

UNITED STATES
DEPARTMENT OF LABOR

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English | Spanish

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A TO Z INDEX

ABOUT OSHA ▾ **WORKERS** ▾ **EMPLOYERS** ▾ **REGULATIONS** ▾ **ENFORCEMENT** ▾ **TOPICS** ▾ **NEWS & PUBLICATIONS** ▾ **DATA** ▾ **TRAINING** ▾

Standard Interpretations - Table of Contents

• **Standard Number:** 1904; 1904.7(b)(7); 1904.46

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>.

September 14, 2017

Nichole Winnett
Jackson Lewis P. C.
10701 Parkridge Blvd.
Suite 300
Reston, VA 20191

Dear Ms. Winnett:

Thank you for your letter to the Occupational Safety and Health Administration (OSHA) regarding the requirements contained in 29 CFR Part 1904 - Recording and Reporting Occupational Injuries and Illnesses. Your letter requests interpretation of an incident involving a work-related exposure to 15% hydrofluoric acid.

Scenario: Three employees were exposed to 15% hydrofluoric acid when an acid line with a booster pump ruptured. The employees did not immediately report signs or symptoms, and were taken off-site for medical examination. Two of the three employees subsequently complained of dyspnea (difficulty in breathing), skin irritation, irritation of the throat, and congestion. Based on the emergency room physician's initial diagnosis, the two employees did not exhibit any symptoms. They were not provided medical treatment beyond first aid and were released to full duty.

Later that same day, both employees visited an off-site medical clinic with complaints of shortness of breath, headaches, nausea, coughing, wheezing, and scratchy throat. The medical clinic physician did not find any signs or symptoms in their physical examination, but prescribed albuterol inhalers for both employees as a precautionary measure for shortness of breath.

Several days later, both employees went back to the medical clinic for a follow-up visit. The relevant portion of the physician's notes stated that the employees made no complaints of signs or symptoms.

Question: Based on the information above, did the employees sustain an injury or illness?

Response: As noted in your letter, Section 1904.46 defines an injury or illness as: "An abnormal condition or disorder for OSHA recordkeeping purposes. Injuries include cases such as, but not limited to, a cut, fracture, sprain, or amputation. Illnesses include both acute and chronic illnesses, such as, but not limited to, a skin disease, respiratory disorder, or poisoning." Pain and other symptoms that are wholly subjective are also considered an abnormal condition or disorder. There is no need for the abnormal condition to include objective signs to be considered an injury or illness. See, the preamble to OSHA's January 19, 2001 final rule revising the recordkeeping regulation (66 Federal Register 5915 at 6080).

OSHA also provides guidance for determining the existence of an injury or illness in Frequently Asked Question (FAQ) 4-1 at <https://www.osha.gov/recordkeeping/entryfaq.html>:

Question 4-1. Does an employee report of an injury or illness establish the existence of the injury or illness for recordkeeping purposes?

No. In determining whether a case is recordable, the employer must first decide whether an injury or illness, as defined by the rule, has occurred. If the employer is uncertain about whether an injury or illness has occurred, the employer may refer the employee to a physician or other health care professional for evaluation and may consider the health care professional's opinion in determining whether an injury or illness exists. [Note: If a physician or other licensed health care professional diagnoses a significant injury or illness within the meaning of §1904.7(b)(7) and the employer determines that the case is work-related, the case must be recorded.]

In your letter, you stated that neither physician determined that an injury or illness existed as a result of the exposure to the hydrofluoric acid. Therefore, the employer may rely on these opinions to conclude that no injury or illness occurred.


Question: If an injury or illness did occur, is the emergency room physician's opinion more authoritative than the medical clinic physician's opinion?

Response: As discussed above, since an injury or illness did not occur, the case is not recordable, and there is no need to evaluate whether the case meets one of the general recording criteria.


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 appraised of such developments, you can consult OSHA's website at <http://www.osha.gov>.

Sincerely,

Amanda L. Edens, Director
Directorate of Technical Support and Emergency Management

 Standard Interpretations - Table of Contents

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Frequently Asked Questions
A - Z Index
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