

March 2, 1999

SECY-99-065

FOR: The Commissioners

FROM: William D. Travers /s/  
Executive Director for Operations

SUBJECT: REVISION OF MANAGEMENT DIRECTIVE 10.159, *DIFFERING PROFESSIONAL VIEWS OR OPINIONS*

PURPOSE:

To inform the Commission of the staff's intention (1) to publish the attached management directive with revisions addressing the concerns of two staff members; and (2) to retain the established policy of decentralized administration and processing of Differing Professional Views (DPVs).

BACKGROUND:

The revisions to Management Directive 10.159 (Attachment 1), address the concerns expressed in an employee's April 21, 1998, memorandum to Ashok C. Thadani responding to a request for comments regarding the employee's differing professional opinion (Attachment 2), and those expressed in item 4 of Attachment 2 of another employee's August 5, 1998, memorandum to the EDO, Request for Review of Concerns Related to Technical Specification Setpoints and Allowable Values for Instrumentation Under Formal Differing Professional Opinion (DPO) Procedures (Attachment 3). The revised directive also retains decentralized tracking of DPVs. A summary of these issues was provided in Mr. Blaha's note (Attachment 4).

DISCUSSION

The first employee's concerns about the follow-up of actions identified in DPV close-out memoranda were addressed by assigning an oversight function to the Secretary of the

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Commission, the Deputy Executive Director for Regulatory Effectiveness, the Chief Financial Officer, the Chief Information Officer, Office Directors, and Regional Administrators; and through the addition of paragraph (B)(5) in the handbook. These changes, coupled with the EDO's memorandum dated July 22, 1998, DPV/DPO Process (Attachment 5), should provide the guidance necessary to adequately address the employee's concerns. We deemed it inappropriate to add language to the directive or handbook regarding follow-up actions on DPOs because DPOs are processed at the Commission and EDO levels, and those responsibilities are integral to and implicit in the functions of those organizations.

The second employee's concerns that DPV and DPO reviews and decisions should not involve individuals who have directly participated in the formulation of the agency position that is at issue are addressed by adding that idea to paragraphs (B)(3)(a) and (C)(2)(a) of the handbook. The changes to those paragraphs, in effect, reiterate an idea already contained in paragraphs (B)(4)(a) and (C)(3)(a) of the handbook. Although these changes cannot fail-safe against actions similar to those of concern to the employee, they reinforce the principle of independent and impartial review, and remind those who seek to address and resolve DPVs and DPOs of the importance of ensuring not only the reality, but the perception of an independent and impartial review.

We feel that these changes to the management directive, and the memorandum from the EDO, should adequately reinforce the agency policy to conduct timely, independent, and impartial reviews and actions on issues raised under the DPV/DPO process.

We also feel that it is in the best interests of the program and the agency to continue with the long established policy of decentralized DPV administration and processing. Meeting deadlines in a timely manner is an inherent part of the job for every office director and regional administrator. A centralized tracking system may, at the margin, save a few processing slippages, but on balance, the potential chilling effect that such a centralized tracking system may have on employees' willingness to submit DPVs significantly outweighs the possible benefits that may be derived.

Although the adoption of a centralized method for tracking the progress of DPVs could, in theory, help offices and regions more consistently meet processing deadlines, the chilling effect such tracking may have on employees' willingness to submit DPVs may be significant. The historical purpose of DPVs is to provide employees with a nonthreatening way to raise their concerns to management's attention. By its nature, the trust factor in the DPV/DPO arena is fragile and tenuous at best. Some employees who may be willing to raise issues at the office or regional level may not be willing to raise those same issues at the agency level. In the highly sensitive area of DPV/DPO, a centralized tracking system could easily be perceived as bringing DPVs to the attention of a higher level of management than the employee is comfortable with. That perception could result in some employees not submitting DPVs. The DPV framework contained in the directive was developed, and has been maintained, by a sometimes hard fought consensus between management and employee representatives. A unilateral action by management to alter that framework could have a deleterious effect on the overall program effectiveness.

RECOMMENDATION:

Staff requests action within 10 days. Action will not be taken until the SRM is received. We consider this action to be within the delegated authority of the EDO. The Office of the General Counsel has no legal objection to the publication of this management directive.

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for Operations

Attachments: As stated