



State of Alaska
Department of Labor and Workforce Development
Division of Labor Standards and Safety

Effective March 16, 2026
AKOSH PD #26-01

To: All AKOSH Staff

From: Tanya Keith, Director of Labor Standards and Safety *PK*

Subject: Whistleblower Complaint Intake Closure Procedures.

This program directive is a formal notice that Alaska OSH is implementing OSHA's federal directive for whistleblower complaint intake closure procedures that went into effect 3/9/26. Attached with this program directive is OSHA's CPL 09-00-001 for reference. The adoption of this CPL is to help add the "triage" procedures to the whistleblower screening process.

This program directive is effective immediately. Please ensure that all members of your staff receive a copy of this program directive and understand how to implement it.

cc: James Wulff, Regional Administrator, OSHA, San Francisco Region
Abby Lopez, Assistant Regional Administrator, OSHA, San Francisco Region
Eric Christensen, State Programs Manager, OSHA, San Francisco Region
Ryan Himes, ARA WBPP, SFRO, San Francisco Region
Brenda Smith, Team Leader for Cooperative and State Programs, OSHA, San Francisco Region

Executive Summary

This Instruction revises the whistleblower complaint screening process to allow for an expedited processing of complaints that meet certain criteria. All incoming complaints will be evaluated to determine whether the investigator should contact the complainant and conduct a screening interview or whether they should close the complaint upon intake without an interview.

Complaints will be closed upon intake without a screening interview if the complaint, on its face:

- a) is not covered by an OSHA-administered whistleblower statute,
- b) is untimely filed and there is no indication equitable tolling may apply, or
- c) alleges safety or compliance concerns but not retaliation.

These complainants will be sent intake-closure letters by a method that can be tracked (email or certified mail, for example). The letters will inform the complainant of the intake closure and invite them to contact OSHA if they disagree with the closure and/or can provide additional information that might change the closure decision. When applicable, the complainant will be provided with referral information on other agencies and/or programs that may be able to assist them.

Complaints that are not closed upon intake will move to the screening phase and will be processed in accordance with current procedures established in Chapter 3 of the WIM. Complaints that jurisdictionally fall under and are referred to a State Plan will be processed in accordance with the procedures established in WIM Chapter 8 ("State Plan – Federal OSHA Coordination").

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I. Subject

This Instruction permanently implements the intake-closure process that was piloted in the Whistleblower Complaint Intake Pilot (23-01 (CPL 02)).

II. Purpose

The purpose of this Instruction is to implement as a permanent policy the intake-closure process that was piloted in the Whistleblower Complaint Intake Pilot (23-01 (CPL 02)). Regions may close complaints upon intake and notify the complainants in writing if the complaint, on its face, is not covered by an OSHA-administered whistleblower statute, is untimely filed and the complaint does not indicate that there are circumstances that might warrant equitable tolling, or alleges safety or compliance concerns but not retaliation.

III. Scope

This Instruction applies to all OSHA Regional Offices.

IV. References

[CPL 02-03-011](#), Whistleblower Investigations Manual (WIM) (April 29, 2022); [23-01 \(CPL 02\)](#), Whistleblower Complaint Intake Pilot (February 17, 2023); [CPL-2020-12](#), Region II's Complaint Intake Pilot (May 1, 2020).

V. Action Information

A. Responsible Office

DWPP; OSHA Regional Offices.

B. Action Offices

DWPP, OSHA Regional Offices.

C. Information Offices

State Plans; Directorate of Administrative Programs, Office of Technology Assistance (DAP/OTA), and Office of Training and Education (DAP/OTE).

VI. Federal Program Change – Intent Required; Adoption Encouraged.

This Instruction describes a federal program change which establishes policies and procedures to implement an intake-closure process for certain types of complaints received by OSHA's Whistleblower Program. State Plans are encouraged to consider adopting similar policies and procedures to create and implement a screen-out procedure for similar types of complaints received by their whistleblower programs.

Within 60 days of the date of issuance of this directive, a State Plan must submit a notice of intent indicating whether they already have a similar policy in place, intend to adopt new policies and procedures, or do not intend to adopt this Instruction. If a State

Plan does not adopt initially, but at some later point decides to adopt this Instruction or an at least as effective version of this Instruction, the State Plan must notify OSHA of this change in intent. Within 60 days of adoption, the State Plan must provide an electronic copy of the policy or link to where their policy and procedures are posted on the State Plan's website. The State Plan must also provide the date of adoption and identify differences, if any, between their policy and OSHA's. OSHA will provide summary information on the State Plan responses to this Instruction on its website at www.osha.gov/dcsp/osp/index.html.

