

REMINDER: Electronically Submit OSHA 300A Annual Summaries to OSHA Because OSHA Penalties Just Keep Going Up

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02.06.2023

This is a friendly reminder that certain employers covered by the OSHA 300 recordkeeping standard must submit electronic copies of the 300A to OSHA by March 2, 2023 using the OSHA Injury Tracking Application (ITA). Covered employers must submit their 2022 Form 300A data to OSHA through OSHA's ITA online portal if they have 250 or more employees or have 20–249 employees and are listed on OSHA's list of high-risk industries. This *electronic reporting* requirement is based on the size of the establishment (how many employees are at the physical location), and not a company's overall headcount. OSHA has provided a web-based tool to help confirm whether you are required to file. Also, this filing requirement is **separate** from the requirement to post the 2022 300A annual summary of work-related injuries and illnesses by February 1, 2023, and keep the summary report posted in a common area until April 30, 2023.

All employers required to keep the OSHA 300 Injury and Illness Log must utilize the annual summary Form 300A to comply with posting and filing requirements -- **even if there have been no recordable injuries or illnesses** for the year. The summary Form 300A reports an employer's total year-end number of fatalities, missed workdays due to injury or illness on the job, job transfers or restrictions, and injuries and illnesses. OSHA can use the information to send out warning letters, conduct inspections, and target employers who properly record injuries and illnesses if they happen to have injury and illness rates above their industry average. The Injury

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Tracking Application data is also available online, making it accessible to competitors, labor unions, and employees. Employee-centered interest groups are also likely to weaponize the publication of work injury and illness data for use in organizing campaigns or to submit complaints to OSHA.

OSHA's record-keeping requirements are not intuitive. Employers should review data for technical errors and also review accident reports, first aid logs, and other related materials to ensure that these records are consistent as to recordable incidents. OSHA requires that employers correct records looking back **five years, if mistakes are discovered**. OSHA recently announced that it would consider issuing citations on an "instance-by-instance" basis for recordkeeping violations, meaning that penalties might add up quickly if OSHA believes that an employer undercounted work-related injuries and illnesses.

Employers that have questions about whether an injury was recordable and how to record an injury should review the regulations and guidance carefully or ask for help. This year, OSHA penalties increased by 7.75 percent. The maximum penalty for other-than-serious and serious citations will be \$15,625 per violation and the maximum penalty for willful or repeated citations will be \$156,259 per violation. Additionally, the minimum penalty for a willful or repeated violation will increase to \$11,162 per violation.

The Firm will be offering a webinar focused on OSHA recordkeeping requirements on March 14, 2023. Register [here](#). In the meantime, please contact your servicing Laner Muchin attorney if you have questions about complying with OSHA requirements.