

COMPLIANCE OVERVIEW

OSHA FAQs: Electronic Reporting Requirement

The Occupational Safety and Health Administration (OSHA) issued a [final rule](#) that went into effect Jan. 1, 2024, requires certain establishments to electronically submit to OSHA detailed information about each recordable injury and illness entered on their previous calendar year's OSHA 300 Log and 301 Incident Report forms. This is in addition to the 2016 [final rule](#).

Both rules require certain establishments to report information from their OSHA Forms **by March 2** of every year if they:

- Have 250 or more employees and are already required to record work-related injuries and illnesses;
- Have between 20 and 249 employees and belong to a high-risk industry; or
- Establishments with 100 or more employees, in certain high-risk industries are required to submit this detailed information.

This Compliance Overview provides OSHA's answers to frequently asked questions about the electronic reporting rule including what forms must be submitted by employers.

LINKS AND RESOURCES

- [2016 final rule](#) and [press release](#)
- [2019 final rule](#) (amending the 2016 final rule to remove requirements for data from Form 300 and 301)
- [2023 final rule](#) (expands submission requirements for high-hazard industries)

Submitting Electronic Reports

- ✓ Establishments must use OSHA's [Injury Tracking Application](#).
- ✓ Users can manually enter data into a web form.
- ✓ Users can also upload a CSV file (comma separated value spreadsheet) to process multiple establishments at the same time.

Why OSHA Collects This Information

- Access to establishment-specific, case-specific injury and illness data will help the agency identify establishments with specific hazards.
- This same data will also allow OSHA to better analyze injury trends related to specific industries, processes or hazards.

Provided to you by [Employers Association of the Northeast](#)



COMPLIANCE OVERVIEW



What does the electronic reporting regulation do?

OSHA's regulation on Recording and Reporting Occupational Injuries and Illnesses (29 CFR 1904) requires certain employers to electronically submit injury and illness data to OSHA that they are already required to keep under OSHA regulations.

To ensure the completeness and accuracy of injury and illness data collected by employers and reported to OSHA, the regulation also:

- Requires employers to inform employees of their right to report work-related injuries and illnesses free from retaliation;
- Clarifies the existing implicit requirement that an employer's procedure for reporting work-related injuries and illnesses must be reasonable and not deter or discourage employees from reporting; and
- Incorporates the existing statutory prohibition on retaliating against employees for reporting work-related injuries or illnesses.

Why is OSHA collecting the data, and how will it be used?

Electronic submission of establishment-specific injury and illness data will enable OSHA to use its enforcement and compliance assistance resources more efficiently. Analysis of the data will improve OSHA's ability to identify, target and remove safety and health hazards, thereby preventing workplace injuries, illnesses and deaths.

Why does OSHA address retaliation in this rule? Isn't it already against the law to retaliate against an employee for reporting a workplace injury or illness?

Section 11(c) of the [OSH Act](#) already prohibits any person from discharging or otherwise discriminating against an employee who reports a fatality, injury, or illness. However, OSHA may not act under that section unless an employee files a complaint with OSHA within 30 days of the retaliation. In contrast, under the final rule, OSHA will be able to cite an employer for retaliation even if the employee did not file a complaint or if the employer has a program that deters or discourages reporting through the threat of retaliation. Often the point of retaliating against an employee who reports a hazard is to intimidate them from asserting their rights. This new authority is important because it allows OSHA to protect workers subject to retaliation, even when they cannot speak up for themselves. The rule gives OSHA an important new tool to encourage employers to maintain accurate and complete injury records.

How should an employer inform employees of their right to report work-related injuries and illnesses free from retaliation by their employer?

One way for employers to meet this requirement is by posting the OSHA "It's The Law" worker rights poster from April 2015 or later (<http://www.osha.gov/Publications/poster.html>). Employers must also establish a reporting procedure that does not deter or discourage employees from reporting work-related injuries and illnesses.

