



OSHA INSTRUCTION

U.S. DEPARTMENT OF LABOR

Occupational Safety and Health Administration

DIRECTIVE NUMBER: CPL-02-03-001

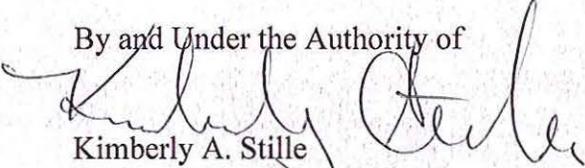
EFFECTIVE DATE: May 1, 2013 (reissued)

SUBJECT: Region I Whistleblower Program Complaint Intake Instruction

ABSTRACT

- Purpose:** The purpose of this notice is to establish procedures for the intake of whistleblower complaints within the jurisdiction of the Boston Regional Office.
- Scope:** This Notice applies to the Boston Regional Office and all Region I Area Offices.
- References:** OSHA Directive: CPL 02-03-007, January 28, 2016 – Whistleblower Investigations Manual. OSHA Directive: CPL 02-00-159, October 1, 2015 – Field Operations Manual (FOM).
- Cancellations:** None
- State Impact:** No Impact
- Action Offices:** Boston Regional Office, Region I Area-Offices
- Originating Office:** Boston Regional Office
- Contact:** Regional Administrator
USDOL-OSHA Boston Regional Office
J.F.K. Federal Building, Room E-340
Boston, MA 02203
Tel. (617) 565-9860

By and Under the Authority of


Kimberly A. Stille
Regional Administrator

Executive Summary

Prior to 2010, incoming whistleblower complaints were forwarded to the resident office investigator, or lacking an investigator in the particular office, were sent to an investigator in a nearby office. On occasion, complaints were lost or incomplete information was gathered which made it difficult or impossible to contact the complainants. Another consequence of this practice was an uneven assignment rate with investigators in busier offices bearing the burden of a higher case load.

In 2010, Region I began to centralize whistleblower complaint intake. Under the centralized process, all complaints received in area offices and the regional office are forwarded to the Regional Supervisory Investigators at zzOSHA-Region1-Whistleblower@dol.gov or faxed to the RSIs at (617) 565-9827. The instruction gives specific information on handling different types of complaints.

The centralized system allows for prompt capture of relevant information for each complaint, documentation and tracking of incoming complaints and inquiries about whistleblower matters, and assignment of cases to the appropriate investigators.

Significant Changes

This reissue of the May 1, 2013 directive changes the fax number for the RSIs / ARA from (860) 240-3155 to (617) 565-9827.

I. Purpose.

This directive establishes mandatory and uniform procedures for taking and transmitting whistleblower complaints that are received by the Regional and Area offices.

II. Scope.

This directive applies to all Region I employees.

III. References.

A. OSHA Directive: CPL 02-03-007, January 28, 2016 – Whistleblower Investigations Manual, page 1-13, Section X.A.5. "Compliance Safety and Health Officer."

B. OSHA Directive: CPL 02-00-159, October 1, 2015 – Field Operations Manual (FOM), page 9-8, Section II. Whistleblower Complaints.

IV. Cancellations.

None

V. Action Offices.

A. Responsible Office.

Boston Regional Office

B. Action Office.

Boston Regional Office and Region I Area Offices

C. Information Offices.

None

VI. Federal Program Change.

None

VII. Significant Changes.

None

VIII. Whistleblower Complaint Intake Procedures.

A. Who may file a whistleblower complaint

Any applicant for employment, employee, former employee, or his or her authorized representative may file a whistleblower complaint.

B. Form of Complaint

Whistleblower complaints may be made by mail, email, telephone, and fax or in person. Complaints may be made orally or in writing and in any language.

C. OSHA-87

The OSHA-87 is the form used by the whistleblower program to capture information about new complaints. The requirement for OSHA staff to fill out the OSHA-87 is explained in the FOM (page 9-8, Section II. Whistleblower Complaints) and in the Whistleblower Investigations Manual (page 1-13, Section X.A.5. "Compliance Safety and Health Officer").

D. Who Must Fill Out an OSHA-87

CSHOs, Duty Officers, Support Staff and Regional Office staff in the regional and area offices receiving whistleblower complaints must fill out an OSHA-87 form (<http://intranet.osha.gov/Region1/whistleblower/forms.html> and see attached) and email or fax it to the Regional Supervisory Investigators at: zzOSHA-Region1-Whistleblower@dol.gov.

E. Regional and Area Office Responsibilities When Receiving Whistleblower Complaints

Via mail

1. Scan the letter and envelope and email to zzOSHA-Region1-Whistleblower@dol.gov or fax the letter to Regional Supervisory Investigators (RSIs) at (617) 565-9827.
2. Mail the original hardcopy and any attachments to Michael Mabee, at the Regional Office. **Very important – date stamp the letter upon receipt and save and send the envelope.** The date of the postmark is the date filed.

Via email

1. For emails coming from the OSHA hotline, please forward to zzOSHA-Region1-Whistleblower@dol.gov.
2. For emails to CSHOs - fill out an OSHA-87 and send via fax or email (include the original email from Complainant).

Via fax

1. Scan the letter and email to zzOSHA-Region1-Whistleblower@dol.gov, or fax the letter to the RSIs at (617) 565-9827.
2. Mail the original hardcopy and any attachments to Michael Mabee, at the Regional Office. **Very important – date stamp the letter upon receipt and save and send the envelope.** The date of the fax postmark is the date filed.

