

Management Control Procedure

Employee Concerns Program

**Idaho
Cleanup
Project**

CH2M ♦ WG Idaho, LLC is the Idaho Cleanup Project
contractor for the U.S. Department of Energy

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1. INTRODUCTION

1.1 Purpose

CH2M♦WG Idaho, LLC (CWI) and its subcontractors are responsible for the effective completion of the Idaho Cleanup Project (ICP), and for creating a safety-conscious workplace that enables *employees* (see def.) and leaders to work together toward common goals. To achieve this, it is very important that all employees recognize and accept their responsibility for reporting concerns, issues, and potential issues.

As a company, CWI strives to maintain an environment in which all employees—including individual workers, supervisors, managers, and company senior management—feel free to address all types of concerns with their supervisors and managers. If employees identify a problem, we encourage them to sit down with their supervisor or manager to resolve it. Addressing issues this way is often the most effective way to resolve problems.

The Employee Concerns Program (ECP) has been established as a resource to respond to the concerns of CWI and subcontractor employees. The Employee Concerns Program offers a process for *concerned individuals* (CIs) (see def.) to report *employee concerns* (see def.) when management fails to take corrective action or the employee is not comfortable working with management to address an issue. The program oversees a vigorous company-wide effort to promote consistent, safe, and legally compliant business operations, and to ensure that all reported concerns and issues are investigated appropriately. The program is not intended to circumvent the responsibility or authority of management, and employees are still encouraged to take their concerns to their immediate manager or supervisor as a first step.

1.2 Scope and Applicability

This procedure addresses the process for reporting and responding to the concerns of employees through the Employee Concerns Program. It applies to all CWI employees, managers, and supervisors, as well as to CWI subcontractor employees who choose to access the Program. This procedure does not replace, override, or circumvent existing statutory or regulatory procedures addressing Equal Employment Opportunity (EEO), labor union, DOE, or DOE-*contractor* (see def.) employment related matters.

This procedure does not address other mechanisms for reporting employee concerns, such as Employee Relations, Labor Relations, United Steelworkers Union leadership, United Steelworkers Union Safety Representatives, Project Safety Management, ICARE, Equal Employment Programs, the Employee Appeals System, the Employee Assistance Program, the Legal Office, the

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Safeguards and Security Office, the Human Resources Office, the Employee Safety Teams, and line management. Additionally, this procedure does not extend to concerns that are specific to the terms and conditions of employment for represented employees. Because represented employees are covered by collective bargaining agreements or related practices and understandings between the company and the union, these employees are expected to refer concerns that are specific to the terms and conditions of their employment (including wages, hours, disciplinary actions, and working conditions) to their collective bargaining representative. The Employee Concerns Program will not intervene in matters subject to collective bargaining agreements or the rules that underlie their administration.

1.3 Policy

In accordance with DOE O 442.1A, “Department of Energy Employee Concerns Program,” the Employee Concerns Program (ECP) provides all ICP employees at all levels in the organization, from individual worker through senior management, with an avenue to raise issues and concerns to the attention of management without fear of *harassment, intimidation, retaliation/retribution, or discrimination* (see def.). The CWI Open Door and Zero Tolerance for Retaliation Policy (POL-117) underlines the company’s expectation that employees will be provided a *safety-conscious work environment* (see def.) where they feel free to raise issues, concerns, and questions without a *chilling effect or chilled environment* (see def.). The ICP will not discharge, demote, reduce pay, coerce, restrain, threaten, or take other adverse personnel actions against any employee because he/she files a concern or exercises any rights as set forth in this procedure and/or under any state or federal law.

The ECP provides a framework to identify, report, and resolve employee concerns in the areas of safety, health, the environment, security, quality, *waste, fraud, abuse, or corruption* (see def.) in connection with the work performed at the ICP. Employees can use the ECP to report concerns including, but not limited to, allegations of violations of laws, regulations, and company policies; inappropriate management practices; accounting/charging practices; environment, safety, and health (ES&H) concerns; quality concerns, misuse of assets; procurement issues; and issues of fair treatment. In addition, any acts of harassment, intimidation, retaliation, or discrimination that result from reporting such concerns may be reported through the program.

The ECP will encourage employees to take their concerns to management as the concerns are identified or occur. Sharing concerns in staff meetings, safety meetings, or other structured meetings where the concern and the progress made to resolve it can be openly discussed is encouraged. In addition, employees have the option of discussing their concerns with their safety representative, union steward, or other program representative as noted above. Employees are

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empowered and expected to Step Back or Stop Work (per MCP-553). Call a Step Back when the performing employee and/or the cognizant line management can correct the potentially unsafe condition with minimal effort and time. Otherwise, call a Stop Work action.

Employees are able to report their *anonymous concerns* (see def.) to the ECP. In such cases, employees are advised to provide complete information with as much detail as possible in their reports, since the ECP will not have the opportunity to obtain additional information from the employee in order to conduct an *investigation* (see def.) and ensure appropriate resolution.

