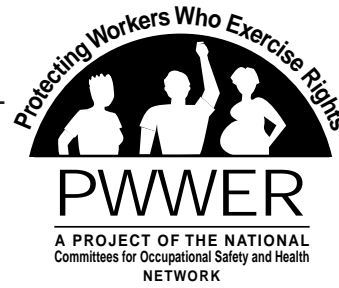


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# How To File A Complaint with OSHA



FACTSHEET OF THE “PROTECTING WORKERS WHO EXERCISE RIGHTS” PROJECT OF THE NATIONAL COSH NETWORK

The purpose of this fact sheet is to help you file a written complaint with OSHA. Filing an OSHA complaint should only be done when you have decided that an OSHA inspection is likely to produce positive results.

## The Complaint Form

You can get an OSHA complaint form, called an OSHA-7, by contacting the nearest OSHA area office. You may also obtain one from a local committee on occupational safety and health (COSH group).

The information that you provide on the complaint form will probably be the only description of the specific hazard that the inspector will see before the inspection. The inspector will base his or her research and inspection plan on this information.

If management insists that the inspector has a warrant to enter the workplace, OSHA will present your complaint to a judge to justify the warrant. The warrant may only allow an inspection of the particular hazards alleged by your complaint, so be specific.

## Filling Out the Complaint Form

Below we discuss how to answer the questions on the complaint form. The bold text reproduces the exact language from the complaint form.

### **The undersigned (check one)**

- Employee**
- Representative of Employees**
- Other (specify)** \_\_\_\_\_

**Believes that a violation at the following place of employment of an occupational safety or health standard exists which is a job safety or health hazard.**

“Employee” means an employee of the workplace being complained about or anyone working near this workplace.

“Representative of Employees” usually means a union officer, staff member, or steward. If you are a union representative, you can indicate your title and the name of your union at the end of the complaint.

**Employer’s Name** \_\_\_\_\_

**Employer’s Address** \_\_\_\_\_

Give the employer’s name and address as completely as possible. Also, indicate any parent company’s name. The inspector may check whether there have been past inspections or ones at other company locations. Be precise about the address, since the inspector has to know how to find your workplace without contacting your employer.

**Kind of business**

Be thorough and specific. The inspector may research the hazards of your industry before the inspection.

**Specify the particular building or worksite where the alleged violation is located, including the address.**

The inspector should know where to look. Give a detailed description. Use extra paper. Consider drawing a simple map of the building or area of concern.

**Specify the names and phone numbers of the employer's agent(s) in charge.**

When the inspector arrives at the workplace, they request the person(s) you list. Indicate the plant manager (or equivalent) and any safety or industrial hygiene personnel.

**Describe briefly the hazard which exists there including the approximate number of employees exposed to or threatened by such hazard.**

This is the most important question on the form. Your answer should present the hazards clearly and show that they are serious. Use extra paper if you need them.

You can organize your answer by hazard type (i.e. chemicals, noise, machine guarding), by work area (i.e. assembly area, bay number), or by another logical category. Number the hazards.

Describe the hazards. You can attach documentation. This can include copies of workplace surveys, monitoring data, accident and illness reports, grievances, minutes of safety and health committee meetings, and anything else that can show the inspector that there are hazards.

If your complaint is about chemical exposure, the inspector needs to bring particular testing equipment. Indicate specific chemical names wherever possible and attach material safety data sheets (MSDS).

Say whether the problem is worse during certain operations or shifts. OSHA sometimes makes after-hours inspections. During the inspection, management may not tell about peak exposure time. Anticipate this with your own account of exposures.

**To your knowledge is this condition being considered by any other Government agency, or has it been considered by any other Government agency?**

**If yes, and you know, which Government agency?**

Other federal agencies sometimes get involved in occupational health and safety or related problems. These may include the Nuclear Regulatory Commission, the Environmental Protection Agency, the Department of Defense, or others.

