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Contact: Diana Petterson

Phone: 202-693-4681

Email: petterson.diana@dol.gov

Adriano Llosa

202-693-4686

llosa.adriana.t@dol.gov

OSHA, Federal Railroad Administration sign agreement to protect workers from retaliation

WASHINGTON – The U.S. Department of Labor’s Occupational Safety and Health Administration and the U.S. Department of Transportation’s Federal Railroad Administration have signed a memorandum of agreement to facilitate coordination and cooperation between agencies regarding the enforcement of the Federal Railroad Safety Act’s whistleblower provision. The act protects railroad employees from retaliation when they report safety violations, or work-related personal injuries or illnesses.

Rail safety regulations are developed and enforced by the FRA in cooperation with rail stakeholders, including rail labor organizations. Through inspection, enforcement and education, the FRA plays a key role in rail safety, and railroads are among the safest modes of transportation for passengers and freight. The FRA has broad authority over rail safety but does not have direct authority to address whistleblower incidents.

“The safety of railroad employees depends on workers’ ability to report injuries, incidents and hazards without fear of retaliation,” said Assistant Secretary of Labor for Occupational Safety and Health Dr. David Michaels. “OSHA welcomes the opportunity to work with the FRA to protect these rights and make our nation’s railroads a safer place to work.”

Whistleblower complaints in the railroad industry have been on the rise in recent years. Between 2007 and 2012, OSHA received more than 900 whistleblower complaints under the FRSA, and almost 63 percent involved an allegation that a worker was retaliated against for reporting an on-the-job injury.

The memorandum establishes procedures for the agencies to follow for whistleblower complaints. Under the agreement, the FRA will refer railroad employees who complain of alleged retaliation to OSHA. OSHA will provide the FRA with copies of the complaints it receives under the FRSA’s whistleblower provision, as well as any findings and preliminary orders that OSHA issues. The agencies will jointly develop training to assist FRA enforcement staff in recognizing complaints of retaliation, and to assist OSHA enforcement staff in recognizing potential violations of railroad safety regulations revealed during whistleblower investigations.

FRA and OSHA also sent a joint letter to railroad and transportation associations that expresses the agencies’ commitment to working together to ensure that injury/illness reporting is as accurate and consistent as possible. The letter highlights troubling railroad reporting trends and provides concrete ways that the associations’ member organizations can improve workplace safety and improve compliance with federal regulations.

“This memorandum is a watershed moment for both railroads and labor alike,” said FRA Administrator Joseph Szabo. He continued, “Securing a process that protects employees who report safety violations is critical to maintaining safety standards in the workplace.”

The memorandum is available at

http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=MOU&p_id=1125.

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OSHA enforces the whistleblower provision of the FRSA as well as whistleblower provisions of 21 other statutes protecting employees who report violations of various securities, trucking, airline, nuclear, pipeline, environmental, public transportation, workplace safety and health, consumer product safety, health care reform and financial reform laws. Under these laws enacted by Congress, employers are prohibited from retaliating against employees who raise various protected concerns or provide protected information to the employer or to the government.

More information on whistleblower cases, including those related to the FRSA, can be found at http://www.whistleblowers.gov/wb_news_room.html.

Employees who believe that they have been retaliated against for engaging in protected conduct may file a complaint with the secretary of labor for an investigation by OSHA's Whistleblower Protection Program. Detailed information on employee whistleblower rights, including fact sheets with information on how to file a complaint with OSHA, is available online at <http://www.whistleblowers.gov>.

Under the Occupational Safety and Health Act of 1970, employers are responsible for providing safe and healthful workplaces for their employees. OSHA's role is to ensure these conditions for America's working men and women by setting and enforcing standards, and providing training, education and assistance. For more information, visit <http://www.osha.gov>.

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