



OSHA INSTRUCTION

U.S. DEPARTMENT OF LABOR

Occupational Safety and Health Administration

DIRECTIVE NUMBER: CPL 02-03-004

EFFECTIVE DATE: September 12, 2012

SUBJECT: Section 11(c), AHERA, and ISCA Appeals Program

ABSTRACT

- Purpose:** The purpose of this instruction is to provide procedures for the processing of appeals filed under Section 11(c) of the Occupational Safety and Health Act of 1970, as well as appeals filed under the Asbestos Hazard Emergency Response Act (AHERA) and the International Safe Container Act (ISCA).
- Scope:** OSHA-wide.
- References:** OSHA Instruction: CP: 02-03-003, September 20, 2011 – Whistleblower Investigations Manual; Chapter 4, Section VI. Appeals and Objections.
- Cancellations:** Regional Pilots: Regional Emphasis Program to Implement a Pilot Program for Processing 11C Appeals at the Regional Level, Region IV Directive 09-01/CPL 02-03 dated April 20, 2009; Region V Directive CPL 04-00 (LEP 09-11) dated March 2, 2010; Region VI Directive 09-01 (CPL 02-03) dated December 16, 2009.
- State Impact:** Notice of intent and equivalency required; see paragraph VI.
- Action** Offices: National, Regional, Area, State Plan and Consultation Offices.
- Originating Office:** Office of the Whistleblower Protection Program, Washington, DC.

Contact: Office of the Whistleblower Protection Program
Occupational Safety and Health Administration
200 Constitution Ave., NW, Room N3112
Washington, DC 20210
(202) 693-2199

By and Under the Authority of

David Michaels, PhD, MPH
Assistant Secretary

Executive Summary

The Occupational Safety and Health Administration (OSHA) is responsible for the enforcement of whistleblower provisions under 22 statutes. All of these statutes provide for an avenue of appeal, with the exception of three laws: Section 11(c) of the Occupational Safety and Health Act of 1970 (Section 11(c)), 29 U.S.C. §660(c); the Asbestos Hazard Emergency Response Act (AHERA), 15 U.S.C. §2651; and the International Safe Container Act (ISCA), 46 App U.S.C. §1506. Although such appeals are not specifically provided for by statute or regulation, it has been OSHA's long-standing policy and procedure to provide complainants with the right to appeal determinations under Section 11(c), AHERA, and ISCA.

Originally, all Section 11(c), AHERA, and ISCA appeals were heard in Washington, DC. However, due to the volume of appeals filed and inefficient procedures, the program experienced a significant delay in appeal decisions of up to 2-3 years. In response to this backlog and giving credit to the regions, in 2009 and 2010 Regions IV, V, and VI began piloting their own appeals program.

In 2010, OSHA's whistleblower program was audited by the Government Accountability Office, the Office of Inspector General, and an internal team (Top-to-Bottom Review). Their recommendations were to decrease the appeals backlog and return the appeal program to the National Office. The Top-to Bottom team stated, "The team has concerns about the lack of effort being made to decrease and/or eliminate the backlog. The team's other concern is that permitting four separate appeals programs will lead to inconsistencies and further external criticism."

In July 2011, the Office of the Whistleblower Protection Program recruited a taskforce comprised of senior investigators from several regions as well as representatives from the Office of the Solicitor. Through their concerted efforts and a new triage process, this team eliminated this backlog. This instruction establishes a national program using this new triage process and the best practices from all the appeal programs.

TABLE OF CONTENTS

I.	PURPOSE.....	1
II.	SCOPE.....	1
III.	REFERENCES.....	1
IV.	EXPIRATION.....	1
V.	ACTION.....	1
VI.	STATE PLAN IMPACT.....	1
VII.	BACKGROUND.....	2
VIII.	PROCEDURES.....	2
	A. OUTREACH.....	2
	B. IMPLEMENTATION.....	2
IX.	EVALUATION.....	6
X.	QUALITY AUDIT.....	6
	ATTACHMENT A – APPEAL FLOW CHART.....	A-1
	ATTACHMENT B - IMIS APPEALS DATABSE INFORMATION.....	B-1
	ATTACHMENT C – OPENING LETTER TO COMPLAINANT.....	C-1
	ATTACHMENT D – REQUEST FOR INVESTIGATIVE CASE FILE.....	D-1
	ATTACHMENT E – APPEAL REVIEW AND EVALUATION FORM.....	E-1
	ATTACHMENT F – REMAND FOR REINVESTIGATION.....	F-1
	ATTACHMENT G - CLOSURE LETTER TO COMPLAINANT.....	G-1

