

MEMORANDUM FOR: REGIONAL ADMINISTRATORS
WHISTLEBLOWER PROGRAM MANAGERS

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SUBJECT: Coordination with Federal Partner Agencies

The purpose of this memorandum is to explain the process for working relationships between the Occupational Safety and Health Administration (OSHA) Whistleblower Protection Program (WPP) and the Partner Agencies to ensure effective coordination in their respective enforcement of OSHA's whistleblower protection provisions and the underlying public protection statutes. This memorandum discusses the responsibilities of the Directorate of Whistleblower Protection Programs (DWPP) and Regional Offices regarding the type of information that will be provided to OSHA's federal partners, as well as when and how such information will be provided. Both national and regional coordination is needed for strong, effective collaboration with the Partner Agencies.

OSHA is responsible for enforcement of Section 11(c) of the Occupational Safety and Health (OSH) Act and twenty-one other whistleblower protection provisions. Partner Agencies are responsible for enforcing the underlying public protection statutes. Formal coordination and an outline of the division of responsibilities in the Partner Agency relationships between OSHA national and regional offices are needed to prevent gaps in interagency communication. OSHA must work with its Partner Agencies to establish relationships on the national and regional levels, to ensure appropriate sharing of whistleblower complaints, findings and other information, to perform joint outreach to educate employees and employers on employees' rights to report safety hazards and other potential violations of the law without fear of retaliation, and to provide technical advice and training.

I. BACKGROUND

OSHA is responsible for enforcing twenty-two whistleblower protection provisions granting redress for retaliation against employees for reporting violations of various workplace safety and health, airline, commercial motor carrier, consumer product, environmental, financial reform, food safety, health insurance reform, motor vehicle safety, nuclear, shipping container, pipeline, public transportation agency, railroad, maritime, and securities laws. OSHA forwards copies of whistleblower complaints and Secretary's Findings to the relevant Partner Agency(s) for the Partner Agency(s) to consider whether to act on any potential violation of the underlying public protection statute. See Appendix A for the Partner Agencies and the related whistleblower protection provisions that OSHA enforces.

II. DWPP RESPONSIBILITIES

DWPP shall maintain working relationships with the Partner Agencies in order to share information and collaborate regarding enforcement, outreach, and training opportunities as follows:

A. Collaborative Working Relationships

1. Maintain a point of contact with each of the Partner Agencies at the national office level.
2. Meet or confer with the Partner Agencies at the national office level.
3. Develop Memoranda of Understanding when appropriate.
4. Maintain standard operating procedures for DWPP.
5. Designate staff-level DWPP Partner Agency liaisons.
6. Document collaboration between the WPP and the Partner Agencies.
7. Share IMIS case listings for all complaints received by OSHA on an annual basis with the Partner Agencies at the national office level for cross-checking and reconciliation purposes.
8. Provide technical assistance to the Partner Agencies or to the OSHA regional offices related to Partner Agency relationships as needed.

B. Enforcement, Outreach and Training

1. Maintain systems for forwarding or receiving complaints to and from Partner Agencies.
2. Maintain systems for sharing files, investigative documentation, and requests for investigative assistance.
3. Develop strategies to leverage outreach opportunities.
4. Establish reciprocal website links between OSHA and the Partner Agencies.
5. Develop or assist with developing training regarding OSHA and the Partner Agencies.
6. Support regional efforts to collaborate on the local level with the Partner Agencies.

III. REGIONAL RESPONSIBILITIES

The Regional Whistleblower Protection Program offices shall:

1. Send copies of incoming complaints to each relevant Partner Agency no later than the date that notification letters are sent to the parties and send copies of Secretary's Findings (or documentation of case closure) to the Partner Agencies on the same day that such documentation is sent to the complainant and respondent.
2. Share investigative files and related documentation upon request.
3. Provide technical assistance to DWPP and/or the Partner Agencies.
4. Identify, deliver, and document local Partner Agency outreach and training activities.
5. Participate in DWPP Partner Agency meetings when appropriate.

IV. PROCEDURES FOR HANDLING COMPLAINTS FROM PARTNER AGENCIES

1. DWPP will transmit any complaints received from the Partner Agency to the appropriate Regional Office's Assistant Regional Administrator (ARA) for WPP.
2. The Regional Office's WPP will review the referral from the Partner Agency.
3. The Regional Office's WPP will contact Complainant to determine whether there is a prima facie allegation of retaliation and verify Complainant's intent to file a retaliation complaint.
4. OSHA will use the date that the complaint was submitted to OSHA as the date of filing for the retaliation complaint, unless the complaint was submitted to OSHA after the whistleblower provision's filing period. In the latter case, the date the complaint was filed with the Partner Agency will be used if the complaint was filed within the whistleblower provision's filing period.

V. EFFECTIVE DATE

The effective date for implementation of this procedure is October 1, 2017.

Appendix A

<i>Statutes</i>	Partner Agencies
<i>Environmental and Nuclear Safety</i>	
<i>Asbestos Hazard Emergency Response Act (AHERA)</i> <i>Clean Air Act (CAA)</i> <i>Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)</i> <i>Safe Drinking Water Act (SDWA)</i> <i>Federal Water Pollution Control Act (FWPCA)</i> <i>Toxic Substances Control Act (TSCA)</i> <i>Solid Waste Disposal Act (SWDA)</i>	Environmental Protection Agency (EPA)
<i>Energy Reorganization Act (ERA)</i>	Nuclear Regulatory Commission (NRC) Department of Energy (DOE)
<i>Transportation Industry</i>	
<i>Federal Railroad Safety Act (FRSA)</i>	Federal Railroad Administration (FRA)
<i>International Safe Container Act (ISCA)</i> <i>Seaman's Protection Act (SPA)</i>	U.S. Coast Guard (USCG)
<i>National Transit Systems Security Act (NTSSA)</i>	Federal Transit Administration (FTA)
<i>Pipeline Safety Improvement Act (PSIA)</i>	Pipeline and Hazardous Materials Safety Administration (PHMSA)
<i>Surface Transportation Assistance Act (STAA)</i>	Federal Motor Carrier Safety Administration (FMCSA)
<i>Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR21)</i>	Federal Aviation Administration (FAA)
<i>Consumer and Investor Protection</i>	
<i>Affordable Care Act (ACA)</i>	Employee Benefits Security Administration (EBSA) Department of Health and Human Services (HHS) Internal Revenue Service (IRS)
<i>Consumer Financial Protection Act (CFPA)</i>	Consumer Financial Protection Bureau (CFPB) U.S. Department of Justice (DOJ)-Civil Frauds
<i>Consumer Product Safety Improvement Act (CPSIA)</i>	Consumer Product Safety Commission (CPSC)
<i>Food Safety Modernization Act (FSMA)</i>	Food and Drug Administration (FDA)
<i>Moving Ahead for Progress in the 21st Century Act (MAP-21)</i>	National Highway Traffic Safety Administration (NHTSA)
<i>Sarbanes-Oxley Act (SOX)</i>	Securities and Exchange Commission (SEC) U.S. Department of Justice (DOJ)-Civil Frauds