

**Department of State
Division of Publications**

312 Rosa L. Parks Avenue, 8th Floor Snodgrass/TN Tower
Nashville, TN 37243
Phone: 615-741-2650
Fax: 615-741-5133
Email: register.information@tn.gov

For Department of State Use Only

Sequence Number: 11-27-14
Rule ID(s): 5840
File Date: 11/26/14
Effective Date: 2/24/15

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to T.C.A. §§ 4-5-202, 4-5-207 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within sixty (60) days of the first day of the month subsequent to the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by twenty-five (25) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.

Agency/Board/Commission:	Department of Labor and Workforce Development
Division:	Division of Occupational Safety and Health
Contact Person:	Larry Hunt
Address:	220 French Landing Drive
Zip:	37243-1002
Phone:	(615) 741-7036
Email:	Larry.Hunt@tn.gov

Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0800-01-03	Occupational Safety and Health Standards Record-Keeping and Reporting
Rule Number	Rule Title
0800-01-03-.02	Scope

Chapter Number	Chapter Title
0800-01-03	Occupational Safety and Health Standards Record-Keeping and Reporting
Rule Number	Rule Title
0800-01-03-.05	Reporting Fatality, Injury and Illness Information

Chapter 0800-01-03
Occupational Safety and Health Standards Record-Keeping and Reporting

Amendments

Paragraph (3)(a)(1) of Rule 0800-01-03-.02 Scope is amended by deleting the current text and replacing with the following so as amended the paragraph shall read:

1. If your business establishment is classified in a specific industry group listed in Appendix A of Rule 0800-01-03-.02(4), you do not need to keep TOSHA injury and illness records unless the government asks you to keep the records under Rule 0800-01-03-.05(3) or Rule 0800-01-03-.05(4). However, all employers must report to TOSHA any workplace incident that results in an employee's fatality, in-patient hospitalization, amputation, or loss of an eye [see Rule 0800-01-03-.05(1)].

Authority: T.C.A. §§ 4-3-1411 and 50-3-201.

Paragraph (3)(b)(1) of Rule 0800-01-03-.02 Scope is amended by deleting the current text and replacing with the following so as amended the paragraph shall read:

1. Is the partial industry classification exemption based on the industry classification of my entire company or on the classification of individual business establishments operated by my company? The partial industry classification exemption applies to individual business establishments. If a company has several business establishments engaged in different classes of business activities, some of the company's establishments may be required to keep records, while others may be partially exempt.

Authority: T.C.A. §§ 4-3-1411 and 50-3-201.

Paragraph (3)(b)(2) of Rule 0800-01-03-.02 Scope is amended by deleting the current text and replacing with the following so as amended it shall read:

2. How do I determine the correct NAICS code for my company or for individual establishments? You determine your NAICS code by using one of three methods:
 - (i) You can use the search feature at the U.S. Census Bureau NAICS main webpage: <http://www.census.gov/eos/www/naics/>. In the search box for the most recent NAICS, enter a keyword that describes your kind of business. A list of primary business activities containing that keyword and the corresponding NAICS codes will appear. Choose the one that most closely corresponds to your primary business activity, or refine your search to obtain other choices.
 - (ii) Rather than searching through a list of primary business activities, you may also view the most recent complete NAICS structure with codes and titles by clicking on the link for the most recent NAICS on the U.S. Census Bureau NAICS main webpage: <http://www.census.gov/eos/www/naics/>. Then click on the two-digit Sector code to see all the NAICS codes under that Sector. Then choose the six-digit code of your interest to see the corresponding definition, as well as cross-references and index items, when available.
 - (iii) If you know your old SIC code, you can also find the appropriate 2002 NAICS code by using the detailed conversion (concordance) between the 1987 SIC and 2002 NAICS available in Excel format for download at the "Concordances" link at the U.S. Census Bureau NAICS main webpage: <http://www.census.gov/eos/www/naics/>. You may also contact your nearest TOSHA office for help in determining your NAICS Code.

Authority: T.C.A. §§ 4-3-1411 and 50-3-201.

Paragraph (3)(b)(3) of Rule 0800-01-03-.02 Scope is deleted

Authority: T.C.A. §§ 4-3-1411 and 50-3-201.

Non-Mandatory Appendix A of Paragraph (3)(b)(4) of Rule 0800-01-03-.02 Scope is amended by deleting the current text and replacing with the following so as amended it shall read:

Non-Mandatory Appendix A - Partially Exempt Industries. Employers are not required to keep TOSHA injury and illness records for any establishment classified in the following North American Industry Classification System (NAICS) codes, unless they are asked in writing to do so by TOSHA or the Bureau of Labor Statistics (BLS). All employers, including those partially exempted by reason of company size or industry classification, must report to TOSHA any employee's fatality, in-patient hospitalization, amputation, or loss of an eye [see Rule 0800-01-03-.05(1)].

