



Robert Ayers

Partner
307.734.4514
Jackson Hole
RDayers@hollandhart.com

OSHA Issues Final Rule on Tracking Workplace Injuries and Illnesses

Insight — July 26, 2023

On July 21, 2023, OSHA published to the Federal Register its final rule to “Improve Tracking of Workplace Injuries and Illnesses.” The Final Rule contains requirements for employers with establishments of various sizes to electronically submit injury and illness information to OSHA annually.

Three groups of establishments will be required to electronically submit information:

- Establishments with 250 or more employees who are required to keep OSHA injury and illness records, regardless of their industry, must submit their 300A Annual Summary. This reverses a previous version that would have excused large employers not in designated high-hazard industries from this requirement.
- Establishments with 20-249 employees in certain designated industries are required to submit information from their Form 300A summary. These “certain designated industries” are identified in Appendix A to the Final Rule.
- Establishments with 100 or more employees in certain designated industries are required to submit information from their OSHA Forms 300 and 301. These “certain designated industries” are identified in Appendix B to the Final Rule. Note that some industries are listed in both Appendices A and B and must provide data from all three forms.

Covered establishments must submit information by March 2 of the following calendar year. For example, 2023 data is due by March 2, 2024.

The Final Rule only directly applies to federal OSHA states (i.e., not State Plans), but State Plans are required to adopt similar requirements to the Final Rule within six months. State Plans may contain more stringent reporting requirements, but due to the “unique nature of the national recordkeeping program,” State Plans must obtain approval from OSHA for additional or more stringent reporting requirements.

We recommend employers (1) confirm their headcount by establishment, (2) confirm the applicable NAICS code for each establishment, and (3) review this information against Appendices A and B to the Final Rule to determine respective requirements. Employers operating in non-federal OSHA states should consult their State Plan to determine what additional information, if any, must be submitted.

This publication is designed to provide general information on pertinent legal topics. The statements made are provided for educational purposes only. They do not constitute legal or financial advice nor do they necessarily reflect the views of Holland & Hart LLP or any of its attorneys other than the author(s). This publication is not intended to create an attorney-client relationship between you and Holland & Hart LLP. Substantive changes in the law subsequent to the date of this publication might affect the analysis or commentary. Similarly, the analysis may differ depending on the jurisdiction or circumstances. If you have specific questions as to the application of the law to your activities, you should seek the advice of your legal counsel.