Occupational Safety and Health Administration (OSHA)

Dear Reader:

The following document was created from the MTAS website (mtas.tennessee.edu). This website is maintained daily by MTAS staff and seeks to represent the most current information regarding issues relative to Tennessee municipal government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with municipal government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other MTAS website material.

Sincerely,

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Table of Contents

Occupational Safety and Health Administration (OSHA)

Reference Number: MTAS-1497

The Occupational Safety and Health Administration [1] was created in 1970 with the passage of the Occuapational Safety and Health Act of 1970 [2]. OSHA's goal is to assure safe and healthful working conditions for working men and women by setting and enforcing standards and by providing training, outreach, education and assistance.

Tennessee OSHA Law

Reference Number: MTAS-499

Under the Tennessee Occupational Safety and Health Act, T.C.A. § 50-3-104, all cities must comply with occupational safety and health standards or regulations promulgated by this act. The law requires employers, including local governments, to "... furnish to each of his employees conditions of employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious injury or harm ..." and to comply with certain other requirements. T.C.A. § 50-3-105. Cities may elect to be treated as private employers or to establish their own safety and health training programs consistent with state regulations. Municipalities have until July 1, 2006, to make this decision. Municipalities created after July 1, 2004, have two years after their creation to make the election. T.C.A. § 50-3-910(b).

A program must inform employees of state regulations applicable to their work environments and instruct them to recognize and avoid unsafe conditions. If a city establishes its own program, civil penalties will not be imposed against the local government for violations. The state Department of Labor merely inspects for compliance and reports non-compliance. T.C.A. § 50-3-911.

Special federal requirements have recently been enacted regarding employees, such as sewer operators and paramedics, who work in "permit-required confined spaces." Cities must assure that emergency medical technicians (EMTs), public works employees, water and wastewater workers, and others at "high risk" are protected from toxic, explosive, or asphyxiating atmospheres and possible engulfment from small particles such as liquids, grain, or sawdust (29 C.F.R. § 1910.146).

Cities also must adopt and administer an infection control program to eliminate, or at least minimize, worker exposure to bloodborne pathogens, such as the hepatitis B virus and the human immunodeficiency virus (HIV) (29 C.F.R. § 1910.1030). To meet these federal requirements, cities must:

- Establish and adopt a written exposure control plan;
- Adopt a universal precautions policy (a strategy that assumes every direct contact with body fluids is infectious);
- Provide protective equipment where there are exposure hazards;
- Ensure that the workplace is clean and sanitary;
- Properly dispose of contaminated waste;
- Provide training for "high-risk" employees;
- Provide hepatitis B vaccinations and post-exposure evaluations/follow-up; and
- Establish and maintain accurate records.

OSHA Reporting, Procedures and Forms

Reference Number: MTAS-491

Congress passed the Occupational Safety and Health Act in 1970. The Act allowed states to run their own OSHA program. Currently 28 states have adopted their own OSH plans. TN assumed OSH responsibility in 1973. The final TN state plan was approved by federal OSH in 1985.

Most TOSHA standards and regulations are the same as the federal OSHA regulation. The TN Commissioner of Labor and Workforce Development adopts and the Division of Occupational Safety and Health (TOSHA) enforces the federal occupational safety and health standards codified in Title 29 of the Code of Federal Regulations, Part 1910. The standards apply with respect to all workplaces in the State of Tennessee with a couple of exceptions. The rules of the TN Department of Labor and Workforce Development can be found at: https://publications.tnsosfiles.com/rules/0800/0800-01/0800-01.htm [3]. [4]

The Occupational Safety and Health Administration (OSHA) recordkeeping rules (29 CFR Part 1904 - Recording and Reporting Occupational Injuries and Illnesses) require affected employers, to record and report work-related fatalities, injuries and illnesses. The act also prohibits employers from "discriminating against an employee for reporting a work-related fatality, injury or illness". The provisions protect the employee "who files a safety and health complaint, asks for access to records, or otherwise exercises any rights afforded by the act". Compliance with the rules does not imply that an employer or employee is at fault, that an OSHA rule has been violated, or that the employee is eligible for workers' compensation or other benefits (29 CFR 1904.36).

Scope and Coverage

Reference Number: MTAS-1493

All employers covered by OSHA are covered by the recording and reporting provisions of the act; however, not every employer must keep OSHA injury and illness records. A partial exemption is available based on the number of employees in an entire organization (10 or fewer). The partial exemption, however, does not apply in the public sector. Rule 0800-1-5-.05(1). [5]

Under T.C.A. § 50-3-910, local governments which elect to develop their own program of self-compliance must include in their written notification of such program with the Commissioner an assurance that the program includes provisions for recordkeeping as effective as the provision of T.C.A. § 50-3-701. Such recordkeeping provisions shall comply with Chapter 0800-1-3 Occupational Safety and Health Record-Keeping and Reporting.

Employers subject to the recordkeeping provisions of the act must record any work-related fatality, injury or illness of all employees on the payroll that meets the recording criteria established by the 29 CFR § 1904.4(a), whether they are labor, executive, hourly, salaried, part-time, seasonal, or migrant workers. You must also record the recordable injuries and illnesses that occur to employees who are not on your payroll (as a result of leasing or a temporary employment service) if you supervise them on a day-to-day basis. Self-employed individuals are not covered by the OSHA act or these regulations. 29 CFR 1904.31(a).

Recording Criteria

Reference Number: MTAS-863

The regulations require employers to record all fatalities, injuries and illnesses that are work-related (29 C.F.R. § 1904.5) or that are new cases (29 C.F.R. § 1904.4) resulting in:

- Death (29 C.F.R. § 1904.7(b)(2));
- Days away from work (29 C.F.R. §1904.7(b)(3));
- Restricted work or transfer to another job (29 C.F.R. § 1904.7(b)(4));
- Medical treatment beyond first aid (29 C.F.R. § 1904.7(b)(5));
- Loss of consciousness (29 C.F.R. § 1904.7(b)(6));
- Needle stick injuries (29 C.F.R. § 1904.8(a));
- Cuts from sharp objects that are contaminated with another person's blood or other potentially infectious material (29 C.F.R. § 1904.8(a));
- Medical removal under OSHA standards (29 C.F.R. § 1904.9(a));
- Hearing loss (29 C.F.R. § 1904.10(a));

- Tuberculosis (TB) (29 C.F.R. § 1904.11(a)); or
- A significant injury or illness diagnosed by a physician or other licensed health care professional. 29 C.F.R. § 1904.7(b)(7).

