



TSA MANAGEMENT DIRECTIVE No. 2400.3
PROCEDURES FOR HANDLING OSHA
NOTIFICATIONS OF RECEIPT OF COMPLAINT

REVISION: This revised Management Directive (MD) updates TSA MD 2400.3, dated January 29, 2004.

SUMMARY OF CHANGES: The Office of Occupational Safety and Health was changed to the Office of Occupational Safety, Health, and Environment. Also, a note was added following paragraph 6.B.(3) to remind the reader that an investigation of any employee complaint of an unsafe or unhealthful working condition must be documented on TSA Form 2401 in accordance with procedures in TSA MD 2400.5, Mishap Investigations, Reporting, and Recordkeeping.

1. **PURPOSE:** This directive provides guidance and establishes procedures for responding to an Occupational Safety and Health Administration (OSHA) Notification of Receipt of a Complaint by a Transportation Security Administration (TSA) employee of an alleged unsafe or unhealthful working condition(s).
2. **SCOPE:** This directive is applicable to all supervisors and managers of TSA personnel.
3. **AUTHORITIES:**
 - A. Occupational Safety and Health Act of 1970 (OSH Act of 1970), Section 8(f)(1), Inspection, Investigations, and Recordkeeping.
 - B. Title 29, Code of Federal Regulations, Part 1903.11 (29 CFR 1903.11), Complaints by Employees.
 - C. Title 29, Code of Federal Regulations, Part 1960.28 (29 CFR 1960.28), Employee Reports of Unsafe or Unhealthful Working Conditions.
 - D. OSHA Directive, CPL 2.115, Complaint Policy and Procedures.
4. **DEFINITIONS:**
 - A. Hazard. Any existing or potential condition in the workplace that, by itself or by interacting with other variables, can result in deaths, injuries, property damage, and other losses.
 - B. Safety Hazards. Deals with working conditions that may cause injury or property damage. This may be the result of personnel exposure to unguarded equipment, failure to properly secure a system prior to clearing a bag jam, failure to wear eye/face protection when cutting locks, or failure to secure and protect equipment cords resulting in potential trip hazard or electrical shock hazard.

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- C. Health Hazards. Deals with working conditions that may result in an occupational illness or impaired health. This may be as a result of exposure to asbestos, loud noise, chemicals, or extreme temperatures.

5. RESPONSIBILITIES:

- A. The Assistant Administrator for Finance and Administration reserves the authority to establish policy, delegate authority, or assign responsibility as necessary.
- B. The Director of the Office of Occupational Safety, Health and Environment (OSHE) is responsible for:
- (1) Revising or amending this Directive after coordination with appropriate organizational elements.
 - (2) Assigning an Occupational Safety and Health Manager within OSHE to assist field points of contact in addressing complaints.
- C. The TSA on-site manager is responsible for assigning a local point of contact to investigate and respond to OSHA.

6. POLICY AND PROCEDURES:

A. POLICY

Upon receipt of an OSHA notification of an alleged unsafe or unhealthful working condition/complaint submitted by a TSA employee, the on-site TSA manager will immediately investigate the circumstances surrounding the alleged conditions and respond directly to the OSHA office that issued the notification.

B. PROCEDURES

- (1) Upon receipt of an OSHA notification of receipt of a complaint, the appropriate on-site TSA manager must immediately assign a point of contact with responsibility to investigate. A copy of the complaint must be provided to the Headquarters, Office of Occupational Safety, Health, and Environment ATTN: Donna Kistoo, via fax at (571) 227-2906. A TSA Headquarters Occupational Safety and Health Manager will be assigned to work collaboratively with the field point of contact in addressing the complaint. Be advised that a copy of the notification letter will also be provided to the complainant. An example of an OSHA notification letter is provided in Attachment A. The letter format may vary slightly from each OSHA office.
- (2) NOTE: OSHA's notification letter will usually contain two enclosures. First is the "Notice of Alleged Safety or Health Hazards" (example in Attachment B). OSHA requests that a copy of this notice be posted where it is readily accessible by all employees and also provided to any recognized employee safety committee. The second OSHA enclosure is

