

## ALERTS

### Labor & Employment Law Alert - OSHA Issues New Mandatory Reporting Requirements For Serious Injuries; Data To Be Made Public

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On Sept. 11, the Occupational Safety & Health Administration (OSHA) announced a [final rule](#) which greatly expands the scope of injuries that must be reported to OSHA on an expedited basis. Currently, employers only have an affirmative obligation to report an injury/illness to OSHA under the following circumstances:

1. A work-related fatality (within 8 hours)
2. The hospitalization of three or more employees (within 8 hours)
3. The occurrence of a point-of-operation injury on a mechanical power press (within 30 days).

Under the revised standard, an employer has the following mandatory reporting obligations effective Jan. 1, 2015:

1. All work-related fatalities – within 8 hours;
2. All work-related in-patient hospitalizations (overnight stay not simply observation in the ER) -- within 24 hours;
3. All amputations - within 24 hours; and
4. All losses of an eye – within 24 hours

In a surprise move, Assistant Secretary of Labor for Occupational Safety and Health David Michaels announced that these “new reports of severe injuries and illnesses will be public, on the OSHA website.” This continues OSHA’s prior emphasis of “regulation by shaming” by issuing detailed press releases about specific employers. Each mandatory report of a fatality or severe injury will be posted on the OSHA website. This will be used by OSHA as a tool to trigger inspections against employers as it has in the past. Unfortunately, this information will also be available to union organizers, competitors and the press as well.

Even employers who are exempt from routine recordkeeping (i.e., 10 or fewer employees) must follow these mandatory reporting requirements. Employers only have to report fatalities which occur within 30 days of the work-related incident. With respect to in-patient hospitalizations, amputations or losses of an eye, an employer only has to report that if it occurs within 24 hours of the work-related incident. Employers should report by telephone to the nearest local OSHA office during business hours or to OSHA’s 24-hour hotline after business hours (1-800-321-OSHA). OSHA is currently working on an electronic method for reporting to be published on its [website](#).

OSHA also updated the list of industries that are partially exempt from routine recordkeeping requirements based on relatively low occupational

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injury and illness rates. The new classifications use the North American Industry Classification System (NAICS) instead of the older Standard Industrial Classification (SIC). The switch in classification systems as well as the updating of the list of partially exempt industries could affect 320,000 businesses overall. Approximately 200,000 employers previously considered to be in low hazard categories would be required to keep injury and illness logs while an additional 120,000 employers would become partially exempt.

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