

OSHA Issues Rule Requiring Employers to Publish Workplace Injuries

May 11, 2016

The Occupational Safety & Health Administration (OSHA) has issued a new rule requiring certain employers to submit electronic copies of their OSHA Injury and Illness Logs so OSHA can publish employers' Logs on OSHA's public website.

The information posted on the OSHA website will be "establishment-specific," providing injury and illness information for a specific business and location. OSHA however will only publish certain OSHA log data fields on its website. OSHA has indicated that it does not intend to publish any information on its website that could be used to identify individual employees.

Business has generally opposed the new rule as another unnecessary compilation of data by the government that will result in privacy risks and create additional costs for businesses. The new rule will increase OSHA's collection of employer injury and illness data from approximately 80,000 employers to 478,000 employers. The new rule also provides additional requirements relating to employers' procedures for employee reporting of injuries and illnesses.

The new rule adds greater protections for employees who allege they have been retaliated against for reporting an injury. However, because a robust OSHA Whistleblower Program already exists, the need for additional regulations is questioned. The U.S. Chamber of Commerce voiced concern that the new rule will "provide special interest groups with information that can be misconstrued and distorted in a manner that does not reflect business's commitment to the safety of this nation's employees."

David Michaels, Assistant Secretary of Labor for OSHA explained the new rule's purpose as follows:

"Since high injury rates are a sign of poor management, no employer wants to be seen publicly as operating a dangerous workplace. Our new reporting requirements will 'nudge' employers to prevent worker injuries and illnesses to demonstrate to investors, job seekers, customers and the public that they operate safe and well-managed facilities. Access to injury data will also help OSHA better target our compliance assistance and enforcement resources at establishments where workers are at greatest risk, and enable 'big data' researchers to apply their skills to making workplaces safer."

Under the new rule, businesses with 250 or more employees in industries covered by the recordkeeping regulation must electronically submit to OSHA injury and illness information from OSHA Forms 300, 300A, and 301. Establishments with 20-249 employees in certain industries must electronically submit information from OSHA Form 300A only.

The new requirements take effect Aug. 10, 2016, with phased-in data submissions beginning in 2017. These requirements do not change an employer's obligation to complete and retain injury and illness records under the OSHA Recording Standard.

Please carefully review the final rule to determine its applicability to your business.