



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

**OFFICE OF THE
INSPECTOR GENERAL**

July 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 JUNE 28, 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 June 28, 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 September 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: R. Mitchell, 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 June 28, 2013:

One June 12, 2013, OE completed its commitment of Phase 4 (i.e., requesting publication of the Non-Concurrence Process (NCP) MD via submission to the Office of Administration (ADM) of NRC Form 521 package), and met the timeliness goal per ADM's 5-Year Plan. ADM completed the final stage of Phase 4 (i.e., ADM reviews and accepts NRC Form 521 package) ahead of schedule on June 25, 2013. Attached please find the following supporting documents:

- Draft NCP MD 10.158
- NCP MD 10.158 Comparative Text Document (December 2012 vs. current version)
- NCP MD 10.158 Summary of Changes (November 2006 vs. current version)
- NCP MD 10.158 Comment Resolution Document
- ADM NCP MD Timeline Worksheet

OE reviewed over 300 comments through June 11, 2013. While many comments were received beyond the comment due date of January 25, 2013, OE engaged with and was responsive to offices/regions and incorporated much of the feedback, while still meeting ADM's schedule.

OE worked to address a multitude of comments that covered a broad spectrum of approaches to the NCP, some of which were diametrically opposed. In an effort to reach alignment, we proactively reached out to stakeholders and gained consensus in response to several particularly challenging comments. In addition, we incorporated insights from lessons learned, outreach efforts, contractor review/benchmarking reports, and a targeted survey sent to NCP participants.

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Status of Recommendations

Recommendation 3 (cont.):

As a result of feedback received, we made the following revisions to the draft NCP MD: Clarified objectives, roles and responsibilities; added option to waive written evaluation to a non-concurrence; added timeliness goals; added guidance on communications during the NCP; revised process to ensure the NCP Form is distributed to all on concurrence; provided discretion to suspend concurrence process while a non-concurrence is evaluated; encouraged a non-concurrence “kick-off” meeting; recommended alignment meeting for addressing issues; added guidance on follow-up actions; and clarified guidance on discontinuing a non-concurrence. In addition, we redirected selection of the NCP Coordinator and approving Section C (i.e., agency’s evaluation and final outcome) of the NCP Form from OEDO to the lead organizations Office Director/Regional Administrator responsible for documents signed by the OEDO.

On May 10, 2013, the revised MD Comment Resolution Document was distributed to all offices, including the National Treasury Employees Union (NTEU). All Office Directors, Regional Administrators and NTEU were asked to provide any significant concerns with the way OE addressed their comments. In response to our request, we received additional comments from several offices. For specific comments along with OE’s responses, see attached Comment Resolution Document (MD Comment Nos. 90-111; Handbook Comment Nos. 22 and 174-194.)

On May 14, 2013, OE conducted a well attended, briefing for Open Collaborative Work Environment (OCWE) Champions, NTEU and all interested employees to highlight “What We’ve Heard” and “What We’ve Done” to improve the content and layout of the MD. We highlighted key revisions and responded to questions about the draft MD as part of the comment resolution process. This employee engagement was an integral step in the revision process and was received positively. NTEU feedback reflected the positive

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Status of Recommendations

Recommendation 3 (cont.):

tone of the audience as stated in an e-mail to the NCP PM—
“Thank you for engaging NTEU in the revision of MD 10.158.
Thank you for a balanced, much improved NCP which will
help to promote a more Open Collaborative Work
Environment at the NRC.”

As we committed to in our March 14, 2013, status update to
the OIG, OE will brief the Deputy EDOs and OGC on July
15, 2013. The briefing will address substantive revisions to
the MD and provide an opportunity for questions and
discussion. (This is consistent with the briefing that the Non-
Concurrence Task Group provided to support the
establishment of the NCP.)

Additionally, the staff intends on revisiting some of the
comments received, but not included, for possible
reconsideration as part of a subsequent revision.

Completion date for Phase 4 of the MD process: 6/25/2013.

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 the agency described in its
December 19, 2012, response concerning recommendation
2 (to revise MD 10.158), which is now closed.

OIG recognizes that throughout the multi-phased
Management Directive revision process, the responsible
office is required to coordinate with multiple other offices.
Specifically, as the owner of MD 10.158, OE has worked
closely with other offices, including the Office of the
Executive Director for Operations, the Office of
Administration, the Office of the General Counsel, and the
Office of the Chief Human Capital Officer. This requires a

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Status of Recommendations

Recommendation 3 (cont.):

sustained, high-level of coordination and communication among all involved offices.

OIG recognizes that OE has met its obligation to complete Phase 4 of the MD finalization process by June 28, 2013. However, as the owner of MD 10.158, OE has ultimate responsibility for ensuring that the MD completes the remaining phases of the revision process regardless of other offices' involvement in the process.

As noted by OE in its status memorandum to OIG dated March 14, 2013, it is estimated that approximately 13 weeks from the completion of Phase 4 (June 25, 2013), the MD will be finalized and published in final. Therefore, OIG expects that MD 10.158 will be published in final no later than October 4, 2013. 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 June 28, 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. OE has prepared draft updates to the NCP Web site which include an enhanced NCP overview, FAQ's, a process flow chart and releasability review guidelines. To further highlight and raise awareness of the NCP for all employees, OE plans to acknowledge new NCP cases on the Web site as "pending" along with the closed cases already on the Web site.

In addition, OE has developed a draft, revised NCP Form which includes step-by-step instructions and implementation guidance for inclusion on the NCP Web site. These tools will further promote successful implementation of the program.

We have continued to promote awareness of the NCP through various activities, such as a recent presentation given to a branch within NRR's Division of License Renewal. In addition, OE promoted the NCP at an NRC Team Player Award presentation on May 9, 2013. Bill Borchardt, OEDO, presented the award to an NRO employee who raised a differing view by using the NCP. Many NRO staff were also in attendance for the award presentation.

Completion date: Commensurate with available support from OCHCO, OE will develop on-line, on-demand training available 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 coordination with OCHCO.

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Status of Recommendations

Recommendation 4 (cont.):

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 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 June 28, 2013:

Section III.D.2 of the current guidance in the MD requires that the Director, Office of Enforcement ensures that periodic assessments of the NCP are performed.

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.