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MAY - 5 2008

Mr. Glenn S. Podonsky
U.S. Department of Energy
Washington, DC 20585

Dear Mr. Podonsky:

Thank you for your January 17, 2008 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 you 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.

Background

In your letter, you state that a security force employee at one of your field offices recently suffered a fatal heart attack shortly after completing a mandatory on-shift physical fitness training activity (treadmill interval training). You state that one month prior to his death, the employee completed an annual physical examination, including electrocardiogram and stress echocardiogram testing, which revealed no sign of coronary artery disease. We also understand from your letter that an outside medical provider concluded that the heart attack was the result of chance, not caused by work, and that it was just as likely the heart attack could have occurred at home. In addition, the death certificate indicates the employee had a pre-existing condition of acute coronary insufficiency and severe coronary arteriosclerosis at the time of his death.

You would like a clarification as to whether this case is work-related, and whether it should or should not be recorded based on the exception in 29 CFR 1904.5(b)(2)(ii), which provides that employers are not required to record "injuries and illnesses that involve signs or symptoms that surface at work but result solely from a non-work related event or exposure that occurs outside the work environment."

Response

Section 1904.5(a) of OSHA's recordkeeping regulation 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 that injuries and illnesses that result solely from non-work-related events or exposures are not recordable. For this exception to apply, the work environment cannot have caused, contributed to, or significantly aggravated the injury or illness. This exception allows an employer to exclude cases where an employee's non-work activities are the sole cause of the injury or illness. See, the preamble to the final rule revising OSHA's recordkeeping regulation, January 19, 2001, 66 Federal Register 5950-51.

The case described in your letter does not come within the exception in Section 1904.5(b)(2)(ii). The employee in question was engaged in a mandatory physical fitness training activity, which was a condition of his employment, when he suffered the fatal heart attack. Clearly, the required physical fitness training contributed to the employee's fatal heart attack. Accordingly, the fatal heart attack is work-related and therefore recordable. See, OSHA's November 30, 2005, Letter of Interpretation to Mr. Chris Korleski [Enclosed].

This information is publicly available and can be immediately retrieved from OSHA's web site at <http://www.osha.gov/recordkeeping>.

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

Sincerely,



Keith Goddard, Director
Directorate of Evaluation and Analysis