- I. Purpose. The purpose of this instruction is to provide procedures for the processing of appeals filed under Section 11(c) of the Occupational Safety and Health Act of 1970 (Section 11(c)), as well as appeals filed under the Asbestos Hazard Emergency Response Act (AHERA) and the International Safe Container Act (ISCA).
- II. Scope. This instruction applies to all Section 11(c), AHERA, and ISCA whistleblower complaints filed nationwide.
- III. References. OSHA Instruction: CP: 02-03-003, September 20, 2011 – Whistleblower Investigations Manual; Chapter 4, Section VI. Appeals and Objections.
- IV. Expiration. This instruction will remain in effect, unless superseded.
- V. Action. All OSHA personnel shall follow the procedures contained in this instruction. All appeal cases currently filed with the regions will be completed by the respective regional appeals programs. All appeals filed after the effective date of this instruction shall be sent and processed by the Office of the Whistleblower Protection Program, Washington, DC (OWPP).
- VI. State Plan Impact.

Federal Program Change - Notice of Intent and Equivalency Required. This instruction describes a Federal program change which provides procedures for the processing of appeals filed under Section 11(c), as well as appeals filed under AHERA and ISCA. States must have written policies and procedures for an appeals process under Section 11(c) which are at least as effective as those in this instruction. This may be a process similar to OSHA’s review by an internal committee as set out in Chapter 4 and in this instruction, an adjudicatory proceeding, or another at least as effective mechanism, but complainants must be afforded the opportunity for reconsideration of an initial negative determination within the state. Complainants will be required to exhaust this remedy before Federal OSHA will accept a “request for federal review” of a dually-filed complaint or a Complaint About State Program Administration regarding a discrimination case filed only with the state. A private right to seek court action in whistleblower cases, as permitted in some states, is an additional right, not a substitute for the internal appeal process. In addition, pursuant to the 23(g) OSHA Restrictions and Conditions outlined in the state plan grant application, states must enter applicable whistleblower appeal data into OSHA’s Integrated Management Information System (IMIS) or OSHA’s Information System (OIS).

States are required to notify OSHA within 60 days whether they intend to adopt policies and procedures identical to those in this instruction or adopt or maintain different policies and procedures. If a state adopts or maintains policies and procedures that differ from federal policies and procedures, the state must identify the differences and may either post its new or existing policies and procedures on its website and provide the link to OSHA or submit an electronic copy to OSHA with information on how the public may obtain a copy. If a state adopts identical policies and procedures, the state must provide the date of adoption to OSHA. State adoption must be accomplished within six months,

with posting or submission of documentation within 60 days of adoption. OSHA will post summary information on the state plan responses to this instruction on its website.

VII. Background.

OSHA is responsible for the enforcement of whistleblower provisions under 22 statutes. Most of these statutes allow complainants to challenge a determination by OSHA that their complaint is without merit by requesting a hearing before a DOL Administrative Law Judge. However, three of these laws – Section 11(c), 29 U.S.C. §660(c); AHERA, 15 U.S.C. §2651; and ISCA, 46 App U.S.C. §1506 – do not. Nevertheless, as a matter of enforcement discretion, OSHA has allowed complainants whose complaints under these three laws were found without merit by the Regional Administrator (RA) to request timely administrative reviews of the decision. This instruction establishes a national program for processing these appeals.

VIII. Procedures.

- A. Outreach. Notice shall be given to stakeholders through OSHA’s QuickTakes and posting of this instruction on OSHA’s public webpage.
- B. Implementation. All docketed complaints filed under Section 11(c), AHERA, and ISCA will be provided appeal rights under this instruction.
 1. Initial Intake/Screening.
 - a. When an 11(c), AHERA, or ISCA complaint is dismissed by the RA, a complainant will have 15 calendar days from receipt of the dismissal letter in which to appeal this decision with the Director, OWPP.¹
 - b. The request must be made in writing, with a copy to the respective RA. Appeal requests may be made by mail, e-mail, or facsimile. The date of the postmark, e-mail transmittal, or facsimile transmittal will be considered the date of the appeal request.
 - c. This appeal review is not *de novo*, but will include a review and evaluation of the investigative case file.
 - d. Upon receipt of a complainant’s letter appealing the RA’s determination, OWPP will date stamp the letter and enter the date into the IMIS within 5 business days. See Attachment B for IMIS Appeals Database Instruction. If the appeal is received in the Regional Office, the Region will date stamp the letter and immediately send the letter to OWPP. To maintain accountability, proof of receipt must be preserved in the file with copies of the letters.

