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BOP 4.09.05

Document Title: **Disclosure of Occupational Safety and Health Investigative Files in Relation to the North Carolina Public Records Act**

Effective Date: **May 1, 2001**

Approval Authority: **Bureau Chief**

A. PURPOSE

Per written requests, subpoenas, and court orders, the Bureau of Planning, Statistics and Information Management (PSIM) staff review compliance investigative files produced by Occupational Safety and Health (OSH) Division staff and redact from those files information (evidential material) according to the general statutes and departmental policies.

B. SCOPE

This procedure applies to the PSIM Bureau for the redaction of an OSH investigative case file. This process is conducted by the Statistical Research Assistant II and two Statistical Research Assistant I's.

C. DEFINITIONS

1. **ASH** - Agricultural Safety and Health Bureau.
2. **Certified Copy** - Complete copy of a case file made by staff from field offices according to [**BOP 4.09.01 \(Compliance\) Reference \(FOM Chapters III, VIII, IX, XIII, & XVI\)**](#). Compliance Supervisors, OSH Bureau Chiefs, and the OSH Assistant Deputy Commissioner have authority to certify files on behalf of the Commissioner of Labor and the Deputy Commissioner of the OSH Division.
3. **Compliance Officer's Report** - This portion of the file is the basic, fundamental documentation by the compliance officer contained within each inspection file to include the narrative, Worksheet(s), citations, and photo record forms or photos.
4. **Confidential** - Information within OSH investigative files produced by a CSHO are confidential according to general statutes and departmental policies and cannot be released unredacted to anyone outside of the OSH Division, except by court order or approval by the Commissioner of Labor or the Deputy Commissioner of the OSH Division.
5. **Confirmation Letters** - Staff in the PSIM Bureau will process the appropriate response letter relative to file status. There are different versions of standard letters. The initial

letter (not completed, informal, contested, releasable, etc...) will let the customer know the status of the investigative file requested and the priorities and procedures of our department. The final letter is sent when the process has been finalized and the documents are transmitted. This letter also serves as the invoice for any charges applicable to the information requested.

6. **Contested** (Contestment) - If the company is dissatisfied with inspection findings, they have the right to challenge OSHNC through a court of law. The company has 15 working days from receipt of citations or 15 working days from receipt of informal conference results to contest the case.
7. **CSHO** - Compliance Safety and Health Officer or ASH Compliance Officer.
8. **Disclosure** - Release of information contained in the OSH investigative case files that will need to be redacted.
9. **District** - OSHNC has designated five different district offices in order to assign inspections and conduct investigations in a more efficient manner. These district field offices are located in Asheville, Charlotte, Raleigh, Wilmington and Winston-Salem.
10. **EDB** - Employment Discrimination Bureau.
11. **Expunged** - Term used when information within an OSH investigative file is redacted.
12. **File No.** - Unique number assigned by IMIS to each investigative case file for identification and tracking purposes.
13. **Final Order** - After the informal and contestment stages have passed, the inspection file becomes a final order. This means that no other steps will be taken within our department (DOL) or by the company. The inspection file is releasable to the public once a final order is in effect. Penalty payments and abatements may be outstanding for files under a final order. Investigative files (not related to an inspection) are releasable to a requester when the file is closed.
14. **Holding Area** - Assigned area where the pink folders (containing disclosure request documentation) are held until the requested file is processed for disclosure.
15. **IMIS** – Integrated Management Information System maintained by Federal OSHA.
16. **Informal** - After citations are issued, the company or an employee has the option of requesting an informal conference. The person(s) requesting an informal conference has up to 15 working days after receiving the citations to request this conference. During the informal conference stage, no information (except citations, proposed penalties, and matters of public record such as pleadings before the OSH Review Commission or the court system) will be released from the case file to a third party.
17. **Log** - Document (spreadsheet) where the information relative to requests for disclosure are maintained. There is a separate log for each Federal Fiscal year since 1994.
18. **Log No.** - Each file requested for disclosure will be given a sequential number by PSIM staff and maintained in the applicable disclosure log.
19. **Not Completed** - When the case file is still being processed, no information can be released from the case file. The CSHO has up to 6 months from the time of the incident to gather the necessary information to create the case.
20. **OE** – OSHA Express database system maintained by NC OSH.
21. **Pink Folder** - Color/type of folder where the correspondence from the requester is maintained until the disclosure request is finalized.
22. **Safety/Health** - Investigation files are health related cases or safety related cases.

