OSHA Launches Pilot Program for Whistleblower Violators in Region VII

By Matthew Thomas Deffebach | August 18, 2016

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OSHA launched a pilot program in Region VII entitled W-SVEP, effective May 27, 2016 as an enforcement mechanism for alleged severe violators of whistleblower retaliation regulations. Region VII includes employers in Kansas, Missouri and Nebraska, and those companies under federal enforcement in Iowa.[1]

The program will model the National Severe Violator Enforcement Program (SVEP), which puts employers on a public log for certain alleged violations of OSHA safety regulations. OSHA has explained that employers will be placed on the W-SVEP log if certain criteria are met.

The following types of cases subject an employer to W-SVEP:

1. “Significant” whistleblower cases;
2. Merit whistleblower cases in connection with egregious citations, a fatality, or a rate-based incentive program for work-related injuries;
3. Merit whistleblower cases where the employer is already on the enforcement SVEP log; or
4. A company with three or more merit whistleblower cases within the past three years.

If the listed criteria are met, the employer will be placed on the log.

To be removed from the W-SVEP log, after three years, a company may petition the regional administrator for a follow-up visit and removal from the program. At that time, OSHA will complete a comprehensive review of the company’s policies and practices to determine if they have addressed and remedied the retaliation and its effects sufficiently.

Information regarding this new program is limited, however Haynes Boone was able to obtain an OSHA Regional Notice[2] regarding the program upon request which is not publicly available. Employers in Region VII or otherwise interested in learning more about the W-SVEP pilot program may contact the firm’s OSHA team for more information.

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[1] The Iowa State Plan applies to all public and private sector workplaces in the state with the exception of: private sector maritime activities, marine terminals, and longshoring; federal government-owned and contractor-operated military facilities; bridge construction projects spanning the Mississippi and Missouri Rivers between Iowa and other states; federal government employers and employees; and the United States Postal Service (these fall under OSHA jurisdiction).

[2] US Dep’t of Labor, Occupational Safety & Health Admin., OSHA Regional Notice, Subject: Regional Whistleblower Severe Violator Enforcement Program (not publicly available, but provided to Haynes Boone upon request.)

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