VII. Background

The current screening process, as detailed in the WIM, requires that OSHA's whistleblower investigation staff contact every individual who files a complaint to confirm the information stated in the complaint and, if needed, conduct a screening interview (typically, by phone or video conference). The challenge of administering more than two dozen whistleblower protection laws, coupled with an ever-increasing number of new complaint filings, has resulted in an increase in pending cases. The requirement to speak with the complainant before administratively closing a complaint, even where the complaint is facially unfit for investigation, has put great strain on OSHA's limited investigative resources.

In response to that strain and to recommendations presented by the Department's Office of the Inspector General (OIG) in recent years, including one in 2020 regarding Region II's Complaint Intake Pilot ([CPL-2020-12](#)),¹ DWPP implemented the Whistleblower Complaint Intake Pilot (23-01 (CPL 02)) in 2023. The Whistleblower Complaint Intake Pilot updated and modified the Region II pilot's intake-closure procedures. Once the Whistleblower Complaint Intake Pilot ended, DWPP evaluated the pilot's results and found that the pilot's procedures efficiently triaged incoming complaints with a sufficient level of accuracy. With this positive finding, OSHA decided to implement the pilot's procedures permanently.

This directive will allow Regions to devote resources and time to pursuing cases that fall under Agency-enforced statutes while also promptly responding to complainants who do not have an actionable complaint within OSHA, and, if applicable, directing them to a more appropriate agency for assistance.

The intake-closure procedures' closure letters are an efficient way to reach complainants who have filed complaints where OSHA cannot investigate, as alleged,

¹ [COVID-19: OSHA Whistleblower Report No. 19-20-010-10-105 Audit Recommendation 2](#): "We recommended the Principal Deputy Assistant Secretary for Occupational Safety and Health continue to monitor and evaluate the Region II triage pilot and consider extending the triage process to all regions to expedite screening whistleblower complaints."

provide them with a clear and concise reason why, and, if applicable, direct them to the appropriate agency for assistance. It also invites the complainant to contact the investigator if they believe OSHA erred in its determination. Implementing this intake-closure process will maintain strong customer service while dedicating available resources to evaluating complaints that meet the prima facie elements and investigating docketed complaints.

VIII. Definitions

- **Administrative Closure:** The closure of a complaint after an investigator has conducted a screening interview with the complainant, found that the complaint does not meet the threshold requirements for docketing even with the additional information obtained during the interview, and obtained the complainant's consent to close the complaint. (WIM Ch. 3.IV.A.1)

It is also the closure of a complaint after an investigator has made reasonable attempts to interview the complainant or obtain information needed to docket the complaint and found the complainant nonresponsive or noncooperative. (WIM Ch. 3.IV.A.2)

- **Intake Closure:** The closure of a complaint after an investigator, based on a review of the complaint alone and without conducting a screening interview, has found that the complaint is not covered by any OSHA-administered whistleblower statutes, is untimely filed, or is a safety and health complaint without any alleged retaliation.

IX. Intake Closure Procedures

- A. Complaints that fall into one or more of the three categories below may be closed upon intake without entering the screening phase. An intake-closure letter, detailing the reasons for the closure, will be sent to the complainant by a method that can be tracked (email or certified mail, for example). See the Appendix for letter templates. The closure letter will invite the complainant to contact OSHA if they disagree with the intake closure and/or have additional information that might change the decision to close the complaint. The letter will also advise the complainant that, if they do not contact OSHA regarding the intake closure within 15 calendar days, they will not have the opportunity to object to or request review of OSHA's decision to close the complaint.

Note: If there is an indication of language or literacy barriers, the complaint should be processed under existing procedures detailed in the WIM.

The categories of complaints that may be closed upon intake without entering the screening phase are:

1. Complaints that, on their face, are not covered by any OSHA-administered whistleblower statutes, e.g.:

- a. complaints about discrimination on the basis of race, color, national origin, religion, sex, disability, age, or genetic background or any other protected status or about retaliation because of protected activity related to status discrimination, which should be filed with the U.S. Equal Employment Opportunity Commission (EEOC) or a state agency enforcing laws against status discrimination; and,
 - b. complaints by federal employees about retaliation for whistleblowing (except as indicated in footnote 2 below),² which should be filed with the U.S. Office of Special Counsel.
- 2. Complaints that, on their face, are not filed within the period set forth in the relevant OSHA-whistleblower statute, unless the allegations in the complaint indicate that there may be grounds for equitable tolling; or,
- 3. Complaints that, on their face, allege only workplace safety or health compliance concerns and do not allege retaliation. (Note: These complaints should be forwarded to the appropriate OSHA Area Office for further review.)
- B. When OSHA chooses to close an eligible complaint upon intake, OSHA will preserve the filing date for timeliness purposes and inform the complainant in writing by a method that can be tracked (email or certified mail, for example) of the opportunity to provide additional information within 15 calendar days.
- C. Any complaint that OSHA selects to process using these intake-closure procedures will be entered into the OIS whistleblower database and closed as an “Intake Closure.”
- D. A complaint that is identified or processed by an investigator in accordance with these procedures must receive supervisory approval. If identified or processed by the supervisor, no further review is required.
- E. If the complainant contacts OSHA within 15 calendar days from delivery of the intake-closure letter to discuss the closure of the complaint, the investigator will reopen the case and proceed with regular screening procedures. Depending on the information gained during the screening process, OSHA will either administratively close the complaint (with the complainant’s consent), docket the complaint for investigation, or docket and dismiss the complaint. Please see the Appendix below for the template administrative closure letter to be used when a complaint that was reopened by a callback is administratively closed.

