

Exempt or Non-Exempt?

New recordkeeping and reporting under OSHA

 By Shayda Zaerpoor Le

 The Occupational Safety and Health Administration (OSHA) has announced a final rule which revises not only the list of employers who are partially exempt from OSHA record-keeping requirements, but also the types of events and circumstances giving rise to the requirement to report. The damage: close to 200,000 businesses previously exempt will now fall under OSHA's reporting requirements. *The List of Businesses:*

While many employers have always been required to maintain records using the OSHA 300 Log, those in low-hazard industries were partially exempt. This list of businesses was based on the older Standard Industrial Classification (SIC). The agency is now moving to the North American Industry Classification System (NAICS). As a result, some previously-exempt businesses will lose that designation. Some of the affected industries include bakeries, automobile dealers, liquor stores, performing arts companies, and museums.

The full list of newly covered industries is available here - <https://t.e2ma.net/click/m0tcm/eyigd1/mo8buc>. In addition, some businesses will be gaining partially-exempt status. These will include gasoline stations, clothing stores, florists, telecommunications, colleges and universities, and more. The full list of partially exempt industries can be seen here - <https://t.e2ma.net/click/m0tcm/eyigd1/2g9buc>. *Required Reporting:*

The types of triggering events which now require businesses to report to OSHA have also been changed. Under previous requirements, all work-related fatalities and hospitalizations of three or more employees had to be reported to OSHA within 8 hours. Under the new rules, fatalities must still be reported within 8 hours, however, amputations, loss of an eye, and hospitalization of one employee must now be reported within 24 hours of occurrence. Once a report is received, the agency will reach out to the employer to initiate a conversation regarding the incident, which may be sufficient in making a determination without an inspector or an investigation. Based on that conversation, further action, such as enrollment in OSHA's consultation program, or an inspection, may take place.

Potential Problem Areas:

While hospitalization of three employees presented a relatively clear indication of a work-related hazard, hospitalization of just one employee, absent a known triggering event, provides much less of an indication that the issue is work-related. In addition, a process has yet to be developed to determine which incidents the agency will inspect and which reports it will handle differently. It is also possible that OSHA will require electronic submission of log data, which it may then post on the agency's public site. The increased level of reporting and the potential public disclosure is intended to promote a commitment to ensuring a safe workplace for employees.

The new rules will take effect on January 1, 2015. Take time now to ensure compliance by the New Year. **L&C**



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