

U.S. NUCLEAR REGULATORY COMMISSION

DIRECTIVE TRANSMITTAL

TN: DT-99-32

To: NRC Management Directives Custodians

Subject: Transmittal of Directive 10.159, "Differing Professional Views or Opinions"

Purpose: Directive and Handbook 10.159 are being revised to implement the changes addressed in an SRM from SECY to the EDO dated May 18, 1999 (see SECY-99-065) and to add responsibilities of the CIO to cover procedures in the handbook. Changes also were made to the Exhibit to correct time frames.

Note: Upon receipt of a Differing Professional View (DPV), office directors and regional administrators should contact the Chief, Human Resources Policy and Programs, Office of Human Resources, for guidance on processing the DPV, particularly as regards to the confidentiality of submitters.

Office and Division of Origin: Office of Human Resources
Division of Human Resources Policy and Programs

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Volume: 10 Personnel Management

Part: 7 General Personnel Management Provisions

Directive: 10.159 Differing Professional Views or Opinions

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Differing Professional Views or Opinions

***Directive
10.159***

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U. S. Nuclear Regulatory Commission

Volume: 10 Personnel Management

Part: 7 General Personnel Management
Provisions

HR

Differing Professional Views or Opinions Directive 10.159

Policy

(10.159-01)

It is the policy of the U.S. Nuclear Regulatory Commission to maintain a working environment that encourages employees to make known their best professional judgments even though they may differ from a prevailing staff view, disagree with a management decision or policy position, or take issue with proposed or established agency practices.

Objectives

(10.159-02)

- To establish an informal process for expressing differing professional views (DPVs) and a formal process for expressing differing professional opinions (DPOs) concerning issues directly related to the mission of the NRC. (021)
- To ensure the full consideration and prompt disposition of DPVs and DPOs by affording an independent, impartial review by qualified personnel. (022)
- To ensure that all employees have the opportunity to express DPVs and DPOs in good faith, have these views heard and considered by NRC management, and, to the extent practicable, participate fully in the process from beginning to end. (023)
- To protect employees from retaliation in any form for expressing a differing viewpoint. (024)
- To recognize submitters of DPVs and DPOs when they have contributed significantly to the mission of the agency. (025)
- To provide for periodic assessment, as necessary, to ensure that implementation of these procedures accomplishes the stated objectives and to recommend appropriate changes. (026)

Organizational Responsibilities and Delegations of Authority

(10.159–03)

Commission

(031)

- Notifies the Director, Office of Human Resources (HR), that a DPO has been received. (a)
- Convenes an ad hoc review panel for the review of a DPO. (See Handbook 10.159(C)(2) for more information on the panel.) (b)
- Determines the disposition of DPOs submitted by employees in offices reporting directly to the Chairman or Commission and informs the DPO submitter of the final decision and the rationale for it. (c)
- Takes action, as appropriate, on matters that appear to be of immediate health or safety significance. (d)
- Utilizes appropriate and qualified sources inside and outside the NRC to assist in reviewing a DPO. (e)
- Provides to the Office of the Executive Director for Operations (EDO) a summary of the issue and its disposition for the Weekly Information Report. (f)
- Reviews applicable portions of DPV/DPO files for information exempt under the Freedom of Information Act (FOIA), and identifies such information, if any, to the Information Services Branch (ISB), Office of the Chief Information Officer (OCIO). (g)
- Sends all completed DPO case files to HR in accordance with Handbook 10.159(C)(4). (h)
- Periodically reviews and modifies the DPV and DPO process based on recommendations from the EDO and the special review panel. (i)

Chairman
(032)

Reviews reports from office directors of Commission-level offices, as appropriate, on any delays in followup actions on DPVs after the final decision memorandum has been given to the submitter, the reason for the delay(s), and revised schedules for the completion of the action(s).

