



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

**OFFICE OF THE
INSPECTOR GENERAL**

February 8, 2013

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 DECEMBER 19, 2012

Attached is the Office of the Inspector General's analysis and status of recommendations 2, 3, 4, and 8 as discussed in the agency's response dated December 19, 2012. Based on this response, recommendation 2 is now considered closed while recommendations 3, 4, and 8 remain in resolved status. Recommendations 1, 5, 6, and 7 were closed previously. Please provide an updated status of the resolved recommendations by March 15, 2013.

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

Agency Response Dated
Dated December 19, 2012:

On December 10, 2012, the Office of Enforcement (OE) issued a comprehensive revision of Management Directive (MD) 10.158, "NRC Non-Concurrence Process," (NCP) to all offices for review and comment (Enclosure 1). The revision addresses the recommendations from this audit and incorporates lessons learned from implementation, insights from employee feedback, the Internal Safety Culture Task Force report (including focus group feedback), the Office of the Inspector General (OIG) 2009 Safety Culture and Climate Survey (including additional focus group feedback), and the Issues Resolution Task Group (including a contractor report and participant feedback). Enclosure 2 includes a list of significant differences between the 2006 published MD 10.158 and the revised MD 10.158 and highlights when revisions were directly responsive to this audit.

- a. Section III.B.2 (b) in the handbook (p.12) includes a requirement for the NCP Coordinator to keep the non-concurring individual informed of the status and

Audit Report

AUDIT OF NRC'S NON-CONCURRENCE PROCESS

OIG-11-A-02

Status of Recommendations

Recommendation 2 (cont.):

progress of the NCP review. The guidance was also enhanced to emphasize the importance of including the non-concurring individual included in further discussions on the issue (when appropriate).

- b. A new objective was added in the MD to ensure that the NCP is executed in a timely manner consistent with the importance of prompt action on the issue, the safety significance of the issue, the complexity of the issue, and the priority of other work activities affecting the availability of participants (4th objective, p.3.) Timeliness expectations are specifically addressed in Section I.H of the handbook and emphasized in multiple places throughout the guidance. OE enhanced 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. Detailed guidance for completion and processing of Form 757 is incorporated throughout the guidance (e.g., II.C.1, II. F.1, III.D.9, and IV.A.4). In addition, "NCP Form" was added to the glossary to emphasize that all non-concurrences must be documented on the form and the form includes high-level implementation of guidance
- d. Moved responsibilities for team leaders, supervisors and managers and all employees from the handbook to the MD to emphasize the importance and improve accountability. Added responsibilities for

Audit Report

AUDIT OF NRC'S NON-CONCURRENCE PROCESS

OIG-11-A-02

Status of Recommendations

Recommendation 2 (cont.):

the new position of the NCP PM for greater oversight of the NCP. The handbook identifies specific responsibilities for an employee initiating a non-concurrence, the NCP Coordinator, the document signer, the NCP Approver, and the NCP Program manager (PM). The implementation guidance included on the NCP Form also helps identify roles and responsibilities of key NCP personnel.

- e. Section VIII.C in the handbook addresses process assistance for individuals engaging in the NCP and includes the OCWE Champions (previously referred to as Differing Views Office Liaisons) as well as the NCP PM

Completion Date: Completed on 12/10/2012.

POC: Renée Pedersen, OE.

OIG Analysis:

OIG has reviewed the revised guidance reflecting the revisions noted in recommendation 2 and has found the recommendation to be satisfactorily met. This recommendation is therefore considered closed.

Status:

Closed.

Audit Report

AUDIT OF NRC'S NON-CONCURRENCE PROCESS

OIG-11-A-02

Status of Recommendations

Recommendation 3:

Finalize MD 10.158 by the end of 2011. (The Office of the Inspector General (OIG)'s May 10, 2011, response agreed to extend the original due date to no later than December 31, 2012.)

