

## ELECTRONIC REPORTING OF 2016 WORKPLACE INJURIES AND ILLNESSES IS DUE BY DECEMBER 15, 2017

In the November 24, 2017 edition of the Federal Register, OSHA delayed the deadline for certain employers to submit their 2016 occupational injury and illness data electronically by December 15, 2017. Companies will need to utilize the [Injury Tracking Application \(ITA\)](#) portal located on OSHA's web site. This extension provides affected employers another two weeks to meet the deadline.

The ITA was originally launched on August 1, but was shut down two weeks later after the Department of Homeland Security (DHS) informed OSHA that the ITA had been breached, and its data potentially compromised. The information OSHA collects in the ITA does not contain employee names or other Personally Identifiable Information (PII), but OSHA proactively stopped employers from entering any new information in the ITA.

Near the end of August, OSHA declared that DHS was incorrect and no ITA information was compromised. The ITA was therefore relaunched on August 25.

Even before the delay in implementing these rules, employers hoped that the new Trump administration would withdraw the electronic recordkeeping mandate, which is seen by some businesses as overly burdensome. However, in the press release announcing the two week extension, OSHA said it is currently reviewing the other provisions of its final rule to Improve Tracking of Workplace Injuries and Illnesses, and intends to publish a notice of proposed rulemaking to reconsider, revise, or remove portions of that rule in 2018.

### WHO IS AFFECTED BY THIS RULE?

This electronic reporting rule applies to establishments (work sites) with 250 or more employees at any time in the previous calendar year that are currently required to keep OSHA injury and illness records, and establishments with 20-249 employees at any time in the previous calendar year that are classified in certain industries with historically high rates of occupational injuries and illnesses. These industries include those listed below. This revised rule requires states and territories that operate their own state OSHA plan to adopt this rule within the next six months. State OSHA rules



must be as restrictive as the federal rules. OSHA also modified Part 1902, which applies to all state OSHA plans, requiring each state plan to adopt identical requirements to the revised recordkeeping and reporting rules.

It is important to keep in mind that federal OSHA plans to share this information with the states and territories that operate their own OSHA plans. By requiring the 25 state OSHA plans to adopt this rule, these states can initiate enforcement actions against employers who fail to electronically report injuries and illnesses.

Table 1: Establishments With 20-249 Employees Which Must Electronically Submit OSHA Form 300A

NAICS Code and Industry Description							
11	Agriculture, Forestry, Fishing, and Hunting	4811	Scheduled Air Transportation	4922	Local Messengers and Local Delivery	6233	Community Care Facilities for the Elderly
22	Utilities	4841	General Freight Trucking	4931	Warehousing and Storage	6239	Other Residential Care Facilities
23	Construction	4842	Specialized Freight Trucking	5152	Cable and Other Subscription Programming	6242	Community Food and Housing, and Emergency and Other Relief Services
31-33	Manufacturing	4851	Urban Transit Systems	5311	Lessors of Real Estate	6243	Vocational Rehabilitation Services
42	Wholesale Trade	4852	Interurban and Rural Bus Transportation	5321	Automotive Equipment Rental and Leasing	7111	Performing Arts Companies
4413	Automotive Parts, Accessories, and Tire Stores	4853	Taxi and Limousine Service	5322	Consumer Goods Rental	7112	Spectator Sports
4421	Furniture Stores	4854	School and Employee Bus Transportation	5323	General Rental Centers	7121	Museums, Historical Sites, and Similar Institutions
4422	Home Furnishings Stores	4855	Charter Bus Industry	5617	Services to Buildings and Dwellings	7131	Amusement Parks and Arcades
4441	Building Material and Supplies Dealers	4859	Other Transit and Ground Passenger Transportation	5621	Waste Collection	7132	Gambling Industries
4442	Lawn and Garden Equipment and Supplies Stores	4871	Scenic and Sightseeing Transportation, Land	5622	Waste Treatment and Disposal	7211	Traveler Accommodation
4451	Grocery Stores	4881	Support Activities for Air Transportation	5629	Remediation and Other Waste Management Services	7212	RV (Recreational Vehicle) Parks and Recreational Camps
4452	Specialty Food Stores	4882	Support Activities for Rail Transportation	6219	Other Ambulatory Health Care Services	7213	Rooming and Boarding Houses
4521	Department Stores	4883	Support Activities for Water Transportation	6221	General Medical and Surgical Hospitals	7223	Special Food Services
4529	Other General Merchandise Stores	4884	Support Activities for Road Transportation	6222	Psychiatric and Substance Abuse Hospitals	8113	Commercial and Industrial Machinery and Equipment (Except Automotive and Electronic) Repair and Maintenance
4533	Used Merchandise Stores	4889	Other Support Activities for Transportation	6223	Specialty (Except Psychiatric and Substance Abuse) Hospitals	8123	Dry-Cleaning and Laundry Services
4542	Vending Machine Operators	4911	Postal Service	6231	Nursing Care Facilities		
4543	Direct Selling Establishments	4921	Couriers and Express Delivery Services	6232	Residential Mental Retardation, Mental Health, and Substance Abuse Facilities		

