

## **POLICY**

Hawk Energy, LLC is committed to the safety and health of our employees and to providing access to employee medical records. Therefore, the following Access to Medical Records Safety Program has been adopted.

Hawk Energy, LLC has implemented this plan to ensure that access to employee exposure and medical records is available to employees at all times in accordance with 29 CFR §1910.1020(e). David Slim is the Company administrator who has the overall supervisory responsibility for the effectiveness of this program and for maintaining medical and training records.

### **Definitions**

Employee exposure record means a record containing any of the following kinds of information:

- Environmental (workplace) monitoring or measuring of a toxic substance or harmful physical agent, including personal, area, grab, wipe, or other form of sampling, as well as related collection and analytical methodologies, calculations, and other background data relevant to interpretation of the results obtained.
- Biological monitoring results that directly assess the absorption of a toxic substance or harmful physical agent by body systems (e.g., the level of a chemical in the blood, urine, breath, hair, fingernails, etc.), excluding results that assess the biological effect of a substance or agent or which assess an employee's use of alcohol or drugs.
- Safety data sheets (SDS) indicating that the material may pose a hazard to human health.
- In the absence of the above, a chemical inventory or any other record that reveals where and when a toxic substance or harmful physical agent was used, along with its identity (e.g., chemical, common, or trade name),

Employee medical record means a record concerning the health status of an employee that is made or maintained by a physician, nurse, or other health care personnel, or technician, including:

- Medical and employment questionnaires or histories (including job description and occupational exposures).
- Results of medical examinations (pre-employment, pre-assignment, periodic, or episodic) and laboratory tests (including chest and other X-ray examinations taken for the purpose of establishing a baseline or detecting occupational illnesses and all biological monitoring not defined as an 'employee exposure record').
- Medical opinions, diagnoses, progress notes and recommendations.
- First aid records.
- Descriptions of treatments and prescriptions, and employee medical complaints.
- Hawk Energy, LLC requires that environmental or biological monitoring records be included in employee exposure records. Specifically, records of environmental monitoring of the workplace, which includes the monitoring or measuring of a toxic substance(s) or harmful physical agent(s) to include sampling, personal, area, wipe, grab, as well as associated collection and analytical methodologies, computations, and other relevant data, will be maintained for the duration of the Company employee's employment plus 30 years. In addition, the records of biological monitoring of the workplace include absorption of toxic substance(s) or harmful physical agent(s) by body systems, including the level of chemicals contained in the hair, breath, urine, blood and fingernails.

"Employee medical record" does not include medical information in the form of:

- Physical specimens (e.g., blood or urine samples) which are routinely discarded as a part of normal medical practice.
- Records concerning health insurance claims if maintained separately from Hawk Energy, LLC's medical program and its records, and not accessible to Hawk Energy, LLC by employee name or other direct personal identifier (e.g., social security number, payroll number, etc.).
- Records created solely in preparation for litigation which are privileged from discovery under the applicable rules of procedure or evidence.
- Records concerning voluntary employee assistance programs (alcohol, drug abuse, or personal counseling programs) if maintained separately from Hawk Energy, LLC's medical program and its records.

### PURPOSE

- The purpose of this plan is to provide employees and their designated representatives a right of access to relevant exposure and medical records and to provide representatives of the Assistant Secretary a right of access to these records in order to fulfill responsibilities under the Occupational Safety and Health Act.
- Hawk Energy, LLC is responsible for assuring compliance with this section, but the activities involved in complying with the access to medical records provisions can be carried out on behalf of Hawk Energy, LLC by the physician or other health care personnel in charge of employee medical records.
- Except as expressly provided, nothing in this section is intended to affect existing legal and ethical obligations concerning the maintenance and confidentiality of employee medical information, the duty to disclose information to a patient/employee or any other aspect of the medical-care relationship or affect existing legal obligations concerning the protection of trade secret information.
- Hawk Energy, LLC will establish and maintain an accurate record for each employee with occupational exposure, in accordance with §1910.1020. Training records will include the dates and contents of training, and the names and job titles of persons attending. Training records will be maintained for three (3) years from the date of training, and medical records will be maintained for at least the duration of employment plus 30 years. Employee exposure records must be retained for the duration of employment plus 30 years. An exposure record is a record which measures or monitors the amount of toxic substances or harmful physical agents to which the employee is or has been exposed.
- Hawk Energy, LLC will ensure that all records required by this section will be available when requested by employees, Assistant Secretary, and the Director. Medical records need employee written consent before release. Hawk Energy, LLC will comply with the requirements involving transfer of records.