23. **Search** - Process in which the PSIM staff conduct research to find the information requested.
24. **Settlement** (Settled) - When the company reaches an agreement with NCDOL in regards to the findings of an inspection.
25. **Status** - Stage or condition of the investigation process at the time of the request.
26. **3rd Party Request** - Any request that is not from the company or their attorney (representing them in the OSH case).
27. **Update** - After the request, information is entered into the disclosure logs. Some cases will need to be edited constantly during the period of time when the request is received until it is finalized.
28. **Charges** - Disclosure fees related to the duplication of evidential material.

D. RESPONSIBILITIES AND AUTHORITIES

1. Statistical Research Assistant I's (2) - Responsible for the entire disclosure process for OSH investigative files requested by all third parties and the media. Also responsible for all Employment Discrimination Bureau (EDB) files related to safety or health requested for disclosure. The EDB files have the potential to be requested for non-public and public disclosure release. Non-public release allows for affected employee and employer information to remain in file and be released to the affected employee and/or company only.
2. Statistical Research Assistant II - Responsible for the entire disclosure process for the OSH investigative files requested by the company or their attorney (representing them in the OSH case). Responsible to coordinate and oversee the daily operations regarding the disclosure process conducted by Statistical Research Assistant I's (2).
3. Disclosure Log - The PSIM Bureau's Statistical Research Assistant I's and II are responsible for maintaining the disclosure logs on the computer. There is a separate log for each Federal Fiscal year beginning with 1994.

E. REQUIREMENTS

1. All requests must be submitted in writing.
2. Request for information - The PSIM Bureau shall follow precise guidelines and technical instructions to disclose case file information adhering to the Public Records Act, NCGS 95-136, the Field Operations Manual (Field Information System/FOM or FIS).
3. With few exceptions, the PSIM staff will follow the priority response order as specified in FOM Chapter XVI.
4. Specific Information - The PSIM staff will respond to the requestor of statistical data, based on the information specified by the requestor. The content of PSIM's response may include any data releasable to the public from the IMIS database.
5. Charges for duplication of evidential material are as follows:
 - a. \$0.10 per page (if the total charge for the request exceeds \$5.00). There is no charge for any request which totals \$5.00 or less.
 - b. \$0.35 per diskette.
 - c. \$0.80 per CD.

- d. Actual cost of service for video or audio tape duplication or transcription service.
- 6. Payments for charges \$50.00 or under will be forwarded by the requestor directly to the NCDOL Budget Division after receipt of the disclosure. Charges which exceed \$50.00 will be requested in advance of processing the disclosure and will be forwarded to the PSIM Bureau. Requestors with outstanding balance due charges will be required to pay outstanding debts and pay in advance of receipt of future documents, regardless of the amount.
- 7. The \$0.10 per page charge will be waived for one copy of a fatality file requested by an immediate family member of a fatality victim or their attorney; or for copies of documents requested by local, state, or federal agencies needing file information for their official use in a related investigation. (This waiver does not apply to local or state agencies requesting a copy of their own investigation file.)
- 8. Staff in the PSIM Bureau will determine any applicable disclosure charges and process transmittal cover letter.

