



DEPARTMENT OF THE ARMY
U.S. Army Corps of Engineers
WASHINGTON, D.C. 20314-1000

REPLY TO
ATTENTION OF:

JUL 11 2005

CESO (385)

MEMORANDUM FOR COMMANDERS/DIRECTORS, MAJOR SUBORDINATE
COMMANDS, LABORATORIES, AND FIELD OPERATING ACTIVITIES,
DIRECTORS AND CHIEFS OF SEPARATE OFFICE, HQUSACE

SUBJECT: Interim Implementation Guidance for New 29 CFR Part 1960 Recordkeeping
and Reporting Requirements

1. References.

a. Federal Register: November 26, 2004 (Volume 69, Number 227), Rules and
Regulations, Pages 68793 – 68805, Department of Labor, Occupational Safety and
Health Administration, 29 CFR Part 1960, Basic Program Elements for Federal
Employee Occupational Safety and Health Programs and Related Matters; Subpart I for
Recordkeeping and Reporting Requirements, Final Rule

b. 29 CFR 1904, Recording and Reporting Occupational Injuries and Illnesses

c. OSHA Forms 300, 300A and 301 for Recording Work-Related Injuries and
Illnesses with USACE guidance inserted

d. US Army Corps of Engineers (USACE) Safety Management Action Plan for
FYs 05-06

e. Decision Trees for Reportability of Accidents

f. Comparison of Old and New OSHA 29 CFR 1960 Recording and Reporting
Requirements

g. Frequently Asked Questions on 29 CFR 1960 Recording and Recordkeeping
Requirements Adapted for USACE Application

h. Training Sources for training on 29 CFR Part 1960 Recordkeeping and Reporting
Requirements

i. Guidance for Accessing the ENGLink Accident Reporting System and Creating a
PAN

j. USACE Accident Reporting and Recordkeeping Policy and Procedure

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k. USACE Manual, EM 385-1-1.

2. On 1 October 2005, USACE will implement the requirements included in reference 1.a. and begin utilizing the USACE equivalent to the following forms (reference 1.c) with USACE guidance inserted to record USACE Government employee work-related injuries and illnesses:

a. OSHA Form 300; Log of Work-Related Injuries and Illnesses

b. OSHA Form 300A; Summary of Work-Related Injuries and Illnesses

c. OSHA Form 301; Injury and Illness Incident Report

Only the highlights of these new requirements are included in this memorandum. Specific implementation guidance is provided in the enclosures.

3. Contractor employees who work under the direct day-to-day supervision of a USACE employee are, under the new requirements, considered USACE employees. Their injury and illness experience will be recorded as part of the Government Accident experience and included on the above listed OSHA forms. Exposure hours for these contractor employees must be captured and reported to HQUSACE separate from the remainder of the USACE contractor exposure hours. These exposure hours will be included in the total Government exposure hours to accurately determine the USACE Government accident experience. ENG Form 3394 accident reports documenting accidents sustained by these contractor employees should be coded "Other" in block 2.h. and annotated as "Government Direct Contractor."

4. The safety and occupational health metrics for FYs 05 and 06 are those published in the USACE Safety Management Action Plan for FYs 05-06, reference 1.d, enclosed. USACE will continue to utilize the Department of Labor New Case Create Reports as the source of data for Government recordable accidents for the FY 05 and FY 06 CMR metrics. Beginning 1 January 2006, USACE safety performance metrics will be maintained on a calendar year basis to be consistent with the OSHA requirements.

5. OSHA guidance prescribes tracking the total number of injury/illness cases (Incidence Rate) and total number of cases which resulted in days away from work and days on restricted duty or job transfer (DART). Beginning 1 October 2005, USACE will track the total injury and illness and DART rates to establish a baseline and metrics for CY 07.

6. There are significant differences in the definition of recordability we have historically used to measure USACE accident experience and the definition of recordability in the

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new 29 CFR Part 1960 requirements. One example is that the new Part 1960 requirements count calendar days for days away from work as opposed to the USACE traditional method of counting only scheduled workdays as lost workdays. Commanders are encouraged to review both Parts 1960 and 1904 to gain a working knowledge of the requirements. To facilitate the transition to the new recordkeeping requirements, references 1.e. through 1.h. are enclosed.

7. 29 CFR Part 1960 requires records to be maintained at the “establishment.” It defines the establishment as: “A single physical location where business is conducted or where services or operations are performed. Where distinctly separate activities are performed at a single physical location, each activity shall be treated as a separate establishment.” Typically, an establishment, as used in Part 1960, refers to a field activity, regional office, area office, resident office, project office, installation, or facility. For the purpose of USACE compliance, each USACE Division, District, Lab, and Center is an establishment and will identify its subordinate establishments, i.e., regional offices, field projects, resident offices, laboratories, etc., in accordance with the guidance provided in the standard.

8. OSHA Form 300, Log of Work-Related Injuries and Illnesses, will be maintained for each establishment. However, local commands are not required to maintain a Log (OSHA Form 300) at each subordinate establishment. The Log may be centrally maintained at the MSC, District, Lab, or Center. However, USACE must meet the requirements of 29 CFR 1904.30(b), which state that agencies must be able to transmit information about the injuries and illnesses from the establishment to the central location within seven calendar days of receiving the information that a recordable injury or illness has occurred. Agencies must further be able to produce and send the records from the central location within the timeframes required by Sections 1904.35 and 1904.40 when the agency is required to provide records to a government representative, employee, former employee, or employee representative. Section 1904.35 states agencies must be able to give employees or their representative copies of current or stored OSHA Logs by the end of the next business day. It further states the agency must be able to give authorized employee representatives copies of OSHA Form 301, Injury and Illness Initial Incident Reports, within seven calendar days. Section 1904.40 states the agency must provide an authorized government representative, e.g. an OSHA Compliance Officer, copies of records kept under this Part within four business hours.

9. The standard requires that a copy of the annual Summary of Work-Related Injuries and Illnesses (OSHA Form 300A) be completed and posted at each establishment from 1

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1 February through 30 April each year. The OSHA Form 300A must be certified and signed by the senior management official of the establishment.

10. USACE's new automated Preliminary Accident Notification (PAN) software is on-line in ENGLink and available for USACE-wide use. No later than 1 October 2005, all USACE subordinate commands are required to submit a PAN for each accident. This PAN will be completed by the project/office experiencing the accident (Government, Contractor, and Public) and, when released by the user (initiator of the PAN), electronically sent to the safety manager and/or designee. The PAN will be transmitted in an adapted format of the newly required OSHA 301 form and will automatically populate the OSHA 300 log. If the accident meets the Army definition of a Class A or B accident, a Report of Serious Accident (ROSA), will also be populated and sent to the local Command Safety Manager, local Commander, and/or their designees for editing and release up the chain of command. All employees who have a USACE UPASS user ID (with capability to access to ENGLink SID S0ENGLP1) and Oracle password can access ENGLink and the PAN. ENGLink may be accessed at: <https://englink.usace.army.mil/>. Guidance on accessing the Accident Reporting System to create PANs is enclosed as reference 1. i.. If employees have difficulty accessing ENGLink, they should contact their local Information Management Office for assistance. The benefit of the addition of the PAN to the USACE accident reporting and recordkeeping system is that it generates command notification of accidents soon after they occur and it electronically generates the OSHA required OSHA 300 log and 301 forms. Additionally, when required by the severity of the accident experienced, the PAN electronically generates a Report of Serious Accident (ROSA).

11. 29 CFR Part 1904.35 requires training on the agency occupational safety and health program for all USACE employees, with emphasis on employee rights and responsibilities which includes how and when to report work related injuries and illnesses. Training is available from many sources, including but not limited to: OSHA, National Safety Council, (see reference 1.h., enclosed) and, in the very near future, a Corps-specific training program will be available for download and viewing at the USACE Safety and Occupational Health Office homepage at http://www.hq.usace.army.mil/soh/hqusace_soh.htm under the Accident Reporting and Investigation topic button. A limited number of CDs, with the Corps-specific training program, will be available for distribution. The USACE-specific training is concise and may be accomplished as a part of each work unit's regularly scheduled safety meeting, or as an addendum to other safety and health training. Training on the ENGLink Accident Reporting System (ARS) and how to create a Preliminary Accident Notification (PAN) is available on ENGLink at <https://englink.usace.army.mil/>.

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12. USACE policies and procedures for accident reporting, incorporating the new 1960 requirements, are listed as reference 1.j. and enclosed for information and compliance effective 1 October 2005.

13. The requirement to complete an ENG form 3394 for all recordable accidents has changed only in relation to the revised definition of recordable accidents. Thus, an ENG Form 3394 will be completed for all Government injuries and illnesses that meet the revised 29 CFR Part 1960 recording and reporting requirements.

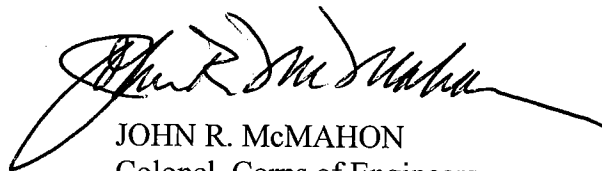
14. Additionally an ENG Form 3394 will continue to be completed for contractor recordable injuries and illnesses, Government and Contractor Class A, Class B, Class C, and Class D property damage accidents and all recordable accidents to recreational visitors at USACE-owned or operated property or facilities.

15. Board of Investigation reports will continue to be completed in accordance with AR 385-40 and other USACE policy and guidance for Class A and Class B government and contractor accidents.

16. Questions concerning this directive should be directed to the USACE Loss Control Manager at 202-761-8600, or Brenda.A.Warren@usace.army.mil

FOR THE COMMANDER:

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JOHN R. McMAHON
Colonel, Corps of Engineers
Chief of Staff

CF:
USACE Safety and Occupational Health Offices



DEPARTMENT OF THE ARMY
U.S. Army Corps of Engineers
Washington, D.C. 20314-1000

Reply to
Attention of:

CESO (385-10)

24 May 2004


MEMORANDUM FOR Commanders/Directors, Major Subordinate Commands, Laboratories, Field Operating Activities

SUBJECT: Safety and Occupational Health Emphasis – Command Leadership

1. The Secretary and Chief of Staff of the Army just kicked off the Army Safety Campaign Plan. It's theme, "Be Safe," says it all in two words. I expect each commander to focus attention on this important campaign. Information on the Army Safety Campaign Plan may be accessed via the Army Safety Home Page <http://safety.army.mil>.
2. In addition, The President has directed a Safety, Health and Return-to-Employment (SHARE) initiative for civilian employees. The purpose of the initiative is to curb losses associated with on-the-job accidents and illnesses. It has four primary goals: lower workplace injury and illness case rates, lower lost-time injury and illness case rates, increase timely reporting of injuries and illnesses, and lower lost days resulting from work injuries and illnesses. The Secretary of Defense has endorsed this initiative and has challenged DoD components to reduce their mishap and accident rates by 50% over the next two fiscal years.
3. USACE civilian employee accident rates reached an all-time low in Fiscal Year (FY) 02 but have steadily increased through the second Quarter FY 04. Although all Major Subordinate Commands remain "Green" relative to the current USACE civilian employee lost-time accident Command Management Review metric, this steady increase, coupled with a number of government employee and contractor fatalities, concerns me.
4. We must posture ourselves to enable prompt and efficient execution of accident and occupational illness reduction strategies and initiatives. Attached is my Safety Management Action Plan (SMAP) for FY 05-06 to include metrics. I expect a regional coordinated approach with Commanders and Directors executing the guidance provided in this Plan as well as other initiatives you deem appropriate. In accordance with the 2012 Regional Business Center model, Commanders should develop and sign regional implementing SMAPs by 30 September 2004 and share them USACE-wide.
5. I thank you for the great job you do everyday to preserve the safety and health of our workforce and missions. We have achieved much. There remains a great deal more to be accomplished. Your Leadership will set the course.

1 Attachment

Copy Furnished to Districts



ROBERT B. FLOWERS
Lieutenant General, USA
Commanding

USACE Safety Management Action Plan for FYs 05-06

Commander's Intent. Division Commanders issue a regional Safety Management Action Plan (SMAP). Assign two Senior Leaders to serve as co-PMs from within your commands (1 civilian and 1 military) and a core team made up of your primary mission areas (use both HQ and field personnel) to develop the regional SMAP using the content of this Plan and other initiatives you deem appropriate. It is recommended that the nationalized Safety and Occupational Health (SOH) manager supporting you and one of your district SOH managers serve as Advisors to the team. For Engineering Centers, ERDC and FOA, develop your local command SMAP in a similar manner. Emphasize an aggressive and enterprising approach to meet or exceed the metrics established. Move out on the good ideas generated during your strategy meetings. Do not wait until the SMAP is finalized.

