

March 31, 2011

MEMORANDUM TO: Stephen D. Dingbaum
Assistant Inspector General for Audits
Office of the Inspector General

FROM: Roy Zimmerman, Director */RA/N. Hilton for*
Office of Enforcement

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

The following provides a status of planned actions in response to Recommendations 1 through 8, as contained in the subject audit report.

Recommendation 1

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

Status

The Executive Director for Operations (EDO) 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 non-concurrence process (NCP) as part of an Open, Collaborative Work Environment (OCWE). Management will communicate this clearly through multiple communication tools, which will include EDO Updates, monthly senior management meetings, all supervisor meetings, senior leadership meetings, and Yellow Announcements.

Senior Leadership Meeting, November 2010: The EDO spoke about the value of and expectations for the NCP at the Senior Leadership Meeting. In his message to the senior leaders, the EDO focused on how these activities continue to contribute to an OCWE at the NRC. He asked the Office Directors and Regional Administrators to periodically communicate the existence and importance of the non-concurrence process, and to convey to the staff that they can take advantage of this tool. (Enclosure 1 includes confirmation of this activity from the Office of the Executive Director for Operations (OEDO).)

CONTACT: Renée M. Pedersen
301-415-2742

EDO Update, January 5, 2011: The EDO's message referenced OCWE and noted an increase in the use of the NCP "...which means that some of you may now feel more comfortable expressing your opinions and disagreements, as appropriate. I believe that your active engagement results in the highest quality products and regulatory decisions."

<http://www.internal.nrc.gov/oedo/updates/2011/2011-0105.html>

All Senior Level System Meeting, March 14, 2011: The EDO spoke about the value of and expectations for the NCP at an all-SLS meeting. (Enclosure 2 includes confirmation of this activity from the OEDO.)

All Supervisor Meeting, March 15, 2011: The Deputy Executive Director for Corporate Management (acting for the EDO) spoke about the value of and expectations for the NCP at an all first line supervisor meeting. (Enclosure 2 includes confirmation of this activity from the OEDO.)

EDO Update, March 23, 2011: The EDO's message referenced OCWE in light of the staff's need to remain committed and flexible during the challenging circumstances following the Fukushima Event. <http://www.internal.nrc.gov/oedo/updates/2011/2011-0323.html>

Completion date: Ongoing activities beginning with the November 2010 Senior Leadership Meeting and continuing through 2011.

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

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 process personnel.
- e. The availability of the Differing Views Office Liaisons.

Status

The Office of Enforcement (OE) is in the process of revising MD 10.158.

- 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. 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, 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 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.¹ OE intends to make additional revisions to Form 757 as a way of addressing process improvements prior to the finalization of the NCP MD. In particular, OE intends to create an additional page for the form that will include set-by-step instructions for completing the form. 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 the changes to the form.
- d. OE will ensure that the MD and handbook includes enhanced guidance on the responsibilities for key NCP personnel. In particular, the guidance will emphasize the document signer's responsibility to ensure that the response to the non-concurrence be complete and on point. OE is also proposing that an NCP Program Manager be included to help employees successfully implement the NCP and ensure ongoing oversight. OE currently has a POC for the NCP (Renée Pedersen) and Ms. Pedersen will assume this function. OE is currently revising the Differing Views Office Liaison (DVOL) Handbook (titled OCWE Handbook) to reflect this position. (See Enclosure 3)
- e. Differing Views Office Liaisons (DVOLs) were established in 2008 to serve as office level resources to proactively promote OCWE and aid employees in ways to raise concerns, including the NCP. Earlier this year, the title of DVOL was revised to OCWE Champions. OE intends to update the guidance in the MD and handbook to reflect the roles and responsibilities of OCWE Champions in support of the NCP. OE has updated the DVOL Handbook to reflect the expectations of this position. (See Enclosure 3.)

Completion date: Second quarter of 2011.

POC: Renée Pedersen, OE.

Recommendation 3

Finalize MD 10.158 by the end of 2011.

¹ Form 757 was revised in 2009 to (1) require that a copy of the NCP submittal be sent to the Differing Views Program Manager—to increase implementation coaching opportunities, (2) provide more detailed instructions for completing Section C—to emphasize the need for a current and complete discussion, (3) require signature of document signer—to emphasize the responsibility to ensure that concerns raised by the filer were adequately addressed and the response to the concerns documented in Section C were complete and on point, and (4) indicate whether the filer wants the form public or non-public—to emphasize the requirement for the document sponsor to get filer's input on this issue.

Status

OE appreciates the benefits of finalizing the MD by the end of 2011. However, OE recognizes that existing workload issues and resource limitations may make finalizing MD 10.158 by the end of 2011 difficult. The current POC for this activity is also responsible for revising and finalizing MD 10.159, "The Differing Professional Opinions Program."

In an effort to maximize the effectiveness and efficiency for these projects, OE is embarking on an innovative strategy to update the NCP MD in parallel with the DPO MD. OE is collaborating with the Office of Administration on a pilot program to solicit office level reviews by using SharePoint. OE also intends to use OCWE Champions as a resource to focus office level reviews. Because these programs have common themes and issues, it makes sense for the OCWE Champions to review both MDs in parallel. In addition, because of the relationship between the processes, there are also consistency issues within the MDs.

OE also intends to engage employees who have participated in the NCP and the DPO process as part of the MD revision and finalization 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 high quality revision that will be submitted to the Commission, for approval and finalization. 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.

OE appreciates the benefit of timely guidance to the staff and believes that updating NRC Form 757 to include detailed step-by-step instructions will address this concern on an interim basis until the MD is finalized.

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 4

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

Status

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.

Recommendation 5

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

Status

The web page (<http://www.internal.nrc.gov/OE/ocwe/contacts.html#ois>) has been updated to reflect the latest OCWE Champions. OE will routinely review and revise the web site to reflect updates at least every quarter. This process is captured in the latest revision of the OCWE Handbook. (See Enclosure 3.)

Completion date: The web page was updated at the end of 2010 and was most recently updated on March 29, 2011. The revised guidance in the OCWE Handbook is enclosed.

OE considers that all actions necessary to address this recommendation have been completed.

POC: Renée Pedersen, OE

Recommendation 6

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

Status

OE has already created a central repository in the ADAMS Main Library, called NCP Forms. OE has identified 39 records in ADAMS based on profiling in accordance with ADAMS Template NRC-006 (i.e., document type=non-concurrence process). OE is in the process of forwarding this list to all offices to verify the appropriateness of records currently identified as “non-concurrence process” and help identify all closed NCP forms.

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.

OE will revise the OCWE Handbook to reflect this process prior to finalizing the NCP MD.

Completion date: Second quarter of 2011. This represents a one-quarter slippage from our November 5, 2010, response due to competing workload issues and, resource limitations.

POC: Renée Pedersen, OE

Recommendation 7

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

Status

OE is currently taking action to revise NRC Form 757 to require that forms be sent to the NCP Program Manager in OE. NRC Form 757 will be revised to include a tracking number that will be assigned by the NCP Program Manager in OE. OE will post closed NCP Forms on the NCP web site. This strategy will be highlighted in training and outreach activities until the guidance in MD 10.158 is revised.

OE will revise the OCWE Handbook to reflect this formalized process prior to finalizing the NCP MD.

Completion date: Second quarter of 2011. This represents a one-quarter slippage from our November 5, 2010, response due to competing workload issues and, resource limitations.

Recommendation 8

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

Status

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.

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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

Enclosures:

As stated

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POC: Renée Pedersen, OE

Enclosures:

As stated

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