

OSHA Issues Final Rule Requiring Electronic Injury and Illness Reporting

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In an attempt to modernize reporting and data collection, OSHA has released its final rule requiring employers in certain industries to electronically submit injury and illness data to OSHA. These requirements do not add to or alter an employer's obligation to complete and retain injury and illness records under the current regulations.

The new rule's electronic reporting requirements apply to all establishments with 250 or more employees. Establishments with between 20 and 249 employees in designated hazardous industries will also be required to submit summaries of injury data without many of the additional details that larger establishments must provide. Covered employers will be required to submit electronically beginning next year.

The final rule also requires employers to inform workers of their right to report work-related injuries and illnesses without retaliation and clarifies employees' rights to access workplace injury data. Specifically, employers must inform employees of the procedures for reporting work-related injuries and illnesses promptly and accurately, that employees have the right to report work-related injuries and illnesses, and that employers are prohibited from discharging or in any manner discriminating against employees for reporting work-related injuries or illnesses. These provisions-which take effect on August 16, 2016-apply to all employers, regardless of whether they are required to report to OSHA electronically.

OSHA also intends to post the data from employers' electronic submissions on a publicly accessible web site. This change will allow third parties (e.g., employees and unions) access to injury and illness data and could potentially form the basis for a cause of action by employees who claim their employer retaliated against them for reporting a work-related injury or illness.

In light of the above, all employers should review their OSHA and safety reporting policies to ensure compliance. Additionally, larger employers covered by the electronic reporting requirements of the new rule need to be aware that next year's report will need to be filed electronically.