Nuclear Power Plant Personnel-Employee Concerns Program-Process Tools In A Safety Conscious Work Environment
NUCLEAR POWER PLANT PERSONNEL-EMPLOYEE CONCERNS PROGRAM-PROCESS TOOLS IN A SAFETY CONSCIOUS WORK ENVIRONMENT

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EXECUTIVE SUMMARY

This document identifies the core characteristics of a process for resolving employee concerns in a Safety Conscious Work Environment (SCWE) through an Employee Concerns Program (ECP). This document further provides an extensive collection of good practices and techniques for resolving employee concerns in a Safety Conscious Work Environment (SCWE) through an Employee Concerns Program (ECP).

Although the primary path for resolving an employee’s concerns continues to be through supervisors and the Corrective Action Program, the ability of an individual to freely express a concern other ways is a necessary element of an SCWE. One alternate path for concern resolution is the ECP.

This guide provides the core characteristics, tools, techniques, good practices, lessons learned, checklists, examples, and forms for an ECP. This document will help executives, managers, supervisors, and all organization and contractor/vendor employees resolve employees concerns. This document will have served its purpose if it encourages the open and free exchange of information involved in reporting and investigating concerns.
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APPENDICES, ATTACHMENTS, AND SAMPLE DOCUMENTS

The appendices in this Toolbox contain examples of various documents licensees use to memorialize and explain the purposes, features and operation of their ECP programs. These documents, which include procedures, policy statements, checklists, surveys, job descriptions, etc., provide insight into how individual licensees have implemented ECP programs and demonstrate the different approaches licensees have found to be effective in addressing specific issues. Although the material provided in the appendices offers a broad selection of "good practices" and ways NRC or other regulatory requirements may be met, these documents are not intended to be all inclusive with respect to either industry "good practices" or regulatory requirements. Licensees who use these documents should evaluate them to ensure they are appropriate to meet the licensee's particular needs.
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A. Safety Conscious Work Environment
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1 INTRODUCTION

1.1 PURPOSE

This document Nuclear Power Plant Personnel - Employee Concerns Program - Process Tools in a Safety Conscious Work Environment, NEI 97-05, Rev. 2, hereinafter referred to as “ECP Tools,” identifies the core characteristics of a process for resolving employee concerns in a Safety Conscious Work Environment (SCWE) through an Employee Concerns Program (ECP).

This ECP Tools document further provides an extensive collection of good practices and techniques for resolving employee concerns in a SCWE through an Employee Concerns Program (ECP).

No ECP need implement all the ideas from this toolbox.

This ECP Tools document, and its predecessors, Revisions 0 and 1, were developed by industry representatives as an Employee Concerns Program (ECP) source document for industry wide use.

Each organization’s process for resolving employee concerns in a SCWE may be as individual as the organization’s structure, culture, personality and work environment suggest.

1.2 STRUCTURE AND APPENDICES

Sections 1 through 3 of this document address the purpose of this document, provide relevant background information, address this document’s scope and structure and provide a historical background.

This toolbox provide information, good practices, lessons learned, useful forms, “how to” sections, etc. The appendices represent a sampling of good practices used successfully at nuclear plants in varying aspects of the management and resolution of employee concerns.

The document is analogous to a toolbox. The toolbox drawers (appendixes) contain sets of several, but not all, tools for specific applications.
1.3 **BACKGROUND**

Over time, as major design and material issues have been resolved, management focus has shifted more toward human performance, which is shaped by the organizational culture. Hence, continuing improvement in nuclear plant performance will be driven by improvement in the human factors and human performance, which is strongly influenced by the organization safety culture, including the SCWE.

1.4 **THE NUCLEAR SAFETY CULTURE**

All nuclear organizations, contractors, and their employees, share a common responsibility for the protection of public health and safety. Thus it is imperative that activities are conducted safely and in compliance with applicable regulations and meet the highest ethical standards for business conduct. All employees in the nuclear energy industry are charged with keeping safety utmost in mind in the performance of their duties; i.e., to be safety conscious. Each employee must be aware continuously of the need to identify safety concerns and, as appropriate, be willing initiate to the resolution of those concerns.

1.5 **A SAFETY CONSCIOUS WORK ENVIRONMENT**

A Safety Conscious Work environment is part of a Nuclear Safety Culture.

The NRC has established expectations for a SCWE in their policy statement, "Freedom of Employees in the Nuclear Industry To Raise Safety Concerns Without Fear of Retaliation; Policy Statement," [Federal Register: May 14, 1996 (Volume 61, Number 94), Page 24336-24340]. The NRC states, "The Nuclear Regulatory Commission's expectation is that licensees and other employers subject to NRC authority will establish and maintain a safety-conscious work environment in which employees feel free to raise concerns both to their own management and the NRC without fear of retaliation."

1.6 **THE CORRECTIVE ACTION PROGRAM**

The SCWE is strongly influenced by the effectiveness of the processes used to identify, evaluate and address concerns. The Corrective Action Program (CAP) and interface with supervision are the primary means to identify and resolve issues. An ECP provides an alternative path for issues not resolved in day-to-day business.

Emphasis should be placed on the CAP for the identification and resolution of issues, and the ECP promoted as the alternative.
1.7 **FIRST-LINE SUPERVISOR INVOLVEMENT**

First-line supervisors play a vital role in establishing and maintaining a SCWE. The way in which they respond to a worker’s concern, individually or cumulatively, sets the tone of the SCWE and is the key factor in to whom or in which process concerns are identified, evaluated, and resolved. A supervisor must be committed to an SCWE and the identification and resolution of safety and other concerns brought to his attention.

1.8 **SENIOR MANAGEMENT INVOLVEMENT**

Senior management’s active involvement in encouraging open communication among all levels of the workforce is essential to effectively resolving employee concerns in a SCWE. Senior management sets the expectation that harassment, intimidation, retaliation or discrimination (HIRD) of any employee will not be tolerated. Success is achieved where there is an atmosphere of mutual respect in which concerns are received, identified, evaluated, and resolved.

1.9 **ECP PROGRAMS**

ECPs are established to provide an alternative way for employees to raise various types of concerns. There is no regulatory requirement that an organization have an ECP nor any scope or limit to its areas of responsibility. However, as a good practice, many organizations have developed various programs, practices, and policies that identify alternate means to raise safety issues.

Depending on the organization’s choice, the scope of ECP may include Nuclear Safety and Quality Concerns and may address other types of issues (Workplace Concerns) as well. Each organization chooses the scope of its ECP and may provide other means to raise other types of issues. If issues arise that are not safety or quality concerns, the ECP may serve as a conduit to the applicable person or organization who can, as appropriate, conduct the investigation.

1.10 **TRAINING**

Training on the basic policies concerning the Nuclear Safety Culture, the SCWE, the means to raise concerns, and the organizations prohibiting HIRD should be provided.

2 **HISTORICAL PERSPECTIVE**

2.1 **PURPOSE**

This section provides a brief and general outline of the development of certain aspects of the law and regulations relating to the raising of safety concerns and the handling of allegations of HIRD and other issues.
This document is not an authoritative legal guide or reference. More expansive and complete references are found in Appendix Q.

2.2 **Atomic Energy Act Authority**

The Atomic Energy Act (AEA) provides the Nuclear Regulatory Commission (NRC) with authority to investigate cases in which HIRD may have resulted from individuals raising concerns, and to take appropriate enforcement action against organizations for such HIRD. Under the authority of the AEA, the NRC has promulgated regulations to prohibit discrimination.¹

In 1977, a construction worker felt that he had been fired because he raised a safety issue with an NRC inspector. The NRC took the position that it had the legal authority under various sections of the AEA to investigate the allegation and take appropriate enforcement action if the allegation was substantiated. The organization refused to permit the investigation, arguing that the reason for firing the construction worker was a management/labor issue not within the purview of a safety concern. The NRC issued an order to show cause why construction should not be suspended until the investigation was permitted. The organization requested a hearing on the order. Both the Licensing and Appeal Boards held that the AEA provided the NRC with authority to take action where an organization or its contractor discriminated against an employee for raising a safety issue.

2.3 **Section 211 of the Energy Reorganization Act (Formerly Section 210)**

Although the AEA provides the NRC with authority to take proscriptive action against licensees for discriminating against employees who raise safety concerns, it does not provide authority to order a direct, personal remedy to the employee. On November 6, 1978, Congress enacted Section 210 of the Energy Reorganization Act (ERA). Section 210 (now Section 211) of the ERA prohibits discharge or other HIRD against any employee by an employer,² with respect to compensation, terms, conditions or privileges of employment, when such HIRD is prompted by the employee having engaged in certain "protected activities."

"Protected activities" have been broadly defined to include an employee's raising of a safety concern. The term "employee" also has been broadly interpreted. It has been held that former employees, as well as applicants for employment, may not be discriminated against for engaging in protected activities. Other cases clearly indicate that "blacklisting" is prohibited.

¹ See, e.g., 10 § CFR 50.7

² Section 211 defines the term “employer” as “(A) a licensee of the Commission or of an agreement State under section 274 of the Atomic Energy Act of 1954 (42 U.S.C. 2021); (B) an applicant for a license from the Commission or such an agreement State; (C) a contractor or subcontractor of such a licensee or applicant; and (D) a contractor or subcontractor of the Department of Energy that is indemnified by the Department under section 170 d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)), but such term shall not include any contractor or subcontractor covered by Executive Order No. 12344.” 42 U.S.C. § 5851(a)(2).
The Energy Policy Act of 1992 amended Section 210 of the ERA. Among the statutory changes made in 1992 include: (1) extending the period during which employees may file a complaint with the Department of Labor (DOL) from 30 to 180 days after the alleged HIRD occurred; (2) specifically confirming as protected activity concerns raised by employees directly to their employers (internal concerns); and (3) defining the term “employer” to include a licensee of the NRC or of an Agreement State, an applicant for a license from the NRC or from an Agreement State, a contractor or subcontractor of such a licensee or applicant and certain contractors or subcontractors of the DOE. The relevant section was changed from 210 to 211.

2.4 NRC Regulations on Employee Protection

Following enactment of Section 210, in 1982 the NRC issued regulations to prohibit HIRD against employees for raising concerns. The NRC’s employee protection regulations, which were promulgated under both the AEA, and Section 211 of the ERA, are contained in 10 CFR §§ 19.20, 30.7, 40.7, 50.7, 60.9, 61.9, 63.9, 70.7, 72.10 and 76.7. These regulations provide notice that HIRD against an employee for engaging in protected activities is prohibited, that civil penalties and other enforcement action may be taken against a licensee, an applicant for a license or a contractor or subcontractor of a licensee or applicant for violations of these regulations, and that NRC Form 3, describing the rights of employees, must be posted. The NRC usually considers HIRD to be a willful violation and thus considers such actions as potentially criminal.

2.5 The NRC’s Deliberate Misconduct Rules

In 1991, the NRC enacted a series of regulations entitled Deliberate Misconduct (e.g., 10 CFR § 50.5), providing for action directly against employees of organizations and employees of contractors or subcontractors of organizations (including a supplier or consultant) who engage in deliberate misconduct, including HIRD. The Rule, effective on September 16, 1991, was intended to provide additional deterrence against HIRD. Under the rule, supervisors and managers risk losing the ability to be employed in the nuclear industry for causing HIRD.

Historically, the NRC has, in most cases, issued licenses to organizations rather than individuals. Likewise, the NRC’s enforcement program has held the organization responsible not only for the conduct of operations, but also for the conduct of its employees, consultants, or contractors. Until the Deliberate Misconduct Rule, enforcement actions concerning persons who had caused violations of NRC requirements or otherwise had engaged in willful misconduct in connection with licensed activities consisted of actions against organizations. Frequently, these actions only indirectly involved an individual.

The Deliberate Misconduct Rule allows the NRC to apply the full range of enforcement sanctions, where warranted, against any person who engages in deliberate misconduct, or

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3 An Agreement State is a state that has signed an agreement with the NRC under which the state regulates the use of certain byproduct, source and small quantities of special nuclear material within that state, but not nuclear power plants.
deliberately submits materially incomplete or inaccurate information, as provided in the
Rule. This includes organizations, licensed individuals, organization employees,
contractors, subcontractors, and employees of contractors or subcontractors. The NRC
usually regards HIRD as a willful act and may consider criminal prosecution against
individuals.

2.6 **HOSTILE WORK ENVIRONMENT**

The ERA protects against retaliatory harassment that creates a hostile work environment.
The principles established by court decisions in sexual harassment cases have been
applied to Section 211 claims. To establish that prohibited harassment created a hostile
work environment, the complainant must demonstrate: (1) that he or she engaged in
protected activity; (2) that he or she suffered intentional harassment related to that
activity; (3) that the harassment was sufficiently severe or pervasive as to alter the
conditions of employment and to create an abusive working environment; and (4) that the
harassment would have detrimentally affected a reasonable person and did detrimentally
affect the complainant.\(^4\)

The ARB has adopted a negligence standard to determine whether an employer is liable
for its employees’ actions.\(^5\) Under this standard, an employer is liable for employees’
harassing conduct if the employer knew, or in the exercise of reasonable care should have
known, of the harassment and failed to take prompt remedial action.\(^6\) An employer who
fails to provide an adequate procedure for raising harassment complaints has not
exercised reasonable care to ensure that it receives notice of the harassment, and cannot
thereafter successfully defend on grounds that it did not receive actual notice.\(^7\) Instead,
the employer will be deemed to have constructive notice of the harassment.\(^8\) The
negligence standard underscores the importance of establishing and maintaining an
effective mechanism for reporting, investigating and resolving employee concerns, and
the importance of taking prompt, appropriate action to correct a hostile work
environment.

2.7 **MEMORANDUM OF UNDERSTANDING AND WORKING AGREEMENTS WITH THE DOL**

As a result of the DOL and NRC’s complementary responsibilities in the area of
employee protection, on October 25, 1982, the NRC and the DOL entered into a
Memorandum of Understanding (MOU). Under the MOU, the NRC and the DOL agreed
that administrative efficiency and sound enforcement policies would be maximized by
cooperation and the timely exchange of information. The MOU also clarifies the

(citations omitted).

\(^5\) *Id.* at 39.

\(^6\) *Id.*

\(^7\) *Id.*

\(^8\) *Id.*
respective roles of the DOL and the NRC in enforcing Section 211, i.e., the DOL provides a remedy to the complainant, and the NRC can take enforcement action against the employer, including issuance of a Notice of Violation, imposition of a civil penalty, and modification or suspension of a license.

Working agreements addressing points of contact and responsibilities for investigating complaints were developed in May 1983. These procedures for implementing the MOU were developed to ensure prompt notification, investigation, and follow-up of complaints involving alleged HIRD against employees who had contacted, or had attempted to contact, the NRC.

The MOU was revised in 1998\(^9\) to reflect the changes made in the Energy Policy Act of 1992 and to clarify that, when the NRC completes its investigation of a Section 211 complaint before OSHA has completed its investigation, the NRC will provide the results of its investigation to OSHA. In addition, the revised MOU provides that the NRC will inform persons alleging discrimination that only the DOL can provide a personal remedy and will give such persons the local address and phone number of OSHA.

2.8 ORGANIZATIONAL PERSPECTIVE

In recent years, there has been increased regulatory emphasis on better employee concerns management, especially when allegations are made. Such allegations can place any organization in the public spotlight, and by association, the entire nuclear utility industry may be perceived as being less than caring about employee concerns, and consequently, insensitive to safety.

It is incumbent upon plant management to ensure an ongoing SCWE, where problems are identified and corrective actions promptly implemented, while assuring concerned individuals protection from HIRD.

APPENDIX A

SAFETY CONSCIOUS WORK ENVIRONMENT

PURPOSE/SCOPE

Describes a Safety Conscious Work Environment (SCWE), the relationship between a Nuclear Safety Culture and a SCWE, the core characteristics of a SCWE, the role of the ECP in a SCWE, and Chilling Effects and Chilled Work Environments.

BACKGROUND

Nuclear Safety Culture

Each organization operating a nuclear energy facility is dedicated to the protection of the public health and safety and thus the maintenance of a strong Nuclear Safety Culture.

The International Nuclear Safety Advisory Group in INSAG-4 describes safety culture as follows:

"Safety culture is that assembly of characteristics and attitudes in organizations and individuals which establishes that, as an overriding priority, nuclear plant safety issues receive the attention warranted by their significance."

The Institute of Nuclear Power Operations (INPO) has also established criteria for evaluating the safety culture at a nuclear plant. (See Appendix S)

Relationship Between the Nuclear Safety Culture and a SCWE

A Nuclear Safety Culture contains many elements and parts, each with their own characteristics. A complete, or even a partial discussion of a Nuclear Safety Culture, is beyond the scope of this Toolbox.

A SCWE is a very important part of a Nuclear Safety Culture. The term SCWE was developed in a policy statement by the NRC and concerns one aspect of a Nuclear Safety Culture closely related to ECPs and the activities of the ECP staff. This Toolbox develops important characteristics and concepts relating to the establishment, maintenance, and assessment of SCWEs and provides tools to develop and maintain a SCWE.
The Role of the ECP in a SCWE

A SCWE should be established and maintained by each organization. Among the core characteristics of a SCWE is the existence of an alternative to the Corrective Action Program, i.e. an Employee Concerns Program (ECP). Thus, the ECP plays an important role in a SCWE. The various aspects of this supporting role are described in the appendices of this Toolbox. In many organizations, the ECP or the ECP staff are assigned other important functions relating to establishing, maintaining and assessing a SCWE. Those functions and tools to effectively conduct those functions are described in various sections of this Toolbox.

Nuclear Regulatory Commission Policies for a Safety Conscious Work Environment

The NRC has established expectations for a SCWE in their policy statement, "Freedom of Employees in the Nuclear Industry To Raise Safety Concerns Without Fear of Retaliation; Policy Statement," [Federal Register: May 14, 1996 (Volume 61, Number 94), Page 24336-24340]. The NRC states,

"The Nuclear Regulatory Commission's expectation that licensees and other employers subject to NRC authority will establish and maintain a safety-conscious work environment in which employees feel free to raise concerns both to their own management and the NRC without fear of retaliation."

Summary of General Policies

- The Nuclear Regulatory Commission (NRC) expects that licensees and other employers subject to NRC authority will establish and maintain a SCWE in which employees feel free to raise safety concerns, both to their management and to the NRC, without fear of retaliation.
- The responsibility for maintaining such an environment rests with each NRC licensee, as well as with contractors, subcontractors and employees in the nuclear industry.
- The NRC believes that the most effective improvements to the environment for raising concerns will come from within a licensee's organization (or the organization of the licensee's contractor) as communicated and demonstrated by licensee and contractor management.
- Management should recognize the value of effective processes for problem identification and resolution, understand the negative effect produced by the perception that employee concerns are unwelcome, and appreciate the importance of ensuring that multiple channels exist for raising concerns. Management must provide the leadership that nurtures and maintains the safety environment.
The NRC and every licensee cannot and will not tolerate retaliation against employees who attempt to carry out their responsibility to identify potential safety issues.

Summary of the Responsibility of Contractors

The NRC holds its licensees responsible for compliance with NRC requirements, even if licensees use contractors for products or services related to licensed activities. Thus, licensees are responsible for having their contractors maintain an environment in which contractor employees are free to raise concerns without fear of retaliation.

Summary of the Responsibilities of Employees

Workers in the nuclear industry also have responsibilities. As a general principle, the NRC normally expects employees in the nuclear industry to raise safety and compliance concerns directly to licensees, or indirectly to licensees through contractors, because licensees, and not the NRC, bear the primary responsibility for safe operation of nuclear facilities and safe use of nuclear materials. The licensee, and not the NRC, is usually in the best position and has the detailed knowledge of the specific operations and the resources to deal promptly and effectively with concerns raised by employees.

The NRC’s expectation that employees will normally raise safety concerns to their employers does not mean that employees may not come directly to the NRC. While not required, the NRC does expect that employees normally will have raised the issue with the licensee either prior to or contemporaneously with coming to the NRC.

"CHILLING EFFECT"

A work environment where the willingness of employees to report safety or quality concerns is inhibited, can be said to be a "Chilled Work Environment."

Some actions intentionally or unintentionally taken by management, managers, supervisors, contractors or employees may be viewed as inhibiting the willingness of employees to report safety or quality concerns. Such action may have a “chilling effect” on employees.

ATTACHMENTS

None.
APPENDIX B

COMPANY SAFETY CONSCIOUS WORK ENVIRONMENT POLICY STATEMENT

PURPOSE/SCOPE

Describes the characteristics of policy statements on establishing and maintaining a Safety Conscious Work Environment (SCWE) and provides examples.

BACKGROUND

Each company should have a policy statement from the chief nuclear officer who establishes its SCWE. The policy should be disseminated broadly to all employees as a way to clarify management’s expectations and reinforce each employee’s responsibility to maintain plant safety in an SCWE.

TYPICAL POLICY CONTENTS

The policy should emphasize the executive and senior management commitment to ensuring all licensee and contractor employees are free, and feel free, to express concerns to management, whether safety-related or not, without fear of reprisal. The policy should communicate management’s commitment to willingly accept all concerns and suggestions and to addressing them promptly and properly.

The policy should explicitly state that harassment, intimidation, retribution, or discrimination (HIRD) will not be tolerated.

In establishing the vision and expectations for its SCWE, the company policy should explain:

- The foundation and necessary elements of free and open communications among all levels of management and work force
- The company’s open-door policy to receive concerns
- The individual’s workplace right to participate in protected activities
- The freedom of any individual to raise concerns to external entities
- The existence and purpose of the primary and alternative methods of reporting deficiencies or raising concerns
ATTACHMENTS

1. Sample Policy Statement No. 1, Resolution of Nuclear Safety Concern
2. Sample Policy Statement No. 2, Nuclear Safety Issues Program
SAMPLE POLICY STATEMENT NO. 1

RESOLUTION OF NUCLEAR SAFETY CONCERN

PURPOSE

This Directive Describes the Company’s Policy Regarding:

- A Safety Conscious Work Environment -- one where there is a free flow of safety information. The expectation is to achieve and maintain an environment in which Concerned Individuals (CIs) feel free to raise their issues through the chain of command and are praised for so doing.

- The Employee Concerns Program (ECP)

POLICIES

Safety Conscious Work Environment

- Utility A is committed to safe plant operation and to establishing a safety conscious work environment in which CIs feel free to raise concerns both to the company and to the Nuclear Regulatory Commission (NRC) without fear of harassment, intimidation, retaliation and discrimination (HIRD). Thus, our policy is to establish and maintain effective lines of communication for nuclear safety concerns such that CIs are encouraged to raise concerns and that such concerns are promptly reviewed, properly prioritized, and resolved with timely feedback to CIs.

- Because the company bears the primary responsibility for safe operation of Plant No. 1, we expect CIs to raise nuclear safety, quality and regulatory compliance concerns preferably to their chain of command using the normal problem reporting processes, or alternately to the ECP for confidentiality or similar reason.

- Although CIs are expected to raise nuclear safety concerns through their chain of command, we encourage CIs to go to the NRC any time they believe the agency should be aware of a nuclear safety, quality or regulatory non-compliance situation.

- Since CIs also have a responsibility for maintaining a safe environment, we expect, but do not require, that CIs will normally have raised the concern with the company either prior to or contemporaneously with going to the NRC.
To ensure plant safety, all CIs should cooperate in any company review or investigation of a nuclear safety concern. If a CI refuses to cooperate in a review or investigation of a nuclear safety concern, such that we are unable to identify and address the nuclear safety concern, we shall notify the NRC of the refusal.

If a CI has notified the NRC or another federal authority of a nuclear safety concern, the individual shall not be compelled to reveal the nuclear safety concern to the company, although all are encouraged to do so.

All workers, supervisors and managers (both company and contractor employees) are responsible for ensuring an atmosphere exists that encourages CIs to bring their nuclear safety concerns to management, the ECP, or the NRC without fear of HIRD.

The Employee Concerns Program

The ECP provides a means, independent of the CI’s chain of command, to report, investigate, and resolve concerns.

The identity of a CI submitting a nuclear safety concern to the ECP will be kept confidential. The identity of an individual submitting a nuclear safety concern may be released within the company only to those employees with a specific “need-to-know” necessary to resolve the concern. The identity of an individual submitting a nuclear safety concern may be released outside of the company only as necessary to resolve an overriding nuclear safety issue, if ordered by a court, or if necessary to respond to a request by a federal or state agency.

Concerns may be submitted anonymously. It is not appropriate to try to identify such an individual unless this information is essential to the resolution of the concern.

If a CI raises a nuclear safety concern, that individual must be treated in the same manner as before the issue was raised and in consonance with the treatment of all workers, whether CIs or not. This includes, but is not limited to, work schedules, overtime, work assignments, promotions, and performance appraisals.

We are committed to maintaining a workplace free of HIRD. Effects of HIRD include, but are not limited to, creating an intimidating or hostile work environment through unwelcome conduct, whether verbal, physical, or visual. HIRD can include anything associated with the reporting of concerns or influenced by an individual’s race, gender, religion, age, national origins, disability or any other characteristic protected by federal, state or local law. The company will vigorously pursue complaints of any policy violations, and will not tolerate such behavior against persons who have raised potential safety or quality concerns or allegations of HIRD, specifically:
Failure on the part of a company employee to comply with this policy may result in disciplinary action, up to and including termination.

Failure on the part of a contractor or sub-contractor to comply with this policy in dealing with its own CIs may result in termination of the contract and/or denial of site access.

A CI’s chain of command is responsible for the investigation and resolution of nuclear safety concerns identified.
SAMPLE POLICY STATEMENT NO. 2

NUCLEAR SAFETY ISSUES PROGRAM

PURPOSE

The purpose of this directive is to describe the Utility B’s policy regarding the expectation of achieving and maintaining an environment in which everyone feels free to raise the issues through the chain of command or, alternatively, through the Employee Concerns Program (ECP) or the Nuclear Regulatory Commission (NRC).

POLICY

Utility B is dedicated to maintaining a workplace culture within which management encourages, and all employees participate in, an aggressive, proactive approach to the identification, reporting, and resolution of nuclear safety issues at the earliest possible time, without fear of any reprisal. Such employee participation is necessary for the company to fulfill its obligations to conduct its licensed activities safely.

All personnel are required to advise the company of conditions perceived to be nuclear safety issues that may not have been adequately addressed.

If employees are not satisfied with the response to the nuclear safety issues received from their chain of command, or if the individual feels it is in any way inappropriate to bring the issue to the attention of chain of command, the issue should be brought to the attention of management using this document.

The identity of employees reporting nuclear safety issues will be kept in confidence to the extent possible during the investigation and resolution of nuclear safety issues. It should be recognized the nature of some issues might be such that complete confidentiality is not possible. However, if any company or contractor employee becomes aware of, or is involved in an investigation by ECP, they are required to maintain strict confidentiality. They should not discuss their knowledge nor disclose any information regarding their discussions with anyone except those with a "need to know" as specified in company procedure.

Employees can expect a prompt response to, and feedback on, any nuclear safety issue they identify. Anonymous nuclear safety issues will be investigated in the same manner as if the identity of the individual were known, and the results of the investigation will be maintained on file.

The company will not tolerate harassment, intimidation, retaliation, and discrimination (HIRD) against employees who communicate nuclear safety issues. Employees should be protected from reprisal for actions involving the identification and resolution of nuclear safety issues. This includes any action that could be considered as demeaning toward the employee raising a concern.
Each employee covered by this policy has the right to contact the NRC or other appropriate state or federal entity at any time to discuss a nuclear safety issue. Notices describing employee rights are posted at multiple locations throughout the company. The company recognizes and respects each employee's prerogative to contact the NRC and other governmental entities. Nothing in this policy is intended to interfere, or should be construed as interfering, with this right; nor is there any requirement to notify the company that an employee contacted the NRC.

Personnel with unrestricted access to the protected area should receive initial and periodic refresher training in the purpose, scope, and reporting processes of this program.

All managers, supervisors, leads and ECP staff serve as representatives of the chief nuclear officer. Each should be qualified for the assignment and must be appropriately trained in function and responsibilities. Since all are responsible for responding to employee concerns, they shall be trained in the requirements of this program and applicable federal regulations.

ECP staff is trained to conduct thorough investigations into concerns raised by employees. Such personnel should possess skills to ensure appropriate interviewing and questioning methods are employed and to thoroughly investigate, document, and track issues.
APPENDIX C

GENERAL EMPLOYEE CONCERNS PROGRAM ELEMENTS

PURPOSE/SCOPE

This appendix identifies the elements considered necessary for an effective Employee Concerns Program (ECP). The attachments provide examples in support of these elements as well as example of additional elements not discussed in the body of this appendix.

BACKGROUND

An effective ECP provides an alternative-reporting path that is separate and independent of the line-management chain for employees to report safety concerns, and concerns dealing with harassment, intimidation, retaliation, or discrimination (HIRD) for having engaged in protected activity.

RESPONSIBILITIES

Chief Executive Officer or Chief Nuclear Officer is responsible for establishing the ECP. The ECP manager is responsible for the overall administration of the ECP following approved program polices and/or procedures. ECP assigned staff is responsible to conduct the investigation process in accordance with the program requirements.

CORE ATTRIBUTES OF AN ECP PROCESSES

All nuclear licensees have developed an employee concerns program or process (ECP) to permit individuals to raise issues outside an individual’s supervisory or management chain. Listed below are the core attributes of an effective nuclear industry ECP.

Separate from Other Programs/Processes

- ECP provides an alternative avenue to identify conditions potentially adverse to safety.

Independent from Line Management

- ECP "administrator" has authority, responsibility and opportunity to report to senior management.

Administered by Competent Personnel

- Expertise of personnel responsible for ECP is established through education, training or experience, or combination thereof.
Appropriate Levels of Confidentiality

- ECP includes measures to treat certain information as confidential, to the extent practical under the circumstances (i.e. confidential treatment may have limitations if, for example, the concern requires investigation of a harassment, intimidation, retaliation or discrimination allegation or, if in performing the investigation, the identity of the individual must be revealed or necessarily will be revealed because of the nature of the inquiry).

Defined Scope

- ECP is designed to include/address safety, technical and compliance issues and allegations of discrimination for engaging in protected activity. ECP nevertheless is receptive to concerns from all personnel, respectfully directing individuals who express concerns not within the ECP’s scope to the appropriate individual or discipline for resolution of the concern.

Empowered to Assign Priority to and Facilitate Resolution of Issues

- ECP screens issues for safety or other significance; takes other action as is necessary to facilitate resolution (e.g., initiating an investigation and providing a mechanism for feedback to the individual).

Empowered to Initiate or Conduct Investigations/Reviews

- Investigations or reviews are initiated, conducted and completed on a timely basis and are sufficiently thorough to permit management to make an informed decision regarding action to address the concern.

Responsible for Providing Feedback

- Feedback should include updates to concerned individual and, if concern involves a harassment/retaliation claim, a final report to individual sufficient to notify individual of the basis for management’s conclusions regarding the concern.

Subject to Self Assessment or Independent Review

- Evaluations are performed periodically to gauge overall effectiveness of ECP and possible areas for improvement.

Responsible for Identifying and Reporting Trends

- ECP has formal (e.g., use of detailed written performance indicators) or informal (e.g., evaluation by ECP administrator) mechanisms to identify trends; conclusions from trending review are reported to management.

Required to Document Issues

- ECP employs a formal or informal method to record concerns and their disposition.

Receptive to Concerns from All Personnel

- Individuals who express concerns not within ECP’s scope are respectfully treated and directed to appropriate individual or department to facilitate resolution of concern.
Visible
• Employees are aware of the program’s existence; licensee notifies workforce of or advertises ways to contact ECP; senior management action designed to enhance ECP visibility and credibility.

Accountable
• Management expectations are well understood by ECP personnel and incorporated in program/process implementation.

ADDITIONAL PROGRAM ELEMENTS

An ECP program/process may include the following:

- All employees receive initial and periodic training on the fundamentals of an SCWE, the role of ECP and its availability as an alternative reporting method.
- Management receives additional training on their responsibility to maintain an environment that encourages free and open communication of concerns to management.
- Conducts surveys of exiting employees to ensure there are no unresolved safety concerns.
- Provides an appeals process in the event the CI is dissatisfied with the results of the investigation.
- ECP staff provides guidance to managers faced with addressing concerns brought to them by subordinates and employees who are unsure how to raise a concern or to whom to raise it.