NAICS Code	Industry
4412	Other Motor Vehicle Dealers
4431	Electronics and Appliance Stores
4461	Health and Personal Care Stores
4471	Gasoline Stations
4481	Clothing Stores
4482	Shoe Stores
4483	Jewelry, Luggage, and Leather Goods Stores
4511	Sporting Goods, Hobby, and Musical Instrument Stores
4512	Book, Periodical, and Music Stores
4531	Florists
4532	Office Supplies, Stationery, and Gift Stores
4812	Nonscheduled Air Transportation
4861	Pipeline Transportation of Crude Oil
4862	Pipeline Transportation of Natural Gas
4869	Other Pipeline Transportation
4879	Scenic and Sightseeing Transportation, Other
4885	Freight Transportation Arrangement
5111	Newspaper, Periodical, Book, and Directory Publishers
5112	Software Publishers
5121	Motion Picture and Video Industries
5122	Sound Recording Industries
5151	Radio and Television Broadcasting
5172	Wireless Telecommunications Carriers (except Satellite)
5173	Telecommunications Resellers
5179	Other Telecommunications
5181	Internet Service Providers and Web Search Portals
5182	Data Processing, Hosting, and Related Services
5191	Other Information Services
5211	Monetary Authorities - Central Bank
5221	Depository Credit Intermediation
5222	Nondepository Credit Intermediation
5223	Activities Related to Credit Intermediation
5231	Securities and Commodity Contracts Intermediation

	and Brokerage
5232	Securities and Commodity Exchanges
5239	Other Financial Investment Activities
5241	Insurance Carriers
5242	Agencies, Brokerages, and Other Insurance Related Activities
5251	Insurance and Employee Benefit Funds
5259	Other Investment Pools and Funds
5312	Offices of Real Estate Agents and Brokers
5331	Lessors of Nonfinancial Intangible Assets (except Copyrighted Works)
5411	Legal Services
5412	Accounting, Tax Preparation, Bookkeeping, and Payroll Services
5413	Architectural, Engineering, and Related Services
5414	Specialized Design Services
5415	Computer Systems Design and Related Services
5416	Management, Scientific, and Technical Consulting Services
5417	Scientific Research and Development Services
5418	Advertising and Related Services
5511	Management of Companies and Enterprises
5611	Office Administrative Services
5614	Business Support Services
5615	Travel Arrangement and Reservation Services
5616	Investigation and Security Services
6111	Elementary and Secondary Schools
6112	Junior Colleges
6113	Colleges, Universities, and Professional Schools
6114	Business Schools and Computer and Management Training
6115	Technical and Trade Schools
6116	Other Schools and Instruction
6117	Educational Support Services
6211	Offices of Physicians
6212	Offices of Dentists
6213	Offices of Other Health Practitioners
6214	Outpatient Care Centers
6215	Medical and Diagnostic Laboratories
6244	Child Day Care Services
7114	Agents and Managers for Artists, Athletes, Entertainers, and Other Public Figures
7115	Independent Artists, Writers, and Performers
7213	Rooming and Boarding Houses
7221	Full-Service Restaurants
7222	Limited-Service Eating Places
7224	Drinking Places (Alcoholic Beverages)
8112	Electronic and Precision Equipment Repair and Maintenance
8114	Personal and Household Goods Repair and Maintenance
8121	Personal Care Services
8122	Death Care Services
8131	Religious Organizations
8132	Grantmaking and Giving Services
8133	Social Advocacy Organizations
8134	Civic and Social Organizations

Authority: T.C.A. §§ 4-3-1411 and 50-3-201.

Paragraph (1) of Rule 0800-01-03-.05 Reporting Fatality, Injury and Illness Information is amended by deleting the current text and replacing it with the following text:

- (1) Reporting fatalities and multiple hospitalization incidents to TOSHA.
 - (a) Basic requirement.
 1. Within eight (8) hours after the death of any employee as a result of a work-related incident, you must report the fatality to the TOSHA Division of the Tennessee Department of Labor and Workforce Development.
 2. Within twenty-four (24) hours after the in-patient hospitalization of one or more employees or an employee's amputation or an employee's loss of an eye, as a result of a work-related incident, you must report the in-patient hospitalization, amputation, or loss of an eye to TOSHA.
 3. You must report the fatality, in-patient hospitalization, amputation, or loss of an eye using one of the following methods:
 - (i) By telephone or in person to the TOSHA Area Office that is nearest to the site of the incident.
 - (ii) By telephone to the TOSHA toll-free central telephone number, 1-800-249-8510.
 - (iii) By electronic submission using the reporting application located on OSHA's public website at www.osha.gov.
 - (b) Implementation.
 1. If the Area Office is closed, may I report the fatality, in-patient hospitalization, amputation, or loss of an eye by leaving a message on TOSHA's answering machine, faxing the Area Office, or sending an e-mail? No, if the Area Office is closed, you must report the fatality, in-patient hospitalization, amputation, or loss of an eye using either the 800 number or the reporting application located on OSHA's public website at www.osha.gov.
 2. What information do I need to give to TOSHA about the in-patient hospitalization, amputation, or loss of an eye? You must give TOSHA the following information for each fatality, in-patient hospitalization, amputation, or loss of an eye:
 - (i) The establishment name;
 - (ii) The location of the work-related incident;
 - (iii) The time of the work-related incident;
 - (iv) The type of reportable event (i.e., fatality, in-patient hospitalization, amputation, or loss of an eye);
 - (v) The number of employees who suffered a fatality, in-patient hospitalization, amputation, or loss of an eye;
 - (vi) The names of the employees who suffered a fatality, in-patient hospitalization, amputation, or loss of an eye;

