



OSHA REGIONAL NOTICE

U.S. DEPARTMENT OF LABOR

Occupational Safety and Health Administration

DIRECTIVE NUMBER: CPL 02-03-01

EFFECTIVE DATE: August 1, 2016

SUBJECT: Regional Whistleblower Protection Program Expedited Case Processing Pilot

REGIONAL IDENTIFIER: Region IX

ABSTRACT

- Purpose:** The purpose of this notice is to establish a year-long Expedited Case Processing Pilot in Region IX to allow complainants the option of requesting that OSHA terminate its investigation and issue Secretary's Findings so that they can pursue their claims more expeditiously before a Department of Labor Administrative Law Judge (ALJ) in cases adjudicated by ALJs.
- Scope:** This Notice applies to Region IX's Whistleblower Protection Program.
- References:** OSHA Instruction: CPL: 02-03-005, April 21, 2015 – Whistleblower Investigations Manual, 29 CFRs 24, , 1978, 1979, 1980, 1981, 1982, 1983, 1984, 1986; the Whistleblower Protection Provisions for all complaints filed under the whistleblower provisions of the Surface Transportation Assistance Act (STAA), 49 U.S.C. §31105; Safe Drinking Water Act (SDWA), 42 U.S.C. §300j-9(i); Federal Water Pollution Control Act (FWPCA), 33 U.S.C. §1367; Toxic Substances Control Act (TSCA), 15 U.S.C. §2622; Solid Waste Disposal Act (SWDA), 42 U.S.C. §6971; Clean Air Act (CAA), 42 U.S.C. §7622; Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. §9610; Energy Reorganization Act (ERA), 42 U.S.C. §5851; Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR21), 49 U.S.C. §42121; The Sarbanes-Oxley Act (SOX), 18 U.S.C. §1514A; Pipeline Safety Improvement Act (PSIA), 49 U.S.C. §60129; Federal Railroad Safety Act (FRSA), 49 U.S.C. §20109; National Transit Systems Security Act (NTSSA), 6 U.S.C. §1142; Consumer Product Safety Improvement Act (CPSIA), 15 U.S.C. §2087; Section 1558 of the Affordable Care Act (ACA), 29 U.S.C. §218C; the Seaman's Protection Act (SPA), 46 U.S.C. §2114; Consumer Financial Protection Act of 2010 (CFPA), 12 U.S.C. §5567; Section 402 of the FDA Food Safety Modernization Act (FSMA), 21 U.S.C. §399d; and Section 31307 of the

Moving Ahead for Progress in the 21st Century Act (MAP21), 49 U.S.C. §30171.

Cancellation: None.

State Impact: None.

Action Offices: The San Francisco Region Office and all Region IX Area Offices.

Originating Office: San Francisco Regional Office.

Contact: James D. Wulff, Deputy Regional Administrator, Whistleblower Protection Program
USDOL-OSHA San Francisco Regional Office
90 7th Street Suite 18100
San Francisco, CA 94103
(415) 625-2528

By and Under the Authority of



BARBARA YEE GOTO
Regional Administrator

Executive Summary

The purpose of this Notice is to establish a year-long Expedited Case Processing Pilot (herein referred to as “the Pilot”) to allow complainants in Region IX the option of requesting that OSHA terminate its investigation and issue Secretary’s Findings so that they may pursue their claims more expeditiously before an ALJ in whistleblower cases adjudicated by Department of Labor ALJs.

Significant Changes: None, this is consistent with the applicable statutes and regulations.

- I. Subject: This Notice implements a Pilot for Region IX’s Whistleblower Protection Program to allow complainants in Region IX the option to request that the Region terminate its investigation and issue Secretary’s Findings so that they may pursue their claims more expeditiously before an ALJ. .
- II. Purpose: The purpose of this Notice is to outline the procedures to follow during this Pilot program.
- III. Scope: This Notice applies to Region IX’s Whistleblower Protection Program.
- IV. References: OSHA Instruction CPL: 02-03-007, January 28, 2016 – Whistleblower Investigations Manual, all applicable directives, regulations, and all whistleblower protection statutes with respect to which authority was delegated to the Secretary of Labor, as listed on pages 1 and 2 of the Notice, and all implementing regulations.
- V. Expiration: This Notice expires one year from the date it is approved.
- VI. Action: OSHA personnel in Region IX shall follow the procedures contained in this Notice.
- VII. Background:

Summary

The Pilot will allow complainants the option of requesting that OSHA terminate its investigation and issue Secretary’s Findings so that they can pursue their claims more expeditiously before an ALJ under the 19 statutes under OSHA’s jurisdiction which allow for *de novo* adjudication by an ALJ (herein referred to as the “ALJ Statutes”). The Pilot (1) fulfills complainants’ requests, (2) reduces respondents’ damage liabilities, (3) allows Region IX to refocus efforts on helping complainants in cases under OSHA whistleblower statutes where there is no private right of action, i.e. section 11(c), AHERA, and ISCA, and (4) is consistent with OSHA’s obligations under the ALJ statutes and regulations. The 19 ALJ Statutes are:

- Surface Transportation Assistance Act (STAA), 49 U.S.C. §31105
- Clean Air Act (CAA), 42 U.S.C. §7622;

- Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. §9610;
- Federal Water Pollution Control Act (FWPCA), 33 U.S.C. §1367;
- Safe Drinking Water Act (SDWA), 42 U.S.C. §300j-9(i);
- Solid Waste Disposal Act (SWDA), 42 U.S.C. §6971;
- Toxic Substances Control Act (TSCA), 15 U.S.C. §2622;
- Energy Reorganization Act (ERA), 42 U.S.C. §5851;
- Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR 21), 49 U.S.C. §42121;
- Pipeline Safety Improvement Act (PSIA), 49 U.S.C. §60129;
- Sarbanes-Oxley Act (SOX), 18 U.S.C. §1514A;
- Federal Railroad Safety Act (FRSA), 49 U.S.C. §20109;
- National Transit Systems Security Act (NTSSA), 6 U.S.C. §1142;
- Consumer Product Safety Improvement Act (CPSIA), 15 U.S.C. §2087;
- Section 1558 of the Affordable Care Act (ACA), 29 U.S.C. §218C;
- Seaman's Protection Act (SPA), 46 U.S.C. §2114;
- Consumer Financial Protection Act (CFPA), 12 U.S.C. §5567;
- FDA Food Safety Modernization Act (FSMA), 21 U.S.C. §399d; and
- Moving Ahead for Progress in the 21st Century Act (MAP-21), 49 U.S.C. §30171.

Cases under Section 11(c) of the Occupational Safety and Health Act (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 U.S.C. §80507, are not included in this Pilot.

The Pilot will allow complainants in cases filed under the ALJ statutes the option of requesting that Region IX end its investigation after 30-60 days (CAA, CERCLA, FWPCA, SDWA, SWDA, TSCA, and ERA require OSHA to complete its investigation within 30 days; all other ALJ statutes require OSHA to complete its investigation within 60 days) from the date of filing and issue Secretary's Findings, provided that Region IX has met all the basic procedural requirements in the ALJ statutes and regulations. These requirements are:

- Allow both the respondent and complainant the opportunity to submit written responses, meet with an OSHA investigator, and present statements from witnesses;
- Interview the complainant as appropriate;
- Provide the complainant a copy of the respondent's submissions that are relevant to the complaint, with all necessary redactions, and provide the complainant an opportunity to respond to those submissions;
- Protect the confidentiality of any witness who provides information on a confidential basis; and

- Evaluate the complaint, along with attachments and any interview of the complainant, to determine if the complaint contains the basic elements of a retaliation claim.

Within two weeks of receiving the complainant's request for expedited case processing under the Pilot, Region IX will evaluate the request. The request will be granted in cases in which, after performing the procedural requirements outlined above: (1) the information gathered indicates that there is no reasonable cause to believe that a violation occurred; or (2) the complainant's evidence is so strong and/or respondent's evidence is so weak that further investigation would unlikely change the determination. Examples of reasons that the request may be denied include: (1) the Region has a policy interest in continuing the investigation (e.g., the case involves particularly egregious facts or raises an important or novel issue); (2) the case is part of a corporate-wide enforcement effort; or (3) employees other than the complainant are affected, such as when there is a retaliatory policy. This is not an exhaustive list.

If OSHA dismisses the case as a result of the complainant's request for expedited processing, Region IX will issue Secretary's Findings discussing the complainant's allegations, timeliness, and coverage, as it currently does, and containing the following sentence without discussing any evidentiary findings or analysis:

The complainant has requested that OSHA terminate its investigation and issue a determination. Based on the information gathered thus far in its investigation, OSHA is unable to conclude that there is reasonable cause to believe that a violation of the statute occurred. OSHA hereby dismisses the complaint.