ATTACHMENTS

1. SAMPLE STANDARDS
2. SAMPLE POLICY
3. SAMPLE PROCEDURE NO. 2
4. SAMPLE POLICY NO. 2
SAMPLE STANDARDS

STANDARDS

If at any time during the ECP process evidence or allegations of any of the following are found, the Employee Concerns Representative (ECR) promptly notifies ECP Management:

- Nuclear safety concerns
- Industrial safety concerns
- Environmental compliance concerns
- Operability and reportability concerns
- Physical violence
- Wrongdoing
- Criminal activity or
- Harassment, Intimidation, Retaliation or Discrimination (HIRD)

If at any time during the ECP process an Operability/Reportability (O/R) concern is suspected, the ECR shall initiate a Corrective Action Program (CAP) entry to ensure the appropriate operability/reportability screenings are performed. A copy of the CAP report and any operability/reportability screening shall be retained by the ECR and placed in the case file.

As a matter of general policy, the ECP will not investigate concerns raised by a Concerned Individual (CI) if the events, which form the basis for the complaint, ended more than two years earlier. If a person raises a concern about events that occurred more than two years before the CI submitted the concern to the ECP, the ECP will investigate the concern if any of the following are applicable:

- The concern raises allegations about deficiencies with current plant conditions or circumstances
- The concern raises safety significant allegations about persons who are current employees that have not been addressed previously
- Concerns raised about events more than two years old will be processed normally and a decision to investigate will be made at triage
While all concerns are important, special attention and documentation must be given to any situation in which an individual may have been discriminated against because of engagement in protected activity (e.g., potential 10 CFR 50.7, Title VII, OSHA, Environmental, Transportation, or other violations). In any situation where such potential violations are suspected or alleged, an investigation will be initiated promptly. If appropriate, a chilling effect evaluation will also be initiated at the same time.

The ECR responsible for the concern shall maintain a chronology throughout the ECP process for investigations and non-investigative resolutions.

Throughout the ECP process, an ECR responsible for the concern will attempt to make contact with the CI at least every 15 days in order to keep the CI informed of progress, answer any questions and generally keep the CI involved in the process. The ECR shall document these contacts (or attempted contacts) in the chronology.

The ECP database shall be kept updated throughout the process.

Throughout the ECP process, any action assigned to an individual by title shall be construed to mean that individual or his/her designee.

Access to ECP files is strictly controlled. ECP management will administer any access. Releases of copies of documents to external agencies will normally be completed only through either the appropriate company attorney(s) or the Licensing Department.

Sometimes, an ECP concern becomes the subject of legal actions, which may be initiated by the CI or by other organizations. The fact that legal action is being contemplated or taken will not in and of itself cause the ECP investigation effort to stop, although some investigative restrictions might occur (e.g., the requirement to contact a concerned individual through an attorney). When it becomes known that legal action associated with a concern is being taken, the ECR, ECP management and company attorney(s) will determine what investigation actions are appropriate. The ECR will note them in the chronology.

If the ECP receives an allegation that a person has engaged in improper conduct, the person accused of the improper conduct (subject) shall be treated during the investigation in accordance with the following principles:

- The ECR shall keep an open mind and not conclude that subject has engaged in improper conduct until the investigation is complete and all the relevant evidence has been received and evaluated.
- The ECR will treat the subject with respect at all times during the investigation.
- The ECR will determine whether the allegation is substantiated or not, based exclusively upon the facts developed during the investigation.
- At some appropriate point during the investigation (to be determined by the ECR), the ECR will conduct an interview of the subject. During the interview, the ECR will, at a minimum:
Advise the subject of the specific concerns under investigation and the basis for the charges

Provide the subject with an opportunity to respond to the concerns

Advise the subject against taking action that may impede the investigation and resolution process and/or appear as intervening

If the investigation yields new evidence which arises after the initial interview of the subject, the ECR will conduct a second interview (or more, if necessary) to provide the subject with the opportunity to address the new information

At the conclusion of the investigation, the ECR will advise the subject of the results of the investigation

Normally, investigations require interviews of persons who may have information relative to the concerns under investigation. In addition, all interviews should implement the following guidelines:

- Interview questions and topics should be prepared in advance and recorded on appropriate forms.

- The interviewee will be treated with respect, and the interview will be conducted in a private location.

- Good judgment will determine if the interviewee can be informed of the general nature of the concern under investigation. If this is determined necessary, do so towards the end of the interview, therefore avoiding interjecting any bias with regards to the interviewee.

- Advise the interviewee that answers provided would be kept private to the extent possible, but that confidentiality is not assured and the substance of the interview may be released, including the identity of the interviewee, under certain circumstances.

- The interviewee will be informed of the company policy that expects full cooperation with investigative agencies, but the ECP has no legal authority to compel testimony.

- The interviewee will be asked to keep the questions asked and answers provided private and not to take any action that may later appear as intervening.

- Care must be taken by the interviewer to avoid appearing as “leading” or “agreeing” with the interviewee’s statements.
- Open-ended questions are recognized as the best method to “invite the interviewee” to participate in the interview by sharing information.

- When interviewee opinions are offered or needed, the ECR will ask what facts are known by the interviewee that formulates the opinion.

- Questions will be phrased so the identity of the CI is not revealed.

- Questions will be phrased so the identity of the subject is not revealed. If this is not possible, the interviewee will be told an accusation does not mean culpability.

- Revealing a CI or accused person’s name is done only when deemed necessary to resolve the concern.

- Any oral statement notes shall be transcribed or summarized and the ECR should obtain the interviewee’s concurrence, additional information or clarification.

- Interviewees will be given an opportunity to review and acknowledge this review of interview notes.

External ECP investigations initiated and overseen by ECP will comply with the requirements of this document.

With regards to timelines, ECP strives to conduct a triage of all intakes within five working days of the intake and complete all investigations within a working average of 45 days of intake.

Plant No. 1 personnel who receive briefings on concern statements, resolution content, or CI names, who have not waived confidentiality shall be briefed on their responsibility to the information and acknowledge such briefing in writing.

Corrective action effectiveness reviews are required following all substantiated potential ERA HIRD, Title VII protected class concerns, and other cases whose resolution included an Organizational Development plan.
SAMPLE POLICY

POLICIES

Safety Conscious Work Environment:

- Utility A is committed to the safe operation of Plant #1 and to establishing a Safety Conscious Work Environment (SCWE) in which workers feel free to raise concerns both to Utility A and the Nuclear Regulatory Commission (NRC) without fear of retaliation. Thus, Utility A’s policy is to establish and maintain effective lines of communication for safety concerns such that workers are encouraged to raise concerns and that such concerns are promptly reviewed, properly prioritized, and resolved with timely feedback to workers.

Free Flow of Safety Information

- Because Utility A bears the primary responsibility for safe operation of Plant #1, Utility A expects workers to raise safety and compliance concerns to their chain of command, by using the Action Request process, or alternatively to the Employee Concerns Program (ECP). Contract workers may raise concerns to Utility A or their employer.

- Utility A’s expectation that workers will raise safety concerns to their chain of command, by using the Corrective Action Program Request process or to the ECP Program, does not mean that workers may not go directly to the NRC. Utility A encourages workers to go to the NRC at any time they believe the NRC should be aware of their concerns.

- All supervisors and managers (Utility A and contractor) are responsible for ensuring an atmosphere exists that encourages workers to raise safety concerns using the Corrective Action Program, to them, to the ECP Program, or to the NRC without fear of HIRD.

Employee Concerns Program

- The ECP Program provides an alternative means, independent of the worker's chain of command, to report, investigate, and resolve safety concerns.

- If a worker raises a safety concern, informs the chain of command that they intend to raise a concern or to contact the ECP Program or the NRC, or if the chain of command believes that a worker has already contacted the ECP Program or the NRC or raised a concern, then the chain of command must treat the worker in the same manner as before and consistent with the treatment of other workers. This includes, but is not limited to, work schedules, overtime, work assignments, promotions, and performance appraisals.
Utility A will not tolerate HIRD against workers who identify safety concerns or the establishment of a hostile work environment. Utility A will investigate worker complaints of HIRD or hostile work environments.

Failure on the part of a contractor or sub-contractor to comply with this policy in dealing with its own workers may result in adverse contractual actions up to and including termination of the contract and/or denial of site access.

To ensure plant safety, all workers shall cooperate in any Company review or investigation of a safety concern. If a worker refuses to cooperate in a review or investigation of a safety concern, such that Utility A is unable to identify and address the safety concern, Utility A shall notify the NRC.

A worker's chain of command is responsible for the investigation and resolution of safety concerns identified by a worker to the worker's chain of command.

The ECP Program is responsible for the investigation and resolution of safety concerns identified to the ECP Program.

Contacts with either the NRC or the ECP Program may be made on Utility A or contractor time, consistent with existing requirements for coordination of absence from work locations.

Unless directed to do so by the ECP Program, workers are not authorized to use Utility A or contractor time to investigate and resolve concerns that have been identified to the ECP Program.

If workers wish to investigate concerns they have already raised, they may, on their own time, have reasonable access to regularly available sources of information (not including confidential records).

The Manager _____ is responsible for the management of the ECP Program, including investigation of reported safety concerns and periodic program reports to the Vice President, _______.

NOTE: The ECP Program Manager may, for a specific concern, determine that in his/her judgment it is inappropriate to inform the Manager _____ or designee or the Vice President, ________ of a concern. In such cases, the ECP Program Manager may report the concern to the another nuclear Vice President, Chief Nuclear Officer or to the Senior Vice President and General Counsel, and shall follow their direction on a course of action.
SAMPLE PROCEDURE NO. 1

PURPOSE

To describe the method for reporting concerns, either openly or anonymously, to the Employee Concerns Program (ECP).

To describe the responsibilities of the various subprograms comprising the ECP and the protection afforded to the Concerned Individual who initiated the report.

SCOPE

Program applies to both Utility B and contract employees who provide services to support the safe and reliable operation of Plant No. 1.

The program applies primarily to nuclear quality and nuclear safety concerns that involve the design, operation, maintenance, management or construction of the Plant No. 1, and the programs, procedures and processes in support of their operations.

In addition, the program may be used to report concerns related to security, fitness for duty, personnel issues, legal issues and industrial safety.

RESPONSIBILITIES

President and Chief Nuclear Officer (CNO) has overall responsibility for the management direction of the ECP and is responsible for:

- Reviewing the effectiveness of program implementation.

- Resolving concerns involving the Site Vice President or the ECP itself.

Site Vice President is responsible for the implementation and performance of the ECP.

Manager - Employee Concerns is responsible for:

- Coordinating ECP activities and ensuring concerns are appropriately and promptly addressed.

- Ensuring that all concerns are treated confidentially and every reasonable effort is taken to protect the identity of the Concerned Individual (CI) and any confidential information.

- Reviewing the concern for applicability to the Corrective Action Program (CAP).

- Evaluating and resolving employee concerns pertaining to safety, nuclear quality, harassment, intimidation, retaliation or discrimination (HIRD) related to protected activities.
Managing employee concerns that are not submitted directly to a specific concern resolution program (Security, Human Resources, Medical, Loss Prevention) and:

- With the CI's consent, transferring the concern to the proper program.
- When requested by the CI, evaluating and resolving the concern rather than transferring to another concern resolution program.
- Providing a concern resolution response to the CI unless requested otherwise.
- Ensuring effective employee training on the ECP.
- Coordinating, trending and evaluating program performance indicators.
- Presenting performance indicators to Utility B management.

Legal is available for investigating concerns when an individual is uncomfortable with the independence of the ECP.

Medical Director is responsible for providing support for concerns related to the Fitness for Duty Program.

Manager - Human Resources is responsible for providing support for concerns related to human resources activities.

Program Manager - Loss Control and Issuance Programs is responsible for:

- Evaluating and coordinating the resolution of employee concerns reported in accordance with the Nuclear Safety Manual.
- Providing support for concerns related to industrial safety and health activities.

Manager - Nuclear Security is responsible for:

- Investigating security or wrongdoing concerns that are raised directly to the Security staff.
- Providing support for concerns related to security.

Utility B Management is responsible for:

- Addressing and resolving employee's concerns under their supervision and those assigned in accordance with this procedure such that:
  - The health and safety of Utility B personnel and the public is protected.
Policies and procedures are followed, without discrimination, harassment or intimidation of the CI.

- Evaluating and resolving employee concerns reported in accordance with the CAP.

- Ensuring employees under their supervision are aware of the various methods available for raising concerns.

- Immediately notifying the Manager - Employee Concerns of any allegations relating to nuclear safety, nuclear quality or HIRD related to protected activities.

- Ensuring that employees released from service by Utility B receive an exit interview in accordance with the Personnel Out-processing Procedure.

Utility B Employees and Contractors (working at or providing services to Plant No. 1) are responsible for reporting any concern that may affect the design, operation, safety, maintenance, management and/or construction of the Plant No. 1. Concerns should be reported to either your supervisor, other Utility B management, the CAP, the ECP or the NRC.

**PROCESS DESCRIPTION**

- It is the expectation of Utility B management that personnel discuss any concerns that may affect the safe operation of Plant No. 1 with their immediate supervisor.

- Utility B management is expected to encourage concern identification, and promptly and effectively deal with concerns brought to their attention.

- Utility B management shall not harass, intimidate, retaliate or discriminate against any employee for reporting a concern.

- Personnel should feel free to take their concern to higher levels of management at any time. Supervisors are expected to encourage open discussions.

- Various processes are available for personnel to raise concerns, such as:
  - Corrective Action Process
  - Differing Professional Opinion
  - Quality Assurance

The ECP may be used, when the individual:
Is not clear what process is appropriate.

Desires confidentiality or anonymity.

Has a concern where HIRD related to protected activities is involved.

For whatever reason, is uncomfortable using normal avenues through Utility B management to resolve the concern.

The ECP will take every reasonable measure to ensure the confidentiality of the CI.

**PROCEDURE**

**Reporting Concerns**

**Concerned Individuals:**

- Are encouraged to raise concerns with their immediate supervisor or manager for resolution.

- May raise concerns directly to other Utility B management or the appropriate concern resolution program.

- When unsure of the appropriate concern resolution program or for whatever reason do not desire to take the concern to one of the available concern resolution programs, may submit their concern directly to the Manager - Employee Concerns.

- May refer questions regarding their rights or responsibilities to their supervisor or the Manager - Employee Concerns at any time, including during the course of an investigation.

- May pursue their concern until it is adequately addressed, without fear of HIRD.

- Who believe that HIRD has occurred due to reporting a concern, should inform their supervisor, other Utility B management or the Manager - Employee Concerns.

- Supervisors should be responsive to concerns brought to their attention and always inform the employee of the concern evaluation results.

- Concerns that are conditions adverse to quality will be documented in accordance with the CAP.

- Any individual may bring a nuclear safety or quality concern to the ECP by:
Discussing the concern during a personal interview with the Manager - Employee Concerns or Employee Concerns Staff.

Mailing a concern to the Employee Concerns Program.

Placing a written concern in the Employee Concerns locked drop box (Security Center's front vestibule).

Calling the Manager - Employee Concerns or Employee Concerns staff.

Leaving a voice mail on the ECP "Hot Line." This extension is available 24 hours per day and may be reached toll free.

Leaving a voice mail for the Legal Business Unit (LBU) site representative. This extension is available 24 hours per day.

Discussing the concern during a random personal interview of station personnel or during an exit interview when terminating employment.

Faxing a concern to the ECP.

The ECP also offers legal support as an option for raising a concern, in the event an individual is uncomfortable with the independence of the ECP. Individuals may contact the LBU through their site representative.

Protecting Confidentiality and Employee Anonymity

While protecting an individual's identity and the confidentiality of information is an ECP objective and desired characteristic in performing professional evaluations or investigations, it should be recognized that the nature of some concerns and the subject matter or history, may reveal an individual's identity or lead to the disclosure of confidential information.

Concerns submitted to the ECP shall be handled in a confidential manner, and information associated with the concern, including the CI's identity, shall only be shared on a need-to-know basis as necessary to investigate, evaluate and resolve the concern.

Employees are cautioned about their role in meeting these objectives and the need to restrict discussions of their concern with others if they desire to preserve anonymity and/or confidentiality of information.

Furthermore, employees are encouraged to discuss any circumstances that may be critical in meeting these objectives with an ECP representative, so that these circumstances may be considered in completing the investigation and evaluation.
The ECP is independent of the line organizations including those reporting to the Site Vice President. The ECP may be used to investigate and resolve concerns within departments reporting to the Site Vice President up through the level of department manager.

The Manager - Employee Concerns may be contacted directly or by using any of the mechanisms defined below to report any type of concern.

Employees may submit any type of concern to the ECP on an anonymous basis (e.g., without disclosure of the individual's name) either by:

- Mailing the concern to the Manager - Employee Concerns
- Placing the concern in the ECP drop box
- Calling the Manager - Employee Concerns or Employee Concern staff
- Calling the ECP hotline extension
- FAX

The status of the evaluation and/or resolution for the concern may be obtained by calling the Manager - Employee Concerns or the assigned ECP staff.

Investigation and Evaluation of Concerns

Each concern submitted to the ECP shall be investigated and evaluated using appropriate techniques.

- If appropriate, the ECP staff may use other Utility B organizations or outside resources to assist in the investigation and evaluation.
- Documentation and control of files and records should be maintained in accordance with ECP Administrative Standards.
- The ECP staff shall ensure the CI is provided timely feedback regarding the status of his/her concern.

The concern resolution program (ECP, Security, Medical, Human Resources and Loss Prevention) receiving the concern shall determine if it is within their scope of responsibility.

When a concern is determined to be outside the program's scope of responsibility, the concern shall be referred to the appropriate program.

The ECP staff shall act as an advocate for the resolution of the employee's concern, ensuring the concern is pursued until resolution.
When an employee reports a concern involving multiple subparts that require investigation and evaluation efforts by more than one concern resolution program, the ECP staff will coordinate with those groups to determine which program should act as the lead.

The ECP staff will ensure that all aspects of the employee's concern have been brought to a logical conclusion.

Reporting Results to the Concerned Individual

- The CI will not be given information that includes disciplinary actions or sensitive personal matters affecting other employees, confidential, proprietary, or privileged information.

- The CI will be provided timely feedback regarding their concern status and at any time, may obtain the results or current status of their concern by calling the Manager - Employee Concerns or the assigned ECP staff.

- For anonymous concerns, the CI may obtain results by calling ECP staff and referring to the pre-assigned concern form number (if the concern was submitted by form), or by describing the concern.

- Investigation and evaluation results should be promptly reported to the CI, unless the CI specifically requests otherwise.

Exit Process

- Departing Utility B employees and contractors who have worked at nuclear facilities, shall be exited in accordance with Personnel Out-processing Procedure.

Program Effectiveness

- The Manager - Employee Concerns will:
  - Coordinate the collection and analysis of information used to measure ECP effectiveness
  - Develop ECP promotional, communication, and training materials

- The Manager - Employee Concerns may use selected concerns, results of investigations or evaluations, and conclusions as program feedback (maintaining confidentiality where appropriate) when they are determined to have value in communicating Utility B policies, procedures, practices and performance expectations.

- The Manager - Employee Concerns will provide periodic reports to the Site Vice President.
The President and Chief Nuclear Officer will determine the adequacy of ECP performance.

Reporting Concerns to the Nuclear Regulatory Commission

- Any individual may contact the NRC with a concern or complaint at any time, and will not be harassed, intimidated, retaliated or discriminated against for doing so.

- The Concerned Individual may communicate directly with the NRC by calling collect or requesting a meeting with any of the following:
  - Resident NRC inspectors
  - NRC Regional Office (Consult the posted NRC Form 3 for contact Information.)
  - NRC Operations Center Office (Consult the posted NRC Form 3 for contact Information.)

RECORDS

ECP records are maintained per department procedures.

DEFINITIONS

**Advocate** - An individual, within the ECP or concern resolution program, assigned to resolve the concern. His/her responsibility is to ensure the employee's concern is properly understood and presented from the employee's perspective, and is resolved in a prompt, confidential, and objective manner.

**Concern** - An assertion by an individual that a problem exists with some aspect of the design, operation, safety maintenance, management, and/or construction of Plant No. 1, or programs, procedures or processes in support of its safe and reliable operation.

**Concerned Individual** - Any individual, providing services in support of Plant No. 1, who raises a concern through his line management, the QA Department, the Corrective Action Process, the Employee Concerns Program or the NRC.

**Discrimination** - Any adverse employment action (e.g., discharge, discipline, poor performance evaluation, failure to provide promotions or raises, exclusion from job opportunities, etc.) initiated against an individual for reasons other than job performance. Treating one person or class of persons differently than another when the reason for that different treatment is because of gender, race, color, religion, national origin, age, disability or participation in protected activities.

**Employee** - With regard to this procedure, "employee" refers to Utility B and contract personnel who provide services in support of Plant No. 1.
Grievance - A process that provides represented employees a formal path of communication and appeal either with or beyond the level of the immediate supervisor regarding Utility B employment-related concerns.

Harassment and Intimidation - Actions (words, gestures, graphics, pictures, offensive language, treating one differently, taunting, etc.) that offend, discomfort, or demean an employee or create a hostile work environment or compel an employee not to perform duties and responsibilities or to refrain from engaging in Protected Activities.

Nuclear Safety or Nuclear Quality Concern - A concern that alleges a problem with the design, operation, safety, maintenance, management and/or construction of the Plant No. 1, that could adversely affect the safe operation of the plants, or the ability of their systems, structures, or components to perform their intended safety functions. Allegations of intimidation, harassment, discrimination or retaliation based on engaging in Protected Activities are considered nuclear safety concerns.

Protected Activities - Activities protected under Section 211 of the Energy Reorganization Act of 1974 and NRC Regulation 10 CFR 50.7. These activities include an employee:

- Notifying his/her employer, supervisor, Utility B management, the ECP, or the NRC of an alleged violation of NRC requirements, or a nuclear safety/nuclear quality concern

- Refusing to engage in any practice made unlawful by the Energy Reorganization Act of 1974 or the Atomic Energy Act of 1954, if the employee has identified the alleged violation to his/her employer

- Testifying before Congress or at any Federal or State proceeding regarding any provision of the Energy Reorganization Act of 1974 or the Atomic Act of 1954

- Providing the NRC with information about possible violations of NRC requirements

- Requesting NRC action

- Testifying in any NRC or Department of Labor (DOL) proceeding

- Commencing or participating in a proceeding under Section 211 of the Energy Reorganization Act of 1974

Retaliation - An action that has the effect of punishing a person for having engaged in protected activities.

Sexual Harassment - Unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a gender-based nature when such conduct has the purpose or effect of interfering with an individual's work performance, or creating a hostile, intimidating, or offensive work environment.
SAMPLE POLICY NO. 2

PURPOSE

The purpose of the policy is to set forth the commitment of the management of Utility C nuclear organization for the operation of its nuclear units in a safe, reliable and efficient manner and to prescribe the requirements for the establishment and administration of the Employee Concerns Program (ECP). The mission of the ECP is to support a Safety Conscious Work Environment (SCWE) by providing employees and contractors with an alternate means for identifying and resolving concerns.

REQUIREMENTS

None

REFERENCES

Section 211 of the Energy Reorganization Act
10 CFR Part 50.7

DEFINITIONS

Retaliation Concern - Any complaint, allegation or other information suggesting that a worker at one of Utility C nuclear sites has been retaliated against for having been involved in any protected activity.

Nuclear Safety/Quality Concern - A concern regarding the quality level achieved or maintained in a design, modification, maintenance or operational process/activity which, if unacceptable, could result in a nuclear unit being operated either in violation of regulatory Utility C’s requirements or in a manner which may be detrimental to the health and safety of the public.

Industrial Safety Concern - A concern related to the health and well being of employees not related to nuclear safety. If a concern could impact nuclear safety, the concern is defined as a nuclear safety concern.

Human Resources Concern - A concern regarding an undue or unwarranted action or threat of action against an employee, which may include sexual harassment, bodily harm, loss of employment, privileges, benefits or other acts of discrimination or retaliation.

Security/Fitness for Duty Concern - A concern related to employee misconduct, Continued Behavior Observation Program, falsification of documents, misuse of company property, and possible violation of federal or state law.
Management Related Concern - A concern related to policy, management duties, policy implementation, work schedules and other general issues, but not related to any other definition in this section.

Contractor - Includes employees of contractors and subcontractors of Utility C.

Protected Activity - Includes, but is not limited to, an activity in which an employee:

- Notifies their employer of an alleged violation of NRC requirements.
- Refuses to engage in any practice made unlawful by the Energy Reorganization Act of 1974 or the Atomic Energy Act of 1954, if the employee has identified the alleged violation to their employer.
- Testifies before Congress or at any Federal or State proceeding regarding any provision or the Energy Reorganization Act or the Atomic Energy Act of 1954.
- Provides the NRC with information about possible violations of NRC requirements.
- Requests NRC action.
- Testifies in any NRC or Department of Labor (DOL) proceeding.
- Commences or participates in a proceeding under Section 211 of the Energy Reorganization Act.
- Notifies their employer, supervisor, the ECP Coordinator or the NRC of an alleged nuclear safety or quality concern.

Open Door Philosophy - A philosophy held by senior management and conveyed to employees and contractors that encourages them to continue up the management chain if they feel intimidated in using normal reporting processes or feel they are not being treated fairly by their immediate supervision when raising problems or concerns.

RESPONSIBILITIES

Management has overall responsibility for the establishment of effective methods of communication between employees and management involved in Utility C nuclear activities and for programs that ensure matters brought to the attention of management are promptly and adequately addressed.

The Director, Total Quality, is responsible for ensuring each concern received by an ECP Coordinator is appropriately investigated and resolved.

Each Supervisor is responsible for:

- Ensuring the intent of this policy is made known to personnel within their organization.
Emphasizing to personnel and contractors within their organization that they have the right and are responsible for notifying proper levels of management of concerns.

Executing this policy within their organization.

Assuring staff support for resolution of employee concerns under this policy.

Having knowledge of the ECP processes, encouraging concern identification, providing timely evaluation of concerns identified to them and requesting assistance from the ECP Coordinator as needed.

Each ECP Coordinator is responsible for the establishment and maintenance of a tracking system for concerns entered into the program and for the day-to-day operation of the program.

Each employee or contractor is responsible for identifying concerns. The process described herein is the preferred process to addressing concerns. Individuals are also encouraged to participate in resolution of their concerns. However, neither this nor any other company policy in any way alters an individual's right to address their concerns directly to the NRC per 10 CFR Part 19.

Contract Managers are responsible for having knowledge of the ECP, encouraging concern identification, providing timely evaluation of concerns identified to them and requesting assistance from the ECP Coordinator as needed.

DETAILS

Utility C’s nuclear management is dedicated to the safe operation of its nuclear units. To ensure that nuclear safety takes precedence over all other considerations, nuclear safety and quality requirements must be understood by each employee and contractor performing work at or in support of Utility C nuclear units.

It is the policy of Utility C Operations to protect the identity of Concerned Individuals (CIs) who report safety-related concerns, when requested by the individual. CIs should be aware that it is not always possible to completely ensure confidentiality. CIs who wish to maintain confidential status of their concern should not discuss the fact that they raised the concern with other personnel. In some circumstances the specific nature of the concern may make it very difficult to resolve the concern without some indication of the concerned individual's identity.

In legal or regulatory proceedings and inspections, Utility C Operations may be required to reveal the identity of the concerned to the NRC, the Department of Labor or other governmental organizations or parties. Utility C Operations will make all reasonable efforts to maintain confidentiality in these circumstances and requests CIs wishing to have their concerns addressed on a confidential basis to assist in these efforts by not taking actions that could lead to a breach of confidentiality.
No Utility C employee or contractor will intimidate, threaten, restrain, coerce, harass, discharge, or in any other manner, discriminate or retaliate against another employee or contractor for raising or pursuing a concern as defined within this policy.

Utility C employees or contractors who feel they have been subjected to harassment, intimidation, retaliation or discrimination (HIRD) for raising a nuclear safety concern are encouraged to identify such actions to management, the ECP Coordinator or the headquarters ECP Coordinator for resolution.

An employee or contractor identifying a concern regarding HIRD, nuclear safety, human resources, industrial safety, security or management should use the following process:

- Address the matter, either orally or in writing (preferably through the appropriate reporting document), to their immediate supervisor. The immediate supervisor must carefully consider the matter and provide to the employee an appropriately researched and accurate response in an expeditious manner. If the employee is unable to obtain a response from their immediate supervisor or considers the response to be unsatisfactory, the employee should remind the supervisor that the concern still exists.

- Proceed directly up the chain of command, exercising Utility C Open Door Policy.

- If a satisfactory resolution is not reached after informing the immediate supervisor, utilizing the open door policy, or if the employee or contractor does not want to use the above methods, the worker is encouraged to contact the ECP Coordinator. The worker's concern will be investigated. This method provides for anonymity and confidentiality of the employee/contractor and of the results of the investigation.

- Additionally, the employee or contractor may, at any time, call the Utility C Ethics Line to identify a concern. The Ethics Line is a toll free number. This line is operated by an independent company and is available 24 hours a day, 7 days a week, and is completely confidential and anonymous, if desired. The Director, Total Quality (DTQ) will receive timely notification of all concerns originating at a nuclear facility. The DTQ will be involved in the decision making process of how concerns received by the Ethics Line are handled.

- This concerns process in no way alters a person's right per 10 CFR Part 19 to contact an NRC inspector or the NRC regional office. NRC postings throughout Utility C nuclear facilities contain the contact information.

- Employees or contractors who are processing out of a Utility C nuclear facility are given an opportunity to report any nuclear safety concern to the ECP Coordinator as a part of the checkout process.

- Status and resolution of employee or contractor concerns will be made available to the CI when requested.
The ECP includes an appeal process in the event the CI believes their concern was improperly handled. The CI can request additional investigation of the concern through the ECP Coordinator or the headquarters ECP Coordinator or the DTQ.

ECP Coordinator may use other organizations to assist in the resolution of an employee or contractor concern.

ECP reports and investigative results are treated as confidential, with disclosure being made only as required to effectuate the purposes of this policy, to comply with requirements or requests of governmental agencies or as otherwise required by law (e.g., pursuant to court order, state or federal agency investigation or government action).

INTERFACES

None

RECORDS

None

ATTACHMENTS

None
APPENDIX D

INTERFACING WITH CONCERNED INDIVIDUALS

PURPOSE/SCOPE

Provides guidance for conducting interviews and interfacing with concerned individuals (CIs).

BACKGROUND

The Employee Concerns Program (ECP) has been established as an alternative path for raising concerns. The ECP does not replace existing programs, but rather reinforces the fact that the primary path for an employee to raise a concern is through their first-line supervisor and the Corrective Action Program (CAP).

When the primary path has been ineffective or has not created the appropriate environment for concerns to be raised, the ECP provides another option.

The success of the ECP as an alternative will rely largely upon the effectiveness of the ECP staff’s interface with the CI.

GENERAL INFORMATION

The following are important considerations when interfacing with CIs:

- Face-to-face contact with the CI is preferred.

- Explain during the initial interview how the ECP works. It is important to touch on subjects of how the investigation will be conducted, confidentiality, management involvement, periodic feedback, closure and appeal process.

- The CI interfacing must focus on concern resolution.

- Effectiveness of the ECP depends on the trust and confidence CIs have in the ECP staff. Confidentiality is a significant measure of that trust. CIs need to understand the policy on confidentiality, including what those limits are (Appendix F). This needs to be done early in the process to prevent misconceptions on the part of CIs.

- CIs and/or potential CIs are made aware of the mechanisms for raising concerns with the ECP and which of those mechanisms they can use anonymously.

- There is no speaking “off the record.” CIs must be made aware, in advance, that information related to potential nuclear quality or safety concerns, wrongdoing, or other inappropriate conduct/actions on the part of individuals may require action.
The ECP staff member must maintain professional conduct, with a focus on the issue, at all times. This means separating the CI from the potential problem they have brought forth, eliminating any predisposition of a CI’s motive(s), and not allowing any past history between the CI and the ECP staff member to compromise objectivity. It also means that ECP staff members must manage contentious interchanges to avoid their escalation.

The ECP staff member must avoid fueling the CI’s passion by interjecting their own personal feelings regarding an issue.

In order to assess the CI’s work environment as it relates to bringing up nuclear quality or safety concerns, the ECP staff member should develop an understanding of why the CI felt the need to come to the ECP rather than approach their line management.

There is no guarantee of what the ECP review/investigation may find; therefore, any preconceptions on the part of the CI as to what the problem may be or what an acceptable resolution should consist of may not be the same. ECP staff must make it clear to the CI they understand the concern but will make no judgment until after a complete and thorough investigation is conducted.

