

Recordkeeping 201: Part 2

Records access, information disclosure

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Editor's note: This is the second installment of an occasional series of more advanced topics about recording occupational injuries and illnesses using the OSHA Form 300 and maintaining those records. The previous series about recordkeeping, covering basic information about filling in the OSHA log and creating an annual summary, is available at www.doli.state.mn.us/recordkeeping.html.

The purpose of the OSHA recordkeeping requirement is to provide a worksite-specific resource of injury and illness information. This information should be used by the employer, the employees, the workplace safety committee and safety professionals to improve occupational safety and health. Providing employees and their representatives with access to the log information provides a check on the accuracy of the recordkeeping and promotes greater employee involvement in workplace safety programs. The OSHA log and its related forms are also used by state and federal government programs to implement, target and evaluate workplace safety programs and services.

OSHA recordkeeping information is maintained on three separate forms: the OSHA 300 Log, the OSHA 301 Incident Report and the OSHA 300-A Summary. OSHA regulations describe different information access and disclosure requirements for each form.

Providing access to the log summary is the least-complicated method of sharing the injury and illness information. Employers are required to post the annual log summary (OSHA form 300-A) each year. This is covered in more detail in *Recordkeeping 101: Part 6 – Summarizing the injury and illness log*, and in the Winter 2007 edition of *Safety Lines*.

Providing access to the OSHA 300 Log and the OSHA 301 Incident Report is more complicated and there are different levels of access depending on the party who is requesting it. Employees, former employees, the personal representatives of current or former employees, and authorized employee representatives have a mandatory right of access to the OSHA injury and illness records. The OSHA regulations, in 29 CFR Part 1904.35 (b)(2), specify access requirements and limitations

for these parties, and for the timeliness of the employer's provision of the information.

A personal representative of a current or former employee is a person that the employee or former employee designates, in writing, as his or her personal representative, or is the legal representative of a deceased or legally incapacitated employee or former employee. An authorized employee representative is defined as an authorized collective bargaining agent of one or more employees working at the employer's establishment.

When an employee, former employee, personal representative or authorized employee representative requests a copy of the current OSHA log, or any of the logs for the previous five years, the employer must provide one free copy of the relevant OSHA log(s) by the end of the next business day.

Employers need to ensure all privacy cases are identified as such before providing copies of the log to any parties, and no information may be removed from the log before the copy is provided. Employees, former employees, personal representatives and authorized employee representatives are not allowed to see the confidential list of names and case numbers for privacy cases. More detailed information about privacy cases is presented in *Recordkeeping 201: Part 1 – Privacy concern cases – when not to write a name*.

An employee, former employee or personal representative may request a copy of the OSHA 301 Incident Report for that employee or former employee. The employer must provide one free copy of the report by the end of the next business day.

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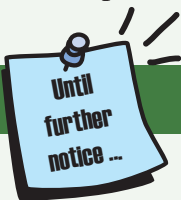
An authorized employee representative may request copies of all the OSHA 301 Incident Reports for an establishment where the agent represents one or more employees under a collective bargaining agreement. The employer must provide one free copy of each of the right-hand portions of the incident reports within seven calendar days. The right-hand portion of the form contains the heading "Information about the case" and elicits description information about how the injury and incident occurred, and the materials and tools involved, but it does not contain the employee's name. The employer must remove all other information from the copy of the incident reports that are given to the authorized employee representative.

Employers are required to provide an authorized government representative with copies of any OSHA Part 1904 records, including the confidentiality lists, within four business hours. Certain Minnesota Department of Labor and Industry (DLI) employees are considered authorized government representatives. Most of these DLI employees are in the Minnesota OSHA Compliance unit, the Workplace Safety Consultation unit and the

Policy Development, Research and Statistics unit. The Policy Development, Research and Statistics unit collects information from Minnesota employers for the Bureau of Labor Statistics annual *Survey of Injuries and Illnesses* and for the OSHA Log Data Initiative.

Employers may also decide to provide access to the OSHA Form 300 and 301 to people other than those who have a mandatory right of access. To protect employee confidentiality in these circumstances, employers must remove or shield employees' names and other personally identifying information from the forms. Employers are allowed to disclose the full OSHA Form 300 and 301 only in the three following cases:

1. for purposes of evaluating a safety and health program or evaluating workplace safety and health conditions by a safety consultant;
2. to process a claim for workers' compensation or insurance benefits; or
3. to carry out the public health or law enforcement functions described in section 164.512 of the federal Standards for Privacy of Individually Identifiable Health Information.



Next installment: Job transfer, job restriction

Xcel high-bridge project reaches safety, health milestone



LG Constructors, at the Xcel High Bridge Combined Cycle Project, recently celebrated one million hours without a lost-time accident. The site received MNSTAR certification in January 2007.

The Xcel Energy High Bridge Combined Cycle generating plant in St. Paul, Minn., is being converted from a coal- to a natural-gas-powered facility. There are currently 220 craft personnel on site, with an expected peak of 400.

Pictured (l to r): Roy Snovel, LG Constructors project director; Bill Meyers, Xcel Energy project manager for the High Bridge Project; Don Zablnsky, LG Constructors president of the Power Division; Steve Sviggum, Department of Labor and Industry commissioner; and Harry Melander, Saint Paul Building and Construction Trades Council executive secretary.