



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

**OFFICE OF THE
INSPECTOR GENERAL**

December 1, 2010

MEMORANDUM TO: R. William Borchardt
Executive Director for Operations

FROM: Stephen D. Dingbaum */RA/*
Assistant Inspector General for Audits

SUBJECT: STATUS OF RECOMMENDATIONS: AUDIT OF NRC'S
NON-CONCURRENCE PROCESS (OIG-11-A-02)

REFERENCE: DEPUTY EXECUTIVE DIRECTOR FOR MATERIALS,
WASTE, RESEARCH, STATE, TRIBAL, AND
COMPLIANCE PROGRAMS MEMORANDUM DATED
NOVEMBER 5, 2010

Attached is the Office of the Inspector General's analysis and status of recommendations 1, 2, 3, 4, 5, 6, 7, and 8 as discussed in the agency's response dated November 5, 2010. Based on this response, recommendations 1, 2, 4, 5, 6, 7, and 8 are in resolved status. Recommendation 3 remains unresolved. Please provide an updated status of the recommendations by March 31, 2011.

If you have any questions or concerns, please call me at 415-5915 or Sherri Miotla, Team Leader, at 415-5911.

Attachment: As stated

cc: N. Mamish, OEDO
M. Muessle, OEDO
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Audit Report

AUDIT OF NRC'S NON-CONCURRENCE PROCESS

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Status of Recommendations

Recommendation 1: Define management's expectations regarding the non-concurrence process and clearly communicate them to staff.

Agency Response Dated
November 5, 2010:

Agree. Management will continue to emphasize and further aggressively pursue our commitment to the welcoming of sharing differing views and the acceptability and value of using the NCP. Management will communicate this clearly through multiple communication tools, such as EDO Updates, monthly senior management meetings, all supervisor meetings, senior leadership meetings, and Yellow Announcements.

Completion date: Ongoing activities beginning with the November 2010 Senior Leadership Meeting and continuing through calendar year (CY) 2011.

Point-of-contact (POC): Renée Pedersen, OE in collaboration with the OEDO.

OIG Analysis: The proposed actions meet the intent of the recommendation. OIG will close this recommendation when it receives and reviews documentation supporting the completion and/or occurrence of the above cited activities including EDO Updates, senior leadership meeting minutes, and Yellow Announcements.

Status: Resolved.

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Status of Recommendations

- Recommendation 2: Revise MD 10.158 to include detailed guidance on:
- a. Dispositioning of non-concurrences to include a feedback mechanism on the status of the non-concurrence.
 - b. Timeliness expectations.
 - c. Completion and processing of Form 757.
 - d. Roles and responsibilities of key non-concurrence personnel.
 - e. The availability of the Differing Views Office Liaisons.

Agency Response Dated
November 5, 2010:

Agree. The staff recognizes that the guidance in MD 10.158 can be improved.

- a. Because responding to a non-concurrence can take time, the staff agrees that including a communication feedback mechanism can improve satisfaction with the process.
- b. NCP guidance currently reflects that non-concurrences should be addressed within the normal schedules for processing documents. Although the guidance does recognize that adjustments may be necessary, guidance can be enhanced to ensure that appropriate adjustments are requested and accepted to ensure that the NCP is implemented successfully. Guidance can also be enhanced in terms of the timeliness expectations to file a non-concurrence, including schedule coordination with supervision and use of official work hours and resources.
- c. Form 757 was revised in 2009 based on lessons learned in implementing the process. Four specific revisions were made to improve oversight and implementation of the process. The staff agrees that the guidance in the MD and handbook should be updated to reflect and emphasize the intent and nature of these changes. The staff also intends to create examples of responses to

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Status of Recommendations

Recommendation 2 (continued):

non-concurrences to address the concern identified in the OIG survey where only 50 percent of the respondents provided a positive response to the statement, "My supervisor adequately explains the resolution of differing views that were raised."

- d. The staff intends to enhance the guidance on the responsibilities for the document sponsor and document signer, especially emphasizing the responsibility to ensure that the response to the non-concurrence be complete and on point.
- e. Differing Views Office Liaisons (DVOLs) were established in 2007 to serve as additional, office level resources to complement the agency-level resource, the Differing Views Program Manager (DVPM). The staff agrees that guidance should reflect the availability of the DVPM to support the NCP.

In addition to improving the guidance, the staff also recognizes that procedural awareness, adherence, and attention to detail in implementing the guidance can be improved. Staff confusion on the process and responsibilities can be reduced if procedural compliance is emphasized.

Completion date: Second quarter of CY 2011.

POC: Renée Pedersen, OE.

OIG Analysis:

The proposed action meets the intent of the recommendation. OIG will close this recommendation when it receives and reviews the revised guidance reflecting the suggested revisions noted in recommendation 2, including implementation of a feedback mechanism, documentation of timeliness expectation, documentation of instructions for

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Status of Recommendations

Recommendation 2 (continued):

completion and processing of Form 757, clarification of roles and responsibilities of key non-concurrence personnel, and reference to the availability of Differing Views Office Liaisons.

Status: Resolved.

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Status of Recommendations

Recommendation 3: Finalize MD 10.158 by the end of 2011.

Agency Response Dated
November 5, 2010:

The staff agrees that MD 10.158 should be finalized. Due to the relatively small number of non-concurrences that occurred in the first few years since its 2006 issuance, a decision was made to obtain additional experience before finalizing the guidance. However, given the existing workload issues (including revising the DPO MD in 2011) and resource limitations, finalizing MD 10.158 by the end of 2011 may be difficult to complete. The staff appreciates the benefit of being more responsive to employee feedback and intends to finalize MD 10.158 before the current date of June 2013. The current due date was established as part of an ISCTF recommendation to conduct a broader review of OCWE (including the NCP and the DPO Program) after the next OIG survey.