After this sentence, the usual rights to appeal to an ALJ will be explained.

In addition, no ROI will be drafted for dismissed claims under the Pilot. Rather, an IMIS summary will be drafted indicating (1) that the complainant requested expedited case processing under the Pilot after 30-60 days from the date the complaint was filed (depending on the statute); and (2) OSHA met all of its basic procedural requirements, as discussed above.

In some cases after a request for expedited processing, e.g. where the complainant's evidence is very strong and/or respondent's case is very weak, OSHA may grant the request to terminate the investigation and issue a due process letter, where required, and/merit findings after appropriate consultation with RSOL.

If OSHA is not granting the request for expedited processing, Region IX will send the complainant a letter indicating that OSHA is unable to grant the request at this time, explaining the reason or reasons that the request will not be granted, and indicating that the request may be granted at a future date. Investigation of the case will proceed in the normal course.

VIII. Procedure:

The procedure is summarized below with references to the AIR21 and CPSIA statutes and the regulations implementing AIR21, CPSIA, and the ERA and the six environmental statutes— 29 C.F.R. Parts 1979, 1983, and 24. These statutes are cited because all of the ALJ statutes are either covered in the Part 24 rules or are patterned on AIR21 or CPSIA. Unless noted otherwise, the investigation procedures under the other ALJ Statutes are the same. These procedures only apply to the ALJ statutes:

- The complaint is properly screened and docketed based on OSHA's normal procedures and the respondent is properly notified under the same existing procedures. In the opening letter to the complainant, OSHA will notify the complainant of his/her right to request that OSHA terminate its investigation and issue Secretary Finding's after 30-60 days have passed from the date the complaint is filed (depending on the statute) provided that OSHA's requirements are met under the ALJ statutes and regulations. In the opening letter, Region IX will provide a Pilot fact sheet and request form to ensure that the complainant understands that termination of the investigation may result in the dismissal of the case and that the complainant will need to file objections to any OSHA finding dismissing the complaint in order to ensure that the complainant can litigate the claim before an ALJ. Through its request form, OSHA will also seek to ensure that the complainant was not pressured to request that OSHA terminate its investigation (see Exhibit A);
- OSHA's investigation begins. During this process, Region IX meets all of the basic procedural requirements in ALJ statutes and regulations:
 - Allow both the respondent and complainant the opportunity to submit written responses, meet with an OSHA investigator, and present statements from witnesses (See 15 U.S.C. 2087(b)(2); while the AIR21, ERA, and six environmental statute regulations do not require this step prior to issuing Secretary Findings, the Whistleblower Investigations Manual, Chapter 3 does); and
 - Interview the complainant as appropriate (See 29 C.F.R. 1979.104(b)(1), 1983.104(e)(2), and 24.104(e)(2), 24.104(f)(2)); and
 - Provide the complainant a copy of the respondent's submissions that are relevant to the complaint, with all necessary redactions, and provide the complainant an opportunity to respond to those submissions (See 29 C.F.R. 1983.104(c) and 24.104(c); while the AIR21 and PSIA regulations do not require this step, the Whistleblower Investigations Manual, Chapter 23 does); and
 - Protect the confidentiality of any witness who provides information on a confidential basis (See 29 C.F.R. 1983.104(d) and 24.104(d); while the AIR21

and PSIA regulations do not require this step, the Whistleblower Investigations Manual, Chapter 3 does); and