5112	Software Publishers	5312	Offices of Real Estate Agents and Brokers	6117	Educational Support Services	8139	Business, Professional, Labor, Political, and Similar Organizations
5121	Motion Picture and Video Industries	5331	Lessors of Nonfinancial Intangible Assets (except Copyrighted Works)	6211	Offices of Physicians		
5122	Sound Recording Industries	5411	Legal Services	6212	Offices of Dentists		

## WHO IS NOT AFFECTED BY THIS RULE?

The following OSHA-approved state plans have not yet adopted the requirement to submit injury and illness reports electronically: California, Maryland, Minnesota, South Carolina, Utah, Washington, and Wyoming. Establishments in these states are not currently required to submit their summary data through the ITA.

Similarly, state and local government establishments in Illinois, Maine, New Jersey, and New York are not currently required to submit their data through the ITA.

However, if your establishment is located in one of the 17 other OSHA-approved state plan states not listed above or the territories of Puerto Rico and the US Virgin Islands and you are required to comply with the recordkeeping rule, you must use the ITA to enter the OSHA Form 300A information for 2016 for establishments located in those states and territories.

If your establishment had more than 249 employees in the previous calendar year, but is on the following list of businesses that are currently exempt from keeping injury and illness records, the 2016 OSHA 300A summary data does not need to be submitted to the ITA.

Table 2: Current List of Partially Exempt Industries

NAICS Code and Industry Description							
11	Agriculture, Forestry, Fishing, and Hunting	4811	Scheduled Air Transportation	4922	Local Messengers and Local Delivery	6233	Community Care Facilities for the Elderly
22	Utilities	4841	General Freight Trucking	4931	Warehousing and Storage	6239	Other Residential Care Facilities
23	Construction	4842	Specialized Freight Trucking	5152	Cable and Other Subscription Programming	6242	Community Food and Housing, and Emergency and Other Relief Services
4412	Other Motor Vehicle Dealers	5151	Radio and Television Broadcasting	5412	Accounting, Tax Preparation, Bookkeeping, and Payroll Services	6213	Offices of Other Health Practitioners
4431	Electronics and Appliance Stores	5172	Wireless Telecommunications Carriers (except Satellite)	5413	Architectural, Engineering, and Related Services	6214	Outpatient Care Centers
4461	Health and Personal Care Stores	5173	Telecommunications Resellers	5414	Specialized Design Services	6215	Medical and Diagnostic Laboratories
4471	Gasoline Stations	5179	Other Telecommunications	5415	Computer Systems Design and Related Services	6244	Child Day Care Services
4481	Clothing Stores	5181	Internet Service Providers and Web Search Portals	5416	Management, Scientific, and Technical Consulting Services	7114	Agents and Managers for Artists, Athletes, Entertainers, and Other Public Figures