Executive Director for Operations (EDO)
(033)

- Notifies the Director, HR, that a DPO has been received. (a)
- Convenes an ad hoc review panel for the review of a DPO (see Handbook 10.159 (C)(2) for more information on the panel). (b)
- Determines the disposition of DPOs submitted by employees in offices reporting directly to the EDO and informs the DPO submitter of the final decision and the rationale for it. (c)
- Takes action, as appropriate, on matters that appear to be of immediate health or safety significance. (d)
- Utilizes appropriate and qualified sources inside and outside the NRC to assist in reviewing a DPO. (e)
- Provides a summary of the issue and its disposition in the Weekly Information Report (NRC weekly memorandum from the Office of the EDO to the Commissioners). (f)
- Reviews applicable portions of DPV/DPO files for information exempt under FOIA regulations, and identifies such information, if any, to the ISB, OCIO. (g)
- Sends all completed DPO case files to HR in accordance with Handbook 10.159(C)(4). (h)
- Periodically appoints members to a special review panel to review the effectiveness of the DPV and DPO process. (i)
- Reviews the special review panel's report and makes recommendations to the Commission, as necessary. (j)
- Publishes periodic announcements declaring that diversity of viewpoints is a strength and a potential source of valuable ideas. (k)

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Chief Information Officer (CIO)
(034)

- Ensures that documents related to DPVs and DPOs are publicly releasable before forwarding these documents to the PDR. (a)
- Establishes records disposition schedules for DPVs and DPOs in accordance with regulations of the National Archives and Records Administration. (b)
- Maintains at the NRC File Center all completed DPOs according to the authorized disposition contained in NUREG-0910, "NRC Comprehensive Records Disposition Schedule." (c)

**Deputy Executive Director for
Management Services (DEDM)**
(035)

Reviews reports from staff office directors or regional administrators, as appropriate, on any delays in followup actions on DPVs after the final decision memorandum has been given to the submitter, the reason for the delay(s), and revised schedules for the completion of the action(s).

Director, Office of Human Resources (HR)
(036)

- Monitors the number of DPO submittals being processed in the agency. (a)
- Transmits all completed DPO case files for review and disposition in accordance with Handbook 10.159(C)(4). (b)
- Ensures that appropriate parts of DPOs and their dispositions are disseminated or made available to the public in accordance with the provisions of the FOIA. (c)
- Provides administrative support to the Commission, EDO, office directors, regional administrators, and the special review panel in carrying out their responsibilities for DPV and DPO processing. (d)

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**Chief Financial Officer,
Chief Information Officer,
Office Directors, and
Regional Administrators**
(037)

- Inform the Chairman for Commission offices or DEDM for EDO offices, as appropriate, of any delays in followup actions on DPVs after the final decision memorandum has been given to the submitter, the reason for the delay(s), and a revised schedule for the completion of the action(s). (a)
- H (•) Determine the disposition of a DPV submitted by an employee within their office or region and inform the DPV submitter of the decision and its rationale. (b)
- H (•) Appoint an ad hoc review panel when a DPV is submitted by an employee assigned to their office or region, and include an employee designated by the Office of Enforcement to be a fourth member of a review panel when the subject of the DPV involves an enforcement issue. (See Handbook 10.159 (B)(3)(b) for more information about the panel.) (c)
- Take action on and advise the EDO or Commission of submittals that appear to be of immediate health and safety significance or that may be directly relevant to a decision pending before the Commission. (d)
- Utilize technical assistance from other NRC offices and regions or from outside the agency, as necessary, to address a highly specialized issue. (e)
- Provide a summary of the issue and its disposition in the Weekly Information Report. (f)
- Submit a completed DPV (or applicable portions of DPV) to the PDR when the submitter requests in writing that the DPV be made public in accordance with Handbook 10.159(B)(4)(e). (g)
- Maintain documentation necessary to preserve an accurate record of the DPV proceedings in accordance with Handbook 10.159(B)(5). (h)
- Review applicable portions of DPV/DPO files for information exempt under FOIA regulations, and identify such information, if any, to the ISB, OCIO. (i)

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**Chief Financial Officer,
Chief Information Officer,
Office Directors, and
Regional Administrators**
(037) (continued)

- When an employee chooses to continue the issue through the formal DPO process, a copy of the DPV records should be provided to the EDO or Commission, as appropriate. (j)

Definitions
(10.159-04)

1/17 — **Confidential Submittal.** A DPV or DPO that is submitted by an employee through an NRC manager who knows that the submitter is an agency employee.