Employees who identify themselves when reporting issues to the ECP may request that their identity be maintained confidential outside of the ECP Office (*confidentiality-requested concern*, see def.). Every effort will be made to honor this request unless there is a *duty-to-act* (see def.) or disclosure is required by law. The employee's identity will be protected to the maximum extent possible, taking into account overriding conditions such as safety, security, or legal requirements. In these situations, the employee will be informed in advance, where possible, regarding how, when, and to whom he/she may be identified.

The ECP will conduct and/or coordinate the investigation and resolution of reported concerns with senior management and internal/external *subject-matter experts* (see def.) as appropriate. CIs who identify themselves to the ECP will receive acknowledgement of receipt of the concern, be periodically updated on the status of the investigation, and advised of results and resolution. The ECP will make every reasonable effort to attain a resolution that is understood and accepted by the employee.

The company will promote the ECP and the services it provides by establishing and maintaining a dedicated program website, providing appropriate awareness training to employees, posting program information on company bulletin boards, and issuing employee communications as needed. Employees who access the program and believe that their concern response is unsatisfactory, or who feel they have experienced any type of retaliation in violation of this procedure, may file a complaint directly with the DOE-ID Employee Concern Program at any time without fear of reprisal. Employees who have an issue that is a *differing professional opinion* (see def.) on a technical issue involving environment, safety, and health, may use DOE O 442.2, "Differing Professional Opinions for Technical Issues Involving Environmental, Safety, and Health Technical Concerns." CWI ECP will provide the process information to the employee and track the issue to resolution.

1.4 Organization

The ECP reports directly to the CWI president.

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2. RESPONSIBILITIES

Performer	Responsibilities
Employees	Call a Step Back when the performing employee and/or the cognizant line management can correct the potentially unsafe condition with minimal effort and time. Otherwise, call a Stop Work action. Report conditions that adversely affect quality, safety, health, the environment, or the security of DOE operations, and situations of actual or potential waste, fraud, abuse, or corruption. Identify safety issues and incidents presenting opportunities for lessons-learned to help ensure that opportunities for improvement and risk mitigation are recorded, considered and addressed. Feel free to discuss any matter of concern at any time with management or the ECP without recrimination or reprisal. Normally, employees should seek to resolve concerns first by working with immediate management, or the appropriate service or oversight organization. However, if an employee believes that normal management processes have not or will not resolve a concern, or if an employee does not know how to deal with a concern, the concern should be reported to the ECP as follows: • Call the ECP Office Representative directly • Call the ECP Hotline (may be done anonymously, via voicemail) at 533-3500 • Deliver a letter to the ECP Office • Mail a letter to the ECP Office at MS 9106 • Fax a letter to the ECP Office at 533-3910 • Send an email to the ECP Office at ECP@icp.doe.gov • Go in person to the ECP Office (see CWI Intranet home page for office locations and contact information for the ECP personnel)

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Performer	Responsibilities
	Feel free to contact the following ICP alternative resources to discuss employee issues, without recrimination or reprisal: • Employee Relations Office (for issues between employees, or between employees and management): 533-3770 • Labor Relations Office (for contractual issues of represented employees): 533-0084 • ICARE reporting system (for non-imminent safety concerns) • United Steelworkers Union leadership: 533-3347 • United Steelworkers Union Safety Representatives: 351-9082; 569-0044 • Equal Employment Program (for employment discrimination or sexual harassment concerns): 533-3770 • Legal Office: 533-3622 • Safeguards and Security Office: 533-0385 • Human Resources office (for all personnel issues): 533-3770 • Employee Safety Teams. Feel free to discuss the concern with any level of management up to and including the company president. If a matter cannot be resolved at the company level (particularly mismanagement of DOE programs, or waste, fraud and abuse), feel free to contact the DOE–ID Employee Concerns Office at 526-7200, or any authorized agency. Employees who have an issue that is a differing professional opinion on a technical issue involving environment, safety, and health, may use DOE O 442.2, “Differing Professional Opinions for Technical Issues Involving Environmental, Safety, and Health Technical Concerns.” CWI ECP will provide the process information to the employee and track the issue to resolution.

