



Deadline for OSHA Electronic Reporting Rule Fast Approaching

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Employers have until December 1, 2017, to electronically submit injury and illness information from their 2016 Summary of Work-Related Injuries and Illnesses (Form 300A) under OSHA's 2016 [Improve Tracking of Workplace Injuries and Illnesses Rule](#) ("Electronic Reporting Rule" or "the Rule").

The Electronic Reporting Rule, codified at [29 C.F.R. 1904.41](#), applies to two categories of "establishments." An establishment is defined as "a single physical location where business is conducted or where services or industrial operations are performed." [29 C.F.R. 1904.46](#). A company may be comprised of one or more establishments. The Electronic Reporting Rule applies to the following two categories of establishments: (1) establishments that had 250 or more employees at any time during the previous year, and (2) establishments that had between 20 and 249 employees at any time during the previous year and are classified as belonging to certain industries with historically high rates of occupational injuries and illnesses (as determined by an OSHA list of NAICS codes, found at [29 C.F.R. Subpart E, Appendix A](#)). Companies should analyze each of their establishments individually to determine whether each establishment is covered by the Rule.

The Electronic Reporting Rule requires covered establishments to submit information from their Form 300A for the past year, using OSHA's online [Injury Tracking Application](#). Paper submission is not an allowed alternative. OSHA initially established July 1, 2017, as the submission deadline, however, in June 2017, OSHA extended this deadline to December 1, 2017. The [Injury Tracking Application](#) is currently accepting electronic submissions, and allows submitters to choose between manually entering data, uploading a CSV file, or transmitting data electronically using an application programming interface. OSHA estimates that electronic reporting takes 20 to 30 minutes per establishment.

Starting with next year's round of electronic reporting (in 2018), the first category of covered establishments (i.e., those that had 250 or more employees at any time during the previous year) will be required to electronically submit information from their Forms 300 and 301, in addition to their Form 300A. Currently, the deadline for the 2018 round of reporting is set at July 1, 2018.

Earlier this year, OSHA indicated that it may repeal or amend portions of the Electronic Reporting Rule. The July 20, 2017, Office of Information and Regulatory Affairs' regulatory agenda contained an [announcement](#) that OSHA had begun developing a Notice of Proposed Rulemaking (NPRM) to "reconsider, revise, or remove" portions of the Rule. This has led to speculation that OSHA will issue the NPRM during the remaining days preceding the December 1, 2017, deadline, extending this deadline. Nevertheless, covered establishments should not assume that OSHA will announce such an extension. Absent a definitive deadline extension by OSHA, covered establishments should complete electronic reporting as soon as practicable, and certainly before December 1, 2017. Failure to meet a reporting requirement may subject an employer to OSHA penalties.

This post was drafted by [Paul Jacobson](#), an attorney in the Kansas City, MO office of Spencer Fane LLP. For more information, visit [spencerfane.com](#).

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