Future results will be directly related to the level of effort and to the degree that leadership champions this initiative. To achieve such an ambitious goal, we must dramatically alter the way we have reacted to similar challenges in the past. Doing the same things we have always done will merely perpetuate our current accident rate plateau. We must energize a more vibrant safety culture – A culture that will establish short-term success and sustain long-term improvement while ensuring readiness. Assume there may be a smarter way to do business and empower your best minds to develop and implement it. Ensure a sound approach using effective processes, best practices, lessons-learned and available technologies focused regionally utilizing the USACE Project Management Business Process. Commanders should consider the following essential to success: Leadership – lead by example, ensure accountability, share lessons-learned, celebrate successes, and establish mechanisms to monitor progress.

New Metrics and Actions. Provided below are updated metrics and actions for FYs 05-06. The new metrics are based on The Presidential directed Safety, Health and Return-to-Employment (SHARE) Initiative and the Secretary of Defense's (SECDEF) accident reduction target. In addition, we are adjusting our civilian employee and contractor metrics based on the results of our last 6 years of experience. We have improved our accident experience rate to a commendable level – however the rate has reached a plateau. The time has come to set more challenging goals. The target set by the SECDEF for reduction in the civilian employee lost work-day rate (50% reduction) is challenging – but doable. In addition, Civil Works Operations has added a metric for recreation safety.

As a minimum, ensure the following is included in the regional SMAP:

1. Command Leadership

- **Commanders shall establish and sustain accountability for safety.**

ACTION: Emphasize accountability and responsibility for safety and occupational health at all organization levels. Accept risk on when there is sound rationale. Set a standard for accountability and live by it. Use collateral investigations when required (Reference AR 385-40, paragraph 1-8.

- **Commanders and senior leaders shall strive to include safety and health in speeches, site visits and informal comments to increase safety awareness**

ACTION: Task speechwriters to include safety and health messages into speeches and presentations such as Town Hall meetings, conferences or field visits. Have your public affairs and safety professionals develop safety talking points and vignettes for senior leaders to communicate your SMAP strategies and examples of what is working well.

- **Commanders shall identify areas of performance weakness and train to standard.**

ACTION: Increase employee proficiency and probability for success by focusing appropriate safety training in specific areas of need. Review and identify required (or needed) safety and occupational health training with special emphasis on areas that correlate to your accident experience.

- **Commanders shall establish proactive accident prevention programs for their command that focuses on high hazard activities.**

ACTION: A risk assessment shall be conducted of all command activities (civilian and contractor) and the accident prevention program should focus on such high hazard activities as control of hazardous energy, confined space entry, fall protection, drowning prevention, hoisting and heavy equipment safety, motor vehicle and vessel operations, and marine related activities.

- **Commanders shall ensure inspections of USACE facilities are accomplished.**

ACTIONS:

- Inspect USACE operating projects and facilities for compliance with safety and occupational health requirements at least once during each FY.
- Perform safety and occupational health quality management evaluations each year to ensure safety and health programs and procedures are established and implemented at all organizational levels.

- **Commanders shall establish recognition and award programs to celebrate safety successes.**

ACTION: Safety recognition and award programs will be implemented and will receive command-wide recognition. Focus attention on team and organizational achievement related to the goals, targets and continuous improvement efforts specified in your SMAP.

2. Civilian Employee Accident Prevention and Loss Control

- **Commanders shall establish and sustain a program to meet or exceed the Presidential directed reduction of Civilian Employee Lost Time Accidents.**

Civilian Employee Lost Time Rate

$$\frac{\text{Number of Lost Time Accidents} \times 200,000}{\text{Hours Worked (RM Manpower Database)}}$$

CMR Metric (Presidential SHARE Initiative)

Requirement: Presidential goal of 3% reduction (USACE has selected 5 % annual reduction per year for FYs 05- 06)

Databases: USACE (manpower) and DOL (number of lost-time accidents for each USACE command)

Metrics:

FY 05	Green 1.10 or less	Amber = 1.11-1.27	Red = 1.27 or greater
FY06	Green 1.05 or less	Amber = 1.06-1.22	Red = 1.22 or greater

Target rates are based on the mean of our accident experience for FYs 1998 through 2003 with 1 standard deviation applied for the Amber range and 2 standard deviations for the Red

- **Commanders shall analyze past accidents for opportunities for improvement.**

ACTION: Target areas for improvement based on a comprehensive review and assessment of your last 6-year mishap and accident experience. Learning from the trending of what your local risks are and of the effectiveness of the corrective measures of past accidents will go a long way if it is shared throughout the command. Over 700 lessons-learned from Boards of Investigation (BOIs) which were conducted on our most severe accidents experienced from the 1970s to the present are summarized in detailed abstracts and are located on the HQUSACE Safety and Occupational Health homepage at http://www.hq.usace.army/soh/hqsusace_soh.htm. To access the lessons-learned, click on SOH Staff Only, enter the user name: safety office; password: star1 and domain: hqcww-1. Click on Accident Summaries. You can review government or contractor data.

- **Commanders shall assure all accidents are thoroughly investigated and followed-up to assure corrective actions are implemented.**

ACTION: Your SMAP will include procedures for thorough accident investigation, implementation of corrective actions and compilation and distribution of lessons learned.

- **Commanders shall integrate safety risk management into their missions.**

ACTION: Employ the Army risk management process to avoid unnecessary residual risk to missions, personnel, equipment and the environment. Effectively utilize activity hazard analysis (AHA) and position hazard analysis (PHA) as the primary risk management tools for accident prevention.

- **Commanders shall place emphasis on their Ergonomics Program.**

ACTION: Revitalize your local command Ergonomics Program and committees and concentrate on improving the work environment for both office and field activities.

- **Commanders shall establish and sustain a program to meet or exceed the SECDEF Lost Work Day Rate Target**

Civilian Employee Total Lost Day Rate (OWCP)

$$\frac{(\text{COP Cases} + \text{LWOP Cases}) \times 200,000}{\text{Hours Worked (CEFMS Time and Attendance)}}$$

Requirement: SECDEF reduction goal of 50% FY 02 baseline by end FY 05

Database: DMDC (<https://www.dmdc.osd.mil/ltwi/owa/lpdr.main>)

Baseline: FY 02 Rate = 17.20

Target: End FY 05 Rate = 8.60

Actions:

- Ensure a light duty program is in place
- Provide a copy of your light duty program to attending physician when injured employee seeks medical attention
- Supervisors shall work with the local workers' compensation personnel to ensure proper case management

3. Project Management (Focus on Design and Construction)

Contractor Employee Lost Time Rate

$$\frac{\text{Number of Lost Time Accidents} \times 200,000}{\text{Hours Worked (Provided by USACE Commands)}} \times \text{Contractor Employee Lost Time Rate}$$

CMR Metric: Quarterly

Requirement: USACE target of 5% annual reduction by FY 06 (FY 03 baseline)

Database: USACE

Metrics:

FY 05	Green 0.58 or less	Amber = 0.59 – 0.68	Red = 0.69 or greater
FY06	Green 0.54 or less	Amber = 0.55 – 0.64	Red = 0.65 or greater

Target rates are based on the mean of our accident experience for FYs 1998 through 2003 with 1 standard deviation applied for the Amber range and 2 standard deviations for the Red

- **Commanders shall execute safety requirements of PMBP.**

ACTION: Integrate system safety engineering and management to optimize safety throughout the life-cycle. Use the PMBP process in accordance with the Business Process Manual requirements contained in Reference Document 8016G (PMPs/ PgMPs) to include the execution of a project Safety and Occupational Health Plan (SOHP) as an integral part of the overall Project Management Plan (PMP). Safety and health must be considered and addressed earlier in the life-cycle of programs/projects by the project development team (PDT) with a wide ranging, holistic viewpoint. Lessons learned and prior experience shall identify hazards early on with the help of the customer. Designers need to consider safety and health implications of their product for the users and constructors. Once identified, hazards must be tracked through elimination, reduction to an acceptable level or acceptance by an approved authority. Execute the SOHP using P2. Residual risk (accepted hazards) information must be passed on to the user in the form of maintenance/training manuals, as-built drawings and the like. Ensure these safety and occupational health principles, procedures, criteria and expertise are fully integrated into your local processes, procedures and practices.

- **Commanders shall establish and sustain a program to meet or exceed the USACE targets for Contractor lost workday accidents**

ACTION: Target areas for improvement based on a comprehensive review and assessment of your last 6-year contractor mishap and accident experience. Use same process as described for civilian employee accident review and analysis described above.

- **Commanders shall sustain the efforts of their Contractor Safety Program.**

ACTION: When Federal Acquisition Regulation (FAR) Clause 52.236.13 (Accident Prevention and its Alternate I) and/or Unified Facility Guide Specification (UFGS) 01525, "Safety and Occupational Health Requirements" are included in contracts, ensure proper submission, acceptance, and implementation of contractor developed Accident Prevention Plans (APP) and Activity Hazard Analyses. Ensure that adequate contractor quality control procedures are in place related to prime contractors and their subcontractors, and, ensure the performance of adequate construction quality assurance inspections by government Quality Assurance Representatives (QARs). Efforts shall be concentrated to reduce contractor lost workday and fatal injuries.

4. Public Recreation Safety

Public Fatality Rate

$$\frac{\text{(Number of Public Fatalities x 1,000,000)}}{\text{Visitor Hours}}$$

Requirement: USACE target of 5% annual reduction by end of FY 06

Database: USACE CW

Metric:

FY 05 - 0.61

FY 06 - 0.58

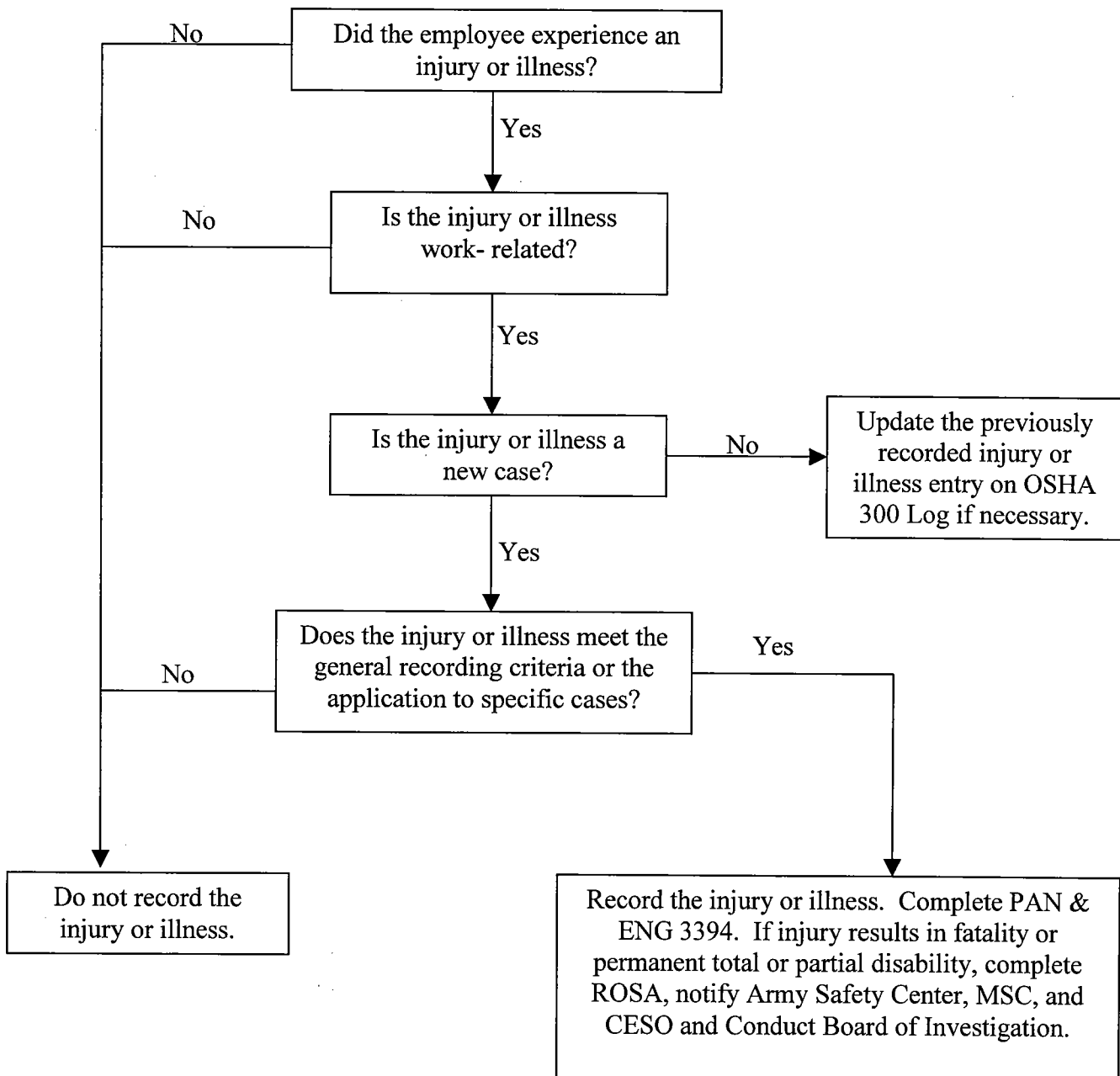
Target is based on FY03 Base Year

- **Commanders shall analyze their public fatality experience for opportunities for improvement.**

ACTION: Target areas for improvement based on a comprehensive review and assessment of your recreational visitor accident experience. Corrective actions could include but are not limited to, establishment of water safety committees, prohibition of use of alcohol, increased water/land patrol, public safety outreach programs, greater use of personal floatation devices (PFDs), participation in local and regional water safety councils, etc.

