing and Storage
5322	Consumer Goods Rental
5621	Waste Collection
5622	Waste Treatment and Disposal
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 (Skilled Nursing Facilities)
6232	Residential Intellectual and Developmental Disability, Mental Health and Substance Abuse Facilities
6233	Continuing Care Retirement Communities and Assisted Living Facilities for the Elderly
6239	Other Residential Care Facilities
6243	Vocational Rehabilitation Services
7111	Performing Arts Companies
7112	Spectator Sports
7131	Amusement Parks and Arcades
7211	Traveler Accommodation
7212	RV (Recreational Vehicle) Parks and Recreational Camps
7223	Special Food Services

One way to determine if an establishment(s) is required to report these data is by using OSHA's ITA Coverage Application. The requirements apply to establishments covered by Federal OSHA, as well as establishments covered by states with their own occupational safety and health programs (i.e., State Plans).

Electronically Data Submission

Required data submissions must be electronically submitted through OSHA's ITA. To comply with this requirement, employers may:

- Use the webform on the ITA;
- Submit a comma-separated value file to the ITA; or
- Use an application programming interface feed.

The due date to complete this submission is March 2, 2024. The submission requirement is annual, and the deadline for timely submission of the previous year's injury and illness data will be on March 2 of each year.

Benefits of the New Requirements

Other than providing public access to injury information, the access to establishment-specific, case-specific injury and illness data will help OSHA identify establishments with specific hazards.

This will enable OSHA to interact directly with these establishments through enforcement and/or outreach activities to address and abate the hazards and improve worker safety and health. These same data will also allow OSHA to better analyze injury trends related to specific industries, processes or hazards.

OSHA is of the opinion that the collection and publication of data from Forms 300 and 301 will not only increase the amount of information available for analysis but will also result in more accurate statistics regarding work-related injuries and illnesses, including more detailed statistics on injuries and illnesses for specific occupations and industries.

Employer Next Steps

Employers should review the requirements in the final rule to understand whether they are in a designated industry and to understand any new regulatory requirements. Affected employers should update and implement related compliance policies and procedures by Jan. 1, 2024.

Provided by Connor & Gallagher OneSource

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