

**REPORT TO CONGRESS ON THE STATUS OF ADDRESSING AND
IMPLEMENTING THE RECOMMENDATIONS CONTAINED IN
“TASKING IN RESPONSE TO THE ASSESSMENT OF THE
CONSIDERATIONS IDENTIFIED IN A ‘STUDY OF REPRISAL AND
CHILLING EFFECT FOR RAISING MISSION-RELATED CONCERNS
AND DIFFERING VIEWS AT THE NUCLEAR REGULATORY
COMMISSION’”**



By the U.S. Nuclear Regulatory Commission

INTRODUCTION

The U.S. Nuclear Regulatory Commission (NRC) developed this report in accordance with Section 109 of the Nuclear Energy Innovation and Modernization Act, which requires the NRC to submit to Congress a report describing the status of addressing and implementing the recommendations in the memorandum of the Executive Director for Operations (EDO) entitled “Tasking in Response to the Assessment of the Considerations Identified in a ‘Study of Reprisal and Chilling Effect for Raising Mission-Related Concerns and Differing Views at the Nuclear Regulatory Commission,’” dated June 19, 2018.

BACKGROUND

The NRC’s mission is to license and regulate the Nation’s civilian use of radioactive materials to provide reasonable assurance of adequate protection of public health and safety, to promote the common defense and security, and to protect the environment. To achieve this mission, the NRC applies certain principles and values to guide our agency in the execution of our regulatory activities. These include, among other things, the maintenance of an open and collaborative work environment that encourages all employees and contractors to speak up and share concerns and differing views without fear of negative consequences.

The Office of Enforcement engaged with other NRC offices to develop a study entitled “Study of Reprisal and Chilling Effect for Raising Mission-Related Concerns and Differing Views at the NRC.” This study was not a consensus product and did not represent final agency analysis, or conclusions regarding the environment for raising concerns at the NRC. Rather, the study was a step by the staff in an effort to identify possible mechanisms by which the NRC could further promote a positive safety culture environment.

After reviewing the study and recommendations, the EDO determined that action should be taken in response to seven of the nine recommendations identified. This report provides the status of the NRC’s efforts toward addressing and implementing these seven recommendations. The agency considers these efforts a priority.

It should be noted that the agency already has in place policies and practices to ensure that whistleblowers are protected. For example, the agency conducts annual training under the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act) and has previously invited the U.S. Office of Special Counsel (OSC) to conduct supervisory whistleblower training. In addition, whistleblower retaliation allegations can be raised through collective bargaining and administrative grievance procedures or be brought to the Office of the Inspector General (OIG).

STATUS OF ADDRESSING AND IMPLEMENTING THE SEVEN RECOMMENDATIONS

1. Demonstrate management commitment and accountability.

Task 1.1	✓ Task 1.2	Task 1.3
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2. Survey all employees to ask whether they believe they have experienced reprisal for raising a mission-related concern or differing view.

✓ Task 2.1	✓ Task 2.2
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3. Establish and maintain a comprehensive policy and procedures to prevent, identify, investigate, and address reprisal for raising mission-related concerns or differing views.

Task 3.1

4. Examine existing training and consider adding, enhancing, or replacing.

Task 4.1

5. Enhance communications on whistleblower rights and protections.

Task 5.1	Task 5.2
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6. Continue to communicate the value of raising mission-related concerns and differing views and that the agency does not tolerate reprisal for speaking up or using the differing views processes.

Task 6.1	Task 6.2
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7. Establish an agency-level advisory committee on environment for raising mission-related concerns and differing views.

✓ Task 7.1	Task 7.2
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Key:

Task action complete	✓
Task action in progress Anticipated completion within 6 months	
Task action in progress Anticipated completion greater than 6 months	

1. Demonstrate management commitment and accountability.

Action	Status	Anticipated Completion	
1.1 Develop and implement a Differing Views Campaign to increase awareness and availability of the Differing Views Program and affirm management's commitment to the program at the NRC.	In progress	April 2019	
1.2 Complete the formal assessment of the Differing Views Program to improve the program's effectiveness and efficiency.	Complete	Completed December 2018	
1.3 Develop and implement a neutral fact-finding process to provide an avenue whereby employees can raise allegations of retaliation for submitting and/or participating in the Differing Views Program.	In Progress	Brief senior agency leadership – April 2019 Implementation option decision – June 2019	

1.1 Differing Views Campaign

A month-long Differing Views Campaign is scheduled for April 2019. Example campaign activities include, but are not limited to, a Differing Views Program Open House for all NRC employees, external speakers from the Department of Energy (DOE) to discuss differing views programs at their agency and the critical roles that those programs play in decision-making, a panel discussion with NRC participants who have used the Differing Views Program to address their concerns, and a replay of a digital presentation from the NRC's March 2019 Regulatory Information Conference entitled "Understanding and Using the NRC's Differing Views Program." Participation in the Differing Views Campaign will be open to all NRC employees.



1.2 Differing Views Program Assessment

In December 2018, a formal Differing Views Program Assessment was completed. The results of this assessment provided agency senior leadership with recommendations to improve the effectiveness and efficiency of the NRC's non-concurrence process and differing professional opinion program. These recommendations are under review by the EDO who will issue an associated tasking by the end of April 2019, for staff implementation.

1.3 Fact-Finding Process

Staff will brief NRC senior leadership in April 2019 on possible options for staff to raise allegations of retaliation for raising safety concerns. The EDO will, taking into account task 1.2 above, decide on an appropriate approach by the end of June 2019.

