

Program Profile Series

Number Twenty



EMPLOYEE EXPOSURE AND MEDICAL RECORDS

SCOPE - To provide employees and their representatives access to relevant exposure and medical records for improved detection, treatment, and prevention of occupational disease.

AUTHORITY/REFERENCE - OSHA 29 CFR 1910.20



ACCOUNTABILITY - Employers shall maintain and preserve employee exposure and medical records and provide employees and their representatives access to these records. Employees must be given information and training upon first entering into employment, and at least annually thereafter, on their right of access to exposure and medical records; the existence, location, and availability of such records; the person responsible for maintaining and providing access to such records. A copy of the standard (OSHA 29 CFR 1910.20) shall be kept at the workplace and, upon request, copies shall be made available to employees.

PROGRAM ELEMENTS - The following elements are requirements of the standard:

1. Preservation of records - Unless another OSHA standard requires a different time period, records shall be retained as follows:

a. Employee medical records - retained for length of employment plus thirty (30) years. Records of employees who have worked less than one year for the employer do not need to be retained if they are provided to the employee at the end of employment.

b. Employee exposure records and analyses using exposure and medical records - retained for thirty (30) years. Biological monitoring results

designated as exposure records by specific OSHA standards shall be retained as required by that standard.

2. Access to records - Upon receiving a request for access from an employee or their designated representative, the employer must provide access within fifteen working days. If there is a delay in allowing access, the employer must communicate the reason for the delay and the earliest date the records will be available within fifteen working days of receiving the request. If a copy of the record is requested the employer will either provide the initial copy at no cost, allow the employee or representative to copy the record using the employer's equipment, or loan the record to the employee or representative for a reasonable time to copy. The employer may charge reasonable costs for subsequent or additional copies of the record. If the record is an x-ray, the employer may limit access to on-site examination or make other suitable arrangements for the temporary loan of the x-ray.

3. Employee information - Upon first entering employment, and at least annually thereafter employees shall be informed of the following:

a. The existence, location, and availability of any medical and exposure records.

b. The person responsible for maintaining and providing access to the records.

c. Each employee's rights of access to the records.

NOTE: A copy of this standard must be kept at the workplace and copies made available to employees upon request.

4. Transfer of records - When an employer ceases business, these records shall be transferred to the successor employer. If there is no successor employer, the employees shall be informed of their rights to the records at least three months prior to ceasing business. If required by a specific OSHA standard, the records must be transferred to the Director of the National Institute for Occupational Safety and Health (NIOSH).

5. Trade secrets - The employer may delete any trade secret data that discloses manufacturing processes, or the percentage of a chemical substance in mixture, as long as the person requesting the records is notified.

However, the employer may be required to provide alternative information that is sufficient to identify where and when an exposure occurred.

This section also contains provisions that allow an employer to withhold the specific chemical identity of a toxic substance provided that:

1. The claim that the information withheld is a trade secret can be supported.

2. All other information about the substance is disclosed.

3. The party requesting the information is informed that the information being withheld is a trade secret.

4. The specific chemical identity is disclosed to medical personnel when the information is necessary for the treatment of a medical emergency.

5. The specific chemical identity is disclosed when an employee, employee's representative, or health professional makes a written request for the information for the purposes of:

a. Assessing the hazards of exposure;

b. Conducting or assessing sampling of the workplace atmosphere to determine exposure levels;

c. Pre-assignment or periodic medical surveillance of exposed employees;

d. Providing medical treatment to exposed employees;

e. Selecting or assessing appropriate personal protective equipment for exposed employees;

f. Designing or assessing engineering controls or other protective measures for exposed employees;

g. Conducting studies to determine the health effects of exposure.