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Performer	Responsibilities
Managers and Supervisors	(1) Establish and maintain open communications that empower and encourage employees to raise concerns, (2) Address the concerns of employees in a manner that protects the health and safety of employees and the public, and supports the efficient operation of DOE programs. This responsibility must be carried out in a manner that fosters the free flow of information without subjecting employees to reprisal for raising concerns. Support the ECP Office by: • Providing facilities that allow ready access by CIs, privacy for discussions, and open access to information. • Recognizing and supporting the need to ensure that employee concern information is kept confidential in accordance with this procedure. • Ensuring that there is no retribution or retaliation to employees for raising concerns. If an employee reports a concern to management that involves alleged harassment (other than sexual harassment), intimidation, retaliation, discrimination (other than employment discrimination), fraud, waste, or abuse of government property, or a violation of the law, the manager must advise the CWI ECP Office immediately. The ECP Office will confer with CWI legal counsel to determine responsibility for the resulting investigation, as well as the need for further action.
CWI Employee Concerns Program	Process employee concerns in accordance with applicable contract requirements and procedures and following through to resolution. Coordinate efforts to investigate and resolve concerns, working with the CI, other personnel and managers, as necessary, and subject matter experts to collect, evaluate, and communicate relevant information to the parties involved. Specific responsibilities include: • Informing employees of the availability and purpose of the ECP and their rights to raise concerns (including those related to the environment, quality, safety, health, waste, fraud, or abuse of DOE-related activities) without any fear of harassment, intimidation, retaliation, or discrimination.

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Performer	Responsibilities
	• Notify employees and subcontractors quarterly of the availability of the DOE process for differing professional opinions for technical issues involving environment, safety and health (DOE O 442.2). • Periodically reaffirming to employees (at least annually) that management supports the CWI Open Door and Zero Tolerance for Retaliation Policy. • Maintaining the <i>Employee Concerns Program Tracking System</i> (see def.), and a secure filing system with controlled access. • Supporting DOE-ID annual <i>assessments</i> (see def.) to measure the effectiveness of the ECP and identify actions needed to improve ECP operations. • Reporting regularly to CWI senior management about the types of issues raised and the manner in which they were resolved. This includes general high-level statistical reporting, as well as the development of special communications to address specific concerns of general interest to the workforce. • Meeting with DOE-ID on a regular basis to discuss program activity and trends. • Providing information as requested to DOE-ID relative to specific employee concerns, and notification of any significant concerns or allegations of harassment, intimidation, retaliation, or discrimination. • Evaluating and attempting to resolve employee concerns in a manner that protects the health and safety of employees and the public, ensures effective and efficient operation of programs, and uses <i>alternative dispute resolution</i> (see def.) techniques whenever appropriate. Use appropriate resources for investigating and responding to concerns. This may include internal and/or external investigators and subject matter experts. Normally, issues are submitted by CIs; however, the ECP also investigates issues identified by management or safety issues raised by former or <i>terminating employees</i> (see def.).

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Performer	Responsibilities
CWI Management, Human Resources (including Employee Relations representatives), and Labor Relations	Notify the ECP Office immediately if made aware of any concern that an employee wants addressed through the ECP. Notify the ECP Office immediately if made aware of any concern that should prudently be tracked through resolution with the direct awareness of the Office of the President, or which should appropriately be investigated independent of line management. Examples of such items could include: - Concerns involving line management behavior or expectations inconsistent with stated company policies - Concerns involving the adequacy of ICP programs - Concerns involving alleged harassment, intimidation, retaliation, discrimination, fraud, waste or abuse of government property, or a violation of the law.
	Notify the ECP Office immediately if made aware of any safety concerns raised during the employment termination process. Involve the ECP Office in all reduction-in-force and termination-for-cause actions before making notification to impacted employees.
Subject-Matter Expert	Work with the ECP Office, the CI (if possible), and/or management to collect and evaluate relevant information.

3. PREREQUISITES

Non-investigators must sign a confidentiality agreement and complete the following:

A. Required reads:

- This procedure, MCP-1541, “Employee Concerns Program.”

Investigators must sign a confidentiality agreement and complete the following:

A. Required reads:

- DOE G 442.1-1, “Department of Energy Employee Concerns Program Guide”
- DOE O 221.1A, “Reporting Fraud, Waste and Abuse to the Office of Inspector General”
- DOE O 442.1A, “Department of Energy Employee Concerns Program”

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- DOE O 442.2, “Differing Professional Opinions for Technical Issues Involving Environmental, Safety, and Health Technical Concerns”
 - Manual 13, *Quality Assurance Program*, FWD-7, “Foreword”
 - MCP-165, “Initial Fact Finding To Support Event Investigation”
 - MCP-190, “Event Investigation and Occurrence Reporting”
 - MCP-553, “Step Back and Stop Work Authority”
 - MCP-598, “Corrective Action System”
 - MCP-2547, “Identification, Reporting and Resolution of Price-Anderson and Worker Safety and Health Noncompliances”
 - PDD-851, “10 CFR 851 Worker Safety and Health Program”
 - POL-117, “Open Door and Zero Tolerance for Retaliation Policy.”
- B. Training course 00ICP593 – to provide a basic understanding of the Price-Anderson Amendments Act (PAAA), its legal basis, how it is implemented and applies to work performed at the ICP, and what management can do to mitigate potential enforcement actions related to PAAA violations.
- C. External training courses:
- “Employee Concerns Investigator Workshop,” offered by the National Inspection & Consultants, LLC, by the National Association of Employee Concerns Professionals
 - “Methods to Detect, Investigate, Prevent Retaliation in the Workplace,” offered by the National Association of Employee Concerns Professionals
 - DOE SAF-200, “Safety Conscious Work Environment,” or CWI equivalent.

