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Congressional resolution limits timeframe for OSHA citations

Our [Insights for 2017](#) forecast urged employers to continually monitor the impact of regulatory changes on their operations. In line with our expectation of ongoing compliance updates throughout the year, a congressional resolution approved earlier this week limits the timeframe in which the Occupational Safety and Health Administration (OSHA) can penalize employers for violating its requirements to make and maintain records of workplace injuries and illnesses.

On April 3, 2017, President Donald Trump signed into the law [H.J. Resolution 83](#), which nullifies the Department of Labor rule titled “Clarification of Employer’s Continuing Obligation to Make and Maintain an Accurate Record of Each Recordable Injury and Illness” (see [81 Federal Register 91792](#)). The DOL rule, which served to clarify employers’ ongoing obligations regarding those records, was issued in response to the U.S. District Court decision in [Volks Constructors v. Secretary of Labor](#). The court stated:

OSHA cited and fined petitioner Volks Constructors for failing to properly record certain workplace injuries and for failing to properly maintain its injury log between January 2002 and April 2006. OSHA issued the citations in November 2006, which was, as Volks points out, at least six months after the last unrecorded injury occurred. Because ‘[n]o citation may be issued ... after the expiration of six months following the occurrence of any violation,’ 29 U.S.C. § 658(c), we agree with Volks that the citations are untimely and should be vacated.

The December 2016 clarification rule granted OSHA the authority to issue recordkeeping citations for up to six months beyond the five-year timeframe in which employers are obligated to maintain records on recordable workplace injuries and illnesses. The recordkeeping requirements apply to the current year plus five prior years, so OSHA’s citation authority under the rule coincided with the duration of the recordkeeping requirements.

The April 2017 resolution reduces OSHA’s authority to issue citations for recordkeeping errors. Consistent with the *Volks* decision, a citation must now be issued within six months of the violation. (The resolution does not change employers’ obligations to record and maintain OSHA records for the current year plus five years.) OSHA inspectors have abided by the *Volks* decision since 2012, so employers should see no change in the administration’s processes for reviewing records.

Optimal OSHA compliance

Sedgwick offers a range of OSHA-compliant recordkeeping services to help customers meet their objectives. The foundation of our approach is our proprietary claims management system and complementary viaOne® OSHA recordkeeping and data sharing application.

Clients using the advanced level of Sedgwick’s OSHA service offering benefit from careful reviews by our expert colleagues, who can also make timely decisions on the

recordability of workplace injuries and illnesses. Customers who take advantage of our basic service offering or use other recordkeeping methods must pay close attention to the timeliness of their determinations to avoid citations for recordkeeping violations.

Additional information about Sedgwick's OSHA compliance services is available [here](#). For more on our services or the impact of H.J. Resolution 83 on your claims program, contact [Malcolm Dodge](#), [Soha Athanasios](#) or your Sedgwick client services representative.

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