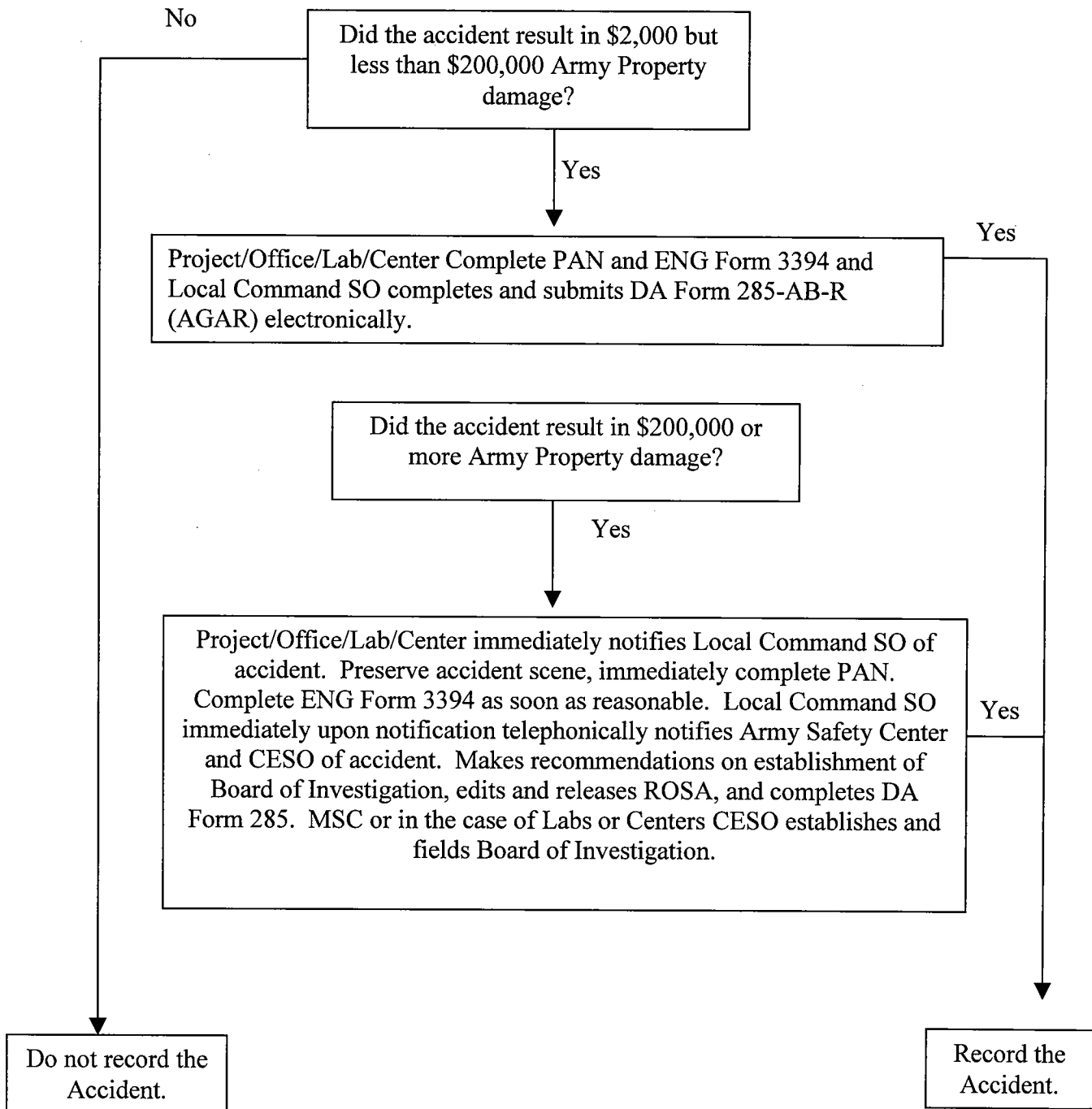
Government and Contractor Employee Occupational Injuries and Illnesses

Use decision tree below.



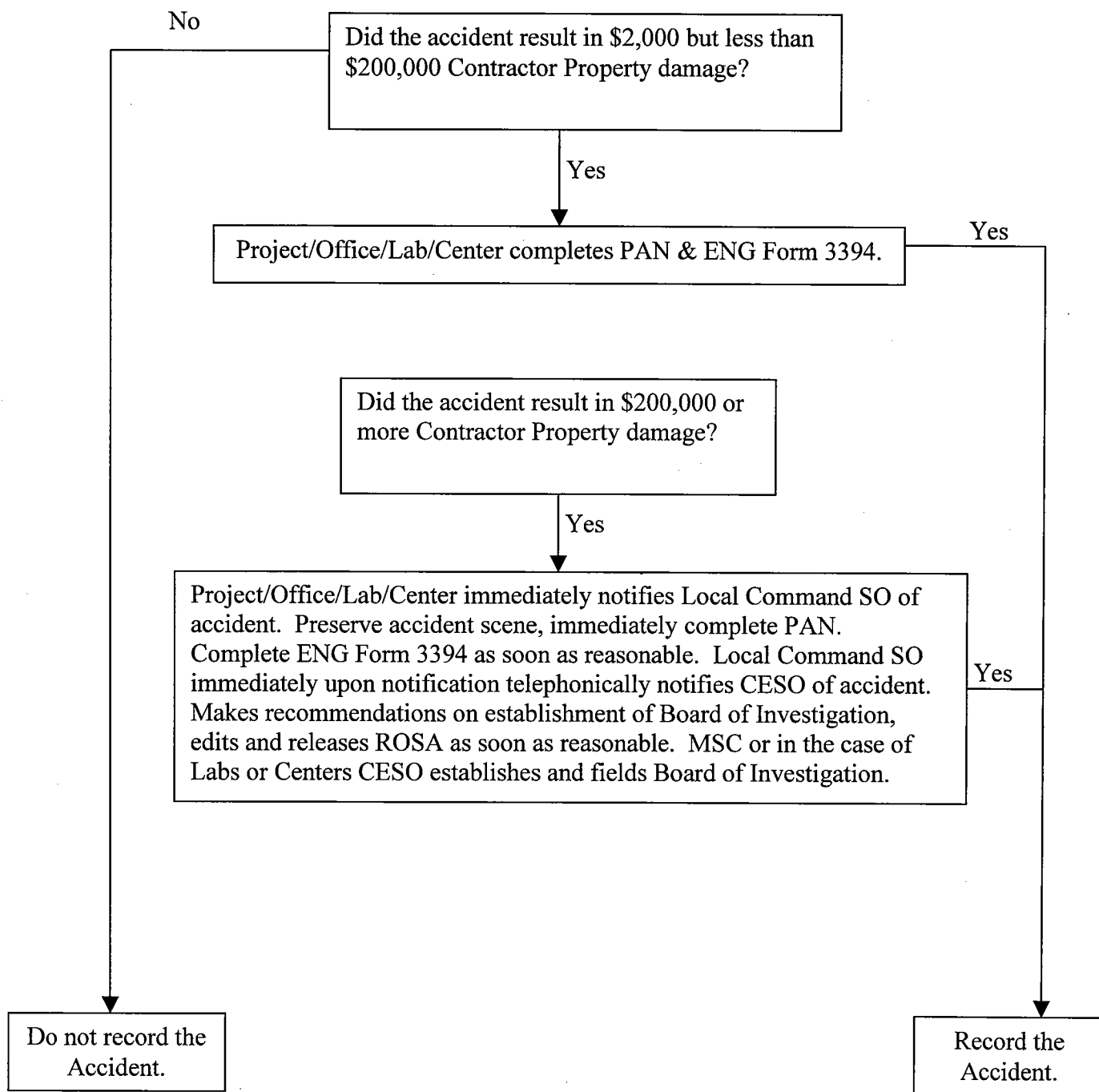
Government Property Damage Accidents

Use decision tree below.



Contractor Property Damage Accidents

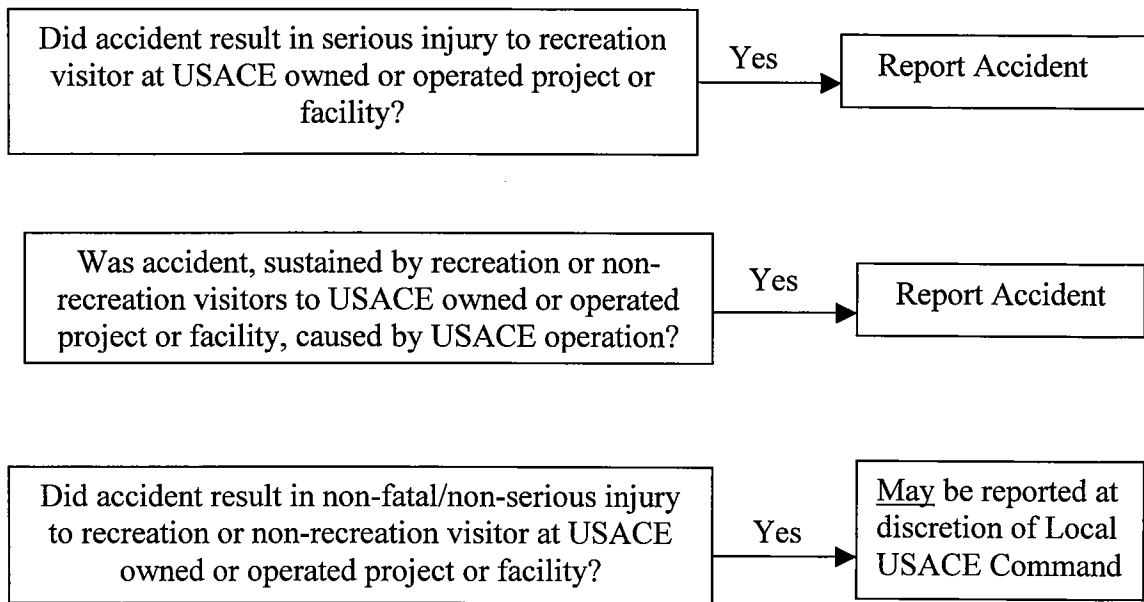
Use decision tree below.