The program manager must complete the above prerequisites for investigators as well as the following:

- Training course ICP 00ICP784, “Price-Anderson Compliance Officer/Coordinator Trng”; and obtain ICP Training Qualification QCTICARE, “CWI ICARE Access.”

The ECP manager may grant exceptions to or substitutions for these courses or required reads in writing and as documented in ECP files for investigators and staff. The CWI chief executive officer may grant exceptions to or substitutions for these courses or required reads in writing and as documented in ECP files for the ECP manager.

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4. INSTRUCTIONS

4.1 Filing, Processing, and Investigating Concerns

4.1.1 Employees

4.1.1.1 Employee: Take concerns to his/her immediate supervisor or manager.

4.1.1.2 IF an employee does not feel his/her supervisor or manager resolves the concern appropriately or feels he/she cannot take the concern to his/her supervisor or manager THEN, if desired, take the concern to the next level of management, or file the concern with the ECP office or the DOE-ID ECP or other appropriate agencies.

NOTE: *CIs are not obligated to first express their concerns either to internal company management or the CWI ECP office. They are free at any time to contact the DOE-ID ECP or other authorized agencies.*

4.1.1.3 IF employees have an issue that is a differing professional opinion on a technical issue involving environment, safety, and health, THEN, if desired, use the DOE-ID Differing Professional Opinion process as outlined in DOE O 442.2, “Differing Professional Opinions for Technical Issues Involving Environmental, Safety, and Health Technical Concerns.”

NOTE: *CWI ECP will provide the process information to the employees and track the issue to resolution.*

4.1.1.4 Notify the ECP of the concern by telephone, email, letter, or fax; by using the ECP Hotline number (533-3500) if desiring anonymity; or by meeting directly with an ECP representative.

NOTE: *The concern description should be very specific and include important information such as names of witnesses, actions, dates, times of events, buildings, equipment, documents, etc. It is critical that the concern description represent fairly and accurately the employee’s view of the concern. Additionally, employees are encouraged to suggest a resolution.*

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4.1.2 Employee Concerns Program Office

4.1.2.1 ECP Office: Conduct intake interview with CI; determine if there is a duty-to-act.

4.1.2.1.1 IF there is no duty-to-act and CI does not wish to pursue the issue,
THEN no action is needed and no file will be opened.

4.1.2.1.2 IF there is a duty-to-act and/or the CI wishes to pursue the issue,
THEN open a case, triage concerns, and coordinate/conduct investigations.

4.1.2.1.3 Remain objective and act as a neutral party.

4.1.2.1.4 Immediately review the concern for imminent danger and Stop Work action. Where imminent danger is present, notify the appropriate manager immediately to ensure work is stopped consistent with CWI requirements.

4.1.2.1.5 Review concern for potential legal implications.

4.1.2.1.5.1 IF, in the opinion of the ECP manager, the case has litigation potential, other contract impacts, or significant concerns or allegations of harassment, intimidation, retaliation, or discrimination,
THEN notify the Legal office.

4.1.2.1.6 Review the concern for noncompliance with Price-Anderson Amendments Act and reporting requirements.

4.1.2.1.6.1 IF there is any potential for noncompliance,
THEN notify a Price-Anderson Amendment Act subject matter expert.

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- 4.1.2.1.7 Validate that the concern falls within the parameters of the ECP.
 - 4.1.2.1.7.1 IF the concern does not fall within the parameters of the ECP,
THEN, if appropriate, transfer the concern to the appropriate department.
AND notify the CI, if known, of the path established for investigation and closure.
- 4.1.2.1.8 Create a written record, reflecting the scope and substance of the concern.
 - 4.1.2.1.8.1 IF the employee declines to provide all requested information,
THEN attempt to establish the reason but not discourage him/her from using the process by requiring additional detail.
- 4.1.2.1.9 Explain the terms of confidentiality to the CI and provide him/her with a copy of the ECP brochure. Document this in the intake interview notes.
- 4.1.2.1.10 When seeking resolution to a concern, elevate the concern as needed to the appropriate level of management.
- 4.1.2.1.11 Communicate with the employee to determine what action he/she would consider satisfactory to resolve the concern and document in the intake interview notes.
- 4.1.2.1.12 If possible, obtain the following information and enter it into the intake interview notes and/or the ECP Tracking System:
 - A. Full name of the CI
 - B. Preferred telephone number where the employee can be reached

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- C. The employee's position or his/her relationship to the employer (DOE or contractor)
 - D. Nature of the concern
 - E. Previous attempts to have the concern addressed within the employee's organization or through other alternate programs and/or processes.
- 4.1.2.1.13 Send CI an email documenting the intake discussion and summarizing issues to be investigated. Ask CI to send confirmation email reply.
- 4.1.2.1.14 Create and maintain a file for the purpose of documenting all contacts.
- 4.1.2.1.15 Create an entry in the ECP Tracking System to enter action items for investigator for 7-day and 30-day status updates to the CI.
- 4.1.2.1.16 Coordinate or conduct an investigation. Actions for this step will generally include the following:
- A. Engaging internal/external investigators and subject matter experts as may be appropriate
 - B. Entering and inspecting places and records
 - C. Interviewing individuals with knowledge of the issues
 - D. Inspecting relevant documents, sites, or equipment
 - E. Reviewing relevant policies and procedures
 - F. Obtaining other information as deemed necessary.