Differing Professional Opinion. A DPV becomes a DPO after it has been processed and decided and the submitter requests that the matter be considered further by the EDO or Commission.

1/17 **Differing Professional View.** A conscientious expression of a professional judgment that differs from the prevailing staff view, disagrees with a management decision or policy position, or takes issue with a proposed or an established agency practice involving technical, legal, or policy issues.

Retaliation. Personnel action that is taken (or not taken in the case of a personnel benefit), recommended, or threatened because of the expression or support of a DPV or DPO (see “Prohibited Personnel Practices”).

Applicability
(10.159-05)

The policy and guidance in this directive and handbook apply to all NRC employees, including supervisors and managers.

Handbook
(10.159-06)

The handbook provides procedures for the expression and disposition of DPVs or DPOs.

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References

(10.159-07)

Federal Advisory Committee Act (5 U.S.C. App. I).

Freedom of Information Act (5 U.S.C. 552).

Management Directive 10.72, "Incentive Awards."

— 10.99, "Discipline, Adverse Actions, and Separations."

— 10.101, "Employee Grievances."

NUREG-0910, "NRC Comprehensive Records Disposition Schedule."

"Prohibited Personnel Practices," Merit System Principles (5 U.S.C. 2302(a)(2)(A)).

Differing Professional Views or Opinions

***Handbook
10.159***

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Procedures for the Expression and Disposition of Differing Professional Views and Opinions

Introduction (A)

In the free and open discussion of agency issues, professional differences of opinion are common. Employees normally try, and are encouraged, to resolve their concerns through discussions with their co-workers and immediate supervisors. Individual employees are permitted to document their differing professional viewpoints and attach them to proposed staff positions or other documents, to be forwarded with the position as it moves through the management approval chain. Individual employees are strongly encouraged to discuss their differing professional viewpoints within the chain of command, especially with their immediate supervisors, as a first step towards resolution of the issue. No recordkeeping or documentation of this discussion is required. (1)

A difference of opinion, developed in the free and open discussion of work matters, only becomes a differing professional view (DPV) or a differing professional opinion (DPO) when the employee brings it to management's attention in accordance with these procedures. (2)

In some cases, informal discussions may not resolve the matter and an employee may be convinced that the agency and the public would be better served if another opinion prevailed. To file a differing professional view, an employee must submit a written statement to his or her supervisor, line management official, office director, or regional administrator using the procedures in this handbook. Anonymous submittals will not be considered under the provisions of this process. (3)

Introduction (A) (continued)

Issues that do not qualify as differing professional views or opinions include issues that are or could have been appropriately addressed under grievance procedures, personnel appeal procedures, or are governed by law or Governmentwide regulation; issues that are subject to collective bargaining; issues involving allegations of wrongdoing that are appropriately addressed by the Office of the Inspector General; issues submitted anonymously which, if safety significant, are appropriately addressed under NRC's Allegation Program; issues that are deemed to be frivolous or otherwise not in accordance with the policy underlying these procedures; and issues raised by an employee that already have been considered, addressed, or rejected pursuant to this directive absent significant new information. (4)

Issues raised through the informal process are called DPVs. Responsibility for ensuring review of the DPV and making and communicating a decision on the issue rests within the office or region of the submitter. This office or region may utilize expertise elsewhere in the agency to assess or resolve the issue. Although the informal process may appear to be structured, it is intended to be a vehicle for the prompt, nonconfrontational consideration of issues by an impartial review panel, independent of an employee's direct supervisors, with a minimum of documentation. (5)

If the employee is not satisfied with the disposition of the issue through the informal process of a DPV, the employee may file a DPO. The DPO would be filed with the Executive Director for Operations (EDO) if working in a region or an office reporting to the EDO, or with the Commission if working in an office reporting to the Chairman or Commission. If an issue is submitted directly to the EDO or Commission before consideration as a DPV, it is immediately forwarded to the submitter's office or region for review as a DPV through the informal process before action is considered through the formal DPO process. (6)

The exhibit to this handbook provides a quick-reference guide for processing DPVs and DPOs. (7)

