

 United States Nuclear Regulatory Commission Official Hearing Exhibit	
In the Matter of: DETROIT EDISON COMPANY (Fermi Nuclear Power Plant, Unit 3)	
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Employee Concerns Program

Procedure Number: NP 1.2
Revision 1

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Approver: *[Signature]*
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1.0 Purpose

The integrity and credibility of the Nuclear Organization at Black & Veatch (B&V) depends on maintaining a strong *Nuclear* Safety Culture. Establishing and maintaining a Safety Conscious Work Environment (SCWE) is key to developing this culture. The Employee Concerns Program (ECP) discussed in this procedure, the Quality Assurance (QA) program described in the Nuclear Quality Assurance Manual (NQAM), and the corrective action process described in NP 16.1, Nuclear Organization Corrective Action Program, are the three tiers that establish this environment.

It is critical that any concerns regarding any aspect of nuclear-related work being performed by B&V or its subcontractors are brought forward and addressed. Each safety or regulatory compliance concern may provide vital information that B&V can use to maintain a safe, quality-oriented, and efficient work environment. This information helps ensure that standards and practices set by the industry and regulatory agencies are maintained. Equally important is a work environment free from the fear of retaliation as a result of a professional bringing forward a safety or compliance concern, whether the issue is real or perceived. This procedure provides requirements and references existing policies that establish "will not tolerate" standards for harassment, intimidation, retaliation, or discrimination (HIRD) of professionals who bring forward concerns.

There are several means available to raise a concern and have it satisfactorily resolved. This procedure provides the overall description of the ECP within the B&V Nuclear Organization, which includes expectations for management to assist in the timely and professional resolution of employee concerns by supporting all resolution methods available to employees.

2.0 Scope

The ECP is available to all current and former B&V professionals and to contract personnel who are or were employed directly or indirectly by B&V.

The ECP was established to augment the process described in NP 16.1, Nuclear Organization Corrective Action Program. The ECP allows professionals to register concerns about nuclear, occupational, environmental, or transportation safety and compliance aspects of B&V's industrial or engineering environment or to initiate claims of HIRD after having engaged in safety-related "protected activities." (Refer to Section 4.0 Glossary for definitions.)

For workplace concerns not related to nuclear safety, professionals should contact the Director of Employee Relations or a Human Resources (HR) Department representative or follow established problem resolution policies.

The ECP honors confidentiality and anonymity to the fullest extent possible. While confidentiality is important, nuclear safety is paramount. In some cases, complete confidentiality may not be possible because of the requirements for conducting an investigation.

In addition to the reporting channels herein, the Nuclear Regulatory Commission (NRC) is also available to hear and address any issue. NRC Form 3 postings are placed on project/department bulletin boards at each B&V facility that performs nuclear-related work. These postings provide information about contacting the NRC.

3.0 Responsibilities

Nuclear Director is *responsible for the Nuclear Organization and its activities. The Nuclear Director is also responsible for approving all Nuclear Procedures (NPs).*

Nuclear Procedure Owner is responsible for the control and revision of this procedure.

ECP Manager is the owner of this procedure and is responsible for setting expectations regarding involvement in employee concerns and for overseeing compliance with those expectations. The ECP Manager is also responsible for resolving concerns involving the ECP itself.

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This individual functions as the head of the ECP board and organizes and leads ECP investigations. The ECP Manager is responsible for the implementation and performance of the ECP.

The ECP Manager has the following specific responsibilities:

1. Coordinating ECP activities and ensuring that concerns are appropriately and promptly addressed.
2. Ensuring that all concerns are treated confidentially to the extent possible and that reasonable effort is taken to protect the identity of the individual(s) reporting the concern.
3. Evaluating concerns pertaining to nuclear safety, nuclear quality, or HIRD related to protected activities.
4. Managing employee concerns that are not submitted directly to a specific concern resolution program and, with the concerned individual's consent, transferring the concern to the proper program.
5. When requested by the concerned individual, evaluating and resolving the concern rather than transferring it to another concern resolution program.
6. Providing a resolution response to the concerned individual unless requested otherwise.
7. Ensuring effective employee training on the ECP.
8. Ensuring that employees released from service (*not for cause*) by the B&V Nuclear Organization receive *an opportunity for* an exit interview.
9. Coordinating, trending, and evaluating program performance indicators.
10. Maintaining the ECP Manual.