¹ Appeals to the RA may also be accepted.

- e. If the appeal is filed within the timeframe noted in 1.a. of this section, the appeal will be treated as timely. The principles of equitable tolling will also be accepted in determining timeliness of filing. OWPP will mail a letter to the complainant acknowledging receipt of the appeal and will send a copy of that letter to the respondent. In addition, OWPP will request the investigative case file from the appropriate Regional Office. The Regional Office will submit the investigative case file to OWPP within 45 days. See Attachments C and D.
- f. If the appeal is not received within the timeframe noted in 1.a. of this section, and principles of equitable tolling do not warrant treating the appeal as timely, OWPP will mail a letter informing the complainant that the appeal was untimely and that the decision rendered by the RA is final. See Attachment G.
- g. All appeals filed with OWPP shall be completed, e.g., denied or reversed, within 60 business days from receipt of the investigative case file from the Regional or Area Office.

2. Initial Appeal Review and Determination.

- a. Upon receipt of the investigative case file, OWPP will enter this action into the IMIS database and forward the file to the Director, OWPP, or his/her designee, for assignment.
- b. The investigative case file will undergo an initial review and determination process. This process consists of an independent review by two separate OWPP reviewers. In lieu of an OWPP reviewer, the Director may assign the file to other qualified Department of Labor (DOL) personnel to act as one of the reviewers, such as a representative from the Office of the Solicitor – Occupational Safety and Health Division (SOL/OSH). Each reviewer will have 11 business days to complete a review.
- c. Each reviewer will complete an independent OWPP Appeal Review and Evaluation form (See Attachment E) assessing the evidence contained in the case file.
- d. Where both reviewers conclude that the evidence supports a non-merit finding, a recommendation will be submitted to the Director, OWPP, to deny the appeal and close the case. If the Director agrees, the appeal is dismissed. Where the Director does not agree, the case will be forwarded to the full Appeals Committee for review.

- e. Where at least one of the reviewers finds that the evidence does not support the non-merit finding or that additional investigation is warranted, the appeal will be forwarded to the full Appeals Committee for review. Either reviewer is encouraged to contact the Regional Office to clarify information in the investigative case file before making a final determination.
- f. If the complainant has submitted the same facts for resolution in a different forum that has the authority to grant the same relief to the complainant, such as a union arbitration procedure, the hearing of the appeal may be postponed pending a determination in the other forum, after which the Appeals Committee must either recommend deferring to the other determination, if it appears fair and equitable, or proceed with hearing the case.

3. Appeals Committee.

- a. The Appeals Committee will be comprised of representatives from SOL/OSH and representatives from OWPP.
- b. The Appeals Committee will meet not less than monthly, and include a quorum of one SOL-OSH representative and two OWPP representatives. Final Appeals Committee decisions are made by unanimous vote by the quorum.
- c. At least two days before the Appeals Committee meeting, the SOL-OSH and OWPP committee participants will be e-mailed a copy of the OWPP Appeal Review and Evaluation form, and a copy of the Report of Investigation (ROI), or the equivalent, on the appeal case.
- d. During the Appeals Committee meeting, the first and/or second reviewer will present the case to the Appeals Committee.
- e. Where the Appeals Committee finds that the evidence supports a non-merit finding (AD-Appeal Dismissed), SOL/OSH and the OWPP Director will approve the denial of the appeal and the case will be closed.
- f. Where the Appeals Committee finds that additional investigation is warranted, the case will be remanded (AP-Appeal Remanded) to the Regional Office for further investigation. See Attachment F. The Region will have 45 business days in which to complete its investigation and return the file to OWPP. Upon return, the case will be given top priority for re-submission to the Appeals Committee. Cases that have been resubmitted to the Appeals Committee will be completed within 15 business days.