- Evaluate the complaint, along with attachments and any interview of the complainant, to determine if the complaint contains the basic elements of a retaliation claim (*See* 15 U.S.C. 2087(b)(2)(B), 49 U.S.C. 42121(b)(2)(B), 29 C.F.R. 1983.104(e)(1), 1983.104(e)(4), and 24.104(e)(1), 24.104(e)(4), 24.104(f)(1), and 24.104(f)(2)).
- If (1) the complainant submits a written request for expedited case processing under the Pilot as discussed in the opening letter, (2) 30-60 days (depending on the statutory time OSHA has to complete the investigation) have passed from the date the complaint was filed, and (3) OSHA has met the above basic procedural requirements, Region IX evaluates the information gathered in the case as of the date of the request and chooses one of three options under the Pilot:
 - Grant the request and issue Secretary's Findings dismissing the complaint. OSHA will generally attempt to issue such a finding within two weeks of complainant's request for expedited case processing. This option is appropriate in cases in which, on the basis of the documents submitted and any interviews, Region IX concludes that there is no reasonable cause to believe that a violation occurred. Prior to granting the request and issuing Secretary's Findings, the Region will (1) conduct a closing conference with the complainant explaining that the case will be dismissed with ALJ appeal rights based on the request and that complainant will need to object to OSHA's findings in order to request a hearing before an ALJ, and (2) draft an IMIS summary in lieu of a ROI indicating that the complainant requested that OSHA terminate its investigation and issue Secretary's Findings under the Pilot, 30-60 days have passed from the date the complaint was filed (depending on the statute), and OSHA met all of its basic procedural requirements, as discussed above. The Secretary's Findings will discuss the complainant's allegation, timeliness, and coverage, as they currently do, and include the following paragraph without discussing any evidentiary findings or analysis:

The complainant has requested that OSHA terminate its investigation and issue a determination. Based on the information gathered thus far in its investigation, OSHA is unable to conclude that there is reasonable cause to believe that a violation of the statute occurred. OSHA hereby dismisses the complaint.

The Secretary's Findings will conclude by notifying the complainant of his or her right to appeal to an ALJ, as Secretary's Findings currently do. (see Exhibit B)

- Grant the request and issue merit findings as expeditiously as possible. In cases in which reinstatement, front pay, punitive damages or other non-monetary remedies are warranted, Region IX must consult with RSOL before issuing merit findings. In reinstatement cases, a due process letter should be issued after review by RSOL and the normal procedures thereafter would be followed. This option is appropriate in cases in which, on the basis of the documents submitted and any interviews, the complainant's evidence is so strong and/or respondent's defense is so weak that further investigation is deemed unlikely to lead to a different conclusion. This may be appropriate when, for example, the respondent gives a very vague excuse for the adverse action, or the respondent admits that it committed the adverse action for the activity claimed to be protected and it is clear that the activity was protected, such as when a truck driver refuses to drive and the time log shows that he or she would have exceeded permissible hours of service if he or she had accepted a driving assignment. The Findings will conclude by notifying the parties of their rights to appeal to an ALJ, as Secretary's Findings currently do.

- Inform the complainant that OSHA is unable to grant the request at this time and continue the investigation. This option is appropriate in cases in which, among other reasons: (1) either 30 or 60 days have not passed from the date the complaint was filed (depending on the statute), or OSHA has not met its basic procedural requirements under the relevant statute(s) or regulations; (2) the Region has a policy interest in continuing the investigation, such as cases involving particularly egregious facts or an important or novel issue; (3) the case is part of a corporate-wide enforcement effort; or (4) employees other than the complainant are affected, such as when there is a retaliatory policy). Region IX will send a letter to the complainant stating that it is unable to grant the request at this time, explaining one or more reasons why, and indicating that the request may be granted at a later date (see Exhibit C).

IX. Evaluation: Three months after the Pilot has expired, the Assistant Regional Administrator, Whistleblower Programs, shall submit to the Regional Administrator an evaluation report that includes:

- The Assistant Regional Administrator's opinion of how effective the Pilot was in meeting its goals;
- Data and information used to support the effectiveness of the Pilot, including but not limited to:
 - How long it took cases to close under the Pilot, as compared to both (1) cases (ALJ, 11c, AHERA, and ISCA) closed outside of the Pilot for the same one-year period and (2) cases (ALJ, 11c, AHERA, and ISCA) closed during the one-year period directly prior to the Pilot;

- The dismissal, withdrawal, settlement, and merit rate of cases under the Pilot, as compared to both (1) cases (ALJ, 11c, AHERA, and ISCA) closed outside of the Pilot for the same one-year period and (2) cases (ALJ, 11c, AHERA, and ISCA) closed during the one-year period directly prior to the Pilot;
- The result of the subsequent ALJ determinations for cases under the Pilot, if decided by the date of evaluation; and
- The overall effect on the Region's total pending number and age of cases (ALJ, 11c, AHERA, and ISCA) closed under the Pilot compared to the one-year period directly prior to the Pilot;
- A statement and rationale of whether the Pilot program should be continued and/or rolled out in other Regions; and
- Any other comments or recommendations received during the Pilot, including any informal feedback received by the Region from those using the Pilot.

