

# Time to Electronically Report Your Injury and Illness Records to OSHA- or is it?

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The Occupational Safety and Health Administration (OSHA) has announced that its Injury Tracking Application, nicknamed "ITA," will go live on August 1, 2017. ITA, which will be accessible on OSHA's site [here](#), is a web-based platform the federal agency will use to collect covered employers' injury and illness data from the OSHA Form 300A. The new electronic reporting tool and OSHA's requirement that employers submit their injury and illness records online stems from changes made to OSHA's Recordkeeping Rule, 29 C.F.R. Part 1904, in 2016 by the agency's final rule to *Improve Tracking of Workplace Injuries and Illnesses*, [81 Fed. Reg. 29,624](#) (May 12, 2016). Under the final rule, covered employers were supposed to have submitted 2016 injury and illness data (Form 300A) to OSHA electronically by July 1, 2017, but were unable to do so because OSHA had yet to launch its electronic reporting tool.

Since its inception, OSHA's rulemaking initiative to *Improve Tracking of Workplace Injuries and Illnesses* and efforts to require electronic reporting of injury and illness data has been met with controversy. Some employers, for example, felt that the agency's electronic reporting requirement would result in public shaming of companies for injury and illness trends, which employers argue are lagging indicators and not a true reflection of the company's health and safety values or initiatives. In addition, many employers expressed concern over how OSHA would protect companies' confidential business or trade secret information from being publicly disclosed after these companies submitted their injury and illness data online. These concerns, among others, were further iterated in one lawsuit brought by the National Association of Manufacturers, Associated Builders and Contractors, Inc., American Fuel & Petrochemical Manufacturers, the Great American Insurance Company, Atlantic Precast Concrete Inc., Owen Steel Company, and Oxford Property Management LLC against OSHA challenging the legal validity of the rule. See *Texo ABC/AGC Inc. et al. v. Perez et al.*, case number [3:16-cv-01998](#), in the U.S. District Court for the Northern District of Texas.

Despite ongoing legal challenges to OSHA's final rule and stakeholder concerns, OSHA has appeared to move forward, albeit slowly, with preparing the ITA and implementing the electronic reporting requirements. However, on June 28, 2017, three days before the initial compliance deadline, OSHA published a proposed rule to delay its phase-in of the reporting requirements from July 1, 2017 to December 1, 2017. [82 Fed. Reg. 29,261](#) (Jun. 28, 2017). In addition to giving the new administration time to review and assess the final rule's electronic recordkeeping requirements, OSHA's proposal stated that the compliance delay would give employers an opportunity to become comfortable with the electronic reporting system. Further, OSHA indicated that it will be publishing a separate proposal on whether to "reconsider, revise, or remove other provisions of the prior final rule." Although comments on OSHA's proposed compliance delay were only accepted until July 13, 2017, employers and other interested stakeholders will have an opportunity in the coming months to review any proposal to alter the electronic reporting requirements and submit comments.

Employers should review OSHA's final rule and become familiar with the rule's electronic reporting requirements. Employers should also check out the ITA when it goes live on August 1, 2017 and alert the agency to any foreseeable issues with the reporting tool. Further, employers should watch for future rulemaking activity because the agency is expected to publish at the least two proposals impacting employer obligations to submit electronic reporting requirements in the very near future.

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