- (vii) Your contact person and his or her phone number; and
 - (viii) A brief description of the work-related incident.
3. Do I have to report the fatality, in-patient hospitalization, amputation, or loss of an eye if it resulted from a motor vehicle accident on a public street or highway? If the motor vehicle accident occurred in a construction work zone, you must report the fatality, in-patient hospitalization, amputation, or loss of an eye. If the motor vehicle accident occurred on a public street or highway, but not in a construction work zone, you do not have to report the fatality, in-patient hospitalization, amputation, or loss of an eye to TOSHA. However, the fatality, in-patient hospitalization, amputation, or loss of an eye must be recorded on your OSHA injury and illness records, if you are required to keep such records.
 4. Do I have to report the fatality, in-patient hospitalization, amputation, or loss of an eye if it occurred on a commercial or public transportation system? No, you do not have to report the fatality, in-patient hospitalization, amputation, or loss of an eye to TOSHA if it occurred on a commercial or public transportation system (e.g., airplane, train, subway, or bus). However, the fatality, in-patient hospitalization, amputation, or loss of an eye must be recorded on your OSHA injury and illness records, if you are required to keep such records.
 5. Do I have to report a work-related fatality or in-patient hospitalization caused by a heart attack? Yes, your local TOSHA Area Office supervisor will decide whether to investigate the event, depending on the circumstances of the heart attack.
 6. What if the fatality, in-patient hospitalization, amputation, or loss of an eye does not occur during or right after the work-related incident? You must only report a fatality to TOSHA if the fatality occurs within thirty (30) days of the work-related incident. For an in-patient hospitalization, amputation, or loss of an eye, you must only report the event to TOSHA if it occurs within twenty-four (24) hours of the work-related incident. However, the fatality, in-patient hospitalization, amputation, or loss of an eye must be recorded on your OSHA injury and illness records, if you are required to keep such records.
 7. What if I don't learn about a reportable fatality, in-patient hospitalization, amputation, or loss of an eye right away? If you do not learn about a reportable fatality, in-patient hospitalization, amputation, or loss of an eye at the time it takes place, you must make the report to TOSHA within the following time period after the fatality, in-patient hospitalization, amputation, or loss of an eye is reported to you or to any of your agent(s): eight (8) hours for a fatality, and twenty-four (24) hours for an in-patient hospitalization, an amputation, or a loss of an eye.
 8. What if I don't learn right away that the reportable fatality, in-patient hospitalization, amputation, or loss of an eye was the result of a work-related incident? If you do not learn right away that the reportable fatality, in-patient hospitalization, amputation, or loss of an eye was the result of a work-related incident, you must make the report to TOSHA within the following time period after you or any of your agent(s) learn that the reportable fatality, in-patient hospitalization, amputation, or loss of an eye was the result of a work-related incident: eight (8) hours for a fatality, and twenty-four (24) hours for an in-patient hospitalization, an amputation, or a loss of an eye.
 9. How does TOSHA define "in-patient hospitalization"? TOSHA defines in-patient hospitalization as a formal admission to the in-patient service of a hospital or clinic for care or treatment.
 10. Do I have to report an in-patient hospitalization that involves only observation or diagnostic testing? No, you do not have to report an in-patient hospitalization that involves only observation or diagnostic testing. You must only report to TOSHA each in-patient hospitalization that involves care or treatment.

11. How does TOSHA define "amputation"? An amputation is the traumatic loss of a limb or other external body part. Amputations include a part, such as a limb or appendage, that has been severed, cut off, amputated (either completely or partially); fingertip amputations with or without bone loss; medical amputations resulting from irreparable damage; amputations of body parts that have since been reattached. Amputations do not include avulsions, enucleations, degloving, scalpings, severed ears, or broken or chipped teeth.

Authority: T.C.A. §§ 4-3-1411 and 50-3-201.