An injury or illness is work-related if an event or exposure in the work environment either caused or contributed to the resulting condition or significantly aggravated a pre-existing injury or illness. 29 C.F.R. § 1904.5(a). The work environment is by OSHA 29 C.F.R. § 1904.5(1)(b)(1) defined as “the establishment and other locations where one or more employees are working or are present as a condition of employment.” The work environment includes not only the physical location, but also the equipment or materials used by the employee during the course of his/her workday.

An injury or illness is considered pre-existing if it resulted solely from a non-work-related event or exposure that occurred outside the work environment (C.F.R. § 1904.5(b)(5)). The act deems a pre-existing injury or illness “significantly aggravated” if the event results in death, loss of consciousness, one or more days away from work, days of restricted work, days of job transfer, or medical treatment. A case is considered “significantly aggravated” when no medical treatment was needed for the injury or illness before the workplace event or exposure or when a change in medical treatment was necessitated by the workplace event or exposure if the condition’s aggravation would likely not have resulted but for the occupational event or exposure. 29 C.F.R. § 1904.5(b)(4).

According to 29 C.F.R. § 1904.5(b)(2) employers do not have to record injuries or illnesses under the following conditions:

- At the time of the injury or illness, the employee was present in the work environment as a member of the general public.
- The injury or illness involves signs or symptoms that surface at work, but result solely from a non-work-related event or exposure that occurs outside the work environment.
- The injury or illness results solely from voluntary participation in a wellness program or in a medical, fitness, or recreational activity such as blood donation, physical examination, flu shot, exercise class, racquetball, or baseball.
- The injury or illness is solely the result of an employee eating, drinking, or preparing food or drink for personal consumption (whether bought on your premises or brought in). For example, if the employee is injured by choking on a sandwich while in your establishment, the case would not be considered work-related. However, if an employee was preparing a meal for a business-related meeting and is injured, the case would be considered work-related.
- The injury or illness is solely the result of an employee doing personal tasks (unrelated to employment) at the establishment outside the employee’s assigned working hours.
- The injury or illness is solely the result of personal grooming or self-medication for a non-work-related condition, or is intentionally self-inflicted.
- The injury or illness is caused by a motor vehicle accident and occurs on a company parking lot or company access road while the employee is commuting to or from work.
- The injury is the common cold or flu. Contagious diseases such as tuberculosis, brucellosis, hepatitis A, or plague are considered work-related if the employee is infected at work.
- The illness is a mental illness unless the employee voluntarily provides you with an opinion from a physician or other licensed health care professional with the appropriate training and experience stating that the employee has a mental illness that is work-related.

In situations where you have difficulty determining whether the precipitating event or exposure occurred in the work environment or away from work, 29 C.F.R. § 1904.5(b)(3) provides that employers must evaluate the employee’s work duties and environment to determine whether one or more events or exposures in the work environment either caused or contributed to the resulting condition or significantly aggravated a pre-existing condition.

Another question that often arises is how to handle injuries and illnesses that occur while an employee is traveling. 29 C.F.R. § 1904.5(b)(6) provides that “injuries and illnesses that occur while an employee is traveling are work-related if, at the time of the injury or illness, the employee was engaged in work activities “in the interest of you.” Examples include travel to and from customer contacts; conducting job tasks; and entertaining or being entertained to transact, discuss, or promote business at the direction of you. Injuries and illnesses that occur when the employee is traveling do not have to be recorded if the

employee has checked into a hotel or motel for one or more days or has taken a detour for personal reasons.

Injuries or illnesses that occur when the employee is on travel status do not have to be recorded if they meet one of the exceptions listed below. 29 C.F.R. §1904.5)b)(6).

If the employee has…	**You may use the following to determine if an injury or illness is work related.**
Checked into a hotel or motel for one or more days.	When a traveling employee checks into a hotel, motel, or other temporary residence, he or she establishes a “home away from home.” You must evaluate the employee’s activities after he or she checks into the hotel, motel, or other temporary residence for their work-relatedness in the same manner as you evaluate the activities of a non-traveling employee. When the employee checks into the temporary residence, he or she is considered to have left the work environment. When the employee begins work each day, he or she re-enters the work environment. If the employee has established a “home away from home” and is reporting to a fixed worksite each day, you also do not consider injuries or illnesses work-related if they occur while the employee is commuting between the temporary residence and the job location.
Taken a detour for personal reasons	Injuries or illnesses are not considered work-related if they occur while the employee is on a personal detour from a reasonably direct route of travel (e.g., has taken a side trip for personal reasons.)

Injuries and illnesses that occur while an employee is working at home will be considered work-related if the injury or illness occurs while the employee is performing work for pay or commission in the home, and the injury or illness is directly related to the performance of the work rather than to the general home environment or setting. If an employee, for example, drops a box of work documents and injures his/her foot, the case is considered work-related. If an employee is injured because he/she trips on the family dog while rushing to answer a work phone call, the case is not considered work-related. If the employee is electrocuted because of faulty home wiring, the injury is not work-related. 29 C.F.R. § 1904.5(b)(7).

New Cases

Reference Number: MTAS-1978

The basic requirement at Section 1904.6(a) states that the employer must consider an injury or illness a new case to be evaluated for recordability if: (1) the employee has not previously experienced a recorded injury or illness of the same type that affects the same part of the body, or (2) the employee previously experienced a recorded injury or illness of the same type that affected the same part of the body but had recovered completely (all signs and symptoms of the previous injury or illness had disappeared) and an event or exposure in the work environment caused the injury or illness, or its signs or symptoms, to reappear.

