**Executive Review Board Process For Employees**

Procedure Contains NMM REFLIB Forms: **YES ☑ NO □**

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<th>Governance Owner: Title: Site:</th>
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<tr>
<td>7/18/2013</td>
<td>Clay Kittrell Director, HRBP HQN</td>
<td>Keith Fogleman VP, Human Resource BP HQN</td>
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<td>N/A</td>
<td>ANO</td>
<td>Angela Kindrick</td>
<td>Acting Mgr, HR Business Partners (BP)</td>
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<td></td>
<td>GGNS</td>
<td>Leslie Murrell</td>
<td>Mgr, HRBP</td>
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<td>IPEC</td>
<td>Grace Sanseverino</td>
<td>Mgr, HRBP – temporary</td>
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<td>JAF</td>
<td>Krista Fox</td>
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<td>Lisa Marvin</td>
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<td>Brenda Gailes</td>
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<td>Clifford Allen</td>
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<td>Mark Bowen</td>
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**Site and NMM Procedures Canceled or Superseded By This Revision**

**Process Applicability Exclusion:** All Sites: ☑

Specific Sites: ANO □ BRP □ GGNS □ IPEC ☑ JAF □ PLP □ PNPS □ RBS □ VY □ W3 □

**Change Statement**

Addition of the Special ERB Process for reviewing Reorganizations
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Executive Review Board Process For Employees

1.0 PURPOSE

[1] The process described in this procedure applies to Employees of an Entergy System Company as that term is defined in this procedure. It does not apply to Supplemental Personnel (Refer to EN-HR-138-01, “Executive Review Board Process for Supplemental Personnel”).

[2] The Executive Review Board (ERB) at each site reviews certain personnel actions prior to such actions being taken to ensure that:

(a) Such actions do not constitute retaliation for an individual’s participation in a protected activity.

(b) Such actions do not create a chilling effect in the affected work group and/or other workgroups on site.

2.0 REFERENCES


[2] SOER 02-4, Recommendation 2

3.0 DEFINITIONS

[1] 10CFR50.7 – A federal regulation prohibiting retaliation by a Commission licensee, an applicant for a Commission license, or a contractor or subcontractor of a Commission license or applicant against an Employee for engaging in certain protected activities. Retaliation includes discharge and other actions adversely affecting compensation, terms, conditions, or privileges of employment.

[2] Chilling Effect Mitigation Plan – A documented plan of action to address any potential chilling effects resulting from certain personnel actions.

[3] Company or Companies – For the purpose of this procedure refers to Entergy Operations Inc. (EOI) and/or Entergy Nuclear Operations Inc. (ENOI).

[4] Employee – An individual who is a full-time or part-time active payroll employee of an Entergy System Company, excluding interns, co-ops and other workers the Company determines are not employees.

[5] Executive Review Board (ERB) – Consists of senior level Company management responsible for review of proposed personnel actions to ensure that the actions do not constitute retaliation based on the employee’s engagement in protected activity as defined in this procedure.

[6] Legal Counsel - Attorneys used by the Company(s) to conduct investigations and/or provide legal advice to management in other matters.
Personnel Action – For the purpose of this document, the following are considered as Personnel Actions:

(a) Suspensions, terminations, demotions.
(b) Final PPR Rating of Improvement Required (IR).
(c) Involuntary removal from duties.
(d) Involuntary permanent reassignments/transfers.
(e) Denial of Unescorted Access, other Owner Controlled Area Access, and any other actions which senior management deems appropriate.

