



Compliance Bulletin

OSHA Proposes Rule Requiring Electronic Submission of Injury and Illness Reports

Provided by Henderson Brothers

Quick Facts

The proposed rule would give OSHA direct, timely and systematic access to data through:

- Quarterly electronic filings for certain employers with 250 or more employees.
- Annual electronic filings for certain employers with 20 or more employees; and
- Limited filings for employers that receive an OSHA notice.

The proposed rule does not create additional recordkeeping or reporting duties for employers. Rather, it would dictate how this information must be submitted to OSHA.

On **Nov. 7, 2013**, the Occupational Safety and Health Administration (OSHA) [announced](#) a proposed rule to require certain employers to submit injury and illness reports electronically. This proposal does not create additional recordkeeping or reporting duties for employers. Rather, it would dictate how this information must be submitted to OSHA.

Depending on the employer's size and industry, OSHA would require the quarterly, annual or limited electronic submission of work-related employee injury and illness reports that these employers are already required to maintain under current regulations.

OSHA is providing the public a 90-day window to comment on the proposal. All comments must be sent to OSHA for evaluation **by Feb. 6, 2014**. In addition, OSHA will hold public hearings on this subject in Washington, D.C., **on Jan. 9, 2014**. As with any proposal, it may be some time before OSHA finalizes a rule concerning this issue and the final rule may vary considerably from the proposal.

Quarterly Electronic Filing Requirement

Under the proposed rule, the quarterly electronic filing requirement applies only to establishments that:

- Are already under an obligation to report work-related employee injuries and illnesses; and
- Had at least 250 employees during the previous calendar year, including full-time, part-time and seasonal workers.

These employers would be required to submit some of the entries they already make on OSHA Forms 300 and 301. Information from OSHA Form 300A would still be required annually. The proposal would not apply to establishments that are exempt from keeping injury and illness records under OSHA regulations. Partial exemptions for employers in some industries may be possible.

OSHA estimates that this will present a small burden to employers when compared to the benefits derived from the proposed rule.

Annual Electronic Filing Requirement

Under the proposed rule, the annual electronic filing requirement applies only to establishments that:

- Are already under an obligation to report work-related employee injuries and illnesses;

- Belong to an identified high-risk industry; and
- Had at least 20 employees during the previous year.

These employers would be required to submit information from their annual summary (OSHA Form 300A). This requirement would replace the current requirement to fill out and send the annual survey.

OSHA opted to propose an annual instead of a quarterly requirement for these establishments to avoid placing an unnecessary additional burden on them, because some may not have on-site Internet access.

The list of identified, high-risk industries is compiled by using the data reported by all reporting establishments. Currently, the list of identified, high-risk industries includes industries where, on average, employers experienced two or more serious injuries or illnesses per every 100 full-time employees (DART rate in BLS SOII), excluding four selected transit industries where local government is a major employer.

The data used was from the 2009 report, but OSHA expects to update this information by the time of the final rulemaking if more current information is available. Below is the list of affected industries based on the 2009 information.

NAICS	Industry	NAICS	Industry
11	Agriculture, Forestry, Fishing & Hunting	4921	Couriers
22	Utilities	4922	Local Messengers and Local Delivery
23	Construction	4931	Warehousing and Storage
31-33	Manufacturing	5152	Cable and Other Subscription Programming
42	Wholesale Trade	5311	Lessors of Real Estate
4413	Automotive Parts, Accessories and Tire Stores	5321	Automotive Equipment Rental and Leasing
4421	Furniture Stores	5322	Consumer Goods Rental
4422	Home Furnishings Stores	5323	General Rental Centers
4441	Building Material and Supplies Dealers	5617	Services to Buildings and Dwellings
4442	Lawn and Garden Equipment and Supplies Stores	5621	Waste Collection
4451	Grocery Stores	5622	Waste Treatment and Disposal
4521	Department Stores	5629	Remediation and Other Waste Management Services
4529	Other General Merchandise Stores	6216	Home Health Care Services
4533	Used Merchandise Stores	6221	General Medical and Surgical Hospitals
4543	Direct Selling Establishments	6222	Psychiatric and Substance Abuse Hospitals
4811	Scheduled Air Transportation	6223	Specialty (except Psychiatric and Substance Abuse) Hospitals
4832	Inland Water Transportation	6231	Nursing Care Facilities
4841	General Freight Trucking	6232	Residential Mental Retardation, Mental Health and Substance Abuse Facilities
4842	Specialized Freight Trucking	6233	Community Care Facilities for the Elderly
4855	Charter Bus Industry	6239	Other Residential Care Facilities