According to the OSHA Recordkeeping Handbook [6], the term "new case" tends to suggest to some that the case is totally original, when in fact new cases for OSHA recordkeeping purposes include three categories of cases; (1) totally new cases where the employee has never suffered similar signs or symptoms while in the employ of that employer, (2) cases where the employee has a preexisting condition that is significantly aggravated by activities at work and the significant aggravation reaches the level requiring recordation, and (3) previously recorded conditions that have healed (all symptoms and signs have resolved) and then have subsequently been triggered by events or exposures at work. C.F.R. § 1904.6.

Both new injuries and recurrences must be evaluated for their work-relatedness and then for whether they meet one or more of the recording criteria; when these criteria are met, the case must be recorded. If the case is a continuation of a previously recorded case but does not meet the "new case" criteria, the employer may have to update the OSHA 300 Log [7] entry if the original case continues to progress, *i.e.*, if the status of the case worsens. For example, consider a case where an employee has injured his or her back lifting a heavy object, the injury resulted in medical treatment, and the case was recorded as a case without restricted work or days away. If the injury does not heal and the employer subsequently decides to assign the worker to restricted work activity, the employer is required by the final rule to change the case classification and to track the number of days of restricted work. If the case is a

previous work-related injury that did not meet the recording criteria and thus was not recorded, future developments in the case may require it to be recorded. For example, an employee may suffer an ankle sprain tripping on a step. The employee is sent to a health care professional, who does not recommend medical treatment or restrictions, so the case is not recorded at that time. If the injury does not heal, however, and a subsequent visit to a physician results in medical treatment, the case must then be recorded.

C.F.R. § 1904.6(b)(1) addresses chronic work-related cases that have already been recorded once and distinguishes between those conditions that will progress even in the absence of workplace exposure and those that are triggered by events in the workplace. There are some conditions that will progress even in the absence of further exposure, such as some occupational cancers, advanced asbestosis, tuberculosis disease, advanced byssinosis, advanced silicosis, etc. These conditions are chronic; once the disease is contracted it may never be cured or completely resolved, and therefore the case is never "closed" under the OSHA recordkeeping system, even though the signs and symptoms of the condition may alternate between remission and active disease.

The final rule provides, at C.F.R. § 1904.6(b)(1), that the employer is not required to record as a new case a previously recorded case of chronic work-related illness where the signs or symptoms have recurred or continued in the absence of exposure in the workplace. This paragraph recognizes that there are occupational illnesses that may be diagnosed at some stage of the disease and may then progress without regard to workplace events or exposures. Such diseases, in other words, will progress without further workplace exposure to the toxic substance(s) that caused the disease. Examples of such chronic work-related diseases are silicosis, tuberculosis, and asbestosis. With these conditions, the ill worker will show signs (such as a positive TB skin test, a positive chest roentgenogram, etc.) at every medical examination, and may experience symptomatic bouts as the disease progresses.

OSHA Forms

Reference Number: MTAS-631

OSHA has completely revised all forms used to report occupational injuries and illnesses. The OSHA 200 - Log and Summary and the OSHA 101 - Supplemental Record have been replaced by the OSHA 300 - Log of Work-Related Injuries and Illnesses, OSHA 300A - Summary of Work-Related Injuries and Illnesses and OSHA 301 - Illness Incident Report. Hard copy forms are available at. An electronic version of the form can be found at https://www.osha.gov/recordkeeping/RKforms.html [7].

To complete the OSHA 300 Log, you must enter information about the business at the top of the form. Then, you must enter a one- or two-line description for each recordable injury or illness and summarize this information on the OSHA 300A at the end of the year. The OSHA 301 Incident Report, or an equivalent form, must be completed for each recordable injury or illness entered on the OSHA 300 Log.

Recordable injuries and illnesses must be entered on the OSHA 300 Log and the 301 Incident Report or equivalent form within seven calendar days of receiving information that an injury or illness has occurred. An equivalent form is one that has the same information, is as readable and understandable, and is completed using the same instructions as the OSHA form it replaces. If a computer can produce equivalent forms when they are needed, you may keep records on the computer system.

There may be situations in which the employee's name is not on the OSHA 300 Log. These are "privacy concern cases," and you are obligated to protect the privacy of the injured or ill employee when another employee, former employee, or an authorized employee representative is provided access to the OSHA Log. Employers must keep a separate, confidential list of the case numbers and employee names for the privacy concern cases so they can be updated and provided to government officials as needed.

29 C.F.R §1904.33(a) provides that you must save the OSHA 300 Log, the privacy case list (if one exists), the annual summary, and the OSHA 301 Incident Report forms for five (5) years following the end of the calendar year that these records cover. During the storage period, you must update your stored OSHA 300 Logs to include newly discovered recordable injuries or illnesses and to show any changes that have occurred in the classification of previously recorded injuries and illnesses. 29 C.F.R. § 1904.33(b)(1). If the description or outcome of a case changes, you must remove or line out the original entry and enter the new information. The annual summary is not required to be updated, nor is the OSHA 301 Incident Report. 29 C.F.R. § 1904.33(b)(3).

OSHA Poster

Reference Number: MTAS-2069

Tennessee adopts the rules of OSHA, and therefore, employers subject to OSHA's jurisdiction must display the "Job Safety and Health - It's the Law!" poster. Failure to post the notice will result in possible citations. Such notice shall be posted in each establishment where notices to employees are customarily placed. Employers should ensure that these posters are not alterered, defaced or covered by other material.

Download a copy of the Tennessee state poster [8]. It may be used in place of the federal poster.

Download a free copy of the OSHA poster [9].

U.S. Department of Labor

OSHA® Occupational Safety and Health Administration

Job Safety and Health
IT'S THE LAW!

