



“To Keep OSHA Logs, Or Not To Keep OSHA Logs...That’s The Question”

Insights

2.28.20

The Occupational Safety and Health Act (“OSH Act”) requires covered employers to meet several reporting requirements to prove compliance. At this time of the year, many covered employers have posted (or should have posted) OSHA Form 300A for injuries and illnesses that occurred in 2019. Covered employers are also preparing to electronically submit Form 300A summary data to OSHA by March 2. Inevitably, compliance with OSHA’s reporting rules leads to employer questions concerning OSHA’s recordkeeping requirements, including the frequently asked – “Do I have to keep OSHA logs?” This question is particularly challenging for companies in non-exempt industries with establishments that perform different business activities. The good news is there is an answer. However, the key to unlocking the answer to this recordkeeping challenge is to first understand OSHA’s definition of an “establishment.”

What Is An “Establishment”

An establishment, according to the regulations, is a “single location where business is conducted or where services or industrial operations are performed.” OSHA says if one or more of your company’s establishments are classified in a non-exempt industry, you must keep OSHA injury and illness records for all *such* establishments, unless your company is partially exempted because of size. If a company has several business establishments engaged in different classes of business activities, however, some of the company’s establishments may be required to keep records, while others may be partially exempt.

There are two exemptions to OSHA’s recordkeeping requirements. The first exemption is for companies with 10 or fewer employees. These companies must keep injury and illness records only if OSHA specifically requires them to do so. The second exemption is for establishments classified in certain low-hazard industries. For example, all industries in agriculture, construction, manufacturing, transportation, utilities and wholesale trade sectors are required to keep OSHA injury and illness records, but in the retail, finance, real estate, insurance, and service sectors, some industries are partially exempt. Importantly, OSHA’s partial industry classification exemption applies to individual business establishments, not company-wide. Because a given company may operate establishments with different business activities classified in different North American Industrial Classification (NAICS) codes, it is important that each individual establishment learn what its NAICS code is to determine whether it is required to keep and file injury and illness records.

Is Your Company’s Establishment Exempt?

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To find out if your company's establishment is required to maintain and file injury and illness records under OSHA's recordkeeping regulations, first determine your NAICS code by:

1. Using the search feature at the U.S. Census Bureau NAICS main webpage. In the search box for the most recent NAICS, enter a keyword that describes your business. Choose the primary business activity that most closely corresponds to your establishment or refine your search to get more choices.
2. Viewing the most recent complete NAICS tables on the U.S. Census Bureau NAICS main webpage. Select the two-digit sector code and choose a six-digit industry code to read its definition.
3. Using an old SIC code to find your NAICS code using the detailed conversion tables on the U.S. Census Bureau Concordances page.
4. Contacting your nearest OSHA office or State agency for help.

Once you have found your individual establishment's NAICS code, you can use the following [table](#) to determine if your "industry" (or particular establishment) is exempt from the recordkeeping rule. Even if your establishment is exempt from keeping and filing OSHA logs, we encourage as a best practice that companies use the OSHA 300 forms to record injuries and illnesses in the off chance you are asked to do so by OSHA, the Bureau of Labor Statistics, or a state agency. Keep in mind also that all employers, including those partially exempted, must report to OSHA any workplace incident that results in a fatality, in-patient hospitalization, amputation, or loss of an eye.

Conclusion

In a nutshell, if your company has establishments with different business activities you only have to keep and file OSHA injury and illness records for those establishments that are non-exempt. For example, the corporate office of your construction company may be exempt. Again, this determination is made establishment by establishment, so a company can have some establishments that file OSHA injury and illness records and some that do not.

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