Exhibit A

Expedited Case Processing Pilot Information and Request Form

Case Number: _____

The Occupational Safety and Health Administration (OSHA) Region IX is offering an Expedited Case Processing Pilot (the Pilot) to allow you to request that OSHA terminate its investigation and issue a determination on your complaint if your case has been pending with OSHA for more than 30 or 60 days, depending on the statute. Requesting termination of the investigation may result in a dismissal of your case. In any event, you (or your attorney) or the respondent(s) may object to OSHA's findings and request a hearing on your case by an ALJ. An ALJ will issue a decision on your complaint without any reference to OSHA's factual or legal conclusions (i.e. *de novo* review). An ALJ may also assist the parties in settling your complaint. ALJs can order the same remedies as OSHA, including, where applicable, back pay, compensatory damages, punitive damages, attorneys' fees, and reinstatement. The timeline for OSHA to finish its investigation is different in every case. OSHA's investigation process may take time, however, and you therefore may be able to receive a quicker determination from OSHA and lose no appeal rights by electing to expedite your claim under the Pilot.

Unlike OSHA, ALJs follow strict procedural rules in a formal quasi-judicial setting pursuant to 29 C.F.R. Part 18, including setting discovery (i.e. fact-finding) deadlines, compelling the production of documents and appearance of witnesses within a party's control, deciding on various discovery and evidentiary motions, holding a hearing on your complaint, issuing decisions and/or orders, and where applicable, taking any appropriate action authorized by the Federal Rules of Civil Procedure. 29 C.F.R. Part 18 can be found at www.oalj.dol.gov/LIBRULES.HTM. ALJ decisions are publically available at <http://www.oalj.dol.gov/>.

If [30/60] calendar days have passed since the filing of your complaint and you wish to request that OSHA terminate its investigation and issue a determination under the Pilot, you must sign and return both pages of this Request Form. OSHA will endeavor to respond to you (or your attorney) within two weeks to inform you whether your request is accepted. OSHA will evaluate the following factors, among others, to determine whether to grant your request:

- Has OSHA allowed you (or your attorney) and the company the opportunity to submit written responses, meet with an OSHA investigator, and present statements from witnesses?
- Has OSHA interviewed you as appropriate?
- Have you (or your attorney) been provided a copy of the company's submissions that are relevant to your complaint (redacted as necessary to protect the privacy of third-party

non-management witnesses) and have you (or your attorney) been provided an opportunity to respond to those submissions?

- Has OSHA evaluated the complaint, along with attachments and your interview, to determine if the complaint contains the basic elements of a retaliation claim?
- Does OSHA need more time to evaluate your request.

If OSHA grants the request and terminates its investigation under the Pilot, you will be provided Secretary's Findings which explain how to file objections and request a hearing before an ALJ. **Please note that if OSHA accepts your request under the Pilot and dismisses your complaint, you (or your attorney) will need to file objections to OSHA's findings to request a hearing before an ALJ.** You cannot refile the same claim with OSHA.

If OSHA determines not to grant your request at this time you (or your attorney) will be notified in writing. Depending on the circumstances, OSHA may later grant your request once the above factors have been met.

If you do not elect expediting case processing under the Pilot, OSHA will conduct its investigation in the normal course.

If you have any questions about the Pilot, please contact [name], Regional Supervisory Investigator, through [his/her] contact information below.

_____ I request that OSHA terminate its investigation and issue a determination pursuant to the Pilot. I understand that if OSHA accepts my request and dismisses my complaint, I will need to file objections to OSHA's findings to request a hearing before an ALJ. I am making this request freely and without coercion.

Signature

Date

If you are interested in expediting your case under this pilot, please return both pages of this form to:

[Name]
Regional Supervisor Investigator
OSHA Region IX
90 7th Street Suite 18100
San Francisco, CA 94103
[Email]
[Phone]

[Facsimile]

Exhibit B

[Date]

[Complainant/Complainant's Attorney]

Street Address

City, State ZIP

Re: ABC Company/Complainant/Case No. 1-2345-02-001

Dear [Complainant/Complainant's Attorney]:

This is to advise you that we have completed our investigation of the above-referenced complaint filed by [you/your client] (Complainant) against [Respondent's name] (Respondent) on [date], under [name of statute], [citation]. In brief, [you/your client] alleged that Respondent [adverse action] [you/your client] in retaliation for [protected activity].