² The Clean Air Act (CAA), Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), Safe Drinking Water Act (SDWA), and Solid Waste Disposal Act (SWDA) whistleblower provisions apply to federal government employers. Thus, when there is no other reason to screen out the complaint, complaints under these statutes will not be closed upon intake simply because they involve federal employees.

- F. If the complainant contacts OSHA more than 15 calendar days after delivery of the intake-closure letter, OSHA will document the contact in the Activity Log. The investigator (or supervisor) may discuss the complaint with the complainant, but no further action is otherwise required. If the complainant wishes to pursue their case with OSHA, they must refile their complaint.

X. Report to the Assistant Secretary

- A. One year after this directive has been in effect, DWPP will audit a sampling of completed intake closures to evaluate compliance with the directive. The results of the review will be submitted to the Assistant Secretary and the Regional Administrators.
- B. Future DWPP audits of intake closures may occur at the discretion of the Director.

Appendix – Letter Templates

Wrong Agency Response Letter/With Referral

Complainant/Representative

Street Address

City, State Zip Code

Via email or regular mail:

Re: Case no.: XXXXX

Dear first name last name:

This is to confirm that OSHA has received your online complaint on Date. You indicated that you experienced discrimination/retaliation due to your gender/race/etc. Based on the information you provided, your complaint has been filed with the wrong agency. OSHA is unable to assist you because the allegations in your complaint do not relate to an OSHA-administered whistleblower protection statute. You may wish to contact the Equal Employment Opportunity Commission (EEOC) at (provide local contact) or (other applicable agency and contact information).

If you disagree and/or have additional information that would change this outcome, please contact this office at xxx-xxx-xxxx or respond to the email. **If we do not hear from you or receive any additional information within 15 calendar days from delivery of this letter, OSHA will conclude that you agree with the decision to close your complaint.** In such case, your complaint will be permanently closed and will not be forwarded to the party/parties that allegedly discriminated/retaliated against you. You will not have the opportunity to object to or request review of OSHA's decision to close your complaint.

If you wish to learn more about the protections in the OSHA-administered whistleblower statutes, please visit our website, <https://www.whistleblowers.gov/>.

Sincerely,

Name

Title

Outside of OSHA Scope Response Letter/No Referral

Complainant/Representative

Street Address

City, State Zip Code

Via email or regular mail:

Re: Case no.: XXXXX

Dear first name last name:

This is to confirm that we received your complaint on Date. You indicated in your online complaint that you were (adverse action) on (date). Based on the information you provided, this matter falls outside the scope of OSHA's Whistleblower Protection Programs.

Unfortunately, we are unable to assist you further in this matter, because [explain why OSHA cannot assist].

If you disagree and/or have additional information that would change this outcome, please contact this office at xxx-xxx-xxxx or respond to this email. **If we do not hear from you or receive any additional information within 15 calendar days from delivery of this letter, OSHA will conclude that you agree with the decision to close your complaint.** Your complaint will be permanently closed and will not be forwarded to the party/parties that allegedly took adverse action against you. You will not have the opportunity to object to or request review of OSHA's decision to close your complaint.

If you wish to learn more about the protections in the OSHA-administered whistleblower statutes, please visit our website, <https://www.whistleblowers.gov/>.

Sincerely,

Name

Title

Untimely Response Letter

Complainant/Representative

Street Address

City, State Zip Code

Via email or regular mail:

Re: Case no.: XXXXX

Dear first name last name:

This is to confirm that we received your retaliation complaint on Date. You indicated in your online complaint that you were (adverse action) on (date). Based on this information, OSHA is unable to pursue investigation of your complaint because it was not filed within the statutory filing time period required by [enter appropriate statute]. However, in unusual circumstances (such as debilitating illness or natural disaster), we may excuse a late filing and accept a complaint that is filed after the deadline. Attached is a list of the types of circumstances that may lead OSHA to accept a late filing based on “equitable tolling” principles. If you have information that will assist us in determining whether your complaint can be accepted under these circumstances, please contact us right away, either by phone at xxx-xxx-xxxx or respond to this email.