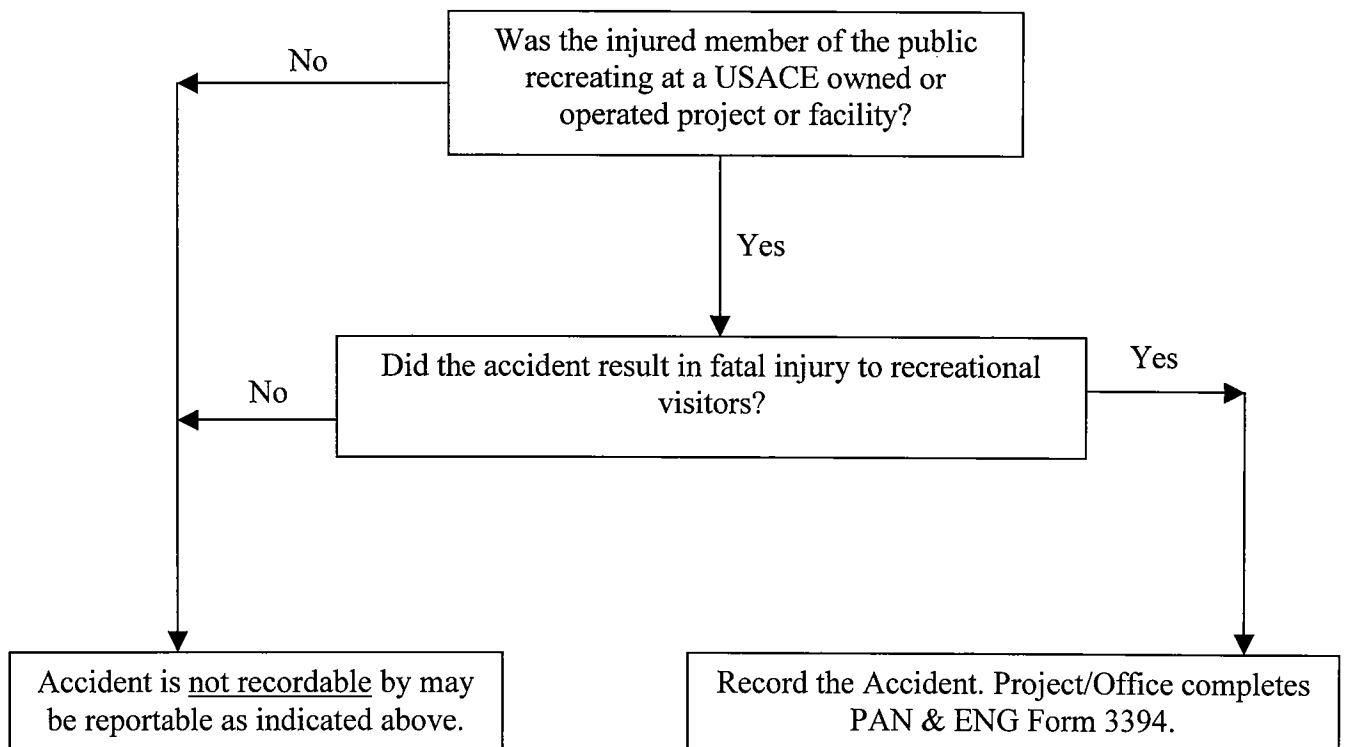
Public Recreation Accidents

Use the decision trees below.

Reportable Accidents



Recordable Accidents



COMPARISON OF OLD PART 1960 AND UPDATED PART 1960

Old Part 1960 Rule	Updated Part 1960 Rule
Forms §1904.29	
OSHA 200 - Log and Summary OSHA 101 - Supplemental Record	OSHA 300 - Log OSHA 300A - Summary OSHA 301 - Incident Report
Work-Related §1904.5	
Any aggravation of a pre-existing condition by a workplace event or exposure makes the case work-related	Significant aggravation of a pre-existing condition by a workplace event or exposure makes the case work-related
Exceptions to presumption of work relationship: 1) Member of the general public 2) Symptoms arising on premises totally due to outside factors 3) Parking lot/Recreational facility	Exceptions to presumption of work relationship: 1) Member of the general public 2) Symptoms arising on premises totally due to outside factors 3) Voluntary participation in wellness program 4) Eating, drinking and preparing one's own food 5) Personal tasks outside working hours 6) Personal grooming, self-medication, self infliction 7) Motor vehicle accident in parking lot/access road during commute 8) Cold or flu 9) Mental illness unless employee voluntarily presents a medical opinion stating that the employee has a metal illness that is work-related.
New Case §1904.6	
New event or exposure, new case	Aggravation of a case where signs or symptoms have not resolved is a continuation of the original case
30 day rule for CTDs	No such criteria
General Recording Criteria §1904.7	
All work-related illnesses are recordable	Work-related illnesses are recordable if they meet the general recording criteria
Restricted work activity occurs if the employee:	Restricted work activity occurs if the employee:

1) Cannot work a full shift 2) Cannot perform all of his or her normal job duties, defined as any duty he or she would be expected to do throughout the calendar year.	1) Cannot work a full shift 2) Cannot perform all of his or her routine job functions, defined as any duty he or she regularly performs at least once a week
Restricted work activity limited to the day of injury makes case recordable	Restricted work activity limited to the day of injury does not make case recordable
Day counts: Count workdays No cap on count	Day Counts: Count Calendar days 180 day cap on count
Medical treatment does not include: 1) Visits to MD for observation only 2) Diagnostic procedures 3) First aid	Medical treatment does not include: 1) Visits to MD for observation and counseling only 2) Diagnostic procedures (including administration of prescription medication for diagnostic purposes) 3) First aid
First Aid list in Bluebook was a list of examples and not comprehensive	First Aid list in regulation is comprehensive. Any other procedure is medical treatment.
2 doses prescription med - Medical Treatment (MT) Any dosage of OTC med - First Aid (FA) 2 or more hot/cold treatments - MT Drilling a nail - MT Butterfly bandage/Steri-Strip - MT	1 dose prescription med - MT OTC med at prescription strength - MT Any number of hot/cold treatments - FA Drilling a nail - FA Butterfly bandage/Steri-Strip - FA
Non-minor injuries recordable: 1) fractures 2) 2 nd and 3 rd degree burns	Significant diagnosed injury or illness recordable: 1) fracture 2) punctured ear drum 3) cancer 4) chronic irreversible disease
Specific disorders	
Hearing loss - Federal enforcement for 25dB shift in hearing from original baseline	Hearing loss - From 1/1/02 until 12/31/02 record shift in hearing averaging 25dB or more from the employee's original baseline
Needlesticks and 'sharps injuries' - Record only if case results in med treatment, days away, days restricted or sero-conversion	Needlesticks and 'sharps injuries' - Record all needlesticks and injuries that result from sharps potentially contaminated with another persons blood or other potentially

	infectious material
Medical removal under provisions of other OSHA standards - all medical removal cases recordable	Medical removal under provisions of other OSHA standards - all medical removal cases recordable
TB - Positive skin test recordable when known workplace exposure to active TB disease. Presumption of work relationship in 5 industries	TB - Positive skin test recordable when known workplace exposure to active TB disease. No presumption of work relationship in any industry
Other issues	
Must enter the employees name on all cases	Must enter 'Privacy Cases' rather than the employee's name, and keep a separate list of the case number and corresponding names
Access - employee access to entire log, including names; No access to supplementary form (OSHA 101)	Access - employee and authorized representative access to entire log, including names; Employee access to individual's Incident Report (OSHA 301); Authorized Representative access to portion of all OSHA 301s
Fatality reporting - Report all work-related fatalities to OSHA	Fatality reporting - do not need to report fatalities resulting from motor vehicle accident on public street or highway that do not occur in construction zone
Certification - the employer, or the employee who supervised the preparation of the Log and Summary, can certify the annual summary	Certification - company executive must certify annual summary
Posting - post annual summary during month of February	Posting - Post annual summary from Feb 1 to April 30
No such requirement	You must inform each employee how he or she is to report an injury or illness

FREQUENTLY ASKED QUESTIONS ON 1960 RECORDING AND RECORDKEEPING REQUIREMENTS ADAPTED FOR USACE IMPLEMENTATION

The following Questions and Answers have been prepared to address enforcement issues concerning the new Recordkeeping Rule.

General Guidance.

Question 1. Why has OSHA changed Part 1960 to comply with the 1904 regulation?

OSHA is revising the rule to collect better information about the incidence of occupational injuries and illnesses, improve employee awareness and involvement in the recording and reporting of job-related injuries and illnesses, simplify the injury and illness recordkeeping system for employers, and permit increased use of computers and telecommunications technology.

Question 2. What recordkeeping actions will take place on January 1, 2005

A number of actions will take place on January 1, 2005, including:

The revised 29 CFR Part 1960, entitled Recording and Reporting Occupational Injuries and Illnesses, will be in effect.

Three new recordkeeping forms will come into use:

- OSHA Form 300, Log of Work-Related Injuries and Illnesses

- OSHA Form 300A, Summary of Work-Related Injuries and Illnesses

(The 300 and 300A forms will replace the former OSHA Form 200, Log and Summary of Occupational Injuries and Illnesses)

- OSHA Form 301, Injury and Illness Incident Report

(The 301 form will replace the former OSHA Form 101, Supplementary Record of Occupational Injuries and Illnesses)

The Bureau of Labor Statistics (BLS)/OSHA publications: **Recordkeeping Guidelines for Occupational Injuries and Illnesses, 1986** and **A Brief Guide to Recordkeeping Requirements for Occupational Injuries and Illnesses, 1986** will be withdrawn.

All letters of interpretation regarding the former rule's injury and illness recordkeeping requirements will be withdrawn and removed from the OSHA CD-ROM and put into the OSHA Archive Set.

Question 3. How can I get copies of the new forms?

Copies of the forms can be obtained on OSHA's web site at <http://www.osha.gov> or from the OSHA publications office at (202) 693-1888.

Question 4. Can I start using a 300 Log prior to January 1, 2005?

No. USACE Commands may not start using a 300 Log until January 1, 2005, because this is the effective date of the new regulation.

Question 5. Can I compare injury and illness rates generated from my OSHA form 300, and the new regulation, to injury and illness rates generated from my OSHA 200 Log under the old rule (i.e., compare 2004 data with 2005 data)?

The new recordkeeping rule changes some of the criteria used to determine which injuries and illnesses will be entered into the records and how they will be entered. Therefore, USACE Commands should use reasonable caution when comparing data produced under the old 1960 regulation with data produced under the new rule.

Question 6. Are the recordkeeping requirements the same now for Federal Agencies as those for the private sector?

Yes, the new recordkeeping rule changes to 29 CFR Part 1960, with only minor exception (definition of establishment, etc.) are the same as the requirements for the private sector.

Section 1904.0 -- Purpose.

Question 0-1. Why are employers required to keep records of work-related injuries and illnesses?

The OSH Act of 1970 requires the Secretary of Labor to produce regulations that require employers to keep records of occupational deaths, injuries, and illnesses. The records are used for several purposes.

Injury and illness statistics are used by OSHA. OSHA collects data through the OSHA Data Initiative (ODI) to help direct its programs and measure its own performance. Inspectors also use the data during inspections to help direct their efforts to the hazards that are hurting workers.

The records are also used by employers and employees to implement safety and health programs at individual workplaces. Analysis of the data is a widely recognized method for discovering workplace safety and health problems and for tracking progress in solving those problems.

The records provide the base data for the BLS Annual Survey of Occupational Injuries and Illnesses, the Nation's primary source of occupational injury and illness data.

Question 0-2. What is the effect of workers' compensation reports on the OSHA records?

The purpose section of the rule includes a note to make it clear that recording an injury or illness neither affects a person's entitlement to workers' compensation nor proves a violation of an OSHA rule. The rules for compensability under Federal workers' compensation do not have any effect on whether or not a case needs to be recorded on the OSHA 300 Log. Many cases will be OSHA recordable and compensable under Federal workers' compensation. However, some cases will be compensable but not OSHA recordable, and some cases will be OSHA recordable but not compensable under Federal workers' compensation.

Section 1904.4 -- Recording Criteria.

Question 4-1. Does an employee report of an injury or illness establish the existence of the injury or illness for recordkeeping purposes?

No. In determining whether a case is recordable, the USACE Command must first decide whether an injury or illness, as defined by the rule, has occurred. If the USACE Command is uncertain about whether an injury or illness has occurred, the USACE Command may refer the employee to a physician or other health care professional for evaluation and may consider the health care professional's opinion in determining whether an injury or illness exists. [Note: If a physician or other licensed health care professional diagnoses a significant injury or illness within the meaning of §1904.7(b)(7) and the USACE Command determines that the case is work-related, the case must be recorded.]

Section 1904.5 -- Determination of Work-Relatedness.

Question 5-1. If a maintenance employee is cleaning the parking lot or an access road at a Civil Works operating project and is injured as a result, is the case work-related?

