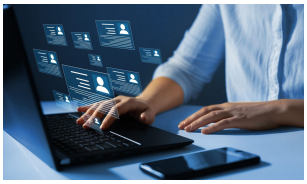

OSHA Finalizes Rule Requiring Electronic Submission of Comprehensive Injury and Illness Data

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The Occupational Safety and Health Administration (OSHA) has issued a final rule amending its occupational injury and illness recordkeeping regulation to require certain high-hazard industry establishments with 100 or more employees to electronically submit data from their OSHA Forms 300 and 301 to OSHA each year. This requirement is in addition to the existing requirement for employers with establishments within certain industries, or which have establishments with 250 or more employees, to electronically submit their OSHA Form 300A Summary data on an annual basis.

The final rule identifies a list of industries (outlined in a new Appendix B) where establishments with 100 or more employees will be subject to these new electronic submission requirements. OSHA will not collect employee names or addresses, the names of health care professionals rendering treatment, nor, if treatment was provided away from the worksite, the names and addresses of facilities where treatment was provided.

Establishments with 20-249 employees in certain industries (those listed in Appendix A), as well as those establishments with 250 or more employees required to maintain OSHA injury and illness records, will continue to be required to electronically submit information annually from the OSHA Form 300A Summary. Under the new rule, employers will continue to be permitted to use numbers or codes as an establishment name but will now be required to include the legal company name as part of the electronic submission.

If these additional requirements seem familiar, they should, as OSHA adopted very similar requirements in 2016 under the Obama administration. Under the Trump administration, however, OSHA delayed and then repealed the requirement for submission of OSHA

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Forms 300 and 301 data, so most employers never had to submit this comprehensive information. The primary difference between this new rule and the one adopted under the Obama administration is that establishments with 250 employees must only submit Forms 300 and 301 data if they are in an industry designated on Appendix B. (Under the former rule, all establishments with 250 employees or more were required to keep injury and illness records and submit Forms 300 and 301 data, regardless of industry.)

The rule becomes effective January 1, 2024. This means that 2023 calendar year data will be subject to the requirements of this new rule and will need to be electronically submitted to OSHA by no later than March 2, 2024 (and by March 2 of each calendar year thereafter). Therefore, it is imperative for employers to understand these new requirements, evaluate whether they have establishments that must submit this data, and establish a plan that will allow the required information to be submitted by the due date, with non-required information being excised from that data. This is also a good opportunity to reevaluate whether your establishments are required to electronically submit OSHA Form 300A Summary data.

Frost Brown Todd has a team standing ready to assist you in performing this review and helping you to strategically implement the requirements of this new rule. If you have any questions about these changes and how it may impact your business, please contact the authors or any attorney with Frost Brown Todd's Labor & Employment practice group.

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