

The Environmental Statutes

Office of Whistleblower Protection
Program – Federal Statutes
June 2008



Seven Environmental Whistleblower Protection Statutes

- Section 211 of the Asbestos Hazard Emergency Response Act of 1986 (AHERA)
- Section 322 of the Clean Air Act (CAA)
- Section 110 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)
- Section 507 of the Federal Water Pollution Control Act (FWPCA)
- Section 1450 of the Safe Drinking Water Act (SDWA)
- Section 7001 of the Solid Waste Disposal Act (SWDA)
- Section 23 of the Toxic Substances Control Act (TSCA)

The Part 24 Environmental Statutes

The following timeframes apply to CAA, CERCLA, FWPCA, SDWA, SWDA, and TSCA:

- 30 days to file complaint with OSHA
- 30 days for OSHA to investigate
- 30 days after receipt of Secretary's Findings to request ALJ hearing
- 10 business days after ALJ's decision to file petition for review with ARB
- 90 days for ARB to issue final order

- General provisions of all of the above enforced by the EPA
- All except TSCA cover private sector and municipal respondents. Some cover federal, state, and/or tribal respondents also.

Clean Air Act (CAA)

- §322(a)(1-3) of the Clean Air Act, 42 U.S.C. §7622
- Prohibits retaliation against any employee who reports alleged violations regarding air emissions from area, stationary, and mobile sources
- Covered respondents: private sector, federal, state, municipal
- Not covered: Indian tribes

CAA – General Provisions

- Comprehensive federal law that regulates air emissions from area, stationary, and mobile sources
- Authorizes the EPA to establish National Ambient Air Quality Standards (NAAQS)
- Amended in 1977, primarily to set new goals (dates) for achieving attainment of NAAQS, since many areas of the country had failed to meet the original deadlines

CAA – General Provisions (cont'd)

- 1990 amendments addressed problems such as acid rain, ground-level ozone, stratospheric ozone depletion, and air toxics
- Toxic Air Pollutants – regulates 188 that are known or suspected to cause cancer or other serious health effects
- Specific information regarding coverage under CAA can be found on EPA's website at http://www.epa.gov/air/oaqps/peg_caa/pegcaain.html

CERCLA

- §110(a) of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §9610
- Prohibits retaliation against any employee who reports alleged violations relating to cleanup of uncontrolled or abandoned hazardous waste sites as well as accidents, spills, and other emergency releases of pollutants and contaminants into the environment
- Covered respondents: private sector, federal, state, municipal
- Not covered: Indian tribes

CERCLA – General Provisions

- “Superfund” to clean up uncontrolled or abandoned hazardous-waste sites as well as accidents, spills, and other emergency releases of pollutants and contaminants into the environment.
- EPA is authorized to implement CERCLA in all 50 states and U.S. territories. Superfund site identification, monitoring, and response activities in states are coordinated through the state environmental protection or waste management agencies.

CERCLA – General Provisions (cont'd)

- Amended by the Superfund Amendments and Reauthorization Act (SARA) on October 17, 1986
- Specific information regarding CERCLA can be found on EPA's website at <http://www.epa.gov/superfund/action/law/cercla.htm>.

Federal Water Pollution Control Act (FWPCA)

- §507(a) of the Federal Water Pollution Control Act, 33 U.S.C. §1367
- Prohibits retaliation against any employee who reports alleged violations relating to discharge of pollutants into the waters of the United States.
- Covered respondents: private sector, state, municipal, Indian tribes
- Not covered: Federal

FWPCA – General Provisions

- Regulates discharges of pollutants into the waters of the United States and sets wastewater standards (includes municipal wastewater treatment facilities)
- Unlawful to discharge pollutants into navigable waters, unless permitted (ex. urban sewer systems and construction sites)
- Cornerstone of surface water quality protection in the United States, but does not deal directly with ground water or with water quantity issues
- Specific information regarding coverage under CWA can be found on EPA's website at <http://www.epa.gov/watertrain/cwa/>.

Safe Drinking Water Act (SDWA)

- §1450(i)(1)(A-C) of the Safe Drinking Water Act, 42 U.S.C. §300j-9(i)
- Prohibits retaliation against any employee who reports alleged violations relating to any waters actually or potentially designated for drinking use, whether from above ground or underground sources.
- Covered respondents: private sector, federal, state, municipal, Indian tribes

SDWA – General Provisions

- Protects the quality of drinking water in the U.S.
- All waters actually or potentially designated for drinking use, whether from above ground or underground sources.
- Authorizes EPA to establish safe standards of purity and requires all owners or operators of public water systems to comply with primary (health-related) standards.
- The full text of SWDA can be found on EPA's website at http://www.access.gpo.gov/uscode/title42/chapter6a_subchapterxii.html

Solid Waste Disposal Act (SWDA)

- §7001(a) of the Solid Waste Disposal Act of 1965, as amended by the Resource Conservation and Recovery Act, 42 U.S.C. §6971
- Prohibits retaliation against any employee who reports alleged violations relating to the disposal of solid and hazardous waste at active and future facilities.
- Covered respondents: private sector, federal, state, municipal, Indian tribes

SWDA – General Provisions

- Amended in 1970 by the Resource Recovery Act
- Amended by the Resource Conservation and Recovery Act (RCRA) [pronounced “rick-rah”], 42 U.S.C. §6901 *et seq.* (1976)
- Governing the disposal of solid and hazardous waste

SWDA – General Provisions (cont'd)

- RCRA banned all open dumping of waste, encouraged source-reduction and recycling, and promoted the safe disposal of municipal waste. This includes the generation, transportation, treatment, storage, and disposal of hazardous waste.
- The Federal Hazardous and Solid Waste Amendments (HSWA) [pronounced "hiss-wa"] are the 1984 amendments to RCRA that required phasing out land disposal of hazardous waste. Created stringent hazardous waste management standards and a comprehensive underground storage tank program.

SWDA – General Provisions (cont'd)

- The Federal Hazardous and Solid Waste Amendments (HSWA) [pronounced "hiss-wa"] are the 1984 amendments to RCRA that required phasing out land disposal of hazardous waste. Created stringent hazardous waste management standards and a comprehensive underground storage tank program
- Amended again - Federal Facility Compliance Act of 1992
- <http://www.epa.gov/lawsregs/laws/rcra.html>
- <http://www.epa.gov/rcraonline/>

AHERA

- Section 211 of the Asbestos Hazard Emergency Response Act of 1986, 15 U.S.C. §2651
- Prohibits retaliation against any person who raises issues about asbestos in elementary and secondary schools or about accreditation of a contractor or laboratory to do asbestos work under the Act.
- General provisions administered by EPA.

Toxic Substances Control Act (TSCA)

- §23(a)(1-3) of the Toxic Substances Control Act, 15 U.S.C. §2622
- Prohibits retaliation against any employee who reports alleged violations relating to industrial chemicals currently produced or imported into the United States.
- Covered respondents: private sector
- Not covered: federal, state, municipal, Indian tribes

Questions and Discussion