



New OSHA Reporting Rule Takes Effect January 1, 2024, Targeting Certain Employers

In an effort to increase transparency of workplace injuries and OSHA's ability to target employers with specific hazards, effective January 1, 2024, OSHA is requiring business establishments with 100 or more employees in certain designated high-risk industries to electronically submit information from their OSHA Forms 300 and 301 to the agency annually.^[1] Touting the public's ability to utilize this data, OSHA explains that a benefit of the new requirement is the "[p]ublic access to establishment-specific, case-specific injury and illness data [that] will allow employers, employees, potential employees, employee representatives, customers, potential customers, and the general public to make more informed decisions about workplace safety and health at a given establishment."

Most employers are generally familiar with the longstanding concept of "recordkeeping" and OSHA "recordables" that a business must record and log for any triggering injuries and illnesses during any given year under [OSHA 300, 300A, and 301](#) recordkeeping requirements. And for the past few years, certain employers have been subject to an annual electronic submission requirement in OSHA's Injury Tracking Application pursuant to [29 CFR 1904.41](#) (i.e., (1) if your establishment had 250 or more employees at any time during the previous calendar year; and (2) if your establishment had 20 or more employees but fewer than 250 at any time during the previous calendar year and your establishment is classified in a high-hazard industry listed in [Appendix A](#) to 29 CFR Part 1904, Subpart E).

Under the new OSHA regulation, however, not only will certain employers be required to submit the OSHA Form 300A Summary of Work-Related Injuries and Illnesses annually, but also business establishments with 100 or more employees in

designated industries are also required to submit case-specific information from the OSHA Form 300 Log and the OSHA Form 301 Incident Report. A list of the high-hazard industries subject to the new requirement can be found at OSHA's injury reporting website, known as the [Injury Tracking Application](#), and include:

- NAICS 3118: Bakeries;
- NAICS 3119: Other Food Manufacturing;
- NAICS 3121: Beverage Manufacturing;
- NAICS 3261: Plastics Product Manufacturing.
- NAICS 3262: Rubber Product Manufacturing;
- NAICS 3272: Glass and Glass Product Manufacturing;
- NAICS 3273: Cement and Concrete Product Manufacturing;
- NAICS 3361: Motor Vehicle Manufacturing;
- NAICS 4244: Grocery and Related Product Merchant Wholesalers;
- NAICS 4248: Beer, Wine, and Distilled Alcoholic Beverage Merchant Wholesalers;
- NAICS 4413: Automotive Parts, Accessories, and Tire Stores;
- NAICS 4422: Home Furnishings Stores;
- NAICS 4441: Building Material and Supplies Dealers;
- NAICS 4442: Lawn and Garden Equipment and Supplies Stores;
- NAICS 4451: Grocery Stores;
- NAICS 4522: Department Stores;
- NAICS 4931: Warehousing and Storage;
- NAICS 5621: Waste Collection;
- NAICS 5622: Waste Treatment and Disposal;
- NAICS 6219: Other Ambulatory Health Care Services;
- NAICS 6221: General Medical and Surgical Hospitals;
- NAICS 6222: Psychiatric and Substance Abuse Hospitals;
- NAICS 6223: Specialty (except Psychiatric and Substance Abuse) Hospitals
- NAICS 6231: Nursing Care Facilities (Skilled Nursing Facilities); and
- NAICS 6232: Residential Intellectual and Developmental Disability, Mental Health, and Substance Abuse Facilities.

OSHA's website contains several sets of [FAQs](#) and a [fact sheet](#), including the agency's position that for employers that have multiple tasks performed at one establishment to "provide a valid six-digit 2012 NAICS code. Choose the code that

represents the activity that generates the most revenue for your establishment and/or has the most employees, whichever is more applicable to your business.”

Key Takeaways

- Business establishments with 100 or more employees in high-risk industries will be required to electronically submit Form 300 Log and OSHA Form 301 Incident Reports.
- All establishments with more than 250 employees in industries that must routinely keep records to submit the OSHA Form 300A Annual Summary are still required to submit the 300A.
- The due date to submit the information is March 2, 2024.

This blog post was drafted by [Andrew Brought](#), an attorney in the Kansas City, Missouri office of Spencer Fane. For more information, visit spencerfane.com.

[1] 88 Fed. Reg. 47254 (July 21, 2023). A copy of the Federal Register Final Rule notice can be downloaded [here](#).