- g. Where the Appeals Committee finds that the preponderance of evidence supports a merit finding, the case will be returned to the region for further action (AL – Appeal Reversed). Before returning a case to the Region, the Appeals Committee will hold a teleconference with the RA and/or Regional Office of the Solicitor (RSOL). See Final Disposition.
- h. A summary of the Appeals Committee meeting will be recorded and preserved with the OWPP appeal case file. The summary will note the names of the attendees that make the quorum and SOL-OSH and OWPP will sign their concurrence with the Appeals Committee decision on the OWPP Appeal Review and Evaluation form. See Attachment E.
- i. OWPP will notify the complainant and respondent of the determination of the Appeals Committee. See Attachment G.

4. Final Disposition.

- a. At any time the complainant may withdraw his/her appeal case. Upon notification by the complainant of his/her intent to withdraw, OWPP will send the closure letter (Attachment G) to both the complainant and respondent, and enter the date in IMIS (AW – Appeal Withdrawn). Where the parties reach a settlement while an appeal is pending, the appeal will be treated as withdrawn and OWPP will follow the procedures in this paragraph.
- b. Where the Appeals Committee reverses the RA’s determination, the Appeals Committee will first hold a teleconference with the RA and/or RSOL. Where the Appeals Committee, RA, and/or RSOL disagree on the determination, the case will be forwarded to the OSHA Deputy Assistant Secretary who, in consultation with SOL, will make the final determination. If the appeal is dismissed (AD-Appeal Denied), OWPP will send the closure letter (Attachment G) to both the complainant and respondent, and enter the date in IMIS. If the regional determination is reversed (AL-Appeal Reversed), the investigative case file will be returned to the Regional Office for appropriate enforcement action, entry made in IMIS, and closure letter (Attachment G) sent to both the complainant and respondent. The RA shall report back to the Appeals Committee on the final outcome of the case.

IX. Evaluation. The OWPP Director shall provide the Assistant Secretary, Deputy Assistant Secretary (Field Operations), RAs, and SOL/OSH with a quarterly report that includes the following information:

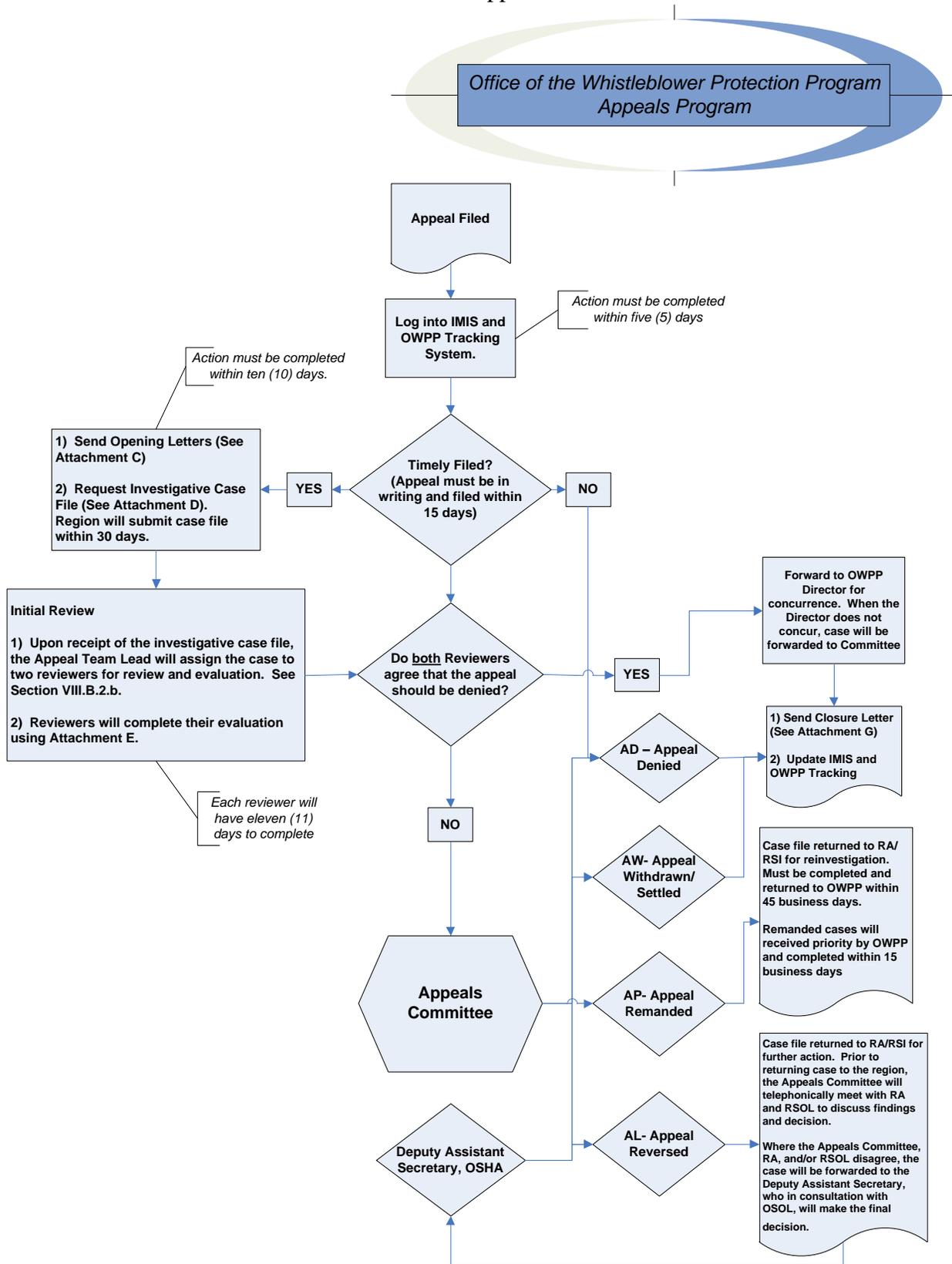
1. Number of appeal cases received in the National Office, by Region.
2. Number/percentage of dismissals that were affirmed, by Region.
3. Number/percentage of appeal cases that were remanded to the RA for further investigation.
4. Number/percentage of appeals cases that were reversed and returned to the RA.
5. Number/percentage of appeal cases that were completed by OWPP within 60 business days of receipt of the investigative case file.

