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## News Release

U.S. Department of Labor

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Email: [petterson.diana@dol.gov](mailto:petterson.diana@dol.gov) [lawder.jesse@dol.gov](mailto:lawder.jesse@dol.gov)**BNSF Railway Co. signs accord with US Labor Department's OSHA regarding employee practices under Federal Railroad Safety Act**

**WASHINGTON** – The U.S. Department of Labor's Occupational Safety and Health Administration has signed an accord with BNSF Railway Co., headquartered in Fort Worth, Texas, announcing BNSF's voluntary revision of several personnel policies that OSHA alleged violated the whistleblower provisions of the Federal Railroad Safety Act and dissuaded workers from reporting on-the-job injuries. FRSA's Section 20109 protects railroad workers from retaliation for, among other acts, reporting suspected violations of federal laws and regulations related to railroad safety and security, hazardous safety or security conditions, and on-the-job injuries.

"Protecting America's railroad workers who report on-the-job injuries from retaliation is an essential element in OSHA's mission. This accord makes significant progress toward ensuring that BNSF employees who report injuries do not suffer any adverse consequences for doing so," said Assistant Secretary of Labor for Occupational Safety and Health Dr. David Michaels. "It also sets the tone for other railroad employers throughout the U.S. to take steps to ensure that their workers are not harassed, intimidated or terminated, in whole or part, for reporting workplace injuries."

The major terms of the accord include:

- Changing BNSF's disciplinary policy so that injuries no longer play a role in determining the length of an employee's probation following a record suspension for a serious rule violation. As of Aug. 31, 2012, BNSF has reduced the probations of 136 employees who were serving longer probations because they had been injured on-the-job.
- Eliminating a policy that assigned points to employees who sustained on-the-job injuries.
- Revising a program that required increased safety counseling and prescribed operations testing so that work-related injuries will no longer be the basis for enrolling employees in the program. As part of the negotiations leading up to the accord, BNSF removed from the program approximately 400 workers.
- Instituting a higher level review by BNSF's upper management and legal department for cases in which an employee who reports an on-duty personal injury is also assessed discipline related to the incident giving rise to the injury.
- Implementing a training program for BNSF's managers and labor relations and human resources professionals to educate them about their responsibilities under the FRSA. The training will be incorporated into BNSF's annual supervisor certification program.
- Making settlement offers in 36 cases to employees who filed whistleblower complaints with OSHA alleging they were harmed by one or more of the company's previous policies.

"Ensuring that employees can report injuries or illnesses without fear of retaliation is crucial to protecting worker safety and health," said Michaels. "If employees do not feel free to report injuries or illnesses, the employer's entire workforce is put at risk because employers do not learn of and correct dangerous conditions that have resulted in injuries."

Between August 2007, when OSHA was assigned responsibility for whistleblower complaints under FRSA, and September 2012, OSHA received 1,206 FRSA whistleblower complaints. The number of FRSA whistleblower complaints that OSHA currently receives surpasses the number of whistleblower complaints that OSHA receives under any of the other 21 whistleblower protection statutes it enforces except for Section 11(c) of the Occupational Safety and Health Act of 1970. More than 60 percent of the FRSA complaints filed with OSHA involve an allegation that a railroad worker has been retaliated against for reporting an on-the-job injury.

The accord with BNSF Railway Co. can be viewed at [http://www.whistleblowers.gov/acts/bnsf\\_accord.html](http://www.whistleblowers.gov/acts/bnsf_accord.html).

The whistleblower provisions of the 22 statutes enforced by OSHA protect employees who report violations of various commercial motor vehicle, airline, nuclear, pipeline, environmental, railroad, public transportation, maritime, consumer product, health care reform, securities, food safety, and consumer financial reform laws and regulations.

Employees who believe that they have been retaliated against for engaging in a protected activity may file a complaint with the secretary of labor for an investigation by OSHA's Whistleblower Protection Program.

Detailed information on employee whistleblower rights is available online at <http://www.whistleblowers.gov>.


For more information about OSHA, visit <http://www.osha.gov>.

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