

Employment Practices Liability

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OSHA Update - Enforcement of Anti-Retaliation Rules Delayed

by Christine D. Hanley, Partner; Frederick L. Warren, Partner; and Wade E. Ballard, Partner, FordHarrison

OSHA has [announced](#) it will delay enforcement of the employee involvement provisions of its recently published final rule to Improve Tracking of Workplace Injuries and Illnesses until December 1, 2016. The delay is in response to a request by a federal district court in Texas, which is considering a complaint challenging implementation of the rule.

As discussed in our June 20, 2016 [Alert](#), the rule's anti-retaliation provision states that procedures that deter or discourage employee reporting are not reasonable. This provision has created concern regarding the validity of employer disciplinary policies, mandatory post-incident drug testing, and employee safety incentive plans. Additionally, OSHA's position that blanket post-incident drug testing policies deter employees from reporting workplace injuries has caused concern among employers regarding the validity of such policies.

OSHA initially delayed implementation of the rule until November 1, 2016, and has now extended that delay until December 1, 2016. Employer should be prepared to comply with the requirements of the rule on December 1, unless the federal court issues an injunction prohibiting its implementation.

For more information about CIRMA's Employment Practice Liability Helpline Program, please contact your CIRMA Risk Management Consultant.

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cirmahotline@fordharrison.com

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