The purpose of this information is to provide evaluation of the appeals process in the National Office and to identify any impediments or trends. OWPP has developed new performance measures which will include measurement of the appeals process. In FY 2012 Q3 and Q4, OSHA will establish baseline measures of the percent of appeals completed within 60 days, percent of cases remanded (returned for reinvestigation) and percent of cases reversed. The quality of the investigations on appeal will not be measured here, but in the Accountability Audits. The rate and disposition of the appeals, per Region, will be tracked in FY 2012.

- X.** Quality Audit. To ensure that OSHA's Appeals program is effective, fair, and impartial, representatives from the Directorate of Evaluation and Analysis may attend an Appeals Committee meeting and/or review appeal case files and records.

DISTRIBUTION: Office of the Whistleblower Protection Program
Regional Offices
Directorate of Enforcement Programs
Directorate of Evaluation and Analysis
Directorate of Administrative Programs
Solicitor of Labor/OSH Division

Attachment A – Appeal Flow Chart



Attachment B - IMIS Appeals Database Instruction

IMIS FIELD DATE	DEFINITION
APPEAL RECEIVED	Date Appeal Filed (include Postmark Stamp Date)
APPEAL SCREENED	Date Appeal Screened for Timeliness
ACKNOWLEDGEMENT LETTER SENT	Date acknowledgement letter is sent out to the Complainant, with a copy to Respondent
INVESTIGATIVE FILE REQUESTED	Date OWPP requested investigative file from Region (e-mail or letter date)
INVESTIGATIVE FILE RECEIVED	Date investigative file received from the Region
REVIEWER ONE	Name of Reviewer Assigned to Review Appeal Case
REVIEWER ONE ASSIGNED	Date Reviewer One is Assigned to Review the Appeal Case
REVIEW ONE COMPLETED	Date Reviewer One Completes his/her Appeal Review and Screening
REVIEWER TWO	Name of Reviewer Assigned to Review Appeal Case
REVIEWER TWO ASSIGNED	Date Reviewer Two is Assigned to Review the Appeal Case
REVIEW TWO COMPLETED	Date Reviewer Two Completes his/her Appeal Review and Screening
OWPP DIRECTOR REVIEW	Date Appeal Case Submitted to Director for Review
APPEAL DETERMINATION (OWPP)	Date denial letter issued (date of OWPP determination; no full Appeals Committee review)
APPEALS COMMITTEE DETERMINATION	Date of full Appeals Committee review determination
DENIED	Date Appeal Denied
REMAND	Date investigative file remanded to the Region for reinvestigation
REVERSED	Date investigative file returned to the Region reversing decision
WITHDRAWN	Date Appeal Withdrawn
INVESTIGATIVE FILE RETURNED	Date the investigative file is received in OWPP after the Region's reinvestigation
FINAL DETERMINATION LETTER	Date the final determination letter is sent to a complainant, with a copy to Respondent