Yes, the case is work-related because the employee is injured as a result of conducting USACE Command business in the work environment. If the injury meets the general recording criteria of Section 1904.7 (death, days away, etc.), the case must be recorded.

Question 5-2. Are cases of workplace violence considered work-related under the update to the recordkeeping portion of Part 1960?

The recordkeeping portion of the rule contains no general exception, for purposes of determining work-relationship, for cases involving acts of violence in the work environment. However, some cases involving violent acts might be included within one of the exceptions listed in section 1904.5(b)(2). For example, if an employee arrives at work early to use a Command conference room for a civic club meeting and is injured by some violent act, the case would not be work-related under the exception in section 1904.5(b)(2)(v).

Question 5-3. What activities are considered "personal grooming" for purposes of the exception to the geographic presumption of work-relatedness in section 1904.5(b)(2)(vi)?

Personal grooming activities are activities directly related to personal hygiene, such as combing and drying hair, brushing teeth, clipping fingernails and the like. Bathing or showering at the workplace when necessary because of an exposure to a substance at work is not within the personal grooming exception in section 1904.5(b)(2)(vi). Thus, if an employee slips and falls while showering at work to remove a contaminant to which

he has been exposed at work, and sustains an injury that meets one of the general recording criteria listed in section 1904.7(b)(1), the case is recordable.

Question 5-4. What are "assigned working hours" for purposes of the exception to the geographic presumption in section 1904.5(b)(2)(v)?

"Assigned working hours," for purposes of section 1904.5(b)(2)(v), means those hours the employee is actually expected to work, including overtime.

Question 5-5. What are "personal tasks" for purposes of the exception to the geographic presumption in section 1904.5(b)(2)(v)?

"Personal tasks" for purposes of section 1904.5(b)(2)(v) are tasks that are unrelated to the employee's job. For example, if an employee uses a Command break area to work on his child's science project, he is engaged in a personal task.

Question 5-6. If an employee stays at work after normal work hours to prepare for the next day's tasks and is injured, is the case work-related? For example, if an employee stays after work to prepare geophysical monitoring equipment for use the next day and is injured, is the case work-related?

A case is work-related any time an event or exposure in the work environment either causes or contributes to an injury or illness or significantly aggravates a pre-existing injury or illness, unless one of the exceptions in section 1904.5(b)(2) applies. The work environment includes the establishment and other locations where one or more employees are working or are present as a condition of their employment. The case in question would be work-related if the employee was injured as a result of an event or exposure at work, regardless of whether the injury occurred after normal work hours.

Question 5-7. If an employee voluntarily takes work home and is injured while working at home, is the case recordable?

No. Injuries and illnesses occurring in the home environment are only considered work-related if the employee is being paid or compensated for working at home and the injury or illness is directly related to the performance of the work rather than to the general home environment.

Question 5-8. If an employee's pre-existing medical condition causes an incident which results in a subsequent injury, is the case work-related? For example, if an employee suffers an epileptic seizure, falls, and breaks his arm, is the case covered by the exception in section 1904.5(b)(2)(ii)?

Neither the seizures nor the broken arm are recordable. Injuries and illnesses that result solely from non-work-related events or exposures are not recordable under the exception in section 1904.5(b)(2)(ii). Epileptic seizures are a symptom of a disease of non-occupational origin, and the fact that they occur at work does not make them work-

related. Because epileptic seizures are not work-related, injuries resulting solely from the seizures, such as the broken arm in the case in question, are not recordable.

Question 5-9. This question involves the following sequence of events: Employee A drives to work, parks her car in the Command parking lot and is walking across the lot when she is struck by a car driven by employee B, who is commuting to work. Both employees are seriously injured in the accident. Is either case work-related?

Neither employee's injuries are recordable. While the employee parking lot is part of the work environment under section 1904.5, injuries occurring there are not work-related if they meet the exception in section 1904.5(b)(2)(vii). Section 1904.5(b)(2)(vii) excepts injuries caused by motor vehicle accidents occurring on the Command parking lot while the employee is commuting to and from work. In the case in question, both employees' injuries resulted from a motor vehicle accident in the Command parking lot while the employees were commuting. Accordingly, the exception applies.

Section 1904.6 -- Determination of New Cases.

Question 6-1. How is a USACE Command to determine whether an employee has "recovered completely" from a previous injury or illness such that a later injury or illness of the same type affecting the same part of the body resulting from an event or exposure at work is a "new case" under section 1904.6(a)(2)? If an employee's signs and symptoms disappear for a day and then resurface the next day, should the employer conclude that the later signs and symptoms represent a new case?

An employee has "recovered completely" from a previous injury or illness, for purposes of section 1904.6(a)(2), when he or she is fully healed or cured. The employer must use his best judgment based on factors such as the passage of time since the symptoms last occurred and the physical appearance of the affected part of the body. If the signs and symptoms of a previous injury disappear for a day only to reappear the following day, that is strong evidence the injury has not properly healed. The USACE Command may, but is not required to, consult a physician or other licensed health care provider (PLHCP). Where the USACE Command does consult a PLHCP to determine whether an employee has recovered completely from a prior injury or illness, it must follow the PLHCP's recommendation. In the event the USACE Command receives recommendations from two or more PLHCPs, the USACE Command may decide which recommendation is the most authoritative and record the case based on that recommendation.

Section 1904.7 -- General Recording Criteria.

Question 7-1. The old 29 CFR Part 1904 rule required the recording of all occupational illnesses, regardless of severity. For example, a work-related skin rash was recorded even if it didn't result in medical treatment. Does the rule still capture these minor illness cases?

No. Under the new rule, injuries and illnesses are recorded using the same criteria. As a result, some minor illness cases are no longer recordable. For example, a case of work-related skin rash is now recorded only if it results in days away from work, restricted work, transfer to another job, or medical treatment beyond first aid.

Question 7-2. Does the size or degree of a burn determine recordability?

No, the size or degree of a work-related burn does not determine recordability. If a work-related first, second, or third degree burn results in one or more of the outcomes in section 1904.7 (days away, work restrictions, medical treatment, etc.), the case must be recorded.

Question 7-3. If an employee dies during surgery made necessary by a work-related injury or illness, is the case recordable? What if the surgery occurs weeks or months after the date of the injury or illness?

If an employee dies as a result of surgery or other complications following a work-related injury or illness, the case is recordable. If the underlying injury or illness was recorded prior to the employee's death, the employer must update the Log by lining out information on less severe outcomes, e.g., days away from work or restricted work, and checking the column indicating death.

Question 7-4. An employee hurts his or her left arm and is told by the doctor not to use the left arm for one week. The employee is able to perform all of his or her routine job functions using only the right arm (though at a slower pace and the employee is never required to use both arms to perform his or her job functions). Would this be considered restricted work?

No. If the employee is able to perform all of his or her routine job functions (activities the employee regularly performs at least once per week), the case does not involve restricted work. Loss of productivity is not considered restricted work.

Question 7-5. Are surgical glues used to treat lacerations considered "first aid?"

No, surgical glue is a wound closing device. All wound closing devices except for butterfly and steri strips are by definition "medical treatment," because they are not included on the first aid list.

Question 7-6. Item N on the first aid list is "drinking fluids for relief of heat stress." Does this include administering intravenous (IV) fluids?

No. Intravenous administration of fluids to treat work-related heat stress is medical treatment.

Question 7-7. Is the use of a rigid finger guard considered first aid?

Yes, the use of finger guards is always first aid.

Question 7-8. For medications such as Ibuprofen that are available in both prescription and non-prescription form, what is considered to be prescription strength? How is an employer to determine whether a non-prescription medication has been recommended at prescription strength for purposes of section 1904.7(b)(5)(i)(C)(ii)(A)?

The prescription strength of such medications is determined by the measured quantity of the therapeutic agent to be taken at one time, i.e., a single dose. The single dosages that are considered prescription strength for four common over-the-counter drugs are:

Ibuprofen (such as Advil™) - Greater than 467 mg

Diphenhydramine (such as Benadryl™) - Greater than 50 mg

Naproxen Sodium (such as Aleve™) - Greater than 220 mg

Ketoprofen (such as Orudis KT™) - Greater than 25mg

To determine the prescription-strength dosages for other drugs that are available in prescription and non-prescription formulations, the employer should contact OSHA, the United States Food and Drug Administration, their local pharmacist or their physician.

Question 7-9. If an employee who sustains a work-related injury requiring days away from work is terminated for drug use based on the results of a post-accident drug test, how is the case recorded? May the employer stop the day count upon termination of the employee for drug use under section 1904.7(b)(3) (vii)?

Under section 1904.7(b)(3)(vii), the employer may stop counting days away from work if an employee who is away from work because of an injury or illness leaves the USACE for some reason unrelated to the injury or illness, such as retirement. However, when the USACE Command conducts a drug test based on the occurrence of an accident resulting in an injury at work and subsequently terminates the injured employee, the termination is related to the injury. Therefore, the employer must estimate the number of days that the employee would have been away from work due to the injury and enter that number on the 300 Log.

Question 7-10. Once a USACE Command has recorded a case involving days away from work, restricted work or medical treatment and the employee has returned to his regular work or has received the course of recommended medical treatment, is it permissible for the USACE Command to delete the Log entry based on a physician's recommendation, made during a year-end review of the Log, that the days away from work, work restriction or medical treatment were not necessary?

The USACE Command must make an initial decision about the need for days away from work, a work restriction, or medical treatment based on the information available, including any recommendation by a physician or other licensed health care professional. Where the USACE Command receives contemporaneous recommendations from two or more physicians or other licensed health care professionals about the need for days away, a work restriction, or medical treatment, the USACE Command may decide which recommendation is the most authoritative and record the case based on that recommendation. Once the days away from work or work restriction have occurred or medical treatment has been given, however, the USACE Command may not delete the Log entry because of a physician's recommendation, based on a year-end review of the Log, that the days away, restriction or treatment were unnecessary.

Question 7-11. Section 1904.7(b)(5)(ii) of the rule defines first aid, in part, as "removing splinters or foreign material from areas other than the eye by irrigation, tweezers, cotton swabs or other simple means." What are "other simple means" of removing splinters that are considered first aid?

"Other simple means" of removing splinters, for purposes of the first-aid definition, means methods that are reasonably comparable to the listed methods. Using needles, pins or small tools to extract splinters would generally be included.

Question 7-12. How long must a modification to a job last before it can be considered a permanent modification under section 1904.7(b)(4)(xi)?

Section 1904.7(b)(4)(xi) of the rule allows a USACE Command to stop counting days of restricted work or transfer to another job if the restriction or transfer is made permanent. A permanent restriction or transfer is one that is expected to last for the remainder of the employee's career. Where the restriction or transfer is determined to be permanent at the time it is ordered, the employer must count at least one day of the restriction or transfer on the Log. If the employee whose work is restricted or who is transferred to another job is expected to return to his or her former job duties at a later date, the restriction or transfer is considered temporary rather than permanent.

Question 7-13. If an employee loses his arm in a work-related accident and can never return to his job, how is the case recorded? Is the day count capped at 180 days?

If an employee never returns to work following a work-related injury, the USACE Command must check the "days away from work" column, and enter an estimate of the

number of days the employee would have required to recuperate from the injury, up to 180 days.

Question 7-14. If an employee who routinely works ten hours a day is restricted from working more than eight hours following a work-related injury, is the case recordable?

Generally, the USACE Command must record any case in which an employee's work is restricted because of a work-related injury. A work restriction, as defined in section 1904.7(b)(4)(i)(A), occurs when the employer keeps the employee from performing one or more routine functions of the job, or from working the full workday the employee would otherwise have been scheduled to work. The case in question is recordable if the employee would have worked 10 hours had he or she not been injured.

Question 7-15. If an employee is exposed to chlorine or some other substance at work and oxygen is administered as a precautionary measure, is the case recordable?

If oxygen is administered as a purely precautionary measure to an employee who does not exhibit any symptoms of an injury or illness, the case is not recordable. If the employee exposed to a substance exhibits symptoms of an injury or illness, the administration of oxygen makes the case recordable.

Question 7-16. Is a USACE Command subject to an OSHA Notice of Unsafe or Unhealthful Workplace for violating section 1904.7(b)(4)(viii) if an employee fails to follow a recommended work restriction?

