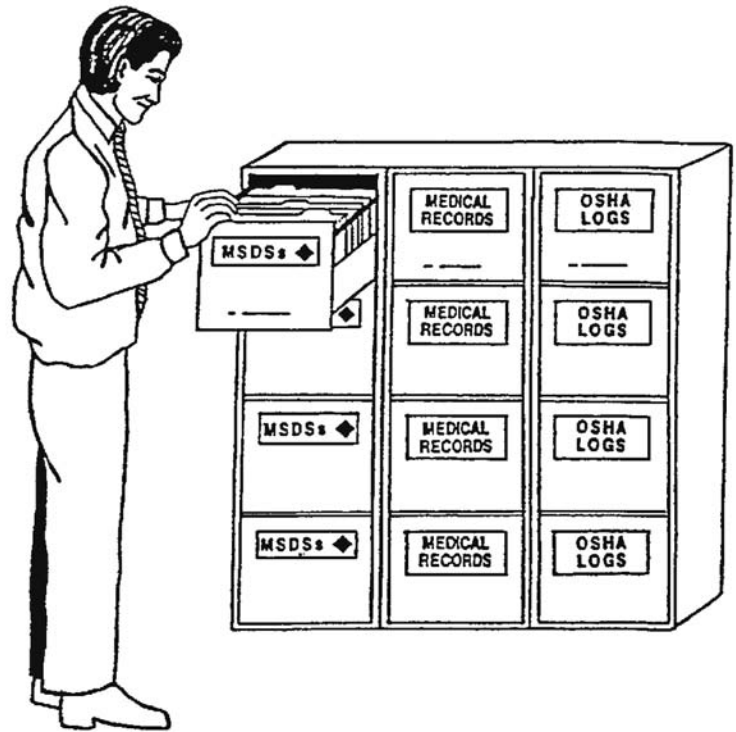


4. Obtain Records

USEFULNESS OF RECORDS

Copies of the health and safety records that most employers must keep are available to employees and their unions. They are a starting place for workers and unions to find out whether injuries or illnesses are occurring in their workplace. These records may point to hazardous areas or to individual workers who may need medical help or have a potential workers' compensation claim.



TYPES OF RECORDS

Medical and Monitoring Data

These are available from the employer under the OSHA/NJPEOSH Access to Medical and Monitoring Data standard, 1910.1020. Access must be given within 15 working days after a request. Records must be kept for 30 years. Records from medical and monitoring contractors are also covered. Available data may include:

- Exposure monitoring, such as chemical or noise sampling results.
- Biological monitoring, such as blood lead tests.
- Chemical inventories and Material Safety Data Sheets (MSDSs), which are information sheets developed by manufacturers about a particular chemical product.
- Worker medical records (with each individual's consent).
- Summaries, reports, and studies based on exposure and medical records.

Injury and Illness Records

These are available from the employer under the OSHA/NJPEOSH Recordkeeping standard, 1904.35(b) (2). Work-related injury and illness cases must be recorded by the employer within seven calendar days if they result in death, days away from work, restricted work or transfer to another job, medical treatment beyond first aid, or loss of consciousness. These records must be kept for five years.

- **Log 300 of Occupational Injuries and Illnesses.** This log lists injuries and illnesses and tracks days away from work, restricted work, or transfer to another job. Access must be provided by the end of the next business day after a request. The log must include employee names except for “privacy concern cases,” such as those involving employees who are HIV-positive.
- **Form 300A Summary of Work-Related Injuries and Illnesses.** This summary shows totals for the year in each category. It does not include employee names. This summary must be posted in a conspicuous place in the workplace from February 1 to April 30 each year.
- **Form 301 Injury and Illness Incident Report.** This report (or an equivalent workers’ compensation or insurance form) provides details about the incident. Access must be provided by the end of the next business day after request by employees, former employees, and personal representatives (any person the employee or former employee designates in writing, including the union.) Union representatives receive only the “Tell us about this case” section of the report within seven working days after the request, unless they are designated as a personal representative. The report includes employee names except for “privacy concern cases.”

