



U.S. Department of Labor
Occupational Safety & Health Administration

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Standard Interpretations

02/06/2002 - OSHA's no-fault recordkeeping system requires recording work-related injuries and illnesses, regardless of the level of employer control or non-control involved.

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• **Standard Number:** 1904.5(a); 1904.5(b)(3); 1904.5(b)(4)

Beth Nelson
State of Wyoming
Department of Employment
Cheyenne Business Center
1510 East Pershing Blvd.
Cheyenne, Wyoming 82002

Dear Ms. Nelson:

This is in response to your letter dated August 14, 2002. Thank you for your comments pertaining to the Occupational Safety and Health Administration's (OSHA) Injury and Illness Recording and Reporting Requirements contained in 29 CFR Part 1904.

OSHA revised its injury and illness recordkeeping requirements under the following rulemaking procedures. On February 2, 1996, the agency published a notice of proposed rulemaking (NPRM) requesting public comment on the proposed revision to the recordkeeping requirements. OSHA received more than 450 comments and held six days of public meetings. OSHA analyzed all information from the public meetings and developed its final rule based upon that analysis. On January 19, 2001, OSHA published its final rule.

Specifically, you ask OSHA to reconsider requiring employers to record and report work-related fatalities, injuries and illnesses incurred due to no fault of the employer or employee. You also provide an example of a case that illustrates your concerns. We are assuming that the auto accident in your example meets OSHA's definition of work-relatedness. In the final rule, OSHA notes that many circumstances that lead to a recordable work-related injury or illness are "beyond the employer's control." Nevertheless, because such an injury or illness was caused, contributed to, or significantly aggravated by an event or exposure at work, it must be recorded on the OSHA form (assuming that it meets one or more of the recording criteria and does not qualify for an exception to the geographic presumption). This approach is consistent with the no-fault recordkeeping system OSHA has historically adopted, which includes work-related injuries and illnesses, regardless of the level of employer control or non-control involved. The concept of fault has never been a consideration in any recordkeeping system of the U.S. Department of Labor. Both the Note to Subpart A of the final rule and the new OSHA Form 300 expressly state that recording a case does not indicate fault, negligence, or compensability. In addition, OSHA recognizes that injury and illness rates do not necessarily indicate a lack of interest in safety and health or success or failure per se. OSHA feels it is to the benefit of all parties to go beyond the numbers and look at an employer's safety and health program.


I hope that you find this information useful. Thank you for your interest in occupational safety and health and OSHA. If you have any further questions, please contact the Division

of Recordkeeping Requirements, at 202-693-1702

Sincerely,

John L. Henshaw

cc: Adam Finkel, Regional Administrator
Steve Foster, Wyoming OSHA Program Manager

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