

OSHA ISSUES FINAL ELECTRONIC RECORDKEEPING RULE FOR EMPLOYERS: 6 KEY POINTS + 3-STEP ACTION PLAN

Insights

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Federal workplace safety officials just released a long-anticipated electronic recordkeeping rule today, which will prompt changes for certain employers that need to submit work-related injury and illness data starting on January 1, 2024. Specifically, the new rule **updates** the list of employers considered to be in “high-hazard” industries and **creates new obligations** for some employers. Unfortunately for large employers in non-hazardous industries, the agency made a significant change between the proposed rule and the final rule: OSHA **did not remove** the annual requirement for establishments with at least 250 employees to submit their Form 300A- Summary of Work-Related Injuries and Illnesses. What are the six key points employers should note about the new rule – and what three steps can you take to prepare?

6 Biggest Takeaways from the New Rule

While most employers are required to maintain illness and injury logs and post a summary each year at their worksites, currently only establishments with 250 or more employees and businesses in certain high-hazard industries with 20 or more employees are required annually to submit their OSHA Form 300A Summary of Work-Related Injuries and Illnesses.

By restructuring [Section 1904.41\(a\)](#), the final rule maintains this requirement – but also adds new obligations for certain additional businesses. Here are the six key points to note about [the new rule](#):

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1. Establishments with 100 or more employees in certain high-hazard industries (designated via a list in a new Appendix B to Subpart E of the recordkeeping standard) will now be required to **electronically submit additional information** to OSHA each year from Forms 300 and 301 (along with their Form 300A summary). OSHA estimates that 52,092 establishments will now be required to electronically submit Form 300/301 data each year pursuant to § 1904.41(a)(2) of the final rule.
2. The new rule **updates the classification system** used to determine the list of industries covered by the electronic records submission requirement in Appendix A and the new Appendix B mentioned above.
3. Establishments with 20-249 employees in certain industries will still be required to electronically submit information from their OSHA Form 300A summary to OSHA each year.
4. The final rule **keeps the current requirement** in 29 CFR 1904.41(a)(1) for establishments with 250 or more employees not in a designated industry to electronically submit information from their Form 300A summary to OSHA annually (the proposed rule would have removed this requirement).
5. The new rule requires establishments to **include their company name** when making electronic submissions to OSHA.
6. Even though OSHA said it will **not collect certain data** from Forms 300 and 301, including employee names or addresses, names of healthcare professionals, or names and addresses of third-party treatment facilities, OSHA explicitly noted that it intends to post the collected establishment-specific, case-specific injury and illness information online in its [FOIA Library](#).

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How Can Employers Prepare?

Here is your three-step plan to prepare for the new rule, which will take effect on January 1, 2024.

1. Determine Whether You Are Covered

Importantly, the new rule does not change the current requirement for establishments with 250 or more employees not in a designated industry to electronically submit

information from their Form 300A to OSHA annually. This means large employers in non-hazardous industries will still have to submit such data (unless you fall under an exemption). [You can read more about complying with this requirement here.](#)

As mentioned above, establishments with 20-249 employees in certain high-hazard industries designated in Appendix A will also still be required to electronically submit information from their OSHA Form 300A each year. Establishments with 100 or more employees in designated high-hazard industries from Appendix B will need to develop a plan to electronically submit data from Forms 300 and 301 in addition to Form 300A.

Since this data will eventually be posted online by OSHA, it is vital for you to determine whether you fall within the establishments listed on the updated Appendix A and new Appendix B.

2. Review Your Recordkeeping Procedures

Given that OSHA intends to make much of the data it collects public, you should ensure you are accurately completing OSHA Forms 300, 301, and 300A. Public release of such information can have a broad impact on your business. So, be sure to evaluate each injury or illness to ensure that the OSHA standards actually require you to record such information and avoid recording any extraneous details.

For general recordkeeping information, [see our FAQs here.](#)

3. Check Applicable State Law Requirements

If you do business in a state where [a state agency rather than federal OSHA](#) enforces the Occupational Safety and Health Act (such as [California](#), [Kentucky](#), or elsewhere), recordkeeping requirements may differ. Check with your Fisher Phillips counsel to confirm your legal obligations.

Conclusion

If you have any OSHA Recordkeeping questions, contact the authors of this insight, another member of our [Workplace Safety 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.

