

Legal Update Article

OSHA to Require Employers to Submit Injury and Illness Forms Online

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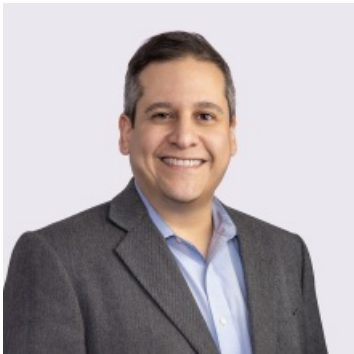


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The Occupational Safety and Health Administration (OSHA) has released a [final rule](#) to restore and expand Obama-era requirements for employers in dozens of designated industries that have worksites with at least 100 employees to submit their injury and illness forms electronically to the agency. The final rule becomes effective on January 1, 2024.

2016 and 2018 Rules

In 2016, under the Obama Administration, OSHA promulgated the [Improve Tracking of Workplace Injuries and Illnesses Rule](#) to require construction firms and employers in certain designated industries with worksites with at least 250 employees to submit their OSHA Form 300 (Log of Work-Related Injuries and Illnesses) and OSHA Form 301 (Injury and Illness Incident Report) to OSHA electronically.

In 2018, under the Trump Administration, OSHA modified the Obama-era rule to ease industry concerns that the agency might use electronic injury and illness reports to shame employers by publishing the information on its website, which could be viewed by news media, unions, industry competitors, and the public. Thus, OSHA limited the original rule to require employers to electronically submit only summary data on OSHA Form 300A (Summary of Work-Related Injuries and Illnesses).

New Rule

Under the Biden Administration, OSHA will not only return to the Obama-era rule originally promulgated in 2016, but also expand the number of companies that must comply by dropping the threshold number of employees from 250 to 100. The decrease in the threshold number of employees, one estimate said, would require more than 9,300 additional construction firms to comply with OSHA's new electronic recordkeeping requirement.

The new rule reverses the agency's 2018 rule change and reinstates the requirement to provide the more detailed injury and illness data in OSHA Forms 300 and 301. It also requires employers to submit these forms even when they have complied with OSHA standards. Finally, it requires employers to identify themselves on reports by their legal name, not by an assumed or trade name.

The agency will ultimately publish some of the data collected from these electronically submitted forms on its website to make the information available to employers, labor unions, potential employees, customers, industry competitors, news media, and other stakeholders.

If you have questions about the new rule, including whether your company is within the designated industries required to comply with these new reporting requirements, or you otherwise need assistance in an OSHA matter, please reach out to a member of the Workplace Safety and Health Practice Group.

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