All workers have the right to:

- A safe workplace.
- Raise a safety or health concern with your employer or OSHA, or report a work-related injury or illness, without being retaliated against.
- Receive information and training on job hazards, including all hazardous substances in your workplace.
- Request an OSHA inspection of your workplace if you believe there are unsafe or unhealthy conditions. OSHA will keep your name confidential. You have the right to have a representative contact OSHA on your behalf.
- Participate (or have your representative participate) in an OSHA inspection and speak in private to the inspector.
- File a complaint with OSHA within 30 days (by phone, online or by mail) if you have been retaliated against for using your rights.
- See any OSHA citations issued to your employer.
- Request copies of your medical records, tests that measure hazards in the workplace, and the workplace injury and illness log.

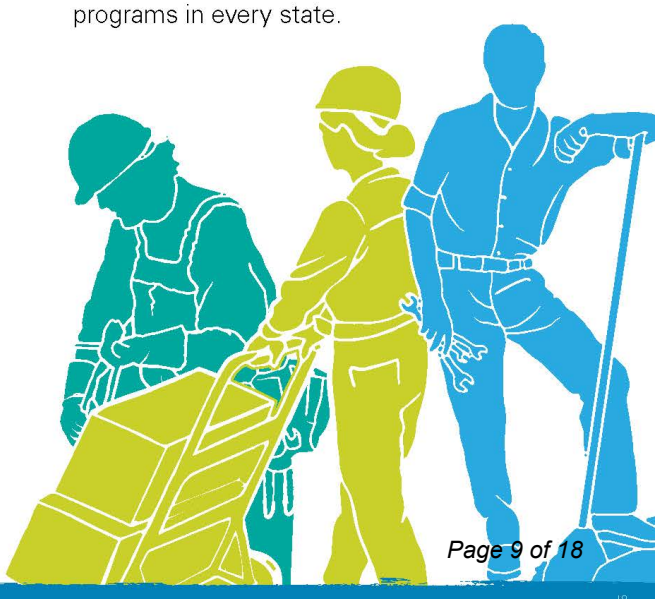
This poster is available free from OSHA.

Employers must:

- Provide employees a workplace free from recognized hazards. It is illegal to retaliate against an employee for using any of their rights under the law, including raising a health and safety concern with you or with OSHA, or reporting a work-related injury or illness.
- Comply with all applicable OSHA standards.
- Report to OSHA all work-related fatalities within 8 hours, and all inpatient hospitalizations, amputations and losses of an eye within 24 hours.
- Provide required training to all workers in a language and vocabulary they can understand.
- Prominently display this poster in the workplace.
- Post OSHA citations at or near the place of the alleged violations.

FREE ASSISTANCE to identify and correct hazards is available to small and medium-sized employers, without citation or penalty, through OSHA-supported consultation programs in every state.

Contact OSHA. We can help.



1-800-321-OSHA (6742) • TTY 1-877-889-5627 • www.osha.gov

Recording and Reporting Work Related Events

Reference Number: MTAS-1491

A work-related injury or illness must be recorded on the OSHA 300 Log if an event or exposure in the work environment either caused or contributed to the resulting condition or significantly aggravated a pre-existing injury or illness. Work-relatedness is presumed for injuries and illnesses resulting from events or exposures occurring in the work environment unless a specific exception exists. 29 C.F.R. § 1904.7(a).

Results in an Employee Death

Reference Number: MTAS-1979

If a work-related injury or illness results in an employee's death, you must record the incident by entering a check mark on the OSHA 300 Log in the space for cases resulting in death. You must also report any work-related fatality to OSHA within eight hours. 29 C.F.R. § 1904.7(b)(2). (See MTAS-1494.) [10]

Injury or Illness Resulting in Days Away from Work

Reference Number: MTAS-1980

If a work-related injury or illness results in days away from work by the employee, you must record the injury or illness if it involves one or more days away with a check mark in the space for cases involving days away and an entry for the number of calendar days away from work in the number of day's column. If the employee is out for an extended period of time, you must enter an estimate of the days that the employee will be away and update the count when the actual number of days is known. The day the injury or illness occurs is not counted as a day away from work. 29 C.F.R. § 1904.7(b)(3).

Physician Recommendation

Reference Number: MTAS-1981

If a physician or other licensed health care professional recommends that a worker stay home but the employee comes to work anyway, you must record the injury or illness on the OSHA 300 Log using the check box for cases with days away from work and enter the number of calendar days away recommended by the physician. 29 C.F.R. § 1904.7(b)(3)(ii). The days away must be recorded whether the employee follows the physicians recommendation or not, and you must encourage the employee to follow that recommendation. If you receive two or more physician recommendations, you may make a decision as to which recommendation is the most authoritative and record the case based on that recommendation. If a physician recommends that an employee return to work but the employee stays home, you must end the count of days away from work on the date the physician or other licensed health care professional recommends that the employee return to work.

Work-related Injury or Illness Results in Restricted Work

Reference Number: MTAS-1982

When a work-related injury or illness results in restricted work or a job transfer but does not involve death or days away from work, you must record the injury or illness on the OSHA 300 Log by placing a check mark in the space for job transfer or restriction and entering the number of restricted or transferred days in the restricted workday column. 29 C.F.R. § 1904.7(b)(4). Restricted work occurs when, as the result of a work-related injury or illness, you keep the employee from performing one or more of the routine functions of the job, or from working the full workday that the employee would otherwise have been scheduled to work. Restricted work also may occur if a physician or other licensed health care professional recommends that the employee not perform one or more routine functions of

the job or not work the full workday that had been scheduled. Routine functions are those work activities employees regularly perform at least once a week. 29 C.F.R. § 1904.7(b)(4)(i).

As with days away from work, you do not have to record restricted work or job transfers if you, the physician or other health care professional imposes the restriction or transfer only for the day on which the injury or illness began. 29 C.F.R. § 1904.7(b)(4)(iv). Additionally, if a case involves a worker who works only a partial shift because of a work-related injury or illness, the partial day is recorded as a day of job transfer or restriction for record keeping purposes, except for the day on which the injury occurred or the illness began. 29 C.F.R. § 1904.7(b)(4)(v).