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- 4.1.2.1.17 IF divulging names is not clearly essential to the investigation,
THEN protect the confidentiality of the CI, witnesses, and any persons named in the complaint
OR if it is necessary to divulge his/her name, notify the CI.
- 4.1.2.1.18 Attempt to not involve the organizational element named in the concern as part of the conduct or management of the investigation based on the need for independent investigation, unless otherwise agreed to by the CI, and ensure that individuals or organizations outside the employee's organization are not selected to conduct or participate in the investigation if their involvement presents a conflict of interest.
- 4.1.2.1.19 If no conflict exists, contact the responsible functional or project manager to review the basic elements of the concern. Counsel all managers and supervisors that direct or indirect retribution or retaliation is not tolerated and that strong disciplinary action up to and including termination could result. As needed, request the name of a subject matter expert to assist in the investigation.
- 4.1.2.1.20 Obtain the functional/project manager's commitment for action and inform the manager of the timeline involved in completing the investigation and resolving the concern.
- 4.1.2.1.21 Review concern and fact findings for potential conditions that, if uncorrected, could have a serious impact on safety, operability of systems/structures/components, or product quality. If necessary, coordinate with responsible parties to complete a deficiency report and corrective action plan.
- 4.1.2.1.22 Identify potential resolutions and obtain commitments from management, if necessary, for their implementation.

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4.1.2.1.23 Periodically status the CI on the progress of the investigation and resolution.

4.1.2.1.24 Communicate outcomes to CI.

4.1.3 Timeframes for Mitigation and Disposition

4.1.3.1 ECP Office: Establish priorities for resolution based on the ECP manager's subjective determination of risk for each individual concern.

4.1.3.2 For mitigation of occupational safety and health concerns, additional classification follows to mitigate the hazard itself:

4.1.3.2.1 **Imminent Danger Condition (Priority I)**—Any condition or practice in any workplace that creates a danger that could reasonably be expected to cause death or serious physical harm immediately or before the danger could be eliminated through the normal procedural mechanism. Such concerns are to be mitigated within 24 hours of notice to the ECP.

4.1.3.2.2 **Serious Condition (Priority II)**—A hazard, violation, or condition that causes a substantial probability that death or serious physical harm, property loss, and/or environmental impact could result. Such concerns are to be mitigated within 3 working days of notice to the ECP.

4.1.3.2.3 **Other than Serious Condition (Priority III)**—A hazard, violation, or condition that will not result in death or serious physical harm, property loss, and/or environmental impact but may have a direct and immediate relationship to worker safety, health, or the environment. Such concerns are to be mitigated within 20 working days of notice to the ECP.

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4.1.3.3 For mitigation of non-occupational safety and health concerns:

4.1.3.3.1 All Other Concerns (Priority IV)—These issues should be mitigated generally within 90 days, depending on the level of follow-up or monitoring deemed necessary.

4.1.3.4 For disposition of all cases, attempt to resolve investigations based on risk, generally within 90 days. However, cases will be tracked as follows per the DOE quarterly report: less than 3 months; 3 to 6 months; and greater than 6 months.

4.1.4 Subject Matter Expert

4.1.4.1 SME: Work with the ECP, the CI (if possible), and/or management to collect and evaluate relevant information.

4.1.4.1.1 Must sign a confidentiality agreement.

4.1.4.1.2 Remain objective and act as a neutral party.

4.1.4.1.3 If requested by the ECP office, provide a signed and dated statement that includes:

- A. Scope of issue reference (formal documents supporting the fact finding)
- B. Details as needed for backup (include an explanation of any attached documents)
- C. Summary information closeout documents (procedures, recommended corrective actions, and the like).

4.2 Closing Concerns

4.2.1 ECP Office: Initiate employee concern closure when one of the following events occurs:

4.2.1.1 The concern has been investigated and the ECP manager or investigator has the information necessary to substantiate or unsubstantiate the concerns and determine whether or not corrective action(s) are deemed necessary.