F. ACTION STEPS

- 1. All requests must be submitted in writing.
- 2. A search for the location of the investigative file is conducted through OSHA Express database system (OE), or through the OSHA web page.
- 3. If there was an investigation conducted, the location and status of the case file, must be determined. The investigative information such as the company name and the file number assigned, can be obtained by using OE or the OSHA web page. To obtain additional information regarding the status of an OSH file, the supervisor or the CSHO conducting the investigation will be contacted.
- 4. Once the search is conducted, the file status determined and information related to the file request is gathered, the request is logged in the disclosure log for the applicable fiscal year (based on actual request date).
- 5. A letter of acknowledgement is sent to the requestor to advise the file status. A standard or confirmation letter will be sent that will advise whether the file is releasable or not.
- 6. If there was not an investigation conducted, a letter notifying the requestor is sent and filed with all supportive research information.
- 7. If there was an investigation, the response letter will include information related to the status of the investigation and an explanation of the disclosure request priority schedule, applicable charges associated with the request, a point of contact, and the option to cancel the request if desired.
- 8. PSIM staff will prepare a pink folder containing the initial request letter and PSIM's response. The label on the folder will note the company name, file number and the disclosure log number assigned. Each folder will be filed in the appropriate pending file area until the disclosure is available to be processed.
- 9. Files are retrieved from archives. However, if the file is not archived at PSIM, a certified copy will be requested from the appropriate OSH field office.
- 10. Verify that the requestor has referenced the correct file.
- 11. As releasable, redact the OSH investigative file. EDB files for public release referencing safety or health will be treated in the same manner as OSH files.

12. All information redacted from OSH/EDB case files must be in accordance with the applicable general statutes and departmental policies.
13. Once the investigation file is expunged, the person preparing the file will review their work to determine that it is correct and make any changes necessary. The Bureau Chief will periodically review files as a method of quality control. A taped copy of the disclosure file is retained.
14. If any changes need to be made to the documents prior to being released, they are made at this time by the PSIM employee performing the redaction. Changes are reviewed by the PSIM employee and the taped copy is retained on file.
15. Make sure that the quality of the copy is as legible as possible. Some of these cases are microfilmed reels or microfiche; therefore, the copy quality of these documents may not be the highest quality.
16. The transmittal letter will include the investigative file number, the company name, disclosure log number, and applicable charges for the information.
17. After the transmittal letter is typed, one additional copy is made. The original letter will be sent with the disclosure information to the customer, and the second copy will be added to the information in the pink folder. A third copy is forwarded via email to the DOL Budget Division if any charges are applicable.
18. A file pocket folder is prepared to include the company name, the inspection file number, and a brief explanation as to whether the file was redacted in its entirety or just a portion of it (compliance officer's report), etc.
19. All the information related to the request and the redacted copy are maintained in the pocket folder and filed alphabetically by company name.
20. The folders that contain disclosure information are stored and locked in the PSIM Bureau.

G. QUALITY RECORDS

Retention of Records - Disclosure copies and information related to the investigative case file request will be retained as specified in the Bureau's Records Retention and Disposition Schedule. Disclosure files are confidential as referenced in the PSIM Bureau Confidentiality Policy [BOP 4.09.07](#).

1. Planning, Statistics and Information Management Bureau is responsible for disclosure of case file information.

H. DOCUMENT CONTROL

The content of this BOP is the responsibility of the Bureau Chief. Requests for interpretation of the provisions of this procedure and suggestions for changes should be addressed to the Bureau Quality/Document Coordinator. This procedure is maintained electronically.

I. REFERENCES

1. NCGS 95-136, NCGS 95-132-6, NCGS 95-137(b) in Chapter 317 of House Bill 504.

2. OSHA Express database system (maintained by NC OSH).
3. OSHA Web Page (www.osha.gov) (IMIS-Federal Integrated Management Information System maintained by Fed OSH).
4. Copies of Confirmation Letters (Releasable, Informal, Contested, Not Completed, No Record, Final Letter).
5. PSIM BOP and OSH FOM/FIS.

J. ATTACHMENTS

1. [**Disclosure Flowchart**](#)
2. [**Standard Letter**](#)
3. [**Examples of Disclosure Documents not releasable**](#)
4. [**EDB Procedures for files referencing occupational safety or health**](#)

K. REVISIONS

1. Charges (02/11/03).
2. Suspension of Charges and priority updates (05/22/03).
3. Applicable charges and action steps updates (06/23/03).
4. EDB Procedures Document Added (01/10/06).
5. Disclosure Documents Not Releasable (04/03/06).
6. Charges Updated, Changed investigative to investigation, clarified some definitions, Updated Requirements (11/01/06).
7. Reviewed April 2013.
8. Reviewed January 2014.
9. June 2015 (Removed reference to NCR/IMIS system and changed to OSHA Express System).