September 9, 2011

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: DIRECTOR, OFFICE OF ENFORCEMENT, MEMORANDUM
                   DATED JULY 27, 2011

Attached is the Office of the Inspector General's analysis and status of recommendations 2, 3, 4, 6, 7, and 8 as discussed in the agency's response dated July 27, 2011. Based on this response, recommendation 7 is now closed and recommendations 2, 3, 4, 6, and 8 remain in resolved status. Recommendations 1 and 5 were closed previously. Please provide an updated status of the resolved recommendations by January 30, 2012.

If you have any questions or concerns, please call me at 415-5915 or Sherri Miotla, Team Leader, at 415-5914.

Attachment: As stated

cc: N. Mamish, OEDO
        K. Brock, OEDO
        J. Arlidsen, OEDO
        C. Jaegers, OEDO

Audit Report

AUDIT OF NRC'S NON-CONCURRENCE PROCESS

OIG-11-A-02

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 July 27, 2011:   Although the Office of Enforcement (OE) is still in the process of revising Management Directive (MD) 10.158, OE has taken interim steps to address the underlying issues included in recommendation 2.

      a. Because responding to a non-concurrence can take time, including a communication feedback mechanism can improve satisfaction with the process. OE will modify the guidance in the MD to include a feedback mechanism.

      b. Non-concurrence Process (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

Recommendation 2 (continued):

necessary, OE will enhance the guidance to ensure that appropriate adjustments are requested and accepted to ensure that the NCP is implemented successfully. OE will also enhance the guidance to address the timeliness expectations to file a non-concurrence, the expectation to coordinate the schedule with supervision, and the use of official work hours and resources to engage in the NCP.

c. Form 757 has been revised to address insights from the audit and based on lessons learned in implementing the process. The Open Collaborative Work Environment (OCWE) Champion Handbook highlights the revisions, including:

- o A tracking number.
- o Creation of a NCP Program Manager (PM).
- o Clarification of the role of Document Sponsor, Document Signer, and creation of NCP Reviewer (normally Document Signer).
- o Detailed implementation guidance included in Section E.
- o A requirement to summarize the issues in Section C and reach consensus with non-concurring individual before completing the process (this ensures common understanding of issues).
- o Clarified guidance on handling NCP Form as record in ADAMS.

Recommendation 2 (continued):

OE will take action to ensure that the guidance in the MD and handbook be updated to reflect and emphasize the intent and nature of these changes.

d. As noted above, revised Form 757 clarifies roles and responsibilities of key non-concurrence process personnel. In addition, the OCWE Champion Handbook includes guidance for the NCP PM and OCWE Champions (Enclosure 4). OE conducted OCWE Champion training on July 26, 2011, and recorded the training to ensure that all OCWE Champions are properly trained. OE will ensure that the MD and handbook includes enhanced guidance on the responsibilities for key NCP personnel.

e. As noted above, OE has taken action to address the roles and responsibilities of OCWE Champions Differing Views Office Liaisons and will update the guidance in the MD and handbook accordingly. OE will coordinate with the OCWE Champions to take additional actions to communicate this position to the staff through various communication mechanisms.

Completion date: Third quarter of 2011. This represents a one-quarter slippage from our March 31, 2011, response due to competing workload issues and resource limitations.

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.

Status: Resolved.

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Status of Recommendations

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

Agency Response
Dated July 27, 2011:   OE appreciates the extended due date. However, OE is mindful that existing workload issues and resource limitations continue to pose challenges. The current POC for this activity is also responsible for revising and finalizing MD 10.159, "The Differing Professional Opinions Program."

As previously noted in the March 31, 2011, status update, OE collaborated with the Office of Administration on a pilot program to solicit office levels reviews for Management Directives (MDs) addressing the Open Door Policy, the Non-Concurrence Process, and the DPO Program by using SharePoint and coordinating office level comments through OCWE Champions.

On July 18, 2011, OE posted a new OCWE SharePoint site (included on the homepage of the OCWE Web site). A Daily Announcement was issued on July 25, 2011, highlighting this ground-breaking initiative and inviting all employees to engage on the MD revision process.

