

10/26/2010



Environmental Management Consolidated Business Center (EMCBC)

Subject: Employee Concerns Program

PROGRAM DESCRIPTION

APPROVED: (Signature on File)

EMCBC Director

Office of Civil Rights and Diversity (OCRD)

1.0 PURPOSE

The purpose of this procedure is to establish the requirements for the Department of Energy (DOE), Environmental Management (EM), Consolidated Business Center's (CBC), Employee Concern Program (ECP), which include:

- 1) Receiving, evaluating, referring, investigating, and responding to federal and contractor employee concerns at the EMCBC and serviced sites;
- 2) Performing oversight of the operating contractor ECPs; and
- 3) Protecting DOE and the operating contractor employees against reprisals for reporting concerns.

2.0 SCOPE

This procedure provides the regulatory guidelines for reporting, tracking, and the disposition of employee concerns. The EMCBC, its supported EM Project Offices and their project sites, and serviced sites (including EM Small Sites with approved Service Level Agreements (SLA's)) are under the auspices of this procedure.

3.0 APPLICABILITY

This procedure applies to EMCBC employees who:

- Encounter concerns or allegations regarding health, safety, management, the environment, fraud, waste, abuse, acts of reprisal, or other malfeasance involving DOE programs, operations, facilities, contracts, or information technology; or
- Process concerns or allegations of employees of EMCBC and serviced sites, EMCBC contractors, and subcontractors regarding health, safety, management, the environment, fraud, waste, abuse, acts of reprisal, or other malfeasance involving DOE programs, operations, facilities, contracts, or information technology.

4.0 REQUIREMENTS

- 4.1 29 CFR 1960, “Basic Program Elements for Federal Employee Occupational Safety and Health Programs and Related Matters”
- 4.2 DOE Order 442.1A, “Department of Energy Employee Concern Program”
- 4.3 ECP Criteria: The ECP must meet the following criteria:
- 4.3.1 Maintain interfaces with the following:
- (a) Other DOE organizations, including serviced sites and DOE contractor ECPs,
 - (b) External regulatory bodies that require employee concerns programs,
 - (c) Headquarters Office of Employee Concerns, and
 - (d) Labor organizations

5.0 DEFINITIONS

- 5.1 Alternative Dispute Resolution (ADR): The process for resolving disputes through use of a neutral third party in an attempt to avoid judicial or administrative litigation. Forms of ADR include mediation, partnering, ombudsman, neutral evaluation, nonbinding arbitration, binding arbitration, and mini-trials (DOE Order 442.1A, Requirement 4.2).
- 5.2 Anonymous Concern: A concern submitted by a self-identified employee (or someone who does not identify themselves) who wishes to have his or her name protected from all persons.
- 5.3 Confidential Concern: A concern submitted by an employee who wishes to have his or her identity protected from all persons except the Employee Concerns Program staff and those with a need to know.
- 5.4 Conflict of Interest: A situation in which the person responsible for investigating an employee concern could be associated either directly or indirectly with that concern or an investigative task is assigned to a person who might have submitted the concern.
- 5.5 Differing Professional Opinion (DPO): An opinion related to a policy or practices that:
- Differs from previous management decisions, stated positions, or established policies or practices;
 - In the opinion of the employee, has not been adequately considered; and
 - If not adopted, has a reasonable probability of having significant negative impact on the activity in question with respect to safety, efficiency, or quality.
- 5.6 Employee: Any person working for the EMCBC (including serviced sites), an EMCBC contractor, or a subcontractor, and other serviced sites’ contractors.
- 5.7 Employee Concern: A good faith expression by an employee that a policy or practice of EMCBC and serviced sites, one of its contractors, or one of its subcontractors should be improved, modified, or terminated. Concerns can address issues such as health, safety, the environment, management practices, fraud, waste, abuse, or reprisal for raising a concern.

