

HEALTH AND SAFETY PROCEDURE 408 - Employee Exposure and Medical Records

1.0 PURPOSE

Westlake is committed to maintain and preserve employee exposure data and employee medical records according to requirements of the Occupational Health and Safety Administration's (OSHA) 29 CFR 1910.1020 "Access to Employee Exposure and Medical Records."

Exposure data records are critical in evaluating workplace chemical concentration trends, engineering control effectiveness, and in complying with various regulatory requirements. Medical records are important in establishing baseline employee health, determining whether or not the workplace effects employee health, and in the early detection of illnesses.

Westlake provides employees and their designated representatives' access to their records.

2.0 SCOPE

This program applies to all Westlake, Plaquemine Complex, employees.

3.0 DEFINITIONS

3.1 Access--The right and opportunity to examine and copy records.

3.2 Designated Representative--Any organization or individual to whom an employee gives written authorization to access records concerning that particular employee.

3.3 Employee--Any current or former Westlake, Plaquemine Complex employee, or any employee being assigned or transferred to work where there is a potential for contact with a toxic substance or harmful physical agent. In the case of a deceased or legally incapacitated employee, the employee's legal representative may directly exercise all the employee's rights.

3.4 Employee Medical Record--Any record concerning the health status of an Westlake employee, made or maintained by a physician, nurse, health care professional, or technician including:

3.4.1 Medical and employment questionnaires or histories;

3.4.2 The result of medical examinations (baseline, pre-assignment, periodic, or episodic), audiological examinations, pulmonary function tests, and laboratory tests (including chest and other x-ray films and biological monitoring results not defined as an "employee exposure record");

3.4.3 Medical opinions, diagnosis, progress reports, and recommendations;

3.4.4 OSHA recordable treatment records; and

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HEALTH AND SAFETY PROCEDURE 408 - Employee Exposure and Medical Records

3.4.5 Employee medical complaints.

3.5 Employee Exposure Record--Documents containing any of the following types of information:

- 3.5.1 Workplace monitoring or measuring of potentially toxic substances or harmful physical agents including personal, area, grab, wipe, or other forms of sampling;
- 3.5.2 Related collection and analytical methodologies, calculations, and other background information relevant to interpretation of monitoring results;
- 3.5.3 Biological monitoring results which directly determine the absorption of a potentially toxic substance or harmful physical agent by body systems (i.e., chemical concentration in blood, urine, breath, hair, fingernails, etc.); and
- 3.5.4 Material Safety Data Sheets indicating the material that may pose a potential hazard to human health.

3.6 Exposure--means that an employee is subjected to a toxic substance or harmful physical agent in the course of employment through any route of entry (inhalation, ingestion, skin contact or absorption, etc.), and includes past exposure and potential (e.g., accidental or possible) exposure.

3.7 Health Professional--A physician, occupational health nurse, industrial hygienist, toxicologist, or epidemiologist providing medical or other occupational health services to Westlake or its employees.

3.8 Incident Report--An OSHA 301 Incident Report form, or an equivalent form, is completed for each recordable injury or illness entered on the OSHA 300 Log. An equivalent form is one that has the same information, is as readable and understandable, and is completed using the same instructions as the OSHA form it replaces.

3.9 Log of Work-Related Injuries and Illnesses--OSHA form 300 is a log used for recording and classifying recordable occupational injuries and illnesses, and for noting the extent and outcome of each case. The log shows:

- 3.9.1 When the occupational injury or illness occurred;
- 3.9.2 What the injured or ill person's regular job was at the time of the injury or illness exposure;
- 3.9.3 The department in which the person was employed;
- 3.9.4 The kind of injury or illness;
- 3.9.5 How much time was lost; and
- 3.9.6 Whether the case resulted in a fatality, etc.

3.10 Potentially Toxic Substance or Harmful Physical Agent--Any chemical substance, biological agent (bacteria, virus, fungus, etc.), or physical stress (noise,

HEALTH AND SAFETY PROCEDURE 408 - Employee Exposure and Medical Records

heat, cold, vibration, repetitive motion, ionizing and non-ionizing radiation, hypo- or hyperbaric pressure, etc.) which:

- 3.10.1 Is listed in the latest printed edition of the National Institute for Occupation Safety and Health (NIOSH) Registry of Toxic Effects for Chemical Substances (RTECS);
- 3.10.2 Studies have indicated positive evidence of a known acute or chronic health hazard; or
- 3.10.3 Is the subject of a Material Safety Data Sheet indicating that the material may pose a hazard to human health.

3.11 Record--Any item, collection, or grouping of information such as paper document, microfiche, microfilm, x-ray film, or automated data processing system.

3.12 Specific Written Consent--A written authorization containing the following:

- 3.12.1 Employee name and signature that authorizes the release of medical information concerning themselves;
- 3.12.2 Written authorization date;
- 3.12.3 Individual or organization name that is authorized to release the medical information (i.e., Westlake);
- 3.12.4 Individual or organization name that is authorized to receive the released information;
- 3.12.5 General description of the medical information authorized to be released; and
- 3.12.6 General description of the purpose for medical information release and date when the written authorization will expire. Once the consent expires, no information will be released without a new written authorization.

