



Standard Interpretations - Table of Contents

• **Standard Number:** 1904.5(b)(2)(vi)

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 <http://www.osha.gov>

March 21, 2016

Mr. Leary Jones
Balfour Beatty Construction Services
10620 Trenea St., #300
San Diego, CA 92131

Dear Mr. Jones:

Thank you for your December 11, 2015, 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 requested an interpretation regarding the work-related exception in Section 1904.5(b)(2)(vi).

Scenario:

An employee sustained an injury when his hand was caught between two objects. After receiving treatment for the injury, the employee was immediately given a post-accident drug test. The results of the drug test indicated the employee was intoxicated from alcohol. For purposes of this response, we presume the employee's injury was caused by an event at work, and meets at least one of the general recording criteria in Section 1904.7.

Question:

Does this injury meet the exemption in Section 1904.5(b)(2)(vi), given the worker was self-medicating with alcohol for his non-work related condition of alcoholism?

Response:

No. OSHA's regulation at Section 1904.5(b)(2)(vi) states "You are not required to record injuries and illnesses if the injury or illness is solely the result of personal grooming, self-medication for a non-work-related condition, or is intentionally self-inflicted." Under this exception, an employee's negative reactions to a medication brought from home to treat a non-work-related condition would not be considered a work-related illness, even though it first manifested at work. See, the preamble to the final rule revising OSHA's recordkeeping regulation, 66 Federal Register 5951, January 19, 2001.

In analyzing this question, we consulted with physicians from OSHA's Office of Occupational Medicine and Nursing. The physicians concluded that the intake of alcohol does not treat the disorder of alcoholism. Instead, drinking alcohol is a manifestation of the disorder. Accordingly, the injury described in the scenario above does not meet the exception in Section 1904.5(b)(2)(vi) for self-medication.

Please note that during the 2001 rulemaking to revise the recordkeeping regulation, several commenters suggested a work-related exception for employees engaged in illegal activities, horseplay, or failure to follow established work rules or procedures. However, in the preamble to the final rule, OSHA explained that it would not adopt this exception because excluding these injuries and illnesses would be inconsistent with OSHA's longstanding reliance on the geographic presumption to establish work-relatedness. Furthermore, the Agency believes that many of the working conditions pointed to in these comments involve occupational factors, such as the effectiveness of disciplinary policies and supervision. Thus, recording such incidents may serve to alert both the employer and employees to workplace safety and health issues. See, 66 Federal Register 5958.

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. Recordkeeping FAQs and letters of interpretation can be viewed at <http://www.osha.gov/recordkeeping/index.html>.

Sincerely,

Amanda Edens, Director
Directorate of Technical Support and Emergency Management

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