Informal Process for Expressing Differing Professional Views (B)

Submittals (1)

The DPV process is initiated by a written statement submitted by an employee of NRC either through the management chain or directly to the office director or regional administrator who will then forward it to a specially convened ad hoc review panel within 5 calendar days. Employees who are contemplating the submittal of a DPV and officials who receive a DPV are encouraged to contact the Director, Office of Human Resources (HR), for guidance on the process. (a)

The written statement, while being brief, must in all cases include—(b)

- A summary of the prevailing staff view, existing management decision or stated position, or the proposed or established agency practice (i)
- A description of the submitter's views and how they differ from any issues discussed in item (i) above (ii)
- An assessment of the consequences should the submitter's position not be adopted by the agency (iii)

All submittals must go through the DPV process before they can be processed as a DPO. (c)

Certain types of issues are excluded from this process and may be rejected by the office director or regional administrator. These include those issues that do not qualify as a DPV as stated in Section (A)(4) of this handbook. (d)

Confidentiality (2)

If an employee wishes to submit a DPV but desires confidentiality, the employee may submit an unsigned DPV to an NRC manager who agrees to act as a surrogate submitter. Disposition of the DPV will then be completed in accordance with these procedures. To protect the employee's confidentiality in such cases, it may not be possible to provide acknowledgment of receipt of the statement or disposition directly to the submitter. In these cases, the manager who forwarded the DPV shall relay to the originator both the acknowledgment of receipt and all reports received by that manager concerning disposition or resolution of the DPV. (a)

Informal Process for Expressing Differing Professional Views (B) (continued)

Confidentiality (2) (continued)

Anonymous submitted DPVs are not covered by the provisions of this directive and handbook. Anonymous submissions will be referred to the Office of Investigations, the Office of the Inspector General, or the appropriate Allegation Program Manager. (b)

DPV Ad Hoc Review Panel (3)

An ad hoc review panel will be established on a case-by-case basis in each office and region to review each DPV. The panel is appointed in writing by the regional administrator or office director. To the extent possible, DPV panels should not involve individuals who have directly participated in the formulation of the agency position that is at issue. (a)

The panel should include—(b)

- A chairperson and one member appointed by management who is technically qualified in the subject area being reviewed (i)
- A third panel member chosen by the ad hoc panel chairperson from a list proposed by the employee submitting the DPV (The submitter may consult with the exclusive bargaining unit representative to nominate qualified individuals who are willing to serve as a third panel member.) (ii)
- A fourth panel member chosen by the Director, Office of Enforcement (OE), when the subject of the DPV involves an enforcement issue (iii)
- When deemed appropriate by the office director or regional administrator, one member of the Atomic Safety and Licensing Board Panel may be appointed as an additional member of the ad hoc panel (iv)

The panel shall—(c)

- Review the DPV and make recommendations to the office director or regional administrator (i)
- Determine whether sufficient documentation was provided by the DPV submitter for the panel to undertake a detailed review (ii)

Informal Process for Expressing Differing Professional Views (B) (continued)

DPV Ad Hoc Review Panel (3) (continued)

- Request technical assistance through the submitter's office director or regional administrator, if necessary (iii)

The panel should normally review the DPV within 7 calendar days of receipt to determine if enough information has been supplied to undertake a detailed review of the issue. The panel should informally contact the employee or the manager who forwarded the DPV to discuss the information provided and request any additional information, if needed. (d)

Those involved in the informal review process shall give priority handling to an issue that may involve immediate or significant health and safety concerns. This includes calling the issue to the immediate attention of higher management. (e)

Review and Decision (4)

To the extent possible, DPV reviews should be conducted independently and not involve individuals who have directly participated in the formulation of the agency position that is at issue. The review should include communication with submitters (or their representative) to provide them with the opportunity to further clarify their views. (a)

Office directors or regional administrators may utilize technically qualified sources inside and outside the NRC to assist in reviewing the DPV. If assistance from outside the agency is required, the requirements of the Federal Advisory Committee Act must be considered. (b)

Once the panel has received the necessary information to begin a review, the panel normally should take no more than 30 calendar days to make a recommendation to the office director or regional administrator. (c)