RECEIVING CONCERNS

CIs may use the ECP to raise concerns confidentially through a variety of methods. The ECP consist of some, if not all, of the following mechanisms:

- Office interviews
- Pre-printed forms and/or self mailers
- Drop boxes
- Telephones and a hotline
- Exit interviews
- Dedicated fax machine(s)
- Intranet/internet site (should be clearly identified as a non-confidential option)
- E-mail

Policies on interfacing with a CI should include such things as:

- The use of a stenographer
The use of a tape recorder (by either the CI or ECP staff)

The presence of third party counsel or other representation (especially for represented employees)

The signing and collection of statements and/or transcripts

ECPs may utilize an “exit interview” process that is specific to nuclear quality, safety concerns and/or harassment, intimidation, retaliation or discrimination (HIRD) for exiting employees (company, contractor, sub-contractor).

Elements of such a process might include, but not be limited to, the following:

- In-person interviews
- Telephone interviews
- Home mailer with an associated questionnaire
- Questionnaire for contract craft
- Group exit interviews with office time set aside for individuals desiring a confidential setting to discuss an issue
- A 30-day follow-up letter sent to a separated employee’s home address informing them the ECP is still available to them if something not discussed during their exit interview has arisen
- An exit process where the specific types of questions above are asked as a subpart of a larger questionnaire. Procedures ensuring ECP receives the information should be established

The ECP office should have dedicated telephone lines to receive calls made from on or off site by potential CIs. All or some of these lines should have the following features/capabilities:

- At least one telephone without caller ID
- A confidential voice mail or recording system for messages received when a member of the ECP staff is not available
- The ability to page a member of the ECP staff in the event of an emergency
- A provision for handling emergency calls (i.e., Hotline)

CIs, potential CIs, or other personnel involved in activities supporting the continued safe operation of the plant may visit the ECP office at any time during the core hours of operation. To facilitate this, offices should:
- Be conveniently located
- Have an entrance/exit away from a mainstream area
- Have the ability to be private and confidential
- Be free of surveillance monitoring

A CI may raise a concern with the ECP through the receipt of pre-printed mailers or other correspondence. To make this mechanism work, the ECP should implement the following:

- Designated and conspicuous areas where pre-printed forms/mailers are available throughout the site and administrative areas
- A dedicated mail code or mail box
- A dedicated drop box that is locked and affixed to the floor or a wall and checked at regular intervals

Upon receipt of a non-anonymous concern, ensure prompt contact is made with the CI in order to:

- Confirm the ECP has received the concern
- Ensure complete understanding of the issue/concern
- Establish any meetings or initial interviews with the CI

When a CI elects to no longer pursue a concern, ECP staff must ensure the reason is solely because an appropriate issue no longer exists.

If the issue has potential to create an imminent impact on the safe operation of the plant(s), ECP staff shall refer the issue directly to management and ensure the issue is captured in the CAP.

Depending on the issue, ECP staff may elect to refer the issue to another organization (e.g., functional group, Safety, Security, etc.) who must then satisfy ECP staff as to the thoroughness of their review.

ECP staff should define their level of involvement for an issue referred to the ECP.

The ECP should establish criteria to identify concerns that are to be provided to senior management. Each concern should be evaluated against the criteria chosen; the results of the evaluation documented, and appropriate action taken.

**Sample criteria:** An allegation of wrongdoing against an established level of management or a concern that results in declaring safety-related equipment inoperable, etc. Criteria selected should be consistent with senior management expectations.
**MANAGEMENT OF FEEDBACK/FOLLOW-UP**

It is vital the ECP staff member responsible for an issue maintain communication with the CI throughout their involvement with the ECP. This includes the following:

- Periodic updates on how the review/investigation is progressing even if there is nothing new to report (Many programs use every two weeks.)
- Follow-up at the conclusion of the review/investigation as to the findings; and if a problem was found, what corrective actions are to be taken
- Follow-up on completion of the corrective actions and closure of the concern in the ECP system
- Sending a registered or certified letter if other means are unsuccessful (optional)

Provide the CI with a brief synopsis of the concern, findings, and resolution.

Be prepared for, or consider the effects of, feedback/follow-up with which the CI may disagree.

Always express appreciation for the CI involvement with the ECP, especially in all closing communications.
APPENDIX E

INVESTIGATION AND INTERVIEWING

PURPOSE/SCOPE

Provides investigation methodology and interviewing techniques to ensure a thorough understanding of the elements of the concern by both the investigator and report recipient.

Provides ways to establish a comfortable rapport with a concerned individual (CI) during the investigative process.

BACKGROUND: INVESTIGATION METHODOLOGY

The key to the investigation of any concern is to succinctly articulate the concern to be investigated.

- Concern statements as received from the CI should also be segmented into several questions or concerns. This provides focus for the investigation and a clear objective that the investigator must reach before the concern may be closed. This also led to a clear identification of any compensatory or corrective actions following the investigation. The concern may pertain to whether:
  - A particular procedure was followed
  - There was compliance with a section of a regulation
  - An employee or contractor was the victim of discrimination
  - An approved and accurate design diagram was used for a modification, etc.

- One method is to state the concern in the form of a question as measured against an acceptable standard. Another method is to write a “concern statement” that includes the standard in question. Either method enables the investigator to answer the question with “yes” or “no” with regards to compliance with the standard or policy and then proceed to explain the basis for the answer.

The investigation of a concern may be performed within the Employee Concerns Program (ECP) or require the assistance of other organizations. ECPs implement varied approaches to performing investigations. Some programs rely on the quality assurance organization for investigative support, while others use line-management personnel, human resources experts, industry peers, or outside contractors. Whatever the decision, emphasis should be on independence and lack of bias.
Technical, hardware, procedural, and regulatory concerns in many instances may be investigated through document reviews. Technical concerns may require the use of a subject matter expert.

- Each specific concern must be addressed and documented.

- All relevant requirements and pertinent reference materials should be available to the investigator during the investigation. Documents not easily obtainable may be copied and preserved with the investigation documentation.

- It is recommended a completed investigation report contain copies of all documents reviewed such that the report is a “stand alone” document requiring no research or document gathering for later review and reference.

All actions taken to correct deficiencies must meet site policy and regulatory requirements in order to satisfy 10 CFR 50, Appendix B and 10 CFR 21 commitments within the scope of problem recognitions and resolution.

Concerns dealing with potential hardware deficiencies, questions of equipment operability (e.g., equipment integrity or system functionality), and safeguard concerns require immediate (prior to the completion of investigation) compensatory actions to address apparent symptoms and/or determine reportability requirements. An operator, subject matter expert, or a certified quality control inspector is desirable in these instances to determine if a significant deficiency exists.

- In cases where an immediate review of operability, reportability, or safeguards concern is deemed warranted, use of the Corrective Action Program (CAP) is essential to bring immediate management attention to the technical concern.

- Corrective actions, with accompanying documentation, should be promptly initiated and completed in accordance with the appropriate procedure.

Concerns dealing with potential issues of alleged wrongdoing should be examined with the understanding that regulators, in administrative proceedings and in federal/local courts, may review the work product of the investigation. Concerns involved in potential or actual litigation must be completed objectively and not with an intent to support a particular view.

When a violation of regulation is alleged, the investigator must ensure he/she is an independent collector and reviewer of the facts, and the report is a clear recitation of the facts. A key to a third party acceptance of a report will be how thoroughly and independently the investigation was conducted. The quality of documentation, depth of analysis, and level of review are also important. If it is suspected a potential wrongdoing concern will receive a regulatory review, then an internal review by a qualified third party or legal entity is recommended.

Ensure there is a thorough understanding of the elements of any concern, both by the investigator and the recipient of the report.
GENERAL INTERVIEWING INFORMATION

Interviewing is the most commonly used technique in the ECP process to obtain specific concern-related information. By definition, interviewing is a form of oral communication involving two parties, at least one of whom has the objective to obtain all of the pertinent information available on the concern and a clear, concise statement of the problem from the interviewee perspective. Key elements of this technique include:

- Preparation/planning and allowing time to conduct interviews
- Establishing a proper setting and maintaining control of surroundings
- Establishing a good rapport
- Asking simple questions that are direct, consistent, and intelligent
- Avoiding the use of compound questions
- Avoiding the use of closed end or leading questions by use of open ended questions
- Careful listening
- Reviewing questions and answers with the interviewee
- Documenting the session in a way that is accurate and auditable

SUCCESSFUL INTERVIEWING TECHNIQUES

Planning for and controlling the environment are crucial to the interview process. Questions should be planned ahead of time if possible. Interviewers should not be afraid to ask a lot of questions, but should not prolong the process. The interview need not be limited to just a list of prepared questions, but a prepared outline or question list is helpful to introduce the session and guide the interviewer through the required questions. Each interview should be documented following program-provided guidance or policy.

If necessary, rewrite the notes for clarity. The investigator may also consider attaching the original interview notes (marked as such), or taking a signed (or handwritten) statement. Questionnaires may be appropriate for large groups.

Plan for and allow plenty of time for the interview sessions, as they may take longer than previously anticipated. Spread out multiple interview sessions to prevent the possibility of overlap.
Create an atmosphere of friendly professionalism in comfortable surroundings. Put the interviewee at ease by being relaxed and comfortable yourself while explaining the expectations of the interview. Build rapport early by having a helpful manner indicating that what they say matters. Maintain eye contact and show genuine interest in what the CI has to say. Use techniques appropriate to the situation and that work for the interviewer.

- Consider using a conference room or a separate table and chairs (instead of the investigator’s desk and side chair).

Explain that you are not allowed to offer a personal response or opinion to the concern. To do so would put neutrality and the independence of the investigation at risk. The interview is not a conversation about the concern but a chance for the interviewee to tell his/her story.

Assure all parties each will have the same opportunity to provide their concerns and positions on the concern.

The objective of obtaining information from the interviewee is best achieved by the interviewer doing the listening, not the talking. Keep talk relevant just enough to discourage rambling and to keep the interview on track to fulfill its intended purpose.

Maintain strict impartiality. Avoid becoming embroiled in a dispute. Never take sides or indicate who you think is right or wrong. It is easy to incur someone’s anger by being the “devil’s advocate” or to side against them in an emotional dispute.

Avoid putting the interviewee on the defensive.

Avoid making suggestions for problem resolution during the fact-finding phase of the interview. *Don’t put words in the interviewee’s mouth!* Avoid the implicit passing of judgment by the way questions are asked.

Maintain control -- don’t allow interview roles to become reversed.

Constantly maintain an outward appearance of non-bias:

- Don’t assume you know the points in question unless the interviewee has specifically stated understanding of the concern. Avoid challenging information or jumping to conclusions.

- Do not become eager to summarize the concern, fabricate, or superimpose a conclusion not established by the interviewee.

- Don’t take third-party information as fact.

- Avoid challenging information or jumping to conclusions.

**INTERVIEWING CONSIDERATIONS**

General Listening Tips:

- Use neutral expressions or gestures showing interest or understanding.
Most people need some indication they are being heard. You want to provide encouragement but without interrupting.

Remember the interview may become more like an interrogation if the interviewer resorts to asking a lot of questions in order to keep up the flow of information.

The more the interviewer has to say, the greater the chance of “leading” the conversation.

- Practice conversations to develop appropriate skills.
- Concentrate on the subject at hand.
- Do not outwardly acknowledge your own personal opinions on concerns; keep them to yourself and overcome them during interviews.
- Recognize that people speak slower than we can listen. Think and compensate for this condition when listening.
- Ask for feedback at the interview. Attachment 2 provides an example form.

Brief Acknowledgments

- Use “asides,” utterances made without indicating belief or disbelief such as, “I see,” “Um-hum,” or “I understand.”

- Use “echoes,” utterances made by repeating or paraphrasing key points of the last few words the interviewee said in order to promote understanding or simply for clarification, and ensure the interviewee acknowledges that what was said is accurate.

- Use leading but neutral phrases such as, “tell me more about it,” “go on,” or “explain what happened next.”

Paraphrasing

- Clarify through paraphrasing. Tell the other person, in your own words, what his/her ideas or suggestions conveyed to you. Remember, this is not repetition but a technique to check something just said. Ask for feedback or acknowledgment when paraphrasing.

Check Perceptions

- Pay attention to the interviewee’s feelings and avoid value judgments. Express neither approval nor disapproval.
Use tentative but probing statements or questions such as:

- You seem to feel . . .”
- “I get the impression that . . .”
- “Is it true that . . .?”
- “Is it correct that . . .?”

Question Formulation

- Ask neutral questions that make a person think. Don’t use complex, lengthy, or multi-faceted questions.

- Delve with questions that encourage maximum information recovery. “How” or “what” questions elicit more information such as:
  - “How do you mean?”
  - “What do you think about it?”
  - “Why do you believe that happened?”
  - “What do you have in mind?”

- Attachment 1 provides examples of initial interview questions.

Use of Periods of Silence

- If used judiciously to avoid a perception of intimidation, silence can be helpful to allow time to think. Be careful to avoid “turning off” a shy interviewee who may already be reluctant to tell his/her story.

- A helpful interviewing technique is to look expectant while saying nothing. This puts pressure on the interviewee to speak and conveys the message, “I’m waiting, tell me more!” The interviewee may resume talking to relieve the awkwardness of the silence.

- If the interviewee is silent or not forthcoming with information, the interviewer can “prime the pump” by friendly conversation about other things to build comfort and confidence in the interview.

Dealing with a Hostile or Emotional Employee  (See also Appendix D)

- Let the person vent, cry, etc.

- Don’t take the hostility personally or get defensive, but acknowledge the expressed feelings.
- Get control of the interview as soon as possible without creating further rancor.

- Ask if the person needs time to overcome emotions and if the person would like a pause or break.

- Ask the person if there is someone they would like to have in the interview.

- While remaining calm, courteous, respectful, and unthreatening, emphasize that you are trying to get the facts of the case.

- Have coffee, water, candy etc. available and share it with the interviewee (create a bond and put the person at ease).

- Take personalities out of the picture: “It’s not you. It’s the case. I need your help.”

**INTERVIEWING THE CI**

During interviews with the CI, the following questions may be useful:

- Who has the person talked to already in attempts to resolve the concern?

- What were those results?

- Are there others who share this same concern?

- Are there persons, including the interviewee, who are afraid to bring forward safety concerns for fear of harassment, intimidation, retaliation and discrimination (HIRD)?

- Is there a safety concern that needs prompt attention?

- What does the person see as the “fix” to the concern?

- Who does the person think ECP could interview to gain a deeper understanding into the concern?

- Who does the person wish ECP not talk to about the concern and why?

- What does the person expect ECP to do to resolve the concern?

If the interviewee indicates there are other persons who share the concern, who may be afraid to bring it forward, and/or allege a potential wrongdoing event, consider formulating questions to evaluate a potential “chilling effect” within the employee’s work group.
Always remember that you are working to establish a rapport with the CI.

“CHILLING EFFECT” INTERVIEWS

When an allegation of a chilled work environment is made, or when an investigation reveals evidence of a chilled work environment, it may be desirable to conduct interviews specifically to collect information on this topic.

When it is desirable to conduct “chilling effect” interviews, a number of factors should be considered:

- The organization scope and number of interviews: It is undesirable to choose too limited a scope for “chilling effect” interviews. However, “chilling effect” interviews are resource intensive.

- The atmosphere of the interview, conduct and choice of interviewers must be carefully chosen to elicit the most forthcoming response. Many of the factors which influence the conduct of surveys (see Appendix L) will similarly affect “chilling effect” surveys.

- The questions must be carefully chosen. See Attachments 2, 3 and 4 of this appendix for examples. In order to obtain useful information, additional questions specific to the situation may need to be asked.

- The results must be carefully interpreted. It is to be expected that when asked a direct question such as, “Would you raise a concern about an immediate threat to the public safety?” the answer would always be “yes.” More subtle questions may elicit more useful information.

ATTACHMENTS

1. Interview Guide
2. Assessment of Interview Process Effectiveness
3. "Chilling Effect" Questions
4. Suggested Questions
INTERVIEW GUIDE

Concern No_____________
Date____________________

■ Thank you for taking your time to contact ECP.

NOTE: Ensure the person is using terms such as HIRD, Chilling Effect, etc. consistent with ECP usage. (See Appendix Q) If it is not appropriate to explain or insist on the ECP definition with the CI, such difference in usage should be noted on the concern statement.

■ What is your concern?
■ During what period or periods did the event occur which gives rise to your concern?
■ Does the event continue? If so why?
■ What firsthand knowledge do you have? Who else may have firsthand knowledge?
■ What, if any, prior attempts to report or resolve the concern have been made by you or by others? What were the results? If line management was not given the opportunity to resolve your concern, why not?
■ Who (name, position, organization) are the people involved in the event giving rise to your concern?
■ Are there others who share your concern? If so, who?
■ (If the concern is of a general nature) Do you have specific evidence of the events? Can you give specific examples about the problem?
■ Can you identify any documents, such as procedures, that are related to your concern?
■ In your opinion, does the concern create a severe or urgent threat to the health and safety of yourself, other employees, or the public?
■ Are there any persons or organizations (including line management) that you prefer we not discuss your concern with during the course of resolving the concern? Why?
■ What action(s) do you believe might help in the resolution of your concern?
■ In the past have you felt free to report concerns?
■ Have you previously raised any concerns? If so, how?
■ Do you have any other comments?
ASSESSMENT OF INTERVIEW PROCESS EFFECTIVENESS

Concern File No. ________________

The Employee Concerns Program (ECP) would like to know if you were satisfied with the manner in which you were treated during your interview. The following information would help us implement improvements. Providing this information is strictly voluntary.

Were you greeted courteously?
Yes  No – Please explain.

What was the name of the individual who interviewed you?

Were you listened to carefully, and were you understood?
Yes  No – Please explain.

Did you feel comfortable during your interview?
Yes  No – Please explain.

Did you feel the interviewer received your input objectively?
Yes  No – Please explain.

Were you given a chance to review your statement and make any necessary corrections?
Yes  No – Please explain.

Do you have any suggestions on how we may improve our interview process?
Yes – Please list your suggestions. No________

Your Name:________________________________________

Thank you for taking the time to help us improve the Employee Concerns Program.
(Signed) ______________________________Process Owner, ECP

Please return this form directly to, Process Owner, Employee Concerns Program.
Mail to: (address)____________________________________
"CHILLING EFFECT" QUESTIONS

Concern # __________________
Enclosure:__________________

Name:

1. Are there any events or concerns that have impacted your willingness to voice your opinions?

   YES       NO

2. Are there any events or concerns that have impacted the level of trust between you and your immediate supervisor?

   YES       NO

3. Are there any events or concerns that have impacted the level of trust between you and senior management?

   YES       NO

4. Do you feel that the concerns you have raised to your immediate supervisor and/or management have been addressed with commitment, respect, and timeliness?

   YES       NO

5. Do you feel any reluctance to raising safety concerns to your immediate supervision, and/or management?

   YES       NO

If yes, why do you feel reluctant?

   YES       NO

If yes, do your fear retaliation?

   YES       NO
6. Do you feel any reluctance to raising safety concerns to one of the channels available (e.g., ECP, Human Resources, Nuclear Regulatory Commission (NRC), or other groups)?

   YES     NO

   If yes, why do you feel reluctant?

   YES     NO

   If yes, do you fear retaliation?

   YES     NO
SUGGESTED QUESTIONS

- How would the interviewee raise a safety or regulatory issue (e.g., inform supervisor, CAP, ECP, NRC)?

- Why would the person pick that approach (e.g., supervisor's preference, trying to keep numbers down, system difficult to use)?

- Has the person being interviewed ever submitted an issue to the CAP or the ECP? Was the issue adequately addressed? If not, did he or she pursue the issue? If not, why not?

- Does the interviewee know whether employee concerns are tracked to completion and whether employees are informed of the result?

- Does the interviewee believe the licensee's CAPs are successful in addressing issues submitted?

- Is the interviewee aware of any specific instances in which another employee submitted an issue to the CAP or ECP and considered the licensee's response incomplete or unacceptable or was retaliated against for pursuing the issue? (Try to get enough specific information to follow up with the other employee.)

- Does the interviewee believe there has been a change in the amount of time necessary to resolve corrective action issues or employee concerns?

- Is the interviewee aware of or have there been interactions with NRC personnel that suggest some employees may be hesitant to raise concerns or present information to the NRC?

- Is the interviewee aware of any events that would discourage employees from raising concerns (e.g. chastisement for submitting issues to corrective action program, ECP, or NRC supervisors holding up submittal of concern)?

- Has there been an unexplainable change in the number or nature of concerns raised by employees to the licensee's CAP or ECP or the NRC?

- Are there any unofficial corrective actions or tracking systems that exist because the existing formal systems are thought to be ineffective? (Unofficial corrective actions that bypass the recognized CAP have been previously found in engineering and health physics areas.)
APPENDIX F

CONFIDENTIALITY

PURPOSE/SCOPE

Describes measures to be taken by the Employee Concerns Program (ECP) to protect the identity of concerned individuals (CIs) and ensure confidentiality of documents, conversations, and communication.

BACKGROUND

Recognizing that some CIs will come forward only if they believe their identities will be protected from public disclosure; i.e., given confidentiality, the safeguarding of identities of confidential sources is a significant factor in assuring the voluntary flow of such information. For this reason confidentiality is an important element of the ECP.

GENERAL INFORMATION

The ECP should have provisions for extending different levels of confidentiality to the CI depending on the circumstances and the needs of the CI. Typically, the levels of confidentiality available include the following:

- The CI requests anonymity. With this option, the concern would be handled as if it were delivered unsigned. The ECP will maintain no record of the CI’s identity and will not make any future contact with the CI regarding the concern.

- The CI requests his/her identity be kept confidential. With this option, the ECP will make every effort not to disclose the identity of the CI subject to the conditions outlined. (See circumstances requiring release of identity).

- The CI waives confidentiality. With this option, the ECP will respect the CI’s privacy and only reveal the CI’s identity as outlined and as required to conduct a complete and thorough investigation of the concern.

The ECP staff should explain the availability, scope and limitation of confidentiality to each CI including:

- The CI’s identity could be reasonably deduced if the CI has previously voiced the issue, in whole or part, to a supervisor and/or coworkers, or because of the uniqueness of the issue.

- The CI is considered to have waived the right to confidentiality if he/she takes actions that may be reasonably expected to disclose his/her identity.
It is not possible to protect the CI’s identity in harassment, intimidation, retaliation or discrimination (HIRD) investigations if the CI is directly involved with the HIRD.

To the extent necessary and practical, confidentiality may be extended to interviewees, witnesses and other confidential sources of information.

Regardless of the level of confidentiality extended to a CI, the ECP shall respect a CI’s right to privacy. This means that reasonable actions are routinely taken to protect the identity of the CI, including limiting the sharing of information that could identify the CI to those with a legitimate "need to know."

**CIRCUMSTANCES REQUIRING THE RELEASE OF IDENTITY**

The ECP may be required to disclose the CI’s identity under the following conditions:

- To the Nuclear Regulatory Commission (NRC) as required by that agency
- In response to subpoenas or in connection with proceedings before the Department of Labor, Equal Employment Opportunity Commission (EEOC), a court of law, and other legal and governmental bodies
- Pursuant to the requirements of federal laws, regulations, orders, or other directives requiring the release of such information

The CI’s identity also may be disclosed if immediate nuclear safety would be compromised if the confidential information were withheld. In such cases, disclosure shall only be made with prior approval of the senior management, and the CI will be informed of the disclosure by ECP staff.

If disclosure is required, ECP staff will advise the CI of the circumstances and record the specifics of the requirement. ECP staff will attempt to limit the disclosure by notifying the authority requiring disclosure that a policy of confidentiality exists.

**UNDERSTANDING OF CONFIDENTIALITY BY ECP STAFF**

Each ECP staff member, whether temporary or permanent, or other person requiring access to ECP files and associated information, should sign a Confidentiality Understanding for the company before performing any work or accessing the information. NEI STD Form 97-05-01, included in this appendix, is an example of an agreement that can be used for this purpose.

**TECHNIQUES FOR MAINTAINING CONFIDENTIALITY**

Use good judgment when discussing concerns with others, (e.g., close office doors and limit use of speaker phones). Always ensure documents showing a CI’s name are kept secured in locked cabinets. Do not leave documents unattended on your desk. Lock your office door if leaving unattended documents for even a few minutes.
Concerns are not to be discussed with individuals outside the ECP unless they are considered vital to the conduct of company business.

When retrieving or trying to identify a document (for example, a work package) that contains the CI’s name, try to retrieve other documents of the same type as well. This is important if you are working within the CI’s organization to identify or retrieve a document, but may not be necessary if you are retrieving information directly from an automated system.

If it is necessary to interview the CI, arrange to conduct the interview in a manner to conceal the CI’s identity, such as after hours, off-site, or in a secure location. Field interviews may be conducted if CI’s confidentiality or the investigation’s successful conclusion is not jeopardized.

When reviewing a document with someone during an interview, obliterate the names on the document. If necessary to conceal the source of the concern, review similar but irrelevant documents.

Ensure adequate computer and software security measures are in place to protect electronic ECP information. Such measures include, but are not limited to:

- The use of password protection on electronic ECP files
- Encryption of e-mail
- The use of dedicated hard drives to store ECP information
- Physical destruction of discarded ECP electronic information, not just erasure

If ECP files or records are transmitted by company or U.S. mail, package them so as not to identify contents. Enclosing the confidential information in two secure containers is a typical method for transmittal. The inner container bears the name and address of the recipient and is clearly stamped that it contains confidential information. The outer container also bears the recipient’s name and address and is opaque and otherwise packaged to preclude disclosure of the presence of confidential information.

Locate the ECP voice-message answering machine in a facility typically only accessible by ECP staff or utilize an independent voice mail system with access restricted to ECP staff.

Utilize appropriate interview techniques/practices to provide appropriate confidentiality to all who may be interviewed as part of the investigation, including the CI. This may involve selecting a suitable interview location, not engaging in or allowing speculation about involvement of others, and not confirming or denying involvement of others.

Do not provide copies of letters or parts of letters from CIs to others. The information might contain language that could inadvertently disclose the identity of the CI.

Discard unnecessary information as soon as practical after the final record is completed.

As appropriate, mark reports of concerns and results of investigations as confidential and handle accordingly.
Protect from unauthorized release information obtained as the result of reporting concerns. Official records are maintained pursuant to required programs such as the Corrective Action Program. Information collected under the ECP is not considered for inclusion in the required quality records of the company.

Communications with the NRC should not reveal confidential information unnecessarily. If personal privacy (or proprietary) information is necessary to provide an acceptable response to the NRC, then, in accordance with 10 CFR 2.790, provide a bracketed copy of the response identifying the information that should be protected. Also provide a redacted copy of the response deleting such information. Consult with your licensing and/or legal groups when submitting a redacted response.

ATTACHMENT

1. NEI Standard Form 97-05-01, Confidentiality Understanding for Access to Employee Concerns Program Information
CONFIDENTIALITY UNDERSTANDING FOR ACCESS TO EMPLOYEE CONCERNS PROGRAM INFORMATION

As a company employee, temporarily assigned individual, or other individual requiring access to the Employee Concerns Program (ECP) files, I recognize an important factor affecting the success of the program is the confidence of employees that their issues will be addressed with appropriate discretion and confidentiality. Accordingly, I fully understand and agree that, during my tenure with the ECP and thereafter, I have a continuing obligation to keep information confidential. This shall include as a minimum (1) protecting the identity of employees with confidentiality, and (2) not divulging information obtained in the course of an investigation except to a Federal Agency such as the Nuclear Regulatory Commission, or otherwise in accordance with the Confidentiality Agreement. Even when an employee waives the right to confidentiality, I will not discuss case information with other persons or organizations unless it is necessary for the performance of my duties, or unless that person or organization has a need to know the information for the performance of their duties. I understand there may be occasions as described in the Confidentiality Agreement when the ECP manager or any authorized agency or legal entity representative may authorize me to divulge this information to specified individuals. I also understand that a deliberate violation of these provisions might serve as the basis for disciplinary action against me.

Reason for accessing ECP files: ______________________________________________________

_________________________________________________________________________________

_________________________________________________________________________________

_________________________________________________________________________________

_________________________________________________________________________________

_________________________________________________________________________________

Printed Name and Signature of Requesting Person   Date

Printed Name and Signature of Company Witness   Date
APPENDIX G

EFFECTIVE REPORT WRITING

PURPOSE/SCOPE

Provides examples of report formats and writing principles to ensure a clear, concise and thorough account and summary of a concern.

BACKGROUND

An effective report is written for the users—those individuals who will use the material it contains (primary users) and those who read the report for information purposes (secondary users). Report length, format, writing style, and comprehension level should be tailored for the users. Because the nuclear industry is highly regulated, there may be multiple primary users, those within and outside the organization.

The language and scope of the report should be suitable for management, regulator, the boardroom, or any court of law.

REPORT FORMATS

There are two sample report formats: a short form and a long form. There may also be Special Reports, which are unique to certain types of allegations. The chosen format should be based on the issue(s) to be investigated.

Long Form Report:

There are eight basic parts to a long form or full report. A long form report is the preferred format when multiple issues or complicated issues cannot be explained within three or four pages. The parts of a long form report are:

- Executive Summary is a one- to two-page summary of the entire report. It should succinctly state the issue under investigation, the relevant facts, which were developed during the investigation, and the conclusion, you reached (and why). Most recipients of the report want to be briefed on the findings, but will not have the time to read the entire report.

- Table of Contents (optional) tells the reader the various sections of the report and where a particular part can be located. The use of this section depends upon the length of the report.

- Purpose of the Investigation explains the purpose of the report or the issue(s) that are under investigation. This section will also be used to define the scope of the investigation.
Background (optional) section is used to provide the reader with any foundation information that may be relevant to a clear understanding of the issue(s). This should be information that would easily be agreed upon by all the parties.

Issue(s) is a statement of the concern you are investigating. A preferred method is to write the issue in the form of a question.

Summary (optional) is a paragraph summation of the basis for the response to the issue. In short reports, the introduction and summary may be combined into a single section.

Basis/Findings/Evidence section can bear almost any heading. It represents the body of the report and is used to present the facts that develop the theme of the investigation. The writer will provide the facts that support the conclusions. The writer should normally “tell a story.” Do not simply recite the statements made by the witnesses during each interview. Refer back to the attachments and exhibits for the reader who needs more detailed information.

Analysis (optional) is the investigator’s examination of the facts. It may be used to show why one statement has more merit than another and upon what the investigator’s conclusions are based. It may also be used to explain the investigator’s thought process. This section should only be used when necessary to clarify the findings for the reader.

Conclusion is a short answer to the question. It may be no more than “Yes” or “No.”

Recommendations (optional)

- The report should stand as a recitation of the facts. While it may be appropriate in some cases to make recommendations in the report, it will not be appropriate in others. An alternative would be to include any recommendations in a transmittal letter to the end-user of the report. This will enable the decision maker to form an independent opinion on what action should be taken, independently of the facts presented.

- Including the recommendations within the body of the report may put the merit of the report findings at odds with the recommendations. This may be especially true to an end user who may not agree with the recommendations appearing as part of the same document.

- Issues taken with the recommendations may cloud the findings in the report. The report author takes responsibility for the quality of the report and its contents. The end-users take responsibility for management of the recommended actions.
While the recommendations may suggest the author’s preferred actions to resolve the issues presented in the conclusion, ensure your position of independent fact finder does not also place you in the role of the responsible manager.

Attachments or Exhibits are the final part of the report where documents or data that would have cluttered the text can be displayed to complement the conclusions.

**Short Report Format:**

There are four basic parts to a short report or short report format. This format should be used when investigating simple and singular issues that can be effectively reported within three typed pages.

- **Purpose of the Investigation** explains the purpose of the report or the issue(s) that are under investigation.

- **Issue(s)** is a statement of the issue you are investigating. A preferred method is to write the issue in the form of a question.

- **Summary/Findings section** can bear almost any heading and represents the body of the report. It is used to present the facts that develop the theme of the investigation. The writer will provide the facts which support the conclusions stated above.

- **Conclusion** is a short answer to the question. It may be no more than “Yes” or “No.”

- **Attachments** (optional) may be used with the short form report when only a few documents must be attached to the report. It is the final part of the report where documents or data that would have cluttered the text can be displayed to complement the conclusions.

**Special Reports**

- There are certain concerns/issues that require the investigation identify specific elements in order to prove or disprove the concern. While the format of the report will not change, the sections in the report must be labeled to specifically address those elements.

- **Harassment, Intimidation, Retaliation, Discrimination (HIRD)**

In a report of investigation of this subject, the report should list facts addressing the following elements:

- Was the employee engaged in protected activities (i.e., did the employee reasonably believe he/she was raising a safety concern)?
Was management aware that the employee had engaged in the protected activities?

