

## Standard Interpretations

/ Determining the recordability of an illness when an employee uses a rescue inhaler following an exposure in the work place.

▪ **Standard Number:** 1904.5 ; 1904.7

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>.

March 17, 2021

Mr. Bryan D. LeMoine  
2730 North Ballas Road, Suite 200  
P.O. Box 31901  
St. Louis, MO 63131-3039

Dear Mr. LeMoine:

Thank you for your letter to the Occupational Safety and Health Administration (OSHA) regarding the recordkeeping regulation contained in 29 CFR 1904 – Recording and Reporting Occupational Injuries and Illnesses. OSHA's Office of Statistical Analysis within the Directorate of Technical Support and Emergency Management is responsible for the administration of the OSHA injury and illness recordkeeping system. Your letter requests clarification concerning the recordability of an illness when an employee uses a rescue inhaler following exposure to fragrance in the workplace.

**Background:** In your letter, you state that an employee with non-occupational asthma and rhinitis has developed a fragrance sensitivity. This fragrance sensitivity is a symptom of the employee's non-occupational asthma. The employee takes medication on a daily basis to treat the asthma and self-medicates with a rescue inhaler prescribed by his personal physician. Since developing the fragrance sensitivity in June 2018, the employee has reported exposure to fragrance in the workplace, which resulted in symptoms associated with his asthma. The employee, who has been exposed to fragrance both in and out of the workplace, has missed work on one or two occasions after experiencing a more significant reaction to fragrance exposure in the workplace.

**Question 1:** Is the employee's use of a rescue inhaler after exposure to fragrances at work a recordable illness or injury where (1) the employee did not previously experience a recorded injury or illness of the same type (e.g., the employee's respiratory illness is not work-related), (2) the employee is self-medicating due to a non-work related condition (e.g., asthma), and (3) medical treatment was required prior to the June 2018 incident at work for the condition (e.g., asthma)?

**Response:** OSHA's recordkeeping regulation at 29 CFR 1904.5(a) provides that an employer "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." Under this section, an injury or illness is presumed work-related if, and only if, an event or exposure in the work environment is a discernible cause of the injury or illness or a significant aggravation to a pre-existing condition. The work event or exposure need be only one of the discernable causes; it need not be the sole or predominant cause. See the settlement agreement between OSHA and the National Association of Manufacturers, 66 Fed. Reg. 66,943 (Dec. 27, 2001).

Section 1904.5(b)(4) states, "A pre-existing injury or illness has been significantly aggravated, for purposes of OSHA injury and illness recordkeeping, when an event or exposure in the work environment results in . . . (iv) Medical treatment in a case where no medical treatment was needed for the injury or illness before the workplace event or exposure, or a change in medical treatment was necessitated by the workplace event or exposure." Section 1904.5(b)(5) provides that an injury or illness is a pre-existing condition if it resulted solely from a non-work-related event or exposure that occurred outside the work environment.

Based on the information in your letter, the employee has a non-work-related pre-existing illness of asthma/fragrance sensitivity. The employee developed symptoms after exposure to fragrance in the work environment in June 2018, and was treated with a rescue inhaler. The employee's pre-existing illness was significantly aggravated at the time the employee used the rescue inhaler to treat the symptoms from the workplace exposure. Since no medical treatment had been previously recorded, the June 2018 workplace exposure should have been recorded on the OSHA 300 log.

**Question 2:** Given that the fragrance sensitivity is a symptom of the employee's asthma, which is not work-related, is the use of a rescue inhaler recordable after exposure to fragrance in the workplace?

**Response:** Please see the response to Question 1. The use of a rescue inhaler to treat a work-related illness is not included on the list of first aid treatments in section 1904.7(b)(5). As a result, use of such a device to treat a work-related illness is medical treatment beyond first aid. The fact that the rescue inhaler was prescribed by the employee's personal physician to treat a non-work-related condition is not relevant in this situation because the employee also sustained an exposure and experienced symptoms in the workplace in June 2018.

**Question 3:** Given the background information above, is every use by the employee of a rescue inhaler after exposure to fragrances at work recordable as a new case, or only the first use on or about June 2018?

**Response:** Section 1904.6(a) states that the employer must consider an injury or illness to be a "new case" and evaluate for recordability if (1) the employee has not previously experienced a recorded injury or illness of the same type that affects the same part of the body, or (2) the employee previously experienced a recorded injury or illness of the same type that affected the same part of the body but had recovered completely (all signs and symptoms had disappeared) from the previous injury or illness and an event or exposure in the work environment caused the injury or illness, or its signs or symptoms, to reappear.

In the situation described in your letter, the employee has a non-work-related pre-existing condition. As noted above, section 1904.5(b)(4)(iv) provides that a pre-existing condition is significantly aggravated when an exposure in the work environment results in medical treatment in a case where no medical treatment was needed for the illness before the workplace exposure.

Accordingly, the significant aggravation of a non-work-related pre-existing condition only needs to be recorded once on the OSHA 300 log. Once a significant aggravation of a pre-existing condition has been recorded, subsequent exposures and medical treatment do not need to be recorded, unless a change in medical treatment is necessitated to treat a work-related exposure.

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.

Office of Inspector

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