The office director or regional administrator should review the panel's recommendations and provide the employee or manager who submitted the DPV with a decision and rationale for that decision. Normally, this should occur within 7 calendar days after receipt of the panel's recommendations. (d)

Informal Process for Expressing Differing Professional Views (B) (continued)

Review and Decision (4) (continued)

A summary of the issue and its disposition should be included in the Weekly Information Report to advise interested employees of the outcome. If the submitter indicates in writing a desire to have his or her DPV made available to the public, with or without release of his or her name, the appropriate office director or regional administrator should send the completed DPV case file to the FOIA/PA (Freedom of Information Act and Privacy Act) Officer, Office of the Chief Information Officer (OCIO). The FOIA/PA Officer will coordinate the review of the records in the DPV case file with the originating offices/regions for a releasability determination. When the review is complete, the FOIA/PA Officer will return the DPV case file to the appropriate director or regional administrator. The office director or regional administrator will send the releasable portions of the DPV case file to the Public Document Room (PDR). (e)

Extenuating circumstances may cause delays in concluding the DPV process. Notice of delays should be communicated to the submitter or, in the event of a confidential statement, communicated to the manager who forwarded the DPV. If the review and disposition of the DPV does not occur within 60 calendar days from the date of receipt by the office director or regional administrator, the reason for delay should be reported to the Deputy Executive Director for Management Services (DEDM) for employees of these offices reporting directly to the EDO or to the Chairman for employees in offices reporting directly to the Commission. (f)

Followup Actions (5)

If followup items or additional information needs are recommended by the panel and agreed to by the office director or regional administrator, completion dates for those actions are to be established and communicated to the submitter, or in the event of a confidential statement, to the manager who forwarded the DPV. In establishing completion dates, consideration should be given to the safety significance of the issue, the age of the issue, and the priority of other work in the office. If the schedule for the followup items is not met, the reason for the delay, and a revised schedule for the completion of the action(s) should be communicated to the submitter, or in the event of a confidential statement, to the manager who forwarded the DPV, and

Informal Process for Expressing Differing Professional Views (B) (continued)

Followup Actions (5) (continued)

reported to the Chairman for employees in offices reporting directly to the Commission, or to the DEDM for employees in offices reporting directly to the EDO.

Records (6)

DPV records should be maintained and available only within the region or office unless the DPV was sent to the PDR, where it also will be available. A copy of the panel report and decision memorandum should be sent to the Director, OE, whenever a DPV ad hoc review panel includes a member chosen by OE. (a)

If the DPV is not settled to the satisfaction of the submitter and the submitter requests in writing that the issue be further reviewed under formal DPO procedures, the office director or regional administrator will forward the original case file along with a statement of views on the unresolved issue(s) to the EDO or Commission, as appropriate, for consideration as a formal DPO. (b)

Offices and regions shall maintain files of resolved DPVs for 2 years after a special review panel has published the report of its review. Then the DPV files shall be retired to the NRC Archival Facility through the OCIO for a 10-year retention in accordance with NRC Schedule 1-2.2.b. (c)

Formal Process for Expressing Differing Professional Opinions (C)

Submittals (1)

The formal DPO review process may be initiated by an employee, after the DPV process has been completed, by submitting a written statement to the EDO, for employees in offices reporting to the EDO, or to the Commission, for employees in offices reporting to the Chairman or Commission. (a)

Written DPO submittals must meet the same criteria established for the submittals of a DPV. Certain types of issues are excluded from this process and may be rejected by the EDO or Commission. Issues that do not qualify as a DPO are stated in Section (A)(4) of this handbook. (b)

Formal Process for Expressing Differing Professional Opinions (C) (continued)

Submittals (1) (continued)

If the EDO or Commission receives a DPO that has not been considered through the DPV process, the EDO or Commission shall forward it within 5 calendar days to the appropriate office director or regional administrator for processing as a DPV. Offices and regions will then operate under the provisions of Section (B) of this handbook. (c)

DPO Ad Hoc Review Panel (2)