Was there an adverse action taken against the employee?

What was the business reason for which the action was taken and supporting evidence?

Was there a connection between the adverse action and the employee’s raising of the safety concern?

Was there a “dual motive” by management for the action taken against the employee?

REPORT WRITING PRINCIPLES

Considerations

- Keep it short, simple and to the point.
- Use the simplest words that express the thought in short sentences.
- Conversational style is best.
- Minimize acronyms and abbreviations.
- Be objective and report facts, not opinions.
- Stay focused on relevant information.
- Don’t make it personal; don’t say things not supported by the facts.
- Make an outline to plan the intended report:
  - Use brief statements that can later be used as report headings
  - Indicate the relative importance of facts and their relationships
  - Allow selection and rearrangement of sections or facts

Effectiveness Check Terms

- Accuracy Reports should be totally and scrupulously factual. Every statement, figure, reference, or identity should be based on evidence.
Clarity is the result of the writer having a clear understanding of the subject. An orderly progression of ideas contributing to the flow of the central issue or theme is necessary to communicate the intended understanding of the information to the reader.

Conciseness  All unnecessary, meaningless, or redundant information should be deleted. If something is not essential to clarity, omit it from the report; however, this information may be included as an exhibit.

Timeliness is essential if the information could trigger a responsive action that could prevent or mitigate potential damage to the plant or to plant personnel. Investigative reports fulfill a need for current status information by management.

Objectivity  Reports should be objective, and not subjective. Conclusions drawn must be based on logical, rational inferences. Recommendations, opinions, and speculation should be clearly identified as such.

Hearsay  A textbook definition of hearsay is: an out of court statement offered in court to prove the truth of the matter asserted. As a general rule, investigations should not rely on hearsay or second hand information. However, it may be pertinent to explain why something happened, or to determine if there are personnel or management problems, such as evidenced in a “chilling environment.” At all times, the information should be relevant to the issue under investigation.

Assessment of Credibility  In some cases, evidence may be conflicting. If an assessment of the credibility of one or more persons must be made to reach a conclusion, then the fact that such as assessment had to be made, its basis and the results should be identified in the report.
APPENDIX H

INFORMATION AND RECORDS MANAGEMENT

PURPOSE/SCOPE

Provides guidelines for the types of records to be kept by an Employee Concern Program (ECP), for the retention of records and other information management policies.

BACKGROUND

Written documentation concerning an ECP is necessary for program operation.

DOCUMENTATION

The nature and extent of documentation for ECPs is strongly dependent upon the nature and structure of the ECP.

- At one extreme, ECPs that are Ombudsman-style programs may retain no records on a case once a case is closed.

- Most ECPs retain records generated in the investigation and resolution of cases.

As many matters investigated by ECPs may be involved in litigation, specific policies for the generation, retention and destruction of records should be established and followed. Such policies should include:

- The types of records to be generated
  - The policies should address written documents and electronic documents (e-mails, word processing files, other types of electronic information), and reference documents (retained in other record keeping systems) but germane to a case.

- What records of active cases should be maintained

- How and where records should be kept (also see Appendices E, Investigation and Interviewing, and F, Confidentiality)

- How handwritten notes and drafts should be handled

- How and when records should be destroyed
How records considered covered by the attorney-client privilege should be handled

How records are made available to those with a legitimate need-to-know

What records are available for regulator review and how regulator reviews are handled

Documentation for an ECP should NOT include quality affecting or other technical records that may be regulatory requirements. Technical concerns should be identified and their resolution documented in a Corrective Action Program (CAP). If the concerned individual (CI) is unwilling to have his/her name associated with the CAP, the ECP staff should initiate CAP entry.

**TYPES OF INFORMATION**

Records of ECPs typically include:

- Initial employee concern reports
- Investigation plans
- Interview notes
- Technical documents (e.g., drawings, procedures, job order packages) that provide information for investigations
- Investigation reports
- Corrective action plans
- Condition reports (problem reports or event reports)
- Confidentiality agreements
- File logs
- Index of cases
- Correspondence with individuals, contractors, or regulators
- Exit interview results
- ECP policies and procedures
- Survey documents and results
- Routine periodic management reports
- Program performance indicator summaries
- Training documentation
- Lessons learned
- Unique company-selected documents
- E-mail and electronic information records

**RECORD RETENTION**

Retention periods should be the minimum necessary until the concern is resolved and then as considered appropriate until all potential litigation on which the information has a bearing has been concluded.

The retention period for each type of records should be established and records destroyed as called for in the policy.

ECP practice at many licensees calls for records retention of between five and seven years.

**RECORD STORAGE**

The procedure governing the ECP should specify the following:

- Where records should be stored
- How the records are kept (vault, locked drawers, etc.)
- Who shall have access
- How people are authorized to access ECP records
- How ECP records are indexed

If ECP records are kept on an electronic media, specify the following:

- How the records are transferred to electronic media
- Where the records are kept
- Who has access (if different from hard copy access)
- How access is established and maintained (if different from hard copy access)
- How the hard copies are handled or disposed of after transfer to electronic media
APPENDIX I

TRAINING

PURPOSE/SCOPE

Provides training recommendations for station personnel in raising and effectively responding to employee concerns.

Provides training recommendations for Employee Concerns Program (ECP) personnel who have specific responsibilities for implementing the program, including investigations of concerns.

Provides training recommendations for supervisors and managers responsible for resolving employee issues.

BACKGROUND

ECP training may be coordinated or incorporated with other existing training such as general employee training, Corrective Action Program Training, or supervisory skills development. The experience and knowledge of individuals should be taken into consideration when determining appropriate training. Training should be formal, of the highest quality, and carefully documented.

EMPLOYEE CONCERNS PROGRAM PERSONNEL

Training

- Training should be conducted on selected government and industry documents that discuss regulations or provide fundamental information associated with employees raising concerns and employee protections.

- Documents should be selected such that ECP personnel are provided a basic understanding of the background, regulations, government and industry processes and experience in this area. Appendix O references documents for consideration.

Investigative Technique topics include:

- Investigative training

- Interviewing training

- Root cause analysis training

- Report writing
Policy, Procedures and Process Training is accomplished on specific policies and procedures that describe and implement the ECP or that relate to the raising and resolution of concerns. Report writing training is also part of this process training.

On-the-Job Training

- On-the-job training is appropriate for a newly assigned investigator, who should participate in at least one investigation with an experienced investigator.

Continuing Training includes:

- ECP forum
- Management expectations
- Procedural refresher training on a periodic basis
- Refresher/additional investigative training, as appropriate
- Lessons learned from personnel experienced in the day-to-day handling of concerns—an good source of periodic updates on the culture, program successes, and other program experience
- Labor law and employment seminars
- Periodic meetings of industry personnel sharing information on this and associated subjects
- Dealing with regulators/licensing

Training for Persons Temporarily Assigned to ECP

- When persons outside of the ECP are assigned to do employee concern investigations, they should have appropriate confidentiality and investigative techniques training or indoctrination. Such personnel may include line managers or supervisors, or someone selected for specific expertise or independence, including non-company investigators.
STATION SUPERVISOR AND MANAGER TRAINING

Familiarization with Key Documents

- Training should be conducted on selected government and industry documents that discuss regulations or provide fundamental information associated with ways to handle employees raising concerns and employee protections.

- Documents selected for training should provide supervisors and managers with a basic understanding of the background and regulations associated with the ECP and how they relate to their responsibilities. Appendix O provides a listing of documents for consideration.

- Supervisors should be trained on refusal-to-work issues and resolution processes.

Additional Topics

- 10 CFR 50.7, Energy Reorganization Act of 1974, Section 2.11, and the Nuclear Regulatory Commission (NRC)

- Explanation of management expectations for the raising of concerns by employees

- The supervisor's role and responsibility to address employee concerns

- Regulatory affairs conferences

- Explanation of employee rights

- How to treat employees with dignity and respect

- Performance management training

- The importance of adequate documentation for applicable interactions with employees

- Discussion of policies that describe methods for employees to raise concerns and explanation of protections provided to employees who raise concerns

- Useful techniques for effectively resolving employee concerns

- Recent enforcement actions

- Explanation of the organization, function, and purpose of the ECP

- Brief explanation of the CAP and its relationship to the ECP
- Conflict resolution

Continuing Training includes reinforcement (on a periodic basis) of management expectations for effectively resolving employee concerns and lessons learned.

**ALL STATION PERSONNEL**

General employee training (or other orientation training) presents an opportunity to discuss employees’ responsibilities and company expectations for identifying problems and methods for raising concerns. General employee training should include:

- A discussion of raising concerns through line management, through the ECP, or through an external agency. This should include any initial training as well as any requalification or continuing training as appropriate.

- Rights and responsibilities

Training is normally provided to both licensee and contractor/vendor personnel.
APPENDIX J

ADVERTISING, PROMOTION AND PROGRAM VISIBILITY

PURPOSE/SCOPE

Provides methods to promote and advertise the Employee Concerns Program (ECP). The message to be sent to employees is that the ECP is an alternate path for raising concerns in addition to bringing concerns to line management, supervisors (open door policy), and the Corrective Action Program (CAP). The ECP is not a solicitation to bypass these primary concern-reporting mechanisms.

BACKGROUND

The success of an ECP depends on each employee at the site knowing the program exists. Viability comes from knowing the program's purpose and attributes. This helps employees believe participation in the program will not have an adverse effect on one's job security or work environment. The ECP staff can achieve this through advertising and by the program itself meeting employee expectations. Employees expect their issues will be addressed in a confidential, timely and effective manner no matter how minor in nature those issues may be.

There are several means available to raise employee awareness of and gain confidence in the program.

PROMOTIONAL OPTIONS

General Information

The ECP should be promoted both independently and in conjunction with the advertising of other company-wide, division-wide or location-specific activities such as the CAP, Safety Conscious Work Environment (SCWE) awareness initiatives, various safety programs, training programs, human resources programs and communication programs. A variety of communication methods are suggested, including written, oral and presentations, web-based and the use of other electronic methods.

Written Communications

- The distribution of an ECP brochure to all employees is one important tool. A supporting cover letter signed by the chief nuclear officer or similar officer of the company, promoting the ECP and its role as part of an SCWE, may be sent with the brochure. Officer support may also be captured as a lead paragraph(s) on the brochure's introductory/cover page. The brochure should be available for pickup in high traffic areas throughout the site and provided to all new hires as part of general employee training.
All ECP written communication should incorporate the ECP logo/advertising to distinguish the communication and build program recognition.

Periodic letters and/or other written communications from senior managers to their employees regarding an SCWE should include a reference to both the Corrective Action and Employee Concerns Programs.

Program administrators should provide articles addressing employee concerns topics of interest and survey results to site wide or other appropriate publications.

Posters advertising the ECP should be placed in high traffic areas of the site/location. Different style posters should be at several locations and periodically rotated from place to place to keep the communication fresh.

Distribute promotional items to employees imprinted with ECP logo/advertising such as on badge pulls, post-its, magnets, or pens.

General employee training and retraining modules should contain ECP explanations and definitions.

Supervisor training modules should include expanded ECP explanations and definitions and examples of expected behavior.

Oral Communications and Presentations

ECP should be introduced verbally to all personnel granted unescorted access to sites through the general employee training process. A brochure can be provided. Annual retraining should provide verbal refresher information on ECP. Consider having members of the ECP staff present.

ECP staff should conduct/assist in training classes to educate supervisors in interview and SCWE management techniques.

ECP staff should increase their visibility at the site or other location by being on the agenda at various informational meetings to provide employees with a brief update on program activities and services.

ECP staff should be easily identifiable by items they wear, such as a nametag or button, preferably with ECP logo.

Periodically, a booth should be set up in a common area such as the cafeteria. The booth should be staffed by an ECP staff member, ombudsman, or an appropriate line manager to address questions about employee concerns management and to provide informational materials.
Website

- The home page of the site and/or company should provide a high profile link to an ECP page.

- The ECP page of the web site should incorporate the ECP logo/advertising. At a minimum the site should provide electronic copies of recent written ECP communication and ECP policy/reference information including phone numbers, drop box location, names of program contacts and ECP office locations.

- Additional items appropriate for the web site may include: electronic means to submit a concern, educational guidance relative to handling concerns and specific examples of employee concerns issues.

- Performance Indicators and recent survey results should be provided on the website.

Electronic Communications

- Closed circuit TV and videotapes provide efficient advertising for such information as company policy, "hot line" and other phone numbers, drop box locations, names of program contacts, and ECP office location.

- Develop electronic posters. These cycle through the closed circuit television loop and area an effective and cost-efficient tool.

- Electronic mail messages may be used to provide ECP program advertisement and informational material.

Program Management Considerations

- Program personnel should participate in as many site/location activities as possible; e.g., health fairs, indoctrination program sessions, etc.

- Some companies find it educational to have management personnel participate periodically in program activities to increase general understanding of the ECP's potential in maintaining an SCWE.
APPENDIX K

PERFORMANCE INDICATORS, TRENDING, AND MANAGEMENT REPORTS

PURPOSE/SCOPE

Provides information on performance indicators that can be useful in assessing the Employee Concerns Program (ECP) effectiveness. An example of report writing is included.

BACKGROUND

Because the ECP is an important element in a Safety Conscious Work Environment (SCWE), the status and health of the program should be measured, trended, and reported to appropriate management. The data portion of this appendix shows how data can be used to assess various aspects of an ECP. The data collected may be useful to make objective and subjective predictions for potential areas within organizations requiring additional attention.

PERFORMANCE INDICATORS

Performance indicators (PIs) should be established and evaluated at fixed intervals such as monthly, quarterly, and annually.

Since all concerns begin with an intake, the data collection for the development of PIs should begin with the intake process.

Attachment 1 contains a non-inclusive list of PIs that may be used to assess different aspects of the ECP and can be useful in predicting potential areas within organizations requiring additional attention. This list of PIs is separated into Input, Process, and Output PIs.

TRENDING DATA

Following is some of the data that can be trended from the intake:

- The time and date concerns are identified to ECP
- The person the concern describes
- The department the concern describes
- The department procedure, policy, or process the concern describes
The following information can be trended from the concern classification:

- Nuclear Safety
- Harassment, Intimidation, Retaliation or Discrimination (HIRD)
- Nuclear Regulatory Commission (NRC) Referred Allegations
- Safety Conscious Work Environment (SCWE)
- Chilling Effect
- Technical Issues – Non-nuclear Safety
- Environmental
- Management Practices
- Industrial Safety
- Training
- Human Error
- EEOC (Equal Employment Opportunity Commission)

The following sources of concern can be trended:

- Interview
- Condition Report
- Web Site
- 800 Phone Call/Hotline
- Anonymous
- Referred to ECP through another organization
- Exit Interviews
- Drop Boxes
- Tailgate Meetings
Report Writing

A periodic report should be provided to company senior management describing the status of the program as measured by indicators, metrics and trends. A periodic report informs management of the status of the program and cultural changes or trends needing more focus.

- Typically the report can be provided monthly, quarterly, and/or annually. The frequency of reporting should be based on the number of concerns and management preference.

- Each report should be formatted so that PIs and trends are consistently displayed.

- An explanation should be provided on trends where an outlier has been identified, or a significant change has occurred.

- Attachment 2 is a sample Annual Report. The annual report should include as a minimum: indicators, trend analysis, program actions, survey results, self-assessment results and regulatory activity. This information should be reported to the officer in charge of the ECP program and to site senior management. This sample report can be customized for monthly, quarterly and/or annually purposes with the amount of information as appropriate.

List of Attributes

The following is a list of attributes frequently used to track and trend employee concerns:

- Concern number – Unique identifier by year and sequential number

- Date received – Identifies the date the concern was received

- Classification/Category – Identifies the concern technical or type
Safety related – Specifies whether the concern was related to the safe operability of the plant and was reported to the NRC

Causing organization – Identifies the agent, person, department, or other event, that caused the issue or problem

Initiating organization – Identifies the agent, person, department, or other, that initiated the concern

Source – Method of identification (e.g., interview, phone, NRC, etc.)

Status – Gives present situation (e.g., received no action, closed, etc.)

Priority – Identifies the priority of the concern

Assignment – Names the organization having primary action with regard to the concern

Responsibility – Identifies the person who has responsibility for the investigation

Assign date – States the date action was assigned to the responsible person

Due date – Tells when the response of the assigned person or organization is due

Date complete – Documents when the investigation and associated documentation were completed

Days open – Tells the length of period (since receipt) the concern remained open

Description – Lists general information/key words/trending about the concern

Anonymous – Advises if the concern was received anonymously

Corrective action – Reports whether or not corrective actions were taken and cites references

Activity – Lists activities associated with the concern

Satisfied – Notes whether the concern was resolved satisfactorily

Substantiated – Notes that the concern was found valid
- Partially Substantiated – Notes that the concern was found partially valid

- Unsubstantiated – Notes that the concern was found invalid

**ATTACHMENTS**

1. Typical Performance Indicators (PIs)
2. Annual Report
TYPICAL PERFORMANCE INDICATORS

TYPICAL PERFORMANCE INDICATORS (PIS)

Number/percent of concerns received:

- Departments can group concerns, such as: Maintenance, Operations, Emergency Planning, Security, Training, Radiation Protection/Radwaste, Planning/Scheduling, Administration, Engineering, Contractor, and Other.

- Concerns can be grouped by classification/category such as: Nuclear Safety/Quality, HIRD, Industrial/Personnel Safety, Security, Human Resources, Management Practices, Training, Technical (non-safety related), Human Error, EEOC, NRC Referred Allegations, SCWE, Chilling Effect, and Environment.

- Concerns can be grouped by source such as: Company Employee, Contractor, Management, NRC, Anonymous, Department of Labor (DOL) and Outage vs. Non-Outage.

Backlog and age of concern: This is the number and age of concerns open at the end of the measured frequency by department, classification/category, and/or source.

Number/Percent of different methods of how concerns are received: Concerns can be received by exit interviews, interviews, telephone, mail, walk-ins, condition report process, website, hotline, anonymous, drop box, tailgate meeting, presentation, departmental chat, survey, management, NRC referral, DOL.

Number/Percent of concerns reported to outside organizations; e.g., concerns reported to NRC, DOL newspaper, and OSHA (Occupational Safety and Health Administration.

Number/Percent of internal/external concerns that were substantiated.

Number/Percent of Concerned Individuals (CIs) satisfied/dissatisfied with the process.

Number/Percent of CIs satisfied/dissatisfied with the results.

Number/Percent and method concerns were entered into the Corrective Action Program.

Average time of corrective action completions.

Number/Percent and method concerns received where the CI requested confidentially vs those not requesting confidentially.

To assist in evaluating the health of the ECP and the health of the SCWE we can use leading, real time, and lagging performance indicators.

Leading Performance Indicator: A leading indicator helps us predict (future) successes and failures based on correlation of precursor conditions.
Real Time Performance Indicator: A real time indicator tells us whether or not good performance is currently (now) in jeopardy. Real time indicator measures the effectiveness of current practices and policies based on current data, observes events, or conditions.

Lagging Performance Indicator: A lagging indicator measures the effectiveness of (past) practices or performance based on historical data, events, or conditions.

**NOTE:** Beyond numbers and percentages the analysis should consider other conditions such as outages, state of labor relations, changes in the regulatory environment, changes in the general work environment, changes in management style, and changes in company and departmental survey results.

**NOTE:** Since there are differences in ECPs, no one set of indicators is suitable to everyone. As a minimum, those indicators that measure the primary objectives of the ECP; e.g., timeliness of resolution of concerns, confidentiality of submitters, and feedback on concern resolution to submitters should be tracked and evaluated.

**INPUT PI**s

Number of concerns received: multiple grouping options; department, category, source, etc.

Method of receipt: Multiple sources, drop-box, exit interview, anonymous, walk-ins, etc.

**PROCESS PI**s

Number of concerns in backlog
Age of concern(s) in backlog
Oldest concern
Average age
Average time to investigate concern
Average time to resolve concern
Number of concerns processed via Corrective Action Program
Average time to complete corrective action
Number of concernees requesting confidentiality
OUTPUT PI's

Number of concerns substantiated
Number of CIs satisfied/dissatisfied with ECP process
Number of CIs satisfied/dissatisfied with ECP results
Management satisfaction with ECP process
Number of concerns reported to outside agencies, NRC, DOL, OSHA, media, etc.

PERFORMANCE INDICATORS IN PERCENTAGE FORMAT

One of the nice things about using a tabular for performance indicators (PIs) is that all of the necessary information is readily available from the tables, and the calculations follow immediately.

Typical percentages used as PIs:

- Percentage of concerns open at the close of month
- Percentage of concerns open year-to-date
- Percentage of concerns per department
- Percentage of concerns re-assigned to another department for resolution
- Percentage of concerns by classification type

Each of these percentage calculations would use the total number of each PI as the denominator of the percentage.
ANNUAL REPORT

INTRODUCTION

The report should provide a summary of ECP activities for year. This report should be a description of assessment results, performance indicators, trend analysis and recommendations.

EXECUTIVE SUMMARY

The executive summary should be an overview of the data provided within this report. Providing answers to the following questions should give senior management insight into the SCWE and how their site compares with others.

- Answer what, when, where, why, and how, as appropriate, to the following questions:

- Did the number of external allegations increase/decrease? Are there any trends?

- Did the number of internal concerns increase/decrease? Are there any trends?

- How does this site/company compare with other sites/companies in allegations? Are we in the top decile, top quartile, second quartile, or third quartile?

- Did company employees and contractors use the Employee Concerns Program?

- How was the program made visible to all employees?

- Did any concern or allegation result in a 10 CFR 50.5, 50.7, 50.9 or section 211 violation as determined by the NRC?

- What is the health of the SCWE?

- Are there any pockets within the organization where the potential exist for a chilled environment?

- Do any areas need increased management attention?

- Are there any lessons management should learn from internal/external concerns?

- Consider including conclusion and recommendations in the summary.
**GRAPHICS**

- Graph of the number of NRC Allegations and Internal Concerns. Provide comments to explain the interpretation of results.
- Graph of the number of substantiated and not substantiated NRC Allegations. Provide comments to explain the interpretation of results.
- Graph of the number of substantiated, partially substantiated and unsubstantiated Internal Concerns. Provide comments to explain the interpretation of results.
- Graph of the Origination of the Concerns. Categories could be Company Employee (union/non union, Contractor Employee (union/non union, NRC, Anonymous, and Public). Provide comments to explain the interpretation of results.
- Graph of the number of concerns received and the number of concerns entered into the Corrective Action Program. Provide comments to explain the interpretation of results.
- Graph of how Internal Concerns were received. Categories could be Exit Interview, Walk-In, Mail, Management, Phone, Web Site, Hotline/800 number, Drop Box, Referral, Tailgate Meeting, Department Chat, Presentation, Condition Report, and Survey. Provide comments to explain the interpretation of results.
- Graph of the number of open Concerns and Allegations (Backlog). Provide comments to explain the interpretation of results.

**CONCLUSION**

Conclusion based on the information presented.

**RECOMMENDATION (S)**

Preferred actions to resolve issues presented in the conclusion.
APPENDIX L

SURVEYS

PURPOSE/SCOPE

Provides basic knowledge of how surveys are used, considerations for their development and implementation, biases to be avoided, and how to analyze data. An example of an industry survey is provided.

BACKGROUND

One of the more informative methods of obtaining widespread feedback regarding the satisfaction level among the work force is by surveys. Surveys are referred to by their purpose: Culture, climate, safety, employee concerns, etc. They are designed to gauge what employees believe about their work environment.

In particular, surveys attempt to obtain information about each employee’s comfort and confidence in raising concerns to supervisors and managers; whether he or she prefers to report an issue to another part of the organization; e.g., Employee Concerns Program (ECP), or to an external agency and reasons for doing so. While surveys provide an effective means of obtaining employee feedback, they must be structured and implemented to ensure objective and candid responses.

GENERAL INFORMATION

General Periodic

- Many utilities conduct periodic surveys. Most sites conduct surveys every year or every other year. One key to maximizing the usefulness of surveys is consistency. Every effort should be made to utilize the same questions, or at least the same core set of questions, each year. Thoughtful and consistent survey questions support the trending of survey information and demonstrate to employees that management is asking the right questions.

- Periodic surveys may be subject to biases due to proximity to other significant events in the business unit; for example, staff reductions, changes to the performance management process, or payment of bonuses. Obviously these events can have positive and negative impact on the overall results. One tactic to minimize this potential is to administer the survey to one quarter of the organization each calendar quarter and maintain an ongoing process. While this can help to minimize the "event bias," it does require more administrative support.
Focused Group

- Occasionally in the course of raising a concern, an individual will make a general statement broadly indicating that others in the work group or department are fearful of harassment, intimidation, retaliation or discrimination (HIRD) or reluctant to raise concerns. A survey provides the group with a mechanism to respond anonymously, and it gives the investigator data to analyze. This technique is particularly effective when historical annual data is available as a reference. Focused group meetings are also an effective method to directly solicit feedback.

Self-Assessment

- Regulatory oversight of the nuclear industry focuses heavily on the self-assessment process. Surveys are invaluable in the self-assessment of ECPs and a utility's Safety Conscious Work Environment (SCWE). Whereas technical programs are more straightforward and prone to direct feedback to an assessment, employees may not always be willing to openly share concerns regarding cultural issues. Surveys provide an anonymous mechanism for employees to provide input, and as such will likely be the most informative source of information.

Regulatory Response

- In response to allegations of HIRD, the Nuclear Regulatory Commission (NRC) will typically request that a utility explain why a "chilled environment" does not exist. It is always difficult to make a compelling argument to demonstrate the absence of a "chilled environment." However, survey data can provide a quantitative measure of the utility's safety culture. The results of a survey will be most compelling if the survey has been conducted annually and the results can be broken out by the department or group effected by the allegation.

Communication and Promotion of Surveys

- The statistical validity of a survey is directly proportional to the size of the sample population. Administration of a survey should be planned and coordinated with the communications department. The target population should be fully aware of why the survey is being conducted, when it will be conducted and how, when responses are due, and if possible when the results will be rolled out.

Anonymity

- The need for an anonymous process for responding to a survey cannot be overemphasized. Surveys are generally intended to determine the degree to which a particular issue exists in the site culture. If raising concerns is an issue, it is likely that concerned individuals (CIs) are going to be reluctant to openly share criticism; therefore, the need for anonymity is obvious. Reasonable measures to maintain anonymity may not be so obvious.
Someone who feels he/she has a retaliatory boss may be very skeptical of survey administration details simply intended for efficiency. For example, responding via e-mail or over an office intranet may in reality be a secure and confidential process; however, a CI who is less computer literate might regard these processes with suspicion, fearing he/she is being fingerprinted. As a result, he/she may not respond, or worse, not respond honestly. Direct hand-off of surveys to a supervisor should also be avoided. Someone who is already insecure could look at with suspicion any process that can tie the individual to the form he/she completed.

Always allow the surveyed employees to fill out the survey in private.

Number of Survey Questions

The length and detail of a survey is a dual edge sword. More detail and demographics will yield greater understanding about the subject organization. Unfortunately, the greater the burden on the employee, the less likely he/she is to respond. There are professional survey consultants available with extensive survey tools that can be administered by direction (e.g., responding to the survey is not optional). These may provide a great deal of valuable information and may have the added value of comparison to other clients of the consultant; however, their length may disenchant some respondents and the demographics may cause concern for others.

Phrasing Questions

Develop the survey question with the desired responses in mind. For example, asking whether an employee is 'comfortable raising a concern to their supervisor' is different than asking if an employee is 'confident that a supervisor will act on your concern.' Also, avoid multi-part questions and questions with double negatives. It is best to have the survey proofread by one or more employees who were not involved with its development.

Style of Survey Questions

There are three basic types of questions, and there are pluses and minuses to each. Yes/No questions are the simplest to compile, compare, and trend. However, they provide little insight to the degree of response. For example they will not yield insight on 'how comfortable are you in raising concerns?' Yes/No questions also do not provide the opportunity for the employee to comment.

Open-ended questions allow employees the opportunity to make a comprehensive response rather than limiting them to only assigning values or ratings. This may be the best approach for a focused survey in a particular problem area or department, but it will be very difficult to compile and assess for an entire site or business unit.
Scaled questions are somewhat of a compromise. They are conducive to convenient compilation and trending yet they allow the employee to express the degree of agreement with a question.

A combination of the above may work best. Use a set number of Yes/No or scaled questions and an open-ended question at the end of the survey. The use of a comments section may be used in lieu of an opened question.

Establish the Due Date for Return of the Response

Instructions for completion of the survey and its return to the ECP must be clear, concise, and include a specific due date. The roll out of the results will be expected and the analysis of the data will need to stay on a schedule.

Frequency of Surveys

In general, employees are cooperative and responsive to management requests for information. However, if there are cultural problems to begin with, if employees are not provided with the results, or if they are surveyed too often, employee cooperation can decline quickly. The frequency of a survey, as well as the proximity to others conducted for other purposes should be considered.

Format of Scaled Questions

The format of a scaled response can present challenges for the analysis of the data. For example, if a neutral response is an available choice, what does a '3' on a 1-5 scale mean? If the data analysis is looking for a percent favorable response, is a 3 positive, negative, or not counted at all? If the survey uses an odd scale, it may be advisable to assign a definitive answer to the middle of the scale (e.g., 3 = Generally Agree). The end product is the analysis of the data. The format of the scaling should be developed with that in mind.

Demographics

"Demographics" provide a key that can unlock meaningful understanding of the survey results. Without demographic information, the response to a particular survey question would only provide information about the overall organization. That information would provide insight with regard to the historical response to the particular question and with respect to other utilities (if data is available). However, to understand differences between departments, or between the craft and management, or between different supervisors, more information about the individual respondents is necessary. Demographic information is very beneficial; however, providing personal information will make some employees feel they are giving up confidentiality.

Survey Biases

Confidentiality
The implementation of a survey must be conducted in a manner that affords confidentiality. Electronic media may cause employees to be suspicious. Direct hand-off to a supervisor should not be used. Allow employees privacy while responding to the survey.

Accessibility to Survey Media

There should be a plan for how all employees in the subject population are to receive the survey. It should cover personnel on back shifts and those working at remote locations. Include craft personnel who may not have accessibility to e-mail distribution. The plan should also include how the completed surveys will be collected. Company mail in a pre-addressed envelope may be the most efficient and confidential method.

Timing with Other Events

The survey may be intended to assess SCWE or culture, but it will be influenced by the attitude and general level of satisfaction in the organization. Announcements of re-engineering, downsizing, right sizing, or even a new performance management process could all have an impact on the results.

Wording of Questions

All questions should be asked such that a positive answer is favorable, do not alternate. For example; the first 19 questions on the survey are phrased such that "I agree" is the favorable response but the last question states, "I have been retaliated against while working at XYZ Nuclear." There will very likely be biased results. Proofreading by a sample group will help catch these errors.

Data Analysis

Historical Analysis

Survey data by itself provides limited usefulness. An 80 percent positive response to a question may seem fine standing alone, but it does not seem very good if it dropped 15 percent from the last survey, or if other departments are all greater than 90 percent. Historical analysis relies upon consistency. The same questions or core set of questions should be maintained to show trends.

Cross-departmental Comparison (Maintenance, Operations, Radiation Protection, Engineering)
Compilation of data for each department is very useful in identifying problem areas; however, demographic information from survey respondents is required to make comparison of results between departments. That may reduce the number of responses to the survey.

■ Cross Company

Analysis of data with respect to other utilities may give the best sense of what the results mean. A raw score of 85 percent would seem positive but not if several peer utilities score in the 97-100 percent range. The primary difficulty in comparing results with other utilities is the survey itself. Coordination of survey questions and, if possible, the method of implementation is required if meaningful comparisons are to be made. Attached to this appendix is a generic survey compiled by members of the Employee Concerns Program Managers’ Forum. The survey has been used by a number of utilities that may be willing to compare results.

■ Hierarchically

Hierarchical analysis is another potentially valuable method of analysis but requires additional demographics that may limit the participation in the survey. Also note that making demographic information mandatory may skew the results.

■ Ancillary Information Related to Survey Taking

Other information can sometimes be obtained apart from what is contained in surveys. Survey participation may, by itself, provide an indication of satisfaction levels. A high participation rate may indicate people are interested in providing the requested information, while a low quantity of returned surveys may suggest worker apathy or lack of confidence with the employee concerns process or the work environment.