Although this strategy requires additional resources in the front end of the MD revision process, OE believes that this approach will promote consistency and support a more timely proposed revision that will be submitted to the Commission, the Office of General Counsel, and the OIG for approval and finalization. In addition, engaging the staff will build trust in an area that has historically been viewed with some skepticism. Given the subject and level of interest of these MDs, OE recognizes that finalization could take longer than the generic time line referenced on the ADM web site.

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.

Recommendation 3 (continued):

OIG Analysis: The proposed action addresses, in part, the intent of OIG's recommendation. Specifically, as stated before, the agency's proposed finalization date for MD 10.158 is significantly later than the OIG recommended date of end of 2011. OIG agreed to extend the original due date for completion of this recommendation with the clear expectation that MD 10.158 will be finalized and published no later than December 31, 2012. In conjunction with this due date extension, the agency should provide OIG with regular updates on the progress of finalizing the management directive. Updates are expected to include information on the application of the SharePoint Web site in soliciting office level reviews and the status of milestones associated with the generic timeline for the management directive finalization process as noted on the Office of Administration Web site (http://www.internal.nrc.gov/ADM/DAS/cag/mandirs/mdtime.html#g1).

Status: Resolved.

Audit Report

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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 July 27, 2011:   OE intends to collaborate with the Office of Human Resources (HR) and develop on-line, on-demand training for all staff and managers. Until the training is complete, OE intends to promote and highlight the information that is currently available to all employees at any time on the NCP (e.g., overview, slide show, FAQs). OE 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. OE is currently reviewing the proposed on-line course, "NRC: Who We Are and What We Do," and working to include the NCP in the Virtual Orientation Center and is evaluating options for behavior-based training such as "Safely Speaking" and "The Speed of Trust."

Although we appreciate the value of on-demand training, we do not believe that it is critical for the successful implementation of the NCP. OE believes that step-by-step instructions included with the NCP Form will be an effective tool in promoting successful implementation and is working in collaboration with ADM to put this in place as soon as practicable.

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 conjunction with HR.

OIG Analysis: The proposed action meets the intent of OIG's recommendation. OIG has identified on-demand training as an effective and efficient means by which to provide timely training on the NCP to all agency staff. 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 6:   Identify and track all Forms 757 submitted to date and store them in a central repository.

Agency Response
Dated July 27, 2011:   As previously reported, OE created a central repository for NCP forms in the ADAMS Main Library, called "NCP Forms." In a memorandum dated June 13, 2011, (ML11160A100) OE requested support from offices in identifying all completed NCP forms. As of this date, OE has identified approximately 50 NCP forms. However, OE is continuing to work with several offices in reconciling several more NCP forms and resolving outstanding questions.

Once all NCP forms have been identified, OE will ensure that they are filed in the NCP Forms folder in ADAMS. OE will also begin assigning tracking numbers in conjunction with the revision of NRC Form 757. OE plans on posting all closed NCP Forms on the NCP web site to increase employee awareness of how NCPs are dispositioned.

Completion date: Third quarter of 2011. This represents a one-quarter slippage from our March 31, 2010, response.

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.

Status: Resolved.

AUDIT OF NRC'S NON-CONCURRENCE PROCESS

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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 July 27, 2011:   OE has developed a formalized system to promote consistent and routine capture and review of submitted Forms 757. This guidance is included in the OCWE Champion Handbook. OE will ensure that the MD and handbook reflects this formalized system and guidance.

Completion date: Complete.

OIG Analysis: OE basically meets the intent of the recommendation with its project manager checklist that is included in the OCWE Champion Handbook. This recommendation is therefore considered closed.

Status: Closed.

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

Agency Response
Dated July 27, 2011:   Although the 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.

Because the NCP is not a routine process, OE recognizes the value of providing greater oversight during the process to help participants successfully implement the NCP. OE is sensitive to employees' perceptions on using the NCP and successful implementation can improve perceptions of the NCP. As previously noted, OE plans to revise the guidance to include oversight and coaching during the process by the NCP Program Manager.

Completion date: Consistent with the Internal Safety Culture Task Force 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 provided that the assessments are distinct to the NCP and are not merely a broader review of the OCWE initiative. 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.