**OSHA’s New Electronic Recordkeeping Rule**

Your Injuries Today Will Be Public Record and Searchable Next Year

OSHA has issued their final rule requiring certain employers to submit annual OSHA recordkeeping information electronically to OSHA. From there, OSHA will be posting that information on its website, making your data publicly available for anyone to review.

**Are You Affected?**

If your company has 250 or more employees at any time throughout 2016, you’re automatically included. If you have 20-249 employees, there’s only certain types of companies included, covering 66 NAICS classifications. However, that 66 covers a vast majority of businesses including manufacturing, agriculture, transportation, utility, construction, medical and more.

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| If your company has… | 250+ Employees | 20-249 Employees (Covered Industries) | 20-249 Employees  (Not Covered Industries) | 19 or Fewer Employees |
| Who Reports Electronically? | All | There are 66 categories of establishments included.  (Link is below) | None | None |
| Which Records to Submit to OSHA? | 300A (2017 Only)  OSHA 300, 300A and 301 (2018 and beyond) | OSHA 300A Only | None | None |
| Electronic Data Due to OSHA | Dec. 15, 2017 for 2016 records | Dec. 15, 2017 for 2016 records | None | None |
| How Do You Calculate Number of Employees? | Count the maximum you had AT ANY TIME throughout the previous year.  So, for example, if you have 250 employees for only 2 months of 2016, you’d still fall in the 250+ category even if you were below it for the other 10 months. | | | |
| Do Part-Time, Seasonal and Temp Workers Count in the Final Total? | Yes | Yes | Yes | Yes |
| Data for 2016 Still Posted at Workplace Feb 1-Apr 30, 2017? | Yes | Yes | Yes | Yes (10-19 employees) |
| Electronic Records Available for Viewing by Public at OSHA.gov | Yes | Yes | No | No |

**Why Online?**

OSHA says information is being posted online per President Obama’s Open Government Initiative. OSHA says that by posting the information to the internet it will “…nudge employers to improve workplace safety” and provide valuable information to employers, employees, potential investors, job seekers and customers of the business as well as researchers. All personally identifiable employee information will be removed before the records are posted to the internet.

**How to Submit**

Electronic submittal to OSHA will be done through a secure website where each company will be required to set up their own account. There are no instructions yet as to where this website is and how to create an account on it. As soon as something is published, iSi will send out the links to it. Data will be due by July 1 for the first couple of years, and then in 2019 the reporting deadline will go to March 2 each year afterward.

Remember that the electronic requirement is just an additional step. You will still need to post your OSHA information in the workplace from February 1 through April 30 as you’ve been doing all along.

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**Ensure Your Safety Incentive Programs Promote the Positive**

**OSHA Recordkeeping Rule Adds Language About Disincentivising Employees From Reporting**

Another piece put with OSHA’s recent final recordkeeping rule regarding electronic submittals was some additional language and safeguards to protect workers from retaliation or from deterrence in reporting injuries.

To meet requirements of this piece of the rule, first, make sure you’ve posted the “OSHA’s Job Safety and Health – It’s the Law” poster (2015 or newer version).

Second, ensure your safety incentive and discipline programs do not deter or discourage employees from reporting injuries and illnesses. OSHA still will allow incentive programs, but want to make sure employers know that they must be structured in a way that does NOT discourage workers from reporting injuries.

Incentive programs which withhold or deny a benefit because an employee reported an injury are illegal. These could include those which disqualify or withhold rewards from the person reporting or a whole group of workers if an injury is reported. Discipline programs which punish workers who report injuries regardless of fault is also not allowed, as is making the reporting process so cumbersome and/or filled with paperwork that it becomes easier for the employee not to do it. OSHA says you can still have incentive programs, but instead, opt for positive incentive programs which promote worker participation in safety-related activities.

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| Industry | NAICS CODE GROUP |
| Agriculture, forestry, fishing and hunting | 11 |
| Utilities | 22 |
| Construction | 23 |
| Manufacturing | 31-33 |
| Wholesale trade | 42 |
| Automotive parts, accessories, and tire stores | 4413 |
| Furniture stores | 4421 |
| Home furnishings stores | 4422 |
| Building material and supplies dealers | 4441 |
| Lawn and garden equipment and supplies stores | 4442 |
| Grocery stores | 4451 |
| Specialty food stores | 4452 |
| Department stores | 4521 |
| Other general merchandise stores | 4529 |
| Used merchandise stores | 4533 |
| Vending machine operators | 4542 |
| Direct selling establishments | 4543 |
| Scheduled air transportation | 4811 |
| General freight trucking | 4841 |
| Specialized freight trucking | 4842 |
| Urban transit systems | 4851 |
| Interurban and rural bus transportation | 4852 |
| Taxi and limousine service | 4853 |
| School and employee bus transportation | 4854 |
| Charter bus industry | 4855 |
| Other transit and ground passenger transportation | 4859 |
| Scenic and sightseeing transportation, land | 4871 |
| Support activities for air transportation | 4881 |
| Support activities for rail transportation | 4882 |
| Support activities for water transportation | 4883 |
| Support activities for road transportation | 4884 |
| Other support activities for transportation | 4889 |
| Postal service | 4911 |
| Couriers and express delivery services | 4921 |
| Local messengers and local delivery | 4922 |
| Warehousing and storage | 4931 |
| Cable and other subscription programming | 5152 |
| Lessors of real estate | 5311 |
| Automotive equipment rental and leasing | 5321 |
| Consumer goods rental | 5322 |
| General rental centers | 5323 |
| Services to buildings and dwellings | 5617 |
| Waste collection | 5621 |
| Waste treatment and disposal | 5622 |
| Remediation and other waste management services | 5629 |
| Other ambulatory health care services | 6219 |
| General medical and surgical hospitals | 6221 |
| Psychiatric and substance abuse hospitals | 6222 |
| Specialty (except psychiatric and substance abuse) hospitals | 6223 |
| Nursing care facilities | 6231 |
| Residential mental retardation, mental health and substance abuse facilities | 6232 |
| Community care facilities for the elderly | 6233 |
| Other residential care facilities | 6239 |
| Community food and housing, and emergency and other relief services | 6242 |
| Vocational rehabilitation services | 6243 |
| Performing arts companies | 7111 |
| Spectator sports | 7112 |
| Museums, historical sites, and similar institutions | 7121 |
| Amusement parks and arcades | 7131 |
| Gambling industries | 7132 |
| Traveler accommodation | 7211 |
| RV (recreational vehicle) parks and recreational camps | 7212 |
| Rooming and boarding houses | 7213 |
| Special food services | 7223 |
| Commercial and industrial machinery and equipment (except automotive and electronic) repair and maintenance | 8113 |
| Dry-cleaning and laundry services | 8123 |