Attachment C - Opening Letter to Complainant

Complainant Name
Address

RE: [Complainant Name/Respondent/Case Number]

Dear [Complainant Name]:

We are in receipt of your appeal of the dismissal of the above-referenced complaint filed under [Section 11(c) of the Occupational Safety and Health Act of 1970/Asbestos Hazard Emergency Response Act (AHERA)/International Safe Container Act (ISCA)].

The investigative case file, which contains all evidence developed in this case, will be considered when reviewing your appeal. As of this date, we are requesting that the investigative case file be sent from the OSHA Regional Office to our office for review.

When the review of your case has been completed, I will notify you in writing of the outcome.

Sincerely,

[Name]
Director
Office of the Whistleblower Protection Program

cc: Regional Office
Respondent

Attachment D - Request for Investigative Case File

Via Email

Date:

From: [Name], Director, Office of the Whistleblower Protection Program

To: [Insert Name] Regional Administrator/Regional Supervisory Investigator

Subject: [Complainant Name/Respondent/Case Number]

We are hereby requesting the investigative case file in the above-referenced complaint filed under [Section 11(c) of the Occupational Safety and Health Act of 1970/Asbestos Hazard Emergency Response Act (AHERA)/International Safe Container Act (ISCA)]. Where interviews were electronically recorded, please include the time reference location of key supporting evidence in the interview summary. For example, "Witness overheard his employer say, 'I fired John because he called OSHA.'(3:55)."

On [date], [Complainant] filed an appeal of the Regional Administrator's dismissal dated [enter closing letter date].

Please send the complete investigative case file within 30 days to the following address, or you may scan and save an electronic copy in the respective investigative file in OSHA's O drive. The location is O:\OWPP\APPEAL FILES. Please save the file within your Regional folder by last name, first name, case number [Smith.John.1-2222-33-444]. Please notify OWPP when the file has been saved on the O drive by sending an email to zzOSHA-WB_APPEALS. Thank you for your immediate attention.

Attachment: [Complainant] Appeal Letter.pdf

Attachment E

OFFICE OF THE WHISTLEBLOWER PROTECTION PROGRAM APPEAL REVIEW AND EVALUATION		
Regional Case File No	Region	Investigator/RSI or Manager
Complainant		
Respondent		
Date Complaint Closed	Date Letter Received by Complainant	
Regional Reason for Closure	<input type="checkbox"/> Dismissed/Non-Merit <input type="checkbox"/> Dismissed/Administrative Closure, e.g., Untimely, No P/A, etc. _____ _____	
Reason for Appeal		
<i>Instructions to Reviewer: Your review is based on the evidence contained in the investigative case file. Please note your answer (Y or N) in the column to the right, and/or provide explanation in the note section below.</i>		
Initial Review		Yes/No
Step 1: COVERAGE, JURISDICTION & TIMELINESS	Was this appeal filed within 15 calendar days of receipt of the Regional Administrator's notification letter, or does equitable tolling apply?	
	Did the complainant file his/her complaint within 30 days of the adverse action (AA) or when he/she first became aware of the adverse action? ²	
	Date of AA: _____ Date Complaint Filed: _____ Is the employer covered under Section 11(c), AHERA, or ISCA, e.g., not a government employer? If the employer is a Federally-recognized Tribe operating as a government entity, check with Region or NSOL for jurisdiction as this may vary from state to state. Please note if the employer is the U.S. Post Office.	
	Is the employee covered under Section 11(c), AHERA, or ISCA, e.g., not Federal employee (exception U.S. Post Office)?	
<i>If you answer No to any one of the above questions, STOP. Appeal should be denied. If not, proceed to Step 2</i>		
Step 2: PRIMA FACIE CASE	Did the complainant engage in protected activity covered by Section 11(c), AHERA, or ISCA?	
	Did the employer (or decision maker) have knowledge of the protected activity (PA) or perceive that the complainant engaged in PA?	
	Was adverse action taken against the complainant?	
	Does there appear to be a nexus between the protected activity and the adverse action?	