ECP Board is the functioning work group charged with ensuring that the provisions of this procedure are adhered to. The ECP Manager, Nuclear Chief Engineer, and Nuclear Quality

Manager will be permanent members of the ECP Board. Additional members will be selected by the Nuclear Director. *It is the responsibility of the Board to mitigate the existence of any chilling effect.*

Nuclear Chief Engineer functions as a permanent member of the ECP board and is an integral part of ECP investigations.

Nuclear Quality Manager functions as a permanent member of the ECP board and is an integral part of ECP investigations.

Project Managers are responsible for ensuring that assigned personnel receive training on the aspects of employment law as it pertains to working in the nuclear field. Specific responsibilities include the following:

1. Addressing and resolving employee concerns for individuals under their supervision or assigned to their area in accordance with this procedure.
2. Ensuring that employees under their supervision are aware of the various methods available for raising concerns.
3. Immediately notifying the ECP Manager of any allegations relating to nuclear safety, nuclear quality, or HIRD related to protected activities.

Black & Veatch professionals performing nuclear work activities are responsible for complying with the expectations set by the Nuclear Director.

4.0 Glossary

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) that creates an atmosphere where individuals, or a group, refrain from identifying nuclear safety or quality concerns or engaging in other protected activities because of a fear of reprisal.

Concern: An assertion that a problem exists with some aspect of the design, operation, safety, maintenance, management, or construction of any nuclear facility; or programs, procedures, or processes in support of its safe and reliable operation. Whereas it is expected that the concern would be related to B&V activities, the concern is not limited to those activities.

Concerned Individual: Any individual, who in providing services in support of B&V nuclear-related activities, raises a concern through line management, the QA Department, the corrective action process, the ECP, or the NRC.

Discrimination: Any adverse action 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, religion, national origin, age, disability, or participation in protected activities.

Differing Professional Opinion (DPO): A conscientious, documented expression of a professional judgment that differs from established policy or practices and has not been resolved by other means.

Employee: With regard to this procedure, "employee" refers to B&V professionals and contract personnel who provide services in support of B&V nuclear engineering or construction activities.

Harassment and Intimidation: Actions (words, gestures, graphics, pictures, offensive language, differential treatment, taunting, etc.) that offend, discomfort, or demean an employee, create a hostile work environment, or compel an employee not to perform duties and responsibilities or to refrain from engaging in protected activities. *Refer also to Sexual Harassment.*

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.

Nuclear Safety Culture: That assembly of characteristics and attitudes in organizations and individuals which establishes an overriding priority that nuclear plant safety issues receive the attention warranted by their significance.

Protected Activities: Activities protected under Section 211 of the Energy Reorganization Act of 1974 and NRC Regulation 10 CFR 50.7 are as follows:

- Notifying their employers, supervisors, B&V management, the ECP Manager, or the NRC of an alleged violation of NRC requirements, or a nuclear safety/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 Energy 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: A form of discrimination 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 (SCWE): A work environment in which employees are free to raise concerns both to their own management and the NRC without fear of HIRD; where concerns are promptly reviewed, given the proper priority, and appropriately resolved; and timely feedback is provided to those raising concerns. [Note: The NRC has established expectations for an SCWE in its 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), pp. 24336-24340].

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.

Workplace Concern: Concerns raised by employees that are not considered nuclear safety or quality concerns.

5.0 References

NP 16.1, *Nuclear Organization Corrective Action Program*.

10CFR 50.7 Employee Protection.

10CFR 19 Notices, Instructions, and Reports to Workers.

NEI 97-05 Employee Concerns Programs, Process Tools.

NRC RIS 2005-18 Guidance for Establishing a SCWE.

B&V ECP Manual.

6.0 Procedure

6.1 Process Description

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The ECP may be used when the following applies:

- The individual is not clear what reporting process should be used.
- The individual desires confidentiality or anonymity.
- The individual has a concern involving HIRD related to protected activities.
- The individual, for whatever reason, is uncomfortable using the normal avenues through B&V management to resolve the concern.

Any individual may bring a nuclear safety or quality concern to the ECP by any one of the following means:

1. Discussing the concern during a personal interview with the ECP Manager or ECP Board Member.
2. Mailing a concern to the ECP.
3. Placing a written concern in the Employee Concerns locked drop box.
4. Calling the ECP Manager or an ECP Board Member.
5. Calling the ECP "Hot Line." The hot line number is (800) 381-2372 and is available 24 hours a day. This number is not operated by B&V professionals.
6. Discussing the concern during a random interview of B&V professionals or during an exit interview when terminating employment.

