

## **Filing Whistleblower Complaints under the *Comprehensive Environmental Response, Compensation and Liability Act***

Employees are protected from retaliation for reporting alleged violations of environmental laws and regulations related to the 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.

### **Covered Employees**

The *Comprehensive Environmental Response, Compensation and Liability Act* (CERCLA) prohibits employers from retaliating against employees for engaging in protected activities pertaining to alleged violations of environmental laws and regulations related to the 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.

Coverage extends to all private sector, federal, state and municipal employees in the United States.

### **Protected Activity**

A person may not discharge or in any manner retaliate against an employee because the employee:

- Provided (or is about to provide) information relating to a violation of CERCLA to the Environmental Protection Agency (EPA) or other appropriate Federal agency or department;
- Testified or was about to testify in any such proceeding under this statute;
- Refused to perform duties in good faith, based on a reasonable belief that the working conditions are unsafe and unhealthful;
- Participated or assisted in a proceeding under this statute.

### **Unfavorable Employment Actions**

A person may be found to have violated CERCLA if the employee's protected activity was a motivating factor in the person's decision to take unfavorable employment action against the employee. Such actions may include:

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

### **Deadline for Filing Complaints**

Complaints must be filed within 30 days after the alleged unfavorable employment action occurs (that is, when the employee is notified of the retaliatory action).

### **How to File a CERCLA Complaint**

An employee, or representative of an employee, who believes he or she has been retaliated against in violation of CERCLA may file a complaint with OSHA. Complaints may be filed verbally with OSHA by visiting or calling the local OSHA office at 1-800-321-OSHA (6742), or may be filed in writing by sending a written complaint to the closest OSHA regional or area office, or by filing a complaint online at [www.whistleblowers.gov/complaint\\_page.html](http://www.whistleblowers.gov/complaint_page.html).

Written complaints may be filed by facsimile, electronic communication, hand delivery during normal business hours, U.S. mail (confirmation services recommended), or other third-party commercial carrier.

The date of the postmark, facsimile, electronic communication, telephone call, hand delivery, delivery to a third-party commercial carrier, or in-person filing at an OSHA office is considered the date filed. No particular form is required and complaints may be submitted in any language.

To file a complaint electronically, please visit [www.whistleblowers.gov/complaint\\_page.html](http://www.whistleblowers.gov/complaint_page.html).

To contact OSHA to file a complaint, please call 1-800-321-OSHA (6742) and they will connect you to the closest office; or visit [www.osha.gov/html/RAmap.html](http://www.osha.gov/html/RAmap.html).

Upon receipt, OSHA will review the complaint to determine whether it is appropriate to conduct a fact-finding investigation (e.g., whether the complaint was filed within 30 days; whether the allegation is covered by CERCLA). All complaints are investigated according to statutory requirements in 29 CFR Part 24.

### Results of the Investigation

If the evidence supports an employee's claim of retaliation and a voluntary settlement cannot be reached, OSHA will seek relief to make the employee whole, including:

- Payment of back pay with interest.
- Compensation for special damages, to include attorney's fees, and other expenses the employee may have incurred as a result of the violation.
- Reinstatement.

OSHA's findings and order become the final order of the Secretary of Labor unless either party objects to the findings within 30 days.

After OSHA issues its findings and order, either party may request a full hearing before a Department of Labor Administrative Law Judge (ALJ). The ALJ's decision and order may be appealed to the Department's Administrative Review Board.

### To Get Further Information

For a copy of the *Comprehensive Environmental Response, Compensation and Liability Act* (42 U.S.C. §9610), the regulations (29 CFR Part 24), and other information, go to [www.whistleblowers.gov](http://www.whistleblowers.gov).

OSHA's Whistleblower Protection Program enforces the whistleblower provisions of more than twenty federal whistleblower laws. To learn more about the whistleblower statutes which OSHA enforces, view our "Whistleblower Statutes Desk Aid" at [www.whistleblowers.gov/whistleblower\\_acts-desk\\_reference.pdf](http://www.whistleblowers.gov/whistleblower_acts-desk_reference.pdf).

For information on the Office of Administrative Law Judges procedures and case law research materials, go to [www.oalj.dol.gov](http://www.oalj.dol.gov) and click on the link for "Whistleblower Collection."

For information on environmental safety laws and regulations, visit the EPA's website at [www.epa.gov](http://www.epa.gov).

If you have questions or need more information, visit our website at [www.whistleblowers.gov](http://www.whistleblowers.gov) or call OSHA at 1-800-321-6742.

**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: 1-877-889-5627.**

**For assistance, contact us. We can help. It's confidential.**



[www.osha.gov](http://www.osha.gov) (800) 321-OSHA (6742)



U.S. Department of Labor