

Legal Update Article

# **OSHA to Require More Contractors to Report Injuries and Illnesses Online**

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The Occupational Safety and Health Administration (OSHA) has published [a proposed rule](#) to restore and expand [Obama-era requirements](#) for high-hazard employers with at least 100 employees to submit their injury and illness forms electronically to the agency.

Increased reporting requirements will hit construction firms particularly hard, as the U.S. Bureau of Labor Statistics reports that approximately 150,000 construction workers (about one in 10) experience an on-the-job injury each year. Until now, the agency had required fewer employers to submit electronic reports with less detailed information.

In 2016, OSHA under the Obama Administration promulgated the [Improve Tracking of Workplace Injuries and Illnesses Rule](#) to require construction firms and employers in other hazardous industries with at least 250 employees 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, the Trump Administration's 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).

Under the Biden Administration, OSHA proposed not only to return to the Obama-era rule originally promulgated in 2016, but to expand the number of firms that must comply with it by dropping the threshold number of employees from 250 to 100. According to one source, the threshold drop would add more than 9,300 construction firms into OSHA's new electronic recordkeeping requirement.

If finalized, the proposed rule would reverse the 2018 rollback of the proposal limiting electronic reports to summary data only by reinstating the requirement to provide the more detailed injury and illness data in OSHA Forms 300 and 301. The reports will be required even when employers have complied with OSHA standards, and employers will have to identify themselves on reports by name.

Addressing previously raised privacy concerns in its proposal, OSHA said, “[R]ecent advancements in technology [that] have reduced the risk that information that reasonably identifies individuals directly, such as name and contact information, will be disclosed to the public.” The agency said it hopes that expanding the electronic reporting mandate will provide analysis of “establishment-specific, case-specific injury and illness data” that will enable the agency to focus compliance efforts on particular employers and industries. OSHA confirmed that it intends to make aspects of the information publicly available.

If you have questions or need assistance in an OSHA matter, please reach out to a member of the [Workplace Safety and Health Practice Group](#).

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