With the ECP, every reasonable measure shall be taken to ensure the confidentiality of the concerned individual.

6.2 Reporting Concerns

The following applies to concerned individuals:

1. They are encouraged to raise concerns with their immediate supervisor or manager for resolution.
2. They may raise concerns directly to other B&V management or the appropriate concern resolution program.

3. 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, they may submit their concern directly to the ECP Manager.
4. They may direct questions regarding their rights or responsibilities to their supervisor or the ECP Manager at any time, including during the course of an investigation.
5. They may pursue their concern until it is adequately addressed, without fear of HIRD.
6. If they believe that HIRD has occurred as a result of reporting a concern, they should inform their supervisor, other B&V management, or the ECP Manager.

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

Management Involvement--Management's active involvement in encouraging open communication between all levels of the workforce is essential to effectively resolving employee concerns in an SCWE. Management sets the expectation that HIRD of any employee will not be tolerated. Success is achieved when there is an atmosphere of mutual respect in which concerns are received, evaluated, and resolved.

Professionals should feel free to take their concerns to all levels of management at any time. Supervisors are expected to encourage open discussions.

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

The concerned individual may obtain the status of the evaluation and/or resolution of the concern by calling the ECP Manager.

Concerns that are conditions adverse to quality will also be documented in accordance with the corrective action process described in NP 16.1, Nuclear Organization Corrective Action Program.

6.3 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, subject matter, or history of some concerns 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 concerned individual'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 concerns with others if they desire to preserve anonymity and/or confidentiality of information.
- Employees are encouraged to discuss any circumstances that may be critical in meeting confidentiality and anonymity objectives with an ECP representative, so that these circumstances may be considered in completing the investigation and evaluation.

6.4 Investigating and Evaluating Concerns

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

- The ECP Manager may use other B&V organizations or outside resources to assist in the investigation and evaluation.
- Documentation and control of files and records should be maintained in accordance with B&V administrative standards.
- The ECP Board shall ensure that the concerned individual is provided timely feedback regarding the status of his or her concern.

The concern resolution program (ECP, HR, or QA) 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. When an employee reports a concern involving multiple subparts that require investigation and evaluation efforts by more than one concern resolution program, the ECP Manager shall coordinate with those groups to determine which program should act as the lead. The ECP Manager shall ensure that all aspects of the employee's concern have been brought to a logical conclusion.

Professionals that feel they have been subjected to adverse action for raising nuclear safety concerns are encouraged to identify such actions to management or the ECP Manager for resolution.

The ECP Manager shall ensure that the concern is pursued until resolution. *If no resolution can be achieved, the ECP Manager shall document the Differing Professional Opinion (DPO).*

6.5 Reporting Results to the Concerned Individual

- The concerned individual shall not be given information that includes disciplinary actions or sensitive personal matters affecting other employees or confidential, proprietary, or privileged information.
- The concerned individual shall be provided timely feedback regarding his or her concern status and, at any time, may obtain the results or current status of his or her concern by calling the ECP Manager.
- For anonymous concerns, the concerned individual may obtain results by calling the ECP Manager and describing the concern.

6.6 Performing the Exit Process

Departing B&V professionals and contractor personnel who have worked on nuclear projects shall be provided the opportunity to discuss any employee concerns prior to exiting and will be provided contact information for the B&V ECP so that they may raise any subsequent issue after exiting.

6.7 Determining Program Effectiveness

The ECP Manager shall accomplish the following:

- Develop ECP promotional, communication, and training materials.
- Develop performance indicators to measure the effectiveness of the ECP.
- Coordinate the collection and analysis of information used to measure ECP effectiveness.

The ECP Manager may use selected concerns, results of investigations or evaluations, and conclusions as program feedback (maintaining confidentiality where appropriate) to demonstrate the value of the ECP when communicating B&V policies, procedures, practices, and performance expectations.

The Nuclear Chief Engineer will determine the adequacy of ECP performance on an *annual* basis, at a minimum, and provide documentation of that determination to the ECP Manager and Nuclear Director.

6.8 Reporting Concerns to the NRC

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:

1. NRC Regional Office (consult the posted NRC Form 3 for contact information).
2. NRC Operations Center Office (consult the posted NRC Form 3 for contact information).

7.0 Records

Due to their confidential nature, ECP records shall be maintained in a locked file cabinet controlled by the ECP Manager. Records will be retained for 5 years.