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the “Certificate of Posting – OSHA Notification of Alleged Hazards” (example in Attachment C). *Be advised that this is a request to post. OSHA regulations do not require TSA to post or distribute the Notice of Alleged Safety or Health Hazards and/or return the signed Certificate of Posting.*

- (3) OSHA requires TSA to perform an investigation of the alleged complaint and respond typically within five working days. The appropriate on-site TSA manager will perform the investigation and respond to the OSHA complaint in order to meet the suspense. The response must identify any problems found and the corrective action taken or planned. If a safety or health hazard exists, then the appropriate on-site TSA manager has the responsibility to correct the hazard and inform OSHA as to how and when the hazard was corrected. If the safety or health hazard cannot be corrected within the suspense period, then a plan of action must be submitted to OSHA to include the established completion date. Note: The investigation must be documented on TSA Form 2401 in accordance with procedures in MD2400.5, Mishap Investigations, Reporting, and Recordkeeping
 - i Attachments D-1 and D-2 are samples of TSA responses to OSHA notifications. Management must ensure that the response letter thoroughly and accurately addresses the employee complaint. A review of the draft letter by the Headquarters Occupational Safety and Health Manager is strongly encouraged. The TSA point of contact should not hesitate to contact the OSHA representative provided in the notification in order to obtain additional information that may help in the investigation and response.
 - ii. The TSA response letter must be signed by the appropriate on-site TSA manager and forwarded to local OSHA. A copy of the signed response letter must also be provided to TSA Headquarters, Office of Occupational Safety, Health, and Environment, ATTN: Donna Kistoo via fax at (571) 227-2906. OSHA will provide a letter acknowledging receipt of TSA’s response and if the response was adequate to close the complaint or if further action is required (See Attachment E). Be advised that a copy of the TSA response letter is also sent to the employee who filed the complaint (See Attachment F). The employee must contact OSHA, within the suspense date set by OSHA, if he/she is not satisfied with TSA’s response. If the response is adequate to both the complainant and OSHA, OSHA generally will not perform an on-site inspection. If TSA fails to respond, or the response is not adequate, then OSHA may conduct an inspection.

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7. EFFECTIVE DATE AND IMPLEMENTATION:

This policy is effective immediately upon signature.

APPROVAL



Robert W. Gardner
Assistant Administrator for Finance and
Administration/CFO

1/29/04
Date

Filing Instructions:	File with OSHE Management Directives
Review Date:	January 29, 2005. This directive will be reviewed again in one year.
Effective Date:	Valid until rescinded by the Office of Occupational Safety, Health and Environment.
Distribution:	TSA Assistant Administrators, Office Directors
Point Of Contact:	CAO/OSH Office, Donna Kistoo, 571-227-2291

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LIST OF ATTACHMENTS

Attachment A	OSHA Notification of Alleged Violation/Complaint Letter
Attachment B	OSHA Notice of Alleged Safety or Health Hazards Form
Attachment C	Certificate of Posting OSHA Notification of Alleged Hazard(s)
Attachment D (D1-D2)	TSA Sample Responses to OSHA
Attachment E	OSHA Letter Acknowledging Receipt
Attachment F	OSHA's Letter to Complainant with TSA's response

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ATTACHMENT A

OSHA NOTIFICATION of ALLEGED VIOLATION/COMPLAINT

Re: Complaint No.

Dear : ***TSA***

On *_date_* the Occupational Safety and Health Administration (OSHA) received notice of safety and health hazards at your worksite. We notified you, by telephone, of these alleged hazards on *_date_*. The specific nature of the alleged hazards is as follows:

A brief description of the complaint(s) will be listed here. Or, the complaint(s) maybe listed on an attached "Notice of Alleged Safety or Health Hazards" Form, (OSHA-7).

We have not determined whether the hazards, as alleged, exist at your workplace; and we do not intend to conduct an inspection at this time. However, since allegations of violations have been made, we request that you immediately investigate the alleged conditions and make any necessary corrections or modifications. Please advise me in writing, no later than *typically five working days* of the results of your investigation. You must provide supporting documentation of your findings, including any applicable measurements or monitoring results, and photographs which you believe would be helpful, as well as a description of any corrective action you have taken or are in the process of taking.