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- 4.2.1.2 In the opinion of the ECP manager, no investigation is warranted and information has been provided to the CI.
- 4.2.1.3 The ECP office determines that the reported issues are unsubstantiated or too general to investigate and the CI has been notified that the concern is closed.
- 4.2.2 ECP Office: Contact the CI, if known, and review resolution for closure.
 - 4.2.2.1 If the resolution is accepted, close the concern.
 - 4.2.2.2 If the resolution is not accepted, either (1) investigate further for resolution or review or (2) close the concern without the CI's acceptance and with notification to the CI of their rights to go to DOE ECP.
- 4.2.3 If any management areas of improvement or corrective actions are identified, notify management and enter the actions into the ICARE System for tracking, if appropriate.
- 4.2.4 Track corrective actions until closure.
- 4.2.5 Add follow-up documentation to the file and database upon completion of the corrective actions.

4.3 Transferring a Concern

- 4.3.1 ECP Office: Perform the following when a concern is transferred:
 - 4.3.1.1 Review and evaluate responses from other organization(s) to which concerns were referred.
 - 4.3.1.2 Request further action when necessary.
 - 4.3.1.3 Provide feedback to those organizations that have a need to know about the outcome of the ECP process.
 - 4.3.1.4 Document that an individual, office, or organization has accepted responsibility for investigating the concern.
 - 4.3.1.5 Ensure that closure has taken place with the CI.

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5. RECORDS

Employee Concerns Program Case File, Monthly, and Quarterly Reports.

NOTE: [MCP-557, “Records Management,”](#) the [INL Records Schedule Matrix](#), and associated [record types list\(s\)](#) provide current information on the storage, turnover, and retention requirements for these records.

6. DEFINITIONS

Alternative Dispute Resolution. Process for resolving a dispute through use of a neutral third party in an attempt to avoid judicial or administrative litigation. Forms of alternative dispute resolution include mediation, partnering, ombudsman, neutral evaluation, nonbinding arbitration, binding arbitration, and mini-trial.

Anonymous Concern. The identity of the CI is unknown; however, the CI may identify himself/herself by using a code name or number for communication purposes.

Assessment. A planned and documented activity performed to determine the adequacy of and compliance with established policies, procedures, and other applicable documents and the effectiveness of implementation.

Bullying. Intentional intimidation or mistreatment of somebody weaker or in a more vulnerable situation, including, but not limited to, verbal harassment or threat of physical assault or coercion. The behavior is often repeated and habitual.

Chilling Effect or Chilled Environment. A condition that exists when employees are unwilling or unable to raise concerns (not just safety concerns) because they fear retaliation or retribution.

Concerned Individual (CI). A person expressing a concern through the ECP.

Confidentiality Requested Concern. A concern submitted by an employee who wishes to have his or her identity protected from all persons except the ECP staff and those other individuals supporting ECP that may have a need to know.

Contractor. A seller of goods or services who is a party to: (1) a management and operating contract or other type of contract with DOE to perform work directly related to activities at DOE-owned or -leased facilities, or (2) a subcontract under a contract of the type described in (1) of this definition, but only with respect to work related to activities at DOE-owned or -leased facilities.

Differing Professional Opinion. Differing Professional Opinion as used in this procedure means an opinion involving a technical issue related to ES&H that (1) differs from previous management decisions, stated positions, or established policies or practices; (2) in the opinion of the employee, has not been adequately considered; and (3) if not

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addressed, has a reasonable probability of having significant negative impact with respect to environment, safety, or health.

Discrimination. The practice of unfairly treating a person or group of people differently from other people or groups of people on the grounds of racial or ethnic origin, religion or belief, protected activity, disability, age, or sexual orientation (direct discrimination), or where an apparently neutral provision is liable to disadvantage a group of persons on the same grounds of discrimination, unless objectively justified (indirect discrimination).

Duty-to-Act. The responsibility to report to line management any condition that puts at risk the health, safety, and/or security of workers, the DOE's programs or missions, or the general public.

Employee. CWI employees and subcontractors.

Employee Concern. A good faith expression by an employee that a policy or practice of DOE or one of its contractors or subcontractors should be improved, modified, or terminated. Concerns can address issues such as, but not limited to, health, safety, the environment, management practices, fraud, waste, or retaliation or reprisal for raising an issue.

Employee Concerns Program Tracking System. Company system for tracking employee concerns.

Harassment. Behavior that is threatening, hostile, offensive, or abusive toward others. Harassing conduct that falls into one or more of the following categories always violates CWI policy:

- *Bullying* (see def.) is pressuring someone to do something not covered by a procedure or policy that they do not want to do or not to do something they want to do. It can also take the form of excessive or inappropriate teasing or taunting.
- *Violent* types of harassment are behaviors or words that threaten other people or property or that cause another person to feel unsafe.
- *Discriminatory* harassment is conduct based on race, ethnicity, religion, color, sex, national origin, age, veteran status, sexual orientation, marital status, mental or physical disability, protected genetic information, or some other legally protected status. (Note that for this purpose, genetic information includes the following information for an individual: genetic tests and those of his/her family members; family medical history; requests for or receipts of genetic services or participation in clinical research that includes genetic services by the individual or a family member; genetic information about a fetus carried by the individual or a pregnant family member; genetic information about any embryo legally

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held by the individual or a family member using an assisted reproductive technology; certain tests as specified in the Department of Labor Regulations.) The behavior is illegal harassment when it interferes with an individual's work performance or otherwise negatively affects working conditions or creates an intimidating, hostile, or offensive work environment.

- *Sexual* harassment is defined as unwelcome discriminatory behavior of a sexual nature. Such behavior is illegal. There are two types:
 - *Quid Pro Quo* – where submission to sexual conduct is an explicit or implied condition of employment or where submission or failure to submit to sexual advances is used as a basis for employment decisions. Situations of this type usually involve people at different authority levels in the same work group.
 - *Hostile Work Environment* (see def.) – where unwelcome sexual conduct has the effect of interfering with an individual's working conditions or work performance or where it creates an offensive, hostile, or intimidating work environment.

Hostile Work Environment. An environment created by a boss or coworker whose actions, communication, or behavior alter the terms, conditions, and/or reasonable expectations of a comfortable work environment for employees. The behavior, actions, or communication must be discriminatory in nature. The actions or behavior must discriminate against a protected classification such as age, religion, disability, race, or protected activity. The behavior or communication must be pervasive, lasting over time, and not limited to an off-color remark or two that a coworker found annoying. The hostile behavior, actions, or communication must be severe. Not only is it pervasive over time, but the hostility must seriously disrupt the employee's work. A second form of severity occurs if the hostile work environment interferes with an employee's career progress. For example, the employee failed to receive a promotion or a job rotation as a result of the hostile behavior.

Intimidation. Any action taken by coworkers or supervisors against or toward an employee to cause that employee to cease engaging in *protected activities* (see def.); to be fearful of engaging in protected activities; to otherwise be afraid for his or her safety, reputation, or job security as a result of having identified concerns about any aspect of DOE facilities or operations.

Investigation. An inquiry conducted by or on behalf of an ECPs office for the purpose of evaluating and resolving a concern, usually involving, but not limited to, interviews; inspection of relevant documents, sites, or equipment; and an evaluation of practices being followed.

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Protected Activity. Actions taken and decisions made in response to an employee concern by investigating the concern, establishing plans to correct identified deficiencies, correcting the deficiencies, determining that the concern is not substantiated and no corrective action is required, or providing information.

Retaliation or Retribution. A wrongful act carried out against an employee who reports a concern or who participates in preparing a concern to management. This term encompasses: termination of employment, demotion, reduction in pay, coercion, restraint, threats, intimidation, harassment, discrimination, poor performance evaluations, or other action taken against an employee. The term that is used by the Nuclear Regulatory Commission for “retribution or retaliation” is “discrimination.”

Safety Conscious Work Environment (SCWE). An environment in which employees feel free to raise concerns to their management, their customers, and/or alternate avenues, including the Employee Concerns Program, DOE, or external regulators without fear of retaliation; and are encouraged to raise such concerns. Attributes of SCWE include: behaviors and interactions that encourage the free flow of information related to safety issues, differing professional opinion, and employee concerns and their prompt resolutions.

Subject-Matter Expert. An individual with expertise based on education and experience in a particular area.

Terminating Employee. An employee who leaves employment with DOE, including National Nuclear Security Administration, a DOE contractor, or a DOE subcontractor.

Waste, Fraud and Abuse.

Waste – Involves the taxpayers not receiving reasonable value for money in connection with any government-funded activities due to an inappropriate act or omission by individuals with control over or access to government resources (e.g., executive, judicial or legislative branch employees, grantees, or other recipients). Importantly, waste goes beyond fraud and abuse and most waste does not involve a violation of law. Rather, waste relates primarily to mismanagement, inappropriate actions, and inadequate oversight.

Fraud – Involves a type of illegal act to obtain something of value through willful misrepresentation. A false representation of a material fact, whether by words or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed, which deceives another so that he acts, or fails to act, to his detriment.

Abuse – Involves behavior that is deficient or improper when compared with behavior that a prudent person would consider reasonable and necessary business practice given the facts and circumstances. Abuse also includes misuse of authority or position for personal financial interests or those of an immediate or

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close family member or business associate. Abuse does not necessarily involve fraud, violation of laws, regulations, or provisions of a contract or grant agreement.

Corruption – The abuse of entrusted power for private gain.