Both job transfer and restricted work cases are recorded in the same box on the OSHA 300 Log. You must count days of job transfer or restrictions in the same way that days away from work are counted. The only difference is that if you permanently assign the injured or ill employee to a job that has been modified or permanently changed in a manner that eliminates the routine functions the employee was restricted from performing, you may stop the day count when the modification or change becomes permanent. You must count at least one day of restricted work or job transfer for such cases. 29 C.F.R. § 1904.7(b)(4)(xi).

Generally, employers must count the number of calendar days the employee is unable to work as a result of an injury or illness, regardless of whether or not the employee was scheduled to work on those days. Weekends, holidays, vacation days or other days off are included in the total number of days recorded if the employee would not have been able to work on those days because of the work-related injury or illness. 29 C.F.R. § 1904.7(b)(3)(iv).

If an employee is injured or becomes ill on a Friday and reports to work on a Monday, and was not scheduled to work on the weekend, you should record this case only if information is received from a physician indicating that the employee should not have worked, or should have performed only restricted work, during the weekend. If so, you must record the injury or illness as a case with days away from work or restricted work and enter the day count, as appropriate. 29 C.F.R. § 1904.7(b)(3)(v). If an employee is injured or becomes ill on the day before scheduled time off, such as a holiday or planned vacation, the same procedures should be followed. 29 C.F.R. § 1904.7(b)(3)(vi).

Total Number of Days Away from Work

Reference Number: MTAS-1983

The total number of days away from work may be capped at 180 calendar days. Employers are not required to keep track of the number of days away from work if the injury or illness lasts more than 180 days. In such a case, entering 180 in the total days away column will be considered adequate. 29 C.F.R. § 1904.7(b)(3)(vii). Additionally, if an employee who is away from work because of a work-related injury or illness retires or leaves the company, you may stop counting days if the reason for leaving is unrelated to the injury or illness. If, however, the employee leaves the company because of the injury or illness, you must estimate the total number of days away or days of restricted/job transfer and enter the day count on the 300 Log. 29 C.F.R. § 1904.7(b)(3)(viii).

In situations where a case occurs in one year but results in days away during the next calendar year, you must record the injury or illness only once. You must enter the number of calendar days away for the injury or illness on the OSHA 300 Log for the year in which the injury or illness occurred. If the employee is still away from work when you prepare the annual summary, you must estimate the total number of calendar days the employee is expected to be away, use that number to calculate the total for the annual summary, and then update the initial log entry later when the day count is known or reaches the 180-day cap. 29 C.F.R. § 1904.7(b)(3)(ix).

Medical Treatment Beyond First Aid

Reference Number: MTAS-1984

If a work-related injury or illness results in medical treatment beyond first aid, you must record it on the OSHA 300 Log. If the injury or illness did not result in death, days away from work, or restricted work or a job transfer, you must check the box for cases where the employee received medical treatment but remained at work and was not transferred or restricted (other recordable cases). 29 C.F.R. §

1904.7(b)(5). An example is a case in which the employee is involved in an accident and is taken to the hospital to have a cut stitched, then returns to work the next day. The employee would have received medical treatment but would not have a lost day of work, restricted work or a job transfer.

Medical treatment means the management and care of a patient to combat disease or disorder. It does not include visits to a physician or other licensed health care professional solely for observation or counseling; conducting diagnostic procedures, such as X-rays and blood tests; the administration of prescription medication used solely for diagnostic purposes (e.g., eye drops to dilate pupils); or first aid. 29 C.F.R. § 1904.7(b)(5)(i).

First aid means the following: 29 C.F.R. § 1904.7(b)(5)(i) (A-N).

- Using a non-prescription medication at nonprescription strength. (If a physician or licensed health care provider directs use of a nonprescription medication at prescription strength, it is considered medical treatment.)
- Administering tetanus immunizations. (Other immunizations, such as hepatitis B vaccines or rabies vaccines, are considered medical treatment.)
- Cleaning, flushing or soaking wounds on the surface of the skin.
- Using wound covering such as bandages, Band-Aids™, gauze pads, etc.; or using butterfly bandages or Ster-Strips.™ (Other wound closing devices such as sutures, staples, etc., are considered medical treatment for recordkeeping purposes.)
- Using hot or cold therapy.
- Using any non-rigid means of support, such as elastic bandages, wraps, non-rigid back belts, etc. (Devices with rigid stays or other systems designed to immobilize parts of the body are considered medical treatment for record keeping purposes.)
- Using temporary immobilization devices while transporting an accident victim (e.g., splints, slings, neck collars, back boards, etc.).
- Drilling a fingernail or toenail to relieve pressure or draining fluid from a blister.
- Using eye patches.
- Removing foreign bodies from the eye using only irrigation or a cotton swab.
- Removing splinters or foreign material from areas other than the eye by irrigation, tweezers, cotton swabs or other simple means.
- Using finger guards.
- Using massages. (Physical therapy and chiropractic treatments are considered medical treatment for record keeping purposes.)
- Drinking fluids for relief of heat stress.

29 C.F.R. § 1904.7(b)(5)(v) provides that if a physician or other licensed health care professional recommends medical treatment and the employee does not follow the physician’s recommendation, you must still record the case. As previously stated, you should encourage the employee to follow the recommendation.

Loss of Consciousness

Reference Number: MTAS-1985

If a work-related injury or illness results in loss of consciousness, you must record the work-related injury or illness, regardless of the length of time the employee remains unconscious. 29 C.F.R. § 1904.7(b)(6). Additionally, work-related cases involving a significant diagnosed injury or illness (such as cancer, chronic irreversible diseases, a fractured or cracked bone, or a punctured eardrum) must always be recorded under the general criteria at the time of diagnosis. OSHA considers these types of injuries or illnesses recordable even if medical treatment or work restrictions are not recommended or are postponed. 29 C.F.R. § 1904.7(b)(7).