This letter is not a citation or a notification of proposed penalty which, according to the OSH Act may be issued only after an inspection of the workplace. It is our goal to assure that hazards are promptly identified and eliminated. Please take immediate corrective action where needed. We encourage employee participation in investigating and responding to any alleged hazard. **If we do not receive a response from you by *suspense date* indicating that appropriate action has been taken or that no hazard exists and why, an OSHA inspection will likely be conducted.** An inspection may include a review of the following: injury and illness records, hazard communication, personal protective equipment, emergency action or response, bloodborne pathogens, confined space entry, lockout/tagout and related safety and health issues.

Please note, however, that OSHA selects for inspection some cases where we have received letters in which employers have indicated satisfactory corrective action. This is to ensure that employers have actually taken the action stated in their letters.

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The State of _____ offers OSHA consultation services without charge, to assist in resolving all occupational safety and health issues. However, the variety of services available or the scheduling of those services may be limited by the consultation project's requirement to give priority to small businesses in high hazard industries and by its backlog. To discuss or request the services call the following number:_____.

You are requested to post a copy of this letter where it will be readily accessible for review by all of your employees and return a copy of the signed Certificate of Posting (Attachment A) to this office. In addition, you are requested to provide a copy of this letter and your response to a representative of any recognized union or safety committee if these are at your facility. Failure to do so may result in an on-site inspection.

The complainant has been furnished a copy of this letter and will be provided a copy of your response. Section 11(c) of the OSH Act provides protection for employees against discrimination because of their involvement in protected safety and health activity.

If you have any question concerning this matter, please contact _____ at the address in the letterhead. Your personal support and interest in safety and health of your employees is appreciated.

Sincerely,

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ATTACHMENT B

U. S. Department of Labor
Occupational Safety and Health Administration
Notice of Alleged Safety or Health Hazards

For the General Public

This form is provided for the assistance of any complainant and is not intended to constitute the exclusive means by which a complaint may be registered with the U.S. Department of Labor.

Sec 8(f)(1) of the Williams-Steiger Occupational Safety and Health Act, 29 U.S.C. 651, provides as follows: Any employees or representative of employees who believe that a violation of a safety or health standard exists that threatens physical harm, or that an imminent danger exists, may request an inspection by giving notice to the Secretary or his authorized representative of such violation or danger. Any such notice shall be reduced to writing, shall set forth with reasonable particularity the grounds for the notice, and shall be signed by the employee or representative of employees, and a copy shall be provided the employer or his agent no later than at the time of inspection, except that, upon request of the person giving such notice, his name and the names of individual employees referred to therein shall not appear in such copy or on any record published, released, or made available pursuant to subsection (g) of this section. If upon receipt of such notification the Secretary determines there are reasonable grounds to believe that such violation or danger exists, he shall make a special inspection in accordance with the provisions of this section as soon as practicable to determine if such violation or danger exists. If the Secretary determines there are no reasonable grounds to believe that a violation or danger exists, he shall notify the employees or representative of the employees in writing of such determination.

NOTE: Section 11(c) of the Act provides explicit protection for employees exercising their rights, including making safety and health complaints.

For Federal Employees

This report format is provided to assist Federal employees or authorized representatives in registering a report of unsafe or unhealthful working conditions with the U.S. Department of Labor.

The Secretary of Labor may conduct unannounced inspection of agency workplaces when deemed necessary if an agency does not have occupational safety and health committees established in accordance with Subpart F, 29 CFR 1960; or in response to the reports of unsafe or unhealthful working conditions upon request of such agency committees under Sec. 1-3, Executive Order 12196; or in the case of a report of imminent danger when such a committee has not responded to the report as required in Sec. 1-201(h).

INSTRUCTIONS:

Open the form and complete the front page as accurately and completely as possible. Describe each hazard you think exists in as much detail as you can. If the hazards described in your complaint are not all in the same area, please identify where each hazard can be found at the worksite. If there is any particular evidence that supports your suspicion that a hazard exists (for instance, a recent accident or physical symptoms of employees at your site) include the information in your description. If you need more space than is provided on the form, continue on any other sheet of paper.

After you have completed the form, return it to your local OSHA office.