Completion date: The staff plans on completing MD 10.158 no later than the end of CY 2012, and will attempt to improve upon that date as resources allow.

POC: Renée Pedersen, OE.

OIG Analysis:

The proposed action does not fully address the intent of OIG's recommendation. Specifically, the agency's proposed finalization date for MD 10.158 is significantly later than the OIG recommended date of end of 2011. OIG recognizes that the agency is also responsible for revising and finalizing MD 10.159, *The NRC Differing Professional Opinions Program*, during this time; however, OIG maintains that prolonging the finalization of MD 10.158 for an additional year beyond the original audit recommendation is detrimental to the NCP. Additionally, because the agency has agreed in its response to recommendation 2 to revise MD 10.158 by the second quarter of calendar year 2011, it does not seem implausible for MD 10.158 to complete the

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Status of Recommendations

Recommendation 3 (continued):

finalization process by the end of 2011 per the management directive finalization process generic time line referenced on the Office of Administration Web site. Furthermore, based on the agency's response to recommendation 4, prolonging the finalization of MD 10.158 further affects the timely development and deployment of on-demand training, which is a critical staff-identified need.

Status: Unresolved.

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Status of Recommendations

Recommendation 4: Make non-concurrence process training available in an on-demand format to all staff and managers.

Agency Response Dated
November 5, 2010:

Agree. Although information on the NCP (overview, slide show, frequently asked questions) is currently available to all employees at any time by accessing the NCP web page from the OCWE web site, training could be enhanced by providing a more interactive, on-line training tool. The staff also recognizes that training on the NCP can be improved in other areas, such as new employee general awareness and supervisory training focused on behaviors. The staff is currently working to include the NCP in the Virtual Orientation Center and is evaluating options for behavior-based training such as "Safety Speaking" and "The Speed of Trust."

Completion date: The staff will develop on-demand training to all staff and managers approximately six months after the guidance in MD 10.158 is finalized.

POC: Renée Pedersen, OE in collaboration with the Office of Human Resources.

OIG Analysis: The proposed action meets the intent of OIG's recommendation. OIG will close this recommendation when it reviews the fully implemented and deployed, on-demand NCP-related training as made available through the Virtual Orientation Center.

Status: Resolved.

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Status of Recommendations

Recommendation 5: Routinely update the Office of Enforcement Open Collaborative Work Environment contact Web page to reflect current Differing Views Office Liaison assignments.

Agency Response Dated November 5, 2010: Agree. Many updates have already been made to the web page and identification of DVOLs in several offices is pending. The staff plans on reviewing the web page every six months to ensure that the contacts are current.

Completion date: The web page will be updated to reflect current contacts by the end of November 2010.

POC: Renée Pedersen, OE.

OIG Analysis: The proposed action meets the intent of OIG's recommendation. OIG will close this recommendation when it is able to (1) verify and review that the agency has a reliable process in place that ensures that the Office of Enforcement Open Collaborative Work Environment contact Web page is routinely updated as necessary to accurately reflect the current Differing Views Office Liaison assignments and (2) determine that the listed Differing Views Office Liaison assignments are accurate.

Status: Resolved.

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Status of Recommendations

Recommendation 6: Identify and track all Forms 757 submitted to date and store them in a central repository.

Agency Response Dated
November 5, 2010:

Agree. The staff will ensure that all non-concurrences to date are accurately captured and appropriately entered in ADAMS. The staff has already created a central repository in the ADAMS Main Library.

Completion date: First quarter of CY 2011.

POC: Renée Pedersen, OE.

OIG Analysis:

The proposed action meets the intent of OIG's recommendation. OIG will close this recommendation when it is able to verify and review that the agency has a reliable process in place that ensures that all Forms 757 are being consistently identified, tracked, and stored in the identified central repository located in the ADAMS Main Library.

Status:

Resolved.

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Status of Recommendations

Recommendation 7: Develop a formalized system to promote consistent and routine capture and review of submitted Forms 757.

Agency Response Dated
November 5, 2010:

Agree. Although ADAMS is an effective tracking tool if the implementing guidance is properly followed, the staff recognizes that it may be more effective to use a tracking method with more oversight and control. Form 757 will be revised to require that forms be sent to the DVPM. This requirement will be highlighted in training and outreach activities until the guidance in MD 10.158 is revised.

Completion date: First quarter of CY 2011.

POC: Renée Pedersen, OE.

OIG Analysis:

The proposed action meets the intent of OIG's recommendation. OIG will close this recommendation when it is able to verify and review that the agency has implemented a formalized system designed to promote the consistent and routine capture and review of submitted Forms 757.

Status:

Resolved.

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Status of Recommendations

Recommendation 8: Perform regularly scheduled comprehensive assessments of the non-concurrence process.

Agency Response Dated
November 5, 2010:

Agree. Although NCP is not routinely exercised, waiting too long to perform a formal assessment could make it challenging for program management to perform a comprehensive assessment of the NCP and determine what revisions are needed to improve MD 10.158.

Completion date: Consistent with the ISCTF recommendation to conduct a broader review of OCWE (including the NCP and the DPO Program), the staff will perform assessments of the non-concurrence process within one year after each OIG Safety culture and climate survey.

POC: Renée Pedersen, OE.

OIG Analysis:

The proposed action meets the intent of OIG's recommendation. OIG will close this recommendation when it is able to (1) verify that the agency has a reliable process in place that ensures the NCP is routinely assessed, and (2) review documentation supporting the completion of the initial program assessment.

Status:

Resolved.