

■ **Standard Number:** 1904.5 ; 1904.5(b)(6)

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 <https://www.osha.gov>.

January 4, 2022

Mr. Stephen A. Newell
NSC | ORCHSE
2021 L Street NW, Suite 101-357
Washington, DC 20036

Dear Mr. Newell:

Thank you for your letter to the Occupational Safety and Health Administration (OSHA) regarding the recordkeeping regulation contained in 29 CFR Part 1904 – Recording and Reporting Occupational Injuries and Illnesses. Specifically, you request clarification on whether an employee's injury would be considered work-related when involved in a motor vehicle accident.

Scenario: As part of their normal workday, an employee commutes in his personally-owned vehicle from home to the workplace. At the end of his 8-hour work-shift, the employee commutes from the workplace to his home. Later that same day, there is an emergency at the workplace, and the employee's supervisor calls him to return to work to assist with resolving the emergency. The employee starts driving back to the workplace, but is involved in a motor vehicle accident with another car. The accident results in the employee sustaining an injury and hospitalization.

Question: Is the employee's injury resulting from the accident during the second trip back to the workplace a recordable injury?

Response: OSHA's recordkeeping regulation at 29 CFR 1904.5(a) provides that an injury or illness must be considered work-related if an event or exposure in the work environment caused or contributed to the injury or illness or significantly aggravated a pre-existing injury or illness. Section 1904.5(b)(1) defines the work environment as the establishment and other locations where one or more employees are working or are present as a condition of their employment. Work-relatedness is presumed under Part 1904 for injuries and illnesses resulting from events or exposures occurring in the work environment, unless an exception in Section 1904.5(b)(2) specifically applies.

For purposes of Part 1904, OSHA's longstanding position is that injuries and illnesses that occur during an employee's normal commute from home to work, and from work to home, are not work-related and therefore not recordable. See, the preamble to OSHA's January 19, 2001, final rule revising the recordkeeping regulation (66 Federal Register 5916 at 5960). When an employee is traveling during their normal commute between home and work, that employee is not in the work environment, nor is that employee performing a work activity in the interest of the employer. Instead, the employee's normal commute to and from work represents a non-work-related activity that is within the personal control of the employee. The employee's normal commute from home to work ends once the employee arrives at the work environment or starts traveling "in the interest of the employer." See, OSHA's March 17, 2021, letter of interpretation to Elizabeth Treanor.

Additionally, section 1904.5(b)(6) provides that injuries and illnesses that occur when an employee is on travel status are work-related if, at the time of the injury or illness, the employee was engaged in work activities "in the interest of the employer." For example, travel to and from customer contacts, conducting job tasks, and entertaining or being entertained to transact, discuss, or promote business.

In the scenario described in your letter, the employee had completed his normal commute to and from work for the day, and was directed back to the workplace by the employer to assist with a work-related emergency. Since the employee was required to return to the workplace outside of his normal commute, the employee was engaged in a work activity "in the interest of the employer," and was traveling as a "condition of employment." Accordingly, the resulting injury and hospitalization is work-related and must be recorded on the OSHA 300 log.

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 responses to new information. To keep apprised of such developments, you can consult OSHA's website at <http://www.osha.gov>.

Sincerely,

Lee Anne Jillings, Director
Directorate of Technical Support and Emergency Management

UNITED STATES DEPARTMENT OF LABOR

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