



AUG 11 2006

**COPY FOR YOUR
INFORMATION**

Mr. James MacDonald
V.P. Accident Prevention
Pacific Maritime Association
Sacramento Suite Tower
550 California Street
San Francisco, CA 94104-1060

Dear Mr. MacDonald:

Thank you for your letter of February 12, 2004 concerning the OSHA injury and illness recordkeeping requirements at 29 CFR 1904. You specifically requested guidance on whether you must record a hearing loss case under 29 CFR Part 1904.10 when an employer pays a workers' compensation claim for long term hearing loss, even though the worksite in question does not exceed the 85 dBA action level that triggers the hearing conservation program in 29 CFR 1910.95.

Recording and reporting occupational injuries and illnesses of cases involving occupational hearing loss must be kept in accordance with 29 CFR 1904.10. As to work relationship, the general requirement of 29 CFR 1904.5 and the specifics contained in 29 CFR 1904.10 would apply. Simply stated, if an event or exposure in the work environment caused or contributed to the resulting injury or illness, the case is work related. Workers' compensation claims have nothing to do with OSHA's Occupational Noise Standard or with OSHA's Recording and Reporting Occupational Injuries and Illnesses requirements. In addition, OSHA Recordkeeping covers all employees not just those covered by the OSHA Noise Standard. Section 1904.10(b)(5) provides that if an event or exposure in the work environment either caused or contributed to the hearing loss or significantly aggravated a pre-existing hearing loss, the employer must consider the case to be work-related.

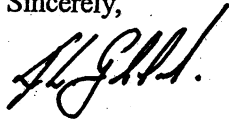
"If the employee is not covered by the 29 CFR 1910.95 noise standard, OSHA rules do not require the employer to administer baseline or periodic audiograms, and the 1904 rule does not impose any new requirements for employers to obtain baseline information where it is not already required. However, some employers conduct such tests and acquire such information for other reasons. If the employer's workplace is a high noise environment (i.e., has noise levels that exceed 85 dBA) and the employer has the relevant audiogram information for an employee, the employer must record any identified work-related hearing loss This means that an employer . . . who is aware that his or her work activities regularly generate high noise levels and who has audiometric data on the hearing level of the employees exposed to those noise levels must record on the Log any [recordable hearing loss] detected in those workers. OSHA believes that this approach to

the recording of work-related hearing loss cases among these workers not covered by the noise standard is appropriate because it is reasonable, protective, and administratively straightforward." See 66 Federal Register, page 6005, January 19, 2001.

Thus, occupational hearing loss can involve employees not exposed to an 8-hour time-weighted average (TWA) of 85 dB or more. Work related explosions or other acute noise exposures, as well as periodic high noise exposures (90 dB two hours every day), may also result in a recordable case if they meet the recording criteria in Section 1904.7.

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 Office of Statistical Analysis at (202) 693-1875.

Sincerely,



Keith L. Goddard, Director
Directorate of Evaluation and Analysis