

Cal-OSHA and Electronic Filing of the 300 (a) Summary

Not too long ago, Federal OSHA passed regulations that were, among other things, aimed at the OSHA 300 Log process and implemented a process to collect information from the summary log electronically. In essence, what OSHA wanted was to build a database for their inspectors to better target employers who are having injuries in greater frequency than other organizations in their industry. During the promulgation of the regulation, however, they did not take into account that the states under state plan jurisdictions (who have a short period of time in which to adopt similar regulations), did not have the political will, infrastructure, or manpower to adopt such a regulation. As a result, employers in state plans have been working under the previous 300 Log reporting process for a little over a year. That has all changed.

As a member of a Cal-OSHA Advisory Committee, I received a notice from them advising us of a directive they received from Fed-OSHA. I have included the verbiage below;

Dear Cal/OSHA Advisory Committee members and interested parties,

We have an update for you regarding federal OSHA's requirements (found in the Code of Federal Regulations, title 29, part 1904) for employers to electronically submit injury and illness records.

On April 30, 2018, federal OSHA posted a "trade release" requiring all affected employers to submit injury and illness data in the federal OSHA Injury Tracking Application (ITA) online portal, even if the employer is covered by a state plan that has not completed adoption of their own state rule:

<https://www.osha.gov/news/newsreleases/trade/04302018>

Therefore, even though California has not yet adopted its own state rule, employers are advised to comply with federal OSHA's directive to provide Form 300A data covering calendar year 2017. Federal OSHA is requiring affected employers to submit their data by July 1, 2018. For specific instructions, go to federal OSHA's ITA website.

I have attached the “trade release” to this memo for your perusal. This change in procedure is sudden, but not surprising given the scope of the regulation passed by Fed-OSHA, as the state plans just did not have the capacity to comply. As you can see, Cal-OSHA is advising employers to comply with the new rule, even though there is not a state rule to follow.

The image shows a document titled "OSHA Trade Release" with the OSHA logo in the top right corner. The text is as follows:

U.S. Department of Labor
Occupational Safety and Health Administration
Office of Communications
Washington, D.C.
www.osha.gov (<http://www.osha.gov>)
For Immediate Release

April 30, 2018
Contact: Office of Communications
Phone: 202-693-1999

**U.S. Department of Labor Fixes Error Dating to 2016
Implementation of “Improve Tracking of Workplace Injuries and
Illnesses” Regulation**

WASHINGTON, DC – Following a review of the requirements put in place in 2016 regarding the “Improve Tracking of Workplace Injuries and Illnesses” regulation, the U.S. Department of Labor’s Occupational Safety and Health Administration (OSHA) has taken action to correct an error that was made with regard to implementing the final rule.

OSHA determined that Section 18(c)(7) of the Occupational Safety and Health Act, and relevant OSHA regulations pertaining to State Plans, require all affected employers to submit injury and illness data in the Injury Tracking Application (ITA) online portal, even if the employer is covered by a State Plan that has not completed adoption of their own state rule.

OSHA immediately notified State Plans and informed them that for Calendar Year 2017 all employers covered by State Plans will be expected to comply. An employer covered by a State Plan that has not completed adoption of a state rule must provide Form 300A data for Calendar Year 2017. Employers are required to submit their data by July 1, 2018. There will be no retroactive requirement for employers covered by State Plans that have not adopted a state rule to submit data for Calendar Year 2016.

A notice has been posted on the [ITA website \(/injuryreporting/index.html\)](#) and related OSHA webpages informing stakeholders of the corrective action.

Under the Occupational Safety and Health Act of 1970, employers are responsible for providing safe and healthful workplaces for their employees. OSHA’s role is to ensure these conditions for America’s working men and women by setting and enforcing standards, and providing training, education and assistance. For more information, visit www.osha.gov (l).

So, what does that mean to employers? It means there is a process that every employer in a state plan should go through before July 1, 2018. First, every employer in a state plan needs to make an assessment as to whether or not they are required to submit their log at all. Procedures for making that determination are outlined below. Second, determine how to submit the information from your 300 (a) Summary form. There are a few ways of doing that as well. Last, develop some responsibilities internally to make sure that this electronic submission process becomes part of how business is conducted within the organization.



