



OSHA Set to Revive Rule Requiring Electronic Submission of OSHA Form 300 and 301 Data

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On March 30, the Occupational Safety and Health Administration (OSHA) published a [Proposed Rule](#) that would amend its workplace injury and illness recordkeeping requirements, [29 CFR 1904.41](#), to require certain employers to annually submit additional injury and illness information to OSHA.

Employers with establishments that have 250 or more employees and establishments in certain high-risk industries with 20 or more employees are currently required to electronically submit information from their OSHA Form 300A Summary to OSHA on an annual basis. The Proposed Rule, however, reflects a return to certain Obama-era submission requirements that would require not merely the submission of summary data from the Form 300A but also detailed incident information from the 300 Log and 301 Incident Reports.

Specifically, the Proposed Rule would include the following changes:

- Require establishments with 100 or more employees in certain industries to electronically submit information from their OSHA Forms 300, 301 and 300A to OSHA once a year. Industries covered by this requirement are listed in [Proposed Appendix B](#).
- Continue to require establishments with 20 or more employees in certain industries to electronically submit information from their OSHA Form 300A annual summary to OSHA annually. Industries covered by this requirement are listed in [Proposed Appendix A](#). This Proposed Appendix does not change the industry categories already covered by this requirement, but merely reflects updated, 2017 NAICS codes.
- Remove the current requirement for establishments with 250 or more employees, not in a designated high-risk industry, to electronically submit information from their Form 300A to

OSHA annually.

- Update the classification system used to determine the list of industries covered by the electronic submission requirement.
- Require establishments to include their company name when making electronic submissions to OSHA.

The Proposed Rule will not affect covered employers' responsibility to keep and maintain these forms, even if they are not required to submit them annually. OSHA stated it intends to post the data from the annual submission requirement on a public website after identifying and removing individuals' names and contact information.

Employers may recall that OSHA enacted similar requirements during the Obama administration in 2016. However, before those requirements took effect, the Trump administration put them on hold and ultimately dropped the requirement for submission of the detailed injury and incident information from the Form 300 and Form 301 but kept the requirement that establishments with 250 or more employees, regardless of industry, submit Form 300As. This Proposed Rule seeks to revitalize those requirements.

OSHA is accepting public comments on the Proposed Rule until May 31, 2022. There is currently no set date by which the Proposed Rule will become effective. Frost Brown Todd will continue to keep you apprised of all relevant future developments.

For more information, please contact [Kyle D. Johnson](#), [Steven M. Tolbert](#), [Souhila EL Moussaoui](#), or any attorney in Frost Brown Todd's [Labor & Employment](#) practice group.

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