4482	Shoe Stores	5182	Data Processing, Hosting, and Related Services	5417	Scientific Research and Development Services	7115	Independent Artists, Writers, and Performers
4483	Jewelry, Luggage, and Leather Goods Stores	5191	Other Information Services	5418	Advertising and Related Services	7213	Rooming and Boarding Houses
4511	Sporting Goods, Hobby, and Musical Instrument Stores	5211	Monetary Authorities - Central Bank	5511	Management of Companies and Enterprises	7221	Full-Service Restaurants
4512	Book, Periodical, and Music Stores	5221	Depository Credit Intermediation	5611	Office Administrative Services	7222	Limited-Service Eating Places
4531	Florists	5222	Nondepository Credit Intermediation	5614	Business Support Services	7224	Drinking Places (Alcoholic Beverages)
4532	Office Supplies, Stationery, and Gift Stores	5223	Activities Related to Credit Intermediation	5615	Travel Arrangement and Reservation Services	8112	Electronic and Precision Equipment Repair and Maintenance
4812	Nonscheduled Air Transportation	5231	Securities and Commodity Contracts Intermediation and Brokerage	5616	Investigation and Security Services	8114	Personal and Household Goods Repair and Maintenance
4861	Pipeline Transportation of Crude Oil	5232	Securities and Commodity Exchanges	6111	Elementary and Secondary Schools	8121	Personal Care Services
4862	Pipeline Transportation of Natural Gas	5239	Other Financial Investment Activities	6112	Junior Colleges	8122	Death Care Services
4869	Other Pipeline Transportation	5241	Insurance Carriers	6113	Colleges, Universities, and Professional Schools	8131	Religious Organizations
4879	Scenic and Sightseeing Transportation, Other	5242	Agencies, Brokerages, and Other Insurance Related Activities	6114	Business Schools and Computer and Management Training	8132	Grantmaking and Giving Services
4885	Freight Transportation Arrangement	5251	Insurance and Employee Benefit Funds	6115	Technical and Trade Schools	8133	Social Advocacy Organizations
5111	Newspaper, Periodical, Book, and Directory Publishers	5259	Other Investment Pools and Funds	6116	Other Schools and Instruction	8134	Civic and Social Organizations
5112	Software Publishers	5312	Offices of Real Estate Agents and Brokers	6117	Educational Support Services	8139	Business, Professional, Labor, Political, and Similar Organizations
5121	Motion Picture and Video Industries	5331	Lessors of Nonfinancial Intangible Assets (except Copyrighted Works)	6211	Offices of Physicians		
5122	Sound Recording Industries	5411	Legal Services	6212	Offices of Dentists		

## WHAT INFORMATION IS NEEDED BY DECEMBER 15, 2017?

OSHA only requires information from the OSHA Form 300A Annual Summary be submitted electronically by December 15, 2017. More information will be required for large employers in 2018 and beyond.

## WHAT DO WE HAVE TO DO?

Those responsible for inputting and uploading the information will first need to set up an account and create a password. OSHA estimates that this will take 10 minutes, but first review all the job aids and the API Technical Specifications document before doing this. You can access the support and instructional information [here](#).

You will then need to get the OSHA Form 300A information together. If you are doing this on behalf of all establishments within your organization, you need to exclude those that are exempt from OSHA recordkeeping because of their peak employment headcount or NAICS industry classification or the state where the establishment is located.

The North American Industrial Classification System (NAICS) has been around for nearly 30 years. NAICS codes are based on

a production-oriented or supply-based conceptual framework. Establishments are grouped into industries according to similarity in the processes used to produce goods and services.

An organization comprised of individual establishments performing distinct business functions such as a corporate office, a warehouse, a manufacturing facility, an R&D facility, and a regional sales office would have different NAICS codes for each establishment.

There are three options for users to enter their OSHA Form 300A summary information on the [ITA application](#):

### 1. Manually enter data into a web form.

This will probably be easiest for businesses with only one or two establishments, since the web form mirrors the OSHA Form 300A.

### 2. Upload a CSV file to process single or multiple establishments at the same time.

This will be more efficient for large organizations that centrally report injury and illness information for all their affected establishments.

### 3. Transmit automated recordkeeping systems' data electronically via an Application Programming Interface (API).





## FREQUENTLY ASKED QUESTIONS

### ***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 you need to provide OSHA with the required data for an establishment, you 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.