- 5.8 Harassment: An action taken or condoned by an employer against or toward an employee to bother, belittle, humiliate, or impede that employee in his or her work environment, relationship with others, or job performance because the employee reasonably and in good faith raised a concern. Harassing actions can include, but are not limited to, threatening, restraining, coercing, blacklisting, mocking, humiliating, or isolating an employee.
- 5.9 Imminent Danger: Any condition or practice in any work place that creates a danger that could reasonably be expected to cause death or serious physical harm immediately or before the onset of such danger could be eliminated through normal procedural mechanism.
- 5.10 Intimidation: Any action taken by coworkers or supervisors against or toward an employee to cause that employee to:
- Cease engaging in protected activities; or
 - Be fearful of engaging in protected activities; or
 - Otherwise be afraid for his or her safety, reputation, or job security as a result of having identified concerns about any aspect of the EMCBC and serviced sites, or operations.
- 5.11 Investigation: An inquiry conducted by or on behalf of the Employee Concerns Program for the purpose of evaluating and resolving a concern, usually involving interviews, inspection of relevant documents, sites, or equipment, and an evaluation of practices being followed.
- 5.12 Nuclear Safety Rules: Those rules promulgated by DOE in response to the Price-Anderson Amendments Act (PAAA) found in the following documents:
- 10 CFR 708, *DOE Contractor Employee Protection Program*;
 - 10 CFR 820, *Procedural Rules for DOE Nuclear Activities*;
 - 10 CFR 830, *Nuclear Safety Management*;
 - 10 CFR 835, *Occupational Radiation Protection*; and
 - 10 CFR 851, *Worker Safety and Health Program*.
- 5.13 Originator: The person who originates (submits) an employee concern.
- 5.14 Reprisal: Any action taken against an employee in response to, or in revenge for, the employee having raised, in good faith, reasonable concerns about any aspect of DOE-related operations. Reprisals against contractor employees may lead to the imposition of penalties under the Price-Anderson Amendments Act of 1988, implemented by DOE under 10 CFR Part 820.

Pursuant to Part 820, to the extent, a reprisal by a DOE EMCBC or serviced sites contractor results from an employee's involvement in matters of nuclear safety in connection with a DOE nuclear activity, the reprisal could constitute a violation of a DOE Nuclear Safety Requirement.

- 5.15 Resolution of a Concern: Actions taken and decisions made in response to an employee concern by verifying the concern, establishing plans to correct identified deficiencies, correcting the deficiencies, or determining that the concern is not substantiated and no corrective action is required.
- 5.16 Retaliation: An action (including intimidation, threats, restraint, coercion, or similar action) taken by an employer against an employee with respect to employment (e.g., discharge, demotion, or other negative action with respect to the employee's compensation, terms, conditions, or privileges of employment) as a result of the employee's disclosure of information, participation in proceedings, or refusal to participate in activities described in 10 CFR Part 708.5.
- 5.17 Serious Condition or Concern: A hazard, violation, or condition that causes a substantial probability that death or serious physical harm, property loss, and/or environmental impact could result. Environment, Safety, and Health concerns must be investigated within 3 working days.
- 5.18 Transfer of a Concern: Transmittal of a concern by the ECP to an office with subject matter responsibility or expertise pursuant to which that office will address the concern with the individual.

6.0 RESPONSIBILITIES

- 6.1 The EMCBC Director and/or Serviced Site Project Director/Manager are responsible for the ECP. He or she appoints the Employee Concerns Program Manager (ECPM) or ECP Coordinator. Responsibilities for the ECP are listed in the EMCBC mission and functions matrix at: <http://www.emcbc.doe.gov>.
- 6.2 The ECPM and/or ECP Coordinators are responsible for the management and disposition of employee concerns. He or she is also responsible for maintenance of employee concern records.
- 6.3 Assistant Directors are responsible for supporting the EMCBC ECP in accordance with this procedure. They are also responsible for conducting investigations in accordance with this procedure when concerns are referred by the EMCBC ECP.

7.0 GENERAL INFORMATION

- 7.1 Employees who have information about actual or suspected violations of law, regulations, or policy including fraud, waste, abuse, misuse, corruption, criminal acts, or mismanagement relating to DOE programs, operations, facilities, contracts or information technology systems must immediately notify the appropriate authorities. Filing an employee concern is one means of doing so.
- 7.1.1 If a concern is brought to a DOE employee directly or by a third party (spouse, relative, etc.), the DOE employee must 1) immediately refer the concern to the EMCBC ECP and 2) remove himself or herself from the process.