Exposure to Blood/Infectious Material

Reference Number: MTAS-1986

OSHA regulation 29 C.F.R. § 1904.8 (a) requires employers to record all work-related needle stick injuries and cuts from sharp objects that are contaminated with another person's blood or other potentially infectious materials as defined by 29 C.F.R. § 1910.1030. Other potentially infectious materials include human bodily fluids, tissues and organs; and other materials infected with the HIV or hepatitis B (HBV) virus, such as laboratory cultures or tissues from experimental animals. 29 C.F.R. § 1904.8(b)(1). You must enter the case on the OSHA 300 Log as an injury. To protect the employee's privacy, you may not enter the employee's name on the OSHA 300 Log. If a recorded injury results in a later diagnosis of an infectious blood borne disease, you must update the classification of the case on the OSHA 300 Log if it results in death, days away from work, restricted work, or job transfer. You must also update the description to identify the infectious disease and change the classification of the case from an injury to an illness.

If an employee is splashed or exposed to blood or other potentially infectious material without being cut or scratched, you must record the incident on the OSHA 300 Log as an illness if it results in the diagnosis of a blood borne illness such as HIV, hepatitis B or hepatitis C; or if it results in death, days away from work, work restrictions, or job transfer. Otherwise it is not recorded. 29 C.F.R. § 1904.8(b)(4).

You are not required to record all cuts, lacerations, punctures and scratches. Only those injuries that are work-related and involve contamination with another person's blood or other potentially infectious materials must be recorded. If a cut, laceration or scratch involves a clean object or a contaminant other than blood or other potentially infectious material, you need to record the case only if it results in death, days away from work, work restrictions, job transfer, medical treatment, or loss of consciousness. 29 C.F.R. § 1904.8(b)(2).

Medical Removal Under Medical Surveillance

Reference Number: MTAS-1987

If an employee is medically removed (transferred to a hospital) under the medical surveillance requirement of an OSHA standard, you must record the case on the OSHA 300 Log. 29 C.F.R. § 1904.9(a). The case would be entered as either a case involving days away from work or a case involving restricted work activities. If the medical removal is the result of a chemical exposure, you must enter the case on the OSHA 300 Log by checking the poisoning column. 29 C.F.R. § 1904.9(b)(1). If you voluntarily remove an employee from exposure before the medical removal criteria in an OSHA standard is met, the case need not be recorded. 29 C.F.R. § 1904.9(b)(3).

Exposure to Tuberculosis (TB)

Reference Number: MTAS-1988

If any employee becomes occupationally exposed to anyone with a known case of active tuberculosis (TB), and the employee subsequently develops a tuberculosis infection, the case must be recorded on the OSHA 300 Log by checking the respiratory condition column. 29 C.F.R. § 1904.11(a). Before the event is entered on the log, you should have a record of a positive skin test or a diagnosis by a physician or other licensed health care professional in hand.

You do not have to record the case if it can be determined that the employee was not occupationally exposed to a known case of active tuberculosis at the workplace. The case can be removed from the Log if you obtain evidence that the worker is living in a household with a person who has been diagnosed with active TB; the public health department has identified the worker as a contact of an individual with a case of active TB unrelated to the workplace;or a medical investigation shows that the employee's infection was caused by exposure to TB away from work, or proves that the case was not related to the workplace TB exposure. 29 C.F.R. § 1904.11(b).

Hearing Loss

Reference Number: MTAS-1989

If a work-related injury or illness results in a hearing loss, the employee is required to record, by checking the "hearing loss" column on the OSHA 300 Log, all cases in which an employee's hearing test (audiogram) revealed that a Standard Threshold Shift (STS) in hearing acuity had occurred. 29 C.F.R. § 1904.10(a). An STS is defined in 29 C.F.R. § 1904.10(b)(1) as "a change in hearing threshold, relative to the most recent audiogram for that employee, of an average of 10 decibels or more at 2000, 3000 and 4000 Hertz (Hz) in one or both ears."

The recordkeeping rule itself does not require the employer to test employee's hearing. However, OSHA's occupational noise standard (29 C.F.R. § 1910.95) requires employers in general industry to conduct periodic audiometric testing of employees when employees' noise exposures are equal to, or exceed, an 8-hour time-weighted average of 85dBA. Under the provisions of § 1910.95, if such testing reveals that an employee has sustained a hearing loss equal to an STS, the employer must take protective measures, including requiring the use of hearing protectors, to prevent further hearing loss.

Privacy Concern Cases

Reference Number: MTAS-864

OSHA recognizes that there may be situations in which you do not want to put the employee's name on the OSHA 300 Log for privacy reasons. If that is the case, you may enter the words "privacy case" in the space normally used for the employee's name. You must keep a separate, confidential list of the case numbers and employee names in order to update the case and provide the information to the government if requested (29 C.F.R. § 1904.29(b)(6)). The following injuries or illnesses must be considered "privacy concern cases:"

- An injury or illness to an intimate body part or the reproductive system 29 C.F.R. § 1904.29(b)(7)(i).
- An injury or illness resulting from a sexual assault 29 C.F.R. § 1904.29(b)(7)(ii).
- Mental illness 29 C.F.R. § 1904.29(b)(7)(iii).
- HIV infection, hepatitis or tuberculosis 29 C.F.R. § 1904.29(b)(7)(iv)
- Needle stick injuries and cuts from sharp objects that are contaminated with another person's blood or other potentially infectious material 29 C.F.R. § 1904.29(b)(7)(v).
- Other illnesses if the employee independently and voluntarily requests that his/her name not be entered on the Log 29 C.F.R. § 1904.29(b)(7)(vi).

The regulations (29 C.F.R. § 1904.29(b)(9)) also provide that if the employer has reason to believe that the employee may be identified from the information on the form, you may use discretion in describing the injury or illness on both the OSHA 300 and 301 forms, even if the employee's name has been omitted. Enough information, however, must be included to identify the cause of the incident and the general severity of the injury or illness, but you need not include details of an intimate or private nature. (e.g., a sexual assault case could be described as an "injury from assault," or an injury to a reproductive organ could be described as a "lower abdominal injury").