NOTE: It is unlawful to make any false statement, representation or certification in any document filed pursuant to the Occupational Safety and Health Act of 1970. Violations can be punished by a fine of not more than \$10,000.00 or by imprisonment of not more than six months, or by both. (Section 17(g))

Public reporting burden for this collection of information is estimated to vary from 15 to 25 minutes per response with an average of 17 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of IRM Policy, Department of Labor, Room N- 3101, 200 Constitution Avenue, N.W., Wash., D.C. 20210; and to the Office of Management and Budget, Paperwork Reduction Project (1218-0064), Wash., D.C. 20503.

DO NOT SEND THE COMPLETED FORM TO EITHER OF THESE OFFICES

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

Notice of Alleged Safety or Health Hazards

		Complaint Number			
Establishment Name					
Site Address					
	Site Phone		Site FAX		
Mailing Address					
	Mail Phone		Mail FAX		
Management Official			Telephone		
Type of Business					
HAZARD DESCRIPTION/LOCATION. Describe briefly the hazard(s) which you believe exist. Include the approximate number of employees exposed to or threatened by each hazard. Specify the particular building or worksite where the alleged violation exists.					
Has this condition been brought to the attention of :		<input type="checkbox"/> Employer <input type="checkbox"/> Other Government Agency(specify):			
Please Indicate Your Desire:		<input type="checkbox"/> Do NOT reveal my name to my Employer <input type="checkbox"/> My name may be revealed to the Employer			
The Undersigned believes that a violation of an Occupational Safety or Health standard exists which is a job safety or health hazard at the establishment named on this form		(Mark "X" in ONE box) <input type="checkbox"/> Employee <input type="checkbox"/> Federal Safety and Health Committee <input type="checkbox"/> Representative of Employees <input type="checkbox"/> Other (specify)			
Complainant Name			Telephone		
Address(Street ,City ,State, Zip)					
Signature			Date		
If you are an authorized representative of employees affected by this complaint, please state the name of the organization that you represent and your title:					
Organization Name:		Your Title:			

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ATTACHMENT C

TSA IS A FEDERAL AGENCY AND IS NOT REQUIRED TO POST THIS CERTIFICATE

***CERTIFICATE OF POSTING
OSHA NOTIFICATION OF ALLEGED HAZARD(S)***

Complaint Nr:

Date of Posting: _____

Date Copy Given to
an Employee Representative: _____

On behalf of the employer, I certify that a copy of the complaint letter received from the Occupational Safety and Health Administration (OSHA) has been posted in a conspicuous place, where all affected employees will have notice, or near such location where the alleged hazardous _____ condition(s) occurred, and such notice has been given to each authorized representative of affected employees, if any. This notice was or will be posted for a minimum of ten (10) working days or until any hazardous conditions found are corrected.

Signature

Title

Employer/Establishment name

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ATTACHMENT D-1

February 10, 2003

Reference Complaint No:

This is in response to your letter dated January 15, 2003 regarding a complaint at the airport.
The complaint alleged:

“The employer has failed to provide employees working at the L3 Machines, a 3D 6000 X-Ray machines, with dosimeters to determine the extent to which the employees may be exposed to harmful radiation.”

“Employees at the L3 machines are exposed to radiation.”

The following information is provided:

It is our understanding that OSHA regulation 29 CFR 1910.1096 requires Transportation Security Administration (TSA) to “supply appropriate personnel monitoring equipment” such as pocket dosimeters if an employee is “likely to receive a dose in any calendar quarter in excess of 25% of the applicable values specified” in 1910.1096(b)(1). Screeners are not likely to receive doses in excess of the stated values and; therefore, TSA does not provide dosimeters.

The L-3 Systems used at airport are classified as Cabinet X-ray Systems. This means that the X-ray tube is installed in an enclosed interlocked cabinet and must meet the Food and Drug Administration (FDA) requirements of 29 CFR 1020.40, Performance Standard for Cabinet X-ray Systems. The FDA regulations establish an emission limit for baggage inspection systems such that the L-3 may not emit greater than 0.5 milliroentgen (mrem) per hour, measured five centimeters (2-inches) outside the external surface. Because all TSA screening equipment complies with this requirement, the equipment can be operated in an “unrestricted area” as defined by OSHA 29 CFR 1910.1096. Personnel in an “unrestricted area” do not need to be monitored for radiation exposure levels. In addition, TSA Screeners normally work at a distance of at least one foot from the system where radiation exposure levels are reduced by more than 80% and also rotate positions through the shift, which reduces exposure.

