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OSHA delayed a final rule on beryllium exposure in response to the current regulatory freeze.

Provided by Marshall & Sterling, Inc.



3 New Developments that May Impact OSHA Recordkeeping and Reporting Requirements

OSHA frequently introduces or revises rules to remain up to date with new technologies and procedures, such as the agency's new <u>electronic reporting rule</u>. However, recent legislative changes and communications from OSHA could impact how your business manages and retains injury and illness records in the near future.

The following is a breakdown of recent OSHA developments:

- The Senate voted in favor of a resolution to eliminate a rule that requires businesses to retain workplace injury and illness records for five years after an incident occurs. This rule, which went into effect this January, allows OSHA to issue citations to businesses up to five years after an incident, provided the violation is related to recordkeeping. President Donald Trump is expected to sign the resolution, which will instead require businesses to keep records for six months after an incident.
- OSHA recently stated that it is currently not ready to accept electronic injury and illness data. Although its electronic reporting rule went into effect on Jan. 1, 2017, there is no way for businesses to submit the required data. It is currently unknown if this delay will impact the implementation of the rule, or if it is the result of the Trump administration's effort to reduce new federal regulations.
- OSHA has stopped publishing its enforcement actions and fines online. The agency believed that the negative publicity from publishing these reports online would help to reduce workplace safety violations. However, OSHA has not publicized its enforcement efforts since Trump took office.

For the time being, your business should adhere to its normal recordkeeping and reporting procedures to ensure compliance with OSHA regulations and avoid costly fines.

President Trump Signs Resolution to Block Federal Contractor Reporting Rule

President Trump recently signed a joint resolution under the Congressional Review Act (CRA) to eliminate the Fair Pay and Safe Workplaces rule. The Obama administration originally passed the rule, which would have required prospective federal contractors to report violations of labor, civil rights and wage violations when bidding on government contracts worth at least \$500,000.

The rule was originally finalized in August 2016 and was heavily criticized by business groups, who stated that the rule essentially created a blacklist for businesses that would not be allowed to compete for lucrative federal contracts. A federal judge then issued a restraining order against the rule after a lawsuit found that the rule, as written, could violate due process by compelling contractors to report alleged violations without a formal hearing.

Supporters of the rule's elimination believe that businesses will be better able to compete for federal contracts without additional reporting requirements. Critics, however, argue that businesses may now focus exclusively on competing for these contracts and ignore important workplace safety issues.

The resolution is part of a Republican effort to use the CRA to eliminate the federal regulations finalized during the last months of the Obama administration. Now that the resolution has been signed, agencies are barred from issuing substantially similar regulations in the future.



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MEWS & NOTES

The Importance of Anti-retaliation Programs

Last year, OSHA introduced an anti-retaliation rule to make it clear that employers may not retaliate against their employees for reporting workplace injuries and illnesses. This rule includes two major requirements for employers:

- Employers must inform their employees that they have a right to report work-related injuries and illnesses without any form of retaliation.
- Employers must ensure that "reasonable" procedures are in place for employees to report work-related injuries and illnesses.

To ensure that your workplace is in compliance with the new rule, contact Marshall & Sterling, Inc. and ask to see our new resource, "Recommended Practices for Anti-retaliation Programs." This comprehensive guide outlines the importance of anti-retaliation programs, as well as the five key elements you can use to establish a program at your workplace.

OSHA Delays New Beryllium Rule

OSHA recently announced that the planned March 21 enforcement date of its new <u>beryllium</u> exposure rule would be delayed until May 20. The delay is in response to the Trump administration's regulatory freeze, which directs federal agencies to review any new or pending regulations and temporarily postpone the date that they would take effect.

The final rule on beryllium will reduce the eighthour permissible exposure limit from 2.0 micrograms per cubic meter to 0.2 micrograms per cubic meter. It will also establish a shortterm exposure limit of 2.0 micrograms per cubic meter over a 15-minute sampling period. OSHA estimates that the new rule will prevent 46 new cases of beryllium-related disease and save the lives of 94 employees annually.

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