The EDO or Commission will convene an ad hoc review panel and appoint a chairperson and second technically qualified panel member. The submitter of the DPO may submit names for the chairperson to select a third panel member. Also, when deemed appropriate by the EDO or Commission, one member of the Atomic Safety and Licensing Board Panel may be appointed as an additional member of the ad hoc panel. To the extent possible, DPO panels should not involve individuals who have directly participated in the formulation of the agency position that is at issue. (a)

The panel—(b)

- Reviews the DPO and makes recommendations to the EDO or Commission (i)
- Determines whether sufficient documentation was provided by the DPO submitter for the panel to complete a detailed review (ii)
- Requests technical assistance from appropriate source(s) within or outside the agency, as necessary (iii)

Any NRC employee or manager involved in the DPO process shall give immediate priority attention to issues involving significant health and safety concerns. This includes advising the office director, regional administrator, or the EDO or Commission, as appropriate, of any immediate safety concerns. (c)

Review and Decision (3)

To the extent possible, DPO reviews should be conducted independently and not involve individuals who have directly participated in the formulation of the agency position that is at issue. (a)

Formal Process for Expressing Differing Professional Opinions (C) (continued)

Review and Decision (3) (continued)

The EDO or Commission may utilize technically qualified sources inside and outside the NRC to assist in reviewing the DPO. In considering the DPO, the EDO or Commission should review the decision of the office director or regional administrator as well as the ad hoc review panel's recommendations and any other source who has reviewed the issue. (b)

The EDO or the Commission will provide the submitter with a decision and rationale for that decision. Normally, this should occur within 30 calendar days after receipt of all solicited views requested by the EDO or Commission. (c)

Extenuating circumstances may cause the EDO or Commission to delay in making a final decision. In such cases, the submitter should be advised of the timeframe for considering the issue. (d)

After the EDO or Commission makes a decision on a DPO and communicates the outcome to the submitter (or to the manager who forwarded the DPO), the matter is considered closed and will not be considered further absent significant new information. (e)

Records (4)

The EDO and Commission will send all completed DPO case files to HR. Normally, the case file will include, at a minimum, the DPVs and DPOs submitted by the filer, the DPV and DPO panel reports, and the DPV and DPO decision memoranda. Any other documents, such as other correspondence related to the DPV and DPO between the submitter and the EDO or the Commission, deemed by the EDO or Commission to be essential to an understanding of the case also may be forwarded as a part of the case file. The memorandum transmitting the file to HR should include a list of documents contained in the file and a statement indicating which documents, or portions of documents, may be released to the public, subject to a routine Freedom of Information Act review. (a)

HR will make the file, or appropriate portions of the file, available to the public in accordance with the provisions of the Freedom of Information Act. To accomplish this, HR will request the FOIA/PA Officer, OCIO, to initiate a review of the documents identified by the

Formal Process for Expressing Differing Professional Opinions (C) (continued)

Records (4) (continued)

EDO or Commission as releasable to ascertain which portions of the record, if any, are exempt from disclosure to the public. The Freedom of Information (FOI) staff will request offices and regions to review the documents to determine which documents or portions of documents should or should not be released to the public. The offices and regions conducting the reviews should then advise FOI staff of those documents or portions of documents that should or should not be released to the public. FOI staff will then resolve any discrepancies and return the case file to HR, indicating which documents or portions of documents the reviewers have identified as releasable to the public. (b)

HR will transmit a copy of the releasable portions of the file to the Document Control Desk, OCIO, for Nuclear Documents System processing and distribution to the PDR. PDR staff will maintain the sanitized copy consistent with the retention of the official record. HR also will transmit the original DPO file to the NRC File Center, OCIO, for retention. DPO files are not currently scheduled and must be retained by the NRC File Center until a records disposition schedule for this material is approved by the National Archives and Records Administration. (c)

Resources To Assist Originators of Differing Professional Views or Opinions (D)

To assist submitters in preparing adequate written DPV or DPO statements, the submitter's immediate supervisor, in consultation with other management officials, will determine the amount of the employee's work time and administrative support to be provided in response to the employee's request for assistance. If called to testify before a licensing board or presiding officer, the employee may receive, upon request, assistance from the legal staff to prepare testimony or other documents to be filed with the board. Such assistance will be solely for the purpose of facilitating the filing of the necessary documents and will not constitute legal representation of the employee by the legal staff.