Protected Activity – An activity for which the NRC provides protection against retaliation to those employees who engage in such activities. Other Federal agencies (DOL, OSHA, etc) also provide whistleblower protection in their regulations. However, for the sake of consistency, the term “Protected Activity” is commonly understood to refer to the NRC’s definitions of protected activities. NRC protected activities include, but are not limited to, activities in which an Employee:

(a) Notifies his/her employer (including Employee Concerns) of an alleged violation of NRC requirements.
(b) Raises any concern to the Company or any local, state or federal agency related to nuclear safety, quality, security, or the environment.
(c) Refuses to engage in any practice that is unlawful pursuant to the Energy Reorganization Act of 1974, or the Atomic Energy Act of 1954, or that would impose a risk to public or worker health and safety.
(d) Provides information to, or testifies 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.
(e) Provides the NRC with information about possible violations of Company procedures or NRC requirements.
(f) Requests NRC action.
(g) Testifies in any NRC or Department of Labor (DOL) proceeding.
(h) Commences or participates in a proceeding under Section 211 of the Energy Reorganization Act.
(i) Notifies his/her employer, supervisor, the ECP Program or the NRC of an alleged nuclear safety, security, environment, or quality concern.
Executive Review Board Process For Employees

(j) Identifies and communicates a concern to management, the NRC, or a state or federal agency about a discrepancy or issue over which the NRC exercises regulatory authority.

[9] Reorganization - Any restructuring within departments, sites or legal entities that involves more than the mere change in titles. Reorganization includes a material realignment of duties and responsibilities among Employees, (b) a material and deliberate reduction in force or downsizing, (c) a permanent relocation of a work site to a location more than fifty (50) miles from its prior location, or (d) other formal organizational change that materially affects reporting relationships, daily duties, responsibilities and scope of work.

[10] Special ERB Process – A process established to review employment actions taken in connection with Reorganizations to ensure that those actions are not retaliatory or likely to create a chilling effect. This Special ERB Process may be used when circumstances make it impractical for individual ERBs to review all personnel actions associated with a Reorganization.

[11] Supplemental Personnel – For the purpose of this procedure, these are persons who are not full-time active payroll employees of an Entergy System Company. Supplemental Personnel includes the following:

(a) Interns, co-ops and other workers whom the Company determines are not employees.

(b) Non-Company employees who conduct work or provide services on site, including but not limited to contract workers and vendors such as contract engineers, pipe fitter/welders, turbine overhaul contractors, HVAC maintenance contractors.

(c) Any other individual who has routine access to the site, including but not limited to union officials, vendors, and National Guardsmen.

4.0 RESPONSIBILITIES

[1] The Line Manager is responsible for:

(a) Identifying and informing the ERB of any Protected Activity of which he or she is aware.

(b) Ensuring fact finding has been conducted in accordance with reference 2.0[1].

(c) Completing a PROPOSED ACTION REQUEST FORM 1 (Attachment 9.1) for all personnel actions involving: suspensions, terminations, demotions, or denial of plant or site access and any other actions which senior management deems appropriate.
Executive Review Board Process For Employees

(d) Forwarding the completed PROPOSED ACTION REQUEST FORM 1 (Attachment 9.1) and supporting documentation to the designated Human Resources representative.

(e) Providing information and/or testimony as required by the ERB.

[2] The designated **Human Resources (HR) representative** is responsible for:

(a) Identifying and informing the ERB of any Protected Activity of which he or she is aware.

(b) Conducting the screening by PROPOSED ACTION SCREENING FORM 2 (Attachment 9.2) for all personnel actions involving: suspensions, terminations, demotions, or denial of Unescorted Access, other Owner Controlled Access, or any other actions which senior management deems appropriate.

(c) Consulting with subject matter experts such as Employee Concerns, Licensing or Legal Counsel to help identify protected activity, nuclear safety, regulatory, or legal issues.

(d) Preparing all documentation to facilitate review by the ERB.

(e) Maintaining and processing documentation on all ERB decisions per section 7.0 of this procedure.

[3] **Legal Counsel** is responsible for:

(a) Attending ERB meetings upon request either by phone or in person

(b) Providing privileged and confidential legal advice to ERB.

(c) Providing privileged and confidential legal advice to the designated Human Resource representative.

5.0 DETAILS

5.1 PRECAUTIONS AND LIMITATIONS

None

5.2 MEMBERSHIP

[1] The Site ERB is comprised of the following ERB members:

(a) Chairperson – Site Vice President

(b) Director, Nuclear Safety Assurance
Executive Review Board Process For Employees

(c) Designated Human Resources representative

[2] The following additional site members may be authorized by the Chairperson to serve as Alternate and/or Ad Hoc ERB members of the Site ERB:

(a) Director, Human Resources
(b) General Manager, Plant Operations
(c) Director, Engineering
(d) Manager, Security

[3] Corporate or regional office ERB members:

(a) Chairperson – Vice President, Oversight
(b) Functional Sr. Vice President
(c) Designated Human Resources representative

[4] The following additional members may be authorized by the Chairperson to serve as Corporate or Regional Alternate and/or Ad Hoc ERB members:

(a) Vice President, Engineering
   (1) Vice President, Ops Support
   (2) Director, Security
   (3) Director, Human Resources

[5] Membership for the Special ERBs described in Sections 3.0[10] and 5.6[2] will be determined by the Vice President, Human Resources.

[6] The Chairperson may designate any one of the ERB members and Alternate/Ad Hoc members to serve as Acting Chairperson.

[7] Legal Counsel shall attend ERB meetings upon request of the ERB Chairperson, either in person or by phone, for the purpose of providing privileged and confidential legal advice to the ERB.

[8] The ERB Chairperson may designate an Administrative Assistant and/or Executive Assistant to provide assistance in administering the ERB process. That person may attend the non-privileged portions of the ERB meetings, review applicable documents, maintain ERB records, and handle other administrative tasks assigned by the ERB Chairperson. If Legal Counsel provides privileged legal advice to the ERB, the Administrative Assistant shall be excused from the meeting during those privileged
discussions. It shall be the responsibility of Legal Counsel to request that the Administrative Assistant be so excused.

[9] In any case where there appears to be an actual or perceived conflict of interest involving an ERB member, that individual will be excused from the review and an appropriate alternate member designated.

5.3 OVERVIEW OF PROCESS

[1] The Line Manager proposing the Personnel Action shall complete a PROPOSED ACTION REQUEST FORM 1 (Attachment 9.1) and forward it along with the supporting documentation per reference 2.0[1] to the designated Human Resources representative.

[2] The designated Human Resources representative shall conduct the screening required by PROPOSED ACTION SCREENING FORM 2 (Attachment 9.2) and shall complete that form before the ERB meets to consider a recommended action.

[3] ERB shall review information on the documents provided and arrange for the Line Manager proposing the action to appear before the ERB to present his or her reasons for taking the proposed action.

5.4 SCOPE OF ERB REVIEW

[1] The ERB shall review the following proposed actions:

(a) Disciplinary action resulting in a suspension or termination.
(b) Involuntary Demotions.
(c) Final PPR rating of Improvement Required (IR).
(d) Involuntary removal from duties.
(e) Involuntary permanent reassignments/transfers.
(f) Denial or removal of Unescorted Access or other Owner Controlled Area Access unless based upon Fitness for Duty actions due to confirmed positive drug or alcohol test results, or Access Authorization determinations which are based upon regulatory requirements in granting and/or denying Unescorted Access.

(g) The ERB may review any actions or issues that the ERB, in its discretion, believes may have the potential to create a chilling effect.

(h) Certain personnel actions arising out of Reorganizations, consistent with the Special ERB Process described in Section 5.6[2]
5.5  **EXCLUSIONS**

[1] The following actions shall not require prior review and approval by the ERB:

(a) Any action management deems necessary such as immediate removal from duties or the site to ensure the safety of the worker, employees, plant or public if the ability of the affected individual to execute their duties safely, with integrity, or competency is brought into question. All such actions must however be reviewed by the ERB within five (5) working days from the date such action is taken in accordance with the provisions herein if that action falls within the scope of ERB review, as set forth in 5.4[1], above.

(b) Temporary removal from duties, suspensions of qualifications, administrative suspensions with pay and benefits, or other temporary precautionary actions to allow management to conduct fact finding; however, any subsequent action executed at the conclusion of the fact finding period will be subject to ERB review, if that action falls within the scope of ERB review, as set forth in 5.4[1], above.

(c) Fitness for Duty actions based on confirmed positive drug or alcohol test results or Access Authorization determinations which are required based on regulatory requirements in granting and/or denying Unescorted Access.

5.6  **EXECUTIVE REVIEW BOARD PROCESS AND ACTION**

[1] Other than reviews of Reorganizations, the ERB process shall consist of the following steps:

(a) **Preparation**

(1) The Line Manager or Manager, Security proposing the action will complete and submit the PROPOSED ACTION REQUEST FORM 1 (Attachment 9.1) along with any supporting documentation required by EN-HR-135 to the designated Human Resources representative.

(b) **Screening**

(1) The designated Human Resources representative will review the information related to the proposed Personnel Action in order to be able to provide the information required by Attachment 9.2.

(2) After consulting with Legal Counsel and/or other Subject Matter Experts as necessary, the designated Human Resources representative will complete a PROPOSED ACTION SCREENING FORM 2 (Attachment 9.2).
(c) Case Review

(1) All documents, including but not limited to, the PROPOSED ACTION REQUEST FORM 1 (Attachment 9.1), the PROPOSED ACTION SCREENING FORM 2 (Attachment 9.2), and any additional, relevant documentation will be provided to the ERB Chairperson or designee.

(2) The designated Human Resources representative is responsible for gathering all relevant documentation for the ERB review and retention of documentation post ERB review.

(d) ERB Discussions

(1) The ERB will review the information related to the proposed Personnel Action in order to determine whether:

a. The employee’s protected activity contributed to the proposed action or whether the proposed action could be viewed as retaliation as a result of the employee’s engagement in protected activity.

b. The proposed action has the potential to create a chilling effect in the workplace.

(2) The designated Human Resources representative is responsible for gathering all relevant documentation for the ERB review.

(3) As part of its analysis, the ERB should evaluate and consider the following factors:

a. Whether Company policies and procedures have been followed.

b. Whether the Personnel Action at issue is consistent with Company past practices.

c. The nexus, if any, between of any protected activity and the proposed Personnel Action.

d. Any other extenuating, mitigating or relevant factor or circumstance.

(4) In the event that persons other than ERB members and authorized participants appear before the ERB, such individuals will be excused prior to any discussion of the results of the protected activity screening and prior to any ERB deliberations.
(e) ERB Determinations

(1) The ERB will render a determination by consensus of ERB members present.

(2) The ERB may:

   a. Render a determination that it has no objection to the proposed action.

   b. Render a determination that it objects to the proposed action.

   c. Inform the Line Manager that it has comments and/or questions on the proposed action that preclude the issuance of an ERB determination at that time. In this case the ERB shall specify what additional information is required in order to make a decision.

(3) The Line Manager proposing the action under review may not take the proposed action unless the ERB has rendered a determination that it has “no objection” to the proposed action.

(4) If the ERB determines that the proposed personnel action may be viewed as retaliation because of the employee’s engagement in protected activity or may create a chilling effect in the workplace, the ERB shall direct the appropriate manager to prepare a Chilling Effect Mitigation Plan for ERB review and determination before the Personnel Action is taken. The Chilling Effect Mitigation Plan must include actions to minimize the potential chilling effect, including appropriate communications that the action was taken for legitimate, non-retaliatory reasons. A suggested outline is the CHILLING EFFECT MITIGATION PLAN FORM 4 (Attachment 9.4).

(5) All ERB decisions will be recorded on the ERB RECORD OF ACTION FORM 3 (Attachment 9.3).

(6) As a guideline, the ERB process should be completed within five (5) working days from the date on which the Proposed Action Screening Form is completed.

[2] The Special ERB Process for reviewing Reorganizations shall consist of the following steps:

(a) The Vice President, Human Resources, Vice President, Oversight, and Legal Counsel shall confer to determine the ERB process that shall be used to review certain personnel actions arising out of a proposed Reorganization.
(b) In reviewing a proposed Reorganization, the Vice President, Human Resources, Vice President, Oversight and Legal Counsel should consider the following, non-exhaustive list of factors:

1. The size, scope, basis, and timing of the Reorganization;

2. Whether it would be practical to conduct individual ERB reviews, in a manner that is consistent with Section 5.6[1], for each personnel action within a Reorganization;

3. The job classifications involved in the Reorganization;

4. Whether the Reorganization includes voluntary or involuntary separations;

5. Whether a Special ERB Process can be established to review certain personnel actions which, although different from the process set forth in Section 5.6[1], nevertheless, accomplishes the dual objectives of preventing retaliation and preventing the creation of a chilling effect.

(c) After considering the proposed Reorganization, The Vice President, Human Resources shall make the final determination whether it is appropriate to submit each, individual personnel action associated with the Reorganization to ERB review or to establish a Special ERB Process to review the proposed Reorganization.

1. If the Vice President, Human Resources determines it is appropriate to submit each personnel action to ERB review, then such reviews will be carried out in accordance with Section 5.6[1] of this Procedure.

2. If the Vice President, Human Resources determines that a Special ERB Process should be established, given the particular circumstances of the proposed Reorganization, then the Vice President, Human Resources shall be responsible for establishing a written process that describes the Special ERB Process that will review the proposed Reorganization. The Special ERB process must:

   a. Identify generally the steps that will be taken to ensure that the proposed Reorganization is not carried out in a way that would permit retaliation against any Employee for engaging in any Protected Activity.

   b. Identify generally the steps that will be taken to ensure that the proposed Reorganization will not have any chilling effect on the affected workforce.
c. Be carried out prior to implementation of the proposed Reorganization.

(3) In establishing the Special ERB Process, the Vice President, Human Resources may:

a. Consult with the Vice President, Oversight, Legal Counsel and any other appropriate individual;

b. Delegate the drafting of the Special ERB Process to any other qualified individual;

(4) The written document that describes the Special ERB Process shall be owned and maintained by the Vice President, Human Resources consistent with the Entergy System Records Management and Retention Policy.

### 6.0 INTERFACES


### 7.0 RECORDS

[1] The designated Human Resources representative will be responsible for maintaining documentation on all ERB decisions in accordance with the Entergy System Corporate Records Management Process

[2] Summary data on all ERB decisions will be provided to the Nuclear Safety Culture Monitoring Panel (NSCMP), as applicable in accordance with EN-QV-136 “Nuclear Safety Culture Monitoring.”

[3] The ERB Administrative Assistant may be assigned these record management duties and other related administrative duties by the ERB Chairperson.

### 8.0 SITE SPECIFIC COMMITMENTS

None
9.0 ATTACHMENTS

9.1 PROPOSED ACTION REQUEST FORM (FORM 1)
9.2 PROPOSED ACTION SCREENING FORM (FORM 2)
9.3 ERB RECORD OF ACTION FORM (FORM 3)
9.4 CHILLING EFFECT MITIGATION PLAN (FORM 4)
PROPOSED ACTION REQUEST FORM FOR EMPLOYEES

Proposed Action

_____ Disciplinary Action
    Specify_____________________
    Attach Fact Finding Summary/Just Cause Form

_____ Demotion

_____ Final PPR rating of Improvement Required

_____ Involuntary Removal From Duties

_____ Involuntary Permanent Reassignments/Transfers

_____ Denial or removal of Protected Area or Site access
    (Unless based upon a Fitness for Duty determination or Access Authorization
    Determinations based upon regulatory requirements in granting and/or denying
    Unescorted Access)

_____ Other Adverse Actions which may be deemed by the
    ERB in its sole discretion as warranting a review
    Specify_____________________

Note: This is a confidential document and must be handled accordingly. Information provided via this form is to be provided by the applicable line manager proposing the action.

The purpose of the ERB is to ensure that proposed Personnel Actions (1) do not occur because an individual has engaged in a Protected Activity and (2) do not create the perception that persons were retaliated against because they engaged in a Protected Activity. This does not mean that the individual who has engaged in a Protected Activity cannot be subject to potentially adverse Personnel Actions for reasons not related to the individual’s participation in such Protected Activity. It does mean that an individual cannot under any circumstances be retaliated against because that person engaged in such Protected Activity.

Screening Questions

1. This proposed action affects the following individual(s):

2. Describe the proposed action and the basis for the action.

3. To your knowledge has the affected individual(s) engaged in protected activity? _____yes _____no
   Note: The following is a non-exhaustive list of Protected Activities:
   a. Raising issues to management (at any level) or the ECP
   b. Writing a concern using the CR process in the past 6 months
   c. Contacting the ethics hotline regarding nuclear safety issues or other similar matters
   d. Contacting the NRC, DOL, or other external agencies regarding nuclear safety issues or other similar matters
   e. Contacting the legal department regarding nuclear safety issues or other similar matters
4. During the course of the affected individual(s) executing their duties and/or interfacing with peers, subordinates, or superiors, have they raised issues or concerns regarding nuclear safety, industrial safety, security or environmental safety/compliance or workplace conditions (e.g. sexual harassment, discrimination, hostile work environment, etc.)?  ____yes       _____ no _____ do not know
If yes, please explain.

Certification: Fact Finding has been completed in accordance with EN-HR-135 and any protected activity engaged in by the individual(s) listed in Attachment 9.1 have not contributed, even in part, to the proposed action, to the best of my knowledge and belief.

____________________________________                ______________________________
Line Manager Signature                                                                  Date

____________________________________
Printed Name                                                                        Title
PROPOSED ACTION SCREENING FORM

ERB Review Number: ________________

The information contained in this document pertains to proposed Personnel Action for employee(s) of the following organizations:

[Insert name of employing entity and relevant site]

Who are/is the affected individual(s)? (An attached list is permissible)

________________________  _________________________   _______________________
________________________  _________________________   _______________________
________________________  _________________________   _______________________
________________________  _________________________   _______________________

1. Is the proposed action consistent with applicable Company policy, procedure or past practice? _____yes ___no. Identify applicable policy/procedure; demonstrate consistency with past practice.

2. Has the incident in question undergone fact-finding, to include allowing the individual to explain or defend his/her actions? _____yes ____no. If yes, summarize fact-finding; attached Fact Finding Summary/notes are acceptable.

3. Has the affected individual(s) engaged in protected activity? _____yes ____no. Consider issues raised to management (at any level), CR’s, Ethics Hotline concerns, legal action, external agency concerns etc. Note: The following is a non-exhaustive list of Protected Activities:
a. Raising issues to management (at any level) or the ECP
b. Writing a concern using the CR process in the past 6 months
c. Contacting the ethics hotline regarding nuclear safety issues or other similar matters
d. Contacting the NRC, DOL, or other external agencies regarding nuclear safety issues or other similar matters
e. Contacting the legal department regarding nuclear safety issues or other similar matters
Executive Review Board Process For Employees

ATTACHMENT 9.2       PROPOSED ACTION SCREENING FORM (FORM 2)
Sheet 2 of 2

4. Does the Protected Activity of the individual appear to be a contributing factor, even in part, in the recommendation to take the proposed action?  ___yes  ____no
If yes, provide the basis.

5. Is there any reason to believe that the affected individuals(s) will believe that the proposed Personnel Action is being taken because of his/her Protected Activity?  ____yes  ____no
If yes, provide the basis.

6. Is there any reason to believe that the proposed Personnel Action will result in a perception by others that the person's Protected Activity contributed to the decision to take the recommended Personnel Action?  In other words, does the proposed Personnel Action have the potential to create a chilling effect in the workplace?  ____yes  ____no
If yes, provide the basis.

If question 4, 5, or 6 is answered yes, ensure the applicable manager provides an outline for a recommended chilling effect mitigation strategy per attachment 9.4

Comments:________________________________________________________________________
_________________________________________________________________________________
_________________________________________________________________________________
_________________________________________________________________________________
_________________________________________________________________________________

_____________________________________________          _____________________________
Human Resources representative signature                                    Date

____________________________________________
Printed Name
**Executive Review Board Process For Employees**

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**ERB Case Number________**

**Case Summary (Proposed Action, Basis, Affected Individual(s)):**

**ERB Review Conclusions:**

- The proposed action(s) are based exclusively on legitimate, non retaliatory reasons. ___yes ___no
- The proposed action(s) have the potential for creating a chilling effect. ___yes ___no
- The proposed chilling effect mitigation plan is satisfactory. ___yes ___no ___n/a

**ERB Decision:**

- _______ ERB does not object to the proposed action
- _______ ERB objects to the proposed action
- _______ ERB is unable to render a determination at this time because it lacks sufficient information, has unanswered questions, or for the reasons set forth below

**Comments:**

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____________________________________________________________________________
____________________________________________________________________________
____________________________________________________________________________
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**Attendees:**

- Name/Title ___________________________ ___________________________
- Name/Title ___________________________ ___________________________
- Name/Title ___________________________ ___________________________

**ERB Chairperson Signature** ___________________________ **Date** __________

**Printed Name** ___________________________ **Job Title** __________________
CHILLING EFFECT MITIGATION PLAN

Background Information

1. Identify the proposed Personnel Action that you believe may have a chilling effect on workers.

2. Put yourself into the shoes of the workforce and identify the reasons why you believe workers may be “chilled” if this Personnel Action proceeds. In other words, what will the decision look like to the workforce? Will some members of the workforce believe that management took the action because of the individual’s protected activity? How will the proposed Personnel Action cause workers to be reluctant to raise nuclear safety concerns or engage in any other form of activity protected by law?

3. To what extent is the workforce aware of the subject individual’s protected activity? Has this person written a CR or openly discussed his/her concerns with management or the workforce?

4. What is the perception of the workforce about the nature of Company’s response to this person’s Protected Activity? Does the workforce believe that the person’s concerns have been adequately addressed, downplayed, or ignored? Does the workforce believe that management has been angered or upset because of this person’s Protected Activity?

5. If the proposed Personnel Action proceeds, what organizations will be affected by the decision? In other words, will the potential chilling effect be limited to the individual’s immediate work group, or will the effect be more widely felt throughout the department, organization, site, or corporation?
Planned Mitigating Actions

After preparing draft answers to the Background questions, consult with the designated Human Resources representative (and the Employee Concerns Program and Legal Counsel, if necessary) to provide assistance and guidance in answering the following questions.

1. Describe the nature, timing, and contents of your first intended communication to the immediate work group concerning this Personnel Action. In this communication, at a minimum, address the following topics:

   (a) The action taken;

   (b) Management’s legitimate reasons for taking the proposed action (in other words, tell the workforce the truth about management’s reasons -- the antidote to a chilling effect is the truth);

   (c) Management’s support for employees who raise concerns;

   (d) Your availability to employees who have concerns and the availability of the other avenues for the raising of concerns; and

   (e) The individual’s protected activity did not contribute to management’s decision to take personnel action.

2. If appropriate under the circumstances, consider discussing the following:

   (a) The relevant standards and expectations to prevent a recurrence of the circumstances that led to the Personnel Action against the individual;

   (b) The deliberate process that led up to the decision to take the Personnel Action;

   (c) The nature of the review(s) that preceded the decision to take the Personnel Action; and

   (d) The status of the individual’s safety or other concern and management’s commitment to investigate and resolve the concern.
Executive Review Board Process For Employees

ATTACHMENT 9.4  CHILLING EFFECT MITIGATION PLAN (FORM 4)
Sheet 3 of 3

3. Describe the nature, timing, and content of any communications with persons beyond the individual's immediate work group, if warranted. Ensure this communication is consistent with the information provided to the immediate work group and that this communication address items 1(a) – (e), above. If no such communications are planned, describe the reasons why they are not necessary.

4. Describe the actions that you intend to take to determine if the workforce understood and accepted your initial communications. Describe the timing associated with these efforts and other follow-up actions. Preliminarily identify steps that may be required to reinforce your original message or to correct any misunderstandings.

Prepared By:_________________________________/____________________________

Name        Job Title

Approved By:_________________________________                     ________________

ERB Chairperson                                                    Date