Via telephone

This is the most common method of receiving complaints and requires the most attention.

2. Conduct a short interview with the complainant sufficient to gather information to fill out the fields on the OSHA-87.
3. Send the OSHA-87 to zzOSHA-Region1-Whistleblower@dol.gov or fax it to (617) 565-9827.

In person (walk-in)

If an investigator is present and available in the office, the investigator will meet with the complainant. If there is no investigator available, the complaint should be processed as if received by telephone (see above).

Never transfer a new complainant to an investigator's voicemail box. Too often the complainant does not leave a number or the message is unintelligible.

Filling out the OSHA-87

When in doubt, fill it out, and send it in. If the complainant says "discrimination" or "harassed" or "fired" or "treated poorly" – any of the catch phrases of discrimination, send in an OSHA-87. The whistleblower staff will contact Complainant and determine whether it is an OSHA whistleblower complaint, or if there is another agency or law to which we can refer Complainant.

Case Type and Statutory Implications

Do not attempt to fill out this section. The whistleblower staff will do this.

Complainant Information

It is essential to get all the contact information you possibly can. Frequently, the phone number on the OSHA-87 is wrong, or the phone does not work. In those cases it is critical that we have a correct address and/or email address for the complainant. Get home and cell phones as well as an email address if Complainant has one.

Respondent Information

Name of the company, address and phone number are essential. Complainants may not know how many employees or if there is a union. We can find that out later.

Summary of the alleged retaliation

This section can be brief but must include the basic allegation. Here is a list of useful questions to ask:

- Date of OSHA complaint or complaint to management
- What Complainant complained about
- Who Complainant complained to
- Action OSHA took (if any and if known)
- Date of termination or other adverse action

The following is an example of a good summary:

“Complainant complained to OSHA on [Date] about safety violations, resulting in a non-formal investigation (OIS #####). The employer was notified of the complaint on [Date]. Complainant called back on [Date] and stated he had been fired on [Date] and was given no explanation.

Certification and Date

Enter the date that the complaint was filed with you. The date should be the first time the person called your office to complain about the adverse action. If the first contact was a voice mail, the date the voice mail was left is the date filed. Date and sign the bottom of the form. Print your name if your signature is not legible. We may need to contact you for more information.

Open Enforcement Actions

It is the mutual responsibility of the whistleblower program and the enforcement program to ensure that whistleblower program activities do not inadvertently provide advance notice to the parties of planned enforcement activity.

Upon intake of a complaint in which an enforcement action is ongoing or pending, the CSHO will provide the necessary information to the RSIs to ensure that a whistleblower complaint investigation is not initiated until the inspection activity has begun.

If relevant to the enforcement activity, the CSHO may retain a copy of the retaliation complaint for the enforcement file.

Appendix A

U.S. Department of Labor
Occupational Safety and Health Administration



Whistleblower Case Activity Worksheet

Note: A separate worksheet form must be completed for each complainant.

| | | | |
|--|--------------------------------|--|--|
| Case Type: <input type="checkbox"/> OSHA <input type="checkbox"/> ACA <input type="checkbox"/> DFA <input type="checkbox"/> SPA | | | |
| <input type="checkbox"/> STAA | <input type="checkbox"/> AHERA | <input type="checkbox"/> ISCA | <input type="checkbox"/> SDWA <input type="checkbox"/> FWPCA <input type="checkbox"/> TSCA <input type="checkbox"/> SWDA <input type="checkbox"/> CAA |
| <input type="checkbox"/> CERCLA | <input type="checkbox"/> ERA | <input type="checkbox"/> AIR21 | <input type="checkbox"/> SOX <input type="checkbox"/> PSIA <input type="checkbox"/> FRSA <input type="checkbox"/> NTSSA <input type="checkbox"/> CPSIA |
| Statutory Implications: <input type="checkbox"/> OSHA <input type="checkbox"/> ACA <input type="checkbox"/> DFA <input type="checkbox"/> SPA | | | |
| <input type="checkbox"/> STAA | <input type="checkbox"/> AHERA | <input type="checkbox"/> ISCA | <input type="checkbox"/> SDWA <input type="checkbox"/> FWPCA <input type="checkbox"/> TSCA <input type="checkbox"/> SWDA <input type="checkbox"/> CAA |
| <input type="checkbox"/> CERCLA | <input type="checkbox"/> ERA | <input type="checkbox"/> AIR21 | <input type="checkbox"/> SOX <input type="checkbox"/> PSIA <input type="checkbox"/> FRSA <input type="checkbox"/> NTSSA <input type="checkbox"/> CPSIA |
| Complainant Information | | | |
| Full name | Last | First | Middle |
| Address | | | |
| City | | State | Zip |
| Phone 1 | | Email | |
| Phone 2 | | | |
| Phone 3 | | | |
| Respondent Information | | | |
| Name | | <input type="checkbox"/> Company <input type="checkbox"/> Individual | |
| Address | | | |
| City | | State | Zip |
| Phone 1 | | Email | |
| Phone 2 | | | |
| Phone 3 | | | |
| # of employees | | Unionized? | |
| Summary of the alleged retaliation (protected activity, respondent knowledge, adverse action, nexus) | | | |
| | | | |
| I certify that the complaint was filed with me on _____ (date) | | | |
| Signature | | Title | Date |

Email to: zzOSHA-Region1-Whistleblower@dol.gov

OSHA-87 (rev. 7/2009)