



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

**OFFICE OF THE
INSPECTOR GENERAL**

March 25,2013

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 MARCH 14, 2013

Attached is the Office of the Inspector General's analysis and status of recommendations 3, 4, and 8 as discussed in the agency's response dated March 14, 2013. Based on this response, recommendations 3, 4, and 8 remain in resolved status. Recommendations 1, 2, 5, 6, and 7 were closed previously. Please provide an updated status of the resolved recommendations by June 30, 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: M. Landau, 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 3: Finalize MD 10.158 by the end of 2011. (The OIG's February 8, 2013, response agreed to extend the original due date to no later than June 28, 2013.)

Agency Response

Dated March 14, 2013:

On November 29, 2006, the Executive Director for Operations (EDO) issued MD 10.158 as interim policy to provide agency-wide instructions and guidance for processing non-concurrences with the understanding that it be modified to reflect experience and employee feedback. The EDO instructed all NRC staff to follow the requirements in the draft directive and handbook until a final management directive was issued and that the interim guidance superseded any existing office-level non-concurrence procedures. This expectation is posted on the Non-Concurrence Process (NCP) web site to ensure that all employees understand the need to follow the EDO-approved policy.

OE is continuing to work diligently to revise the NCP MD in a manner that supports lessons learned, best practices, and employee feedback (including insights from the 2012 Office of the Inspector General (OIG) Safety Culture and Climate Survey (SCCS)).

On December 10, 2012, OE requested office level review and comment on a draft revision of the NCP MD and a Daily Announcement was issued on December 11, 2012, encouraging all employees to review the draft revised NCP MD and forward comments to their Open Collaborative Work Environment (OCWE) Champion for inclusion with office comments. OE conducted a briefing on December 17, 2012, for OCWE Champions and the National Treasury Employees Union (NTEU) to highlight key revisions and answer questions about the draft MD. Participants (including NTEU) expressed appreciation for the opportunity to raise questions and better understand the rationale for key revisions.

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Status of Recommendations

Recommendation 3 (cont.):

By February 15, 2013, OE received 265 comments from 21 offices and 33 comments from employees. Although several offices had no comments, OE will be challenged to address many of the comments because they cover a broad spectrum of approaches to the process—including some that are diametrically opposed—such as adding an additional step to the process to allow non-concurring employees to review and comment on management's response, to eliminating the formal process and form in lieu of informal discussion.

As previously noted in our December 19, 2012, status update, 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 at the end of March 2013.

In addition, OE intends to incorporate insights from a targeted survey sent to NCP participants (i.e., employees who submitted non-concurrences and employees who responded to non-concurrence) that is included in the agency-level action plan for the SCCS. Survey results will be available at the beginning of April 2013.

OE intends on conducting another briefing for OCWE Champions, NTEU, and interested employees to highlight key revisions and answer questions about the draft MD as part of the comment resolution process (i.e., Phase 3 of the MD revision process). OE believes the benefit of employee engagement will improve the revision process and the credibility of the NCP.

OE understands the importance of completing the MD and has had several discussions regarding the schedule with the OIG. OE has proposed completion dates based on our

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Status of Recommendations

Recommendation 3 (cont.):

responsibility for requesting publication of the MD which meets the timeliness goal per the Office of Administration's (ADM) 5-Year Plan (i.e. end of Phase 4 of the MD revision process.) OE is committed to completing Phase 4 of the MD revision process by June 28, 2013.

Based on recent discussions between OE and OIG staff, I understand that there is possibly a difference in the interpretation of what constitutes "finalization" of the MD for the purposes of addressing this recommendation. Phase 5 of the revision process includes actions taken by other offices, including ADM, the Office of the General Counsel, and the OEDO. Based on ADM's estimate, the Executive Director for Operations (EDO) would approve the MD approximately 10 weeks later at the end of Phase 5. In an effort to support an expedient review, OE will offer a briefing to the Deputy EDOs and OGC to address the revised MD. (This is consistent with the briefing that the Non-Concurrence Task Group provided to support the establishment of the NCP.)

ADM estimates another 2 to 3 weeks for issuance, publication, and announcement to staff (i.e., Phases 6-8).

Completion date for Phase 4 of MD process: 6/28/2013.

POC: Renée Pedersen, OE.

OIG Analysis:

The proposed actions meet the intent of the recommendation. 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 it remains imperative that MD 10.158 is finalized as

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Status of Recommendations

Recommendation 3 (cont.):

soon as possible, OIG understands that the Office of Enforcement must work in conjunction with multiple offices, including the Office of the Executive Director for Operations, the Office of Administration, and the Office of the General Counsel, throughout the finalization and publication processes for MD 10.158.

OIG further recognizes that expediently finalizing MD 10.158 depends in large part on maintaining a sustained, high-level of coordination among all involved offices. Nonetheless, a balance between meeting established metrics and producing a quality product must be met so that the result is a management directive that is both timely and helpful to staff. OIG expects that OE will uphold its obligation to complete Phase 4 of the MD finalization process by June 28, 2013, without exception. In the interim, Recommendation 3 will remain in resolved status.

Status: Resolved.

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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 March 14, 2013:

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 February 25, 2013. 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-line, on-demand training for all staff and managers approximately six months after the guidance in MD 10.158 is announced to the staff (i.e., end of Phase 8).

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

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Status of Recommendations

Recommendation 4 (cont.):

recommendation when it reviews the on-demand, NCP-related training developed and instituted by the Office of Enforcement 6 months after MD 10.158 is finalized and published.

Status: Resolved.

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Status of Recommendations

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

Agency Response

Dated March 13, 2013:

As previously noted in our December 19, 2012, status update, OE added a requirement that the NCP PM periodically perform comprehensive assessments of the NCP MD (see Section I.4 of the December 10, 2012, draft NCP MD).

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. OE received the results from the 2012 SCCS on January 8 and 9, 2013.

Completion date: 1/9/2014.

POC: Renée Pedersen, OE.

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.