



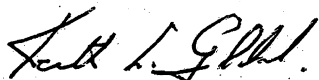
"...In the final rule, (paragraph 1904.5(b)(1)) the same concept is carried forward in the definition of the work environment, which defines the environment as including the establishment and any other location where one or more employees are working or are present as a condition of their employment." 66 Federal Register 5960.

As an example, the work-environment presumption clearly applies to the case of a delivery driver who experiences an injury to his or her back while loading boxes and transporting them into a building. The worker is engaged in a work activity and the injury resulted from an event -- loading/unloading -- occurring in the work environment. Similarly, if an employee is injured in an automobile accident while running errands for the company or traveling to make a speech on behalf of the company, the employee is present at the scene as a condition of employment, and any resulting injury would be work-related.

OSHA recordkeeping decisions are based on the criteria set forth in Part 1904. In making recordkeeping decisions, the degree of fault associated to the employer or employee for a given injury/illness is not considered. Likewise, the degree of fault by a third party is not a factor under Part 1904. See, the Note to Subpart A of the Part 1904 regulation, and the OSHA Form 300.

Thank you for your interest in occupational safety and health. We hope you find this information helpful. OSHA requirements are set by statute, standards, and regulations. Our interpretation letters explain these requirements and how they apply to particular circumstances, but they cannot create additional employer obligations. This letter constitutes OSHA's interpretation of the requirements discussed. Note that our enforcement guidance may be affected by changes to OSHA rules. Also, from time to time we update our guidance in response to new information. To keep apprised of such developments, you can consult OSHA's website at <http://www.osha.gov>. If you have any further questions, please contact OSHA's Office of Statistical Analysis at (202) 693-1875.

Sincerely,



Keith L. Goddard, Director  
Directorate of Evaluation and Analysis