Determine if you are required to submit 300 (a) Summary information electronically:

Only some establishments are required to electronically submit their data to OSHA. Remember, these criteria apply at the establishment level, not to the entire firm. Companies that meet any of the following criteria are not required to send the information:

- If the establishment's peak employment during the previous calendar year was 19 or fewer, regardless of the establishment's industry.
- If the establishment's industry is on the list in Appendix A at the bottom of this document, regardless of the size of establishment, the establishment is NOT required to send their information to Federal OSHA:
- If the establishment had a peak employment between 20 and 249 employees during the previous calendar year and the establishment's industry is not on the list in Appendix B at the bottom of this document, the establishment is NOT required to send their information to Federal OSHA.

To put it in simpler terms, if the organization is under 20 employees, it is exempt. If the organization is in a certain industry listed in Appendix A, it is exempt. If the organization has from 20 to 249 employees, and they do not fall in one of the required industries (Appendix B), it is exempt.

From another perspective, if an organization has over 250 employees, they must report electronically. If an organization has 20 employees or more, and they fall within the list in Appendix B, they must report electronically. This is a perfect example of the Federal Government making things as easy as possible for people to understand. The appendices are pulled from the Fed-OSHA site where this is explained.

Electronic Reporting Process

Now that we have determined whether or not the organization is required to submit the OSHA 300 (a) Summary form electronically, let us take a look at what the process looks like.

1. Set up an account for the organization. This will provide you access to the site where the actual reporting will take place. There is a link below to help with setting it up.
 - a. <https://www.osha.gov/injuryreporting/jobaids/setting-up-ita-acct.pdf>
2. After you have set up an account, you are ready to log in and start reporting. Fed-OSHA has provided a secure website that offers three options for data submission.
 - a. Users will be able to manually enter data into a web form.
 - b. Second, users will be able to upload a CSV file to process single or multiple establishments at the same time.
 - i. **Note:** Users of Succeed can utilize this feature through Incident Track. This feature is designed so that a user does not have to manually provide this data to Fed-OSHA per the electronic OSHA reporting rule. This feature includes the ability to download to a CSV file for consumption or uploading data. The report can be found within the Incident Track Reports > Export Data.
 - c. Last, users of automated recordkeeping systems will have the ability to transmit data electronically via an API (Application Programming Interface). We will provide status updates and related information as it becomes available.
 - d. There is more specific assistance with this item located at the website below.
 - i. <https://www.osha.gov/injuryreporting/jobaids/getting-started-in-ita.pdf>

This information should help with electronically reporting the OSHA 300 (a) Summary to Federal OSHA. The link above is the location of the ITA, (Injury Tracking Application) on the OSHA Website. If an organization falls under the reporting category, then it is recommended that an account be set up and the information be electronically reported to OSHA. As more information surfaces about this topic, we will make sure you are kept up to date with the latest developments.

Appendix A

NAICS Code	Industry Description
4412	Other Motor Vehicle Dealers
4431	Electronics and Appliance Stores
4461	Health and Personal Care Stores
4471	Gasoline Stations
4481	Clothing Stores
4482	Shoe Stores
4483	Jewelry, Luggage, and Leather Goods Stores
4511	Sporting Goods, Hobby, and Musical Instrument Stores
4512	Book, Periodical, and Music Stores
4531	Florists
4532	Office Supplies, Stationery, and Gift Stores
4812	Nonscheduled Air Transportation
4861	Pipeline Transportation of Crude Oil
4862	Pipeline Transportation of Natural Gas
4869	Other Pipeline Transportation
4879	Scenic and Sightseeing Transportation, Other
4885	Freight Transportation Arrangement
5111	Newspaper, Periodical, Book, and Directory Publishers
5112	Software Publishers
5121	Motion Picture and Video Industries
5122	Sound Recording Industries
5151	Radio and Television Broadcasting
5172	Wireless Telecommunications Carriers (except Satellite)
5173	Telecommunications Resellers
5179	Other Telecommunications
5181	Internet Service Providers and Web Search Portals
5182	Data Processing, Hosting, and Related Services
5191	Other Information Services
5211	Monetary Authorities - Central Bank
5221	Depository Credit Intermediation
5222	Nondepository Credit Intermediation
5223	Activities Related to Credit Intermediation
5231	Securities and Commodity Contracts Intermediation and Brokerage