Section 1904.7(b)(4)(viii) deals with the recordability of cases in which a physician or other health care professional has recommended a work restriction. The section also states that the employer "should ensure that the employee complies with the [recommended] restriction." This language is purely advisory and does not impose an enforceable duty upon employers to ensure that employees comply with the recommended restriction. [Note: In the absence of conflicting opinions from two or more health care professionals, the employer ordinarily must record the case if a health care professional recommends a work restriction involving the employee's routine job functions.]

Section 1904.8 -- Recording Criteria for Needlestick and Sharps Injuries.

Question 8-1. Can you clarify the relationship between the OSHA recordkeeping requirements and the requirements in the Bloodborne Pathogens standard to maintain a sharps injury log?

The OSHA Bloodborne Pathogens Standard states: "The requirement to establish and maintain a sharps injury log shall apply to any employer who is required to maintain a log of occupational injuries and illnesses under 29 CFR 1904." Therefore, if an employer is

exempted from the OSHA recordkeeping rule, the employer does not have to maintain a sharps log.

Question 8-2. Can I use the OSHA 300 Log to meet the Bloodborne Pathogen Standard's requirement for a sharps injury log?

Yes. You may use the 300 Log to meet the requirements of the sharps injury log provided you enter the type and brand of the device causing the sharps injury on the Log and you maintain your records in a way that segregates sharps injuries from other types of work-related injuries and illnesses, or allows sharps injuries to be easily separated.

Section 1904.29 -- Forms.

Question 29-1. How do I determine whether or not a case is an occupational injury or one of the occupational illness categories in Section M of the OSHA 300 Log?

The instructions that accompany the OSHA 300 Log contain examples of occupational injuries and the various types of occupational illnesses listed on the Log. If the case you are dealing with is on one of those lists, then check that injury or illness category. If the case you are dealing with is not listed, then you may check the injury or illness category that you believe best fits the circumstances of the case.

Question 29-2. Does a USACE Command decide if an injury or illness is a privacy concern case?

Yes. The USACE Command must decide if a case is a privacy concern case, using 1904.29(b)(7), which lists the six types of injuries and illnesses the USACE Command must consider privacy concern cases. If the case meets any of these criteria, the USACE Command must consider it a privacy concern case. This is a complete list of all injury and illnesses considered privacy concern cases.

Question 29-3. Under paragraph 1904.29(b)(9), the USACE Command may use some discretion in describing a privacy concern case on the log so the employee cannot be identified. Can the USACE Command also leave off the job title, date, or where the event occurred?

Yes. OSHA believes that this would be an unusual circumstance and that leaving this information off the log will rarely be needed. However, if the USACE Command has reason to believe that the employee's name can be identified through this information, these fields can be left blank.

Question 29-4. May employers attach missing information to their accident investigation or Federal workers' compensation forms to make them an acceptable substitute form for the OSHA 301 for recordkeeping purposes?

Yes, the employer may use a workers' compensation form or other form that does not contain all the required information, provided the form is supplemented to contain the missing information and the supplemented form is as readable and understandable as the OSHA 301 form and is completed using the same instructions as the OSHA 301 form.

Question 29-5. If an employee reports an injury or illness and receives medical treatment this year, but states that the symptoms first arose at some unspecified date last year, on which year's log do I record the case?

Ordinarily, the case should be recorded on the Log for the year in which the injury or illness occurred. Where the date of injury or illness cannot be determined, the date the employee reported the symptoms or received treatment must be used. In the case in question, the injury or illness would be recorded on this year's Log because the employee cannot specify the date when the symptoms occurred.

Section 1904.31 -- Covered Employees.

Question 31-1. How is the term "supervised" in section 1904.31 defined for the purpose of determining whether the host employer must record the work-related injuries and illnesses of employees obtained from a temporary help service?

The host employer must record the recordable injuries and illnesses of employees not on its payroll if it supervises them on a day-to-day basis. Day-to-day supervision occurs when "in addition to specifying the output, product or result to be accomplished by the person's work, the employer supervises the details, means, methods and processes by which the work is to be accomplished."

Question 31-2. If a temporary personnel agency sends its employees to work in an establishment that is not required to keep OSHA records, does the agency have to record the recordable injuries and illnesses of these employees?

A temporary personnel agency need not record injuries and illnesses of those employees that are supervised on a day-to-day basis by another employer. The temporary personnel agency must record the recordable injuries and illnesses of those employees it supervises on a day to day basis, even if these employees perform work for an employer who is not covered by the recordkeeping rule.

Section 1904.32 -- Annual Summary.

Question 32-1. How do I calculate the "total hours worked" on my annual summary when I have both hourly and temporary workers?

To calculate the total hours worked by all employees, include the hours worked by salaried, hourly, part-time and seasonal workers, as well as hours worked by other workers you supervise (e.g., workers supplied by a temporary help service). Do not include vacation, sick leave, holidays, or any other non-work time even if employees were paid for it. If your establishment keeps records of only the hours paid or if you have employees who are not paid by the hour, you must estimate the hours that the employees actually worked.

Section 1904.35 -- Employee Involvement.

Question 35-1. How does a USACE Command inform each employee on how he or she is to report an injury or illness?

USACE Commands are required to let employees know how and when to report work-related injuries and illnesses. This means that the USACE Command must set up a way for the employees to report work-related injuries and illnesses and tell its employees how to use it. The Recordkeeping rule does not specify how the employer must accomplish these objectives, so USACE Commands have flexibility to set up systems that are appropriate to their workplace. The size of the workforce, employee's language proficiency and literacy levels, the workplace culture, and other factors will determine what will be effective for any particular workplace.

Section 1904.39 -- Reporting Fatalities & Multiple Hospitalization Incidents to OSHA.

Question 39-1. When a work-related heart attack occurs in the workplace and the employee dies one or more days later, how should the case be reported to OSHA?

The employer must orally report a work-related fatality by telephone or in person to the OSHA Area Office nearest to the site of the incident. The employer must report the fatality within eight hours of the employee's death in cases where the death occurs within 30 days of the incident. The employer need not report a death occurring more than 30 days after a work-related incident.

Question 39-2. What is considered a "construction work zone" for purposes of section 1904.39(b)(3)?

A "construction work zone" for purposes of section 1904.39(b)(3) is an area of a street or highway where construction activities are taking place, and is typically marked by signs, channeling devices, barriers, pavement markings and/or work vehicles. The work zone extends from the first warning sign or rotating/strobe lights on a vehicle to the "END ROAD WORK" sign or the last temporary traffic control device.

Recordkeeping Training Presentations

(USACE does not specifically endorse any training source rather the following is a list of Recordkeeping Training Presentation of which we are currently aware)

29 CFR 1904.35 requires training for all employees on the agency occupational safety and health program, with emphasis on their rights and responsibilities which includes how and when to report work related injuries and illnesses. Training is available from many sources including but not limited to OSHA, National Safety Council, and in the very near future a Corps specific briefing will be available for download from the USACE Safety and Occupational Health Office homepage.

USACE

Training to access and use ENGLink Accident Reporting System to develop Preliminary Accident Notifications

Go on-line to ENGLink. Hover over the “Support” option on header menu on ENGLink home page. On drop down menus select training then select “Front Page”. This will give you access to the training module on how to use the Accident Reporting System in ENGLink to develop Preliminary Accident Notifications.

Soon to be added to USACE SOH Home Page at the “What’s New” tab

http://www.hq.usace.army.mil/soh/hqusace_soh.htm a web-based training module on the new USACE accident reporting process. This training module will also be available in a CD format.

OSHA

- Recordkeeping Highlights* [PowerPoint Presentation: 23 slides (1.3 MB)]
This presentation is intended to assist a presenter in providing an overview of the new rule to audiences with a broad knowledge of OSHA's former rule.
 - Presentation Script
 - Presenter's Guide
 - Decision Flowchart
 - Partially Exempt Industries
- Brief Recordkeeping Overview* [PowerPoint Presentation: 10 slides (299 KB)]
This presentation is intended to assist a presenter in providing a brief overview of the new rule to audiences that are affected by the regulation.
 - Presentation Script
 - Presenter's Guide
 - Partially Exempt Industries

- Comprehensive Presentation* [PowerPoint Presentation: 59 slides (1.3Mb)]
This presentation an in-depth discussion of OSHA's new recordkeeping rule intended for audiences that require a thorough understanding of the regulation.
 - Presentation Script [PDF File(790Kb)]
 - Instructor's Guide

If you are interested in classroom training on the Recordkeeping rule, OSHA has developed Course #7845, OSHA Recordkeeping Rule. This course is offered at many of the OSHA training Institute (OTI) Education Centers. The Education Centers were established by the U.S. Department of Labor's Occupational Safety and Health Administration because of an increased demand for OSHA's courses. The OTI Education Centers offer courses to Federal and State agencies and the public and private sector.

For updated information on course schedules please contact the OTI Education Center nearest you.

National Safety Council

Recordkeeping

Don't Repeat History -- Learn From It

Effective recordkeeping is just as important as safety training and PPE when it comes to avoiding workplace injuries and illnesses. It gives you a solid foundation for a successful, well-managed safety program.

OSHA's Recordkeeping Standard ensures that companies track and report incidents, so they're less likely to repeat them. And the National Safety Council's Recordkeeping Compliance course helps you learn to comply with the standard in your own facility. In just four hours, we'll walk you through the key elements of the standard, and show you how to make it part of an effective safety program.

The seminar covers:



- The purpose and scope of OSHA's 1904 Recordkeeping and Reporting Occupational Injuries and Illnesses
- Which industries and companies need to comply, and what types of incidents they need to report
- The required OSHA Recordkeeping forms and how to fill them out correctly
- Who's responsible for filling out the forms




You'll learn how good recordkeeping can help you:

- Measure the effectiveness of your safety program

- Identify high-risk areas and procedures
- Get management to support safety initiatives
- Keep employees informed and motivate them to work more safely

Pricing and course timespan may vary at some locations, as indicated. Contact the Administering Office directly for additional information in those instances.

December 3, 2004	Omaha, NE	Greater Omaha Chapter safety@safenebraska.org (800) 592-9004 or (402) 896-6332	Pricing may vary. Call or e-mail for registration information.
December 17, 2004	Atlanta, GA	Georgia Chapter georgia@nsc.org (800) 441-5103	
January 4, 2005	Ft. Lauderdale, FL	South Florida Chapter occupational@safetycouncil.com (800) 392-5101 or (954) 422-5757	Pricing may vary. Call or e-mail for registration information.
January 10, 2005	Charlotte, NC	Safety and Health Council of North Carolina training@safetync.org (800) 868-8777 or (704) 334-7242	Pricing may vary. Call or e-mail for registration information.
January 20, 2005	Des Moines, IA	Iowa-Illinois Safety Council iiscadmin@iisc.org (515) 276-4724	Pricing may vary. Call or e-mail for registration information.
February 28, 2005	Orlando, FL	Central & North Florida Chapter floridacn@nsc.org (800) 427-2713	

<p>April 13, 2005</p>	<p>Raleigh, NC</p>	<p>Safety and Health Council of North Carolina (Raleigh office) pamd@safetync.org (919) 789-4900</p>	 <p>Pricing may vary. Call or e-mail for registration information.</p>
<p>June 6, 2005</p>	<p>Atlanta, GA</p>	<p>Georgia Chapter georgia@nsc.org (800) 441-5103</p>	
<p>July 27, 2005</p>	<p>Charlotte, NC</p>	<p>Safety and Health Council of North Carolina training@safetync.org (800) 868-8777 or (704) 334-7242</p>	<p>Pricing may vary. Call or e-mail for registration information.</p>
<p>October 3, 2005</p>	<p>Raleigh, NC</p>	<p>Safety and Health Council of North Carolina (Raleigh office) pamd@safetync.org (919) 789-4900</p>	<p>Pricing may vary. Call or e-mail for registration information.</p>
<p>December 12, 2005</p>	<p>Atlanta, GA</p>	<p>Georgia Chapter georgia@nsc.org (800) 441-5103</p>	

Accessing the ENGLink Accident Reporting System (ARS) and Creating a Preliminary Accident Notification (PAN)

- Access ENGLink at <https://englink.usace.army.mil/>
- Enter UPASS user name and oracle password. Your user name is the same user name used to access USACE systems. The UPASS administrator in Information Management should ensure users access to the system through the “ENGLink SID S0ENGLP1” capability on a users access list.
- Once the ENGLink home page is displayed, click the Preliminary Accident Notification (PAN) button beneath the ENGLink calendar and ENGLink Interactive flag.
- The Incident Reporting System main page will be displayed. This page will display PANs that the user has created. If the user has the Safety Report View/Manager role they will see all PANs within their District/Lab/Division.
- Click the Create Report link on the left
- The PAN create screen will be displayed in an edit mode thus allowing the user to enter his/her accident details.
- Once all of the details have been entered, scroll to the bottom of the page, select the Yes affirmation box and then click the Add New PAN button.
- You will be prompted to either Release the report or save it, continue to work on it and release it at a later time. Releasing the PAN is required to have the system send out the automatic notifications.
- Once released, the report will be listed in the Last 5 Preliminary Accident Notification’s Released on the ARS main page.