² Check for tolling under 29 CFR 1977.15(d)(3).

***If you answer No to any one of the above questions, STOP.
Appeal should be denied. If not, proceed to Step 3.***

Step 3: ANALYSIS AND CLOSURE	Did the respondent provide a legitimate non-discriminatory reason for the adverse action?	
	Did the investigation test this reason for pretext?	
	Does the preponderance of evidence contained in the investigative case file support a violation of Section 11(c), AHERA, or ISCA, i.e. does the protected activity appear to be the motivating factor behind Respondent taking adverse action? Why or why not? Explain below.	
	Note:	

Step 4: RECOMMENDATION:	<input type="checkbox"/> Appeal Denied <input type="checkbox"/> Refer to Appeals Committee
------------------------------------	---

Sign:	Sign:
Print Name: First Reviewer	Print Name: Second Reviewer
Date:	Date:

Appeals Committee

<input type="checkbox"/> Appeal Denied <input type="checkbox"/> Remand for Reinvestigation	<input type="checkbox"/> Determination Reversed
---	---

Meeting Summary (Include names and titles of quorum attendees):

Sign:	Sign:
Print Name: SOL/OSH	Print Name: OWPP
Date:	Date:

Attachment F – Remand for Reinvestigation

Via Email

Date:

From: [Name], Director, Office of the Whistleblower Protection Program

To: [Insert Name] Regional Administrator/Regional Supervisory Investigator

Subject: [Complainant Name/Respondent/Case Number]

We are hereby remanding the above referenced complaint filed under [Section 11(c) of the Occupational Safety and Health Act of 1970/Asbestos Hazard Emergency Response Act (AHERA)/International Safe Container Act (ISCA)] for reinvestigation in the following area(s):

1. [Enter area seeking information, e.g., employment termination letter dated April 15, 2012, interview with John Smith, Manager, and information requesting].

Please send the requested information within 45 business days from the receipt of this letter to:

Occupational Safety and Health Administration
Office of the Whistleblower Protection Program
200 Constitution Avenue NW, N3112
Washington, DC 20210
Attention: Appeals

Thank you for your immediate attention.

Attachment G - Closure Letter to Complainant

Date

Complainant Name

Address

RE: [Complainant Name/Respondent/Case Number]

Dear [Mr./Ms. Complainant Name]:

[Appeal Denied]

This is in response to your appeal of the decision to dismiss your complaint against [Respondent] filed on [date appeal received]. We have completed a comprehensive review of the entire investigative case file and have determined that [Respondent] did not violate [Section 11(c) of the Occupational Safety and Health Act of 1970/Asbestos Hazard Emergency Response Act (AHERA)/International Safe Container Act (ISCA)].

The preponderance of the evidence failed to support [Select one]

- that your complaint was timely filed.
- that you engaged in protected activity covered under [Section 11(c) of the Occupational Safety and Health Act of 1970/Asbestos Hazard Emergency Response Act (AHERA)/International Safe Container Act (ISCA)].
- that the action taken against you was an adverse action covered under [Section 11(c) of the Occupational Safety and Health Act of 1970/Asbestos Hazard Emergency Response Act (AHERA)/International Safe Container Act (ISCA)].
- that you were [note adverse action, e.g., loss of promotion, termination] because of your engagement in protected activity.

Please note that this is the final determination of the Secretary of Labor; your case is now closed.

[Appeal Withdrawn]

This confirms our conversation on [date], in which you advised this office that you wish to withdraw your appeal in the above-referenced matter. Accordingly, the determination issued by the Regional Administrator on [date] is the final determination of the Secretary of Labor; your case is now closed.

[Appeal Withdrawn - Settled]

This confirms our conversation on [date], in which you advised this office that you wish to withdraw your appeal in the above-referenced matter due a settlement reached with [Respondent]. Accordingly, your case is now closed.

[Appeal Reversed]

This is in response to your appeal of the decision to dismiss your complaint against [Respondent] filed on [date appeal received]. We have completed a comprehensive review of the entire investigative case file and have determined that the preponderance of the evidence supports a merit finding. We are therefore returning your case file to the Regional Office for further action.

Please direct all future correspondence and inquiries to:

[Name]
Regional Administrator
Occupational Safety and Health Administration
[Address]
[Telephone]

Sincerely,

[Name]
Director
Office of the Whistleblower Protection Program

cc: Regional Office
Respondent