

# LABOR AND EMPLOYMENT LAW

## INFORMATION MEMO

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### New Year, New OSHA Reporting Rule

A new Occupational Safety and Health Association (OSHA) rule, “Improve Tracking of Workplace Injuries and Illnesses,” recently took effect on Jan. 1, 2024. This rule requires certain high-hazard employers with 100 or more employees to electronically submit OSHA Forms 300 and 301 by March 2 of each year—starting this year. Below is a list of general questions and answers relating to the new rule.

#### Who is considered a “high-hazard employer?”

Among the long list of high-hazard employers, many short- and long-term healthcare providers are covered. Specifically listed is (i) ambulatory health care services, (ii) general medical and surgical hospitals, (iii) psychiatric and substance abuse hospitals, (iv) specialty hospitals, (v) nursing care facilities, (vi) residential intellectual and development disability, mental health and substance abuse facilities, (vii) continuing care retirement communities and assisted living facilities for the elderly, (viii) other residential care facilities and (ix) vocational rehabilitation services.

The full list of covered high-hazard employers is contained in Appendix B to subpart E of [the rule](#).

#### What is new about OSHA Forms 300 and 301?

Form 300 is the “Log of Work-Related Injuries and Illnesses,” while Form 301 is the “Injury and Illness Incident Report.” Most employers have had to maintain these forms already, and only provide them to OSHA when asked during an inspection. What is new about this particular rule is that it requires covered high-hazard employers to submit these forms—which contain detailed information related to workplace injuries, including the event date and location of the workplace injury, a description of the injury or illness, a description of the injured employee+ and details of how the event occurred—annually to OSHA. (OSHA had previously issued a rule in 2016, which was challenged and eventually significantly changed in 2018 to require covered employers to provide only summary information via OSHA Form 300A; this new rule is similar to what OSHA previously sought in 2016.)

#### How should a covered high-hazard employer submit OSHA Forms 300 and 301?

The rule requires covered high-hazard employers to submit OSHA Forms 300 and 301 by March 2 of each year.

The forms must be submitted to OSHA’s new Injury Tracking Application (ITA) website. The three ways to submit the forms are: (1) the webform on the ITA, (2) submission of csv file to the ITA or (3) use of an application programming interface feed.

#### What will OSHA do with the information?

OSHA will use the information contained in the forms to analyze workplace injuries. In addition, the information will be made available for public access.

### **How will an employee's personally identifiable information be protected?**

Covered high-hazard employers should not submit information that could directly or indirectly identify an employee, including an employee's name, phone number, address, email and social security number. While an employer must include an employee's date of birth, the ITA will automatically convert all birthdates to age.

Moreover, OSHA states that it will use automated information technology to detect and remove any remaining information that could reasonably be expected to identify employees before posting the information to the public.

### **How does this rule impact employers who file OSHA Form 300A?**

The rule retains the requirement for annual electronic submission of Form 300A (Annual Summary of Work-Related Injuries) by certain employers. Therefore, employers with 250 or more employees that are required to routinely keep OSHA injury and illness records, and employers with 20-249 employees in certain high-hazard industries, must still file OSHA Form 300A. Similarly, the long list of high-hazard employers includes many short- and long-term care providers such as hospitals, ambulatory care facilities, nursing facilities, assisted living facilities, continuing care communities, and other residential facilities. The full list of covered high-hazard employers is contained in Appendix A to subpart E of [the rule](#).

### **Next Steps**

Initially, employers must determine whether they are subject to the new rule. Thereafter, covered employers should begin preparation of OSHA Forms 300 and 301 and ensure they are submitted to the ITA on or before March 2, 2024, and annually thereafter. If you have questions about this new OSHA reporting rule, please contact [Michael Billok](#), [Natalie Vogel](#), any attorney in Bond's [labor and employment practice](#) or the attorney at the firm with whom you are regularly in contact.

