

JANUARY 18, 2016 | OSHA INSPECTIONS, CITATIONS & ENFORCEMENT

# OSHA’s Web Portal for Fatality and Injury Reporting Goes Live – But Use It with Caution

By [Eric J. Conn](#), Chair of [Conn Maciel Carey’s OSHA Practice](#)

In addition to employers’ longstanding obligation to report to OSHA all work-related fatalities within 8 hours, as of January 1, 2015, all employers were required to also begin reporting to OSHA within 24 hours, all work-related in-patient hospitalizations (of just a single employee), amputations and losses of an eye . OSHA is publishing the details about these reported injuries online.

Year	Report What?	By When?	How?
1971	Fatality; 5+ Hospitalizations	48 hours	Phone (nearest Area Office); Telegraph
1994	Fatality; 3+ Hospitalizations	8 hours	Telephone; Nearest Area Office -OR- New central 24-hour 800 #
2014	Fatality; 1+ Hospitalization; Amputation; Loss of eye	8 hours (fatality) 24 hours (others)	Telephone; -OR- New web-based portal

We have written extensively about OSHA’s new reporting rule, including articles that:

1. Explain the [requirements of the new rule](#);
2. Describe [what happens after injuries are reported](#) to OSHA; and
3. Dissect the [nuances of the amputation component](#) of the rule.

Under the new reporting rule, employers have three ways to perfect the notification to OSHA. As has been

compliant for year, employers may call the nearest OSHA Area Office or call OSHA’s toll-free reporting hotline – 800-321-OSHA.

The new rule also introduced a new reporting methodology – [a web portal for online fatality and injury reporting](#). The web portal, however, was under development until just a couple of weeks ago.

OSHA was very excited to introduce the new web portal because of the “success” of OSHA’s other recent experiment with web portal reporting – whistleblower retaliation complaints. A couple of years ago, OSHA introduced a convenient web portal for employees to report retaliation complaints, and the number of complaints filed by employees surged.



OSHA believes injuries and fatalities are being under-reported by employers, so OSHA supposed that could be addressed by this more convenient technology.

While the [online reporting portal](#) is an easy method for reporting, and it is available 24/7, it does have major drawbacks. Employers should be wary of using the web portal to report incidents for several reasons. First, the report by web portal appears to require more information than what OSHA requires when reports are made by telephone. Specifically, the web portal has mandatory blanks to be completed for the following information:

- Information about the location where the incident occurred
- Information about the incident, including:
  - Date incident occurred
  - Time incident occurred
  - What Happened?
  - Additional Information
  - Number of Fatalities

- Number of Hospitalizations
- Employer Information
- Information for persons who OSHA can contact
- Information for Each of the Victims
- What was the employee doing just before the incident occurred?
- What was the injury or illness?
- What object or substance directly harmed the employee?
- Was there a fatality?
- Was victim hospitalized?
- Was there an amputation?
- Was there the loss of an eye?

Not only does the required content of the report seem to be more substantial than what is called for during telephone reporting, the mere fact that the report is being made in a written format at all should give employers serious pause. Providing a detailed explanation about an incident that has just occurred only a short time earlier, for which a thorough investigation could not yet have been completed, is a risky endeavor. Memorializing these very preliminary conclusions in writing as the employer's first official statement of the event, makes it even riskier.

It is important to understand that anything employers provide in writing to OSHA can later be used against them as an admission in an OSHA enforcement proceeding arising out of the incident. Likewise, these written statements will be subject to Freedom of Information Act (FOIA) requests by plaintiffs' attorneys, who can use the written statements as admissions in personal injury, wrongful death or property damage civil actions. Other third parties, like the media, union organizers, or your competitors, may also access the written submissions by FOIA requests, and use them in a variety of ways to harm the company.

Accordingly, the old-fashioned telephone call should remain the preferred method of reporting injuries and fatalities, even with OSHA's new-fangled technology.