- 7.1.2 Federal employees may report concerns to their line management, the EMCBC ECP or the DOE Office of Inspector General.

8.0 PROCEDURE

8.1 Reporting of Employee Concerns

- 8.1.1 The ECPM establishes and implements, and maintains an EMCBC Employee Concerns Reporting Form (Attachment A, PD-311-05-F1).
- 8.1.2 The ECPM and/or site ECP Coordinators screen the Employee Concern Reporting Form as follows:
- a. Potential employee security violations are referred to either a Security Specialist or Personnel Specialist at the EMCBC and/or serviced site(s) if applicable.
 - b. Contractor or subcontractor whistleblower complaints of reprisals are referred to the EMCBC Office of Civil Rights & Diversity. Federal employees alleging whistleblower complaints of reprisals are informed that they should file their complaint with the Office of Special Counsel in accordance with the Whistleblower Protection Act of 1989.
 - c. Waste, fraud, abuse, or mismanagement concerns are referred to the Office of Inspector General.
 - d. Potential violations of rules subject to the Price-Anderson Amendments Act of 1988 enforcement authority, criminal acts involving potential nuclear safety matters (e.g., falsification of plant logs and records), or other willful violations of DOE rules, orders, regulations in the area of nuclear safety are referred to the EMCBC Office of Logistics Management and/or service site Price-Anderson Amendments Act Coordinator.
 - e. Equal employment opportunity complaints may be forwarded to the EMCBC Office of Civil Rights and Diversity.
 - f. Personnel complaints may be forwarded to the Assistant Director/Office of Human Resources at the EMCBC.
 - g. Complaints concerning potential violations of requirements from other Federal agencies should be forwarded as appropriate.

8.2 Employee Concerns Hotline

- 8.2.1 The ECPM establishes and maintains an EMCBC Employee Concerns Program Telephone Hotline that provides 24-hour telephone access and protects the anonymity and confidentiality of the originator when requested.

- 8.2.2 The ECPM ensures that posters providing the EMCBC ECP Telephone Hotline number are placed in conspicuous locations throughout the EMCBC and applicable offsite locations.
- 8.2.3 The ECPM and/or site ECP Coordinators process hotline notifications as follows:
- a) Obtains a EMCBC Employee Concerns Reporting Form (Attachment A) and completes it as fully as possible.
 - b) Records the date and time the information was phoned in by the concerned party.
 - c) An anonymous concern requires filing in the signature block with the word “anonymous”. For truly anonymous concerns, there can be no response to the originator because not even the ECPM and/or site ECP Coordinators knows who filed the original concern.

8.3 **Evaluating Employee Concerns**

- 8.3.1 The ECPM and/or site ECP Coordinators collect and prepare all employee concerns for evaluation. These concerns can be received by the listed methods: anonymous, confidential, phone, written, “Hotline,” memorandum, verbal, or by referral. Unique ID numbers are assigned to the concern.
- 8.3.2 The ECPM and site ECP Coordinators interface with contractor ECPMs, EMCBC Assistant Director, Office of Legal Services and DOE-Headquarters (HQ), as needed, to initially determine the potential significance of each new employee concern.
- 8.3.3 The ECPM requests an EMCBC Assistant Director to assign an individual to investigate and address employee's concerns or suggestions when necessary.
- 8.3.4 The ECPM provides guidance for investigating employee concerns and suggestions/guidance to EMCBC personnel assigned to provide investigative support to the ECP.
- 8.3.5 The ECPM and/or site ECP Coordinators ensure that all documents obtained or prepared in the course of an employee concern investigation are handled in a sensitive manner to protect the anonymity and confidentiality, as necessary, of the originator and in accordance with DOE Order 442.1A, Department of Energy Employee Concern Program, (Requirement 4.2).
- 8.3.6 The ECPM and/or site ECP Coordinators provide a written response to the originator of the employee concern, except anonymous complaints. A copy of the written response is attached to the file.

