

**U.S. District Court Rules that OSHA's Rollback
of the Requirement for Submission of Detailed
Data Regarding Workplace Injuries and Illnesses
on Forms 300 and 301 May Proceed**

by
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OSHA issued new regulations to “improve tracking of workplace injuries and illnesses” which took effect January 1, 2017, and required certain employers to electronically submit injury and illness data that they are already required to record on their onsite OSHA Injury and Illness forms.

The date by which **certain** employers were required to submit to OSHA the information from their completed 2017 Form 300A was July 1, 2018.

As part of its electronic recordkeeping rule, OSHA mandated that certain employers submit 2017 data from Forms 300, 300A and 301 by July 1, 2018. Under the Trump administration, the agency announced (<https://www.safetyandhealthmagazine.com/articles/17321-oshaseeks-to-roll-back-major-parts-of-electronic-recordkeeping-rule>) on its website in May 2018 that it would suspend the deadlines for the more detailed Forms 300 and 301. It instead would accept only Form 300A, which contains a summary of occupational injuries and illnesses.

Public Citizen Health Research Group, the American Public Health Association, and the Council of State and Territorial Epidemiologists, referred to herein as the Plaintiffs, filed their joint lawsuit (<https://www.safetyandhealthmagazine.com/articles/17317-groups-sue-oshaseeks-to-roll-back-major-parts-of-electronic-recordkeeping-rule>) July 25, 2018 contending OSHA did not follow notice-and-comment protocol as mandated in the Administrative Procedure Act.

However, on July 30, 2018 the Occupational Safety and Health Administration (OSHA) issued a Notice of Proposed Rulemaking (NPRM) to eliminate the requirement to electronically submit information from OSHA Form 300 (Log of Work-Related Injuries and Illnesses), and OSHA form 301 (Injury and Illness Incident Report) for establishments with 250 or more employees that are currently required to maintain injury and illness records. Under the proposed rulemaking, these establishments would be required to electronically submit information only from OSHA Form 300A (Summary of Work-Related Injuries and Illnesses.)

OSHA issued a proposed regulation on July 30 that officially eliminates the Forms 300 and 301 data submission requirements. That altered proposed regulation is under review (<https://www.reginfo.gov/public/do/eoDetails?rrid=128708>) by the White House Office of Budget and Management's Office of Information and Regulatory Affairs, meaning it could become a final rule soon.

OSHA submitted its motion for dismissal of the lawsuit October 29, 2018. The Plaintiffs also sought a preliminary injunction against the deadline suspension because they wanted to use OSHA's data to conduct research on occupational health and safety, analyze the most serious workplace threats, and push for stronger regulatory protections.

On December 12, 2018, the U.S. District Court for the District of Columbia denied the Department of Labor's request for the dismissal of a lawsuit stemming from OSHA's suspension of its deadline for employer submission of data from Forms 300 and 301. In the Judge's opinion (https://ecf.dcd.uscourts.gov/cgi-bin/show_public_doc?2018cv1729-17), published December 12, Judge Timothy J. Kelly also chose not to grant a preliminary injunction against DOL and OSHA.

Judge Kelly wrote: “The Court is not persuaded by Plaintiffs claim that even delay in their ability to access and use the information submitted under the Rule inflicts irreparable harm.”

Currently, covered establishments with 250 or more employees are only required to provide their 2017 Form 300A summary data. ***OSHA is not accepting Form 300 and 301 information at this time.*** OSHA issued a notice of proposed rulemaking (NPRM) to reconsider, revise, or remove provisions of the “Improve Tracking of Workplace Injuries and Illnesses” final rule.