Accident Reporting System Permissions

- **ENGLink User**- allows the employee to View/Edit/Create/Release his or her own Preliminary Accident Notifications
- **PAN POC**- allows the employee to View and Edit PANs, Create New Versions of PANs and Release PANs
- **Safety Report Editor (ROSA)** - allows the employee to View and Edit ROSA, Create New Versions of ROSA and View Released PANs in their District/Lab/Division. This role does not allow for the Release of a ROSA.
- **Safety Report Viewer (ROSA)**-allows the employee to view all released PANs in their District/Lab/Division and to view all ROSA in their District/Lab/Division.
- **Safety Admin (HQ Personnel Only)**-Can View/Edit/Release ROSA. This role can also Create New Versions of ROSA and view only associated PANs, and view 300 logs.
- **Safety Manager**- Can View/Edit/Release ROSA. This role can also Create New Versions of ROSA, Edit the OSHA 300 fields of a PAN and View all released PANs.

USACE POLICIES AND PROCEDURES FOR IMPLEMENTING REVISED 29 CFR 1960

I. Summary. OSHA has updated Federal Agency recordkeeping requirements by amending 29 CFR Part 1960. In summary, it requires Federal agency compliance with the private sector requirements contained in 29 CFR 1904. Provisions of 29 CFR 1904 are summarized below as they relate to the USACE.

A. Coverage. USACE Commands shall keep records of occupational deaths, injuries and illnesses to USACE employees and others as specified in the update to 29 CFR Part 1960 and make certain reports to the OSHA Federal Agency Program.

B. Forms. USACE Commands shall keep injury and illness records and complete three forms: the OSHA 300 Log of Work-Related Injuries and Illnesses, the annual OSHA 300A Summary of Work-Related Injuries and Illnesses, and the OSHA 301 Injury and Illness Incident Report. USACE Commands shall keep separate 300 Logs for each of their establishments (see definition paragraph V.B. below) that is expected to be in operation for one year or longer. In accordance with the OSHA recordkeeping changes to 29 CFR Part 1960, issued 24 November 2004, each USACE Command shall determine the number of establishments within their command and provide a list of those establishments to their MSC Safety Office and/or CESO no later than 1 September 2005 and update as necessary as the list is changed. The Log must include injuries and illnesses to USACE employees as well as injuries and illnesses of other employees USACE supervises on a day-to-day basis, such as temporary workers or contractor employees who are subject to daily supervision by USACE. Within seven calendar days of the time the fatality, injury, or illness occurs, USACE Commands establishments must enter any case that is work-related, is a new case, and meets one or more of the recording criteria in the rule on the Log and Form 301.

The Preliminary Accident Notification (PAN), which is originated in ENGLink, is viewable and printed in the format of the OSHA Form 301. The PAN further populates the OSHA Form 300 Log. It is anticipated the PAN will initially be incomplete in some fields thus it will be editable by the initiator, their designated on-site alternate and the local Command Safety Manager or their designee. Upon initial submission, the PAN is transmitted to the on-site alternate, the local Command Safety Manager and/or their designee, and the local Commander and/or their designee. Once the PAN is complete and accurate, the originator or their designee will close out the PAN and it becomes final.

When the OSHA Form 301 is transmitted, the OSHA Form 300 Log is initially populated. As the PAN is revised, the OSHA Form 300 Log is updated accordingly until the PAN is closed out. The OSHA Form 300 Log is viewable, editable, and printable by the local Command Safety Manager and/or their designee. It is the responsibility of the local Command Safety Office to assure the Log is complete and accurate once the PAN is closed out. Initially, until the automated PAN system can be enhanced to perform the function, it is the local Command Safety Office's responsibility to separate the

Command's cumulative OSHA Form 300 Log and enter PAN data on the individual establishment level OSHA Form 300 Logs.

NOTE: In the event the PAN is a notification of an Army Class A or B accident, the PAN will also generate a Report of Serious Accident (ROSA), which will be transmitted to the local Command Safety Office and Commander. The ROSA is editable by the local Command Safety Office and releasable. The ROSA must be released in order to notify the chain of command. The chain of command will include the local Safety Manager and their designee, the Commander and their designee, the MSC Safety Office and Commander (if in the chain of command), and the CESO.

C. Work-Relationship. In accordance with Section 1904.5(a) USACE Command establishments must consider an injury or illness to be work-related if an event or exposure in the work environment either caused or contributed to the resulting condition. Work-relatedness is presumed for injuries and illnesses resulting from events or exposures occurring in the work environment. Under this language, a case is presumed work-related if, and only if, an event or exposure in the work environment is a discernable cause of the injury or illness or of a significant aggravation to a pre-existing condition. The work event or exposure need only be one of the discernable causes; it need not be the sole or predominant cause.

Section 1904.5(b)(2)(ii) - A case is not recordable if it involves signs or symptoms that surface at work but result solely from a non-work-related event or exposure that occurs outside of the work environment. This is intended as a restatement of the principle expressed in section 1904.5(a), described above. Regardless of where signs or symptoms surface, a case is recordable only if a work event or exposure is a discernable cause of the injury or illness or of a significant aggravation to a pre-existing condition.

Section 1904.5(b)(3) - If it is not obvious whether the precipitating event or exposure occurred in the work environment or elsewhere, USACE Commands must evaluate the employee's work duties and environment to decide whether or not one or more events or exposures in the work environment caused or contributed to the resulting condition or significantly aggravated a pre-existing condition. This means that USACE Commands must make a determination whether it is more likely than not that work events or exposures were a cause of the injury or illness, or of a significant aggravation to a pre-existing condition. If the USACE Command decides the case is not work-related, and OSHA subsequently issues a Notice of Unsafe or Unhealthful Working Conditions for failure to record, OSHA will have the burden of proving that the injury or illness was work-related.

D. New Case. Only new cases are recordable. Work-related injuries and illnesses are considered to be new cases when the employee has never reported similar signs or symptoms before, or when the employee has recovered completely from a previous injury or illness and workplace events or exposures have caused the signs or symptoms to reappear. In the case of previous injuries/illnesses, it is the responsibility of the local

Command Safety Office to update the OSHA Form 300 Log where the injury/illness was listed.

E. General Recording Criteria. USACE Command establishments must record new work-related injuries and illnesses that meet one or more of the general recording criteria or meet the recording criteria for specific types of conditions. Recordable work-related injuries and illnesses are those that result in one or more of the following:

- Death,
- Days away from work,
- Restricted work,
- Transfer to another job,
- Medical treatment beyond first aid,
- Loss of consciousness,
- Diagnosis of a significant injury or illness,
- Needlestick injuries and cuts from sharps that are contaminated with another person's blood or other potentially infectious material,
- Medical removal under medical surveillance requirements of an OSHA Standard,
- Occupational hearing loss if the employee has experienced a work-related STS in hearing in one or both ears and the employee's total hearing level is 25 dB or more above audiometric zero in same ear(s) as the STS, or
- Work-related tuberculosis Cases

USACE Commands must classify each case on the 300 Log in accordance with the most serious outcome associated with the case. The outcomes listed on the form are: death, days away, restricted work/transfer, and "other recordable." For cases resulting in days away or in a work restriction or transfer of the employee, the USACE Command must count the number of calendar days involved and enter that total on the form. The USACE Command may stop counting when the total number of days away, restricted or transferred reaches 180.

F. Restricted Work. An employee's work is considered restricted when, as a result of a work-related injury or illness, (A) the USACE Command supervisor keeps the employee from performing one or more of the routine functions of his or her job (job functions that the employee regularly performs at least once per week), or from working the full workday that he or she would otherwise have been scheduled to work, or (B) a physician or other licensed health care professional recommends that the employee not perform one or more of the routine functions of his or her job, or not work the full workday that he or she would otherwise have been scheduled to worked.

The new rule continues the policy established under the old rule that a case is not recordable under section 1904.7(b)(4) as a restricted work case if the employee experiences minor musculoskeletal discomfort, a health care professional determines that the employee is fully able to perform all of his or her routine job functions, and the USACE Command assigns a work restriction to that employee for the purpose of preventing a more serious condition from developing.

G. Medical Treatment. Medical treatment means the management and care of a patient to combat disease or disorder. For the purposes of Part 1904, medical treatment does not include:

- Visits to a physician or other licensed health care professional solely for observation and counseling;
- The conduct of diagnostic such as x-rays and blood tests, including the administration of prescription medications used solely for diagnostic purposes (e.g., eye drops to dilate pupils); or
- First Aid as defined in the 1904 standard (1904.7(b)(5)(ii))

H. First Aid. First aid means only those treatments specifically listed in 1904.7. They are:

1. Using non-prescription medication at non-prescription strength (for medications available in both prescription and non-prescription form, a recommendation by a physician or other licensed health care professional to use a non-prescription medication at prescription strength is considered medical treatment for recordkeeping purposes);
2. Administering tetanus immunizations (other immunizations, such as Hepatitis B vaccine or rabies vaccine, are considered medical treatment);
3. Cleaning, flushing or soaking wounds on the surface of the skin;
4. Using wound coverings such as bandages, Band-Aids™, gauze pads, etc.; or using butterfly bandages or Steri-Strips™ (other wound closing devices such as sutures, staples, etc., are considered medical treatment);
5. Using hot or cold therapy;
6. Using any non-rigid means of support, such as elastic bandages, wraps, non-rigid back belts, etc. (devices with rigid stays or other systems designed to immobilize parts of the body are considered medical treatment for recordkeeping purposes);
7. Using temporary immobilization devices while transporting an accident victim (e.g., splints, slings, neck collars, back boards, etc.).
8. Drilling of a fingernail or toenail to relieve pressure, or draining fluid from a blister;
9. Using eye patches;
10. Removing foreign bodies from the eye using only irrigation or a cotton swab;
11. Removing splinters or foreign material from areas other than the eye by irrigation, tweezers, cotton swabs or other simple means;
12. Using finger guards;
13. Using massages (physical therapy or chiropractic treatment are considered medical treatment for recordkeeping purposes); or
14. Drinking fluids for relief of heat stress.

I. Diagnosis of a Significant Injury or Illness. A work-related cancer, chronic irreversible disease such as silicosis or byssinosis, punctured eardrum, or fractured or cracked bone is a significant injury or illness that must be recorded when diagnosed by a physician or a licensed health care professional.

J. Recording Injuries and Illnesses to Soft Tissues. Work-related injuries and illnesses involving muscles, nerves, tendons, ligaments, joints, cartilage and spinal discs are recordable under the same requirements applicable to any other type of injury or illness. There are no special rules for recording these cases: if the case is work-related and involves medical treatment, days away, job transfer or restricted work, it is recordable.

K. Employee Privacy. USACE Commands must protect the privacy of injured or ill employees when recording cases. The USACE Command may not enter the injured or ill employee's name on the Log in the following types of cases:

1. Injury or illness to an intimate body part or the reproductive system;
2. An injury or illness resulting from a sexual assault;
3. Mental illnesses;
4. HIV infection, hepatitis, or tuberculosis;
5. Needlestick injuries and cuts from sharp objects that are contaminated with another person's blood or other potentially infectious material (see § 1904.8 for definitions); and
6. Other illnesses, if the employee voluntarily requests that his or her name not be entered on the log.

NOTE: This is a comprehensive list of all injuries and illnesses considered privacy concern cases for Part 1904 purposes.

Instead, the USACE Command shall simply enter "privacy case," in the space where the employee's name would normally appear and keep a separate, confidential list containing the identifying information. If the USACE Command provides the OSHA records to anyone who is not entitled to access to the records under the rule, the names of all injured and ill employees generally must be removed before the records are turned over.