Following an investigation by a duly-authorized investigator, the Secretary of Labor, acting through the Secretary's agent, the Regional Administrator for the Occupational Safety and Health Administration (OSHA), Region IX, issues the following findings:

Secretary's Findings

Complainant was [adverse action] on or about [date]. On [date filed], Complainant filed a complaint with the Secretary of Labor alleging that Respondent retaliated against [him/her] in violation of [abbreviated name of statute]. As this complaint [was] filed within [30/90/180] days of the alleged adverse action, it is deemed timely.

[Insert template language depending on the statute(s)]. Complainant was employed by Respondent as a [job title]. Complainant and Respondent are, therefore, covered by [abbreviated name of statute].

The Complainant has requested that OSHA terminate its investigation and issue a determination. Based on the information gathered thus far in its investigation, OSHA is unable to conclude that there is reasonable cause to believe that a violation of the statute occurred. OSHA hereby dismisses the complaint.

Respondent and Complainant have [30/60] days from the receipt of these Findings to file objections and to request a hearing before an ALJ. If no objections are filed, these Findings will become final and not subject to court review. Objections must be filed in writing with:

Chief Administrative Law Judge
Office of Administrative Law Judges U.S.

Department of Labor 800 K Street NW,
Suite 400 North Washington, D.C.
20001-8002 Telephone: (202) 693-7300
Fax: (202) 693-7365

With copies to:

[Respondent/Respondent's Attorney]
Street Address
City, State ZIP

Barbara Yee Goto
Regional Administrator
U.S. Department of Labor – OSHA
90 7th Street Suite 18100
San Francisco, CA 94103

In addition, please be advised that the U.S. Department of Labor does not represent any party in the hearing; rather, each party presents his or her own case. In cases in which OSHA has found merit under the Surface Transportation Assistance Act or the Seaman's Protection Act, OSHA (represented by an attorney from the Regional Solicitor's Office) ordinarily will prosecute the case, but the private parties retain their rights to present their cases. The hearing is an adversarial proceeding before an Administrative Law Judge (ALJ) in which the parties are allowed an opportunity to present their evidence for the record. The ALJ who conducts the hearing will issue a decision based on the evidence and arguments, presented by the parties. Review of the ALJ's decision may be sought from the Administrative Review Board, to which the Secretary of Labor has delegated responsibility for issuing final agency decisions under the [abbreviated name of statute]. A copy of this letter has been sent to the Chief Administrative Law Judge along with a copy of your complaint. The rules and procedures for the handling of [abbreviated name of statute] cases can be found in Title 29, Code of Federal Regulations Part [24/1977/1978/1979/1980/1981/1982/1983/ 1984/, 1985/ 1986/ 1987/ 1988], and may be obtained at www.whistleblowers.gov.

Sincerely,

[ARA/WP Name]

[Title]

cc: Respondent/Respondent's attorney
Chief Administrative Law Judge, USDOL
[Primary enforcement agency]

Exhibit C

[Date]

[Complainant/Complainant's Attorney]

Street Address

City, State ZIP

Re: ABC Company/Complainant/Case No. 1-2345-02-001

Dear [Complainant/Complainant's Attorney]:

We received your request that the Occupational Safety and Health Administration (OSHA) Region IX terminate its investigation and issue Secretary's Findings pursuant to the Expedited Case Processing Pilot. OSHA Region IX is unable to grant your request at this time for the following reason(s):

[Pick one or more, a reason not listed here may be substituted if applicable:

The Respondent has not had the opportunity to provide a Statement of Position about your claim, had an opportunity to meet with an OSHA investigator, or had an opportunity to present statements from witnesses.

OSHA has not yet interviewed you regarding your complaint. Please contact [the investigator] to indicate whether you would like an interview.

Respondent submissions related to your complaint [were sent to you on (date)/are being sent to you with this letter]. You have not provided any response to those submissions. Please contact [the investigator] to indicate whether you would like to submit a response to those submissions; or

OSHA needs more time to evaluate your request.]

[Optional: OSHA Region [Region Number] may reconsider your request once this requirement(s) has been met.]

We are continuing our investigation of your case. If you have any questions, please contact me through my contact information below.

Sincerely,

[Name]

Regional Supervisor Investigator

OSHA Region IX
90 7th Street Suite 18100
San Francisco, CA 94103

[Email]

[Phone]

[Facsimile]