May an employer require post-incident drug testing for an employee who reports a workplace injury or illness?

The rule does not prohibit drug testing of employees. It only prohibits employers from using drug testing or the threat of drug testing as a form of retaliation against employees who report injuries or illnesses. If an employer conducts drug testing to comply with the requirements of a state or federal law or regulation, the employer's motive would not be retaliatory, and this rule would not prohibit such testing.

COMPLIANCE OVERVIEW



Does the rule allow an employer to have an employee incentive program?

This rule does not prohibit incentive programs. However, employers must not create incentive programs that deter or discourage an employee from reporting an injury or illness. Incentive programs should encourage safe work practices and promote worker participation in safety-related activities.

Does this rule apply to employers in State Plan states?

Yes; within six months after the publication of this final rule, State Plan states will have to adopt requirements that are substantially identical to the requirements in this final rule. Some states may choose to allow employers in their state to use the Federal OSHA data collection website to meet the new reporting obligations.

Other states may provide their own data collection sites. OSHA will provide further information and guidance as the states decide how to implement these new reporting requirements.

How can employers use this information to improve their own safety records?

Employers can use this information to benchmark their own safety performance. Currently, employers have no way to compare their safety performance with other firms in their industry. Using data collected under the final rule, employers can compare injury rates at their establishments to those at comparable establishments and set workplace safety goals benchmarked to other establishments in their industry.

Who must submit information electronically to OSHA under the final rule?

- **Establishments with 250 or more employees** subject to OSHA's recordkeeping regulation must electronically submit to OSHA the information from the Summary of Work-Related Injuries and Illnesses (OSHA Form 300A);
- **Establishments with 20-249 employees** in [certain high-risk industries](#) must electronically submit to OSHA some of the information from the Summary of Work-Related Injuries and Illnesses (OSHA Form 300A); and
- **Establishments with fewer than 20 employees** at all times during the year do not have to submit information electronically to OSHA routinely.

What are the new electronic reporting requirements that went into effect Jan. 1, 2024?

As of Jan. 1, 2024, OSHA requires certain employers in designated high-hazard industries to electronically submit injury and illness information – that they are already required to keep. The following submission requirements:

- Establishments with 100 or more employees in certain high-hazard industries must electronically submit information from their Form 300-Log of Work-Related Injuries and Illnesses, and Form 301-Injury and Illness Incident Report to OSHA once a year. These submissions are in addition to submission of Form 300A-Summary of Work-Related Injuries and Illnesses.
- Establishments are required to include their legal company name when making electronic submissions to OSHA from their injury and illness records to better improve data quality.

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

OSHA will publish some of the data collected on its website 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 believes that providing public access to the data will ultimately reduce occupational injuries and illnesses.

COMPLIANCE OVERVIEW



Are the electronic reporting requirements based on the size of the establishment or the size of the firm?

The electronic reporting requirements are based on the size of the establishment, not the firm. The OSHA injury and illness records are maintained at the establishment level. An establishment is defined as a single physical location where business is conducted or where services or industrial operations are performed. A firm may be comprised of one or more establishments.

To determine if an employer needs to provide OSHA with the required data for an *establishment*, they need to determine the establishment's peak employment during the last calendar year. Each individual employed in the establishment at any time during the calendar year counts as one employee, including full-time, part-time, seasonal and temporary workers.

How should the data be submitted, and how long will it take?

OSHA will provide a secure website for the electronic submission of information. The website will include web forms for direct data entry and instructions for other means of submission (e.g., file uploads).

OSHA estimates that it will take a typical employer about 10 minutes to create an account and another 10 minutes to enter the required information from the Summary of Work-Related Injuries and Illnesses (Form 300A).

Establishments must submit the information electronically and may not submit the information on paper. Employers that do not have the necessary equipment or internet connection may submit their data from a public facility, such as a library. OSHA also intends to provide an interface for entering data from a mobile device.