State and local agencies may also have some jurisdiction, including agencies that administer fire, building, public health, environmental, or chemical right to know laws.

If any of these agencies, or OSHA, has previously considered these hazards, OSHA may want to check these records. If you can show that OSHA or another agency has already warned management about the hazard, OSHA may penalize the employer extra for a "willful" or "repeated" violation.

**Has this condition been brought to the attention of the employer?**

OSHA is likely to take your complaint more seriously if you can prove that you have been trying to get your employer to act. Attach copies of work orders, grievances, safety committee minutes or other documents that show that the employer knows about the hazard and that you have asked for action.

OSHA may be tougher on an employer that has disregarded requests to fix the problem. OSHA procedures allow for a reduction in fines for management's "good faith." Management's refusal to correct hazards they know about is evidence of bad faith. OSHA might also cite the employer for a "willful" violation if you can prove they knew about serious hazards and did nothing to correct them.

**Please indicate your desire:**

- I do not want my name revealed to the employer.**
- My name *may be* revealed to the employer.**

If you check the first box, OSHA will keep your name off the complaint form, which your employer sees.

Which box to check depends on your situation. If you are in a union workplace, your union should file the complaint and indicate the name of a union officer, who may or may not be an employee.

If you are in a non-union workplace, where employer retaliation is more likely, you may want to check the first box. OSHA will honor this.

However, if you indicate that you **do not want** your name revealed to your employer, your employer can often still figure out who filed the complaint. Then, if you are discriminated against, you may have a harder time proving that your employer even knew about your health and safety activity.

Although discrimination for health and safety activity is illegal under OSHA, it is often tough to prove and OSHA may not want to pursue your case. The best protection is to work closely with your union, if you have one, and with co-workers.

**Signature and address**

OSHA does not consider unsigned complaints. Even if you want your name kept secret, you must sign the original complaint form.

OSHA will use the address you provide to send copies of inspection related documents, including any citations. You may also include a request that OSHA send copies of all documents to your national union, local COSH group, etc.

The OSHA complaint form has no place to indicate who a union designated "walkaround representative" will be to accompany the inspector during the inspection. This person may, or may not be, the complainant. Make sure to indicate the name, title, address, and work and home telephone numbers of this representative. The union may also wish to designate an alternate walkaround representative.

## Mailing the Complaint

Mail the completed form to the nearest OSHA area office. To get their address, call them. Their number is listed in the telephone book under U.S. Department of Labor, Occupational Safety and Health Administration. Send the form by registered mail and ask for a return receipt. Make sure you keep at least one copy of everything you mail to OSHA.

## Tactics to Consider When Filing An OSHA Complaint


Consider getting as many workers as possible to sign the complaint. This shows management and OSHA that many people are concerned. It builds collective support. Employer retaliation is less likely. Instead of mailing OSHA the complaint, have a group of co-workers meet with OSHA staff to review it. This can be another opportunity to involve and educate co-workers.

Unions should also consider that:

- Because OSHA does not have standards covering every hazard, and some current standards are not protective enough, the threat of an OSHA inspection may get employers to correct hazards better and faster than an actual inspection. Consider completing the OSHA complaint form and providing a copy to management. Then give them a deadline for action. If management does not meet the deadline, send the complaint to OSHA.
- Public pressure can help. Consider sending a copy of your complaint to local newspapers and/or other media, to local, state or Congressional elected officials, and to your area COSH group.

For more information, contact:

 **Your union.**

 **Your local COSH group** (Committee on Occupational Safety and Health). For the COSH group nearest you, contact NYCOSH at 212-627-3900.

 **OSHA.** For the OSHA office nearest you, call 1-800-321-OSHA.

This material has been funded in whole or in part with federal funds from the Occupational Safety and Health Administration, U.S. Department of Labor, under grant #46A7-HT5. These materials do not necessarily reflect the views or policies of the U.S. Department of Labor, nor does mention of trade names, commercial products, or organizations imply endorsement by the U.S. Government.