**RESPONSIBILITIES**

ECP, Human Resources and Other Organizations

The administrator of a survey should be mindful of the general culture in the target population. For example, the administration of a reactive survey to assess a troubled department should probably not be conducted with the help of that department's staff. In some organizations, the human resources department may not be viewed as independent and should therefore not be utilized to support the process. The confidentiality of clerical staff may also be an issue with some employees.
Although it is a significant administrative burden, it is desirable, and likely to produce the most accurate results if the ECP staff personally conducts the survey. The ECP should have a posture of neutrality in the organization and should therefore pose the least bias to the results.

Feedback to Employees

The importance of providing the results of surveys to the participants so they know where they stand relative to other survey participants cannot be overstated. As the administrator of the survey you may not be able to drive action on the results, but you must share the results with the participants. Failure to do so will adversely impact your participation in the future. If actions are taken in response to the survey, communicate those as well.

Survey may contain narrative comments that present two issues for follow-up consideration. First, the ECP staff member should contact each individual who was willing to provide comments and sign the survey. And second, every comment should be looked at with respect to a potential allegation. If the comment had been received on a standard intake form, how would your ECP address it? Treat the survey feedback in the same manner.

Response Criteria for Survey Results

- As part of the survey development process, it is important to have management agreement on the action to be taken as a result of survey feedback. Establishing response “triggers” can provide criteria against which the survey responses can be compared. For example, survey questions with a positive response of less than 60 percent could require some type of corrective action to improve the particular area/issue. Likewise, a negative response of greater than 15 percent could also require some type of corrective action.

- Department management should be responsible to identify and implement appropriate corrective action to reverse/eliminate undesirable survey trends.

**ATTACHMENT**

1. Basic Safety Conscious Work Environment Survey
Please take a few minutes and complete the Employee Concerns Program’s “Safety Conscious Work Environment Survey.” Once you have completed the survey, please fill out the demographic information at the bottom of page 2 and return it to Employee Concerns in the envelope we provided by DATE. Thank you for your cooperation.

<table>
<thead>
<tr>
<th></th>
<th></th>
<th>ALWAYS</th>
<th>OFTEN</th>
<th>SOMETIMES</th>
<th>SELLDOM</th>
<th>NEVER</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>As a nuclear worker, I am responsible for identifying problems and adverse conditions.</td>
<td>5</td>
<td>4</td>
<td>3</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>2.</td>
<td>I believe a culture exists at Utility A that is conducive to raising nuclear safety and quality concerns.</td>
<td>5</td>
<td>4</td>
<td>3</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>3.</td>
<td>I believe that if my management had made a non-conservative decision, I could challenge that decision.</td>
<td>5</td>
<td>4</td>
<td>3</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>4.</td>
<td>I feel free to approach management regarding any nuclear safety or quality concern.</td>
<td>5</td>
<td>4</td>
<td>3</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>5.</td>
<td>I believe that I can raise any nuclear safety or quality concern without fear of retaliation.</td>
<td>5</td>
<td>4</td>
<td>3</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>6.</td>
<td>I am familiar with the Employee Concerns Program.</td>
<td>5</td>
<td>4</td>
<td>3</td>
<td>2</td>
<td>1</td>
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<tr>
<td>7.</td>
<td>I am confident that issues reported through the Employee Concerns Program are thoroughly investigated and appropriately resolved.</td>
<td>5</td>
<td>4</td>
<td>3</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>8.</td>
<td>I believe that upper management supports the Employee Concerns Program.</td>
<td>5</td>
<td>4</td>
<td>3</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>9.</td>
<td>I can use the Employee Concerns Program without fear of reprisal.</td>
<td>5</td>
<td>4</td>
<td>3</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>10.</td>
<td>Confidentiality of my concern at my request.</td>
<td>5</td>
<td>4</td>
<td>3</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>11.</td>
<td>Management’s expectations regarding safety and quality are clearly communicated.</td>
<td>5</td>
<td>4</td>
<td>3</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>12.</td>
<td>Management’s expectations are consistent with performance reviews, rewards, and discipline.</td>
<td>5</td>
<td>4</td>
<td>3</td>
<td>2</td>
<td>1</td>
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</table>
BASIC SAFETY CONSCIOUS WORK ENVIRONMENT SURVEY  
(Continued)

<table>
<thead>
<tr>
<th></th>
<th>ALWAYS</th>
<th>OFTEN</th>
<th>SOMETIMES</th>
<th>SELDOM</th>
<th>NEVER</th>
</tr>
</thead>
<tbody>
<tr>
<td>13.</td>
<td>I believe that management wants employees to report concerns.</td>
<td></td>
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<tr>
<td>14.</td>
<td>My management takes corrective actions on employee concerns brought to them.</td>
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<tr>
<td>15.</td>
<td>I believe my work environment is generally professional and open (i.e., free of any harassment, intimidation, discrimination or retaliation)</td>
<td></td>
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<td></td>
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</tr>
<tr>
<td>16.</td>
<td>Resolution of potential nuclear safety/nuclear quality issues including root cause and broader implications through the Corrective Action Program (CAP) is effective in our organization.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>17.</td>
<td>Identification of potential safety/nuclear quality issues through the CAP is effective in our organization.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>18.</td>
<td>I feel free to raise nuclear safety/nuclear quality concerns through the CAP without fear of reprisal.</td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>19.</td>
<td>I am confident that issues reported through the CAP are prioritized appropriately, thoroughly investigated and resolved in a timely manner.</td>
<td></td>
<td></td>
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<tr>
<td>20.</td>
<td>The CAP is utilized effectively by Utility A to resolve conditions adverse to quality in a timely manner.</td>
<td></td>
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<tr>
<td>21.</td>
<td>I know how to write a Notification and get it into the system.</td>
<td></td>
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<td></td>
<td></td>
</tr>
</tbody>
</table>

Comments:

________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

DEMOGRAPHICS: □ I am a Management employee.
□ I am a Represented employee
APPENDIX M

SELF-ASSESSMENT

PURPOSE/SCOPE

Provides three approaches to performing a self-assessment of a licensee’s Employee Concerns Program (ECP).

BACKGROUND

Nuclear Regulatory Commission (NRC) regulations do not include specific guidance or requirements for the establishment of an ECP.

The self-assessment approaches presented are intended to assist in the assessment of the licensee’s process for resolving employee concerns whether the licensee’s program is well established or just starting up.

The self-assessment approaches presented are for the convenience of the licensee and are not meant to be taken as recommended assessment features.

CONDUCT OF SELF-ASSESSMENTS

An evaluation of the ECP may be done in accordance with the licensee’s process for self-assessments. However, consideration should be given to the unique, confidential and sensitive nature of the information in the case files and other information in an ECP Program. These factors may influence the composition of the self-assessment team, conduct of the self-assessment and distribution of the results.

- Team Composition. Self-assessment teams may include individuals from corporate organizations such as Corporate Security, Human Resources, Operational Audits, Inspector General’s Office, other licensees, contractors, consultants, law departments, outside counsel.

- Conduct of Assessment. During the conduct of ECP self-assessments, procedures and practices for confidentiality and/or anonymity should not be altered.

- Use of Results of Self-Assessment. Results of ECP self-assessments should be provided to senior management to allow senior management to understand that the functioning and effectiveness of the ECP Deficiencies identified during the course of the assessment should be reported in accordance with established licensee processes.
NRC INSPECTION DOCUMENTS

A licensee may adopt the NRC inspection procedure 40001, Resolution of Employee Concerns. The NRC uses procedure 40001 to assess whether a licensee has adequately resolved safety-related employee concerns without retaliation against those employees who raise concerns.

Alternatively, a licensee may adopt NRC Inspection Manual Procedure 71152, Identification and Resolution of Problems, which also addresses inquiries concerning a Safety Conscious Work Environment (SCWE) and may provide additional guidance for the development of the self-assessment.

However, compliance with the requirements laid out in either NRC document may not be sufficient to ensure that an ECP is effective or that it includes elements needed to meet the needs of a particular organization.

EMPLOYEE CONCERNS PROGRAM FORUM SELF-ASSESSMENT MATRIX

The ECP Forum subcommittee on self-assessments has developed a self-assessment module. The Self-assessment Subject and Performance Measure Matrix, Attachment 1, provides a cross-reference between the various assessment areas and possible performance measures.

CONSULTANT PRODUCTS

A licensee may contract with one of the knowledgeable legal or training firms familiar with ECP. For a fee, these firms will customize an assessment to meet needs of the licensee.

ATTACHMENTS

1. Self-Assessment Subject And Performance Measure Matrix
2. Employee Concerns Program, Self-Assessment Project Plan
## SELF-ASSESSMENT SUBJECT AND PERFORMANCE MEASURE MATRIX

### Assessment Area

#### Processing Concerns

**Interaction with concerned individual (CI)**

<table>
<thead>
<tr>
<th>Performance Measures</th>
</tr>
</thead>
<tbody>
<tr>
<td>Determine the level of adherence to key areas of NRC Policy Statement, NRC Inspection Guidance, and NEI Tool Box 97-05.</td>
</tr>
<tr>
<td>Determine the level of adherence to ECP policies and governing procedural requirements.</td>
</tr>
<tr>
<td>Determine the level of adherence to ECP implementing procedural requirements.</td>
</tr>
<tr>
<td>Review any survey (e.g., SCWE) results and identify appropriate process changes.</td>
</tr>
<tr>
<td>Review any CI feedback data and identify appropriate process changes.</td>
</tr>
<tr>
<td>Observe peers conducting an interview (with CI or during an investigation) and evaluate technique and performance.</td>
</tr>
<tr>
<td>Review open and closed concern files for appropriate level of documentation.</td>
</tr>
<tr>
<td>Review timeliness of ECP response.</td>
</tr>
</tbody>
</table>

- Review process
- Files/records
- Database
- Closure
- Follow-up
- Corrective actions

#### Employee Exit Process

<table>
<thead>
<tr>
<th>Performance Measures</th>
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<tr>
<td>Compare percentage of personnel completing an ECP exit interview to established goal.</td>
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<td>Evaluate time spent and manner of conducting exit interviews with benefit (number of concerns raised).</td>
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<td>Determine the adequacy of exit documentation.</td>
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<tr>
<td>Determine if concerns identified in the exit process are resolved and feedback provided.</td>
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</tbody>
</table>

- Method of contact
- Target group(s)
- Documentation of events
Assessment Area

Communications
- Brochure
- Departmental rollouts (ECP current status, Q&A, etc.)
- Posters
- Closed concern feedback (CI and site personnel)
- Review and distribution of utility and industry events (DOL, NRC)
- Intranet website

- Randomly interview plant personnel to determine their awareness of the ECP.
- Randomly interview plant personnel and ask them to identify the various communication tools used by the ECP and indicate their preference.
- Review benchmark (Safety Culture) survey results that focus on awareness of the ECP.
- Evaluate the level of ECP staff attendance / participation in site meetings (e.g., Plan of the Day) and departmental staff meetings.
- Evaluate organizational and site geographic coverage of communications efforts.
- Evaluate effectiveness of outage communications efforts, i.e. to seasonal employees, contractors, etc.

Status Reports
- Format
- Development process
- Content
- Distribution

- Recipient’s feedback on content, distribution, frequency, etc.
- Recipient’s knowledge level of ECP status.

Performance Indicators
- Items tracked
- Quality of data
- Follow-up actions
- Performance measures

- Evaluate consistency of indicators to:
  - Safety Culture survey results
  - Corrective action process indicators
  - NRC allegation data

- Compare performance indicator results to key ECP performance goals to ensure proper alignment

- Evaluate effectiveness of trending and communication of trends to management or senior management.
## Assessment Area

### Surveys
- Benchmark (e.g., annual)
- Targeted group
- Targeted issues

### Performance Measures
- Evaluate effectiveness of ECP staff or contractor in analyzing survey results.
- Evaluate appropriateness of any follow-up actions.
- Compare anticipated results with actual survey responses.
- Does survey determine plant personnel:
  - Comfort level in using the ECP
  - Confidence in the quality of ECP reviews and disposition
  - Satisfaction with ECP responsiveness
- Determine if survey results are disseminated to plant personnel (what personnel, how distributed).
- Determine if survey results are compared to previous survey results, and evaluate conclusions reached.
- Evaluate effectiveness of communication of performance indicators to management.
- Evaluate effectiveness of plans and results when performance indicators do not meet expectations.

## Training

### GET
- Supervisor / manager initial training
- Supervisor / manager continuing training
- Non-supervisor / union personnel periodic training

### ECP staff training
- Conduct random interviews with Supervisors / Managers to determine their knowledge of 10 CFR 50.7, Harassment / Intimidation / Retaliation / Discrimination (HIRD) and associated company policies.
- Determine the extent of industry / plant events incorporated into training programs.
- Determine if training programs are appropriately revised based upon post-training feedback / comments.
- Evaluate the depth and appropriateness of ECP staff training.
- ECP staff observe the individual (utility or contractor) conducting a training session and evaluate their presentation skills and effectiveness in meeting training objectives.
Assessment Area

External Departmental Interfaces
- ECP Manager Forum
- Peer assessments
- Regulatory interface (NRC resident inspectors, regional allegation coordinator, agency allegation coordinator and DOL)
- HR / Legal / Functional Departments

ECP Effectiveness
- Closed concern corrective actions
- Self assessment process and previously identified corrective actions
- Client feedback (CI, management)
- Regulatory feedback
- Industry events, NRC violations, NRC inspections findings, and DOL decisions
- Nuclear-related company lawsuits

Performance Measures
- Evaluate the level of ECP staff interface and participation in industry initiatives.
- Evaluate the level of ECP staff interface with regulatory agencies.
- Benchmark your ECP against other utility programs to identify areas for improvement and this Toolbox.
- Evaluate the process and appropriateness of inter-departmental handoffs for concern resolution.
- Evaluate the timeliness, adequacy, and effectiveness of previous concern corrective actions.
- Verify implemented actions.
- Determine if previous actions prevented recurrence.
- Evaluate the adequacy and effectiveness of previously identified self-assessment corrective actions.
- Conduct anonymous survey of past CIs to determine ECP effectiveness from their perspective, and to identify areas for improvement.
- Interview past CIs to determine if they were the objects of HIRD as a result of using the ECP.
- Conduct a random survey of plant personnel to determine ECP effectiveness from their perspective.
- Determine if deficiencies identified during other utility NRC Inspections are adequately addressed in the ECP.
- Compare the ratio of internally received concerns to allegations received by the NRC.
Assessment Area

Confidentiality
Dissemination of information

- Confidentiality agreements
- Reports
- Records
- Hotline requests

Performance Measures

- Determine if ECP literature discusses availability and limits of confidentiality.
- Determine if confidentiality is being maintained through the report process.
- Determine the understanding of confidentiality by ECP staff, whether temporary or permanent. Review methods that reinforce this understanding such as the use of confidentiality agreements.
- Determine the effectiveness of the methods used to transmit ECP files and information.
- Determine the effectiveness of measures to protect ECP information stored on electronic media.
- Determine the effectiveness of the measures to limit access to ECP files and voice-messaging services.
- From survey information, determine if plant personnel trust in ECP to protect their identity.
EMPLOYEE CONCERNS PROGRAM

SELF-ASSESSMENT

PROJECT PLAN

1.0 INTRODUCTION

The Employee Concerns Program (ECP) Self-Assessment, along with other safety-supporting efforts, is designed to enhance nuclear plant safety and reliability. The specific purpose of this self-assessment is to ensure that high standards of important program elements exist and are being implemented effectively and consistently across the fleet. The assessment team will consist of the ECP manager and

The assessment team will use existing industry standards of excellence as a basis for their assessments, applied in light of team member experience and industry best practices. Specific performance objectives and criteria will be used as a guide during the assessment process.

Self-assessments should contribute to the goal of continuous improvement. This effort is not intended to add to the existing administrative burden of implementing the program, but should provide an easy mechanism for documenting observed performance, behaviors and results achieved.

The assessment program provides a meaningful, quantifiable measure of the degree to which the plant is meeting the performance objectives described above, as well as a tangible way to compare the overall performance of the individual plants to other plants. It is intended that the ECP manager and the Safety Concerns Committee will utilize the information gathered from this self-assessment as an informative tool to refine specific plant processes and to improve overall program performance, including behaviors and results achieved.

2.0 ASSESSMENT SCHEDULE AND ACTION PLANS

The following schedule has been established for these efforts:

Each plant program will be self-assessed on a nominal bi-annual basis.
A final report detailing the findings and conclusions of the assessment team will be presented to the SCC. Site-specific recommendations intended to improve program performance will be tracked to completion by the site Employee Concerns Program managers. Conditions adverse to quality will be entered into the site-specific corrective action program for tracking and closure.

3.0 ASSESSMENT AREAS / REFERENCES AND DOCUMENTATION

This review will compare program elements against the current ECP procedure. This procedure implements the best industry practices and elements of NEI letter 97-05, Employee Concerns Program Process Tools in a Safety Conscious Work Environment. Specific elements and questions for interviews will be generated from NRC Inspection Manual 40001, Resolution of Employee Concerns and NRC Inspection Manual 40500, Effectiveness of License Process to Identify, Resolve and Prevent Problems.

Documents reviewed during this evaluation will be retained by the program team as needed to prepare a final report. The final report will be retained as an official plant record and will be distributed to members of the SCC, site managers, site ECP managers and the Assessment Director.

NOTE: At no time during the conduct of this review will the identity of individual clients of the site EC programs be shared with members of the assessment team.

4.0 PLANNED INTERVIEWS

Interviews will be conducted with the following site personnel, as they are available. Each site ECP manager is expected to coordinate and facilitate the interviews at each site.

- Corrective Action Program manager
- Operations manager
- Maintenance manager
- Engineering manager
- Industrial Safety manager
- Human Resources manager
- Site Contracts / Procurement manager
- A representative that can review GET training materials related to ECP/SCWE
- A front-line supervisor in RP, maintenance and Chemistry
- Represented employees from Operations, I&C and mechanical maintenance, RP and Chemistry
- Several contract employees including security officers, craft and Engineering personnel
• 1-2 person(s) that have conducted recent ECP investigation(s) in support of the ECP program.

Each of the persons selected above should expect to participate in a 15-30 minute interview of topics of interest to the interviewer. The site ECP manager will be requested to spend approximately 4 hours each day with the team to review program elements as described later in this document.

5.0 EVALUATION ELEMENTS

The following program elements will be assessed during this review:

1. Management Expectations
2. Corrective Action Process Ties
3. ECP Elements and Implementation
4. Labor Relations and Human Resources
5. Contractors
6. External Perspectives

6.0 EVALUATION GRADING CRITERIA

The following criteria will be used to assess the overall performance of each area as rating keys:

Strength (S) – A process, program or activity, which is exceeding industry expectations and has resulted in improved safety, quality, or reliability.

Positive Aspect (PA) – A process, program, or activity, which has resulted in improved safety, quality, or reliability but does not meet the threshold of a strength.


Area For Attention (AA) – A process, program, activity or condition, which requires management reinforcement and attention but does not meet the threshold of an area for improvement.

Area For Improvement (AI) – A process, program, activity, or condition, which is not meeting industry or station expectations. Areas for improvement require timely attention to correct and preclude recurrence.
Not Applicable (NA) – Not applicable or observed.

Items that are designated as Areas for Attention (AA) or Areas for Improvement (AI) will be tracked for improvement as previously described in Section 2.0.

# 7.0 SELF-ASSESSMENT CHECKLISTS AND GUIDELINES

<table>
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<tr>
<th>EXPECTATIONS</th>
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<th>PA</th>
<th>EP</th>
<th>AA</th>
<th>AI</th>
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<tbody>
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<td><strong>I. MANAGEMENT EXPECTATIONS</strong></td>
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<td>1. Has the workforce been provided with clear expectations for raising safety concerns? Examples would include items like all-hands memos and Employee Concern program guidelines, etc.</td>
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<td>2. Are expectations documented and current?</td>
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<td>3. Are expectations reinforced on an ongoing basis?</td>
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<td>4. Review any site documents that provide non-retaliation policies for raising safety concerns.</td>
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<td><strong>II. CORRECTIVE ACTION PROCESS</strong></td>
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<tr>
<td>1. Is the primary tool used for initiation of corrective action requests well used and understood by the workforce? Is the system “user friendly”? Does plant staff know how to access the system to enter and track items? Objective evidence to be evaluated would include self-reporting ratios within workgroups and trends of total volume of issues in each group.</td>
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<td>2. Is there a “one-form” system for entry of non-conformances? If multiple systems exist, is there a clear understanding among multiple systems – i.e. work requests, action requests, and corrective action requests?</td>
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<td>3. Does this program drive a timely, effective and respectful resolution of issues brought into the program?</td>
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<td>4. When requested, are initiators involved in the resolution of issues either formally or informally?</td>
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<td><strong>III. EMPLOYEE CONCERNS PROGRAM ELEMENTS AND IMPLEMENTATION</strong></td>
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<td>1. Do personnel understand the relationship between ECP and other forums to raise concerns?</td>
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<td>EXPECTATIONS</td>
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<td>2. When appropriate, does the program capture the best practices and drive a lessons learned review after investigations are completed?</td>
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<td>3. Do case files reflect actions taken in response to a concern? How are corrective actions tracked?</td>
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<td>4. Are closed files understandable to a reasonably skeptical third party?</td>
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<td>5. What is the nature and frequency of communication with the concerned individual during and after the investigation?</td>
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<td>6. Does on site communication (brochures, advertisements, and posters) reflect accurate methods of contacting the ECP manager? Are these informational items posted conspicuously throughout the site?</td>
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<td>7. Is the office space where ECP work is conducted conducive to maintaining confidential material and discussions?</td>
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<td>8. Does the program indoctrinate personnel upon entry into the business unit and again provide exit interview opportunity when leaving the business unit?</td>
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<td>9. Evaluate the performance indicators established for monitoring important attributes of the program.</td>
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<td>10. Is the volume of ECP activity appropriate and are there any conclusions to be drawn from high/low/ trending volume?</td>
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<td>11. Review the ECP reporting structure for independence and technical adequacy.</td>
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<td>12. Review the site implementing procedure for ECP and compare against the ECP program</td>
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<td>13. How does the program assess Operability and Reportability as defined in 10 CFR 50.72 and 50.73?</td>
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<td>14. Does the program accept and process feedback from Concerned Individuals (CIs) upon completion of investigations? Does the program provide an avenue of internal appeal if unsatisfied?</td>
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<td>15. Evaluate the on-site methods of raising a concern and the propensity of CIs to use anonymous methods.</td>
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<td>16. What are the programmatic expectations for timeliness to closure of ECP issues? How is performance as compared to these expectations?</td>
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<td>17. Are ECP program managers and investigators trained on investigation methodology and/or program fundamentals?</td>
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<td>18. Are personnel conducting ECP investigations trained and proficient in interview techniques?</td>
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### IV. LABOR RELATIONS AND HUMAN RESOURCES

1. Review the last 12 months of labor grievance rate and content – trends or comments relating to SCWE?

2. Are there adverse retention trends in specific workgroups?

3. Do departing employees complete exit questionnaires and share reasons for departing? How is this information used by the organization?

4. Does any HR practices present a barrier of impede raising safety concerns?

5. Do supervisors and managers receive training regarding their role and responsibility in a SCWE? Is the training perceived to be effective and up to date?

### V. CONTRACTORS

1. Are outage personnel briefed on SCWE and ECP expectations upon arrival?

2. Are contract employees who serve in supervisory capacities briefed on their role in a SCWE?

3. Do departing contract employees have the opportunity to raise safety concerns to the ECP prior to exiting?

4. Do contract employee receive training of how to utilize the corrective action program? Are there any unintended barriers to doing this, i.e. internal employee screenings, limited computer access, etc.

5. How does plant management monitor contractor environment and performance?

6. Do procurement documents obligate vendors to provide goods and services in accordance with 10 CFR 50.7 and ERA Article 211?

7. How does management respond to claims of contractor retaliation or H&I?

### VI. EXTERNAL PERSPECTIVES

1. How many DOL claims have been raised in the past three years?

2. Did management consider chilling effect on co-workers?

3. Are there legacy issues from high-profile cases that alter the workforce perception regarding management’s ability to “walk the talk”?

SELECTED INTERVIEW QUESTIONS

Note: A sampling of these questions should be asked of all interviewees as appropriate for their position within the organization.

1. How would the interviewee preferably raise a safety or regulatory issue? Why?

2. Has the interviewee ever submitted an issue into the corrective action program or the employee concerns program, was the issue adequately addressed?

3. Does the interviewee know whether employee concerns are tracked to completion and whether employees are informed of the results of ECP investigations?

4. Does the interviewee know who the ECP manager is and how to contact this person?

5. Is the interviewee aware of any specific instance in which another employee submitted an issue to the corrective action program or ECP and considered the response incomplete or unacceptable? Are they aware of any retaliation for having raised concerns in this manner?

6. Is the interviewee aware of their rights to raise safety issues with the NRC? Have they ever used this avenue and if so, were the satisfied with the result?

7. Is the interviewee aware of any events which would encourage or discourage employees from raising safety concerns internally or externally?

8. Has the interviewee been trained on SCWE expectations and/or ECP program access methods? Was this training considered effective?

9. Does the interviewee consider the ECP as an effective method of reconciling safety concerns at this facility?
DATA COLLECTION FORMS

Plant: _________________________

Data Collected By: _______________________  Date: ______________

Assessment Activity:  ☐ Observation  ☐ Field Notes  ☐ Interview

Description of Activity:

Site Personnel Observed / Interviewed:

<table>
<thead>
<tr>
<th>Criteria(^1)</th>
<th>Observation Fact / Field Note / Interview Details</th>
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\(^1\)Criteria: The criteria number that the observation details are applicable to as per the checklist.
## INTERVIEW QUESTIONS

**Plant:** ______________  **Data Collected By:** ______________  **Date:** ______________

### Assessment Activity:
- [ ] Observation
- [ ] Field Notes
- [ ] Interview

<table>
<thead>
<tr>
<th></th>
<th>Question</th>
<th>Response</th>
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<tbody>
<tr>
<td>1</td>
<td>How would the interviewee preferably raise a safety or regulatory issue?</td>
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<td></td>
<td>Why?</td>
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<td>Has the interviewee ever submitted an issue into the corrective action</td>
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<td>program or the employee concerns program, was the issue adequately</td>
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<td>addressed?</td>
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<td>Does the interviewee know whether employee concerns are tracked to</td>
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<td>completion and whether employees are informed of the results of ECP</td>
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<td>investigations?</td>
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<td>Does the interviewee know who the ECP manager is and how to contact</td>
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<td></td>
<td>this person?</td>
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<td>Is the interviewee aware of any specific instance in which another</td>
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<td>employee submitted an issue to the corrective action program or ECP and</td>
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<td>considered the response incomplete or unacceptable? Are they aware of</td>
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<td>any retaliation for having raised concerns in this manner?</td>
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<td>6</td>
<td>Is the interviewee aware of their rights to raise safety issues with the</td>
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<td>NRC? Have they ever used this avenue and if so, were the satisfied with</td>
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<td>the result?</td>
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<td>7</td>
<td>Is the interviewee aware of any events which would encourage or</td>
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<td>discourage employees from raising safety concerns internally or</td>
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<td>externally?</td>
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<td>8</td>
<td>Has the interviewee been trained on SCWE expectations and/or ECP program</td>
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<td>access methods?</td>
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<td>Was this training considered effective?</td>
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<td>9</td>
<td>Does the interviewee consider the ECP as an effective method of</td>
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<td></td>
<td>reconciling safety concerns at this facility?</td>
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APPENDIX N

EMPLOYEE CONCERNS PROGRAMS FOR CONTRACTORS

PURPOSE

Describes the basic elements to establish, manage, and assess a contractor’s ability to establish a Safety Conscious Work Environment (SCWE).

Provides an appropriate means for contract employee to raise issues.

BACKGROUND

The Nuclear Regulatory Commission (NRC), in their May 1996 policy statement, indicated, “licensees are responsible for having their contractors maintain an environment in which contractor employees are free to raise concerns without fear of retaliation.” All contractor employees working on a nuclear site are required to meet the safety-conscious work environment expectations.

The licensee’s Employee Concerns Program (ECP) covers these contractor employees. In addition, some utilities require their primary contractors to establish an ECP. Contractors may choose to use the host utility’s program, understanding that some utilities may require a separate contractor program. There is no uniform method; it is a licensee option dependent on the local situation.

RESOLUTION OF CONTRACTOR’S ECP AND CONTRACTOR’S EMPLOYEE QUALITY AND SAFETY ISSUES

Any quality and safety issue raised by a contractor ECP or a contractor worker should be entered into the licensee’s Corrective Action Program (CAP).

OPTIONS FOR PROVIDING ECPS FOR CONTRACTORS

Most ECPs provide for contractor-employee access to an ECP in one of two ways; the contractor employees may use the licensee’s ECP or the licensee may request or require the contract organization provide its own ECP.

Contract terms and conditions should identify the option chosen. Typical terms and conditions are provided in Attachment 1.

Use of licensee ECPs by contractor employees

[Some licensees mandate, or allow, contract workers use of the licensee’s ECP. If this option is chosen, the training, advertising and promotion should make it clear that contractor employees can or should use the licensee’s ECP.]
Contractor-provided ECP: The requirements for the contractor’s ECP should be contained in the Terms and Conditions of the contract.

- The licensee should specify the characteristics of a contractor’s ECP, which should be generally similar to the licensee’s ECP.

- The licensee should periodically assess the effectiveness of a contractor’s ECP.

- Corrective actions from the contractor’s ECP should be followed to completion and entered into the licensee’s CAP.

- Even if a contractor has an ECP, provisions may be made for contractor employees to come to the licensee’s ECP, if desired.

Both options may be used at the same licensee. Large contract organizations may already have an ECP, while smaller contract organizations may use the licensee’s ECP.

**SAMPLE CONTRACT LANGUAGE**

Attachment 1 contains sample contract language that can be used to establish a contractor ECP. The language can be tailored accordingly to meet the needs of the licensee depending on the individual approach being used.

**CONTRACTOR PERSONNEL MANAGEMENT**

Management of contractor personnel (hiring, firing, layoffs, discipline, performance management) is the responsibility of the contractor.

Co-employment Issues - In general, licensees, like other organizations that employ contractors, avoid taking direct personnel actions (hiring, firing, performance evaluations, etc.) so as not to be, or not to even appear to be, the contracted employees' actual employer. However, since the NRC holds licensees responsible and accountable for harassment, intimidation, retaliation and discrimination (HIRD) against contractor employees, and licensees may suffer the regulatory consequence of HIRD, whether perpetrated by a licensee supervisor, contractor supervisor or others, prudent licensees will involve themselves more fully in the actions of contract organizations than would otherwise be the case.

As the licensee is held accountable for certain contractor’s actions, it is in the best interest of the licensee to ensure personnel actions are taken solely for performance-based or behavior-based business reasons. Actions should be fairly and consistently applied and well documented. The licensee should require each contractor to conduct the management of its personnel accordingly.
If a contractor has a history of concerns, findings and allegations that its performance management was discriminatory, the licensee should consider assessing the contractor’s employee management process.

From time to time a licensee may find the personnel actions of a contractor might be considered discriminatory, might have the appearance of discrimination, and/or may be or appear to be inconsistent with maintenance of an SCWE.

In such cases, a licensee may request the contractor personnel decision be changed. Such changes might include removal of discipline from an employment record, reinstatement with or without back pay, or other measures to restore an SCWE.

**CONTRACTOR TRAINING**

Contract supervision and employees should be provided with training on ECPs similar in scope, content, and frequency to that provided to licensee supervision and employees.

**"CHILLING EFFECT" LETTERS**

The utility’s ECP, as a part of oversight of the contractor’s ECP, is responsible for maintaining an awareness of situations that could potentially have a “chilling effect” on contractor and/or subcontractor employees.

If indications reveal a potential for a “chilling effect” by a contractor, a letter can be provided by the licensee, (see sample letter, Attachment 2) to contractor senior management. This letter is to obtain contractor senior management involvement in assessing internal contractor actions, which might produce adverse work-environment effects on their employees and/or subcontractors.

This type of letter is intended to enable the utility’s ECP to take a proactive role in the mitigation of the effects associated with allegations of discrimination toward contractor and/or subcontractor employees.

If indications reveal a potential “chilling effect,”” the utility’s ECP manager may prepare an ECP “chilling effect” letter for transmittal to the appropriate senior contractor manager.

A “chilling effect” letter should contain, as appropriate, a description of the actions creating the potential "chilling effect" the contractor must address, the utility's position on employee discrimination, the contractor's responsibilities regarding employee discrimination, and a request for the contractor to provide information within 30 days of the date of the memorandum, including the following. (See sample letter, Attachment 2)

- The position and the basis on whether discrimination actually occurred.
- The position and basis for the actions creating the potential “chilling effect.”
- Results of any investigation conducted pertaining to the action.
Efforts to determine whether a "chilling effect" exists to suppress the willingness of other employees to report safety and/or quality issues.