Toxic Substance Records

These are available from the employer under OSHA/NJPEOSH Hazard Communication (Haz Com) standards, 1910.1200 and N.J.A.C 12:100-7.

- *Material Safety Data Sheets* (MSDSs).
- Employer’s written Haz Com program, including a list of all hazardous chemicals used in the workplace.
- Employer’s records of employee Haz Com training.

Right to Know Survey

The following are available from New Jersey state government agencies and the employer under New Jersey Right to Know regulations.

- Employer’s *Right to Know Survey*, a report of substances designated hazardous by the State of New Jersey present at a facility, including storage amounts, locations and containers types.
- In private sector workplaces, U.S. Environmental Protection Agency (EPA) *Form R* is a report that reveals the quantity of certain chemicals released into the air, water, or on land.

OSHA/NJPEOSH Inspection Records

Summary inspection data is available on the OSHA website, www.osha.gov/oshstats/index.html

- Summary records of OSHA/NJPEOSH inspections, citations, fines for specific workplaces or types of workplaces.

Complete inspection records are available from government agencies under the Freedom of Information Act (FOIA) for private sector workplaces or the New Jersey Open Public Records Act (OPRA) for public sector workplaces. Confidential information such as the names of complainants and interviewed workers are removed.

- Complete records of OSHA/NJPEOSH inspections, citations, fines.

OTHER RECORDS

Other records available from the employer under labor laws and some union contracts may include:

- Workers' compensation information: premiums, legal costs, administrative costs, number and nature of claims, lost time.
- Information on health and safety programs currently in use: instructions to supervisors and employees, training manuals, names of employees who have been trained.
- Minutes of health and safety committee meetings.
- Health and safety literature that the employer has received from manufacturers of equipment, or from designers of work processes.
- Accident/incident reports and results of investigations.
- Studies of workplace health and safety conditions by the employer, consultants, or outside agencies.
- Safety suggestions submitted to the employer.
- Information on anticipated changes in the workplace, including renovations and new construction, new chemicals, equipment and work processes that may affect health and safety.
- Records of fire and building inspector inspections, citations, fines.
- Records of vehicle inspections and vehicle accident reports.

MUST EMPLOYERS BARGAIN OVER HEALTH AND SAFETY?

In addition to individual and union rights to safety and health information under OSHA/NJPEOSH, unions have rights to information under collective bargaining laws: the National Labor Relations Act in the private sector and its equivalent for New Jersey public employees, the New Jersey Employer-Employees Relations Act. Under these and similar labor laws, *safety and health is one of the issues over which employers must bargain*. As part of this obligation, the employer must supply the union with requested safety and health information within a "reasonable" period of time. Note that this right to information is for unions, not individual workers.

HELPFUL HINT



Twenty sample letters for requesting information are in PART THREE, Section 4. When asking for any safety and health information, create a “paper trail” by putting the request in writing and keeping a copy. Always include the specific information requested and the date by which it should be provided.

PUBLICATIONS WITH MORE INFORMATION



Recordkeeping – It’s new, it’s improved, and it’s easier, OSHA Publication 3169, 2001

Recordkeeping Handbook, OSHA Publication 3245-09R, 2005

Access to Medical and Exposure Records, OSHA Publication 3110, 2002

Phone: 202-693-1888, OSHA Publications Office

www.osha.gov/pls/publications/pubindex.list

Recording and Reporting of Occupational Injuries and Illnesses Recordkeeping Guidelines for the Log and Summary of Occupational Injuries and Illnesses (for public employers)

Phone: 609-292-7036 and 609-633-3896. N.J. Department of Labor and Workforce Development

www.state.nj.us/labor/lasse/forms/NJOSH300.pdf

New Jersey’s Open Public Records Act (“OPRA”)

Phone: 609-695-7100, New Jersey Work Environment Council

www.njwec.org

WEBSITES WITH MORE INFORMATION



OSHA’s How to Make a FOIA Request website

www.osha.gov/as/opa/foia/howto-foia.html

New Jersey Open Public Records website

www.state.nj.us/opra/