

**U.S. Department of Labor**

Assistant Secretary for  
Occupational Safety and Health  
Washington, D.C. 20210



OCT 21 2005

The Honorable Joseph K. Knollenberg  
U.S. House of Representatives  
Washington, DC 20515-2209

Dear Congressman Knollenberg:

Your letter of April 28, 2005, requests clarification of OSHA's position on whether temporary staffing companies may assume responsibility for recording the injuries and illnesses experienced by their employees at the host firm's establishment. You are concerned that allowing temporary staffing companies to keep the OSHA logs on behalf of their clients would jeopardize the integrity of the data and be contrary to longstanding Agency policy.

29 CFR 1904.319(b)(2) of the Recordkeeping rule requires that the host employer record the injuries and illnesses of the workers it obtains from a temporary staffing company if the host employer supervises these workers on a day-to-day basis. Day to day supervision occurs when, in addition to specifying the output, product or result to be accomplished, the host employer supervises the details, means, methods and processes by which the work is to be accomplished. Therefore, the question of whether the host firm or the temporary staffing company must keep the OSHA log for temporary workers depends upon the arrangements the parties make for daily supervision of the manner in which the work is to be performed.

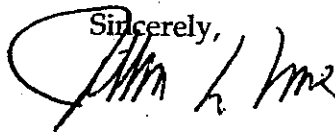
In the typical case in which the host firm obtains workers from a temporary staffing agency to perform tasks under the supervision of the host's own supervisors, the host must record the injuries and illnesses of the temporary workers. This follows even if the temporary staffing company provides one or more on-site supervisors to handle administrative and general management functions, such as payroll, benefits adjustments, general training and the like. Furthermore, the responsibility to keep OSHA injury and illness records cannot be shifted by the parties' consent. The host firm remains liable for violations of recordkeeping requirements related to temporary workers it supervises regardless of the parties' contractual arrangements for keeping the OSHA log.

On the other hand, the parties may agree to have the temporary staffing company provide day-to-day supervision over the details, means, methods and processes by which the work is accomplished at the host establishment. In this event, it sensible to require the temporary staffing company keep the OSHA log because the staffing company will have greater familiarity with the work tasks and injuries occurring as a result of their performance.

In response to your request, I have reiterated OSHA policy concerning recordkeeping for host employers and temporary staffing firms to OSHA's Regional Administrators.

I hope I have clarified OSHA's position on this important issue. If you have further questions, please contact me.

Sincerely,

A handwritten signature in dark ink, appearing to read 'J. Snare', written over a large, loopy circular flourish.

Jonathan L. Snare  
Acting Assistant Secretary