8.4 **Report Tracking System**

- 8.4.1 The ECPM establishes and maintains an Employee Concerns Database for tracking the status, disposition, and resolution of employee concerns and suggestions. The Employee Concerns Database is capable of the following:
- a) Maintaining anonymous and confidential reporting.
 - b) Providing a means for originators to preserve their anonymity or confidentiality when reporting employee concerns.
 - c) Providing status information to originators for all except anonymous suggestions and concerns.
 - d) Monitoring employee concern investigations and resolution schedules.
 - e) Maintaining a file of employee concerns.
 - f) Maintaining an information database for submission of monthly statistics for the preparation of quarterly and annual status reports.

8.5 **Contractor ECP Oversight**

- 8.5.1 The ECPM reviews operating contractors' ECP documentation (such as written procedures and forms) and any subsequent modifications.
- 8.5.2 The ECPM provides independent EMCBC oversight of the prioritization, investigation, and resolution of employee concerns by the operating contractor ECP.
- 8.5.3 The ECPM maintains direct interface with operating contractors' ECPMs to determine program status and potential significance of employee concerns.

9.0 **RECORDS MAINTENANCE**

Records generated by this procedure are confidential and shall be maintained by the ECPM and/or site ECP Coordinators as specified in this procedure, or transferred to the Records Center for retention.

10.0 **FORMS**

- 10.1 EMCBC Employee Concerns Reporting Form, PD-311-05-F1 – fillable form can be found on EMCBC Services/FORMS

