



# Deadline Approaching: Employers Must Electronically Submit Workplace Injury Form by March 2

Insights

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A great number of employers have an important deadline approaching: many are required to electronically submit their annual summary of all recordable work-related injuries and illnesses – also known as the Form 300A summary – by March 2. Those that are required to keep federal Occupational Safety and Health Administration (OSHA) Injury and Illness records (aka the Form 300), those that have establishments with 250 or more employees, and certain other smaller employers are on the hook to complete this important assignment via OSHA's Injury Tracing Application by the due date. And given the fact that workplace safety has taken on a new level of significance in our current environment, employers will want to ensure they are in 100% compliance to stay off OSHA's radar. What do employers need to know about OSHA recordkeeping in order to comply with this requirement?

## Who Is Required to Fill Out and Maintain the OSHA Forms 300 and 300A?

First things first. There are a few organizations that can breathe easy and bypass this obligation.

- Employers with 10 or fewer employees throughout the previous calendar year do not need to complete OSHA Forms 300 or 300A. This partial exemption for size is based on the number of employees in the entire company, at the company's peak employment during the last calendar year. If an employer had no more than 10 employees at any time in the last calendar year, that company qualifies for the partial exemption for size and does not need to fill out or keep these forms.
- There is also an exemption for establishments classified in certain industries. To see if you fall within this exemption, verify that any establishment owned by your company matches a NAICS code on this list from OSHA. An "establishment" is defined by OSHA as a single physical location of a company "where business is conducted or where services or industrial operations are performed." And remember, for activities where employees do not work at a single physical location (such as construction, transportation, communications, or electric, gas and sanitary services), an establishment is "represented by main or branch offices, terminals, stations, etc. that either supervise such activities or are the base from which personnel carry out these activities."

Regardless of whether you are required to keep these records, however, **all employers** must report to OSHA any employee's work-related fatality, in-patient hospitalization, amputation, or loss of an eye. A fatality must be reported within eight hours, and an in-patient hospitalization, amputation, or eye loss must be reported within 24 hours.

## **What Is the Form 300A and the Annual Certification and Posting Requirements?**

As noted above, the OSHA Form 300A is the annual summary of all recordable work-related injuries and illnesses that occurred at an establishment, including the total number of cases, the total number of days employees spent away from work or on restriction, and specific injury and illness types. Employers should accurately fill out their OSHA Form 300 and then annually carry those totals over to the Form 300A.

Once the Form 300A is completed, a company executive must certify that they have examined the OSHA 300 Log and that the annual summary is correct and complete. OSHA considers a "company executive" for Form 300A signature and certification purposes to be only: (1) an owner of the company (only if the company is a sole proprietorship or partnership); (2) an officer of the corporation; (3) the highest-ranking company official working at the establishment; or (4) the immediate supervisor of the highest-ranking company official working at the establishment. Employers should ensure that only one of these individuals signs the Form 300A to follow the requirements of the recordkeeping standard.

Then, each year, once completed and certified, the Form 300A must be posted at each establishment in a conspicuous place. If no recordable incidents or illnesses occurred in a given year, the Form 300A must still be completed, certified, and posted from February 1 to April 30. Employers must also maintain a digital or physical copy of the signed Form 300A that was posted for a period of five years to ensure they can provide compliance with the annual certification and posting requirements should OSHA conduct an inspection at the establishment in the future.

## **So What Is the Form 300 – and What Is Recorded?**

Given that the Form 300A's data comes from the Form 300 (also known as the Log of Work-Related Injuries and Illnesses), employers must ensure that they accurately complete the Form 300. Copies of the OSHA forms with detailed instructions can be found here. Non-exempt companies must record most work-related employee fatalities, injuries, and illnesses on OSHA Form 300/logs for each establishment. Injuries and illnesses are recordable if they are work-related and result in death, days away from work, restricted work or transfer to another job, medical treatment beyond first aid, loss of consciousness, or a significant injury or illness diagnosed by a physician or other licensed health care professional— even if it does not result in death, days away from work, restricted work or job transfer, medical treatment beyond first aid, or loss of consciousness.

An injury or illness is considered "work-related" if an event or exposure in the work environment either caused or contributed to the resulting condition or significantly aggravated a pre-existing

either caused or contributed to the resulting condition or significantly aggravated a pre-existing injury or illness. OSHA considers injuries and illnesses resulting from events occurring in the work environment to be work-related unless one of these specifically identified exception applies. For COVID-19 recordability, see our prior guidance here and here as to how employers can make a determination on whether a COVID-19 case is work-related.

If you do business in a state where a state agency rather than federal OSHA enforces the OSH Act (such as California, Kentucky, or elsewhere), recordkeeping requirements may differ.

### **What Must Employers Covered by The Form 300A Electronic Submission Rule Do?**

Each establishment that does not fall within the exemptions discussed above that have 250 or more employees is required to electronically submit their 2021 Form 300A summary by March 2 via OSHA's Injury Tracing Application. For establishments with 20-249 employees, before submitting the Form 300A electronically, verify that your NAICS code matches one on this list from OSHA.

### **Conclusion**

If you have any OSHA Recordkeeping questions, contact the author of this insight, another member of the Workplace Safety and Catastrophe Management Practice Group, or your Fisher Phillips attorney for guidance. Make sure you are subscribed to Fisher Phillips' Insight System to get the most up-to-date information on OSHA issues.

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