COATINGS MATERIALS DIVISION RECOMMENDED PRACTICES
ACCESS TO EMPLOYEE EXPOSURE AND MEDICAL RECORDS

A. GENERAL

- Each Location should establish a primary and backup "Access Officer" who will have accountability to assure all requests for medical and/or exposure records are logged and handled in an orderly manner. (See attached recommended log.)

- Each Location should designate an APM (or equivalent) to serve as final review and release authority for those non-routine requests initiated by OSHA or an employee's designated representative after review by SHARE and Legal Departments.

- OSHA requests for medical records and/or exposure records that contain proprietary chemical and/or process trade secrets shall be immediately communicated (via telephone/telex) to CMD SHARE Department for Division review and strategy development. Prior to November 5, 1980, all current employees, newly hired employees exposed to or potentially exposed to toxic substances shall be informed of:

    1. Existence, location, and availability of any medical or exposure records covered by the standard.

    2. The name of the person(s) responsible for providing access to those records.

    3. The employer's duty to have a copy of this standard readily available for employee review. A copy of 1910.20 must be given to any employee/designated representative that requests one. (Consideration should be given to posting a copy of the standard permanently on Location bulletin boards near the OSHA poster.)

  It is recommended that the employee's initial and subsequent annual notifications be recorded in your STAIRS program.

- Locations should assure that all health claim files (Blue Cross/Shield, etc.) and Employee Assistance Program records are maintained <u>separately</u> from medical records.

- Unless a specific occupational safety and health standard provides a different period, most medical and exposure records must be "preserved and maintained" for the duration of employment plus thirty (30) years. Background monitoring data need be kept only one year, so long as the sampling <u>results</u> and other data necessary for interpretation is kept for 30 years.

- The Division SHARE Department and Law Department should be notified if any request involves an employee or non-employee charge, claim, or court action or the like against the Corporation.

PLAINTIFF'S EXHIBIT
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- Any substance or material the subject of litigation, criminal or civil or an OSHA citation and/or contest should be withheld pending review by the Divisional SHARE and Law Departments. (Per John Whittlesey's interpretation, simple Workmen's Compensation litigation does not normally fall within the aforementioned.) He does, however, recommend that the Location notify our carrier of the Workmen's Compensation of the information given to the employee and/or his or her designated representative.

- Access means the right and opportunity to examine and copy, when sought by an employee or designated representative. The employer "shall assure" access in a reasonable time, place, and manner no later than 15 calendar days after the request is made.

- References made later in the document to trade secrets and proprietary manufacturing processes shall include all process facilities, production rates, chemical mix percentages, etc. When any of the aforementioned are requested, please contact the Divisional SHARE Department immediately so that appropriate decisions/actions can be developed.

- No longer does the OSHA rule permit access to medical exposure records by NIOSH.

B. EMPLOYEE[1] REQUESTS

All employee requests for their personal medical and exposure records must be granted. It is recommended that:

1. The request be entered into the location access log with reason for the request so noted (if given).

2. The employee's medical and exposure records be prescreened with proprietary manufacturing process and/or trade secret information deleted. If information has been removed, the employee must be told that the information has been deleted.

3. The Location physician (medical records) or health manager (exposure records) provide the requested data taking care not to orally explain and/or add to the data released.

4. That the Location medical doctor and/or health manager discuss with the requester the possibility of accepting a summary of the requested records in place of the actual record or in the area of medical records that they be released to a physician of the requester's choosing. The requester need not accept either option.

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[1] Employee being defined as current employee, former employee or deceased employee's or incapacitated employee's "legal representative"; i.e., attorney, estate executor or administrator only.

C. DESIGNATED REPRESENTATIVE[2] REQUESTS

All designated representatives' requests for an employee's medical and/or exposure records must be in writing. In most instances though, a union or certified bargaining agent may automatically, without employee consent, see any employee exposure records, or analyses using exposure and medical records. A bargaining agent may NOT see individual medical records of an employee without written authorization of the employee. It is recommended that:

1. All written requests be submitted on the form provided (see Attachment A). No blanket requests on one form are to be accepted. Forms that are not filled out completely or are not specific enough to identify the data requested shall be rejected.

2. All requests are to be entered on the Location Access Log.

3. The data be prescreened prior to release with all proprietary manufacturing processes and trade secrets deleted. If deletion occurs, the designated representative must be informed.

4. The medical and exposure data released be done without explanation as to content.

D. OSHA REQUESTS

1. Medical and Exposure Records - OSHA under the rule does have the right of access to examine and copy medical and exposure records. However, current review activities are limited to on-site examination of medical records to determine compliance with surveillance and recordkeeping requirements of an existing OSHA standard; "aggregate" medical information, death certificates, employee exposure records, medical data obtained in the course of litigation, and, where directed by the Secretary, limited examination of specific medical data mandated by a standard.

The local compliance officer conducting an on-site inspection does not have the immediate right to review personally identifiable employee medical information unless he/she has specific

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(2) Designated representative means any person or organization to whom an employee gives a written (not oral) authorization to effect a right of access. Term would include family members, fellow employees, outsiders or anyone holding such written consent. A union recognized or certified as a bargaining agent is to be a designated representative and thus, may automatically see employee exposure records, or analyses using exposure and medical records. They may not see personally identifiable medical records without written consent of the affected employee.

written consent of the affected employee or an "access order". Any requests to review or copy personally identifiable employee medical information should be tactfully delayed and referred immediately to the Divisional SHARE Department for review with the Legal Department.

There are provisions for OSHA to receive such information but only after they obtain a written "access order" approved by the Assistant Secretary.

2. Trade Secrets - Any request by OSHA to review or copy trade secrets should be tactfully postponed by requesting that the OSHA compliance officer put his/her request in writing, outlining specifically what he/she wants to review. This should be immediately forwarded to the Division SHARE Department so that appropriate decisions/actions can be developed.

3. General - All medical/exposure records reviewed and/or copies by OSHA should be entered onto the Location Access Log; i.e., death certificates, exposure records, medical analyses, etc.

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Attachments A & B

Authorization Letter for the Release of Employee Medical Record Information to a Designated Representative

I (full name of worker/patient) _____
hereby authorize (individual or organization holding the medical records) _____
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.

(Note: Several extra lines are provided below so that you can place additional restrictions on this authorization letter if you want to. You may, however, leave these lines blank. On the other hand, you may want to (1) specify a particular expiration date for this letter (if less than one year); (2) describe medical information to be created in the future that you intend to be covered by this authorization letter; or (3) describe portions of the medical information in your records which you do not intend to be released as a result of this letter.)

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_____

_____

Full name of Employee of Legal Representative:

_____

Signature of Employee or Legal Representative:

_____

Date of Signature: _____

MEDICAL AND EXPOSURE ACCESS LOG

equest No.	Date	Time	Requester	Type Request Medical/Exposure	Written/ Oral	Request Details	Received By	Final Disposition Date/Time	UCC Rep.