



# OSHA REGIONAL NOTICE

U.S. DEPARTMENT OF LABOR

Occupational Safety and Health Administration

DIRECTIVE NUMBER: 09-01 (CPL 02-03)

EFFECTIVE DATE: April 20, 2009

SUBJECT: Regional Emphasis Program to Implement a Pilot Program for Processing 11C Appeals at the Regional Level

REGIONAL IDENTIFIER: Atlanta Regional Notice CPL

## ABSTRACT

**Purpose:** The purpose of this instruction is to establish a Regional Emphasis Program to develop and implement Pilot Program procedures that Region N will use to handle 11 C Appeals from complainants.

**Scope:** This Notice applies to all Area Offices in Region N.

**References:** OSHA Instruction: DIS 0-09, August 22, 2003 - Whistleblower Investigations Manual; Chapter 4 Section VI "Appeals".

**Cancellations:** None

**State Impact:** None

**Action Offices:** Enforcement Programs/ Whistleblowers

**Originating Office:** Atlanta Regional Office

**Contact:** Assistant Regional Administrator for Enforcement Programs  
USDOL-OSHA Atlanta Regional Office  
61 Forsyth Street, SW; Room# 6T50  
Atlanta, Georgia 30303  
(404) 562-2300

By and Under the Authority of



CINDY A. COE  
Regional Administrator

**Executive Summary**

This instruction establishes a Regional Emphasis Program to develop and implement Pilot Program procedures that Region IV will use to handle 11C Appeals from complainants. Currently, all 11C appeals are handled through OSHA's National Office, Whistleblower Program. During this pilot program, all 11C appeals will be processed and resolved by the Regional Office.

**Significant Changes:** None

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- I. **SUBJECT:** Regional Emphasis Program for the development and implementation of a Pilot Program for handling 11C complaint appeals at the Regional Office level.
- II. **PURPOSE:** The purpose of this instruction is to establish a Regional Emphasis Program that outlines procedures to follow during a Pilot Program for processing and resolving 11C complaint appeals at the local Regional Office level.
- III. **SCOPE:** This REP applies to all Area Offices.
- IV. **REFERENCES:** OSHA Instruction: DIS 0-09, August 22, 2003 – Whistleblower Investigations Manual; Chapter 4 Section VI “Appeals”. .
- V. **EXPIRATION:** This notice expires on December 1, 2010, unless extended.
- VI. **ACTION:** OSHA compliance personnel shall follow the procedures contained in this notice. .
- VII. **BACKGROUND:** Currently, all 11C complaint appeals are handled through OSHA's National Office, Whistleblower Program. During this pilot program, all 11C appeals will be processed and resolved by the Regional Office.
- VIII. **PROCEDURES:**
  1. **Outreach:** None
  2. **Implementation:**
    - (a) When an 11C complaint is dismissed, the complainant will be notified in writing that they may request that the Regional Administrator (RA) investigate and determine if the Area Director's decision was in accordance with current policy and procedures.
      - i. It is OSHA's policy to grant the right of informal review by the Regional Administrator during the Pilot Program.
      - ii. The complainant will be informed of their rights of appeal through the letter of dismissal.
      - iii. OSHA has administratively extended the same right of the informal review to cover the complainant's disagreement with any substantive element of the outcome of the investigation.
      - iv. The complaint notification letter has been modified (posted on the "0" Drive) to reflect mailing instructions to the Regional Office, including the name, address and telephone numbers. The letter includes language that specifies the time frame (15 days) for filing an appeal.
    - b) When a complainant files an appeal, the Regional Administrator will request that the Area Director review the complainant's appeal, by transmitting to the Area Office a copy of the appeal along with a copy of 11C case file. After the Area

Director's review has been completed, he/she will provide the RA with a draft response that will completely address the concerns that were presented in the appeal. The Region's Office of Enforcement Programs will conduct a thorough review of the case file, complainant allegation(s) and make a determination whether all policy and procedures were complied with.

- c) If a determination is made that not all policy and procedures were followed, the Area Director will be directed to re-investigate the complaint or the element of the complaint that was not satisfied by the original investigation.
- d) Once the RA is satisfied that all policies and procedures have been adhered to, and that the complaint items have been properly addressed, the draft response and a copy of the investigative case file will be provided to the Regional Office of the Solicitor (RSOL) for their concurrence. After approval by the RSOL, the Regional Administrator will respond directly to the complainant.

IX. **Evaluation:** Quarterly, the Regional Administrator shall submit to the Directorate of Enforcement Programs a report that includes data pertaining to the following information:

- 1) Number of 11C cases processed by Region IV
- 2) Number of appealed 11C cases received in Region IV
- 3) Number of appeals that were returned to Area Directors for further investigation
- 4) Number of Final Determinations issued by the Regional Administrator

By October 30th of each year the Regional Administrator shall submit to the Directorate of Enforcement Programs an evaluation report that includes:

- 1) The goal of the program and the Area Director's opinion of how effective the program was in meeting its goals.
- 2) Data and information used to support the conclusions stated above.
- 3) Statement and rationale of whether the pilot program should be continued .
- 4) Description of any legal issues that arose which would necessitate a review by the Solicitor before renewal of the program.
- 5) Any other comments or recommendations, including findings, which might have an impact on how the industry conducts business.

**DISTRIBUTION:**

Area Offices  
Enforcement Programs/ Whistleblower Program  
Cooperative and State Programs  
Administrative Programs  
Regional Solicitor  
Region IV Intranet Website