

OUCH! Now What? OSHA Creates New Rules for Reporting and Submitting Records of Workplace Injuries and Illnesses

On May 11, 2016, the U.S. Department of Labor's Occupational Safety and Health Administration (OSHA) issued a **Final Rule** modifying workplace injury and illness reporting requirements. Certain employers will be subject to new online reporting that will be made publicly available. The employer-side requirements of the new Rule go into effect on January 1, 2017, and new language clarifying employees' reporting rights go into effect on August 10, 2016.

Until now, all employers have been generally required to maintain data related to employee injuries and illnesses on site on OSHA Injury and Illness forms, but there were no regular reporting requirements to OSHA. Further, the data was not comprehensively available to either OSHA or the public. Following the effective date of the Final Rule, this same data must be reported by large employers and some smaller employers in specific industries, and it will be made publicly available.

A. Background

According to OSHA, the Final Rule is intended to improve tracking of workplace injuries and illnesses. It also believes that the publicly-available nature of the data will encourage employers to increase workplace safety efforts. The availability of the data will also allow researchers to explore new theories related to the improvement of workplace safety hazards, and it will allow OSHA to determine whether it should dedicate additional resources to improving, or evaluating, specific industries or companies.

In addition, the Final Rule makes clear that employees who report workplace injuries or illnesses may not be retaliated against, and ensures that any reporting requirements developed by the employer regarding these injuries or illnesses are not so onerous as to discourage reporting.

B. Who Must Report

OSHA may make a specific request to any employer for the electronic submission of workplace illness and injury data. Absent such a request, the following two groups of employers are obligated to report: (a) employers who had 250 or more employees at any time during the previous calendar year; and (b) employers with 20 or more employees (but fewer than 250 employees) in specific industries identified by OSHA **here**, including, for example, employers in the utility, construction, furniture, and agriculture industries. The reporting obligations apply to employers in all states, including those that had previously operated their own job safety and health programs.

C. What Must Be Reported

Injury and illness information must be electronically reported by covered employers on an annual basis beginning in either July 2017 or 2018, with a final reporting deadline of March 2 beginning in 2019. The information that must be reported is currently contained in the OSHA Illness and Injury forms and logs, although employee-specific information such as the employee's name, address, name of physician, or name of treatment facility need not be submitted.

D. Implementation of the New Rule

Employers will report data through a secure link that will be made available by OSHA. Once reported, data will be

available at the employer-level at OSHA's public website, www.osha.gov. No Personally Identifiable Information will be posted.

E. Additional Information

OSHA's website has a copy of the 273-page Final Rule, as well as links to a [fact sheet](#) and a [frequently asked question guide](#).

This alert is for general informational purposes only and should not be construed as specific legal advice. If you would like more information about this alert, please contact one of the following attorneys or call your regular Patterson contact.

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