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OSHA's New Electronic Recordkeeping Rule: What Contractors Need to Know

By [Larry C. Poague](#), [Christine Sullivan](#) & [Mae Ping Patrick](#)

OSHA published a final rule on May 12, 2016, requiring businesses such as construction companies to electronically submit information from their OSHA injury and illness records.

The first reporting requirement will be of 2016 data, so now is the time for contractors to make sure that they are keeping the correct records.

This information includes:

- [Form 300A \(Summary of Work-Related Injuries and Illnesses\)](#)
- [Form 300 \(Log of Work-Related Injuries and Illnesses\)](#)
- [Form 301 \(Injury and Illness Incident Reports\)](#)

This rule was the subject of some controversy and there was concern over the release of this information. While this data was always available to employees and their representatives, this will be the first time it is reported in such an open and easily accessible manner. While many companies are hoping, this rule will change, there are some things contractors can review to minimize issues when they have to report.

WHO SHOULD SUBMIT?

One key differentiator is that smaller construction companies will only have to electronically submit their 300A summary data. Submission requirements include:

- businesses with 250 or more employees that are currently required to keep OSHA injury and illness records;
- [businesses with 20 to 249 employees](#) that are classified with historically high rates of occupational injuries and illnesses must electronically submit the 300A information;
- employee's personal information, such as name, address and physician name, is not required to be submitted; and
- information must be submitted once per year.

TIMELINE FOR IMPLEMENTATION

The reporting requirements became effective January 1, 2017, and the submission requirements will be phased in over three years.

CLEANING UP DATA

There are some frequent reporting mistakes that can increase the number of entries on the 300 logs. While OSHA is concerned with underreporting and anything that discourages employees from reporting a case, it can be just as easy to overreport if not following the rules. Review the recordkeeping standard with those who fill out the logs to ensure only what is required is reported.

SEVEN FREQUENT REPORTING MISTAKES

1. **Not following the four validating questions:**
 - Was there an injury or illness?
 - Was it work-related?
 - Is it a new claim or related to an ongoing claim?
 - Does it meet the specific criteria of restricted duty, lost time and medical treatment beyond first aid?
2. **Exposures.** If required to keep medical records and perform testing for different types of exposures to chemicals, bloodborne pathogens and air contaminants, those often shouldn't be recorded on the log because they haven't yet actually created an injury or illness.
3. **Separating workers' compensation from OSHA.** Many construction company record keepers for the OSHA log also have workers' compensation responsibilities and will put any workers' compensation case on the OSHA log. A key strategy is to keep a mental wall between what is workers' compensation and what goes on the log. A good example is diagnostic testing. A contractor would have to pay workers' compensation for an X-ray, an MRI or a blood test. However, if these diagnostics came back negative and showed no injury, it may not meet the validating question, "Was there an injury or illness?" Another key element is "medical treatment beyond first aid." When the doctor orders any treatment beyond first aid, it becomes recordable.
4. **Lost time and restricted duty.** The day of the injury does not count as the first day of lost time or restricted duty. If that day is the only day the employee missed, this case would not count as lost time or a restricted case. Limit the total count of lost time and restricted days to 180 calendar days. Remember that OSHA uses calendar days, so don't try to be creative with lost time or restricted cases and say that someone was on vacation or not scheduled to work. Use the calendar days from when the doctor restricted the employee's work.
5. **Privacy cases.** Cases that meet the following criteria may be noted on the log as a "privacy case":
 - an injury or illness to an intimate body part or reproductive system;
 - an injury or illness resulting from sexual assault;
 - mental illness;
 - HIV infection, hepatitis, tuberculosis;
 - needlestick and sharps injuries that are contaminated with another person's blood or other potentially infectious material; or
 - employee voluntarily requests to keep his or her name off the log for other illness cases.

Do not enter the name of the employee on the OSHA 300; instead, enter "privacy case." Keep a separate, confidential list of the case numbers and employee names for privacy concern cases so they can be updated if the company is asked to provide the information.

6. **Carryover from the past year.** Cases stay in the year in which they occurred. If an employee has an injury in December but has lost time in January of the new year, the log from last year would be updated. Don't carry over the injury to the new log unless it is a new injury.
7. **Local managers not understanding the appropriate response and measures to take when an injury happens.** Many organizations have excellent programs from a corporate perspective but do not have a feedback mechanism to determine if the program is being implemented at the direct supervisor/employee level.



Robinson Builders Mart
PO Box 345, Newton, NC 28658

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