3.13 Summary of Work-Related Injuries and Illnesses—The OSHA 300A form shows the total number of recordable occupational injuries and illness for a year.

3.14 Trade Secret – Confidential formula, pattern, process, device, or information that is used in an employer's business and that gives the employer an opportunity to obtain an advantage over competitors who do not know or use it.

4.0 RESPONSIBILITIES

4.1 Health and Safety (H&S)

- 4.1.1 Conducts periodic workplace sampling, monitoring, and measuring of chemical and physical agents.
- 4.1.2 Originates and maintains monitoring and measuring records in a legible, identifiable, and retrievable form.

HEALTH AND SAFETY PROCEDURE 408 - Employee Exposure and Medical Records

- 4.1.3 Notifies employees, in writing, of monitoring and measuring results that pertain to them.
- 4.1.4 Informs employees that records are maintained and that they are available to employees.
- 4.1.5 Posts the Plaquemine Complex's, Summary of Work-Related Injuries and Illnesses Form (OSHA Form 300A, for employee review during the months of February, March and April in accordance with OSHA 29 CFR 1904.532.
- 4.1.6 Maintains employee monitoring records for at least thirty years, or the time period specified in specific OSHA occupational safety and health standards.
- 4.1.7 Ensures that an audit of employee exposure and medical records is conducted periodically.

4.2 H&S Medical

- 4.2.1 Originates and maintains all required employee medical records in a legible, identifiable, and retrievable form.
- 4.2.2 Maintains injury and illness Incident Reports and the Log and Summary of Work-Related Injuries and Illnesses Forms (OSHA Forms 301, 300, and 300A in accordance with OSHA 29 CFR 1904.29.
- 4.2.3 Maintains employee medical records for the duration of employment plus thirty years.
- 4.2.4 Provides employees, and their designated representatives, access to their own medical records.
- 4.2.5 Ensures confidentiality of medical records.

4.3 Administration

- 4.3.1 A company executive must certify that he or she has examined the OSHA 300 Log and that he or she reasonably believes, based on his or her knowledge of the process by which the information was recorded, that the annual summary is correct and complete.

HEALTH AND SAFETY PROCEDURE 408 - Employee Exposure and Medical Records

4.4 Contractors

- 4.4.1 Contractors will develop and implement a program to comply with the requirements of OSHA 29 CFR 1910.1020 - Access to Employee Exposure and Medical Records.

5.0 RECORDS

5.1 Employee Exposure Records:

- 5.1.1 Employee exposure records are maintained and preserved for at least 30 years. Employee exposure records include:
 - 5.1.1.1 Sampling field data sheets;
 - 5.1.1.2 Sampling results;
 - 5.1.1.3 Sampling plans;
 - 5.1.1.4 Description of analytical and mathematical methods used;
 - 5.1.1.5 Background data summaries; and
Any other relevant information needed to interpret sampling results.
- 5.1.2 If there are different record preservation requirements found in specific OSHA standards then those requirements will be followed.
- 5.1.3 Employee exposure background data, such as laboratory reports and worksheets, are retained for one year.

5.2 Employee Medical Records:

- 5.2.1 Medical records for each employee are maintained and preserved for duration of employment plus 30 years.
- 5.2.2 The following records do not need to be retained for any specific time period under OSHA 29 CFR 1910.1020:
 - 5.2.2.1 Health insurance claim records that are maintained separately from employee medical records; and
 - 5.2.2.3 First aid records (not including medical histories) of one-time treatment and observation of minor scratches, cuts, burns, splinters, and the like which do not involve medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job so long as it was recorded on-site by a non-physician and is maintained separately from the employee's medical record.

HEALTH AND SAFETY PROCEDURE 408 - Employee Exposure and Medical Records

5.3 Record Access

- 5.3.1 Westlake, Plaquemine Complex, provides access to employee exposure and medical records to the employee at no cost to the employee.
- 5.3.2 If an employee requests that a designated representative be allowed access to their record, then the request must be made in writing. A sample form containing the required information is contained in Appendix A. The copy of the record is provided without cost to the employee or representative.
- 5.3.3 If Westlake, Plaquemine Complex, cannot provide record access within 15 days of a request, the employee or their designated representative will be notified in writing. The reason for the delay and the earliest date available will be included.
- 5.3.4 H&S Medical may require that original x-rays be reviewed on site.
- 5.3.5 When an employee or designated representative requests a medical record, the Westlake consulting physician may recommend that they:
 - 5.3.5.1 Consult with the physician to discuss the record;
 - 5.3.5.2 Accept a summary of facts and opinions rather than the original record; and
 - 5.3.5.3 Have the requested records released to the employee's designated physician.
- 5.3.6 If an employee requests his file and it includes information concerning a specific diagnosis of terminal illness, psychiatric condition, etc., which could be detrimental to the employee's health, Westlake's consulting physician may deny access to the employee, but will release it to their designated representative with specific written consent.
- 5.3.7 The Westlake consulting physician or occupational health nurse may delete from a requested employee medical record the identity of family members, friends, or fellow employees who provided confidential information concerning the employee's health.