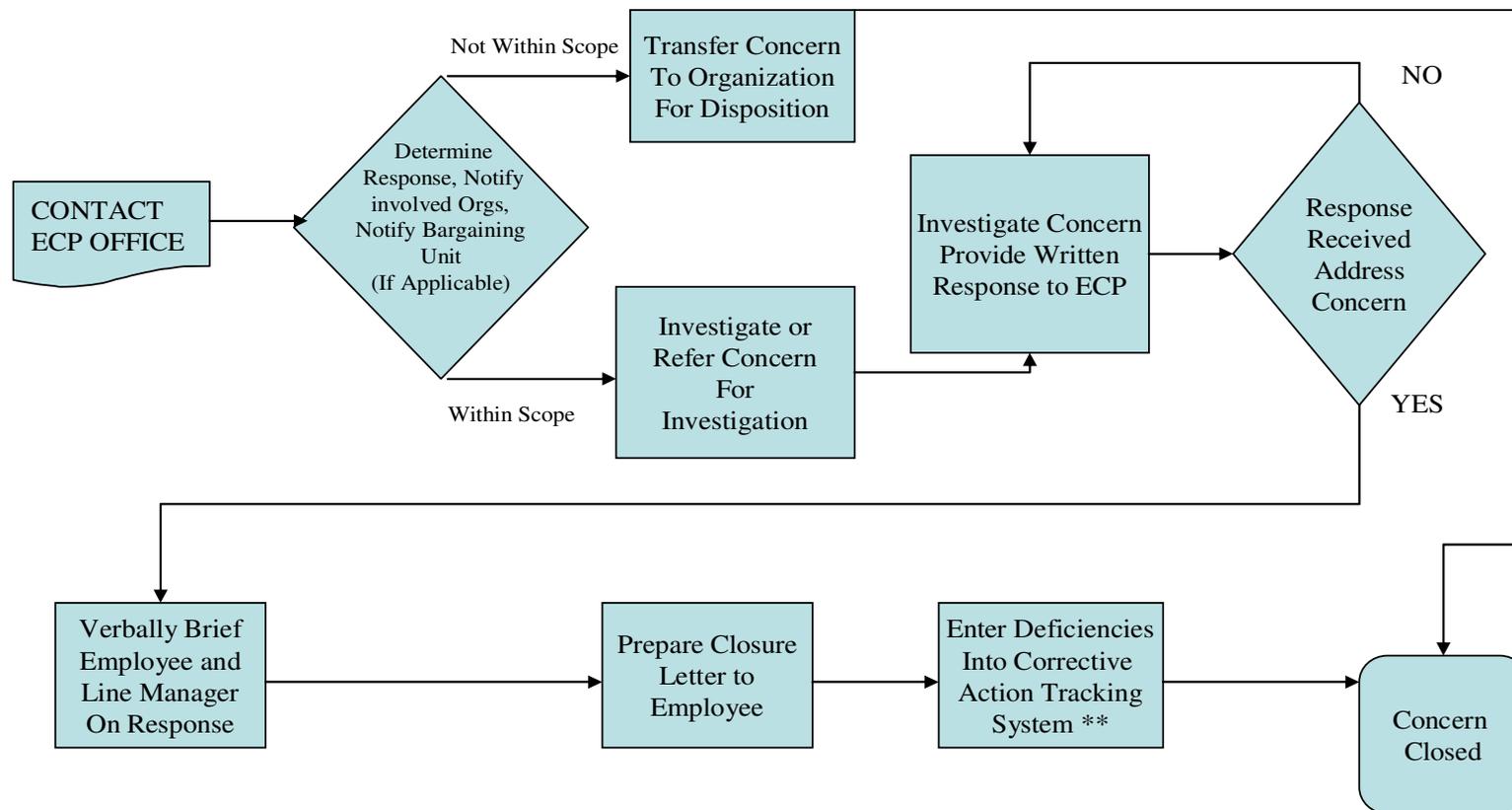
11.0 **ATTACHMENT**

- 11.1 Attachment A - EMCBC Employee Concerns Reporting Form, PD-311-05-F1

12.0 **FLOWCHART**

- 12.1 Disposition of Employee Concerns Flow Chart

Disposition of Employee Concerns



** NOTE: Deficiencies identified in the course of the investigation are tracked to closure by the responsible line organization.



**U. S. DEPARTMENT OF ENERGY
Employee Concerns Reporting Form**

If you have a concern to report, please complete this form and mail it to the appropriate address. You may also report your concern verbally to the site representative.

NOTE: You are encouraged to attempt resolution of your concern or problem initially with your supervisor and/or in accordance with your employer's established Concerns Program reporting procedures.

This Report Must Not Contain any Classified Information.

In order for the Employee Concerns Program (ECP) Representative to thoroughly investigate your concern, you are asked to complete as much of the following information as you can, including your name and work location. However, your anonymity will be protected if you so indicate.

1. Does your concern involve an immediate danger to employees, the environment, or the public? Yes No Unknown

2. Nature of Concern: Violation Hazard Other
(Specify): _____

_____ (Attach additional sheets if necessary).

3. What Do You Believe May Be The Consequence(s) If Your Concern Remains Unaddressed?
 Loss of life or injury Damage or loss to environment
 Damage or loss of safety-related facilities Other: _____

4. Who is your Employer? DOE Contractor Subcontractor Other (Specify): _____

5. Have you reported your concern to any other source? Yes No (If Yes, to whom) _____

6. Identify any individuals (name and phone) you believe should be contacted regarding your concern (e.g. to provide additional information): _____

7. Do you want your name kept confidential?: Yes No _____

Name
Date

Mail to: DOE Employee Concerns Program at the Respective Site or Call:

Regina Neal, EMCBC U. S. Department of Energy 250 East 5 th Street, Suite 500 Cincinnati, OH 45202 513-246-0495	Lynette E. Chafin, EMCBC Small Sites U.S. Department of Energy 250 East 5 th Street, Suite 500 Cincinnati, OH 45202 513-246-0461	Susan Sparks, PPPO U. S. Department of Energy 1017 Majestic Drive, Suite 200 Lexington, KY 40513 859-219-4016
Simon Lipstein, Bldg 55, Denver, CO U. S. Department of Energy 12101 Airport Way, Unit A Broomfield, CO 80021-2583 303-966-4948	Susan McCauslin, CBFO U. S. Department of Energy P.O. Box 3090 Carlsbad, NM 88221-3090 505-234-7349	Christopher Eckert, WVDP U.S. Department of Energy Ashford Office Complex, 9030 U.S. Route 219 West Valley, NY 14171 716-942-4783

EMCBC RECORD OF REVISION

DOCUMENT TITLE: PD-311-05, Rev 2 Employee Concerns Program

If there are changes to the controlled document, the revision number increases by one. Indicate changes by one of the following:

- I Placing a vertical black line in the margin adjacent to sentence or paragraph that was revised.
- I Placing the words GENERAL REVISION at the beginning of the text.

Rev. No.	Description of Changes	Revision on Pages	Date
1	Original Issue	All	07/25/06
2	Review, updated PD-311-05-F1	8, 9	09/29/10