

U.S. Department of Labor

Occupational Safety and Health Administration
Washington, D.C. 20210



Reply to the attention of:

FEB 20 2004

Fermi National Accelerator Laboratory
Kirk Road and Pine Street
P.O. Box 500, Mail Stop 204
Batavia, Illinois 60510-0500

Attention: John Foxen, M.D.
Director
Occupational Health

The Occupational Safety and Health Administration (OSHA) needs to examine any and all employee (permanent, temporary and/or contracted) exposure and medical records from January 1, 2000 to the present date (for audiometric records, the date is to extend from the date of the baseline and/or pre-employment/placement examination), believed to be in the possession of Fermi National Accelerator Laboratory (Fermilab). The examination of this personally identifiable employee medical information is in connection with OSHA's ongoing compliance audit of working conditions of Fermilab, located at the above address, pursuant to a Congressional mandate contained in FY 2003 Department of Energy (DOE) appropriations legislation, and an Interagency Agreement between OSHA and DOE. This compliance audit does not involve issuance of citations or other enforcement actions by OSHA, which does not have enforcement jurisdiction with respect to the facilities covered by the audit.

Due to the personal privacy interests involved, OSHA exercises its authority to access, examine, copy and analyze personally identifiable employee medical information, only after a careful determination has been made that such access is consistent with the statutory purpose and is necessary to achieve the objectives of the investigation. The Assistant Secretary for OSHA and I (the Agency's Medical Records Officer), have determined that OSHA needs to gain access to the personally identifiable employee medical information of Fermilab, in furtherance of this investigation. 29 U.S.C. 657; 29 CFR 1910.1020(e)(3), 1913.10(d)(2).

In order to safeguard the employees' interest in the privacy of the medical records to be examined and copied, OSHA has prescribed detailed rules of practice and procedure in 29 CFR Part 1913 to govern OSHA's handling of personally identifiable employee medical information. A Principal OSHA Investigator has been designated to be primarily responsible for assuring that the examination and use of medical information obtained during this investigation, is in accordance with applicable regulations. 29 CFR 1913.10(c)(3), (e), (f), (h)(1), (h)(2), (i), (j), (m)(1).

The Principal OSHA Investigator is:

Atkinson W. Longmire, M.D.
Medical Officer
Office of Occupational Medicine
Occupational Safety and Health Administration
U.S. Department of Labor
200 Constitution Avenue, N.W., Room N3457
Washington, D.C. 20210

Telephone: (202) 693-2323

The Principal OSHA Investigator was issued a Medical Access Order (enclosed) on February 20, 2004, by the Assistant Secretary for OSHA, authorizing access, examination and copying of the employee medical records of Fermilab. The specified medical records must in each instance, be accompanied by explicit personal identifiers (name, address, payroll number and/or social security number).

Please note that a copy of this letter and the enclosed Medical Access Order must be prominently posted at the above referenced place of employment for at least fifteen (15) working days. 29 CFR 1910.1020(e)(3)(ii), 1913.10(e)(3). Where it is agreed to by the Principal OSHA Investigator, Fermilab, and Collective Bargaining Agent if any, individual notice to employee or the placement of a copy of this Cover Letter and Medical Access Order in each employee's medical file may also be appropriate. 29 CFR 1913.10(e)(4).

OSHA's regulations further provide that Fermilab may file written objections concerning the Medical Access Order with the OSHA Medical Records Officer, who is responsible for assuring Agency compliance with these rules. 29 CFR 1913.10 (f).

Written objections may be submitted to:

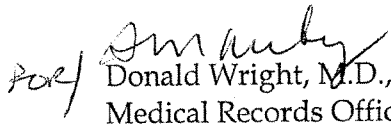
Donald Wright, M.D., M.P.H.
Director
Office of Occupational Medicine
Occupational Safety and Health Administration
U.S. Department of Labor
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However, the filing of written objections does not defer Fermilab's statutory obligation to provide prompt access by OSHA to the medical records. Ibid.

Please feel free to contact me if you have questions regarding OSHA's access to the specified personally identifiable employee medical information.

Sincerely,


Donald Wright, M.D., M.P.H.
Medical Records Officer

Enclosure:

Medical Access Order (2 copies)