* If a roll-call vote was necessary, the vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)

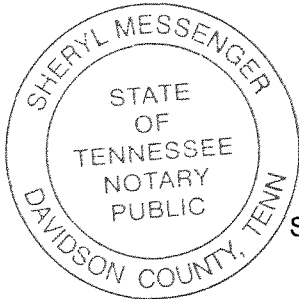
I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the (board/commission/other authority) on 10/27/14 (date as mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of sixty (60) days of the first day of the month subsequent to the filing of the proposed rule with the Secretary of State.

Date: 10/27/14

Signature: Burns Phillips

Name of Officer: Burns Phillips

Title of Officer: Commissioner of Labor and Workforce Development



Subscribed and sworn to before me on: 10/27/2014

Notary Public Signature: Sheryl Messenger

My commission expires on: 1/9/2016

All proposed rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slattery III
 Herbert H. Slattery III.
 Attorney General and Reporter
November 24, 2014
 Date

Department of State Use Only

Filed with the Department of State on: 11/26/14

Effective on: 2/24/15

Tre Hargett
 Tre Hargett
 Secretary of State

2014 NOV 26 AM 11:28
 SECRETARY OF STATE

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

An economic impact statement regarding the amendments in this rule proposal is not required under the provisions of the Regulatory Flexibility Act of 2007. As stated in Section 6 of Public Chapter 464, "This part shall not apply to rules that are adopted on an emergency or public necessity basis under Title 4, Chapter 5, Part 2, that are federally mandated, or that substantially codify existing state or federal law." Under the statutory authority of 29 U.S.C. § 667, Tennessee has an approved state plan that provides for the development and enforcement of occupational safety and health standards. In accordance with the Tennessee Occupational Safety and Health State Plan, when a federal occupational safety and health standard is promulgated under 29 U.S.C. § 655 Tennessee generally adopts the federal standard relating to the same issue. The plan specifies that the state of Tennessee will adopt the federal standards or an equivalent state requirement within six (6) months of the standard's promulgation by federal OSHA. In addition, T.C.A. §50-3-201 authorizes the Commissioner of Labor and Workforce Development to adopt either state or federal occupational safety and health standards.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 “any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments.” (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

This rule does not have a projected impact on local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

Rules 0800-01-03-.02 and 0800-01-03-.05 are amended in order to adopt and reference the latest occupational record-keeping and reporting standards and exceptions, if any, in the applicable parts of Title 29, Code of Federal Regulations when published in the Federal Register.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

Under the statutory authority of 29 U.S.C. § 667, Tennessee has an approved state plan that provides for the development and enforcement of occupational safety and health standards. In accordance with the plan, when a federal occupational safety and health standard is promulgated under 29 U.S.C. § 655 Tennessee generally adopts the federal standard relating to the same issue. When a federal standard is not adopted, it is referenced as an exception in the rules. The statutory authority for promulgation of the rules by the Commissioner of Labor and Workforce Development is T.C.A. § 50-3-201.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

All persons subject to T.C.A. §§ 50-3-101 et seq. are directly affected by the rules in Chapter 0800-01-03. These rules provide for the effective administration and enforcement of the occupational safety and health standards required by the state plan. Employees and employers including governmental entities in the state must comply with the rules promulgated pursuant to federal and state law. It appears that there are no objections to the proposed amendments to the rules since no inquiries have been made.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

There have been no Attorney General opinions or judicial rulings relevant to these rules.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

There are no anticipated increases or decreases in state and local government revenues and expenditures resulting from promulgation of the proposed rules and amendments to the existing rules.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Larry Hunt, Manager, Standards & Procedures, Division of Occupational Safety and Health, is the agency representative most knowledgeable about these rules.

(H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Tennessee Department of Labor and Workforce Development
Division of Occupational Safety and Health
220 French Landing Drive
Nashville, TN 37243-1002
(615) 741-7036
email: larry.hunt@tn.gov

(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

Proposed Amendments with Changes Red-Lined

Chapter 0800-01-03

Rule 0800-01-03-.02 Amended

Paragraph (3)(a)(1) of Rule 0800-01-03-.02 Scope is amended as follows:

Existing Rule:

1. If your business establishment is classified in a specific ~~low hazard retail, service, finance, insurance or real estate industry listed in Appendix A of Rule 0800-1-3-.02(4), you do not need to keep TOSHA injury and illness records unless the government asks you to keep the records under Rule 0800-1-3-.05(3) or Rule 0800-1-3-.05(4). However, all employers must report to TOSHA any workplace incident that results in a fatality or the hospitalization of three or more employees [see Rule 0800-1-3-.05(1)].~~

Proposed Amended Rule:

1. If your business establishment is classified in a specific industry group listed in Appendix A of Rule 0800-01-03-.02(4), you do not need to keep TOSHA injury and illness records unless the government asks you to keep the records under Rule 0800-01-03-.05(3) or Rule 0800-01-03-.05(4). However, all employers must report to TOSHA any workplace incident that results in an employee's fatality, in-patient hospitalization, amputation, or loss of an eye [see Rule 0800-01-03-.05(1)].

