

## OVERVIEW

Most executive branch employees working in the sciences are covered by the Whistleblower Protection Act (WPA), which includes protections for certain disclosures about censorship of research, analysis, or technical information. Select environmental whistleblower laws also cover federal employees, and some agencies have applicable scientific integrity policies.

## WHISTLEBLOWER PROTECTION ACT

The WPA prohibits retaliation against protected individuals (most executive branch employees, former employees, and applicants) when they make a disclosure that they reasonably believe evidences:

- A violation of law, rule, or regulation
- Gross mismanagement
- Gross waste of funds
- An abuse of authority
- Substantial and specific danger to public health and safety

Disclosures can be made internally (e.g., someone within the agency such as a co-worker or the inspector general) or externally (e.g., Congress or the Office of Special Counsel). Public disclosures, such as those made to the press, are also protected with some limited exceptions such as if the information is barred from public release by a statute or executive order. See the Office's [Whistleblower Protection Act Fact Sheet](#) for an overview of these protections and their enforcement.

### Disclosures Related To Censorship

In 2012, Congress unanimously broadened the WPA to protect disclosures about censorship related to research, analysis, or technical information if that censorship would constitute or cause any of the above categories of misconduct (e.g., a substantial and specific danger to public health and safety). Censorship is defined as "...any effort to distort, misrepresent, or suppress research, analysis, or technical information."



### Policy Disagreement

Protected whistleblowing is generally distinct from an employee expressing their disagreement with agency policy decisions. While employee concerns about agency policy may be legitimate, the employee would not be protected under the WPA for expressing that dissent unless the employee reasonably believes the policy is, or would cause, misconduct as outlined above.

## ENVIRONMENTAL AND ENERGY WHISTLEBLOWER LAWS

Several anti-retaliation laws administered by the Occupational Safety and Health Administration (OSHA) extend coverage to executive branch employees. These laws may be relevant for federal scientists depending on the nature of their work.

For example:



### **Clean Air Act**

Focused on “air emissions from area, stationary, and mobile sources; standards for control technologies, fuel, consumer goods; acid rain; depletion of the ozone layer; visibility in national parks; hazardous air pollutants.” (Anti-retaliation provision: 42 U.S.C. § 7622).



### **Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)**

Focused on “clean-up of hazardous waste or ‘superfund’ sites, as well as accidents, spills, and other emergency releases of pollutants and contaminants; allocation of financial responsibility for clean-up.” (Anti-retaliation provision: 42 U.S.C. § 9610).



### **Safe Drinking Water Act**

Focused on “violations relating to waters actually or potentially designated for drinking; water quality standards; requirements for public water systems; injection of waste into groundwater; ‘lead-free’ requirements for pipes, plumbing fixtures, and school water fountains.” (Anti-retaliation provision: 42 U.S.C. § 300j-9(i)).



### **Solid Waste Disposal Act**

Focused on “treatment, storage, and disposal of hazardous waste and solid waste (including liquid and contained gaseous wastes, semi-solid wastes and sludge) at active sites; standards for municipal and industrial waste landfills; underground storage tanks; reduction of waste generation.” (Anti-retaliation provision: 42 U.S.C. § 6971).



The Energy Reorganization Act (ERA), which focuses on nuclear safety and radiological hazards, covers employees of the Nuclear Regulatory Commission and Department of Energy. However, recent case law prevents complainants from pursuing a retaliation claim against federal agencies that have not waived sovereign immunity. (Anti-retaliation provision: 42 U.S.C. § 5851).

## **AGENCY SCIENTIFIC INTEGRITY POLICIES**

According to the Congressional Research Service, at least 20 federal agencies have scientific integrity policies. These are unique, agency-specific policies or programs that prohibit, and may provide a means for employees to report, censorship or misrepresentation of science within the agency.

Disclosures regarding the violation of these policies may overlap with protected statutory whistleblowing, but not necessarily. The underlying misconduct that is the subject of the disclosure must still rise to the level of severity required by statute. For example, an internal disclosure that a scientific integrity policy was violated would likely be a protected disclosure under the WPA if the whistleblower reasonably believed that the violation was, or would result in, misconduct as outlined above.

## **ADDITIONAL RESOURCES**

Congressional Research Service: [Federal Scientific Integrity Policies: A Primer](#)

Government Accountability Office: [Federal Research Oversight](#)

Occupational Safety and Health Administration: [Investigator’s Desk Aid to the Whistleblower Protection Provisions of Six Environmental Statutes](#)

Union of Concerned Scientists: [Make a Note to the Record](#)