

U.S. Department of Labor

Occupational Safety and Health Administration
Washington, D.C. 20210



NOV 01 2012

Reply to the attention of:

Robert M. Greathouse
Energy Solutions
176 Central Park Square
Los Alamos, NM 87544

Dear Mr. Greathouse:

Thank you for your November 21, 2011 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. In an effort to provide the public with prompt and accurate responses, we developed and continue to refine a set of Frequently Asked Questions (FAQ), in addition to maintaining a log of Letters of Interpretation (LOI) on the OSHA Recordkeeping web site.

Your letter requests clarification on the work relationship of pre-existing or known medical conditions. Specifically, you ask about the recordability of a bee sting at work when the employee has a pre-existing allergy to bee stings. You also request that OSHA reconsider the use and implications of pre-existing or known medical conditions when determining the work-relatedness of injuries and illnesses.

Scenario: An employee, with a known pre-existing allergy to bee stings, was stung by a bee at work and self-administered his Epipen. Because the Epipen was a prescription medication, the injury was recorded on the OSHA 300 log as "medical treatment."

You point out in your letter that OSHA has a work-related exception in the recordkeeping regulation for injuries and illnesses that involve pre-existing medical conditions such as diabetes, epilepsy, or narcolepsy. See, Section 1904.5(b)(2)(ii). You also note that OSHA does not consider an injury or illness to be work-related when an employee has an allergic reaction (food allergy) at a company provided lunch while attending a meeting. See, Section 1904.5(b)(2)(iv). Based on these examples, you believe that if an employee has a pre-existing allergy to bee stings, and is stung by a bee at work, the case should not be considered work-related.

Response: OSHA's regulation at Section 1904.5, Determination of work-relatedness, states:

"You must consider an injury or illness to be work-related if an event or exposure in the work environment either caused or contributed to the resulting condition or significantly aggravated a pre-existing injury or illness. Work-relatedness is presumed 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."

Section 1904.5(b)(2)(ii) provides an exception if an injury or illness involves signs or symptoms that surface at work but result solely from a non-work-related event or exposure that occurs outside the work environment.

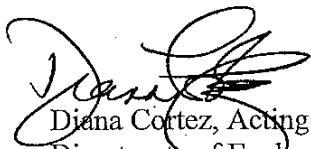
Section 1904.5(b)(2)(iv) provides an exception if an injury or illness is solely the result of an employee eating, drinking or preparing food or drink for personal consumption (whether bought on the employer's premises or brought in). This work-related-exception does not apply to a bee sting because it only relates to eating, drinking or preparing food or drink. For example, if the employee is injured by choking on a sandwich while in the employer's establishment, the case would not be considered work-related.

The employee bee sting described in your letter is recordable under OSHA's recordkeeping regulation. In order for the exception in Section 1904.5(b)(2)(ii) to apply, the injury or illness must result solely from a non-work-related event or exposure. Under your scenario, the bee sting at work contributed to the resulting injury, and therefore the case is work-related. Also, we note that Section 1904.5(b)(2) does not include an exception for animal bites, insect bites, or bee stings at work.

Please understand that the exemptions to work-relatedness in Section 1904.5(b)(2) are finite and were developed through the rulemaking process. Determination of work-relatedness must be made using the definitions that are currently in place.

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

Sincerely,



Diana Cortez, Acting Director
Directorate of Evaluation and Analysis