

Advocacy Recommends that OSHA Consider Broader Regulatory Issues Concerning its Proposed Electronic Reporting Rule

On September 27, 2018, the U.S. Small Business Administration's Office of Advocacy (Advocacy) submitted comments to the Occupational Safety and Health Administration (OSHA) on OSHA's *Proposed Tracking of Workplace Injuries and Illnesses Rule*. [83 Fed. Reg. 36494 (July 30, 2018)]. OSHA's proposed rule, commonly referred to as the "*Electronic Reporting Rule*," would amend OSHA's recordkeeping and reporting regulations by rescinding the requirement that employers with 250 or more employees submit their OSHA 300 and 301 data to OSHA electronically. These employers would still be required to submit their OSHA 300A summaries electronically. OSHA states that it is proposing this action to protect sensitive worker information from potential disclosure and that the uncertain benefits of the current rule do not justify its costs.

OSHA's proposed rule has been discussed at several of Advocacy's small business roundtables and been raised at a number of Advocacy's Regional Regulatory Reform Roundtables hosted in furtherance of Executive Orders 13771 (Reducing Regulation and Controlling Regulatory Costs) and 13777 (Enforcing the Regulatory Agenda). Advocacy's comments are reflective of the issues raised in these and other discussions with small business.

- Small businesses and their representatives have stated that OSHA should consider eliminating the requirement to submit the 300A data electronically as well. They expressed concern that confidential business information could be disclosed.
- Small businesses and their representatives have stated that OSHA should reassess its list of "Designated" and "Partially Exempt" industries to relieve more small businesses of injury and illness recording and reporting requirements. Advocacy recommended that OSHA consider further exemptions for industries with declining injury and illness rates.
- Small businesses and their representatives have complained that OSHA's anti-retaliation provisions, which requires "reasonable procedures" to report work-related injuries and illnesses, is undefined and unclear. Advocacy recommends that OSHA consider eliminating the provision or clearly define the term "reasonable procedures."
- Small businesses and their representatives have stated that OSHA should not require employers to include their Employer Identification Number (EIN) due to the potential for its fraudulent use and that the requirement would be an unnecessary data collection.

A complete copy of Advocacy's letter to OSHA is available at: <http://www.sba.gov/advocacy>. For more information please contact Bruce Lundegren, Assistant Chief Counsel, at bruce.lundegren@sba.gov or (202) 205-6144.