



MAR 30 2009

Reply to the attention of:

COPY

Mr. Jay R. Gnadt, CSP, CRM
Lockton Companies of Dallas, Inc.
1814 Childress Lane
Allen, TX 75013

Dear Mr. Gnadt:

Thank you for your February 3, 2009 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.

Scenario:

Your letter requests guidance on the following scenario:

An employee is scheduled to work from 8 AM to 5 PM on Saturday and from 8 AM to 5 PM on Sunday. The employee is considered "part time" and works only 16 hours per week on this regular weekend schedule. The employee reports an injury at 2 PM on Sunday, and is placed on restricted duty for 30 days by a physician.

Under Part 1904, should the employer count only the days that the employee was scheduled to work (weekends only) as the restricted days, or calendar days from the day the restricted work began? Also, on what day should the employer begin counting restricted days?

Response:

You would use calendar days for your count as stated in sections 1904.7(b)(3)(iv) and 1904.7(b)(4)(xi) of OSHA's recordkeeping regulation and start the count on the day after the injury. You must enter the number of calendar days recommended by the physician (30 days of restricted work activity).

On page 5972 of the January 19, 2001 preamble to the final rule revising OSHA's recordkeeping regulation, the following is stated:

Changing to a calendar day counting system will also make it easier to count days away or restricted for part-time workers, because the

difficulties of counting scheduled time off for part-time workers will be eliminated. This will, in turn, mean that the data for part-time workers will be comparable to that for full-time workers, *i.e.*, days away will be comparable for both kinds of workers, because scheduled time will not bias the counting method. Calendar day counts will also be a better measure of severity, because they will be based on the length of disability instead of being dependent on the individual employee's work schedule. This policy will thus create more complete and consistent data and help to realize one of the major goals of this rulemaking: to improve the quality of the injury and illness data.

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. In addition, from time to time we update our guidance in response to new information. To keep apprised of such developments, you can consult OSHA's web site at <http://www.osha.gov>.

Sincerely,

A handwritten signature in dark ink, appearing to read "Keith L. Goddard". The signature is fluid and cursive, with the first name "Keith" and last name "Goddard" clearly distinguishable.

Keith Goddard, Director
Directorate of Evaluation and Analysis