If you disclose the OSHA forms to anyone other than government representatives, employees, former employees or authorized representatives (as required by §§ 1904.35 and 1904.4), you must remove or hide the employee's name and other personally identifying information, except in the following cases:

- Disclosure to an auditor or consultant hired by you to evaluate the safety and health program 29 C.F.R. § 1904.29(b)(10)(i).
- Disclosure to the extent necessary for processing a claim of workers' compensation or other insurance benefit 29 C.F.R. § 1904.29(b)(10)(ii).
- Disclosure to a public health authority or law enforcement agency for uses and disclosure for which consent, an authorization, or opportunity to agree or object is not required under the Department of Health and Human Services Standards for Privacy of Individually Identifiable Health Information 29 C.F.R. § 1904.29(b)(10)(iii).

Fatalities and Multiple Hospitalizations

Reference Number: MTAS-1494

Within eight hours after the death of any employee from a work-related incident, you must orally report the fatality by contacting Tennessee OSHA at 800-249-8510 or after hours by calling the National OSHA at 800-321-6742. . If the area office is closed, employers **may not** leave a message on the answering machine, nor fax the area office, nor send an e-mail, but **must call** the toll-free number for the U.S. Department of Labor OSHA office or the reporting application located on OSHA's public website at www.osha.gov [11]. 29 C.F.R. § 1904.39(b)(1). Only fatalities occurring withing 30 days of the work-related incident must be reported in the above manner.

Within 24 hours of an in-patient hospitalization, amputation, or loss of an eye of as the result of a work-related incident, you must report these events to Tennessee OSHA by completing the online report on the TOSHA website or alternatively, you may call Tennessee OSHA at 1-800-249-9510 or after hours employers also may use the OSHA toll-free central telephone number, 1-800-321-6742 (1-800-321-OSHA). 29 C.F.R. § 1904.39(a). If the hospitalization does not occur within 24 hours of the work-related incident you do not have to report in the above manner. Also, if the hospitalization is for diagnostic testing or observation only, it is exempt from these reporting requirements.

In reporting a fatality or multiple hospitalizations, you must provide the following information: 29 C.F.R. § 1904.39(b)(2)

- Establishment name;
- Location of the incident;
- Time of the incident;
- Type of reportables event (i.e. fatality, in-patient hospitalization, amputation,or loss of an eye);
- Number of fatalities or affected employees;
- Name(s) of employee(s);
- A contact person for you and his/her phone number; and
- A brief description of the incident.

If you do not learn about a fatality right away, you must make the report within eight hours of the time the incident is reported. In the event of in-patient hospitalization, amputation or loss of an eye, you have 24 hours from the time the incident is reported.

As with other rules, there are exceptions. Employers do not have to report all incidents involving fatalities and hospitalizations resulting from a motor vehicle accident, if the motor vehicle accident occurs on a public street or highway and does not occur in a construction work zone., The injuries, however, must be recorded on the OSHA injury and illness record, if you are required to keep such a record (death, loss of days, restricted duties, transfer, etc.). 29 C.F.R. § 1904.39(b)(3). The same rules apply to incidents involving commercial airplane, train, subway or bus accidents. 29 C.F.R. § 1904.39(b)(4). These exceptions must still be recorded on your OHSA injury and illness records.

OSHA Annual Summary

Reference Number: MTAS-865

At the end of each calendar year, you must review the OSHA 300 Log to verify that the entries are complete and accurate, and must correct any deficiencies identified. You must also create an annual summary of injuries and illnesses recorded on the OSHA 300 Log by filling out the OSHA 300A, certify the summary, and post it for public review. 29 C.F.R. § 1904.32(a).

To complete the annual summary, you must total the columns on the OSHA 300 Log and enter the calendar year covered, any identifying information about the company, the annual average number of employees covered by the OSHA 300 Log, and the total hours worked by all the employees covered by the OSHA 300 Log. If an alternate summary form is used, it must contain the employee access and employer penalty statement found on the OSHA 300A form. 29 C.F.R. § 1904.32(b)(2).

The form must be certified by a municipal executive indicating that he/she has examined the OSHA 300 Log and that he/she reasonably believes that the summary is correct and complete. The municipal executive must be an elected official, the highest ranking official working at the municipality or the immediate supervisor of the highest ranking city/town official. 29 C.F.R. § 1904.32(b)(3).

You must post a copy of the annual summary in each establishment in a conspicuous place where notices to employees are customarily posted. 29 C.F.R. § 1904.32(b)(5). The posted annual summary must not be altered, defaced or covered by other material. The summary must be posted no later than February of the year following the year covered by the records and kept at the posting place until April. 29 C.F.R. § 1904.32(b)(6).

OSHA Retention and Updating of Records

Reference Number: MTAS-2128

The OSHA 300 Logs, the privacy case list, the annual summary, and the OSHA 301 Incident Report form must be saved for **five years** following the end of the calendar year that the records cover. During the period of storage, you must update the stored OSHA 300 Log to include newly discovered recordable injuries and illnesses and to show any changes that occurred in the classification of previously recorded injuries and illnesses. If the description or outcome changes, you must remove or line through the original entry and then enter the new information. The annual summary and the OSHA 301 Incident Reports do not have to be updated.(29 C.F.R. § 1904.33)

Employee Involvement with OSHA

Reference Number: MTAS-1495

The OSHA recordkeeping standard requires that employees and their representatives be involved in the recordkeeping system in several ways. You must inform each employee of how he/she is to report an injury or illness and must provide limited access to the injury and illness records for employees and their representatives. 29 C.F.R. § 1904.35(a). A personal representative of an employee or former employee is any person whom the employee or former employee designates in writing as such, or the legal representative of a deceased or legally incapacitated employee or former employee. 29 C.F.R. § 1904.35(b) (2) (ii) .

If an employee or representative asks for access to the OSHA 300 Log and/or the OSHA 301 Incident Report, you must give the requester a copy of the relevant Log and Incident Report by the end of the next business day.

