

Whistleblower Protection for Nuclear Industry Workers

Individuals working for Nuclear Regulatory Commission contractors, subcontractors, and licensees and Department of Energy contractors and subcontractors are protected from retaliation for reporting potential violations of the *Energy Reorganization Act* (ERA) or the *Atomic Energy Act* (AEA) to their employers or to the government.

Covered Employees

Under the ERA, employees of the following employers are protected from retaliation for engaging in protected activity:

- Nuclear Regulatory Commission (NRC) licensees and applicants for licenses, including the Tennessee Valley Authority;
- NRC contractors and subcontractors;
- Contractors and subcontractors of NRC licensees and applicants for licenses;
- Agreement state licensees and applicants for licenses from agreement states, including their contractors and subcontractors, and;
- Certain Department of Energy (DOE) contractors and subcontractors

Protected Activity

If your employer is covered under the ERA, it may not discharge you or otherwise retaliate against you because you:

- Notified your employer of an alleged violation of the ERA or the AEA;
- Refused to engage in any practice that is unlawful under the ERA or the AEA, if you have identified the alleged illegality to your employer;
- Testified before Congress or at any Federal or State proceeding regarding any provision (or proposed provision) of the ERA or the AEA;
- Commenced a proceeding, caused a proceeding to be commenced, or are about to commence or cause to be commenced a proceeding under the ERA or the AEA;
- Testified, assisted or participated in, or are about to testify, assist or participate in a proceeding under the ERA or AEA; or

- Assisted, participated in, or are about to assist or participate in any other action to carry out the purposes of the ERA or the AEA.

What Is Retaliation?

Retaliation is an adverse action against an employee because of activity protected by the ERA. Retaliation can include several types of actions, such as:

- 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
- Making threats

Time Limits for Filing Complaints

Complaints must be filed within 180 days after the alleged retaliatory action (that is, when the employee is notified of the action).

How to File an ERA Complaint

An employee, or his or her representative, can file an ERA complaint with OSHA by visiting or calling his or her local OSHA office, sending a written complaint to the closest OSHA office, or filing a complaint online. No particular form is required and complaints may be submitted in any language.

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

The date of the postmark, fax, 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.

To file a complaint electronically, please visit www.osha.gov/whistleblower/WBComplaint.html.

To contact an OSHA area office, please call 1-800-321-OSHA (6742) to be connected to the closest area office. Or visit our website at www.osha.gov/html/RAmap.html and click on your state to find your local OSHA office address and contact information.

When OSHA receives a complaint, the agency will first review it to determine whether certain basic requirements are met, such as whether the complaint was filed on time. If so, the complaint will then be investigated according to the procedures required by 29 CFR Part 24.

Results of the Investigation

If the evidence supports an employee's complaint of retaliation, OSHA will issue an order requiring the employer to, as appropriate, put the employee back to work, pay lost wages, restore benefits, and provide other possible relief. The exact requirements will depend on the facts of the case. If the evidence does not support the employee's complaint, OSHA will dismiss the complaint.

After OSHA issues a decision, the employer and/or the employee may request a full hearing before an administrative law judge of the Department

of Labor. The administrative law judge's decision may be appealed to the Department's Administrative Review Board. The employee may also file a complaint in federal court if the Department does not issue a final decision within 365 days. See 42 U.S.C. § 5851(b)(4).

To Get Further Information

For a copy of the ERA whistleblower provision, 42 U.S.C. § 5851, the regulations (29 CFR Part 24), and other information, go to www.whistleblowers.gov.

OSHA's Whistleblower Protection Programs enforce the whistleblower provisions of more than twenty federal whistleblower laws. To learn more about the whistleblower statutes that OSHA enforces, view our "Whistleblower Statutes Desk Aid" at 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 and click on the link for "Whistleblower."

For information on safety laws and regulations for NRC contractors, subcontractors, and licensees, visit the NRC's website at www.nrc.gov. For information on safety laws and regulations for DOE contractors and subcontractors, visit DOE's website at www.energy.gov.

Under the Occupational Safety and Health Act of 1970, employers are responsible for providing safe and healthful workplaces for their employees. OSHA's role is to ensure these conditions for America's working men and women by setting and enforcing standards, and providing training, education, and assistance. For more information, visit www.osha.gov.

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.



U.S. Department of Labor



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