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BOOKS RECEIVED

Guide to State Environmental Programs. By Deborah Hitchcock Jessup. Washington, D.C.: BNA Books. 1990. Pp. xv + 700. Softcover. \$62.00.

The second edition of *Guide to State Environmental Programs* revises and supplements information contained in the first edition. It updates all addresses, telephone numbers, and organizational schemes and amends federal and state program descriptions to reflect more recent changes. The book is designed for professionals who plan, analyze, monitor, or influence environmental activity in the country. The author recognizes that state environmental programs must strike a balance between economic and environmental goals and must adapt not only to varying natural challenges but also to political pressures. The primary purpose of the book is to streamline the task of those who need to research individual state environmental rules and policies. The book contains a wealth of practical information that will prove invaluable to those who must navigate through the complex seas of state environmental regulation. The book supplies a roadmap to each state's labyrinth of environmental regulations and the complex interaction between state environmental regulatory agencies and state offices with other agenda.

The book begins with a brief description of the federal laws and regulation underlying many of the state programs. This section summarizes the Clean Air Act, the Clean Water Act, Groundwater Protection, the Safe Drinking Water Act of 1974, the Corps of Engineers Water-Protection Programs, Resource Conservation and Recovery Act (RCRA), Infectious Waste Legislation, the SARA Title III or Superfund Amendments to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), and Coastal Zone Protection. This section provides an overview of some of the principal features of important federal environmental legislation and of the state's role in the legislative scheme. Unfortunately, it does not include the important 1990 amendments to the Clean Air Act in its summary of federal environmental legislation. The summary is not intended to be a thorough or comprehensive treatment of the statutes. The author refers the reader to BNA publications that treat the statutes in more

depth.

Each state-specific chapter contains practical information on the state regulatory programs. The chapters begin with "The Program in Brief." This section contains a statement of the state's organizational scheme. It includes applicable agency names, addresses, and telephone numbers, unique characteristics of the program such as state environmental assessment requirements or a restrictive land-use policy, and state priorities.

The state-specific chapters also include a useful "First Contact" section that provides the most effective first stop for persons seeking information such as a consolidated permitting office, a helpful public information office or the relevant local office. Each chapter contains a "SARA Title III Spill Reporting" section that provides the address and telephone number of the state-designated Emergency Response Commission. The "Permit Fee" section contains a brief summary of the state's fee structure as it relates to the major environmental programs.

The "Media-specific Programs" section summarizes the major programs on land, water, and air. This section covers air and water pollution, wetlands protection, water use (including water rights), and solid, infectious, and hazardous waste management, with an emphasis on the factors that are unique to the state. A "Coastal Zone Management" section is included, where applicable, and contains brief descriptions of each state's interpretation of these requirements with the addresses and telephone numbers of information sources.

A "Utility Transmission Line Siting" section contains an overview of each state's environmental hierarchy governing transmission line siting. This section includes the address and telephone number of the applicable utility regulatory commission.

The section on California begins with praise for the state's "impressive" system of "integrated central oversight" and "rigorous, creative environmental regulation." The author directs firms toward a "one stop" state clearinghouse to assist with the permit obligations. This permit clearinghouse was created by the Permit Streamlining Act and is dedicated to completing the permit process in one year. The author states that firms may encounter a reluctance on the part of state environmental professionals even to mention the fact that they are subject to the provisions of the Permit Streamlining Act. Without this information, those subject to regulation might wander through an "endless labyrinth of overlapping permit obligations."

The author also recommends an indispensable handbook

furnished by the California Office of Permit Assistance that is must reading for any firm endeavoring to wade through the California permitting process. The handbook is useful because it points up many specialized requirements that could easily be overlooked. The guide shows the interaction among agencies that occurs with any permit request, even one that may seem innocuous.

Guide to State Environmental Programs is a useful and practical guide to state environmental programs. It will simplify the task of anyone who must research, plan, monitor, or analyze state environmental rules and policies. The book will also streamline the compliance process for the businesses or lawyers who must confront the daunting myriad of overlapping environmental regulations issued by a multitude of state and federal agencies.