Chapter 0800-01-03

Rule 0800-01-03-.02 Amended

Paragraph (3)(b)(1) of Rule 0800-01-03-.02 Scope is amended as follows:

Existing Rule:

1. ~~Does the partial industry classification exemption apply only to business establishments in the retail, services, finance, insurance or real estate industries (SICs 52-89)? Yes, business establishments classified in agriculture; mining; construction; manufacturing; transportation; communication, electric, gas and sanitary services; or wholesale trade are not eligible for the partial industry classification exemption.~~

Proposed Amended Rule:

1. Is the partial industry classification exemption based on the industry classification of my entire company or on the classification of individual business establishments operated by my company? The partial industry classification exemption applies to individual business establishments. If a company has several business establishments engaged in different classes of business activities, some of the company's establishments may be required to keep records, while others may be partially exempt.

Chapter 0800-01-03

Rule 0800-01-03-.02 Amended

Paragraph (3)(b)(2) of Rule 0800-01-03-.02 Scope is amended as follows:

Existing Rule:

2. ~~Is the partial industry classification exemption based on the industry classification of my entire company or on the classification of individual business establishments operated by my company? The partial industry classification exemption applies to individual business establishments. If a company has several business establishments engaged in different classes of business activities, some of the company's establishments may be required to keep records, while others may be exempt.~~

Proposed Amended Rule:

2. How do I determine the correct NAICS code for my company or for individual establishments? You determine your NAICS code by using one of three methods:
 - (i) You can use the search feature at the U.S. Census Bureau NAICS main webpage: <http://www.census.gov/eos/www/naics/>. In the search box for the most recent NAICS, enter a keyword that describes your kind of business. A list of primary business activities containing that keyword and the corresponding NAICS codes will appear. Choose the one that most closely corresponds to your primary business activity, or refine your search to obtain other choices.
 - (ii) Rather than searching through a list of primary business activities, you may also view the most recent complete NAICS structure with codes and titles by clicking on the link for the most recent NAICS on the U.S. Census Bureau NAICS main webpage: <http://www.census.gov/eos/www/naics/>. Then click on the two-digit Sector code to see all the NAICS codes under that Sector. Then choose the six-digit code of your interest to see the corresponding definition, as well as cross-references and index items, when available.
 - (iii) If you know your old SIC code, you can also find the appropriate 2002 NAICS code by using the detailed conversion (concordance) between the 1987 SIC and 2002 NAICS available in Excel format for download at the "Concordances" link at the U.S. Census Bureau NAICS main webpage: <http://www.census.gov/eos/www/naics/>. You may also contact your nearest TOSHA office for help in determining your NAICS Code.

Chapter 0800-01-03

Rule 0800-01-03-.02 Amended

Paragraph (3)(b)(3) of Rule 0800-01-03-.02 Scope is amended as follows:

Existing Rule:

- ~~3. How do I determine the Standard Industrial Classification code for my company or for individual establishments? You determine your Standard Industrial Classification (SIC) code by using the Standard Industrial Classification Manual, Executive Office of the President, Office of Management and Budget. You may contact your nearest TOSHA office for help in determining your SIC.~~

Proposed Amended Rule:

DELETED

Chapter 0800-01-03

Rule 0800-01-03-.02 Amended

Paragraph (3)(b)(4) of Rule 0800-01-03-.02 Scope is amended as follows:

Existing Rule:

4. Keeping records for more than one agency. If you create records to comply with another government agency's injury and illness recordkeeping requirements, TOSHA will consider those records as meeting TOSHA's recordkeeping requirements if the other agency's records contain the same information as this rule requires you to record. You may contact your nearest TOSHA office for help in determining whether your records meet TOSHA's requirements.

~~Non-Mandatory Appendix A – Partially Exempt Industries. Employers are not required to keep TOSHA injury and illness records for any establishment classified in the following Standard Industrial Classification (SIC) codes, unless they are asked in writing to do so by TOSHA or the Bureau of Labor Statistics (BLS). All employers, including those partially exempted by reason of company size or industry classification, must report to TOSHA any workplace incident that results in a fatality or the hospitalization of three or more employees [see Rule 0800-1-3-.05(1)].~~

SIC Code	Industry Description	SIC Code	Industry Description
525	Hardware Stores	725	Shoe Repair and Shoeshine Parlors
542	Meat and Fish Markets	726	Funeral Service and Crematories
544	Candy, Nut, and Confectionery Stores	729	Miscellaneous Personal Services
545	Dairy Products Stores	731	Advertising Services
546	Retail Bakeries	732	Credit Reporting and Collection Services
549	Miscellaneous Food Stores	733	Mailing, Reproduction, & Stenographic Services
551	New and Used Car Dealers	737	Computer and Data Processing