L. Certification, Summarization and Posting. After the end of the year, Local Command Safety Offices must review the local Command and subordinate establishment Logs to verify their accuracy, summarize the 300 Log information on the 300A summary forms, and the senior management official at each establishment must certify and sign the summary for their establishment. This information must then be posted for three months, at each establishment from 1 February through 30 April. The USACE Command must keep the records for five years following the calendar year covered by them.

M. Employee Involvement. Each USACE Command must set up a way for employees to report work-related injuries and illnesses, and each employee must be informed about how he or she is to report an injury or illness. Employees, former employees, and employee representatives also have a right to access the public records, and an employer must provide copies of certain records upon request.

N. Reporting. For Army Class A and Class B Government and Contractor Accidents, the Command must immediately upon notification, report the accident to the respective HQ-Forward Safety Manager (if in the chain of command) and CESO by telephone (202-761-8600, 703-608-0163 or 202-761-8566, 703-623-8021) or by e-mail to : Brenda.A.Warren@usace.army.mil and Robert.E.Stout@usace.army.mil.

For Army Class A and Class B Government Accidents, the Command must immediately upon notification, report the accident through the chain of command to the Commander, US Army Safety Center by telephone (Commercial 205-255-2660/3410, DSN 558-2660/3410). The notification, at a minimum will contain the information on DA Form 7305-R, Worksheet for Telephonic Notification of Ground Accident. Additionally, the impacted USACE Command must orally report within 8 hours work-related fatalities and incidents involving the hospitalization of three or more employees to the nearest OSHA office, or the OSHA Hotline at 1-800-321-OSHA and through their chain of Command to CESO. There is an exception for certain motor vehicle or public transportation accidents.

For each fatal and catastrophic accident, the Command must provide through CESO to the OSHA Office of Federal Agency Programs, a summary report of the accident. The summary will address the date/time of the accident, the agency/establishment named and location, and consequences, description of operation, and the accident causal factors, applicable standards and their effectiveness, and the command corrective/preventive actions.

II. Recordkeeping Procedures.

A. Review Records and Collect Data. Safety and Health professionals at each Command level shall review and record the injury and illness records of each of their establishments for accuracy and completeness.

B. Compliance with Part 1904 Requirements. The following are compliance guidelines:

1. OSHA 300 and OSHA 301 Forms. USACE Commands must record cases on each establishment's OSHA 300 Log of Work-Related Injuries and Illnesses, and on the OSHA 301 Incident Report, (or equivalent form), as prescribed in Subpart C of Part 1904.

2. Posting Annual Summary Requirements. USACE Commands shall

certify by the establishment's senior manager signature and post at each establishment the OSHA 300A Summary by 1 February as required by §1904.32(a)(1); and keep it posted through 30 April of each year, as required by §1904.32(b)(6).

3. Access to Records for Employees. The USACE Command shall provide copies of OSHA Form 300 Logs to any employee, former employee, personal representative, or authorized employee representative by the end of the next business day.

The USACE Command shall provide authorized employee representatives copies of OSHA 301 Incident Reports within 7 calendar days and authorized government representatives (OSHA) copies of records kept under Part 1904 within 4 business hours.

4. Maintenance of Injury/Illness Records. OSHA injury/illness records are not required to be maintained at each establishment. They may be centrally maintained at the local Command level (e.g. MSC, District, Lab, or Center). However, the local command must meet the requirements of 29 CFR 1904.30(b) which states that you must be able to transmit information about the injuries and illnesses from the establishment to the central or local Command location within seven calendar days of receiving information that a recordable injury or illness has occurred; and be able to produce and send the records from the central location within the timeframes required by 1904.35 and 1904.40 when you are required to provide records to a government representative, employees, former employees, or employee representatives. 1904.35 states you must be able to give employees or their representative copies of current or stored OSHA Logs by the end of the next business day. It further states you must be able to give authorized employee representatives copies of OSHA 301 Incident Reports within 7 calendar days. 1904.40 states you must provide an authorized government representative (OSHA) copies of records kept under Part 1904 within 4 business hours.

5. Procedures for Recording Occupational Exposure to Bloodborne Pathogens. USACE Commands may use the OSHA 300 and 301 forms to meet the sharps injury log requirement of §1910.1030(h)(5), if the USACE Command enters the type and brand of the device causing the sharps injury on the Log, and maintains the records in a way that segregates sharps injuries from other types of work-related injuries and illnesses, or allows sharps injuries to be easily separated.

6. Recording Criteria for Occupational Exposure to Tuberculosis (TB). USACE Commands shall record cases of occupational exposure to TB on the OSHA 300 Log by checking the "respiratory condition" column when an employee has been exposed to someone with a known case of active TB, and that employee subsequently develops a TB infection, as evidenced by a positive skin test or diagnosis by a physician or other licensed health care professional.

7. Recording Criteria for Cases Involving Medical Removal. USACE Commands shall record the case on the OSHA 300 Log if an employee is medically removed under the medical surveillance requirements of an OSHA standard. Currently

the medical surveillance requirements of the following standards have medical removal requirements:

Benzene. General industry standard (§1910.1028(i)); Shipyard standard (§1915.1028); and Construction standard (§1926.1128)

Cadmium. General industry standard (§1910.1027(l)); Shipyard standard (§1915.1027); and Construction standard (§1926.1127)

Formaldehyde. General industry standard (§1910.1048(l)); Shipyard standard (§1915.1048); and Construction standard (§1926.1148)

Lead. General industry standard (§1910.1025); Shipyard standard (§1915.1025); and Construction standard (§1926.62)

Methylenedianiline. General industry standard (§1910.1050(m)); Shipyard standard (§1915.1050); and Construction standard (§1926.60(n))

Methylene Chloride. General industry standard (§1910.1052(j)); Shipyard standard (§1915.1052); Construction standard (§1926.1152)

Vinyl Chloride. General industry standard (§1910.1017(k)); Shipyard standard (§1915.1517); and Construction standard (§1926.1117)

III. Physician or Other Licensed Health Care Provider's Opinion. In cases where two or more physicians or other licensed health care providers make conflicting or differing recommendations, the USACE Command must make a decision as to which recommendation is the most authoritative (best documented, best reasoned, or most persuasive), and record based on that recommendation.

IV. Prohibition Against Discrimination. USACE Commands shall not discriminate against any employee for reporting a work-related fatality, injury, or illness, who files a safety and health complaint, asks for access to the Part 1904 records, or otherwise exercises any rights afforded by the OSH Act.

V. Definitions.

A. Days Away, Restricted, or Transferred (DART) Rate: This includes cases involving days away from work, restricted work activity, and transfers to another job and is calculated based on $(N/EH) \times (200,000)$ where N is the number of cases involving days away and/or job transfer or restriction, EH is the total number of hours worked by all employees during the calendar year, and 200,000 is the base for 100 full-time equivalent employees. For example: Employees of a USACE Command establishment (XYZ Command), including temporary and directly supervised leased/contractor workers, worked 645,089 hours at XYZ Command. There were 22 injury and illness cases involving days away and/or restricted work activity and/or job transfer from the OSHA 300 Log (total of column H plus column I). The DART rate would be $(22/645,089) \times (200,000) = 6.8$. (Beginning 1 October 2005, USACE will track the total injury and illness and DART rates to establish a baseline and metrics for CY 07.)

B. Establishment: 29 CFR Part 1960.2(h) - the term *establishment* means a single physical location where business is conducted or where services or operations are performed. Where distinctly separate activities are performed at a single physical

location, each activity shall be treated as a separate *establishment*. Typically, an *establishment* as used in Part 1960 refers to a field activity, regional office, area office, resident office, project, installation, or facility. For the purpose of USACE compliance, HQUSACE and each USACE Division, District, Lab, and Center are establishments and each will identify its subordinate establishments i.e. regional offices, field projects, resident offices, laboratories, etc. in accordance with the guidance provided in the standard. OSHA Form 300 Logs will be maintained for each establishment. For information purposes only – the definition of establishment from 29 CFR Part 1904 is: a single physical location where business is conducted or where services or industrial operations are performed. For activities where employees do not work at a single physical location, such as construction; transportation; communications, electric, gas and sanitary services; and similar operations, the establishment is represented by main or branch offices, terminals, stations, etc. that either supervise such activities or are the base from which personnel carry out these activities.

1. Normally, one business location has only one establishment. Under limited conditions, the employer may consider two or more separate businesses that share a single location to be separate establishments. An employer may divide one location into two or more establishments when:

- Each of the establishments represents a distinctly separate business;
 - Each business is engaged in a different economic activity;
 - No one industry description in the Standard Industrial Classification Manual (1987) applies to the joint activities of the establishments; and
 - Separate reports are routinely prepared for each establishment on the number of employees, their wages and salaries, sales or receipts, and other business information.
- For example: If an employer operates a construction company at the same location as a lumber yard, the employer may consider each business to be a separate establishment.

2. An establishment can include more than one physical location, but only under certain conditions. An employer may combine two or more physical locations into a single establishment only when:

- The employer operates the locations as a single business operation under common management;
- The locations are all located in close proximity to each other; and
- The employer keeps one set of business records for the locations, such as records on the number of employees, their wages and salaries, sales or receipts, and other kinds of business information.

For example: One manufacturing establishment might include the main plant, a warehouse a few blocks away, and an administrative services building across the street. For employees who telecommute from home, the employee's home is not a business establishment and a separate 300 Log is not required. Employees who telecommute shall be linked to one of the employer's establishments under §1904.30(b)(3).

3. For short-term construction resident/project offices that are:

a. Scheduled to continue for a year or more:

- (1) A separate OSHA 300 Log must be maintained for each establishment.
- (2) The log may be maintained either

- (a) At the construction site, or
- (b) At an established central location provided the employer can:
 - Transmit information about the injuries and illnesses from the establishment to the central location within seven (7) calendar days of receiving information that a recordable injury or illness has occurred, and
 - Produce and send records from the central location to the establishment within four business hours when the employer is required to provide to a government representative or by the end of the next business day when providing records to an employee, former employee or employee representative.
- b. Scheduled to continue for less than a year:
 - (1) A Separate OSHA 300 Log need not be maintained for each establishment.
 - (2) One OSHA 300 Log may be maintained to cover:
 - (a) All such short-term establishments or
 - (b) All Such short-term establishments within company divisions or geographic regions.
 - (3) The Log may be maintained at the establishment or at a central location under the procedures given in 3.a.(2), above.

C. Injuries and Illnesses: An injury or illness is an abnormal condition or disorder. Injuries include cases such as, but not limited to, a cut, fracture, sprain, or amputation. Illnesses include both acute and chronic illnesses, such as, but not limited to, a skin disease, respiratory disorder, or poisoning. (Note: Injuries and illnesses are recordable only if they are new, work-related cases that meet one or more of the Part 1904 recording criteria.)

Note: The distinction between injury and illness is not a factor for determining which cases are recordable.

D. Other Potentially Infectious Material (OPIM): (1) The following human body fluids: semen, vaginal secretions, cerebrospinal fluid, synovial fluid, pleural fluid, pericardial fluid, peritoneal fluid, amniotic fluid, saliva in dental procedures, any body fluid that is visibly contaminated with blood, and all body fluids in situations where it is difficult or impossible to differentiate between body fluids; (2) Any unfixed tissue or organ (other than intact skin) from a human (living or dead); and (3) HIV-containing cell or tissue cultures, organ cultures, and HIV- or HBV-containing culture medium or other solutions; and blood, organ, or other tissues from experimental animals infected with HIV or HBV.

E. Physician or Other Licensed Health Care Professional: A physician or other licensed health care professional is an individual whose legally permitted scope of practice (i.e., license registration, or certification) allows him or her to independently perform, or be delegated the responsibility to perform, the activities described by this regulation.

F. Total Injury and Illness Rate: This includes cases involving fatalities, days away from work, restricted work activity, and transfers to another job and is calculated

based on $(N/EH) \times (200,000)$ where N is the number of cases involving fatalities, days away and/or job transfer or restriction, EH is the total number of hours worked by all employees during the calendar year, and 200,000 is the base for 100 full-time equivalent employees. For example: Employees of a USACE Command establishment (XYZ Command), including temporary and directly supervised leased/contractor workers, worked 645,089 hours at XYZ Command. There were 1 fatality, 22 injury and illness cases involving days away and/or restricted work activity and/or job transfer from the OSHA 300 Log (total of column H plus column I). The Total Injury and Illness Rate would be $(23/645,089) \times (200,000) = 7.1$.