If the authorized employee representative asks for copies of the OSHA 301 Incident Report and is representing the employee under a collective bargaining agreement, you must give copies of those forms within seven calendar days. You are authorized to give the representative only information from the Incident Report section titled “Tell us about the case.” You must remove all other information from the copy of the OSHA 301 form. 29 C.F.R. § 1904.35(b)(2)(v) (B).

You may not charge for copies the first time copies of the records are provided. If one of the designated persons asks for additional copies, you may assess a reasonable charge for retrieving and copying the records. 29 C.F.R. § 1904.35(b)(vi).

Employers are prohibited from discriminating against an employee for reporting a workplace fatality, injury or illness. The employee is also protected who files a safety complaint or ask for access to records. 29 C.F.R. § 1904.35(b)(1) (iv).

Providing Records to Government Representatives

Reference Number: MTAS-1496

When an authorized government representative asks to review the records of the city/town, you must provide copies of the records within four business hours. 29 C.F.R. § 1904.40(a). The regulations, 29 C.F.R. § 1904.40(b)(1), provides that government representatives authorized to receive the records are:

- A representative of the Secretary of Labor conducting an inspection or investigation under the act;
- A representative of the Secretary of Health and Human Services (including the National Institute for Occupational Safety and Health - NIOSH) conducting an investigation; and
- A representative of a state agency responsible for administering a state plan approved under the act (TOSHA).

Annually, the OSH Administration sends surveys to organizations in certain industries. If you receive such a survey, you must respond to the survey within 30 days or by the date stated in the survey. 29 C.F.R. § 1904.41(a). Additionally, the Bureau of Labor Statistics may periodically send out an Occupational Injuries and Illnesses Survey, which must be completed and returned promptly. 29 C.F.R. § 1904.42(a).

Electronic Submission of Injury and Illness Records to OSHA

Reference Number: MTAS-2129

A new OSHA rule took effect January 1, 2017 that requires certain employers to electronically submit injury and illness data that they are already required to record on their onsite OSHA Injury and Illness forms. (29 C.F.R.§ 1904.41) Organizations with 250 or more employees at any time during the previous calendar year are required to electronically submit information to OSHA and any employer with 20 or more employees but fewer than 250 at any time and the industry is classified in an industry listed in appendix A to support E [12] of the act. Industries of interest to public sector employers are utilities, urban transit systems, school and employee bus transportation, other transit and ground passenger transportation, waste collection, waste treatment and disposal, museums, and historical sites and similar institutions. Employees to be included in determining employee counts are each individual employed at any time during the calendar year, including full-time, part-time, seasonal and temporary.

Records must be submitted once a year according to the schedule established by the department. Beginning in 2019 and every year thereafter, the information must be submitted by March 2. (29 C.F.R.§ 1904.41(c)).

OSHA provides a secure website that offers options for data submission.

OSHA Revisions to the Hazard Communication Standard

Reference Number: MTAS-1892

In the March 2012 edition of the Federal Register (77 FR 17574), OSHA published its revisions to the OSHA Hazard Communication Standard (HCS). The revisions align OSHA requirements with the United Nations' Globally Harmonized System of Classification and Labeling of Chemicals, commonly called the GHS. To provide time for compliance, OSHA established a phase in program for the requirements over a period of several years. The transition period ended June 1, 2016.

The revisions improve the quality and consistency of hazard information in the workplace, making it safer for workers by providing easily understandable information on appropriate handling and safe use of hazardous chemicals. Two significant changes in the standard require the use of new labeling elements and a standardized format for Safety Data Sheets (SDSs), formerly known as Material Safety Data Sheets (MSDSs). The new label elements and SDS requirements improve worker understanding of the hazards associated with the chemicals in their workplace. The standard applies to all chemicals known to be present in the workplace in such a manner that employees may be exposed under normal conditions or in a foreseeable emergency.

Employers have a duty to provide adequate training on these changes to the communication standards at no cost to all employees (full-time, part-time or temporary). Employers must also include volunteer firefighters for purpose of the training and must train all employees even if the employees are illiterate or have learning disabilities. Employers must also measure the effectiveness of their training by verbal recall and evaluate training through employee interviews.

The employer must maintain SDS for as long as the chemical is used or stored. You must maintain the chemical list for 30 years

Because TN is a federally approved "state-plan" the TN Occupational Safety and Health Act (TOSH Act) adopted the federal OSHA standards but some of the provisions of the TN Hazardous Chemical Right to Know Act are still in effect. Tennessee OSHA (TOSHA) has a video presentation that an agency can download and use for training on the revisions and the GHS. The person who conducts the training should be familiar with OSHA's Hazard Communication Standard. The video (***TOSHA Hazard Communications: Protecting Yourself from Chemical Hazards***) is available at https://www.youtube.com/watch?v=F41FCs2V5uE [13].

Links:
[1] https://www.osha.gov/
[2] https://www.osha.gov/laws-regs/oshact/completeoshact
[3] https://publications.tnsosfiles.com/rules/0800/0800-01/0800-01.htm
[4] http://share.tn.gov/sos/rules/0800/0800-01/0800-01-01.20160713.pdf
[5] http://publications.tnsosfiles.com/rules/0800/0800-01/0800-01-05.pdf
[6] https://www.osha.gov/enforcement/directives/cpl-02-00-135
[7] https://www.osha.gov/recordkeeping/RKforms.html
[8] https://www.tn.gov/content/dam/tn/workforce/documents/majorpublications/requiredposers/TOSHA_Poster_Legal_Size.pdf
[9] https://www.osha.gov/Publications/poster.html
[10] http://www.mtas.tennessee.edu/reference/fatalities-and-multiple-hospitalizations
[11] http://www.osha.gov
[12] https://www.ecfr.gov/cgi-bin/text-idx?SID=8040638218eb88b6bccce0d7377b5d38&mc=true&node=ap29.5.1904_142.a&rgn=div9
[13] https://www.youtube.com/watch?v=F41FCs2V5uE