

UNITED STATES
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• **Standard Number:** 1904.5

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>

August 23, 2016

Mr. Harry Stollmack
Shawcor Inspection Services
4250 Sam Houston Pkwy. E., Ste. 180
Houston, Texas 77032

Dear Mr. Stollmack:

Thank you for your letter to the Occupational Safety and Health Administration (OSHA) regarding 29 CFR Part 1904 - Recording and Reporting Occupational Injuries and Illnesses.

Specifically, you request an interpretation regarding a motor vehicle accident instigated by a drunk driver which led to the death of two of your employees. You ask for clarification on what constitutes a workplace event or exposure for accidents that occur on a public road or highway.

Work relatedness is defined under Section 1904.5 of OSHA's recordkeeping rule. Section 1904.5(a) states, "[the 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. Work-relatedness is presumed for injuries and illnesses resulting from events or exposures occurring in the work environment...." Under this language, a case 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 of a significant aggravation to a pre-existing condition.

Under Section 1904.5(b)(1), "work environment" means the establishment and other locations where employees are working or **are present as a condition of their employment** (emphasis added).

Section 1904.5(b)(6) states injuries and illnesses that occur while an employee is on travel status are work-related if, at the time of the injury or illness, the employee was engaged in work activities "in the interest of the employer." Examples of **such activities include travel to and from customer contacts**, conducting job tasks, and entertaining or being entertained to transact, discuss, or promote business (work-related entertainment includes only entertainment activities being engaged in at the direction of the employer) (emphasis added).

You indicated in the description of the accident that your employees were traveling from your client's location in New Mexico back to their base location in Texas. Travel to and from a customer contact is specifically cited as an example of a work activity in the interest of the employer. Because the accident resulted in the death of your employees during the work activity, the two cases must be recorded on your OSHA Log.

There are many circumstances that lead to a recordable injury or illness that 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 in the work environment, it must be recorded on the OSHA 300 Log. This approach is consistent with the no-fault recordkeeping system OSHA has adopted, which includes work-related injuries and illnesses, regardless of the level of employer control or non-control involved. See FR 66 5934.

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,

UNITED STATES
DEPARTMENT OF LABOR

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