Corrective actions taken or planned, including estimated completion dates, to mitigate any potential “chilling effect” associated with the action.

Methods to determine if corrective actions were effective, including estimated completion dates.

The utility’s ECP manager will evaluate the contractor's response and take additional action as needed to ensure the issue has been adequately addressed and closed.

**ATTACHMENTS**

1. Sample Contract Language
2. Sample ECP "Chilling Effect" Letter
SAMPLE CONTRACT LANGUAGE

The contractor shall comply with Section 211 of the Energy Reorganization Act of 1974, which prohibits discrimination against employees for engaging in certain protected activities. The Secretary of Labor has determined that “discrimination” means discharge or any other adverse actions that relate to compensation, terms, conditions, and privileges of employment, and that the term “protected activities” includes, among other things, employees raising nuclear safety or quality control complaints either internally to their employer or to the NRC. The contractor shall fully investigate, and ensure that its subcontractors aggressively pursue, any allegation of discrimination for engaging in protected activity with respect to work under this contract.

Within two working days after the receipt by the contractor or its subcontractor’s of (i) a concern associated with work under this contract by an employee or former employee of the contractor or its subcontractor of discrimination because of engagement in protected activities or (ii) notice of the filing of Section 211 complaint by any such employee or former employee, the contractor shall notify and provide the allegation or complaint to the utility Employee Concerns Program representative. The contractor shall cooperate fully with the utility to any investigative reports that it may prepare as a result of any such allegation or complaint, and shall also provide the utility a full written description of any management action taken in response to any such allegation or complaint.

The contractor shall ensure that no agreement affecting the compensation, terms, conditions, and privileges of employment, including, but not limited to, any agreement to settle a complaint filed by an employee or former employee of the contractor with the Department of Labor pursuant to Section 211 of the Energy Reorganization Act of 1974, as amended, may contain any provision which would prohibit, restrict, or otherwise discourage an employee or former employee from participating in any protected activity as described in NRC regulation (10 CFR Part 50.7), Employee Protection, including, but not limited to, providing information to NRC on potential violations of its regulations or other matters within its regulatory responsibilities.

Any breach of this provision shall be a material breach of the contract. In the event NRC imposes a civil penalty against the utility as a result of a breach of this provision, such a civil penalty is considered by the parties to be direct and not special or consequential damages.

The contractor agrees to place this provision, along with the flow-down requirement of this sentence, in all subcontracts of any tier entered into pursuant to this contract, unless the utility consents in writing to exclude a particular subcontract or class of contract.

The contractor shall also comply with those requirements of the utility’s safety and quality program for resolving employee concerns as specified in site procedures.
SAMPLE ECP "CHILLING EFFECT" LETTER

To: XYZ Contractor Manager

SUBJECT: Plant #1 - Employee Concern Program (ECP) - Actions to Prevent a “Chilling Effect"

On date, an XYZ employee contacted ECP and alleged that his management subjected him to HIRD for reporting nuclear safety or quality concerns. On date, the individual alleged that subsequent to contacting the ECP, he and other XYZ contractor employees, who were interviewed by the ECP, might have been subjected to acts of intimidation and harassment. Finally, on date, the individual alleged that he was laid off as a result of his bringing concerns to ECP. Specifically, he alleges that he was transferred, against his will, to a different job assignment that ultimately resulted in him being laid off.

Utility A strongly supports an environment where all personnel involved in nuclear activities, whether contractor or utility employees, are able to report safety and quality issues without fear of discrimination. The contract between the Utility A and XYZ for technical services includes provisions requiring XYZ to comply with Section 211 of the Energy Reorganization Act, to aggressively pursue and investigate any employee allegations of discrimination for engaging in protected activity, and to comply with the requirements of the utility A’s ECP that addresses contractor responsibilities for concerns. One of these responsibilities is maintaining a work environment free of intimidation and harassment.

Please provide a written response addressing the following within 30 days of the date of this memorandum: (contact________________ at Utility A with questions).

1. XYZ’s position on whether discrimination actually occurred or not.
2. Basis for XYZ’s position and above actions.
3. Results of any investigation conducted pertaining to the above actions.
4. Efforts to determine whether a potential "chilling effect" exists within your organization that might suppress the willingness of other employees from reporting safety and/or quality issues.
5. Corrective actions taken or planned, including estimated completion dates, to mitigate any potential "chilling effect" associated with the above actions.
6. Methods to determine if corrective actions were effective, including estimated completion date.
APPENDIX O

MANAGEMENT OF EMPLOYEE CONCERNS PROGRAM STAFF

PURPOSE/SCOPE

Provides good practices for the selection, development, and management of the Employee Concerns Program (ECP) staff, including the ECP manager.

BACKGROUND

An ECP should establish methods to select, develop, and manage a competent staff.

ECP STAFFING AND STAFF SELECTION

General

- The nature of the work of an ECP staff is often intense and may be emotionally draining, particularly when working extended hours and when working on harassment, intimidation, retaliation, and discrimination (HIRD) issues. The ECP manager should watch for signs of staff burnout and provide relief.

- Given the wide-ranging nature of concerns and Concerned Individuals (CIs) the staff must deal with, individuals with broad backgrounds are most likely to be effective.

- The nature of the job of an ECP staff member calls for several different skill sets. Most ECP staff members come to the job with skills, training or experience in one or more of the required areas, but may need training and development in others. Attachments 1, 2, and 3 are sample job descriptions for ECP Managers and staff.

These skill sets include, but are not limited to:

- Investigative experience, skills, and knowledge typically developed from a law enforcement or private security training or background

- Technical and engineering experience, skills, and knowledge developed through a nuclear power training or background

- Auditing or quality experience, skills and background typically developed through a quality background

- Legal experience, skills, and knowledge from a background or training in law

- Organizational experience, skills, and knowledge typically developed through a with many years of service in an organization
The selection process for ECP staff should rigorously and carefully follow licensee policies and practices for similar personnel.

Supplemental ECP Staff

It may be necessary, from time to time, to augment the available ECP staff because of certain conditions including:

- A concentration of concerns in one area of technical expertise
- A short-term increase in the total number of concerns

The ECP manager should become familiar with and maintain a network of supplemental personnel resources to augment the regular staff under such conditions.

Consideration should be given to one or more of the following sources to supplement the regular staff:

- Former ECP staff assigned to other duties
- Contract organizations who can supply ECP services or staff
- A licensee’s law, security, or human resources departments

ECP Staff Management and Development

NOTE: Training of ECP staff and management is covered in Appendix L.

Performance expectations for ECP staff should be established. The process to establish expectations should follow the licensee’s policies and practices for other personnel.

Performance of ECP staff should be evaluated against established expectations periodically. Many licensees have annual performance plans and quarterly or semi-annual assessments. The process to assess performance should follow the licensee’s policies and practices for other personnel.

The specific skills of ECP staff and managers should be developed through training and other means. ECP staff and managers should have development plans, consistent with the licensee’s policies and practices for other management personnel.

Concerns from ECP Staff Members

Each ECP should establish in its policies and management expectations how ECP staff should identify their own concerns. Examples include raising concerns directly to the Chief Nuclear Officer, to the licensee’s general counsel, to another officer of the licensee not directly involved in licensed activities, to a corporate audit function, or through an ombudsman.
ATTACHMENTS

1. Job Description, ECP Staff Job Listing, Utility A
2. Job Description, Employee Concerns Program Administrator, Utility A
3. Job Description, Employee Concerns Department Leader,
4. Performance Appraisal, Employee Concerns Program Coordinator Performance Appraisal, Utility B
5. Position Title: Manager-ECP Investigations (Employee Concerns), Utility C
6. Position Title: Employee Concerns Representative, Utility C
7. Skills Matrix for Employee Concerns Representatives, Utility C
JOB DESCRIPTION
ECP Staff Job Listing, Utility A

JOB REQUIREMENTS:

- BS degree in engineering, a related technical field or equivalent
- Demonstrated analytical and problem solving abilities
- Demonstrated written and verbal communication skills on engineering/technical and personnel subjects, including communication with senior management and/or regulatory bodies
- Demonstrated ability to understand and resolve complex engineering/technical and personnel problems
- Demonstrated ability to maintain confidentiality of information
- Demonstrated ability to work with minimal supervision, both independently and as a team member; ability to work well with others and to negotiate and compromise
- Three (Entry Level ECP Staff) or six (ECP Staff with some prior experience) or more years experience with nuclear plant systems or nuclear power engineering processes/programs
- Availability to work occasional back-shift, overtime, or weekend work

PREFERENCES:

- Experience in interviewing personnel on technical issues
- Experience in researching documentary history of engineering/technical issues
- Professional Engineering registration
- Experience in writing compliance/regulatory correspondence with the Nuclear Regulatory Commission (NRC)
- Prior law enforcement experience
- ANSI N18.1 Requirements: Competent in technical matters related to plant safety and other engineering and scientific support aspects

**TYPICAL RESPONSIBILITIES:**

- Work on a small team (two or three persons) to interview persons who raise concerns and others associated with the concern, research the documentary and engineering/technical background of the concern, analyze the engineering/technical issues presented by the concern to determine if a safety concern exists and then carry out required actions to resolve the safety concern, and prepare correspondence to the person raising the concern and/or the Nuclear Regulatory Commission.
JOB DESCRIPTION
Employee Concerns Program Administrator, Utility A

Position Title: Employee Concerns Program Administrator
Department: Corporate Counsel
Organizational Unit: Corporate Counsel

Reports directly to the Utility B CEO/President for Employee Concerns Program (ECP) issues. Reports to the Vice President & Corporate Counsel for Compliance Program issues.

Work Location: Utility B Corporate Office
Approved by: VP & Corporate Counsel

POSITION SUMMARY:
Responsible for leading and managing the overall effective administration and operation of the ECP at all plant sites and at the corporate office in support of the company philosophy and the NRC requirement to maintain a Safety Conscious Work Environment (SCWE). Position is critical to successfully dealing with and avoiding potentially serious regulatory matters. The administrator works with concern submitters, company executive officers, managers, subject matter experts, plant concerns coordinators, attorneys, and others as necessary to ensure concerns are identified, action plans to investigate concerns are developed and implemented, and recommendations to resolve concerns are developed and executed in a timely manner.

POSITION REQUIREMENTS: (knowledge, skills and abilities required and how used)

- Logical problem solving ability - must be able to relate and compare data from different sources, identify concerns, secure relevant information and identify relationships. Must be able to critically evaluate situations and make sound decisions based on all the facts. Must be able to gather information and extract information for decision making through oral fact finding/interviewing combined with effective listening.

- Interpersonal sensitivity - must be able to demonstrate through actions a consideration for the needs and feelings of others.

- Ability to build and maintain relationships - must possess the ability to meet people and to be liked, to put them at ease, and to quickly build rapport.

- Ability to influence attitudes and opinions of others - position requires skill in the utilization of appropriate interpersonal leadership styles in guiding individuals toward appropriate decisions and actions. Includes the ability to motivate oneself and others. Must be able to make rational and realistic decisions that are based on logical assumptions and that reflect factual information.
- Ability and willingness to understand people’s needs and motives - must be able to see issues from another’s point of view in order to fully understand problems and concerns. Must possess ability to relate effectively and credibly with employees at all levels.

- Flexibility to changing demands - must be able to shift focus rapidly based on issues that arise and the safety significance of each. Must tolerate stress and provide a stable level of performance under pressure and/or opposition. Must maintain a controlled demeanor, composure and objectivity when confronted with personally defense-provoking situations.

- Confidence in dealing with people - must be comfortable in working with a variety of individuals from employees to senior management of the company. Able to express self effectively in individual or group situations. Must possess strong leadership skills and the ability to manage and develop a group of professionals even when the professionals may not be in the direct management chain. Must be able to influence and coach others.

- Ability and willingness to consult with others before making a decision - must effectively work with others to ensure actions are properly coordinated prior to implementation to avoid conflicts and confusion. Strong consulting, facilitation and problem solving skills are critical to success.

- Level of optimism - must maintain a positive attitude even in the face of continuous complaints from employees and in dealing with individuals who are often dissatisfied with decisions and disgruntled for a variety of reasons.

- Ability to plan and organize work - must be able to establish a course of action for self and others to accomplish a goal. Must be able to efficiently schedule own time and activities. Must establish high standards of work performance for self and others. Must be oriented to administrative responsibilities to ensure proper records are kept and documentation maintained. Must clearly express ideas in writing.

- Integrity - must maintain a high level of ethical behavior in both job related and personal activities so that a high level of trust and credibility in the programs represented is maintained. Must be able to build and maintain trust based on personal integrity. Must handle sensitive information and maintain confidentiality.

- Knowledge - must plan and conduct effective investigations and inquiries into concerns raised through the ECP. Must be an effective writer with the ability to clearly and concisely present information. Must have a working knowledge of employment laws and NRC regulation related to employee protection in order to recognize and resolve related issues. Must be very familiar with company policies and past practices, and be completely knowledgeable in the administration of the ECP procedures. Must have a working knowledge of the laws in the compliance risk areas identified by the company for special attention. Must be competent in the use of databases in order to provide meaningful information for management use.
POSITION RESPONSIBILITIES: (major responsibilities listed in order of importance)

- Consulting with the Utility B CEO/President in matters of regulatory significance raised through the ECP and the best approach for addressing such concerns.

- Briefing the Utility B CEO/President on program status, issues of significance, and employee concerns on a quarterly basis but more frequently as necessary.

- Representing the Utility B CEO/President at system-wide and industry-wide meetings related to concerns programs.

- Recommending actions and programs to the Utility B CEO/President necessary to maintain an SCWE.

- Consulting with vice presidents on the closure of investigations and implementation of action required to resolve concerns.

- Sharing responsibility with the plant managers for the selection of site ECP coordinators to ensure capable individuals are selected.

- Initiating plans to ensure ECP coordinators are trained and qualified to perform the program duties required.

- Managing and administering policies and procedures related to the Utility B ECP.

- Managing ongoing ECP operation and day-to-day supervision of the concerns work of the ECP program coordinators.

- Initiating appropriate and effective program communication to ensure all employees and contractors are aware of the ECP.

- Leading the investigation and processing of concerns received at the corporate level.

- Managing the method for submitting, receiving, and processing concerns to ensure the process is effective and in accordance with current procedures.

- Managing completed concerns to ensure actions to be taken are implemented.

- Ensuring every reasonable effort is made to maintain the appropriate level of confidentiality of concerns as requested and so critical to the credibility of the program.

- Managing the process to ensure all new employees and contractors receive an orientation to the ECP that explains program operation and availability.

- Managing all concerns files to ensure files are maintained in accordance with the record retention schedule.
- Ensuring the exit questionnaire is available to all employees and contractor employees departing Utility B locations.

- Maintaining the ECP Home Page and ensuring information provided is useful and current.

- Managing and improving the ECP database to ensure the data is current, accurate and useful in the administration of the program.

- Auditing the ECP operation at each site at least annually and providing a written report to management.

- Maintaining current knowledge of laws and regulations as necessary to effectively administer the ECP.
POSITIVE ACTIVITIES

Complexity/Diversity:
This position requires a wide range of abilities and skills in order for the incumbent to be successful. Investigations and inquiries initiated through the ECP involve many issues and involve employees at all levels. The most complex/diverse tasks are: managing multiple diverse investigations to include responding to allegations referred to Utility B by the Nuclear Regulatory Commission (NRC), providing guidance to plant concerns coordinators regarding processing of plant concerns, determining most effective methods for communicating and advertising the ECP, and directing the work and performance of individuals in both the ECP and compliance program over which there is no direct control to ensure excellent performance.

Judgment/Decision Making:
This position requires decisions be made that have short and long-term impact on the company. Judgment/decisions include: determining the best approach for dealing with concern submitters, recognizing when best to involve senior management and legal assistance in decisions impacting the company, deciding on the best approach to investigate and resolve issues in the most efficient and effective manner, deciding when to become involved in investigations at plant sites to ensure effectiveness of actions, selection of concerns program coordinators at plant sites, interpreting information obtained from individuals and other sources as it impacts actions related to concerns resolution and compliance, and providing good news and bad news to concerns submitters in the manner most appropriate for the situation.

Creativity/Innovation:
The person in this position must continually look for new ways to improve the effectiveness and efficiency of the programs. Must develop new and effective ways to communicate the ECP to employees and contractor employees using a variety of mediums. Must ascertain ways to improve the effectiveness of the concerns program coordinators by determining training and development requirements and presenting training, and conducting meaningful general sessions for the compliance network teams and for the concerns coordinators. Develop more efficient methods for tracking and reporting program statistics, and must continually work to maintain the credibility of the concerns program through actions and results that reflect favorably on the program.
RESULTS OF ACTION: (contribution to success of the company)

An effective ECP provides an avenue for use by employees and contractors for resolving matters that have not been resolved through normal management channels. Use of the ECP provides an alternative resource for possible problem resolution prior to going outside the organization for help (NRC, EEOC, OSHA and others). An effective ECP avoids, mitigates, or minimizes potentially serious regulatory issues. Use of the ECP is generally more efficient, more cost effective, and can be more desirable to all parties involved than the use of agencies outside the company. An effective ECP can be used to alert the company of serious potential regulatory, operational and safety problems so that these problems can be quickly addressed. An effectively functioning ECP is a key component to an SCWE so critical in the nuclear power industry. However, to take advantage of these program benefits, the program must be credible and those assigned to the program must also have a high level of personal integrity.

NATURE AND SCOPE (statistics that convey scope)

The ECP receives and resolves approximately 500 concerns annually. This represents approximately 60 percent of the concerns received through all concerns programs. The person in this position is responsible for managing an accurate database that tracks all concerns for the company so that accurate statistical information can be provided for decision-making by senior management and program coordinators. Maintains a current ECP home page that provides information and forms to all employees and contractors. Must ensure the program operates in accordance with approved procedures so that the program is ready at any time for inspection by the NRC.

The compliance program annually surveys all employees to solicit reports of failure to comply with laws, regulations, and policies. All exception responses to the questionnaire require follow-up to determine if any violation has occurred and if corrective action is required. Follow-up may identify potentially significant violations. Each year approximately 150 exceptions are received that must be managed and resolved.
JOB DESCRIPTION
Employee Concerns Department Leader, Utility A

Position Title: Employee Concerns Department Leader
Department: Employee Concerns Program
Reports To: Vice President

Position Summary:
Support the safe operation of Utility C by providing technical, investigative and administrative direction to the Employee Concerns Program (ECP).

Minimum Requirements:
BA/BS degree in Human Resources, Engineering or related field or four years equivalent experience plus eight years related experience; or twelve years combined experience in engineering, investigations, employee relations, or employee concerns. In-depth knowledge of Utility C policies and procedures and NRC regulations. Strong communication skills and proven ability to work with all levels of management and employees.

Major Accountabilities:
- Contribute to the effectiveness and efficiency of the ECP by providing technical/administrative guidance and leadership both internally and with all levels of responsible line management up to and including officers of the company.
- Ensure department personnel are aware of performance standards and expectations, maintain expenditures within designed budgets, monitor issues to maintain schedule, and ensure investigations are comprehensive and thorough.
- Interface and support activities within the corporate structure dealing with Department of Labor disputes, NRC allegations and/or inquiries, and Corporate Legal investigative/fact finding evolutions.
- Direct the development, implementation, and maintenance of a program for employee concerns for Utility C.
- Direct the development, implementation, and maintenance of an employee concerns reporting and tracking system to keep senior management appraised of concern status and trends.
- Provide advice to Project Management in developing methods for dealing with and resolving employee concerns.
- Direct/manage ECP staff with a variety of experience, such as employee relations, engineering, quality assurance, etc., to resolve employee concerns.
### Competencies:

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<th>Category</th>
<th>Description</th>
<th>Rating</th>
<th>Importance</th>
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<tbody>
<tr>
<td>Communication</td>
<td>Expressing ideas clearly and effectively; adjusting language or terminology to the characteristics and needs of the audience; and using appropriate organization, structure and grammar in written communication.</td>
<td>5</td>
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<td>Adaptability</td>
<td>Maintaining effectiveness in varying environments and with difference tasks, responsibilities, and people</td>
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<td>Safety Awareness</td>
<td>Being aware of conditions affecting employee safety.</td>
<td>4</td>
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<td>Continuous Learning</td>
<td>Acquiring and promptly applying new knowledge and skills, including new technology, business-related information and emerging industry practices.</td>
<td>5</td>
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<td>Maximizing Performance</td>
<td>Using appropriate styles to coach, inspire and guide employees toward accomplishing business results, adopting leadership styles that work most effectively with different situations, people and tasks.</td>
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<td>Team Effectiveness</td>
<td>Using appropriate styles to work effectively with teams or individuals outside the line of formal authority (peers, senior management); encouraging and facilitating teamwork to satisfy internal and external customers; basing actions on larger organizational priorities.</td>
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Essential functions:

- **Physical Skills:** Requires moderate proficiency in operation and use of machines or equipment such as PC, calculator, basic software AND/OR keyboard skills up to 25-35 wpm.

- **Cognitive:** Requires ability to visualize end results of several complex functions; to develop and implement procedural systems to attain desired results; to plan and organize resources; to develop and apply policy guidelines for the integration of functional objectives into the overall mission and goals of the company.

- **Environment:** Physical surroundings are pleasant and comfortable, with little or no exposure to injury or other health hazards.

- **Social:** Nature of the work frequently requires considerable or heavy work load, highly irregular unpredictable or particularly long hours, such as covering double shifts because of emergencies or shortage of personnel, etc., placing heavy demands on home and/or social life; OR distractions and interruptions are regularly present within the work environment; OR there may be considerable work pressures involving delicate or potentially serious matters requiring concern for a major function or involving several employees.

- **Physical Effort:** Minimum physical effort required; normally seated, with some freedom of movement, handling light materials and supplies.
PERFORMANCE APPRAISAL
Employee Concerns Program Coordinator Performance Appraisal
Utility B

POSITION OVERVIEW

ECP Coordinators investigate, analyze, and respond to assigned ECP management (including allegations of employment discrimination); identify and assist in correcting chilled environments and other situations detrimental to an effective Safety Conscious Work Environment (SCWE).

- Dimension 1: Manage and Conduct Effective Interviews
  - Develops comprehensive and relevant questions
  - Applies interview techniques effectively
  - Adequately documents interviews

- Dimension 2: Maintain Confidentiality of ECP Program
  - Communicates the confidential nature of the program adequately to clients and organization contacts
  - Demonstrates discretion during investigations

- Dimension 3: Analyze Issues
  - Gathers relevant information to support investigations
  - Uses sound logic in determining validity of concerns
  - Develops sound conclusions / resolutions to concerns raised
  - Acquires and uses knowledge of NRC regulations and applicable law to discrimination and chilling effect cases

- Dimension 4: Use Technical / Functional Expertise
  - Understands and applies program requirements
  - Applies experience and seeks expertise of others as required to comprehend issues
Able to digest and understand technical matters to the degree necessary to resolve issues

Dimension 5: Communicate Effectively

- Produces well-written case documentation
- Speaks effectively
- Shares information with the group
- Listens well and encourages ideas and opinions of others
- Interfaces with submitters, interviewees, and organization contacts
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<th>Attachment 4</th>
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<td>Knowledge (ECP Management)</td>
<td>Beginning knowledge of human resource policies and procedures. Assists in project/team leadership responsibilities. Active participation in employee’s Performance Management Process. Beginning managerial skills in organizing, planning, cost control and executing of mid to large-scale projects or a section’s mission.</td>
<td>Developing knowledge of human resource policies and procedures, including the ability to lead a team of employees to achieve assigned project schedules costs and goals. Active participation in employee’s Performance Management Process. Developing managerial skills for organizing, planning, cost control and executing large-scale projects or a section’s mission. Ability to interpret operational goals and establish schedules, milestones and establish appropriate measurements.</td>
<td>Fully developed knowledge of human resource policies and procedures Ability to lead multi-disciplined teams to achieve assigned project schedules, costs and goals. Active participation in the employee’s Performance Management Process. Fully developed managerial skills in organizing, planning, cost and executing multiple projects or department mission.</td>
<td>Thorough human resource management skills, including the ability to lead through subordinate's multi-disciplined teams. Managing the personal career development of team members, and conducting ongoing career coaching, and conducting and leading the employee Performance Management process. Thorough managerial skills including the ability to analyze, balance multiple project and/or multiple departments. Ability to determine the most effective human resource fit and assign personnel. Effectively manage project progress through team leads and project leaders</td>
<td>Mastery level human resource management skills. Ability to effectively lead a team to accomplish the goals of the assigned business unit. Includes the ability to lead the design, development and implementation of major programs. Mastery level managerial skills. Ability to analyze an entire functional portfolio of projects that are managed by subordinates. Includes the ability to successfully negotiate major project scope or schedule changes beyond the control of subordinates. Ability to effectively resolve technical and business level differences.</td>
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<td>Attachment 4</td>
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<td>General Business (Functional Knowledge)</td>
<td><strong>Beginning knowledge of the organization’s business practices and strategies. Basic knowledge of one functional area of the organization. (e.g. Engineering, Operations, Maintenance, Business Services, Training)</strong></td>
<td><strong>Developing knowledge of the organization’s business practices and strategies, as well as familiarity with how responsible functional area integrates with other areas. Developing knowledge of multiple business functions.</strong></td>
<td><strong>Fully developed knowledge of the organization’s business practices and strategies as well as supporting your function’s products and resources. Ability to contribute to the development of business strategies and direction for your responsible functional area. Fully developed knowledge of multiple disciplines within your responsible function and emerging environments. The ability to work effectively with all groups.</strong></td>
<td><strong>Thorough knowledge of the organization’s long range strategies, business practices, as well as a working knowledge of the company’s strategies, and direction. Development of specific functional area strategy to support a business direction/process. Thorough knowledge in disciplines within your responsible function and emerging environments. The ability to manage the coordination between project teams and support groups. The ability to research and select new technologies, processes and effectively assimilate them into ongoing efforts</strong></td>
<td><strong>Mastery level knowledge of the function’s long range strategies, business practices as well as an in-depth knowledge of the company’s corporate strategies, direction, products and services. Ability to develop business strategies and direction for your function. Mastery level knowledge in disciplines within your responsible function and emerging environments. The ability to develop multiple departmental structures and processes that support coordination between teams and support groups. The vision to create an environment that fosters continuous improvement. Extensive knowledge of availability of vendor offerings for all types services. Ability to develop and set overall technical goals and objectives and to monitor performance against these goals.</strong></td>
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<td>Attachment 4</td>
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<tr>
<td>Problem Solving</td>
<td>Beginning skills to identify and solve on-going business and technical problems.</td>
<td>Developing skills to identify and solve on-going business and technical problems. Assists in the design and preparation of persuasive presentations and reports to Executive Management generally involving new and emerging concepts or process improvements.</td>
<td>Fully developed analytical and conceptual skills, including the ability to solve complex technical problems. Leads the design, preparation of persuasive presentations and reports to Executive Management generally involving new and emerging concepts or process improvements.</td>
<td>Thorough analytical &amp; conceptual skills; a demonstrated track record in identifying and managing the resolution of multiple complex technical problems. The ability to work with customers, vendors and external suppliers to develop joint plans and contracts, and to resolve conflicts. The ability to express extremely complex technical concepts in terms that can be used for effective decision making. Is capable of managing the teams, task forces etc. to resolve complex technical issues that increase costs, negatively impact business unit operations or business unit processes.</td>
<td>Mastery level analytical and conceptual skills. The ability to develop and communicate an overall vision. Demonstrated ability to develop organizational designs and to implement organizational change. The vision to create an environment that fosters continuous improvement. Has vision to establish teams, task forces etc. to resolve complex technical issues that increase costs, negatively impact business unit operations or business unit processes.</td>
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<td>Attachment 4</td>
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<tr>
<td>Knowledge of Investigative and Oversight principles and concepts</td>
<td>Beginning use and/or application of Investigative &amp; Oversight principles and concepts.</td>
<td>Developing use and/or application of Investigative &amp; Oversight principles and concepts and analytical techniques as they relate to assigned ECP investigations</td>
<td>Fully developed understanding and wide application of Investigative &amp; Oversight principles and concepts. Demonstrated proficiency in the utilization of investigative techniques.</td>
<td>Thorough understanding and wide application of Investigative &amp; Oversight principles and concepts and techniques in assigned ECP investigations. General knowledge of other related disciplines. Thorough proficiency in the utilization of investigative techniques. Serves as a mentor for peers.</td>
<td>Mastery level Investigative &amp; Oversight principles and concepts. Mastery level proficiency in the utilization of investigative techniques. Serves as a mentor for peers.</td>
</tr>
<tr>
<td>Knowledge of 50.7/Whistleblower Regulations</td>
<td>Beginning understanding of the regulatory and/or administrative requirements that apply to 50.7 Regulations</td>
<td>Developing understanding of the regulatory and/or administrative requirements that apply to 50.7 Regulations</td>
<td>Fully developed understanding of the regulatory and/or administrative requirements that apply to 50.7 Regulations</td>
<td>Thorough understanding of the regulatory and/or administrative requirements that apply to 50.7 Regulations. Serves as a mentor for peers</td>
<td>Mastery level understanding of the regulatory and/or administrative requirements that apply to 50.7 Regulations. Is sought out as a master of 50.7 issues.</td>
</tr>
<tr>
<td>Knowledge of ECP applicable Industry Standards and Regulations</td>
<td>Beginning knowledge of NRC regulations and Industry Standards.</td>
<td>Developing knowledge of NRC regulations and Industry Standards.</td>
<td>Fully developed knowledge of NRC regulations and Industry Standards.</td>
<td>Thorough knowledge of NRC regulations and Industry Standards. Serves as a mentor for peers</td>
<td>Mastery level knowledge of NRC regulations and Industry Standards. May act as a resource for others and mentor other ECP personnel</td>
</tr>
<tr>
<td>Competency and proficiency in oral &amp; written communications.</td>
<td>Beginning understanding of effective oral and written communications.</td>
<td>Developing understanding of effective oral and written communications.</td>
<td>Fully developed understanding of effective oral and written communications.</td>
<td>Thorough understanding and implementation of effective oral and written communications.</td>
<td>Mastery level understanding of effective oral and written communications. Regarded as an expert in this field.</td>
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<tr>
<td>Knowledge of Plant systems</td>
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<tr>
<td>Beginning understanding of integration of plant systems.</td>
<td>Developing understanding of integration of plant systems.</td>
<td>Fully developed understanding of integration of plant systems.</td>
<td>Thorough understanding of integration of plant systems.</td>
<td>Mastery level comprehension of various system integration's.</td>
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<tr>
<th>Influential Skills</th>
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<tr>
<td>Beginning ability to communicate and influence management and peers to implement corrective actions that develop from case investigations.</td>
<td>Developing ability to communicate and influence management and peers to implement corrective actions that develop from case investigations.</td>
<td>Fully developed ability to communicate and influence management and peers to implement corrective actions that develop from case investigations.</td>
<td>Thorough ability to communicate and influence management and peers to implement corrective actions that develop from case investigations. Coaches peers.</td>
<td>Mastery level ability to communicate and influence management and peers to implement corrective actions that develop from case investigations. Coaches peers.</td>
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Position Title: Manager-ECP Investigations (Employee Concerns), Utility C

**POSITION SUMMARY:**
Responsible for the planning and activities of the Employee Concerns department, and oversees the investigation and disposition of all employee concerns to assure comprehensive investigations and corrective actions in accordance with the Employee Concerns Program (ECP) guidelines.

**ACCOUNTABILITIES - PRIMARY DUTIES:**
- Establishes and/or proposes changes to the ECP processes, training and techniques necessary to implement and maintain the Employee Concerns Program.
- Assures that appropriate ECP protocol is followed to categorize employee concerns; schedules and prioritizes the disposition and resolution of employee concerns.
- Assures the ECP is meeting the intent and goal to achieve a safe environment by providing program information, analysis and tracking to NU management, the Board of Directors, NRC, INPO, etc. that measures the extent of the ECP’s success.
- Provides counseling and assistance to line management to assure the proper handling of employee concerns.
- Stimulates and supports the self-assessments and prompt adequate resolution of identified department issues.
- Responsible for leading and communicating with employees in an honest, fair, and timely manner using sound judgment.
- Manages investigator personnel development, training, and performance management.
- Resolve employee concerns in a competent, respectful and responsive manner, and foster and create a Safety Conscious Work Environment supportive of positive, honest, and open exchange of ideas and differing opinions.

