

## ***Advocacy Recommends That OSHA Consider Changes to Proposed Recordkeeping Rule to Reduce Burdens on Small Business***

On September 28, 2011, the U.S. Small Business Administration's (SBA) Office of Advocacy (Advocacy) submitted comments to the Occupational Safety and Health Administration (OSHA) on OSHA's *Proposed Occupational Injury and Illness Recording and Reporting Requirements – NAICS Update and Reporting Revisions Rule*. [76 Fed. Reg. 36414 (June 22, 2011)]. OSHA's proposed rule would convert for recordkeeping purposes the classification of industries from the old Standard Industrial Classification (SIC) codes to the newer North American Industrial Classification System (NAICS) codes, revise the list of industries that are required to maintain OSHA 300 Logs based on more recent DART (Days Away, Restricted, or Transferred) rates, and require employers to report directly to OSHA any work-related fatality or in-patient hospitalization of an employee (within eight hours), or any work-related amputation (within twenty-four hours). Industries falling in the bottom twenty-five percent of the average DART rates would be required to maintain OSHA 300 Logs. An OSHA 300 Log is a record of work-related injuries and illnesses that certain non-exempt employers are required to maintain.

Advocacy applauds OSHA's proposed transition from SIC to NAICS as NAICS is the most up-to-date standard used by federal statistical agencies and has been adopted by SBA for classifying small businesses. However, one of the most significant changes from the proposed rule would be that certain industries that have not been required to maintain OSHA 300 Logs in the past would now have to maintain them, and other industries that have had to maintain OSHA 300 Logs in the past would no longer have to keep them. Overall injury and illness rates have been declining for many years.

- According to OSHA's analysis, the net effect of the proposed change would be that some 40,000 additional firms and 80,000 additional establishments (employing nearly 1.4 million additional employees) would have to maintain OSHA 300 Logs as compared to the current rule.
- Small business representatives have expressed concern that industries with declining injury and illness rates would now be required to maintain OSHA 300 Logs even though their workplaces have become safer. Advocacy recommends that OSHA consider flexible approaches to reducing paperwork burdens on small business, such as lowering the threshold level for recordkeeping, utilizing surveys to obtain objective industry data, or partially exempting more categories.
- Small business representatives have raised several other concerns with the proposed rule, such as OSHA's wage cost assumptions, the definition of "in-patient hospitalization," and the circumstances under which an employer must directly notify OSHA of employee hospitalizations.

A complete copy of Advocacy's letter to OSHA is available at: <http://www.sba.gov/advocacy/816>. For more information please contact Bruce Lundegren, Assistant Chief Counsel, at (202) 205-6144 or [bruce.lundegren@sba.gov](mailto:bruce.lundegren@sba.gov).