

A 30-year-old man was struck by a tree while operating an excavator to break down trees and place them into a pile for burning. The victim was operating the excavator backwards, with the cab in the reverse position, facing the tree pile. The controls are then operated in the reverse position. It appears a horizontal broken tree penetrated the bottom portion of the cab where the shifter controls are located, jamming the “reverse” control into the forward direction, propelling the excavator forward. Another horizontal tree positioned approximately 6 feet off the ground, penetrated the upper portion of the cab, breaking through the guarding on the front of the cab and crushing the victim.

**Citation(s) as Originally Issued**

A complete inspection was conducted at the accident scene. Some of the items cited may not directly relate to the fatality.

Citation 1 Item 1 Type of Violation: **Serious**

29 CFR 1926.50(c): In the absence of an infirmary, clinic, hospital, or physician that is reasonably accessible in terms of time and distance to the worksite, which is available for the treatment of injured employees, a person who has a valid certificate in first-aid training from the U.S. Bureau of Mines, the American Red Cross, or equivalent training that can be verified by documentary evidence, was not available at the worksite to render first aid.

In that in two instances, the employer did not ensure adequate first aid treatment was provided:  
a) first aid-trained personnel were not provided in locations where emergency care was not readily available within 3-4 minutes of the work site, and the nearest medical facility, Ascension Saint Thomas Urgent Care, located at 1144 Fortress Blvd K, Murfreesboro, Tennessee, 37128, was 10.7 miles (approximately 16 minutes) from the work site.  
b) No first aid kits were provided for employees out in the field.

**Proposed Penalty: \$700.00**

Citation 2 Item 1 Type of Violation: **Other-than-Serious**

TDLWD Rule 0800-01-03-.03(27)(a): The log of all work-related injuries and illnesses (OSHA Form 300), and/or the summary of work-related injuries and illnesses (OSHA Form 300-A), and/or the injury and illness incident report (OSHA Form 301) or equivalent forms were not maintained by the establishment:

In that the employer was not maintaining OSHA 300 logs despite having recordable injuries in 2022 and 2023.

**Proposed Penalty: \$200.00**

15 Struck By—Insp #1764554 Gaines Construction Co. LLC