**EXPERIENCE, SKILLS AND ABILITIES:**
- **Education:** Bachelors degree in a related field or equivalent combination of education and directly related experience (two years experience for every one year education requirement).
- **Experience:** Seven years of related work experience of which two years are investigator of work place employee issues or equivalent as a law enforcement investigator or program auditor experience and four years are in a management and/or leadership capacity is required. All candidates must complete an NU Assessment.
- **Leadership Skills:** Demonstrated leadership capabilities involving managing groups, using information from groups effectively, motivating employees, valuing individual contributions and creating a sense of team.
- **Technical Skills:** Able to perform root cause and trend analysis with a strong ability for written and oral communications. Must possess strong interviewing and facilitation skills. Demonstrated ability to manage projects; develop, implement and assess implementation schedules, budgets and master schedules; facilitate group / team activities.
- **Internal Contacts:** Includes all employees and contractors on-site up to and including executive management.
- **External Contacts:** Includes peers within the nuclear industry and Institute of Nuclear Power Operations (INPO), and the Nuclear Regulatory Commission (NRC) Inspectors.
- **Challenges:** Investigating and resolving employee concerns using a process that will eliminate the “chilling effect” so that an cultural environment will be established where all employee concerns will be resolved in a non-threatening manner.
- **Freedom To Act:** Expected to exercise sound judgment, act independently and make timely decisions.
- **Performance Competencies** - Demonstrates competency and proficiency in oral and written communications; is customer driven; displays initiative; accepts responsibility; honors commitments; holds others accountable; participates in and facilitates team effectiveness; assumes the role of team leader; thinks and acts analytically; makes sound decisions; applies knowledge and skill to solve problems and responds promptly; appropriately and constructively to employees.

**APPROVALS**
HR Consultant: ____________________________  Responsible Officer: ____________________________
Date: ____________________________  Date: ____________________________
Position Title: Employee Concerns Representative, Utility C

**POSITION SUMMARY:**
Responsible for providing an alternate path for all Plant employees and contractors (including all levels of management) to express their concerns/issues in a manner that protects individual privacy and assures that the concerns/issues are properly addressed. This is in accordance with the policies governing the Employee Concerns Program.

**ACCOUNTABILITIES – PRIMARY DUTIES:**
- Facilitates and works with the appropriate groups to investigate, document and resolve concerns raised by individuals in a confidential and professional manner in accordance with Employee Concerns Program procedures.
- Prepares a clear understanding of the concerns raised by individuals and articulates the concern in a clear written concern statement which can be further broken down into specific issues for investigation.
- Interfaces with internal groups (i.e. Legal, Human Resources) regarding non-safety concerns to ensure, and assist where needed, the appropriate process related investigation(s) and resolution(s) is occurring.
- Assures the appropriate investigation and resolution of nuclear and industrial safety concerns which are raised even when other groups perform significant aspects of the investigation.
- Reviews and resolves comments on peer ECP investigations conducted by Department (ECP peers) and Station internal (ECP, HR, Protective Services, Legal, and Nuclear Assessment).
- Communicates with Concerned individuals in a respectful manner to ascertain the persons level of satisfaction with investigation accuracy, findings, and effectiveness of corrective actions.
- Initiates Condition Reports (CR) in accordance with RP-4 “Corrective Actions Programs,” to ensure that the appropriate operability and reportability screenings are performed.
- Monitors ECP activity trends and makes reports, both oral and written, to various levels of management.
- Participates in self-assessments and prompt adequate resolution of identified department issues.
- Responsible for receiving, informing, and giving information in a timely manner related to issues such as safe work practices, work schedules or delays, wasted resources, errors not readily apparent or easy to detect, non-compliance to procedures, and work processes or procedures that could improve performance or reduce costs.
- Demonstrates the willingness to report and contribute to the resolution of employee concerns and contribute to a Safety Conscious Work Environment supportive of positive, honest, and open exchange of ideas and differing opinions.
POSITION SPECIFICATIONS (Education, Experience, Skills and Abilities)

- **Education**: Bachelors degree in engineering, applied science, business or business law; or the equivalent combination of education and directly related experience (two years experience for every one year education requirement).
- **Experience**: Five years (ECP Rep.) and nine years (Sr. ECP Rep.) of related work experience of which three years must be nuclear plant experience.
- **Technical Skills**: The incumbent must possess knowledge of governing codes, standards, regulatory guides, nuclear power plant commitments; nuclear plant operating principles, systems and components; as well as root cause analysis processes and investigation methods.
- **Internal Contacts**: All nuclear work groups requiring employee concerns interactions.
- **External Contacts**: External utility contacts, legal staff, regulatory agencies including NRC and ECP Forum participants.
- **Challenges**: Must be able to thoroughly understand, characterize, communicate, the content of concerns to responsible line management without compromising the level of confidentiality requested by the individuals raising the concern. Must be able to thoroughly investigate or see thoroughly investigated the concerns and then derive and negotiate corrective actions that resolve the issues and prevent re-occurrence.
- **Freedom To Act**: The incumbent is able to interact and communicate independently with employees and all levels of management Program commitments however require approval management.
- **Performance Competencies**: Demonstrates competency and proficiency in oral and written communications; ability to intently listen to issues, discern salient issues; identifies multiple customer relationships, is customer driven; displays initiative; accepts responsibility; honors commitments; participates in and facilitates team effectiveness; thinks and acts analytically; makes sound decisions, takes appropriate risks, applies knowledge and skill to solve problems.
## Skills Matrix for Employee Concerns Representatives, Utility C

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<tr>
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<th>Level 1</th>
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<tr>
<td><strong>Knowledge of</strong></td>
<td><strong>Investigative and Oversight principles and concepts.</strong></td>
<td><strong>Investigative and Oversight principles and concepts.</strong></td>
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<td><strong>Knowledge of 50.7</strong></td>
<td><strong>Regulations</strong></td>
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<td><strong>Knowledge of NRC</strong></td>
<td><strong>standards and regulations</strong>.</td>
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<td><strong>Competency and</strong></td>
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<td><strong>proficiency in oral &amp; written communications.</strong></td>
<td><strong>proficiency in oral &amp; written communications.</strong></td>
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<td><strong>proficiency in oral &amp; written communications.</strong></td>
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<td><strong>Knowledge of</strong></td>
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### Level 1
- Limited use and/or application of Investigative & Oversight principles and concepts.
- Limited understanding of the regulatory and/or administrative requirements that apply to 50.7 Regulations.
- Limited understanding of affective oral and written communications.
- Limited understanding of integration of Plant Systems.

### Level 2
- Prior use and application of Investigative & Oversight principles and concepts, and analytical techniques as they relate to assigned ECP investigations.
- Basic understanding of the regulatory and/or administrative requirements that apply to 50.7 Regulations.
- Basic understanding of affective oral and written communications.
- Basic understanding of integration of Plant Systems.

### Level 3
- Working understanding and wide application of Investigative & Oversight principles and concepts. Demonstrated proficiency in the utilization of investigative techniques.
- Working understanding of the regulatory and/or administrative requirements that apply to 50.7 Regulations.
- Working understanding of affective oral and written communications.
- Regularly exhibits working understanding and integration of Plant Systems.

### Level 4
- Thorough understanding and wide application of Investigative & Oversight principles and concepts. General knowledge of other related disciplines. Thorough level proficiency in the utilization of investigative techniques. Serves as a mentor for peers.
- Thorough understanding of the regulatory and/or administrative requirements that apply to 50.7 Regulations. Serves as a mentor for peers.
- Thorough understanding and implementation of affective oral and written communications.
- Thorough understanding and integration of Plant Systems.

### Level 5
- Applies extensive Investigative & Oversight principles and concepts. Mastery level proficiency in the utilization of investigative techniques. Serves as a mentor for peers.
- Mastery understanding of the regulatory and/or administrative requirements that apply to 50.7 Regulations. Is sought out as an expert of 50.7 issues.
- Mastery understanding of NRC regulations that apply to 40500 and 40001. May act as a resource for others and mentor other ECP personnel.
- Mastery level comprehension of various system integrations.
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<tr>
<td><strong>ECP Business Competency</strong></td>
<td>Beginning knowledge and understanding in Employee Concerns principles, practices and programs. General knowledge of business issues, labor and employment law. Developing facilitation and conflict resolution skills.</td>
<td>Developing knowledge of Employee Concerns principles and practices. Proficiency in at least one Employee Concerns discipline; expanding knowledge in other disciplines including investigatory techniques and facilitation. General understanding of labor and employment law issues. Sound facilitation and conflict resolution skills.</td>
<td>Developed knowledge and understanding of business and Employee Concerns principals and practices. Demonstrates sound understanding of current Employee Concerns trends and demonstrated ability in specific Employee Concerns disciplines. Working level knowledge of current business, labor and management trends and their impacts on Employee Concerns policies and procedures. Working level knowledge of employment law issues and investigatory techniques including specialized knowledge in areas such as DOL 211, Title VII and 50.7 etc., effectively coordinates legal support. Broad facilitation and conflict resolution skills.</td>
<td>Thorough/broad level knowledge of business and Employee Concerns principles and practices and in various Employee Concerns disciplines (i.e., Conduct of Investigations, Facilitation, Change Management, Negotiation Skills, 50.7, DOL Issues etc.) Thorough knowledge of current business, labor and management trends and their impacts on Employee Concerns policies and procedures. Thorough knowledge of employment law issues and investigatory techniques including specialized knowledge in areas such as DOL 211, Title VII and, 50.7 etc., effectively coordinates legal support. Thorough knowledge in facilitation and conflict resolution.</td>
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<tr>
<td>Strategic Focus / Project Management</td>
<td>Developing capabilities to identify strategic Employee Concerns issues</td>
<td>Solid understanding of business unit and Employee Concerns operations,</td>
<td>Thorough comprehensive understanding of business units operations.</td>
<td>Regarded as key resource in support of business units operations; proactively identifies opportunities for Employee Concerns to have a direct impact on business units goals and objectives. Exhibits a strong sense of urgency and high levels of efficiency and integrity to achieve superior Employee Concerns standards. Exceptional organizational skills. Identifies opportunities for continuous improvement within the job, the Employee Concerns organization and the business units organizations they support. Mastery level ability to manage projects and direct professional and support staff to ensure effective and timely completion of projects/programs on budget and on schedule. Works with little direct supervision and may provide leadership to other Employee Concerns personnel.</td>
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<tr>
<td>Beginning capability in supporting Employee Concerns projects as necessary. Learning both strategic and some tactical implications of integrated Employee Concerns policies, procedures and services on business units operations. Developing organizational skills.</td>
<td>Developing organizational skills for managing personnel and department efficiencies. Developing understanding of the broad range of Employee Concerns integration with line business plans. Participates in various Employee Concerns and/or business unit projects with responsibility for specific project components may function under direction of others.</td>
<td>Good organizational skills, good ability to develop and analyze information and draw sound conclusions. With assistance from supervision and/or more senior staff &quot;leads&quot; provide effective project leadership management as appropriate in resolution of Employee Concerns issues. Maintains a sense of urgency. Good ability to coordinate multiple initiatives in addition to regular responsibilities. Ability to provide guidance and direction to other Employee Concerns staff.</td>
<td>Proactively integrates full range of Employee Concerns capabilities and services with business units needs. Thorough ability to provide effective project leadership on major Employee Concerns projects and integrate them into business unit and Employee Concerns long and short range plans. Maintains a sense of urgency to get job done efficiently and with integrity. Ability to recognize issues and quickly develops alternatives for solutions. Provides functional direction as necessary to other Employee Concerns personnel.</td>
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<tr>
<td><strong>Communication Skills</strong></td>
<td>Beginning ability to provide analysis of information and communicate both written and verbally - trends and comparisons such that Station Management can use to make business decisions.</td>
<td>Developing ability to provide analysis of information and communicate both written and verbally - trends and comparisons such that Station Management can use to make business decisions.</td>
<td>Fully developed ability to provide analysis of information and communicate both written and verbally - trends and comparisons such that Station Management can use to make business decisions.</td>
<td>Thorough ability to provide analysis of information and communicate both written and verbally - trends and comparisons such that Station Management can use to make business decisions.</td>
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<tr>
<td>Problem Solving / Influence Management</td>
<td>Beginning problem solving skills; strong reliance on others/supervisor to facilitate the resolution of all but routine situations.</td>
<td>Increasing ability to facilitate the resolution of Employee Concerns issues independently. Sound ability to lead management and/or Employee Concerns staff to solutions needed. Developing ability to conduct detailed in depth investigations or discussions to compile and analyze information coupled with ability to influence station peers and management to understand and accept corrective actions to address identified issues.</td>
<td>Fully developed ability to independently resolve complex and/or sensitive Employee Concerns issues; may develop innovative solutions. Ability to influence senior management and peers involving resolving divergent viewpoints. Fully developed ability to obtain and process divergent or conflicting information and develop a sound defensible conclusion. Thorough ability to influence line management’s business decisions regarding utilization of their “human” resources. Thorough ability in maintaining line and staff relationships and in affecting change. Begins to coach peers.</td>
<td>Master level ability to develop innovative solutions to often sensitive and/or complex Employee Concerns issues; “lead” other Employee Concerns personnel and management in problem solving techniques; regarded as expert level consultant. Master level ability to obtain and process divergent or conflicting information and develop a sound defensible conclusion. Master level ability to lead Employee Concerns staff and management to appropriate actions needed to resolve issues. Master level influence of line management’s business decisions regarding utilization of their “human” resources. Mastery in maintaining line and staff relationships and in affecting change. Works to develop peers.</td>
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APPENDIX P

USE OF AN INDEPENDENT THIRD-PARTY INVESTIGATOR

BACKGROUND/PURPOSE

From time to time it may be desirable for an ECP to engage the services of an independent, third-party investigator (See Definitions, Appendix S). Use of a third-party investigator can provide an additional measure of independence and credibility.

The purpose of this appendix is to provide guidelines on when an independent third-party investigator might be effectively used, how an independent third-party investigator might be selected, non-commercial terms and conditions for the use of an independent third-party investigator, recommendation of scope and interface agreements for the use of an independent third-party investigator, and how an independent third-party investigator work product should be received and utilized.

USE OF AN INDEPENDENT THIRD-PARTY INVESTIGATOR

Examples of appropriate use of an independent, third-party investigator:

- When there are alleged violations of regulations or improprieties by senior management.
- When ECP personnel are alleged to have engaged in wrongdoing or when their actions are called into question.
- When there are limited ECP resources and a accelerated response is needed. (Example: a referred NRC Allegation requiring a 30-day response or less.)
- When the investigation of an allegation by the ECP staff could give the appearance of bias or conflict of interest.
- When there is a high probability of congressional, NRC, DOL, media involvement, and/or litigation.

Characteristics of an Independent Third-party Investigator

An Independent, Third-Party Investigator is an investigator, with demonstrated expertise in conducting well documented investigations, who is outside of the control of the parties in a matter, tasked with determining the facts and who may also be asked to reach conclusions based on those facts.
Conduct of the Investigation at the Direction of Counsel and Attorney Client Privilege

- Prior to the use of an independent third-party investigator, the advice of counsel should be sought. There may be circumstances where the investigation should be done at the direction of counsel and/or the work and its associated documentation should be covered by the attorney client privilege.

Commercial Terms and Conditions

- Commercial terms and conditions for the independent third-party investigator should follow organization guidelines and policies and be similar to terms and conditions used to procure the services of other independent, processional, subject matter experts.

- The commercial terms and conditions should be agreed to by the investigator before work starts.

Non-Commercial Terms and Conditions

The Non-commercial Terms and Conditions (NCT&C) should be established in writing and not as part of the commercial terms and conditions. The NCT&C should be reviewed and agreed to by the investigator before the start of the investigation. NCT&C may contain the following items:

- Authorization for the investigation.

- Reporting relationship for the investigator.

- References to applicable company policies and procedures for the conduct of an internal investigation.

- Details of the administration and conduct of the investigation.

- The methodology authorized, if appropriate.

- Confidentiality expectations.

- Expectations for the investigator for interactions when contacted or contacting by regulatory agencies or counsel for other parties.

- Measures to be taken to preserve the confidentiality of the investigation.

- Handling, retaining, and disposing of all records resulting from the investigation, including drafts.
A description of the scope of the work:

- If the investigator is to draw conclusions or act only as a fact finder. If conclusions are to be drawn, then the standard of proof to be used for the conclusions should be established.

- If the Investigator is to express an opinion as to whether a violation of a regulation may have occurred and, if so, who is responsible for the violation. If an opinion on whether or not a violation occurred is to be made, then the standard of proof to be used for the conclusions should be established.

- If the investigator is asked to provide recommendations, then the charter should identify how the licensee will evaluate the recommendations, and how the licensee will choose to implement or not to implement recommendations.

- An investigator may also be asked to provide observations on individuals, situations, behaviors, management style, performance, etc. The charter should establish if such observations are to be provided and how they are to be used.

Time frame for the work.

The format, content, and structure of documents and records.

Expectations for periodic and closure meetings between the investigator, the Point of Contact (POC), management, and, if appropriate, regulators.

Guidelines for presence at interviews or other meetings of third parties (Counsel, Union Stewards, etc.), either from the licensee or selected by the individuals being interviewed.

Actions for the investigator to take if a threat to the public health and safety is identified.

Method for revising the NCT&C.

**Point of Contact**

Before the start of the investigation, a point of contact (POC) should be established and the POC’s duties should be established in the NCT&C. POC duties may include:

- Providing oversight and direction for the investigation.
- Authorizing changes in the scope of the investigation.
- Authorizing changes in Non-Commercial Terms and Conditions.
- Providing access, facilities, administrative and logistic support.
- Receiving the investigator’s written or oral reports and other records.
Resources and Logistics Issues to be considered:

- Private and secure office space. The location will depend on the nature of case.
- Access to documents and personnel.
- Access to the protected area, if required, through badging or escort.

ATTACHMENTS

1. Sample NCT&Cs.
SAMPLE NON-COMMERCIAL TERMS AND CONDITIONS
SAMPLE NCT&C

INVESTIGATION OF EMPLOYEE CONCERN #_______
(MANAGEMENT INITIATED)

NCT&C

I. STATEMENT OF PURPOSE

Organization A has authorized and initiated a special investigation by
________________________ into an incident on __/__/___ involving
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

The scope of the matter to be investigated is:

________________________________________________________________________

The investigator has been commissioned to prepare a formal, written report to Organization
A management setting forth its findings on the particular incident at issue as well as any
programmatic or generic issues identified by the investigation. This document sets forth the
NCT&C as initially constituted to confirm the scope and implementation of the
commissioned investigation. It is anticipated that the issues designated by this NCT&C may
require refinement or supplementation as the investigation proceeds.

II. ISSUES TO BE EXAMINED

Based upon its preliminary assessment of the incident on__/__/____, Organization A
management has identified a number of factual issues to be investigated and resolved.
These include:

- In investigating this issue, the investigator may, as appropriate, rely upon data and
  sources developed during earlier investigations. As further appropriate, representative
  employee sampling or interviews shall be conducted.

- The investigation will be limited to fact finding and recommendations related to
  programmatic issues. The investigators will not make recommendations on any
  personnel actions relative to Organization A, plant employees or its contractors.
III. KEY ELEMENTS OF THE INVESTIGATION

- The investigator shall expeditiously prepare a confidential report for Organization A management assessing each of the defined issues in the context of applicable requirements of plant procedures and/or NRC regulations. The investigation will also be sensitive to the need for Organization A management to report promptly to the NRC any such noncompliance.

- To the extent possible, the investigator shall assure the confidentiality of interviewee names and statements as well as employee records. Consistent with full development of the facts, the investigation shall also be conducted in a manner so as to minimize disruption of the plant operations and any adverse impact on morale of plant employees.

IV. IMPLEMENTATION

A. Organization

The Employee Concerns Program Manager will provide oversight and overall direction for the investigation, review the preliminary findings of the draft investigative report, and approve any change to this NCT&C.

The investigation will be conducted by ____________________________

The investigator will contact The Employee Concerns Program Manager for any logistical support, background information, or other assistance, as necessary. Information concerning the investigation may be shared with Organization A managers and supervisors on a need-to-know basis.

B. Conduct of the Investigation

The identified issues will be investigated principally through interviews of employees involved in the incident of_________________, or involved in the tracking/disposition of the issues designated by this NCT&C.

The investigators shall conduct the interviews without resorting to recording or stenographic devices. However, if an interviewee requests permission to record the meeting for their own information, he/she may do so.

The investigator shall have access to such Company reports, memoranda, personnel files, plant procedures, and other documents pertaining to the incident, or similar, prior incidents, as necessary, to conduct a full and thorough investigation.

The investigator is responsible to control all records appropriately during the conduct of the investigation such that materials are not unintentionally disseminated.
To assure confidentiality, interviewees or other employees will not be permitted to review the investigative report or related materials, including their own interview statements, except as authorized by the investigator.

C. Results/Report

At the conclusions of the investigation, the investigator will issue a comprehensive report to Organization A senior management.

To assure compliance with this NCT&C and the full development of all issues, a draft preliminary report shall be issued for review and comment by the Manager of Employee Concerns. Additionally, the investigator shall periodically brief senior management on the status of the investigation, the schedule for remaining work, and the identification of any new issues. Management feedback will be incorporated into the investigatory process.

Upon completion of the review, ALL records generated in support of this effort shall be returned to the Organization A ECP manager or shredded to prevent unintended release of information.

Upon completion and acceptance of the final report, the investigator will turn over all notes and records obtained or generated to support the investigation. This is intended to assure the appropriate retention and control of all sensitive materials used during the investigation.

Any questions should be referred to the Employee Concerns Program Manager for resolution.

D. Interaction with the NRC

A designated person will be responsible for ongoing contacts with the NRC regarding the status and progress of this investigation. It is anticipated that the principal point of contact at the NRC will be the onsite Senior Resident Inspector.

A designated person or others, at his direction, will initiate resolution of any reportability issues developed in the course of the investigation.

Organization A may make the final report available for review at the site by the NRC, subject to a request that the NRC assure confidentiality and personal privacy to the extent authorized by 10CFR2.790.
E. Schedule

It is anticipated that the investigative phase of the investigation will conclude on or about ___/___/____.

It is the goal of senior management that a preliminary draft of the final report be submitted by ___/___/____ subject to extension for newly discovered issues and the like. It is anticipated that senior management will receive the final report on or about ___/___/____.
APPENDIX Q

RESPONSE TO NRC REQUESTS FOR INFORMATION REGARDING ALLEGATIONS

PURPOSE AND SCOPE

Provide guidance for receiving and responding to NRC Requests for Information regarding allegations, such as referred allegations.

BACKGROUND

Most licensees have a defined process for handling NRC requests for information regarding allegations. This can be in the form of a procedure or other document to define roles, responsibilities and provide guidance to assure timely and efficient handling of such requests. A sample licensee procedure is provided as Attachment 1.

The situations under which the ECP becomes involved also varies:

- An allegation or claim is brought forward by the NRC after an Employee Concerns investigation or other licensee sponsored investigation has been performed.
- An allegation or claim has not previously been investigated by the licensee.
- An ECP investigation is in progress on the same matter.

The role of Employee Concerns Programs in receipt and response to NRC Requests for Information regarding allegations varies widely among licensees. This Appendix is intended to provide general guidance in those cases where Employee Concerns Program (ECP) is responsible for responding.

The role of the ECP in such responses also varies:

- An allegation or claim may be investigated by ECP
- The ECP may prepare the response.
- An allegation or claim may be investigated by other organizations.
- A licensing or other support organization may take responsibility for preparation of a response.
All parties involved with a response should clearly understand their role, responsibilities, interfaces, and time frame for their activities.

COMMON RESPONSE ELEMENTS

The following items are usually required to addressed by the NRC addressed in a response letter:

- How the person conducting the investigation was independent of the organization affected by the concern and why it is appropriate that the particular investigator performed the investigation.

- That investigator is proficient in the specific functional area investigated by:

- That the investigation was of sufficient depth and scope.

- In response to each element of concern, indicate clearly whether the investigation concluded that the concern was: substantiated, not substantiated, partially substantiated or indeterminate. If the allegation or issue is substantiated, state appropriate root causes and generic implications considered.

ADDITIONAL CONSIDERATIONS

In general, responses provided to NRC from licensees may be subject to public disclosure under the Freedom of Information Act. Care should be taken in the construction of responses to NRC so that personal privacy information such as names and titles of personnel contacted in the course of the investigation are not provided without appropriate consideration to the potential impact of public disclosure. For example: Reference personnel in generic terms such as “Supervisor A” or “Radiation Protection Technician X”. NRC regulation 10 CFR 2.790 may be cited to inform NRC of the licensee’s desires to withhold selected portions of responses from public disclosure. Consultation with site regulatory affairs or licensing personnel should be considered in such situations.

Licensee responses to NRC are subject to the provisions of 10 CFR 50.9, and licensees must take reasonable measures to assure that the responses provided to NRC are both accurate and complete in all material aspects prior to submission. Generally licensees should consider using an existing regulatory review process of validation to ensure that all submissions comply with this requirement.

Corrective actions from investigations of NRC Requests for Information regarding Allegations should generally be entered in the licensee’s Corrective Action Program. To protect confidentiality of the process, placeholder entries may be entered in the CAP pointing to the transmittal letter or other confidential record of the investigation and the exact corrective actions. Only personnel with a need-to-know should have access to the supporting records.
Licensees may consider corrective actions taken in response to NRC requests for information regarding allegations as regulatory commitments. If this is the case, the licensee’s regulatory affairs organization should be consulted to assure that all internal process requirements are met.

ATTACHMENTS:

1. Sample Procedure for Response to NRC Allegations, Utility A
2. Responding To Allegations Referred By NRC And To NRC Investigations, Utility B
3. Sample Allegation Response Strategy Plan, Utility C
SAMPLE PROCEDURE FOR RESPONSE TO NRC ALLEGATIONS,
UTILITY A

1.0 OBJECTIVES

1.1 Provide guidance on the receipt and response of allegations from the Nuclear Regulatory Commission and/or Department of Labor claims filed under the Energy Reorganization Act (ERA).

2.0 REFERENCES


2.3 Title 10 of the Code of Federal Regulations, Part 50.7, Employee Protection.

3.0 DEFINITIONS

3.1 Allegation – A declaration, statement, or assertion of impropriety or inadequacy associated with NRC-related activities, the validity of which has not been established. This term includes all concerns identified by sources such as individuals or organizations, and technical audit efforts from Federal, State, or local offices regarding activities at licensee’s site.

3.2 Allegor – An individual or organization that makes an allegation. The individual or organization may be a concerned private citizen; a public interest group; the news media; a current or former employee of a licensee, vendor or contractor; or a representative of a local, State, or Federal agency.

3.3 Confidentiality – The protection of information or data that directly or otherwise might identify the person raising the concern.

4.0 ATTACHMENTS

4.1 Investigation Report Format.
5.0 PROCEDURE

5.1 Responsibilities

5.2 Chief Operating Officer and Senior Vice President – Approve documents sent to the regulator.

5.2.1 Licensing – Headquarters (HQ)

5.2.1.1 Licensing – HQ shall assign the investigating organization.

5.2.1.2 Licensing – HQ shall prepare the response to the NRC request for information, and ensure proper handling of confidential or propriety information.

5.2.1.3 Licensing – HQ shall request extensions for response to NRC if the additional time is required.

5.2.2 Investigating Organization

5.2.2.1 The investigating organization shall be independent of (i.e. no responsibilities or reporting duties to) the organization(s) affected by the allegation.

5.2.2.2 The investigating shall ensure the formation of a plan to respond to the NRC’s request for information.

5.2.2.3 The investigating organization shall immediately notify the Director, Licensing of Nuclear Safety Significant concerns or potentially dangerous situations.

5.2.2.4 The investigating organization shall ensure or initiate the preparation of Corrective Reports resulting from the investigation, as necessary.

5.2.2.5 The investigating organization shall identify and make senior management aware of inconsistencies between investigation and previous investigations of the same or similar concerns.

5.2.2.6 The investigating organization shall notify legal counsel if the employee concerns involves allegations of wrongdoing or HIRD.
5.2.7 The investigation organization shall prepare an investigation report (similar to Attachment 1) for submittal to Licensing – HQ.

5.2.3 Site NRR Representative shall ensure concurrence by organization(s) affected by the concern and site management.

5.2.4 Affected organization(s), [usually including an organizations Law Department] shall review investigation report and develop corrective actions, if necessary.

5.2.5 Employee Concerns Coordinator shall maintain copies of the responses and associated files.

5.3 Allegation Receipt

5.3.1 Letters from the NRC referring allegations (concerns) to the licensee for investigation are usually addressed to the COO and Senior Vice President.

5.3.2 All allegations should be forwarded to Licensing – HQ for assignment and response.

5.4 Investigation

5.4.1 Upon receipt, Licensing – HQ will assign the allegation to organization for investigation.

5.4.2 The investigator should formulate a response plan that shall, at a minimum, include:

5.4.2.1 A schedule for completion and identification of persons responsible for those actions (Note: This schedule should take into consideration that the NRC generally requests a response within 30 days of the date of the letter);

5.4.2.2 A determination of the relevant persons and/or position to be interviewed, and documents to be reviewed;

5.4.2.3 If the allegation is Nuclear Safety Significant, a condition report should be generated for operability determination.
5.4.2.4 Prior to initiating an interview, the individual being interviewed shall be advised that the nature of the issue is confidential and content of the interview should not be discussed with other than the investigator or personnel assisting investigator in completing the investigation;

5.4.2.5 The investigator shall gather data to verify pertinent information identified during an interview;

5.4.2.6 If the investigation finds evidence of a degraded or non-conforming item or condition, then the investigator shall ensure or initiate the preparation of a Condition Report to address the non-conformance.

5.4.3 Investigation Summary

5.4.3.1 The investigator shall prepare an Investigation Summary (see example format in Attachment 1) that includes:

- An overview of the investigation plan, including persons/positions interviews and documents reviewed;

- A conclusion concerning whether the employee concerns was substantiated, unsubstantiated; or the investigation was indeterminate; and

- If the allegation was substantiated, then the summary shall address the root cause analysis and corrective actions, both planned and completed, to prevent recurrence.

- Corrective actions from investigations of NRC Allegations or DOL claims should be entered in the Corrective Action Program. (To protect personal privacy information and ensure confidentiality of the process, place holders may be entered the CAP pointing to the transmittal letter or other confidential record of the investigation and the exact corrective actions.)

5.4.3.2 Licensing – HQ shall prepare the response for submission to the NRC; including:
• Review by the Law Department and other organizations as required.

• Proper handling of confidential and propriety information, including bracketed and redacted versions of the Investigation Summary, if requested by the NRC; and

• Review and concurrence in accordance with appropriate policies and procedures.

5.5 File Maintenance

5.5.1 All NRC allegations shall be stored in a locked cabinet and otherwise protected from unwarranted disclosure by marking and handling as personal and confidential;

5.5.2 NRC allegation files may contain the following documentation:

• NRC Referral Letter,

• Interview Notes,

• Documents obtained during the investigation relevant to the investigation,

• Investigative Summary; and/or

• Response to NRC.
REPORT OF INVESTIGATION
UTILITY A
EXECUTIVE SUMMARY
[Allegation Number]

STATEMENT OF CONCERN

[This section should contain the concern statement as written in the NRC allegation letter.]

RESPONSE TO CONCERN

Summary Findings

[This section should state how the evaluation (investigation) was of sufficient depth and scope. (1) Define what was looked at and why; (2) Define the manner in which the investigation was performed, i.e. records review, interviews, or actual experiences; (3) Define what the limitations on the investigation were.]

Conclusion

[This section should state if the concern was substantiated or unsubstantiated. If concern was substantiated, root cause and corrective actions should be placed here. Define corrective actions, if required, and why they are sufficient to address and correct the problem. Address all causes in an appropriate corrective actions plan. State any additional corrective actions taken to either prevent recurrence or improve process.]

INVESTIGATOR QUALIFICATIONS

[This section shall state how the person conducting the investigation was independent of the organization affected by the concern. Specifically state how investigator was proficient in the specific functional area: state job title and position; state years and types of experience in this area; define how experience is applicable to this situation, if not apparent.]
RESPONDING TO ALLEGATIONS REFERRED BY NRC AND TO NRC INVESTIGATIONS, UTILITY B

1 PURPOSE

1.1. PROVIDE standardized processes:

? for preparing the company's responses, usually in writing, to allegations referred by the NRC; and,

? for coordinating the company's responses to investigations conducted by the NRC Office of Investigations (OI), which typically concern allegations, including allegations involving discrimination, harassment/intimidation, or wrongdoing in violation of NRC requirements.