5232	Securities and Commodity Exchanges
5239	Other Financial Investment Activities
5241	Insurance Carriers
5242	Agencies, Brokerages, and Other Insurance Related Activities
5251	Insurance and Employee Benefit Funds
5259	Other Investment Pools and Funds
5312	Offices of Real Estate Agents and Brokers
5331	Lessors of Nonfinancial Intangible Assets (except Copyrighted Works)
5411	Legal Services
5412	Accounting, Tax Preparation, Bookkeeping, and Payroll Services
5413	Architectural, Engineering, and Related Services
5414	Specialized Design Services
5415	Computer Systems Design and Related Services
5416	Management, Scientific, and Technical Consulting Services
5417	Scientific Research and Development Services
5418	Advertising and Related Services
5511	Management of Companies and Enterprises
5611	Office Administrative Services
5614	Business Support Services
5615	Travel Arrangement and Reservation Services
5616	Investigation and Security Services
6111	Elementary and Secondary Schools
6112	Junior Colleges
6113	Colleges, Universities, and Professional Schools
6114	Business Schools and Computer and Management Training
6115	Technical and Trade Schools
6116	Other Schools and Instruction
6117	Educational Support Services
6211	Offices of Physicians
6212	Offices of Dentists
6213	Offices of Other Health Practitioners
6214	Outpatient Care Centers
6215	Medical and Diagnostic Laboratories
6244	Child Day Care Services
7114	Agents and Managers for Artists, Athletes, Entertainers, and Other Public Figures
7115	Independent Artists, Writers, and Performers
7213	Rooming and Boarding Houses
7221	Full-Service Restaurants
7222	Limited-Service Eating Places
7224	Drinking Places (Alcoholic Beverages)
8112	Electronic and Precision Equipment Repair and Maintenance

8114	Personal and Household Goods Repair and Maintenance
8121	Personal Care Services
8122	Death Care Services
8131	Religious Organizations
8132	Grantmaking and Giving Services
8133	Social Advocacy Organizations
8134	Civic and Social Organizations
8139	Business, Professional, Labor, Political, and Similar Organizations

Appendix B

NAICS	Industry
11	Agriculture, forestry, fishing and hunting
22	Utilities
23	Construction
31-33	Manufacturing
42	Wholesale trade
4413	Automotive parts, accessories, and tire stores
4421	Furniture stores
4422	Home furnishings stores
4441	Building material and supplies dealers
4442	Lawn and garden equipment and supplies stores
4451	Grocery stores
4452	Specialty food stores
4521	Department stores
4529	Other general merchandise stores
4533	Used merchandise stores
4542	Vending machine operators
4543	Direct selling establishments
4811	Scheduled air transportation
4841	General freight trucking
4842	Specialized freight trucking
4851	Urban transit systems
4852	Interurban and rural bus transportation
4853	Taxi and limousine service
4854	School and employee bus transportation
4855	Charter bus industry
4859	Other transit and ground passenger transportation
4871	Scenic and sightseeing transportation, land
4881	Support activities for air transportation
4882	Support activities for rail transportation
4883	Support activities for water transportation
4884	Support activities for road transportation
4889	Other support activities for transportation
4911	Postal service

4921	Couriers and express delivery services
4922	Local messengers and local delivery
4931	Warehousing and storage
5152	Cable and other subscription programming
5311	Lessors of real estate
5321	Automotive equipment rental and leasing
5322	Consumer goods rental
5323	General rental centers
5617	Services to buildings and dwellings
5621	Waste collection
5622	Waste treatment and disposal
5629	Remediation and other waste management services
6219	Other ambulatory health care services
6221	General medical and surgical hospitals
6222	Psychiatric and substance abuse hospitals
6223	Specialty (except psychiatric and substance abuse) hospitals
6231	Nursing care facilities
6232	Residential mental retardation, mental health and substance abuse facilities
6233	Community care facilities for the elderly
6239	Other residential care facilities
6242	Community food and housing, and emergency and other relief services
6243	Vocational rehabilitation services
7111	Performing arts companies
7112	Spectator sports
7121	Museums, historical sites, and similar institutions
7131	Amusement parks and arcades
7132	Gambling industries
7211	Traveler accommodation
7212	RV (recreational vehicle) parks and recreational camps
7213	Rooming and boarding houses
7223	Special food services
8113	Commercial and industrial machinery and equipment (except automotive and electronic) repair and maintenance
8123	Dry-cleaning and laundry services