



JUN 11 2009

COPY

Mr. Ken Houston
Key Energy Services
13101 McKinney, Suite 1800
Houston, TX 77010

Dear Mr. Houston:

Thank you for your April 17, 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 website.

Your letter asks for an interpretation of 29 CFR 1904.5 concerning work-relatedness.

In your letter, you state that at the end of the work day at an oil well site, a salaried supervisory employee, who had changed cloths and was preparing to leave for the day, walked to the crew's truck and dropped-off the daily work report. The supervisor then started to walk to his personal vehicle to leave for home when he changed his path to pet a dog owned by a representative of the well owner. You also state that the dog was tied to a chain outside the worksite. After petting the dog, the supervisor turned to walk to his vehicle when the dog lunged at him. The supervisor pulled his forearm away, but the snapping dog made contact resulting in punctures and lacerations on the supervisor's forearm. The injury was treated with stitches and prescription medications.

Question: As the workday had ended and the supervisor left the well site/work site for his own purposes prior to the injury, should this be recorded on the 300 log?

Response: Section 1904.5(a) provides that an injury or illness must be considered work-related if an event or exposure in the work environment either caused or contributed to the injury or illness or significantly aggravated a pre-existing injury or illness. Section 1904.5(b)(1) defines the work environment as the establishment and other locations where one or more employees are working or are present as a condition of their

employment. Work relatedness is presumed under Part 1904 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.

Your letter states the employee went "outside the work site" to pet the dog. Without a clear description of the confines of the work site, it is difficult for us to make a definitive determination of whether this case is work related or not. For example, if the dog were tied up to a work trailer or some object within the oil field, but not necessarily at the well itself, this could fall within the definition of work environment and thus be considered work related. Conversely, if the dog was tied up at its owner's house which was near the well, this could be considered outside the work environment and therefore not work related.

The following guidance may prove useful in evaluating this case.

Frequently Asked Question 5-11 (found at <http://osha.gov/recordkeeping/detailedfaq.html#1904.5>) provides guidance on this issue:

Question 5-11. An employee experienced an injury or illness in the work environment before they had "clocked in" for the day. Is the case considered work related even if that employee was not officially "on the clock" for pay purposes?

Yes. For purposes of OSHA recordkeeping injuries and illnesses occurring in the work environment are considered work-related. Punching in and out with a time clock (or signing in and out) does not affect the outcome for determining work-relatedness. If the employee experienced a work-related injury or illness, and it meets one or more of the general recording criteria under section 1904.7, it must be entered on the employer's OSHA 300 log.

Furthermore, the geographic presumption (that is, an injury is work-related if it occurs in the work environment) covers cases in which an injury or illness results from activities that occur at work but that are not directly productive, such as dog bites. See the preamble to the final rule (66 *Fed. Reg.* 5916, 5929 (Jan. 19, 2001)).

If applying these principles does not provide a clear answer to your questions, please contact Clay Taylor at 202-693-1929 to discuss the exact nature of the work environment involved in this scenario.

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 website at <http://www.osha.gov>.

Sincerely,

A handwritten signature in black ink, appearing to read "Keith L. Goddard". The signature is fluid and cursive, with a large initial "K" and a long, sweeping underline.

Keith Goddard, Director
Directorate of Evaluation and Analysis