Special Review Panel (E)

A special review panel periodically assesses the DPV and DPO process, including its effectiveness, how well it is understood by employees, and the organizational climate for having such views aired and properly decided. Members of the special review panel are appointed by the EDO after consultation with the Chairman. (1)

The special review panel will prepare a report on the basis of its assessment and submit it to the EDO for consideration. The EDO will forward the report with any comments or recommendations to the Commission for approval. The report or its executive summary also will be distributed to all employees. (2)

In addition, the special review panel will review DPVs and DPOs completed since the last review to identify employees who have made significant contributions to the agency or to public health and safety but have not been adequately recognized for this contribution. When award recommendations have not been made, they may be made by the special review panel in accordance with provisions of NRC's "Incentive Awards Program" (Management Directive (MD) 10.72). Recommendations for awards will be included in the special review panel's report. (3)

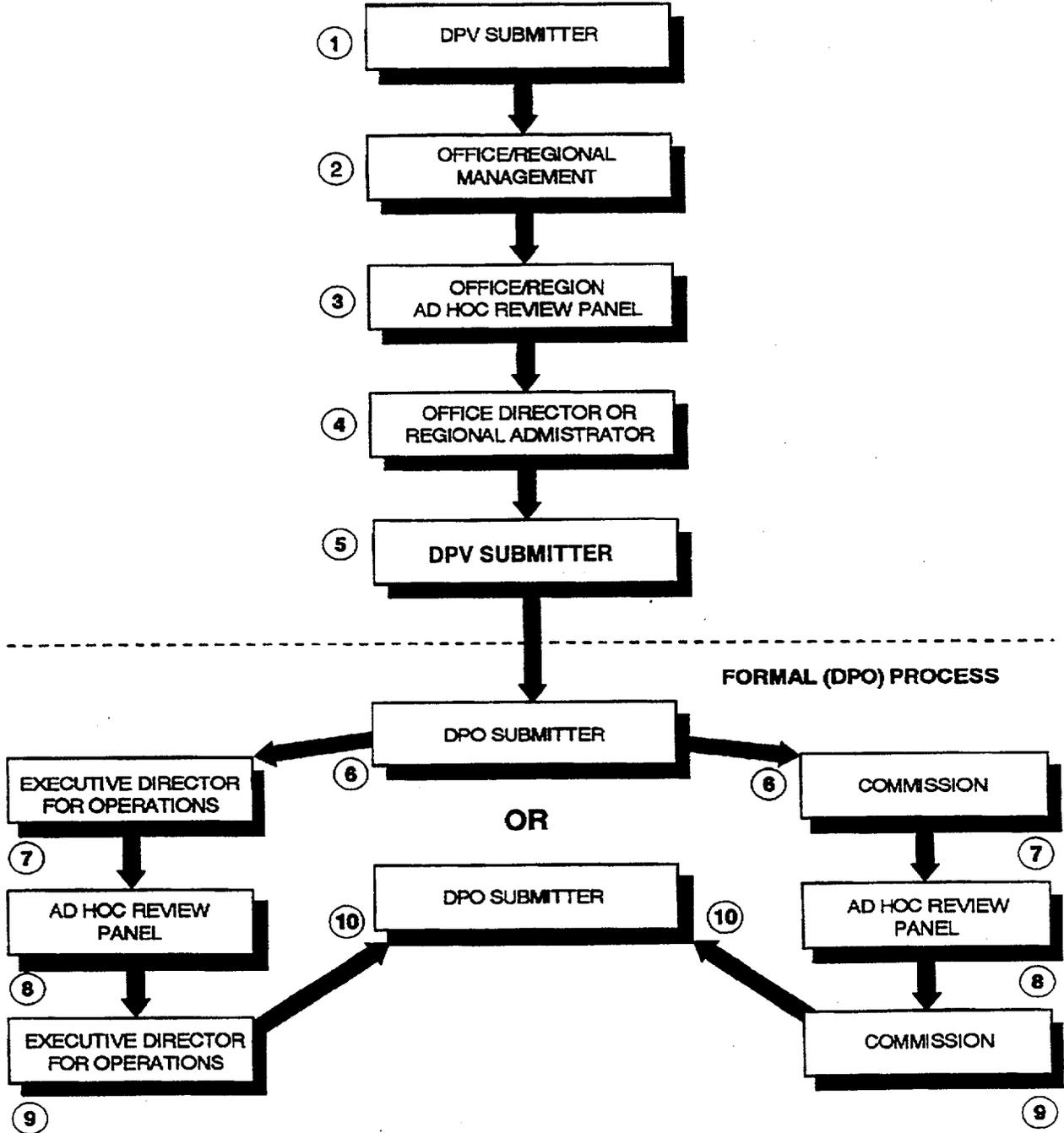
Prevention of Retaliation (F)