Whistleblowing: The Law of Retaliatory Discharge. By Daniel P. Westman. Washington, D.C.: BNA Books. 1990. Pp. xvi + 232. Hardcover. \$52.00.

Whistleblowers are viewed by some as heroic figures who risk their lives or jobs for the good of society. Others view them as disloyal employees who wish to further their personal agendas. In *Whistleblowing: The Law of Retaliatory Discharge*, Daniel P. Westman places whistleblowing in legal, practical, and historical contexts in both the public and private sectors. He describes the tensions between a worker's competing duties — to job, community, and conscience - and examines the statutes, cases, and common-law doctrines created to balance these tensions. The book also provides invaluable strategies to the litigator and a detailed discussion of burdens of proof, defenses, issues at the pleading stage, discovery, and considerations at trial. The author attempts to provide a balanced view of whistleblowing; however, he warns that his advocacy on behalf of companies may have colored his perceptions. Although it is clear that Westman approaches his subject from the point of view of management, his book will prove useful to attorneys for both employers and whistleblowers.

Chapter One provides a historical overview of the evolution of whistleblower protections, discussing their origins in the public sector and the related area of government contracts. Chapter Two then discusses the tensions between the competing legal duties of obedience, loyalty, and confidentiality owed by employees to their employers and the duty as citizens to aid in law enforcement. Westman also discusses ethical responsibilities to one's individual conscience, to the public interest, to the organizations, to co-workers,

and, in the case of professional employees, to their professions. The author discusses the way these competing duties are balanced by the statutes and common-law doctrines protecting whistleblowers.

Chapters Three through Six specifically discuss different legal protections for whistleblowers in the public and private sectors. Chapter Three focuses on protections for persons employed by federal, state, and local governments. The author concludes that the majority of states provide broad protection for whistleblowers in the public sector.

Chapter Four deals with federal and state statutory protections for employees in the private sector. The author makes special mention of the California and Wisconsin private sector whistleblower statutory protections because of their limited nature. While other state statutes specify the procedures and remedies available to whistleblowers who have suffered retaliation, the California statute contains only a prohibition of retaliation against private sector employees who report violations of law to the appropriate authorities. The statute does not protect whistleblowers who do not report to the appropriate authorities and contains no procedural or remedial provisions. The statute leaves it to the California courts to resolve the questions regarding available remedies.

Chapter Five concentrates on common-law public policy protections for private sector employees. Chapter Six addresses statutes which protect persons regardless of whether they are employed in the public or private sector. This chapter also spotlights the federal False Claims Reform Act of 1986, one of the most dramatic developments in recent years. The Act not only protects whistleblowers who report their employers' submission of false claims in government procurement, but also provides financial incentives to make disclosures. Chapter Seven discusses preemption and issues which may arise when the various whistleblower protections overlap.

Chapter Eight discusses the litigation of whistleblower cases from the perspective of both whistleblowers and employers. The chapter outlines the substantive elements of whistleblower claims and procedural issues that may arise in whistleblower litigation. Chapter Nine discusses ways in which employers and employees may informally resolve their differences without litigation. The author proposes alternatives to avoid costly litigation that can escalate into a protracted battle because of its emotional undercurrents. Suggested methods for resolving potential

whistleblower complaints include an open-door policy, an ombudsman system, a grievance procedure, regular organizational meetings, ethics training, consultants, and alternative dispute resolution such as arbitration. The appendix contains a useful summary of the main features of state and federal statutes that protect public and private sector employees.

Whistleblowing: The Law of Retaliatory Discharge provides a thorough discussion of federal and state statutory protections and common law doctrines that will prove useful to legal practitioners. Westman recognizes the emotional nature of whistleblower cases and the high stakes involved for both whistleblowers and employers. His discussion of litigation strategies, elements of proof, defenses, issues at the pleading stage, discovery, and considerations at trial will prove invaluable to the litigator in a whistleblower case. The book provides a comprehensive treatment of one of the most contentious areas in labor and employment law.