2. TERMS AND DEFINITIONS - None

3. RESPONSIBILITIES

3.1 Director - Licensing:

3.1.1 ASSIGN a cognizant Licensing Engineer or Manager - Licensing to act as project manager for the allegation or follow the OI investigation.

3.1.2 ASSIGN the allegation to an investigator as described in Section 4.1.2.

3.1.3 NOTIFY the Legal Department to provide support for responding to NRC OI investigations.

3.2 Licensing Engineer or Manager - Licensing:

3.2.1 SEND a copy of the allegation to the individuals listed in Section 4.1.3

3.2.2 INITIATE and MAINTAIN the tracking of the allegation or external investigation and response.

3.2.3 CONSIDER obtaining legal assistance, in coordination with Legal Department as described in Section 4.1.3.

3.2.4 ESTABLISH a scope and schedule for the allegation investigation as described in Section 4.1.3.
3.2.5 **REVIEW** the allegation investigation results and **PREPARE** a response to the NRC.

3.2.6 **MAINTAIN** the documentation package for each allegation.

3.2.7 **DEVELOP** a response plan for the OI investigation with the Legal Department.

3.3 Investigator

3.3.1 **CONDUCT** an investigation of the allegation as described in Section 4.1.4.

3.3.2 **PROVIDE** a response to the Licensing Engineer or Manager – Licensing as described in Section 4.1.4.

4. **MAIN BODY**

4.1 Allegations

4.1.1 To ensure consistency, allegations will normally be processed through Licensing and Regulatory Affairs. Specific assignments will be made by the cognizant Licensing Engineer or Manager – Licensing or designee. In some cases, coordination from the affected site may facilitate a better investigation. In these instances, the Regulatory Assurance Manager or designee will fulfill the responsibilities of the Licensing Engineer or Manager – Licensing.

4.1.2 Director - Licensing

1. **RECEIVE** allegations from the NRC.

2. **ASSIGN** a cognizant Licensing Engineer or Manager – Licensing to act as project manager for the allegation response.

3. **ASSIGN** the allegation to an investigator in consultation with senior management in Licensing and Regulatory Affairs, Human Resources, Nuclear Oversight, the affected functional area, and the legal department if necessary as discussed in Section 4.1.3.3. The investigator should be capable of performing an independent investigation and should possess the technical knowledge and other skills (e.g., root cause training) as appropriate to the allegation.
4.1.3 Licensing Engineer or Manager - Licensing:

1. **DISTRIBUTE** the allegation to the senior manager or designee in the following areas:
   
   A. Affected site via the Regulatory Assurance Manager
   
   B. Vice President - Licensing and Regulatory Affairs
   
   C. Director – Licensing – affected regional operating group
   
   D. Nuclear Oversight – corporate
   
   E. Human Resources – affected regional operating group
   
   F. Affected functional area
   
   G. Legal Department

2. **INITIATE and MAINTAIN** tracking of the investigation and response.

3. **CONSIDER** obtaining legal assistance as appropriate. The Legal Department should be involved in allegations involving discrimination, retaliation, hostile or chilled environment, and deliberate misconduct.

4. **ESTABLISH** a scope and schedule for the completion of the investigation. Determination of the scope may require input from various sources, including the Legal Department, Nuclear Oversight, Human Resources, or the functional area related to the allegation. A typical schedule will allow for two weeks to complete the investigation, one week to prepare the response, and one week for reviews.

5. **PROVIDE** a copy of Attachment 1 to the investigator for guidance on the attributes necessary to provide a quality response.

6. If the NRC's requested schedule cannot be met for unavoidable reasons, **REQUEST** an extension of the response date from the NRC.

7. If the allegation contains information determined to be Safeguards information, then it must be handled in accordance with the requirements of Procedure, “Control and Classification of Safeguards Information.”

   **Otherwise,** it should be handled as confidential information, with disclosure being on a “need to know” basis.
8. **REVIEW** the completed investigation and assemble a proposed response. Consideration should be given to recent allegations/responses to ensure consistency of response and disposition. A sample cover letter is included as Attachment 2. Appropriate withholding from public disclosure will be requested in accordance with 10 CFR 2.790. The treatment with respect to withholding from public disclosure should consider the nature of the information included and the level of withholding applied to the letter transmitting the original concern.

9. **If** appropriate, **then** the following words should be on each page of the attachment (Header or Footer):

   EXAMPLE

   10 CFR 2.790 INFORMATION

   WITHHOLD FROM PUBLIC DISCLOSURE

10. There should be no internal cc’s on the transmittal letter. Distribution within Utility B should be handled separately. Internal distribution should include the senior manager in each of the following organizations:

   A. Regulatory Affairs and Licensing – regional operating group

   B. Regulatory Assurance – affected site

   C. Nuclear Oversight – affected site

11. **RESTATE** the allegation verbatim, absent personnel information, if appropriate.

12. **PROVIDE** the pertinent investigative details.

13. **PROVIDE** a conclusion as to the validity of the concern.

   A. **If** validated, **then** **ENSURE** that the causes leading to the concern have been adequately determined, **ENSURE** that extent of condition has been considered, and **PROVIDE** the prescribed corrective actions.

14. **ENSURE** that any related issues discovered during the investigation are summarized in the response along with corrective actions.

15. **ENSURE** that any corrective actions identified in the response are entered into the site corrective action system.
16. **ENSURE** that any commitments are processed in accordance with procedure on “Commitment Management.”

17. **DETERMINE** the appropriate review cycle for the response in accordance with the procedure on, “Written Communications,” and **OBTAIN** concurrence. The applicable site and/or corporate functional area manager shall be included unless the individual is a specific subject of the allegation.

18. **ASSEMBLE** a documentation package consisting of the supporting information developed during the investigation.

19. **PROVIDE** the response to the affected Station Manager, Site Vice President or appropriate regional operating group Director or Vice President for signature.

20. If the response contains safeguards information, **PROCESS** the response in accordance with Procedure “Control and Classification of Safeguards Information.”

21. **MAINTAIN** the documentation package for each allegation in the departmental file.

4.1.4 Allegation Investigator

1. **REVIEW** the scope and schedule for the investigation with the Licensing Engineer or Manager – Licensing.

2. **CONDUCT** an investigation of a depth sufficient to ascertain the validity of the allegation.

3. **CONDUCT** the investigation in a manner to protect the confidentiality of the concerned individual(s), if known.

4. **PROVIDE** a draft report containing the investigative details, a conclusion as to whether the allegation is validated, appropriate determination of cause, if warranted, proposed corrective actions, and supporting information to the Licensing Engineer or Manager – Licensing in accordance with the established schedule.
4.2 NRC OI Investigations

4.2.1 All Personnel

1. **NOTIFY** supervision of an ongoing or impending investigation by the NRC OI.

   Note that in some cases an NRC investigator may conduct confidential interviews requested by concerned individuals, and may not necessarily notify the company in advance.

2. Supervisors shall **NOTIFY** the Director – Licensing or the Site Regulatory Assurance Manager of the investigation.

4.2.2 Director – Licensing

1. **ENSURE** that the appropriate senior management and Human Resources Personnel are aware of the investigation.

2. **NOTIFY** the Legal Department to provide support for the investigation.

3. **ASSIGN** a cognizant site Regulatory Assurance Manager or Manager – Licensing to follow the investigation.

4. **CONSIDER** conducting an internal investigation of the facts at issue, in addition to responding to the NRC investigation. This could be appropriate, for example, to determine the adequacy of the company's response to technical or safety issues related to the NRC investigation.

4.2.3 Legal Department

1. **ASSIST** in the coordination of details of the company's response to the investigation with NRC OI personnel.

2. With the cognizant Regulatory Assurance Manager or Manager – Licensing, **DEVELOP** a response plan for interfacing with the NRC to complete the investigation.

3. **ADVISE** and **PREPARE** witnesses for their investigative interviews, using the guidelines of Attachment 3.

4. **INFORM** company senior management of the preparation for and completion of investigative interviews and on the overall status of investigations.
4.2.4 Site Regulatory Assurance Manager or Manager – Licensing

1. With the Legal Department, **DEVELOP** a response plan for the investigation.

5. **DOCUMENTATION** - None

6. **REFERENCES**

   6.1. 10 CFR 2.790, “Public Inspections, Exemptions, and Requests for Withholding”

   6.2. Procedure, “Control and Classification of Safeguards Information”

   6.3. Procedure, “Written Communications”

   6.4. Procedure, "Commitment Management"

7. **ATTACHMENTS**

   7.1. Attachment A, Guidelines for Allegation Investigation

   7.2. Attachment B, Allegation Response Letter Template

   7.3. Attachment C, Guideline for Response to NRC Investigations
GUIDELINES FOR ALLEGATION INVESTIGATION

A responsive allegation resolution should exhibit the following attributes:

1. A qualified individual must conduct the investigation with sufficient independence to ensure objectivity.

2. The investigation must be of sufficient depth to establish the scope of the problem and to identify potential generic implications.

3. The investigation must be of sufficient scope to ascertain if the problem is systemic in nature.

4. The investigator must be sensitive to the potential for a broad applicability of the concern and expand the scope accordingly.

5. If evidence of wrongdoing is discovered, appropriate management must be immediately notified.

6. If the allegation is validated, appropriate corrective actions must be identified and tracked in the corrective action system.

7. If the allegation involves discrimination and/or harassment and intimidation for raising nuclear safety concerns and is validated, the potential for a “chilling effect” must be considered and appropriately addressed.
ALLEGATION RESPONSE LETTER TEMPLATE

(Insert Date)

(Name)

(Address)

Subject: _________ Station, Units X and X

Response to Request for Evaluation - NRC Tracking No. 00-A-XXXX

Reference: Letter from (Name), (U. S. NRC) dated Month X, XXXX

Dear (Name):

Pursuant to your request, we are providing you a copy of our evaluation of the matter described in the referenced letter. As requested, this response is not being submitted on the station dockets. This response was requested to be submitted to the NRC by Month X, XXXX. The evaluation was conducted independently by the _____________ organization. We have determined that the evaluation was of sufficient depth and scope to address the issues identified in the referenced letter. The attachment does not contain any personal privacy, proprietary, or safeguards information. In summary, and as detailed in the attachment, the concerns [were or were not?? validated.

Please contact me at (XXX) XXX-XXXX extension XXXX if you have any comments or questions regarding this matter.

Respectfully,

______________________

NGG Executive

Title

Attachment: Evaluation Report - NRC Tracking No. XX-A-XXXX
GUIDELINE FOR RESPONSE TO NRC INVESTIGATIONS

I. Company Policy

Utility C’s policy is to cooperate fully in investigations conducted by the Nuclear Regulatory Commission (NRC). Utility C will not tolerate discrimination or retaliation against employees for participating in an NRC investigation.

II. NRC Investigations – General

The NRC Office of Investigations (OI) is the investigative arm of the NRC, with the authority and responsibility to investigate alleged wrongdoing or misconduct, including alleged instances of discrimination, harassment or intimidation against employees.

If the NRC OI requests to speak with an employee of Utility B its contractors, that does not necessarily mean that the employee is alleged to have done anything wrong. The OI may interview employees simply as part of the fact gathering process.

The NRC OI may arrive at any of Utility C facilities without advance notice to conduct an investigation. Alternatively, an OI representative may contact an employee or a contractor employee to request and make arrangements to speak with them at a later time.

The NRC OI may or may not describe in advance the issues or allegations, or which employees it may decide to interview.

An employee's participation in an investigation is voluntary, unless compelled by a subpoena. Generally, Utility C will support employees that cooperate with the NRC OI.

III. Protocol In Response to NRC OI Requests for Interviews

NRC OI investigators gather information by conducting face-to-face interviews and by requesting documents. If an employee is contacted by the NRC OI requesting an interview or documents, the employee should notify their supervisor. Supervisors or the individual should notify the Director - Licensing or the Site Regulatory Assurance Manager, if the employee works at an operating site. If an employee is asked to bring any records to the interview or to supply records to the OI investigator after the interview, a copy of the records should be provided to the Director - Licensing or the Site Regulatory Assurance Manager.

Employee Responsibilities

An employee interviewed by the NRC OI must tell the truth as he or she knows it. Answers should be based upon the employee's personal knowledge, not upon speculation or guesswork. Agreeing to be interviewed carries an obligation to be truthful, and possible criminal or civil sanctions may result from any false statements.

Interviewees usually will be placed under oath prior to being interviewed, although this does not necessarily occur during all interviews. During the course of an interview, if an OI investigator asks questions about records or other documents, the employee should ask to
review them thoroughly, taking whatever time is needed to do that, and to be familiar with them before attempting to answer questions. If a question is unclear, the employee should not hesitate to ask the investigator to repeat or rephrase the question or to break it down into parts. If asked to sign a statement, the employee should ask for time to review it thoroughly.

IV. Employee Rights During OI Interviews

Employees have the right to be accompanied by legal counsel or a personal representative (such as a fellow employee, or a union steward) during an OI interview. Employees are under no obligation to have the assistance of legal counsel during an OI interview. Generally, the Company will offer the assistance of an Company lawyer if the matter being investigated involves an employee’s activities on official company business and is within the scope of their duties at the time of the events being investigated.

Typically, a lawyer from the Legal Department will represent the interests of the Company and will accompany the employee, with the employee's permission, if no divergence of interest exists.

Employees always have the right to speak privately with OI investigators at a time and place of their own choosing, which includes the right to request confidentiality.

An OI interview usually is recorded by a court reporter for later transcription. If the interview is transcribed, the employee may request the OI investigator to provide them with a copy for review and correction of any transcription errors.

V. Role of Legal Counsel

Employees are encouraged to have a lawyer present with them during an OI interview. The role of legal counsel during an employee's interview with the OI is primarily one of careful listening to make sure that effective communication is taking place between the OI investigator and the individual and that the record of the investigation is balanced and accurate. To that end, the lawyer can help clarify questions asked by the OI investigator, help ensure that answers are complete and responsive and that the investigator understands the answers, and may confer privately with the employee during the interview. Overall, a lawyer will be helpful to an employee to make sure that an employee’s key points to an investigator are made effectively and are fully understood and supported in the investigative record.
EXAMPLE

SAMPLE ALLEGATION RESPONSE STRATEGY PLAN, UTILITY C

1. Review nature of allegation
   **Due Date:** 04/29/03  
   **Status:** Complete

2. Notify and provide copies to: Licensing Mgt, Reg. Assurance Manager, NOS, HR, Legal, Security
   **Due Date:** 04/29/03  
   **Status:** Complete

3. Assign Licensing Lead
   **Due Date:** 04/29/03  
   **Status:** Complete

4. Obtain and review copy of Allegation Response procedure XYZ-123-4
   **Due Date:** 04/29/03  
   **Status:** Complete

5. Conduct initial strategy session
   **Due Date:** 04/30/03  
   **Status:** Pending

6. Initiate Action Tracking Item
   **Due Date:** 04/30/03  
   **Status:** Pending

7. Assign lead investigator
   **Due Date:** 04/30/03  
   **Status:** Pending

8. Establish schedule for allegation investigation and completion of response
   **Due Date:** 04/30/03  
   **Status:** Pending

9. Develop investigation approach and review with Legal
   **Due Date:** 05/02/03  
   **Status:** Pending

10. Complete the investigation
    **Due Date:** 05/09/03  
        **Status:** Pending
11. Develop draft response to allegation and rout for review
   **Due Date:** 05/16/03
   **Status:** Pending

12. Obtain comments on draft response
   **Due Date:** 05/21/03
   **Status:** Pending

13. Finalize draft and obtain Site VP signature
   **Due Date:** 05/23/03
   **Status:** Pending

14. Submit response to NRC (Response due to NRC by 05/28/03)
   **Due Date:** 05/27/03
   **Status:** Pending
APPENDIX R

DIFFERING PROFESSIONAL OPINION

PURPOSE AND SCOPE

To provide a method of resolving professional judgments regarding technical issues that differ from established policy or practices that have not been resolved by other means.

BACKGROUND

While exercising their best professional judgment, employees will sometimes differ with their line management or another organization and a Differing Professional Opinion (DPO) may arise.

To the extent possible, employees should resolve DPOs through discussions with their colleagues, supervision and management.

An employee should initiate a DPO when he/she has reasonably exhausted all efforts to resolve the issue through his/her line management and the company’s Corrective Action Process.

In a DPO process employees must identify themselves. If anonymity is desired, other methods of resolution should be utilized.

A DPO process should:

- Require a detailed description of the employee’s professional judgment and how this judgment differs from established policy or practices. Included in this description would be a summary of documents used to evaluate the issue and a summary of resolution activities utilized to address the issue.

- Establish a timeline for the process

- Provide for timely resolution of the issue.

- Document the technical basis of the professional judgment.

- Provide periodic feedback to the employee and others involved.
GENERAL INFORMATION

The policy and/or procedure should define roles, responsibilities and provide guidance to assure timely and efficient handling of DPOs. Licensees may issue a DPO policy statement, procedure, or use a combination of policy and procedure to establish the DPO process.

ATTACHMENTS

1. Sample Policy Differing Professional Opinion, Utility A
2. Sample Procedure for Handling Differing Professional Opinions, Utility B
SAMPLE POLICY DIFFERING PROFESSIONAL OPINION, UTILITY A

1.0 SCOPE

This policy provides the expectation for resolution of differing professional opinions (DPOs) regarding technical issues that have not been resolved by other means or processes.

2.0 IMPLEMENTATION

This policy shall be adhered to by the staff of the organization at all locations performing or supporting nuclear activities. Implementing procedures shall be prepared to provide the staff appropriate guidance in meeting the management controls prescribed. Deviations from, changes to or recommendations for a new policy shall be processed in accordance with policy control processes.

3.0 REQUIREMENTS

3.1 General

Free and open discussion of technical issues is encouraged and expected. Employees are encouraged to make known their judgments on matters of technical significance, even though employee views may differ from prevailing positions. Employees should endeavor to resolve differences of professional opinion through discussions with their co-employees, immediate supervision, and the management chain.

While discussion regarding differing viewpoints is preferable between individuals within the chain of command, this policy provides a formal process where these differing judgments can be recognized and considered so that safe and appropriate actions are taken.

While addressing technical and nuclear safety issues through line management is encouraged, nothing in this policy should be interpreted as interfering with or discouraging employees from exercising their rights to have their concerns addressed through other organization or NRC processes.

3.2 Responsibilities

The selected executive is responsible for establishing the DPO Program. A selected executive is usually assigned to be responsible for managing the DPO Process, informing executive management of any significant issues and concurring in resolution of the DPO policy and is the responsible owner of the policy.
SAMPLE PROCEDURE FOR HANDLING DIFFERING PROFESSIONAL OPINIONS, UTILITY B

1.0 PURPOSE

This procedure provides a method to resolve differing professional opinions (DPOs) regarding technical issues that have not been resolved by other means or processes.

2.0 APPLICABILITY

This procedure is applicable to the staff of the Nuclear Organization, including the corporate office, nuclear facilities and all other departments supporting the nuclear facilities. This procedure shall also be adhered to by all contractors and vendors. Implementing procedures may be prepared to provide the staff appropriate guidance in meeting the management controls prescribed. Deviations from, changes to or recommendations for a new procedure shall be processed in accordance with governing documents.

3.0 REFERENCES

Policy Regarding Differing Professional Opinions (DPOs)

4.0 GENERAL

Free and open discussion of technical issues is encouraged and expected. Employees are encouraged to make known their judgments on matters of technical significance, even though employee views may differ from prevailing positions. Employees should endeavor to resolve differences of professional opinion through discussions with their co-employees, immediate supervision, and the management chain.

While discussion regarding differing viewpoints is preferable between individuals within the chain of command, this policy provides a formal process where these differing judgments can be recognized and considered so that safe and appropriate actions are taken.

While addressing technical and nuclear safety issues through line management is encouraged, nothing in this policy should be interpreted as interfering with or discouraging employees from exercising their rights to have their concerns addressed through other organization or NRC processes.

Management personnel resolving the DPO should consider the use of technical specialists outside the Nuclear Group if rendering an impartial opinion is an issue or if adequate technical expertise is not available.
5.0 **DEFINITIONS**

5.1 **Differing Professional Opinion (DPO)** – A conscientious documented expression of a professional judgment that differs from existing or proposed decisions(s), position(s), or practice(s) involving technical issues which in the employee’s view have not been adequately considered.

5.2 **DPO Submittal** – A memorandum from the concerned individual to his Department Head containing the following information:

- Complete description of the issue
- A summary of documents previously used to evaluate the issue
- A summary of previous resolution activities including condition reports, action items, letters, procedures, specifications, FSAR sections, etc.
- A summary of the existing or proposed company position(s), decision(s), or practice(s).
- A description of the opposing opinion and the basis for the disagreement,
- Possible consequences of the current prevailing opinion if it is not modified, and
- The concerned individual’s recommendations for resolution of the issue.

5.3 **DPO** – The concerned individuals DPO Submittal, when signed by the Department head, will constitute a DPO. The concerned individual’s manager’s signature does not constitute approval of the DPO and is solely to document the start of the DPO process. The manager should forward the DPO record to the selected executive.

5.4 **DPO Resolution** – An approved and concurred document that provides the technical basis supporting the final nuclear division position on the technical issue in dispute. The DPO resolution either confirms the validity of the position described in the DPO, or provides a comprehensive response to each point of disagreement expressed in the DPO. Concurrence of the DPO initiator is not required for the DPO resolution. No appeal process exists under this. Nothing in this process prevents the concerned individual from taking other actions in accordance with other company procedures or NRC programs.

5.5 **DPO Records** – The DPO, resolution, approvals, documentation, results of investigations, actions, etc. constitute the DPO records.

5.6 **Responsibilities**
5.6.1 The selected executive is responsible for establishing the DPO Program and concurring in the resolution of DPOs.

5.6.2 The selected executive is responsible for managing the DPO Process, informing executive management of any significant issues and concurring in resolution of DPOs.

5.6.3 The Director – Nuclear Engineering is responsible for:

- Entering the DPO Record in the DPO log.
- Implementation of the DPO program and maintenance of the DPO log.
- Forwarding copies of the DPO Record to the distribution.
- Assigning a Responsible Manager to evaluate the DPO Record within 24 hours of receipt.
- Establishing a schedule for resolution of the DPO.
- Approving the resolution of the DPO.
- Forwarding the approved DPO resolution to the selected executive for concurrence.
- Reviewing the DPO response with the concerned individual.
- Maintaining the DPO Procedure.

5.6.4 The Responsible Manager is responsible for:

- Immediately evaluating the DPO for regulatory or safety significance. (If notification under 10CFR21 is determined necessary, then appropriate procedure should be followed.)
- Assigning a Resolution Team. (The Team may be composed of members of the Nuclear division staff.)
- Monitoring the progress toward resolution of the DPO.
- Ensuring an unbiased and technically competent review of the points of disagreement.
- Documenting the resolution of the DPO including a comprehensive response to each point of disagreement.
- Documenting any actions proposed by the Team including an assessment of how the proposed actions will resolve the issue.
- Returning the DPO resolution document to the Director – Nuclear Engineering for approval.

5.6.5 The Resolution Team is responsible for:

- Reviewing the DPO Record and evaluating the need for immediate action. (If required, use appropriate existing policies and procedures.)
• Interviewing the concerned individual to ensure understanding of the points of disagreement.
• Involving the concerned individual in the DPO resolution if and as necessary.
• Assessing whether unique timing considerations exist that may be relevant (LCO’s, unit startup, special operational evolution, etc.)
• Evaluating DPO resolution for any reportability or operability concerns and initiate any required action.

5.6.6 Concerned Individual’s Department Head is responsible for:
• Reviewing the concerned individual’s DPO submittal, signing it and forwarding it to the.
• Maintaining awareness of the schedule for DPO resolution.
• Ensuring that the concerned individual is aware of the resolution progress and be involved if and as necessary.
• Reviewing the DPO resolution for lessons learned applicability to department, organization, processes and procedures, and implements appropriate actions.

6.0 Records

6.1 After the DPO has been closed out, the DPO file shall be submitted to Records Management. The file shall contain the DPO Record and DPO Resolution.

6.2 Any documentation used to support the development of the DPO and its resolution shall also be retained in the Records Management System.

7.0 Program Assessment

The Director – Nuclear Engineering shall have an annual program assessment performed by the Headquarters, Director Quality Assurance. QA shall prepare a report that shall be reviewed by the Nuclear Business Unit Committee.
APPENDIX S

REFERENCE LIST AND GLOSSARY OF TERMS

DEFINITIONS

ADVERSE ACTION - An involuntary and adverse change in the terms, conditions, or privileges of a person’s employment. Examples include, but are not limited to, termination or “layoff”, discipline in any form, transfer, demotion, negative performance evaluation, reduction in pay, change in or loss of responsibilities, and Hostile Work Environment.

CHILLING EFFECT – The perceived consequences of actions taken, or not taken, by an employer, company representative, or other employee(s) which creates an atmosphere where individuals, or a group, refrain from identifying Nuclear Safety or Quality Concerns or engaging in other protected activities based on a fear of some type of reprisal.

CONCERNED INDIVIDUAL (CI) - An employee who submits a Nuclear Safety or Quality Concern to the Employee Concerns Program.

DISCRIMINATION - Discharge or other actions affecting compensation, terms, conditions, or privileges of employment when such discharge or other actions are taken based on membership in a protected class or engagement in a protected activity.

DIFFERING PROFESSIONAL OPINION (DPO) - A conscientious, documented expression of a professional judgment that differs from existing or proposed decision(s), position(s), or practice(s), involving technical issues for which another view has not been adequately considered.

ECP INVESTIGATOR - An investigator, for the purposes of this Toolbox usually a member of the ECP Staff, tasked with determining the facts in a matter and who may be asked to reach conclusions based on those facts. The investigator’s independence comes from the organizational placement of the ECP outside of the control of the parties in a matter.

EMPLOYEE - A person employed by a licensee, or a licensee’s contractor or sub-contractor.

HARASSMENT –A form of discrimination involving conduct that has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment (sufficiently severe or pervasive to affect the terms and conditions of one's employment).

HOSTILE WORK ENVIRONMENT – An intimidating or offensive work environment directed at member(s) of a protected class, including individuals who have opposed a practice or participated in an investigation, proceeding, or hearing, or engaged in such other protected activities as are covered by a law or regulation.

INDEPENDENT ORGANIZATION - An organization, for the purposes of this Toolbox usually the ECP, outside of the control of the parties in a matter.
INDEPENDENT, THIRD-PARTY INVESTIGATOR - An investigator, outside of the control of the parties in a matter and for the purposes of this Toolbox from an organization other than the ECP, tasked with determining the facts and who may also be asked to reach conclusions based on those facts. The investigator’s independence comes from the organizational placement of the authority directing the investigator which is outside of the control of the parties in a matter.

INTIMIDATION - Any action that has the effect, or perceived effect, of preventing a person from raising a safety concern.

NUCLEAR SAFETY CULTURE - That assembly of characteristics and attitudes in organizations and individuals which establishes that, as an overriding priority, nuclear plant safety issues receive the attention warranted by their significance.

NUCLEAR SAFETY OR QUALITY CONCERN - A concern relating the safe operation of a licensed facility, compliance with regulations governing the operation of a licensed facility. Includes claims of harassment, intimidation, retaliation or discriminations for having raised a nuclear safety or quality concern.

PROTECTED ACTIVITIES - Protected activities are defined in Section 211 of the Energy Reorganization Act and the NRC's employee protection regulations (example: 10 CFR 50.7).

RETALIATION - A form of discrimination whereby involving harassment or action affecting terms or conditions of employment of an individual who has opposed a practice or participated in an investigation, proceeding, or hearing, or engaged in such other protected activities as are covered by a law or regulation.

SAFETY CONSCIOUS WORK ENVIRONMENT - A work environment in which employees are free to raise concerns both to their own management and the NRC without fear of HIRD. [Note: The NRC has established an expectations for a SCWE in their policy statement, "Freedom of Employees in the Nuclear Industry To Raise Safety Concerns Without Fear of Retaliation; Policy Statement," [Federal Register: May 14, 1996 (Volume 61, Number 94), Page 24336-24340]. The NRC states, "The Nuclear Regulatory Commission's expectation that licensees and other employers subject to NRC authority will establish and maintain a safety-conscious work environment in which employees feel free to raise concerns both to their own management and the NRC without fear of retaliation."

WORKPLACE CONCERN – Concerns raised by employees that are not considered Nuclear Safety or Quality Concerns.

INDEX OF ACRONYMS

| AEA       | Atomic Energy Act            |
| ALJ       | Administrative Law Judge     |
| CAP       | Corrective Action Program    |
| CFR       | Code of Federal Regulations  |
| CI        | Concerned Individual         |
CNO  Chief Nuclear Officer
DOL  Department of Labor
DPO  Differing Professional Opinion
ECP  Employee Concerns Program
EEOC  Equal Employment Opportunity Commission
ERA  Energy Reorganization Act
GET  General Employee Training
HIRD  Harassment, Intimidation, Retaliation, Discrimination
HR  Human Resources
IAEA  International Atomic Energy Authority
INPO  Institute of Nuclear Power Operations
MOU  Memorandum of Understanding
NEI  Nuclear Energy Institute
NRC  Nuclear Regulatory Commission
NUREG  Nuclear Regulatory Information Guidelines
OSHA  Occupational Safety & Health Administration
PI  Performance Indicator
SCWE  Safety Conscious Work Environment
SECY  Secretary of the Commission, Office of the NRC

REFERENCES

Nuclear Regulatory Commission Documents

- 10 CFR Part 19, Notices, Instructions, and Reports to Workers; Inspections
- 10 CFR Part 50.5, Deliberate Misconduct
- 10 CFR Part 50.7, 10 CFR Part 30.7, etc., Employee Protection
- NRC Statement of Policy, Freedom of Employees in the Nuclear Industry to Raise Concerns Without Fear of Retaliation, May 14, 1996 (61 FR 24336)
- NRC Statement of Policy, Protecting the Identity of Allegers and Confidential Sources, May 23, 1996 (61 FR 25924)
- NRC Management Directives, Volume 8, Licensee Oversight Programs, Management of Allegations, Directive 8.8, Handbook 8.8, Current Revision
- NUREG-1499, Reassessment of the NRC's Program for Protecting Allegers Against Retaliation, January 1994
- Annual Report of the Allegation Advisor, (Series)
- NRC Inspection Procedure 40001, Resolution of Employee Concerns, June 11, 1996
- NRC INSPECTION MANUAL INSPECTION PROCEDURE 71152, IDENTIFICATION AND RESOLUTION OF PROBLEMS, PROGRAM APPLICABILITY: 2515, Issue Date: 04/03/00

**Industry Documents**

**NOTE:** For INPO (Institute of Nuclear Power Operations) documents, only titles are provided—if further information is required, contact the Institute of Nuclear Power Operations.

- INPO, Principles for Enhancing Professionalism of Nuclear Personnel
- INPO, Excellence in Human Performance
- INPO, Management and Leadership Development
- INPO, Building on the Principles of Enhanced Professionalism and Safety Focus During Changing Times—Recognizing Indicators of Declining Plant Performance
- INPO, Performance Objectives and Criteria for Operating Nuclear Electric Generating Stations, INPO 97-02, September 1997

**Other Documents**

- IAEA-TECDOC-1329, Safety culture in nuclear installations, Guidance for use in the enhancement of safety culture, Operation Safety Section, International Atomic Energy Agency, Wagramer Strasse 5, P.O. Box 100, A-1400 Vienna, Austria, ISBN 92–0–119102–2, ISSN 1011–4289

Whistleblowing: Subversion or Corporate Citizenship, Gerald Vinten, ISBN 031212422

Whistleblowing at Work: Tough Choices in Exposing Fraud, Waste, and Abuse on the Job, Terance D. Miet, ISBN 0813335493

The Whistleblowers: Exposing Corruption in Government and Industry, Myron Peretz Glazer and Pennia Miugdal Glazer


Whistleblowing: Managing Dissent in the Workplace, Frederick Elliston, John Keenan, Paula Lockhart and Jane van Schaick, ISBN 0-03-070774-9


Engineering Ethics: Balancing Cost, Schedule and Risk: Lessons Learned From the Space Shuttle, Rosa Lynn Pinkus, Larry J. Shulman, Norman P. Humman, Harvey Wolfe


Online Sources

http://www.nrc.gov


http://www.ecpf.org/

http://www.oha.doe.gov/

http://www.oalj.dol.gov/libwhist.htm