



## U.S. Department of Labor Occupational Safety & Health Administration

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### Standard Interpretations

## 06/23/2006 - No Restricted Work Available

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• **Standard Number:** 1904.7; 1904.7(b)(4)

June 23, 2006

Mr. Brian Allen  
Gold Toe Brands, Inc.  
7110 East Washington Street  
Mebane, NC 27302

Dear Mr. Allen:

Thank you for your March 24, 2006 letter concerning Occupational Safety and Health Administration's (OSHA's) injury and illness recordkeeping requirements of 29 CFR Part 1904. You requested specific guidance on recordkeeping requirements found in 1904.7(b)(4), more specifically work-related injury or illness that results in restricted work. Your question has been rephrased below.

**Question:** An employee is injured and is placed under a work restriction(s) by a physician; however, the employer does not have any available restricted work for a period of time. Should this case be classified as "Days away from work" or "Job transfer or restriction"?

**Answer:** We will assume the employer sent the employee home since there wasn't any restricted work available for the employee at the establishment. As the 1/20/2000 Federal Register preamble discussion, of section 1904.7 states, "the final rule's restricted work provisions also clarify that work restriction must be imposed by the employer or be recommended by a health care professional before the case is recordable. Only the employer has the ultimate authority to restrict an employee's work, so the definition is clear that, although a health care professional may recommend the restriction, the employer makes the final determination of whether or not the health care professional's recommended restriction involves the employee's routine functions. Restricted work assignments may involve several steps: an HCP's recommendation, or employer's determination to restrict the employee's work, the employer's analysis of jobs to determine whether a suitable job is available, and assignment of the employee to that job. All such restricted work cases are recordable, even if the health care professional allows some discretion in defining the type or duration of the restriction...."

In your above scenario, the employer was more restrictive than the physician. Since the employer sent the employee home, this injury must be recorded as "Days away from work."


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>. If you have any

further questions, please contact the OSHA's Recordkeeping Section at (202) 693-1876.

Sincerely,

Keith L. Goddard, Director  
Directorate of Evaluation and Analysis

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