Any NRC employee who retaliates against another employee for submitting or supporting a DPV or DPO is subject to disciplinary action in accordance with MD 10.99, "Discipline, Adverse Actions, and Separations." This applies to retaliatory actions as defined in the directive and to all prohibited personnel practices specified in the Civil Service Reform Act of 1978, as amended. (1)

Employees who allege that retaliatory actions have been taken because of their submittal or support of a DPV or DPO may seek redress through the negotiated grievance procedure or through the grievance procedure described in MD 10.101, "Employee Grievances." (2)

Exhibit
Processing Differing Professional Views or Opinions

INFORMAL (DPV) PROCESS



Approved: August 15, 1997
 (Revised: December 15, 1999)

Exhibit (continued)

Key:

- ① Employee writes a differing professional view (DPV).
- ② The DPV should be submitted directly or through line management to the employee's office director or regional administrator. If submitted to another NRC organization, it is forwarded to the employee's office director or regional administrator for processing through the informal DPV process. The employee's office director or regional administrator acknowledges receipt and forwards the submittal to the ad hoc review panel for action within 5 days. The office director or the regional administrator appoints the panel chairperson and a technically qualified panel member. The submitter may provide a list of qualified individuals to the panel chairperson who selects one of them to serve as a third member of the ad hoc review panel.
- ③ The ad hoc review panel makes initial review to determine the adequacy of the submittal within 7 days of receipt, considers the DPV, and provides the submitter's office director or regional administrator a report of the findings and a recommended course of action, usually within 30 calendar days.
- ④ The office director or the regional administrator considers the ad hoc review panel's report, makes a decision on the DPV, provides a written decision to the submitter, and includes a summary of the issue and its disposition in the NRC Weekly Information Report, usually within 7 calendar days. The DPV file is retained in the office or region. If the submitter has indicated in writing a desire to have his or her DPV made available to the public, with or without release of his or her name, portions of the DPV releasable under the Freedom of Information Act will be submitted through the Director, HR, to the Public Document Room by the office director or regional administrator at that time.
- ⑤ On the basis of the office director's report, the submitter may consider the matter closed.
- ⑥ If the submitter does not consider the matter closed, a written differing professional opinion (DPO) statement expressing continuing concerns may be submitted to the Commission, for offices reporting directly to the Chairman or Commission, or to the Executive Director for Operations (EDO), for offices reporting to the EDO.
- ⑦ Upon receipt of a formal DPO and after making sure that the issues contained therein have first been processed as a DPV, the Commission or the EDO contacts HR and may contact the submitter's office director or regional administrator to obtain all records that may aid in the formal DPO review process. The Commission or EDO convenes an ad hoc review panel and appoints a chairperson and second technically qualified panel member. The submitter of the DPO submits names for the chairperson to select a third panel member.
- ⑧ The ad hoc review panel considers the DPO and provides the Commission or EDO a report of findings and a recommended course of action, normally within 30 calendar days after receipt of all solicited views.
- ⑨ The Commission or EDO considers the ad hoc review panel's report, makes a decision on the DPO, and provides a written decision to the submitter within 30 days of receipt of the panel's recommendation. The case file is then forwarded to HR.
- ⑩ Upon the submitter's receipt of a decision from the Commission or EDO, the DPO process is concluded.