Document Retention:
*To keep it or toss it...? That is the question.*

Hooray! Your lumberyard has achieved “compliance on paper”. You have completed OSHA 300 forms, new-hire training documents, and are keeping a binder full of SDSs to replace the MSDSs that had been gathering dust on someone’s bookshelf since 1985. This month’s Lumber Lawyerly will try to help guide you on how long to keep certain records and/or whether they can meet their demise in the company recycle bin.

**OSHA 300 Forms:** An employer must retain these documents 5 years following the calendar year that these records cover. Important note: Starting in January 2017, OSHA is phasing in a new rule requiring certain employers to electronically document and submit injury and illness data. Find more info [here](#).

**Safety Committee Meetings:**
- **Alaska & Idaho:** Neither state requires that safety committees be formed or that records of such activities be kept.
- **Montana:** The Montana department of labor and industry recommends that records be kept of safety committee meetings. However, MT Dept. of L&I specifies on their website that all safety program activities should be documented and retained for 3 years.
- **Oregon:** You must keep all required safety committee meeting documentation for a period of 3 years.
- **Washington:** You must keep all required safety committee meeting documentation for a period of 1 year.

**Forklift Training:** There is no specified standard on how long you need to keep training certifications, or of the recertification (which is required every 3 years). It is recommended however that employers retain the training certifications for at least the duration of employment for each employee.

**Personal Protective Equipment (PPE):**
Employers should retain all written hazard assessments and PPE training for the duration of employment, for all employees exposed to the specific hazard (ex. Written hazard assessment requiring eye protection on saw).

**Fire Extinguishers:** If you chose to allow all employees to use a fire extinguisher in the event of an emergency, then you are required to train them how to properly use them. You should retain written training records for the length of their employment. Additionally, employers must assure that portable fire extinguishers are subjected to an annual maintenance check. The employer shall record the annual maintenance date and retain this record for 1 year.

Note: Employers are also required to do monthly maintenance checks on all fire extinguishers (i.e. making sure they are in the green). While the rules do not state that you must keep written documentation that you have done this, OSHAs letters of interpretation do (for a period of 1 year).

**SDS/MSDS Forms:** Employers must keep a copy of all SDSs for chemicals currently in use. Also, employers must retain SDSs for the duration of employment plus 30 years for all employees exposed to the chemical in question.

*continued on page 2*
General Employee Training Records: Training records must be retained for 3 years from the training date. *(Source OSHA FAQs)*

Employee Exposure & Medical Records: If an employer maintains certain employee medical records, they must retain them for the duration of employment plus 30 years.

Disciplinary Records: There is no regulation that requires an employer to maintain written records of employee discipline for violations of the employer’s safety and health policies. “If, however, the employer wants to credibly assert the ‘unavoidable employee misconduct’ defense to avoid liability for OSHA citations, the employer is highly recommended to maintain written records of discipline indicating the nature of the violation, the date, the name of the employee who committed the violation and the name of the supervisor who imposed the discipline. This same documentation can be useful in the event that the employer has to defend an employment discrimination or wrongful termination action by being able to prove that the action was based on a legitimate nondiscriminatory reason such as violation of safety and health policies.” *(Source SHRM.org)*

Lockout/Tagout: The LOTO standard requires employers to certify that periodic inspections have been performed at least once a year. Therefore, employers should retain certifications for 1 year or until a new certification is created.

Employment Records: To accompany federal requirements, each state has specific rules pertaining to the retention of employment records. While not discussed here, it is important to be familiar with them. You can click on your state for specific information: [Alaska](#), [Idaho](#), [Montana](#), [Oregon](#) and [Washington](#).

About the Author/Disclaimer:
Tom Rider is Manager of Member Services for Western Building Material Association. He is committed to being a valued resource to its members particularly on regulatory compliance issues affecting building material suppliers. Unless stated otherwise, this regulatory newsletter is written by him. He is a lawyer, but respectfully he is not your lawyer (unless you have been in his office and signed a contract). This communication is not intended as legal advice, and no attorney client relationship results merely by reading it. Please consult your own attorney for legal advice. If you are a WBMA member and would like to contact Tom with questions and/or comments:
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**Quote of the Month:**
“I only hope that we don’t lose sight of one thing – that it was all started by a mouse.” *Walt Disney*

**Upcoming Events:**

**July 19**
- **WBMA Summer Board Meetings:**
  Radisson Hotel, Seattle WA

**October 4 – 5**
- **WBMA’s Estimating Workshop**
  Olympia, WA

**October 6**
- **Part 2 of WBMA’s Leadership Series:**
  Financials for Non-Financial Managers

**November 8-10**
- **WBMA’s 114th Annual Convention**
  Red Lion Jantzen Beach, Portland OR

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