			Services
552	Used Car Dealers	738	Miscellaneous Business Services
554	Gasoline Service Stations	764	Reupholstery and Furniture Repair
557	Motorcycle Dealers	78	Motion Picture
56	Apparel and Accessory Stores	791	Dance Studios, Schools, and Halls
573	Radio, Television, & Computer Stores	792	Producers, Orchestras, Entertainers
58	Eating and Drinking Places	793	Bowling Centers
591	Drug Stores and Proprietary Stores	801	Offices & Clinics Of Medical Doctors
592	Liquor Stores	802	Offices and Clinics Of Dentists
594	Miscellaneous Shopping Goods Stores	803	Offices Of Osteopathic Physicians
599	Retail Stores, Not Elsewhere Classified	804	Offices Of Other Health Practitioners
60	Depository Institutions (banks & savings institutions)	807	Medical and Dental Laboratories
61	Nondepository Institutions (credit institutions)	809	Health and Allied Services, Not Elsewhere Classified
62	Security and Commodity Brokers	81	Legal Services
63	Insurance Carriers	82	Educational Services (schools, colleges, universities and libraries)
64	Insurance Agents, Brokers, & Services	832	Individual and Family Services
653	Real Estate Agents and Managers	835	Child Day Care Services
654	Title Abstract Offices	839	Social Services, Not Elsewhere Classified
67	Holding and Other Investment Offices	841	Museums and Art Galleries
722	Photographic Studios, Portrait	86	Membership Organizations
723	Beauty Shops	87	Engineering, Accounting, Research, Management, and Related Services
724	Barber Shops	899	Services, not elsewhere classified

Proposed Amended Rule:

- Keeping records for more than one agency. If you create records to comply with another government agency's injury and illness recordkeeping requirements, TOSHA will consider those records as meeting TOSHA's recordkeeping requirements if the other agency's records contain the same information as this rule requires you to record. You may contact your nearest TOSHA office for help in determining whether your records meet TOSHA's requirements.

Non-Mandatory Appendix A - Partially Exempt Industries. Employers are not required to keep TOSHA injury and illness records for any establishment classified in the following North American Industry Classification System (NAICS) codes, unless they are asked in writing to do so by TOSHA or the Bureau of Labor Statistics (BLS). All employers, including those partially exempted by reason of company size or industry classification, must report to TOSHA any employee's fatality, in-patient hospitalization, amputation, or loss of an eye [see Rule 0800-01-03-05(1)].

NAICS Code	Industry
------------	----------

4412	Other Motor Vehicle Dealers
4431	Electronics and Appliance Stores
4461	Health and Personal Care Stores
4471	Gasoline Stations
4481	Clothing Stores
4482	Shoe Stores
4483	Jewelry, Luggage, and Leather Goods Stores
4511	Sporting Goods, Hobby, and Musical Instrument Stores
4512	Book, Periodical, and Music Stores
4531	Florists
4532	Office Supplies, Stationery, and Gift Stores
4812	Nonscheduled Air Transportation
4861	Pipeline Transportation of Crude Oil
4862	Pipeline Transportation of Natural Gas
4869	Other Pipeline Transportation
4879	Scenic and Sightseeing Transportation, Other
4885	Freight Transportation Arrangement
5111	Newspaper, Periodical, Book, and Directory Publishers
5112	Software Publishers
5121	Motion Picture and Video Industries
5122	Sound Recording Industries
5151	Radio and Television Broadcasting
5172	Wireless Telecommunications Carriers (except Satellite)
5173	Telecommunications Resellers
5179	Other Telecommunications
5181	Internet Service Providers and Web Search Portals
5182	Data Processing, Hosting, and Related Services
5191	Other Information Services
5211	Monetary Authorities - Central Bank
5221	Depository Credit Intermediation
5222	Nondepository Credit Intermediation
5223	Activities Related to Credit Intermediation
5231	Securities and Commodity Contracts Intermediation and Brokerage
5232	Securities and Commodity Exchanges
5239	Other Financial Investment Activities
5241	Insurance Carriers
5242	Agencies, Brokerages, and Other Insurance Related Activities
5251	Insurance and Employee Benefit Funds
5259	Other Investment Pools and Funds
5312	Offices of Real Estate Agents and Brokers
5331	Lessors of Nonfinancial Intangible Assets (except Copyrighted Works)
5411	Legal Services
5412	Accounting, Tax Preparation, Bookkeeping, and Payroll Services
5413	Architectural, Engineering, and Related Services

5414	Specialized Design Services
5415	Computer Systems Design and Related Services
5416	Management, Scientific, and Technical Consulting Services
5417	Scientific Research and Development Services
5418	Advertising and Related Services
5511	Management of Companies and Enterprises
5611	Office Administrative Services
5614	Business Support Services
5615	Travel Arrangement and Reservation Services
5616	Investigation and Security Services
6111	Elementary and Secondary Schools
6112	Junior Colleges
6113	Colleges, Universities, and Professional Schools
6114	Business Schools and Computer and Management Training
6115	Technical and Trade Schools
6116	Other Schools and Instruction
6117	Educational Support Services
6211	Offices of Physicians
6212	Offices of Dentists
6213	Offices of Other Health Practitioners
6214	Outpatient Care Centers
6215	Medical and Diagnostic Laboratories
6244	Child Day Care Services
7114	Agents and Managers for Artists, Athletes, Entertainers, and Other Public Figures
7115	Independent Artists, Writers, and Performers
7213	Rooming and Boarding Houses
7221	Full-Service Restaurants
7222	Limited-Service Eating Places
7224	Drinking Places (Alcoholic Beverages)
8112	Electronic and Precision Equipment Repair and Maintenance
8114	Personal and Household Goods Repair and Maintenance
8121	Personal Care Services
8122	Death Care Services
8131	Religious Organizations
8132	Grantmaking and Giving Services
8133	Social Advocacy Organizations
8134	Civic and Social Organizations
8139	Business, Professional, Labor, Political, and Similar Organizations

Chapter 0800-01-03

Rule 0800-01-03-.02 Amended

Paragraph (1) of Rule 0800-01-03-.05 Reporting Fatality, Injury and Illness Information is amended as follows:

Existing Rule:

- ~~(1) Reporting fatalities and multiple hospitalization incidents to TOSHA.~~
 - ~~(a) Basic requirement. Within eight (8) hours after the death of any employee from a work-related incident or the in-patient hospitalization of three or more employees as a result of a work-related incident, you must orally report the fatality/multiple hospitalization by telephone or in person to the Area Office of TOSHA, Tennessee Department of Labor and Workforce Development, that is nearest to the site of the incident. You may also use the TOSHA toll-free central telephone number, 1-800-249-8510.~~
 - ~~(b) Implementation.~~
 - ~~1. If the Area Office is closed, may I report the incident by leaving a message on TOSHA's answering machine, faxing the Area Office, or sending an e-mail? No, if you can't talk to a person at the Area Office, you must report the fatality or multiple hospitalization incident using the 800 number.~~
 - ~~2. What information do I need to give to TOSHA about the incident? You must give TOSHA the following information for each fatality or multiple hospitalization incident:~~
 - ~~(i) The establishment name;~~
 - ~~(ii) The location of the incident;~~
 - ~~(iii) The time of the incident;~~
 - ~~(iv) The number of fatalities or hospitalized employees;~~
 - ~~(v) The names of any injured employees;~~
 - ~~(vi) Your contact person and his or her phone number; and~~
 - ~~(vii) A brief description of the incident.~~
 - ~~3. Do I have to report every fatality or multiple hospitalization incident resulting from a motor vehicle accident? No, you do not have to report all of these incidents. If the motor vehicle accident occurs on a public street or highway, and does not occur in a construction work zone, you do not have to report the incident to TOSHA. However, these injuries must be recorded on your TOSHA injury and illness records, if you are required to keep such records.~~
 - ~~4. Do I have to report a fatality or multiple hospitalization incident that occurs on a commercial or public transportation system? No, you do not have to call TOSHA to report a fatality or multiple hospitalization incident~~

~~if it involves a commercial airplane, train, subway or bus accident. However, these injuries must be recorded on your TOSHA injury and illness records, if you are required to keep such records.~~

- ~~5. Do I have to report a fatality caused by a heart attack at work? Yes, your local TOSHA Area Office supervisor will decide whether to investigate the incident, depending on the circumstances of the heart attack.~~
- ~~6. Do I have to report a fatality or hospitalization that occurs long after the incident? No, you must only report each fatality or multiple hospitalization incident that occurs within thirty (30) days of an incident.~~
- ~~7. What if I don't learn about an incident right away? If you do not learn of a reportable incident at the time it occurs and the incident would otherwise be reportable under subparagraphs (a) and (b) of paragraph (1) of this rule, you must make the report within eight (8) hours of the time the incident is reported to you or to any of your agent(s) or employee(s).~~

Proposed Amended Rule:

(1) Reporting fatalities and multiple hospitalization incidents to TOSHA.

(a) Basic requirement.

1. Within eight (8) hours after the death of any employee as a result of a work-related incident, you must report the fatality to the TOSHA Division of the Tennessee Department of Labor and Workforce Development.
2. Within twenty-four (24) hours after the in-patient hospitalization of one or more employees or an employee's amputation or an employee's loss of an eye, as a result of a work-related incident, you must report the in-patient hospitalization, amputation, or loss of an eye to TOSHA.
3. You must report the fatality, in-patient hospitalization, amputation, or loss of an eye using one of the following methods:
 - (i) By telephone or in person to the TOSHA Area Office that is nearest to the site of the incident.
 - (ii) By telephone to the TOSHA toll-free central telephone number, 1-800-249-8510.
 - (iii) By electronic submission using the reporting application located on OSHA's public website at www.osha.gov.

(b) Implementation.

1. If the Area Office is closed, may I report the fatality, in-patient hospitalization, amputation, or loss of an eye by leaving a message on TOSHA's answering machine, faxing the Area Office, or sending an e-mail? No, if the Area Office is closed, you must report the fatality, in-patient hospitalization, amputation, or loss of an eye using either the 800 number or the reporting application located on OSHA's public website at www.osha.gov.

2. What information do I need to give to TOSHA about the in-patient hospitalization, amputation, or loss of an eye? You must give TOSHA the following information for each fatality, in-patient hospitalization, amputation, or loss of an eye:
- (i) The establishment name;
 - (ii) The location of the work-related incident;
 - (iii) The time of the work-related incident;
 - (iv) The type of reportable event (i.e., fatality, in-patient hospitalization, amputation, or loss of an eye);
 - (v) The number of employees who suffered a fatality, in-patient hospitalization, amputation, or loss of an eye;
 - (vi) The names of the employees who suffered a fatality, in-patient hospitalization, amputation, or loss of an eye;
 - (vii) Your contact person and his or her phone number; and
 - (viii) A brief description of the work-related incident.
3. Do I have to report the fatality, in-patient hospitalization, amputation, or loss of an eye if it resulted from a motor vehicle accident on a public street or highway? If the motor vehicle accident occurred in a construction work zone, you must report the fatality, in-patient hospitalization, amputation, or loss of an eye. If the motor vehicle accident occurred on a public street or highway, but not in a construction work zone, you do not have to report the fatality, in-patient hospitalization, amputation, or loss of an eye to TOSHA. However, the fatality, in-patient hospitalization, amputation, or loss of an eye must be recorded on your OSHA injury and illness records, if you are required to keep such records.
4. Do I have to report the fatality, in-patient hospitalization, amputation, or loss of an eye if it occurred on a commercial or public transportation system? No, you do not have to report the fatality, in-patient hospitalization, amputation, or loss of an eye to TOSHA if it occurred on a commercial or public transportation system (e.g., airplane, train, subway, or bus). However, the fatality, in-patient hospitalization, amputation, or loss of an eye must be recorded on your OSHA injury and illness records, if you are required to keep such records.
5. Do I have to report a work-related fatality or in-patient hospitalization caused by a heart attack? Yes, your local TOSHA Area Office supervisor will decide whether to investigate the event, depending on the circumstances of the heart attack.
6. What if the fatality, in-patient hospitalization, amputation, or loss of an eye does not occur during or right after the work-related incident? You must only report a fatality to TOSHA if the fatality occurs within thirty (30) days of the work-related incident. For an in-patient hospitalization, amputation, or loss of an eye, you must only report the event to TOSHA

if it occurs within twenty-four (24) hours of the work-related incident. However, the fatality, in-patient hospitalization, amputation, or loss of an eye must be recorded on your OSHA injury and illness records, if you are required to keep such records.

7. What if I don't learn about a reportable fatality, in-patient hospitalization, amputation, or loss of an eye right away? If you do not learn about a reportable fatality, in-patient hospitalization, amputation, or loss of an eye at the time it takes place, you must make the report to TOSHA within the following time period after the fatality, in-patient hospitalization, amputation, or loss of an eye is reported to you or to any of your agent(s): eight (8) hours for a fatality, and twenty-four (24) hours for an in-patient hospitalization, an amputation, or a loss of an eye.
8. What if I don't learn right away that the reportable fatality, in-patient hospitalization, amputation, or loss of an eye was the result of a work-related incident? If you do not learn right away that the reportable fatality, in-patient hospitalization, amputation, or loss of an eye was the result of a work-related incident, you must make the report to TOSHA within the following time period after you or any of your agent(s) learn that the reportable fatality, in-patient hospitalization, amputation, or loss of an eye was the result of a work-related incident: eight (8) hours for a fatality, and twenty-four (24) hours for an in-patient hospitalization, an amputation, or a loss of an eye.
9. How does TOSHA define "in-patient hospitalization"? TOSHA defines in-patient hospitalization as a formal admission to the in-patient service of a hospital or clinic for care or treatment.
10. Do I have to report an in-patient hospitalization that involves only observation or diagnostic testing? No, you do not have to report an in-patient hospitalization that involves only observation or diagnostic testing. You must only report to TOSHA each in-patient hospitalization that involves care or treatment.
11. How does TOSHA define "amputation"? An amputation is the traumatic loss of a limb or other external body part. Amputations include a part, such as a limb or appendage, that has been severed, cut off, amputated (either completely or partially); fingertip amputations with or without bone loss; medical amputations resulting from irreparable damage; amputations of body parts that have since been reattached. Amputations do not include avulsions, enucleations, degloving, scalping, severed ears, or broken or chipped teeth.