Agency Response

Dated December 19, 2012:

Increasing workload issues and resource limitations prevented OE from meeting the end of year goal. OE will continue to work diligently to revise the NCP MD and MD 10.159, "The Differing Professional Opinions Program." A Daily Announcement was issued on [December 11, 2012](#), encouraging all employees to review the revised NCP MD and forward comments to their OCWE Champion for inclusion with office comments. OE believes the benefit of employee engagement will improve the revision process and the credibility of the NCP and will offset the additional time that will likely be necessary to evaluate comments. OE conducted a briefing on December 17, 2012, for OCWE Champions and the National Treasury Employees Union to highlight key revisions and answer questions about the draft MD.

In addition, OE intends to incorporate insights from a contractor assigned the task of providing benchmarking research in order to understand differing views policies and processes and providing recommendations for effective policies, processes, or practices for employees to raise concerns. The contractor's report will be available in March 2013. Because MD 10.158 and MD 10.159 have common themes and guidance, OE intends to submit the revisions for final approval together to improve the efficiency and effectiveness of the MD revision process.

The staff plans on submitting MD 10.158 and MD 10.159 by June 31, 2013, and will attempt to improve upon that date as resources allow.

Completion date: 6/28/2013.

POC: Renée Pedersen, OE.

Audit Report

AUDIT OF NRC'S NON-CONCURRENCE PROCESS

OIG-11-A-02

Status of Recommendations

Recommendation 3 (cont.):

OIG Analysis:

The proposed actions meet the intent of the recommendations. OIG will close this recommendation when it receives and reviews the finalized MD 10.158 guidance reflecting the proposed revisions noted in recommendations 2. While OIG realizes the resource constraints the agency is operating under, it remains imperative that MD 10.158 is finalized as soon as possible.

In its December 19, 2012, memorandum, the agency unilaterally extended the recommendation 3 due date to June 2013. Extending a due date may be done only by OIG following discussion with the agency on the reason and necessity for the extension. More importantly, extending the deadline does not meet the fundamental intent of the recommendation, which is to finalize NCP guidance in an expedient manner.

Following a conversation with senior management from the Office of Enforcement, OIG decided to grant a final extension for completing recommendation 3. As such, MD 10.158 must be finalized *no later than* June 30, 2013, without exception. In the interim, Recommendation 3 will remain in resolved status.

Status:

Resolved.

Audit Report

AUDIT OF NRC'S NON-CONCURRENCE PROCESS

OIG-11-A-02

Status of Recommendations

Recommendation 4:

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

Agency Response

Dated December 19, 2012:

OE intends to collaborate with the Office of the Chief Human Capital Officer (OCHCO) and develop on-line, on-demand training for all staff and managers on the NCP. 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 web site](#) (e.g., overview, FAQs, closed cases). OE continues to promote awareness of the NCP through various activities, such as the recent All Hands meeting for the Office of Administration on December 13, 2012. OE has completed a video, "It Takes a Team," that includes information on the NCP, as well as the Open Door Policy, and the Differing Professional Opinions (DPO) Program. OE intends to use the video in conjunction with future outreach activities.

In addition, OE believes that oversight by the NCP PM and step-by-step instructions included on the revised NCP Form will promote successful implementation.

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 OCHCO.

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 developed and instituted by the Office of Enforcement.

Audit Report

AUDIT OF NRC'S NON-CONCURRENCE PROCESS

OIG-11-A-02

Status of Recommendations

Recommendation 4 (cont.):

Status:

Resolved.

Audit Report

AUDIT OF NRC'S NON-CONCURRENCE PROCESS

OIG-11-A-02

Status of Recommendations

<u>Recommendation 8:</u>	Perform regularly scheduled comprehensive assessments of the non-concurrence process.
Agency Response Dated December 19, 2012:	<p>Section I.4 of the NCP MD requires that the NCP PM periodically perform comprehensive assessments of the NCP.</p> <p>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 plans on performing assessments of the non-concurrence process within one year after each OIG Safety culture and climate survey.</p> <p>Completion date: Completed on 12/10/2012.</p> <p>POC: Renée Pedersen, OE.</p>
OIG Analysis:	The proposed action meets the intent of OIG's recommendation provided that the assessments are specific 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.