5.4 Analysis of Employee Records

- 5.4.1 Westlake may participate in studies conducted by medical schools, universities, trade groups, etc., which require record analysis.
- 5.4.2 Westlake will ensure employee confidentiality by removing personal identifiers from records provided to any group analyzing records.

HEALTH AND SAFETY PROCEDURE 408 - Employee Exposure and Medical Records

- 5.4.3 Employees whose records were used in any study will be notified of analysis results.

5.5 OSHA Access

- 5.5.1 Westlake will provide prompt access to representatives of the Assistant Secretary of Labor for Occupational Safety and Health to employee workplace monitoring records and employee medical records and to analyses using employee workplace monitoring and medical records should these be requested.
- 5.5.2 Rules of agency practice and procedure governing OSHA access to employee medical records are contained in 29 CFR 1913.10.
- 5.5.3 Whenever OSHA seeks access to personally identifiable employee medical information by presenting to Westlake a written access order, a copy of this written access order and its accompanying cover letter will be posted for at least fifteen (15) working days.

5.6 Trade Secrets

- 5.6.1 Westlake, Plaquemine Complex, may delete any trade secret information concerning manufacturing processes, chemical identity, or percent chemical substance in a mixture from records requested by employees, designated representatives, or health care professionals as long as the health care professional, employee, or designated representative is notified that the information has been deleted.
- 5.6.2 In the event of a medical emergency where a treating physician or nurse requires trade secret information for emergency or first aid treatment, then Westlake, Plaquemine Complex, will immediately disclose the requested information.
- 5.6.3 In a non-medical emergency, information concerning trade secrets will be handled according to the provisions of OSHA 29 CFR 1910.1020 (f) and 1910.1200 (i).

5.7 Records Transfer

- 5.7.1 Should Westlake be sold, all employee exposure records and employee medical records will be transferred to the new employer.
- 5.7.2 Should Westlake cease to do business and there is no successor employer:
 - 5.7.2.1 Employees will be notified of their right to access their record

HEALTH AND SAFETY PROCEDURE 408 - Employee Exposure and Medical Records

5.7.2.2 at least three months prior to ceasing business; and
Records will be transferred to the director of the National Institute for Occupational Safety and Health (NIOSH) if so required by a specific occupational safety and health standard or the Director of NIOSH will be notified in writing at least three months prior to the impending disposal of records.

5.7.3 Before disposing of any records required to be preserved for 30 years or longer, Westlake will:

5.7.3.1 Transfer the records to the Director of the National Institute for Occupational Safety and Health (NIOSH) if so required by a specific occupational safety and health standard; or

5.7.3.2 Notify the Director of NIOSH in writing of the impending disposal of records at least three (3) months prior to the disposal of records.

6.0 TRAINING

6.1 Employees will receive information concerning employee exposure records and employee medical records:

6.1.1 During new hire orientation; and

6.1.2 Through annual notification by H&S.

6.2 Employees will be informed of:

6.2.1 The existence, location, and availability of workplace monitoring records and medical records;

6.2.2 Individuals responsible for maintaining records;

6.2.3 Individuals responsible for providing access to records; and

6.2.4 The employee's right to access their records.

7.0 AUDITS

7.1 H&S will ensure that an audit of employee exposure records and employee medical records is conducted periodically.

7.2 Information to be evaluated includes:

7.2.1 Record completeness;

7.2.2 Record availability;

7.2.3 Employee's ability to access their records; and

7.2.4 Employee awareness.

HEALTH AND SAFETY PROCEDURE 408 - Employee Exposure and Medical Records

8.0 REFERENCES

National Safety Council (1988). "Fundamentals of Industrial Hygiene," 3rd Edition, Edited by Barbara A. Plog.

Occupational Safety and Health Administration. "Access to Employee Exposure and Medical Records." 29 CFR 1910.1020.

Occupational Safety and Health Administration (1987) "Hazard Communication" 29 CFR 1910.1200.

Occupational Safety and Health Administration (2001) "Recording and Reporting Occupational Injuries and Illness" 29 CFR 1904

Occupational Safety and Health Administration (1980) "Rules of Agency Practice and Procedure Concerning OSHA Access to Employee Medical Records" 29 CFR 1913.10.

9.0 APPENDICES

Appendix A - Sample Authorization Form for Release of Employee Medical Record Information to a Designated Representative.

Appendix A

APPENDIX A

Authorization for the Release of Medical Record Information

I, _____ (full name of employee), hereby authorize
Westlake to release to _____ (individual or organization
authorized to receive the medical information), the following medical information from my
personal medical records:

(Describe generally the information desired to be released).

I give my permission for this medical information to be used for the following purpose:

but I do not give permission for any other use or re-disclosure of this information.

Expiration Date of Authorization

Printed Full Name of Employee or Legal Representative

Signature of Employee or Legal Representative

Date of Signature