

CAL/OSHA FORM 300A: ELECTRONIC RECORDING AND REPORTING, WORKPLACE INJURIES AND ILLNESSES DEADLINE: DECEMBER 31, 2018

On November 1, 2018, the California Division of Occupational Safety and Health (Cal/OSHA) enacted emergency regulations which will require many employers to electronically submit their 2017 Cal/OSHA Form 300A data by December 31, 2018.

BACKGROUND

The Federal Occupational Safety and Health Act requires that certain employers make and preserve records of workplace injuries and illnesses. Employers must immediately report to the Occupational Safety and Health Administration (OSHA), any workplace incident that results in an employee's fatality, in-patient hospitalization, amputation or loss of an eye. Employers with more than ten employees must keep OSHA illness and injury records unless they are classified as part of a "partially exempt industry." OSHA regulations require employers to annually submit OSHA Form 300-A Summary of Work-Related Injuries and Illnesses.

Cal/OSHA operates under a "State Plan" approved by OSHA. A State Plan is an OSHA-approved occupational safety and health program operated by a state, instead of OSHA. State Plans must operate under standards at least as rigorous as those promulgated by OSHA.

In January of 2018, OSHA announced electronic reporting requirements for employers that are required to report Form 300A data to OSHA. In April of 2018, OSHA announced that affected employers in State Plan states (including California), would now be required to submit their Form 300A data electronically to OSHA, even if the State Plan had not yet adopted its own state rule. At the time, California was one of the states that had not adopted its own electronic reporting rule. After OSHA's April announcement, California employers expressed considerable confusion about their obligations under the federal OSHA reporting regulations. California responded at the end of October, by introducing and approving emergency regulations conforming with OSHA's rules governing the electronic recording and reporting of occupational injuries and illnesses.

WHO MUST COMPLY

The following employers must comply with Cal/OSHA's new electronic injury and illness reporting rules:

1. Employers with 250 or more employees in the prior calendar year
2. Employers in specific industries, if they had 20-249 employees at any time in the prior calendar year. Included in this category are ambulatory health care services, general medical and surgical hospitals, psychiatric and substance abuse hospitals, nursing care facilities and other residential care facilities.
3. All employers that are notified by OSHA or its designee that it must report

WHO DOES NOT HAVE TO COMPLY

Employers do **not** have to comply with these electronic reporting requirements if they are partially exempt from keeping injury and illness records under Cal/OSHA § 14300.1 and/or 14300.2.

The list of partially exempt industries includes, but is not limited to:

- insurance carriers, agencies, brokerage and other insurance-related providers;
- insurance and employee benefit funds, other investment pools and funds;
- elementary and secondary schools, junior colleges, colleges, universities, technical and trade schools, and other schools and instruction facilities; and,
- offices of physicians, dentists and other health care practitioners, and outpatient care centers.

State and local governmental entities are not on the list of partially exempt industries, and therefore they must comply if they fit into one of the three enumerated categories of reporters above.

Please note, an employer that receives a “Notice of Record Keeping Requirements” from the U.S. Department of Labor Statistics is no longer “partially exempt” and must comply with the OSHA recordkeeping and electronic reporting requirements.

ELECTRONIC REPORTING REQUIREMENTS

Those employers required to report, must electronically report their Form 300A Summary of Work-Related Injuries and Illnesses for 2017 by December 31, 2018. Beginning in 2019, those employers required to report will have to submit Form 300A by March 2 of the year **after** the calendar year covered by the form. Therefore, the reporting deadline for the required information for 2018 will be March 2, 2019.

For electronic reporting, employers are instructed by Cal/OSHA to follow the instructions posted on federal OSHA’s ITA website, the link for which is below.

<https://www.osha.gov/injuryreporting/index.html>

Please contact your Keenan representative for questions regarding this *Briefing*.

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