2. Survey all employees to ask whether they believe they have experienced reprisal for raising a mission-related concern or differing view.

Action	Status	Anticipated Completion	
2.1 Review the 2017 Federal Employee Viewpoint Survey and 2015 OIG Safety Culture and Climate Survey results to determine additional areas of actions to be pursued in the Differing Views Campaign (see task 1.1).	Complete	Completed December 2018	
2.2 Provide proposed survey questions related to reprisal for the 2019 OIG Safety Culture and Climate Survey.	Complete	Completed prior to June 2018 tasking memorandum	

2.1 Review of Survey Results

A cross-agency group of managers reviewed and compared the results from the 2016 and 2017 Federal Employee Viewpoint Surveys and the 2015 OIG Safety Culture and Climate Survey. The group found neutral to slightly positive trends in questions related to willingness to engage with the Differing Views Program. Given these trends, the group did not recommend additional action areas to be pursued in the Differing Views Campaign.

2.2 Future Survey Questions

New questions related to the Differing Views Program were recommended to OIG in 2018 for the next OIG Safety Culture and Climate Survey. The Fiscal Year (FY) 2019 Safety Culture and Climate Survey was postponed to FY 2020. Engagement on proposed questions will continue.

3. Establish and maintain a comprehensive policy and procedures to prevent, identify, investigate, and address reprisal for raising mission-related concerns or differing views.

Action	Status	Anticipated Completion	
3.1 Develop and implement a neutral fact-finding process to provide an avenue whereby employees can raise allegations of retaliation for submitting and/or participating in the Differing Views Program.	In Progress	Brief senior agency leadership – April 2019 Implementation option decision – June 2019	

The working group recommended that implementation of the neutral fact-finding process from task 1.3 above would address task 3, and the EDO accepted this recommendation. For additional information about task 1.3, please see page 3 of this report.

4. Examine existing training and consider adding, enhancing, or replacing.

Action	Status	Anticipated Completion	
4.1 Review existing employee training related to the Differing Views Program and update the training as necessary.	In Progress	April 2020	

4.1 Differing Views Training

Staff is reviewing existing training. Proposed enhancements, additions, or replacements of existing training will be entered into the appropriate agency change management process for disposition.

5. Enhance communications on whistleblower rights and protections.

Action	Status	Anticipated Completion	
5.1 Develop a communication strategy related to whistleblower rights and protections to be implemented at the month-long Differing Views Campaign (see task 1.1).	In Progress	April 2019	
5.2 Implement annual training to all supervisors related to responding to complaints alleging a violation of whistleblower protections, pursuant to the Dr. Chris Kirkpatrick Whistleblower Protection Act of 2017.	In Progress	December 2019	

5.1 Differing Views Campaign

The working group recommended that this communication strategy related to whistleblower rights and protections be implemented as part of task 1.1 above, and the EDO accepted this recommendation. A month-long Differing Views Campaign is scheduled for April 2019. For additional information about task 1.1, please see page 3 of this report.

5.2 Whistleblower Protection Training


On August 21, 2018, a representative from OSC presented a training at the NRC on prohibited personnel practices, including whistleblower rights and requirements of supervisors with regard to whistleblowers. This training was recorded and assigned in the agency's training system to all supervisors who did not attend the session in person. Annual supervisory whistleblower training will begin later in 2019. Additionally, the NRC is awaiting training guidance from OSC on supervisor training related to the Dr. Chris Kirkpatrick Whistleblower Protection Act of 2017.

6. Continue to communicate the value of raising mission-related concerns and differing views and that the agency does not tolerate reprisal for speaking up or using the differing views processes.

Action	Status	Anticipated Completion	
6.1 Develop and implement a Differing Views Campaign to increase awareness and availability of the Differing Views Program and affirm management's commitment to the program at the NRC (see task 1.1).	In Progress	April 2019	
6.2 Develop and implement a neutral fact-finding process to provide an avenue whereby employees can raise allegations of retaliation for submitting and/or participating in the Differing Views Program (see task 1.3).	In Progress	Brief senior agency leadership – April 2019 Implementation option decision – June 2019	

The working group recommended that the specific communications described in task 6 be implemented as part of task 1.1 and task 1.3 above, and the EDO accepted this recommendation. For additional information about task 1.1 and task 1.3, please see page 3 of this report.

7. Establish an agency-level advisory committee on environment for raising mission-related concerns and differing views.

Action	Status	Anticipated Completion	
7.1 Review the charter for the Diversity Management and Inclusion Council and consider adding a Differing Views subgroup to conduct an independent review of any challenges or issues related to the Differing Views Program.	Complete	Completed December 2018	
7.2 If the Differing Views subgroup is added, task that subgroup with analyzing relevant data from future surveys and report the results to the appropriate program office(s).	In Progress	December 2020	

7.1 Differing Views Advisory Group

The Diversity Management and Inclusion Council considered the addition of a Differing Views subgroup and decided in December 2018 that it would establish a Differing Views subgroup. The subgroup has not yet been formed.

7.2 Survey Analysis

Once the Differing Views subgroup is established, it will conduct an independent programmatic review of any challenges or issues related to the Differing Views Program. The information and data for this focused review will be the periodic Differing Views

assessment and any relevant results from surveys such as the Federal Employee Viewpoint Survey, the NRC OIG Safety Culture and Climate Survey, and any other Differing Views Program surveys or initiatives completed in any given calendar year. The anticipated completion date for this action is tied to the next NRC OIG Safety Culture and Climate Survey, which is scheduled for FY 2020.