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## Federal OSHA issues final rule on reporting fatalities, hospitalizations and other injuries

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On September 11, 2014, the U.S. Department of Labor announced new requirements for covered employers to report fatalities, work-related in-patient hospitalizations, amputations, and loss of an eye.

Except for exempt employers, the new rule retains the current requirement to report all work-related fatalities to OSHA within eight hours and adds a requirement to report all work-related in-patient hospitalizations, amputations, and loss of an eye within twenty-four hours.

The new requirements go into effect January 1, 2015. Under the current federal rule, covered employers are required to report in-patient hospitalizations only if they involve three or more employees. Employers are not required to report amputations or loss of an eye under the current federal rules.

In Kentucky, which has a state plan, employers currently are required to report to the Kentucky Labor Cabinet the hospitalization of three or more employees within eight hours, and also the hospitalization of one or two employees within seventy-two hours. Amputations must also be reported within seventy-two hours.

Kentucky's current reporting requirement is thus more stringent than the current federal requirement, except for the current Kentucky requirement to report fatalities within eight hours, which is the same as the federal requirement.

The Kentucky Labor Cabinet has not yet announced whether it will adopt the new federal requirements, in whole or in part. State plan rules are required to be at least as effective as the federal program's.

Since Kentucky's current requirement for reporting hospitalizations of one or two employees is seventy-two hours, longer than the new federal requirement of twenty-four hours, it is likely that the Kentucky Labor Cabinet will adopt the more stringent federal requirement between now and January 1st.

Similarly, the Kentucky requirement to report amputations will likely change from seventy-two hours to twenty-four hours.

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Finally, since Kentucky does not currently have a reporting requirement for loss of an eye, Kentucky will likely adopt that federal requirement, too.

In addition to the new reporting requirements, the new federal rule revises the list of industries that are partially exempt from recordkeeping requirements (OSHA 300 log, etc.). The previous list was based upon the old Standard Industrial Classification system put out by the federal Bureau of Labor Statistics (BLS) from 1996, 1997, and 1998.

The new list of partially exempt industries is based upon the North American Industry Classification System from the BLS from 2007, 2008, and 2009.

In addition, as is currently the case, the new rule exempts employers with ten or fewer employees from the OSHA recordkeeping requirements. However, all employers covered by the federal Occupational Safety and Health Act or the Kentucky counterpart in Kentucky Revised Statutes Chapter 337, regardless of the number of employees, are required to report fatalities, hospitalizations and amputations.