All establishments with 250 or more employees in industries covered by the recordkeeping regulation must electronically submit to OSHA injury and illness information from OSHA Forms 300, 300A, and 301. Establishments with 20-249 employees in certain industries must electronically submit information from OSHA Form 300A only.

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

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

For establishments with 20-249 employees as well as establishments with 250 or more employees that are required to report, 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 (OSHA Form 300A).

Establishments must submit the information electronically and not on paper.

### ***My company operates multiple facilities on a campus setting. Each facility has less than 250 employees, but the campus has more than 250 employees. How should I count my employees to determine if I have to electronically provide OSHA my injury and illness records?***

The recording and reporting requirements of Part 1904 are establishment based. Under most circumstances, a campus is a single physical location and considered as a single establishment. Under limited conditions, you may consider two or more separate facilities that share a single location to be separate establishments. You may divide one location into two or more establishments only when:

1. Each facility represents a distinctly separate business.
2. Each facility is engaged in a different economic activity.
3. No one industry description applies to the joint activities of the establishments.
4. Separate reports are routinely prepared for each establishment on the number of employees, their wages and salaries, sales or receipts, and other business information.

***If a case occurs in one year, but results in days away during the next calendar year, do I record the case in both years?***

No, you only record the injury or illness once. You must enter the number of calendar days away for the injury or illness on the OSHA 300 Log for the year in which the injury or illness occurred. If the employee is still away from work because of the injury or illness when you prepare the annual summary, estimate the total number of calendar days you expect the employee to be away from work, use this number to calculate the total for the annual summary, and then update the initial log entry later when the day count is known or reaches the 180-day cap.

***May a firm with multiple establishments make a single submission of the data from the multiple establishments?***

Yes, a firm with more than one establishment may submit establishment-specific data for multiple establishments. To do this, the firm will create one registration and follow the directions provided to submit data for multiple establishments. It is important to note that the electronic reporting requirements are for data at the establishment level, not the firm level. The submitted data must be specific for each individual establishment. Note that establishments under state plan jurisdiction must comply with state plan regulations.

***May a third party submit data for an establishment or firm?***

Yes, just as a third party is allowed to maintain the injury and illness records for an employer, a third party is allowed to submit the data for that employer. However, as with recordkeeping, responsibility for the completeness and accuracy of the data lies with the employer, not the third party.

***Do I need special software to electronically submit the data to OSHA?***

No, OSHA has provided a secure website for the electronic submission of information. The website includes web forms for direct data entry and instructions for other means of submission (e.g., file uploads).

***My firm has multiple establishments that do different things. Which determines whether I have to submit data for those establishments, the industry classification of the firm or the industry classification of the establishment?***

The electronic reporting requirements are based on the industry classification of the establishment, not the industry classification of the firm. 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. Two groups of establishments are required to electronically submit data to OSHA:

1. Establishments with 20-249 employees in certain industries.
2. Establishments with 250 or more employees in industries subject to OSHA's recordkeeping requirement.

Establishments that are partially exempt from OSHA's recordkeeping due to industry are not required to submit data, regardless of establishment size.

## **WHERE CAN I FIND MORE INFORMATION?**

For more information about the new reporting requirements and updated industry lists, visit OSHA's dedicated [webpage](#).

## MRC CAN HELP

Marsh Risk Consulting's (MRC) Workforce Strategies Practice and Risk IQ data consulting practice can conduct health and safety recordkeeping and reporting system audits and provide implementation support and training if your organization is concerned about the final rule and OSHA's impending compliance deadlines. They also can assist with designing your data capture and the workflow needed for efficient and accurate electronic submissions to OSHA. Additionally, our experts can help with assessing the current state of your health and safety programs and developing strategic solutions aimed at reducing injury rates and associated costs.

For more information about these solutions, please contact your local MRC or Marsh representative.

You can also speak with one of our MRC experts by calling us at 866-9AtRisk (866-928-7475) or by sending an e-mail to [at.risk@marsh.com](mailto:at.risk@marsh.com).

Additional information can be found on [marshriskconsulting.com](http://marshriskconsulting.com) and [www.marsh.com](http://www.marsh.com).

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