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TSA has contracted Boeing-Siemens to conduct annual maintenance and radiation surveys nationwide. In addition, a radiation survey is performed after any maintenance that compromises the shield and anytime the equipment is moved. Additionally, a technician is always on-call to assist TSA personnel in all matters relating to the baggage screening systems.

We consider this matter closed. If you have any further questions or concerns, you may contact

Thank you.

Federal Security Director

Cc: Jeanne Kosch, Director, Office of Occupational Safety and Health

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ATTACHMENT D-2

March 11, 2003

Re. OSHA Complaint dated January 15, 2003

.....
.....

This letter is in response to your letter, dated January 15, 2003, regarding an allegation of over exposure to carbon monoxide. The nature of this allegation purports that Transportation Security Administration (TSA) employees are being over exposed to carbon monoxide from trucks being used outside the CTX-3 room in International Airport and cited Occupational Safety and Health Administration standard, Title 29 Code of Federal Regulations, Part 1960.

Enclosed is the Indoor Environmental Assessment report of the Terminal 1 prepared by Davis Environmental Services Group, Inc. Davis Environmental conducted industrial hygiene monitoring on February 18, 2003 at several locations within the CTX-3 Baggage Handling Unit to determine if there was an increased presence of carbon monoxide (CO), carbon dioxide (CO₂), temperature (°F) and relative humidity (rh).

Monitoring results, which are identified on page 6 of the assessment report referenced above, indicate that there is no occupational exposure of carbon monoxide to TSA employees. However, carbon monoxide levels were slightly elevated in all areas sampled, which were attributed to the operation of diesel trucks in these areas.

TSA management acknowledges its responsibility to provide each and every employee a safe and healthful workplace. To this end, employees are encouraged to partner with TSA management in making TSA an employer of choice. TSA management will continue to collaborate with Airport officials to ensure the continued safety of TSA employees.

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Based on the information provided in this letter, we consider this matter closed. If you have any further questions or concerns, please feel free to contact me at

Sincerely,

Federal Security Director

Enclosure

Cc: Jeanne Kosch, Director, Office of Occupational Safety and Health

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ATTACHMENT E

OSHA LETTER TO TSA ACKNOWLEDGING RECEIPT AND STATUS OF RESPONSE

Re:

Dear: *TSA*

On *DATE* the Occupational Safety and Health Administration (OSHA) notified you of alleged safety and/or health hazards at your worksite. Your response to these allegations was received in the Area Office on *DATE*.

Based on our review of the information you provided in your response to these alleged hazards, we have determined that our file on this matter can be closed and no further action on this complaint is anticipated at this time.

Please note, however, that the complainant will also be given the opportunity to review the information provided in your response. If the complainant disputes the accuracy of the response, it may be necessary for OSHA to contact you for additional information or documentation of corrective action in order to resolve these issues. In some situations, it may be necessary to conduct an inspection of your workplace.

We appreciate your prompt response to these allegations, and your interest in the safety and health of your employees. Please feel free to contact this office if we can be of additional assistance to you.

Sincerely,

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ATTACHMENT F

***OSHA'S LETTER TO COMPLAINANT
TSA COMPLETION OF INVESTIGATION***

Re:

Dear: *EMPLOYEE FILING THE COMPLAINT*

TSA has advised me that the hazards you complained about have been investigated. A copy of the employer's letter is enclosed.

With this information, OSHA feels the case can be closed on the grounds that the hazardous conditions have been corrected (or no longer exist). If you do not agree that the hazards you complained about have been satisfactorily abated, please contact us by *DATE* . If we do not hear from you within that time, we will assume that the hazard has been corrected or eliminated and will take no further action with respect to this case.

Your action on behalf of safety and health in the workplace is sincerely appreciated.

Respectfully,

Enclosures