

PUBLICATION

Fatality and Severe Injury Reporting: OSHA's New Rule Eliminates All Exemptions

October 24, 2014

OSHA recently finalized revisions to its recordkeeping rule that have greatly expanded the requirements for reporting work-related fatalities and severe injuries. The new rule, which becomes effective January 1, 2015, requires that *all* employers under OSHA jurisdiction report *all* fatalities, in-patient hospitalizations, amputations and injuries that result in the loss of an eye. This is a major expansion from the previous rule, which exempted employers with fewer than 10 employees or specifically identified low hazard industries (such as retail, service, finance, insurance or real estate industries) from this reporting requirement. Now, if an employer is covered by the Occupational Safety and Health Act, it must follow the reporting guidelines.

Given that most employers in the United States are governed by federal OSHA, or through an OSHA-approved state program, this regulation in effect applies to all employers. OSHA covers all employers except in these circumstances: self-employment, farmers who work for their immediate family members and who do not employ outside employees, and workplace hazards regulated by another Federal agency (e.g., the Mine Safety and Health Administration or the Federal Aviation Administration). Unless your business falls into one of these limited exceptions, the new reporting rule will apply.

So, what is required under the new rule? Employers must report to OSHA *all* employee fatalities resulting from a work-related incident if the death occurs within 30 days from the date of the incident. In these instances, the reporting must be made within **eight hours of the death**. This is a significant change given that the previous rule required reporting only when three or more employees died as a result of a work-related incident.

Employers are also required to report when an employee is hospitalized, suffers an amputation, or loses an eye as a result of a work-related injury. These reports must be made within 24 hours of the triggering event.

While broadening the scope of the reporting requirements, through this rule OSHA has also expanded the mechanisms for reporting these incidents. Reports under this rule may now be made using any of the following means:

1. By telephone or in person to the OSHA Area Office that is nearest to the site of the incident
2. By telephone to the OSHA toll-free central telephone number, 1-800-321-OSHA (1-800-321-6742)
3. By electronic submission using the fatality/injury/illness reporting application located on OSHA's public website at www.osha.gov

Establishments located in states under Federal OSHA jurisdiction must begin to comply with the new requirements by January 1, 2015. Establishments located in states that operate their own safety and health programs (State Plan States) should check with their state plan for the implementation date of the new requirements. However, OSHA encourages the states to implement the new provisions on January 1, 2015, as well.