If we do not hear from you within 15 calendar days from delivery of this letter, we will conclude that you agree with the decision to close your complaint. In such case, your complaint will be permanently closed and will not be forwarded to the party/parties that allegedly retaliated against you. You will not have the opportunity to object to or request review of OSHA’s decision to close your complaint.

[NLRB Referral Information: The following paragraph should be added if the complaint is a section 11(c) complaint that appears to be untimely filed and the safety or health activity appears to have been undertaken with or on behalf of co-workers]

Based on the information in your complaint, OSHA recommends that you contact the National Labor Relations Board (NLRB) as soon as possible to inquire about filing a charge alleging unfair labor practices. The NLRB is responsible for enforcing employee rights under the National Labor Relations Act (NLRA). The NLRA protects employees who are working together to try to improve working conditions, including safety and health conditions, even if the employees are not in a union. It is possible that your complaint may be covered by the NLRA. The NLRB time limit to file a charge is six months from the unfair labor practice. You may reach the NLRB at 1-

844-762-6572. It is possible to file a charge online at <http://go.usa.gov/36Ynj>. You may also locate your nearest NLRB Field Office at [Regional Offices | National Labor Relations Board \(nrlrb.gov\)](http://nrlrb.gov). If you contact the NLRB, please mention that you previously made contact with OSHA.

Sincerely,

Name
Title

Attachment

Attachment

Tolling (Extending) the Complaint Filing Deadline

Whistleblower Investigations Manual, Chapter 3, Section III.D.4.

The following is a non-exclusive list of reasons that may justify the tolling (extending) of the complaint filing deadline:

- A. The employer has actively concealed or misled the employee regarding the existence of the adverse action.
- B. The employee is unable to file due to a debilitating illness or injury which occurred within the filing period.
- C. The employee is unable to file due to a natural or man-made disaster, such as a major snowstorm or flood, which occurred during the filing period.
- D. The employee mistakenly filed a timely retaliation complaint relating to a whistleblower statute enforced by OSHA with another agency that does not have the authority to grant individual relief.
- E. The employer's acts or omissions have lulled the employee into foregoing prompt attempts to vindicate their rights.
- F. OSHA will recognize private agreements between the employer and employee that expressly toll (extend) the filing deadline.

However, the following conditions do not ordinarily justify extension of the filing period:

- A. Ignorance of the statutory filing period.
- B. Filing of unemployment compensation claims.
- C. Filing a workers' compensation claim.
- D. Filing a private lawsuit.
- E. Filing a grievance or arbitration action.
- F. Filing a retaliation complaint with a State Plan state or another agency that has the authority to grant the requested relief.

Federal OSHA S&H Enforcement or Other Relevant Agency Referral Letter

Complainant/Representative

Street Address

City, State Zip Code

Via email or regular mail:

Re: Case no.: XXXXX

Dear first name last name:

This is to confirm that we received your online complaint on Date. Your complaint alleges occupational safety and health or other compliance concerns, but does not allege retaliation. Therefore, we have referred your complaint to [OSHA's Safety and Health Enforcement Program or enter appropriate other agency] for appropriate action. An official from that office/agency will contact you to discuss your concerns further. You may also contact them by phone at xxx-xxx-xxxx or via email at email.gov.

If you disagree and/or have additional information that would change this outcome, please contact this office at xxx-xxx-xxxx or respond to the email. **If we do not hear from you or receive any additional information within 15 calendar days from delivery of this letter, OSHA will conclude that you agree with the decision to close your complaint.** In such case, your complaint will be permanently closed and you will not have the opportunity to object to or request review of OSHA's decision to close your complaint.

If your employer retaliates against you for raising safety or compliance concerns, contact OSHA immediately. There are specific timeframes for filing a complaint under the more than 20 statutes that OSHA enforces (e.g., 30 days for complaints under the OSH Act). For more information, please visit www.whistleblowers.gov.

Sincerely,

Name

Title

Administrative Closure Letter after Complainant Callback

Complainant/Representative

Street Address

City, State Zip Code

Via email or regular mail:

Re: Case no.: XXXXX

Dear first name last name:

I am writing to follow up [Date] [phone call/ email] regarding the intake closure of the complaint you filed on [file date]. After [our discussion/ your discussion with [staffer's name]] on [Date], your complaint does not meet the required elements of any of the statutes OSHA enforces. The complaint will remain closed. I appreciate your concurrence in closing this matter.

I regret that we are unable to assist you further in this matter.

Sincerely,

Name

Title