

OSHA FactSheet

Whistleblower Protections and the Environment

You may file a complaint with OSHA if your employer retaliates against you with unfavorable personnel action because you reported a potential environmental violation.

Covered Employees

- *Asbestos Hazard Emergency Response Act* (AHERA). [15 U.S.C. §2651] Provides protections for individuals who report potential violations of environmental laws relating to asbestos in elementary and secondary schools.
- *Clean Air Act* (CAA). [42 U.S.C. §7622] Provides protections for employees who report potential violations regarding air emissions from area, stationary, and mobile sources into the air.
- *Comprehensive Environmental Response, Compensation and Liability Act* (CERCLA). [42 U.S.C. §9610] Provides protections for employees who report potential violations regarding clean-up of uncontrolled or abandoned hazardous waste sites as well as accidents, spills, and other emergency releases of pollutants and contaminants into the environment.
- *Federal Water Pollution Control Act* (FWPCA). [33 U.S.C. §1367] Provides protections for employees who report potential violations regarding discharges of pollutants into the waters of the United States.
- *Safe Drinking Water Act* (SDWA). [42 U.S.C. §300j-9(i)] Provides protections for employees who report potential violations regarding all waters actually and potentially designed for drinking use, whether from above ground or underground sources.
- *Solid Waste Disposal Act* (SWDA). [42 U.S.C. §6971] Provides protections for employees who report potential violations regarding the disposal of solid and hazardous waste at active and future facilities.
- *Toxic Substances Control Act* (TSCA). [15 U.S.C. §2622] Provides protections for employees who report potential violations regarding industrial chemicals currently produced or imported into the United States.

Protected Activity

If your employer is covered under one of these statutes, it may not discharge or in any other manner retaliate against you because you reported potential violations of environmental laws and regulations to your employer or to the government. Your employer may not discharge or in any manner retaliate against you because you filed, caused to be filed, participated in or assisted in a proceeding under one of these laws or regulations.

Limited Protections for Employees Who Refuse to Work

These statutes do not expressly provide protection for an employee who refuses to work because of an alleged environmental violation by an employer. The Secretary of Labor, however, interprets this statute to protect refusals to work when an employee has a reasonable belief that his or her working conditions are unsafe or unhealthful, and he or she does not receive an adequate explanation from a responsible official that the conditions are safe.

Unfavorable Personnel Actions

Your employer may be found to have violated one of these statutes if your protected activity was a motivating factor in its decision to take an unfavorable personnel action against you. Such actions may include:

- Firing or laying off
- Blacklisting
- Demoting
- Denying overtime or promotion
- Disciplining
- Denying benefits
- Failing to hire or rehire
- Intimidation
- Reassignment affecting promotion prospects
- Reducing pay or hours

Deadline for Filing a Complaint

Depending on the statute, complaints must be filed within 30 days (CAA, CERCLA, FWPCA, SDWA, SWDA, TSCA) or 90 days (AHERA) after the alleged unfavorable personnel action occurs (that is, when you become aware of the retaliatory action).

How to File a Complaint

An employee, or representative of an employee who believes that he or she has been retaliated against in violation of the above statute(s) may file a complaint with OSHA. The complaint should be filed with the OSHA office responsible for enforcement activities in the geographical area where the employee resides or was employed, but may be filed with any OSHA officer or employee. For more information, call your closest OSHA Regional Office:

- *Boston* (617) 565-9860
- *New York* (212) 337-2378
- *Philadelphia* (215) 861-4900
- *Atlanta* (404) 562-2300
- *Chicago* (312) 353-2220
- *Dallas* (972) 850-4145
- *Kansas City* (816) 283-8745
- *Denver* (720) 264-6550
- *San Francisco* (415) 625-2547
- *Seattle* (206) 553-5930

Addresses, fax numbers and other contact information for these offices can be found on OSHA's website, www.osha.gov, and in local directories. With the exception of AHERA, complaints must be filed in writing, by mail (we recommend certified mail), fax, or hand delivery during business hours. The

date postmarked, faxed or hand delivered is considered the date filed. AHERA complaints may be filed orally or in writing.

Results of the Investigation

If the evidence supports your claim of retaliation and a settlement cannot be reached, OSHA will issue an order requiring your employer to reinstate you, pay back-wages, restore benefits, and other possible relief to make you whole.

Hearings and Review

Under CAA, CERCLA, FWPCA, SDWA, SWDA and TSCA, after OSHA issues its findings and order, either party may request an evidentiary hearing before an administrative law judge of the Department of Labor. The administrative law judge's decision and order may be appealed to the Department's Administrative Review Board for review. Although there is no statutory right to appeal of AHERA determinations, if a complaint is dismissed, it may be appealed to OSHA's national office for further review.

To Get Further Information

For more information on employee whistleblower protection provisions, including copies of the statutes and regulations, go to www.osha.gov and click on the link for "Whistleblower Protection."

For information on the Office of Administrative Law Judges procedures, decisions and research materials, go to www.oalj.dol.gov and click on the link for "Whistleblower."

This is one in a series of informational fact sheets highlighting OSHA programs, policies or standards. It does not impose any new compliance requirements. For a comprehensive list of compliance requirements of OSHA standards or regulations, refer to Title 29 of the Code of Federal Regulations. This information will be made available to sensory impaired individuals upon request. The voice phone is (202) 693-1999; teletypewriter (TTY) number: (877) 889-5627.

For more information:



U.S. Department of Labor

www.osha.gov

(800) 321-OSHA