NAICS	Industry	NAICS	Industry
4871	Scenic and Sightseeing Transportation, Land	6243	Vocational Rehabilitation Services
4872	Scenic and Sightseeing Transportation, Water	7112	Spectator Sports
4881	Support Activities for Air Transportation	7131	Amusement Parks and Arcades
4882	Support Activities for Rail Transportation	7132	Gambling Industries
4883	Support Activities for Water Transportation	7211	Traveler Accommodation
4884	Support Activities for Road Transportation	8113	Commercial and Industrial Machinery and Equipment (except Automotive and Electronic) Repair and Maintenance
4889	Other Support Activities for Transportation	8123	Dry Cleaning and Laundry Services

Limited Electronic Filing Requirement

Under the proposed rule, OSHA may require certain employers to electronically submit specific information from their existing work-related employee injury and illness records from time to time.

These requests will be limited to certain employers in certain industries and will require specific information for a limited period. Employers will be expected to comply with these requests only during the interval or period specified in the notice.

OSHA will notify affected employers of their obligation by mail, through a publication in the Federal Register, a notification in OSHA's newsletter and an announcement on OSHA's website.

OSHA expects to collect this information to:

- Identify emerging hazards;
- Characterize specific areas of concern; or
- Target inspection and outreach initiatives under OSHA's emphasis program.

Secure Website

As part of this proposed rulemaking, OSHA is planning to create and maintain a secure website for the collection of employee injury and illness report data. According to OSHA, the

website would allow for direct data entry and the submission of batch file uploads.

OSHA is accepting public comments and recommendations on the design of the system to make sure it addresses issues of efficiency and confidentiality.

Implementation Costs

OSHA believes that the benefits of this proposal outweigh the costs of its implementation. Currently, OSHA estimates that the new rule will result in \$11.9 million in expenses each year with an average cost of:

- \$183 per year for affected establishments with 250 or more employees; and
- \$9 per year for affected establishments with 20 or more employees in designated industries.

Benefits of the Proposed Rule

OSHA believes that having direct, timely and systematic access to useful, accessible and establishment-specific data will enable it to better identify, target, remove and abate workplace safety and health hazards.

The following are a number of the benefits that may result from implementing the proposed rule.



- Improved compliance with OSHA's directive to provide every worker a safe and healthful working environment and to preserve human resources by requiring appropriate reporting procedures related to occupational health and safety
- Increased workplace safety as a result of targeting compliance assistance and enforcement efforts more effectively
- Increased workplace safety as a result of making data available to the public and to employers, encouraging employers to maintain and improve safety efforts
- Employers' ability to compare their own rates to the rates of their peers and their industries' safety leaders
- Workers' ability to compare their employers' rates to the rates of other employers and the industry safety leaders
- Availability of an establishment's compliance history and safety reputation for the general public (this could allow the public to make informed decisions about the companies with which they choose to do business)
- Improved research on occupational health and safety by identifying patterns of injury that are usually masked by the aggregation of injury dates in existing data sources

MORE INFORMATION

Employers and others who wish to learn more about the [proposed rule](#), and to have a discussion of possible alternatives to the rule, are encouraged to visit OSHA's [website](#) and submit their comments and concerns electronically, by mail or by fax. Henderson Brothers will continue to monitor this proposal and will make additional information known to you as it becomes available.