## Access to Records

- Whenever an employee or designated representative requests access to a record, Hawk Energy, LLC will assure that access is provided in a reasonable time, place and manner.
- If Hawk Energy, LLC cannot reasonably provide access to the record within 15 working days, Hawk Energy, LLC will, within the 15 working days, inform the requestor of the reason for the delay and the earliest date when the record can be made available.

Whenever an employee or designated representative requests a copy of a record, Hawk Energy, LLC will assure that either:

- A copy of the record is provided without cost to the employee or representative.
- The necessary mechanical copying facilities (e.g., photocopying) are made available without cost to the employee or representative for copying the record.
- The record is loaned to the employee or representative long enough to copy.

## Analyses Using Exposure or Medical Records

- Hawk Energy, LLC will, upon request, assure the access of each employee and designated representative to each analysis using exposure or medical records concerning the employee's working conditions or workplace.
- Whenever access is requested to an analysis which reports the contents of employee medical records by either direct identifier (name, address, social security number, payroll number, etc.) or by information which could reasonably be used under the circumstances indirectly to identify specific employees (exact age, height, weight, race, sex, date of initial employment, job title, etc.), Hawk Energy, LLC will ensure that personal identifiers are removed before access is provided.
- If Hawk Energy, LLC can demonstrate that removal of personal identifiers from an analysis is not feasible, access to the personally identifiable portions of the analysis need not be provided.

## OSHA Access

Hawk Energy, LLC will, upon request, assure the prompt access of representatives of the Assistant Secretary of Labor for Occupational Safety and Health to employee exposure and medical records and to analyses using exposure or medical records.

Whenever OSHA seeks access to personally identifiable employee medical information by presenting to the employer a written access order, the employer shall prominently post a copy of the written access order and its accompanying cover letter for at least 15 working days.

## Employee Information

Upon an employee's first entering into employment, and at least annually thereafter, each employer will inform current employees covered by this section of the following: the existence, location, and availability of any records covered by this section; the person responsible for maintaining and providing record access; and each employee's rights of access to these records.

## Trade Secrets

If Hawk Energy, LLC denies a written request for disclosure of a specific chemical identity, the denial must:

- Be provided to the health professional, employee, or designated representative within 30 days of the request.
- Be in writing.
- Include evidence to support the claim that the specific chemical identity is a trade secret.
- State the specific reasons why the request is being denied.
- Explain in detail how alternative information may satisfy the specific medical or occupational health need without revealing the specific chemical identity.

## Transfer of Records

If Hawk Energy, LLC is ceasing to do business, Hawk Energy, LLC will transfer all records subject to this section to the successor employer. The successor employer will receive and maintain these records.

If Hawk Energy, LLC is ceasing to do business and there is no successor employer to receive and maintain the records subject to this standard, Hawk Energy, LLC will notify affected current employees of their rights of access to records at least three (3) months prior to the cessation of Hawk Energy, LLC's business.

If Hawk Energy, LLC either is ceasing to do business and there is no successor employer to receive and maintain the records, or intends to dispose of any records required to be preserved for at least 30 years, Hawk Energy, LLC must 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.

TRAINING RECORD

Trainer:	
Signature:	
Date:	
Content of Training:	
Attendees	
Print Name:	Signature:



