



Meeting OSHA's Reporting Requirements – Posting Starts February 1

Insights

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Like death and taxes, the Occupational Safety and Health Administration (OSHA) can always be counted on to ratchet up enforcement efforts against employers each year. 2016 appears to be no different. The year begins with the agency continuing to sharpen its emphasis on inspecting and citing employers who violate its recordkeeping standard. This takes on greater importance because the reporting requirement changes that went into effect last year had a significant impact on the businesses that OSHA will be inspecting.

OSHA Reporting Rules

Under the 2015 rule changes, all employers are required to contact OSHA within 24 hours following an occurrence of any in-patient hospitalizations, amputations, or loss of an eye. This supplements the still-existing requirement to contact OSHA within eight hours following a fatality.

For reporting compliance, employers have three options when contacting OSHA: call the nearest area office, call OSHA's 24-hour hotline 1-800-321-OSHA(6742), or complete a report online. (For more information on OSHA's reporting requirements, see our [Fisher Phillips Legal Alert](#) from September 18, 2014.)

Recordkeeping And Posting Requirements

In 2015, OSHA added new categories of employers who are required to maintain and post OSHA injury and illness records going forward. All employers who were covered must complete and post their 2015 annual summary by February 1, 2016 and keep it posted until April 30, 2016. Employers must utilize the annual summary form (form 300A) to comply with the posting requirements. The form is available for download from OSHA at <http://www.osha.gov>. Even if you have no recordable injury or illness, you must still complete your 300 logs and post the 300A summary.

Here are some key details that are frequently misunderstood or overlooked which can lead to OSHA citations.

Executive Certification

OSHA's recordkeeping standard requires a certification of the 300A summary *by a company executive*. Four specific management officials may be considered "company executives" for purposes of certifying the 300A summary: an owner of the company, an officer of the corporation, the

highest-ranking company official working at the location, or the immediate supervisor of the highest-ranking company official working at the location.

This official must certify that he or she has reviewed the OSHA 300 logs and related records, and reasonably believes, based on knowledge of the process underlying the development of the data, that the posted summary is accurate and complete.

OSHA describes this requirement as imposing “senior management accountability” for the integrity and accuracy of the reported data. Human resources managers and safety directors normally cannot sign the OSHA 300A summary unless they are also officers of the company.

Number Of Employees And Hours Worked

The annual summary requires employers to include a calculation of the annual average number of employees covered by the log and the total hours worked by all covered employees. The purpose of this requirement is to help employers compare the relative frequency of significant occupational injuries and illnesses at their workplace as compared to other establishments.

Posting Process

The 300A summary must be posted in each establishment in a conspicuous place or places where notices to employees are customarily posted. You are under a duty to ensure that the posted annual summary is not altered, defaced, or obscured during the entire posting period.

Those employers who maintain these records in electronic form should still retain the signed posted summary after the February 1 to April 30 posting period to prove that it was properly signed.

You should provide copies of the 300A summary to any employee who may not see the posted summary if they do not report to a fixed location on a regular basis. Even where an establishment has had no recordable injuries or illnesses, you must still post the 300A summary with zeros in the appropriate lines and certified by a company executive.

Record Review

Before the annual summary is prepared, the recordkeeping rule imposes an express duty to review the log (form 300) to verify that entries are complete and accurate. Employers must review the records as “extensively as necessary” to ensure accuracy and also to ensure that your OSHA 301 or your first report of inquiry documents are fully filled out.

OSHA scrutinizes the forms 301, 300 and 300A for even minor errors in descriptions and boxes checked. Therefore, you should take time to review the forms for technical errors as well as to review accident reports, first aid logs, and other related materials to ensure that all recordable incidents have been included and that records are consistent. Employers have a duty to update and maintain records for five years plus the current year and provide them upon request for inspection by OSHA investigators.

Covered Employers

Because of the confusion on which employers are partially exempt, all employers should review the updated industry exemption list to see if they are covered. Under the issued rule, 25 industries that were previously exempt are now on the hook, and they must maintain the OSHA 300 logs and other required documentations.

Increase In OSHA Penalties

Included in the 2015 budget bill was a provision to allow OSHA to increase its penalty amounts based on the consumer price index. As a result, it is likely that OSHA penalty amounts will soon increase by 82% percent.

If you have questions regarding OSHA's emphasis on the recordkeeping requirements, or want a quick review of your OSHA 300 logs and 300A summaries, a full recordkeeping audit, or even training for your record keepers, please contact your Fisher Phillips attorney or any member of our Workplace Safety and Catastrophe Management Practice Group at 404.231.1400.

This Legal Alert provides information about a specific federal requirement. It is not intended to be, and should not be construed as, legal advice for any particular fact situation.

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