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Posting Deadline for Form 300A Summary of Work Related Injuries & Illnesses—February 1, 2014

By Ben Huggett

On February 1 of each year, employers covered by the Occupational Safety and Health Administration's (OSHA) Injury and Illness Recordkeeping Rules¹ must post the official summary of all injuries and illnesses occurring in the previous year. Employers must compile the information on the OSHA Form 300A or an equivalent and post it in a conspicuous place or places where notices to employees are customarily posted. The posting must remain up through April 30, 2014.

Postings may be under greater scrutiny this year given the publicity and media attention surrounding OSHA's November 2013 publication of a proposed rule that would require the electronic submission of injury and illness recordkeeping information.

Review of Records

OSHA's recordkeeping rules directly require each establishment to review its log of injuries and illnesses (the OSHA 300 Log) to verify that the entries are complete and accurate, and to correct any deficiencies identified. Prior to certification, employers must review the records as "extensively as necessary" to ensure their accuracy.

Certification by an Executive

In order to increase the employer focus on injury and illnesses, OSHA requires that an executive certify the annual summary. The certification confirms the executive has examined the OSHA 300 Log and that he or she reasonably believes, based on his or her knowledge of the process by which the information was recorded, that the annual summary is correct and complete. OSHA's intent is to ensure that the executive assumes responsibility and accountability for the accuracy of the content of the records.

An executive is: (1) an owner of the company (if a sole proprietorship or partnership); (2) an officer of the corporation; (3) the highest ranking company official working at the establishment; or (4) the immediate supervisor of the highest ranking company official working at the worksite. The person who keeps the records on a day-to-day basis is usually not authorized to sign the summary and must explain the records to the signing executive.

¹ 29 C.F.R. §§ 1904.0 *et seq.*

Record Retention Requirements

OSHA requires that employers keep injury and illness records for the current year and the most recent five years. During that retention period, employers must keep the log of injuries and illnesses (Form 300) up to date. This means that employers must continue to track employee treatment and lost or restricted work time even after the case is entered on the log.

Implications for Employers

Because they show potential safety issues, in most OSHA inspections the agency requests and reviews the employer's injury and illness recordkeeping documents. And because a company executive must certify the accuracy of the records, OSHA asserts that the company is fully aware of the issues reflected therein and should have acted to correct any safety deficiencies identified. Based on these potentially significant consequences and the basic compliance obligation, employers should carefully review their 2013 records before certifying and posting them on February 1, 2014.

If you have any questions about injury and illness recordkeeping obligations generally, or the recordability of specific cases, please contact experienced OSHA counsel.

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