



Date submitted to transition: 12/20/08

**Stakeholder organization: Make It Safe Coalition**

**DOL Agency: OSHA** (whistleblower enforcement)

**Purpose of meeting:** Discuss enforcement of whistleblower provisions

**Date of meeting:** 12/11/08 (phone)

**Policy paper submitted:** yes (saved as OSHA – Make It Safe Coalition (whistleblower issues), 12/11/08 meeting, issue paper)

**Participants in meeting:**

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**Summary of document: one page document. Key points:** DOL's administrative system is broken and has become a rubber stamp for retaliation; DOL policy has ignored prior precedent; the statutory framework is hopelessly dysfunctional. Recommendations: administratively mandate a best practices interpretation of existing corporate whistleblower statutes; appoint an official who reports directly to the Secretary who will review current rules and structures for implementation; replace all non-career officials including ARB members with subject matter experts with commitment to legislative mandate; support HR 4047, the Private Sector Streamlining Whistleblower Protection Act to correct loopholes in existing legislation.

**Additional notes from meeting:**

In addition to points made in issue paper, group recommends the following:

- Move investigations out of OSHA into dedicated whistleblower office.
- Pay attention to the GAO report which is supposed to grapple with the organizational issue.
- Develop a training program about whistleblower laws for DOL staff
- More staff are needed to work on the cases.
- Review the legal interpretations of the laws, which have been "incredibly narrow." OSHA misapplies the burden of proof to the disadvantage of the complainants. The procedures used in the investigation also disadvantage the complainants: e.g., the investigator does not share the employer's statement with the complainant and tends to accept the employer's explanation of events. "OSHA is just inclined to rule for the employer."
- Lack of subpoena power in SOX (all?) cases means that investigation can only review statements made by employer.
- Long time to get from OSHA to a hearing before an ALJ.
- ARB suppresses whistleblower rights.
- Regional offices in OSHA are "hostile to these issues." The national office needs to play a leadership role.