

U.S. Department of Labor

Assistant Secretary for
Occupational Safety and Health
Washington, D.C. 20210



SEP 15 2011

MEMORANDUM FOR: REGIONAL ADMINISTRATORS
REGIONAL SOLICITORS

FROM: DAVID MICHAELS, PhD, MPH
Assistant Secretary

M. PATRICIA SMITH
Solicitor of Labor

MPS

SUBJECT: Section 11(c) Cases Are an Enforcement Priority

We are writing to you to underscore the importance of effective enforcement of Section 11(c) of the Occupational Safety and Health Act. As you know, the purpose of the Act is “to assure so far as possible every working man and woman in the Nation safe and healthful working conditions.” To realize that goal, workers must be able to raise safety and health issues in the workplace and with OSHA without fear of retaliation. Our work together to enforce Section 11(c) will protect workers who exercise their rights and contribute to better safety and health in the workplace.

Accordingly, we are directing each of you to give priority attention to the investigation and litigation of meritorious Section 11(c) cases. At the investigation stage, every effort must be made to develop evidence. This includes adherence to the new Whistleblower Manual for completion of 11(c) cases. Where investigations appear to be meritorious, OSHA Regional Offices should engage their Regional Solicitors (RSOL) to ensure that the investigations capture as much relevant information as possible. Likewise RSOL attorneys should make every effort to provide timely legal advice and assistance during the investigative process. At the litigation stage, it is essential that both agencies work together during discovery and trial preparation to ensure the successful prosecution of Section 11(c) cases. These principles will be incorporated into regional workload-sharing agreements.

On September 20 to 23, OSHA and SOL will conduct a joint Whistleblower Training Conference in Orlando, Florida. The conference will provide an opportunity to discuss procedures for effective enforcement and litigation in detail.