



Coalition for Workplace Safety Fact Sheet on OSHA Injury and Illness Reporting Regulation

- Despite OSHA's claims, this regulation will not improve workplace safety. OSHA offers no studies, data, surveys, reports, or support of any kind to bolster their claims of the positive outcomes they claim will flow from this regulation.
- Even employers with the best safety programs and records have expressed concern about this regulation because they know the danger of having injuries reported out of context and the strong likelihood that such injuries will be used to mischaracterize their approach to workplace safety.
 - The mere recording of an injury has no bearing on whether the employer has a strong safety program or record. There are many injuries that are recorded that reveal nothing about that employer's policies, training, protection, commitment to safety, or comprehensive programs. These include bee stings, injuries or illnesses from natural causes such as heart attacks, and even automobile accidents which are beyond OSHA's jurisdiction.
- OSHA does not have statutory authority to publish or post this information.
 - The OSH Act only authorizes OSHA to collect this information, nowhere does it say OSHA can publicize it.
- This regulation will, in fact, discourage employers from recording an injury as the default approach, to looking for acceptable reasons why an injury should not be recorded.
 - Because of the consequences of recording an injury, employers can also be expected to involve more experts in some cases, thus adding substantially to the cost of this regulation. The rule also puts the burden on employers to remove employee and related care information from the existing 300 logs and 301 form before filing, a complicated and burdensome process that could trigger liability under state and federal privacy regulations.
- This regulation will merely result in an unmanageable amount of raw data being dumped on OSHA and then put out for anyone to use as they choose.
- OSHA should have conducted a SBREFA panel so it could have heard directly from the small businesses who are most concerned about this rulemaking.

- OSHA has tried to conceal the connection between this rulemaking and the desire for more access to employer safety records expressed in the AFL-CIO's submission to the Obama transition team. Organized labor can have the safety records of any unionized employer they want, but they want the records of non-union employers to use in their organizing and corporate campaigns so they can mischaracterize employers as having unsafe workplaces. They already do this with less data at their disposal.
- OSHA, initiated a National Emphasis Program on recordkeeping at the outset of this administration that was intended to demonstrate how employers were systematically under-recording injuries. After two years and hundreds of inspections OSHA was unable to show this was the case.

“Supplemental” amending whistleblower provisions

- This provision directly conflicts with the language of the OSH Act in Section 11(c).
 - OSHA grants itself the authority to issue citations against an employer for perceived efforts at suppressing employees from coming forward without an employee coming forward, i.e. imposing penalties for whistleblower violations without a whistleblower!
- Proposed regulation had not one word of proposed regulatory text, nor any of the analyses or other features of an OSHA rulemaking.
 - The employers who will have to comply with these requirements have never had a chance to comment on the actual regulatory text. How is this consistent with the administration's claims to being the most transparent?
- The rationale for this is OSHA's unproven belief that employers are systematically under-recording and suppressing employees from reporting injuries.
 - OSHA has not been able to demonstrate this is happening despite the high profile National Emphasis Program early in this administration. This supplemental provides no data (not even from the NEP) or analysis to support this supposition other than the comments made by the union representatives at the public meeting in January 2014.