7. REFERENCES

00ICP593, “Price Anderson Amendments Act,” Rev. 1, Idaho Cleanup Project

10 CFR 708, “DOE Contractor Employee Protection Program”

10 CFR 851, “Worker Safety and Health Program”

29 CFR 24, “Procedures for the Handling of Retaliation Complaints Under the Employee Protection Provisions of Six Environmental Statutes and Section 211 of the Energy Reorganization Act of 1974, as Amended”

29 CFR 1960.28, “Employee Reports of Unsafe or Unhealthful Working Conditions”

42 USC 73, *Development of Energy Sources*, Subchapter II, “Nuclear Whistleblower Protection”

DOE G 442.1-1, “Department of Energy Employee Concerns Program Guide”

DOE O 221.1A, “Reporting Fraud, Waste and Abuse to the Office of Inspector General”

DOE O 442.1A, “Department of Energy Employee Concerns Program”

DOE O 442.2, “Differing Professional Opinions for Technical Issues Involving Environmental, Safety, and Health Technical Concerns”

Manual, 13, *Quality Assurance Program*, FWD-7, “Foreword”

MCP-165, “Initial Fact Finding to Support Event Investigation”

MCP-190, “Event Investigation and Occurrence Reporting”

MCP-553, “Step Back and Stop Work Authority”

MCP-598, “Corrective Action System”

MCP-2547, “Identification, Reporting and Resolution of Price-Anderson and Worker Safety and Health Noncompliances”

PDD-851, “10 CFR 851 Worker Safety and Health Program”

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POL-117, “Open Door and Zero Tolerance for Retaliation Policy”

PRD-851, “10 CFR 851 Program Requirements Matrix”

Public Law 100-48, Section 1, “Price-Anderson Amendments Act of 1988”

8. APPENDIXES

Appendix A, POL-117, “CWI Open Door and Zero Tolerance for Retaliation Policy”

Appendix B, Procedure Basis

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Appendix A

POL-117, CWI Open Door and Zero Tolerance for Retaliation Policy

Idaho Cleanup Project

412.09 (2/1/2006 – R

OPEN DOOR AND ZERO TOLERANCE FOR RETALIATION POLICY	Identifier: POL-117 Revision: 1 Page: 1 of 1
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Applicability:	Type: Policy	For Additional Info: http://EDMS	Effective Date: 10/30/06
Manual:	USE TYPE		Change Number: 314715

At the Idaho Cleanup Project (ICP), we are committed to creating a safety conscious work environment in which employees feel free to raise concerns without fear of harassment, intimidation, retaliation, or discrimination. Our policy is to establish and maintain effective lines of communication such that employees are encouraged to participate in the identification, reporting, and resolution of all types of concerns, and to ensure that such concerns are promptly reviewed, properly prioritized, and resolved with timely feedback to the concerned employee.

All employees have the right and the responsibility to raise questions and concerns about work-related issues without fear of retaliation. Raising a concern that you reasonably believe could result in actual or potential damage to the environment, public health or safety (including work place safety), waste, fraud, abuse, or retaliation, is protected by law. Retaliation or the perception of retaliation against any employee for raising such a concern could undermine the free flow of information and seriously affect safety.

At the ICP, we strive to maintain an environment where employees feel free to address all types of concerns with their supervisors, foremen, and managers. If you identify a problem, we encourage you to work with your manager to resolve it. Open communication, and addressing issues this way, is usually the most effective way to solve problems. You may also report your concerns to higher level management, the Employee Concerns Program, Employee Relations, Labor Relations, ICARE, Equal Employment Programs, the Legal Office, the Safeguards and Security Office, the Human Resources Office, or your Employee Safety Team.

We strongly affirm the company's commitment to zero tolerance for any type of harassment, intimidation, retaliation, or discrimination against employees who bring forth their concerns. This includes, but is not limited to, acts that:

- Create an intimidating or hostile work environment through unwelcome conduct, whether verbal, physical, or visual
- Have the effect of punishing employees for engaging in legally-protected activities, such as threats, coercions, or similar actions
- Result in adverse employment actions
- Are influenced by an employee's race, gender, religion, age, national origin, disability, or any other characteristic protected by federal, state, or local law.

Because this is a Zero Tolerance for Retaliation Policy, the company will vigorously pursue complaints of any negative acts against persons who raise concerns in good faith as envisioned under this policy. Allegations of retaliation will be investigated and, if substantiated, appropriate disciplinary action up to and including employment termination will be taken.

Failure on the part of a company employee to comply with this policy may result in disciplinary action, up to and including employment termination. Failure on the part of a contractor or subcontractor to comply with this policy in dealing with its own concerned employees may result in termination of the contract. Employees who have questions, or who believe they are being retaliated against after raising good faith concerns, should contact the Employee Concerns Program.

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Appendix B**Procedure Basis**

Step	Basis	Source	Citation
General	Establishes requirements that ensures employee concerns related to such issues as the environment, safety, health, security and management of DOE programs and facilities are addressed.	DOE O 442.1A	
1.3	Provides an avenue to raise issues and concerns to the attention of management without fear of harassment, intimidation, retaliation, or discrimination.	POL-117	
General	Establishes how CWI integrates safety and health requirements into all phases of its activities and conducts its operations in a safe, compliant and cost-effective manner that protects worker safety and health.	10 CFR 851	
General	Establishes a DOE process for DOE contactor and subcontractor employees to identify and resolve differing professional opinions related to environment, safety, and health.	DOE O 442.2	