

ORDER

DOE O 251.1C

Approved: 1-15-09

DEPARTMENTAL DIRECTIVES PROGRAM



U.S. DEPARTMENT OF ENERGY
Office of Management

DEPARTMENTAL DIRECTIVES PROGRAM

1. PURPOSE.

- a. To define requirements and responsibilities for implementing the Department of Energy (DOE) Directives Program in support of the Secretary's memorandum of September 10, 2007, "Principles Governing Departmental Directives." Note: Upon issuance of this Order, DOE O 251.1C, the Secretary's memorandum of September 10, 2007 will be incorporated as a Policy directive in accordance with this Order.
- b. To establish directives as the primary means to set, communicate, and institutionalize policies, requirements, responsibilities, and procedures for Departmental elements and contractors.
 - (1) Directives facilitate achievement of DOE's strategic and operational goals. They also help ensure safe, secure, efficient, cost-effective operations and compliance with applicable legal requirements.
 - (2) Directives promote operational consistency throughout the DOE complex and foster sound management.

2. CANCELLATION. DOE P 251.1A, *Departmental Directives Program Policy*, DOE O 251.1B, *Departmental Directives Program*, and DOE M 251.1-1B, *Departmental Directives Program Manual*, all dated 8-16-06. All other current Policies, Orders, Manuals, and Guides will remain in effect until revised according to this Order. Note: Manuals will be phased out over time as a result of this Order.

Cancellation of a directive does not, by itself, modify or otherwise affect any contractual or regulatory obligation to comply with the directive. Contractor Requirements Documents (CRDs) that have been incorporated into a contract remain in effect throughout the term of the contract unless and until the contract or regulatory commitment is modified to either eliminate requirements that are no longer applicable or substitute a new set of requirements. Note: For directives requiring Central Technical Authority (CTA) concurrence and published prior to this order, the exemption provisions in Appendix E must be followed until the directive is revised to comply with this order.

3. APPLICABILITY.

- a. Departmental Applicability.
 - (1) With the exception of the Procurement Management System, this Order applies to all programs.
 - (2) The Administrator of the National Nuclear Security Administration (NNSA) must assure that NNSA employees comply with their

responsibilities under this directive. Nothing in this directive will be construed to interfere with the NNSA Administrator's authority under section 3212(d) of Public Law (P.L.) 106-65 to establish Administration-specific policies, unless disapproved by the Secretary.

- (3) This Order takes precedence over all other directives with respect to their development, approval and revision or cancellation.
- b. DOE Contractors. Does not apply to contractors.
 - c. Equivalencies/Exemptions for DOE O 251.1C.
 - (1) Requests for Equivalencies and Exemptions to this Order must be in memorandum form and sent to the Office of Information Resources.
 - (a) The memorandum must briefly justify the reasons for the Equivalencies/Exemptions.
 - (b) The memorandum must reference the offices, or localities, and requirements for which the Equivalency/Exemption is sought.
 - (2) Equivalency. In accordance with the responsibilities and authorities assigned by Executive Order 12344, codified at 50 USC sections 2406 and 2511, and to ensure consistency throughout the joint Navy/DOE Naval Nuclear Propulsion Program, the Deputy Administrator for Naval Reactors (Director) will implement and oversee requirements and practices pertaining to this directive for activities under the Director's cognizance, as deemed appropriate.
 - (3) Exemption. Procurement Management System is exempt. However, DOE heads of contracting activities (HCAs) will be afforded a reasonable opportunity to review and comment on draft Acquisition Letters that provide guidance, instruction, or direction to contracting officers, where such guidance, instruction or direction significantly affects contract terms and conditions of management and operating (M&O) contracts and other site and facility management contracts. In those situations where the Senior Procurement Executives provide guidance, instruction, or direction to contracting officers, including where such guidance, instruction or direction may significantly affect contract terms and conditions of management and operating (M&O) contracts and other site and facility management contracts, the Procurement Management System will be exempt.
 - (a) DOE heads of contracting activities (HCAs) will be afforded reasonable opportunity to review and comment on any such guidance, instruction or direction, including but not limited to draft Acquisition Letters (e.g., where the draft Acquisition Letter would

require the contracting officer to modify an existing contract clause or add a contract clause during an on-going contract term).

- (b) Other examples would be instances where guidance, instruction, or direction set out in the draft Acquisition Letter would materially impact the contractor's performance, materially impact the contract funding, or change the rights and remedies of the parties. This opportunity will be provided so that the HCA's review will be conducted concurrent with any other standard internal reviews (i.e., Procurement Executives, Procurement Counsels) for a particular draft Acquisition Letter.
- (4) Exemption. The Chief Financial Officer's Accounting Handbook. However, DOE Field CFOs will be afforded a reasonable opportunity to review and comment on draft handbook chapters that provide guidance, instruction or direction to Field CFOs.
- (5) Exemption. CFO budget calls, which provide guidance, instruction and direction to Headquarters Departmental elements and the field on the preparation of budgets.
- (6) Exemption. Guidance, direction and instruction issued by the Department's Designated Agency Ethics Official (DAEO) in carrying out the DAEO's responsibilities required by law or by the Office of Government Ethics, or as determined necessary by the DAEO in carrying out the Department's ethics and standards of conduct program.
- (7) Exemption. Guidance, direction and instruction issued by the Department's General Counsel to, or concerning the management of, the Department's attorneys and the legal services and advice they render.
- (8) Equivalency or Exemption determinations made under this Order which involve NNSA organizations shall be made by the Administrator of the NNSA or designee.

4. GENERAL REQUIREMENTS.

- a. DOE will use directives as its primary means to establish, communicate, and institutionalize policies, requirements, responsibilities, and procedures for multiple Departmental elements.
- b. Within the structure of DOE directives, Policies provide the Secretary's direction for Orders, Notices, Guides, and Technical Standards.
- c. No single directive can take precedence (e.g., override requirements or responsibilities) over another, with the exception of this Order relative to the

development, approval and revision/cancellation of directives. Where conflicts exist between directives, the Directives Review Board (DRB) must be notified in writing by the Departmental element that identifies the conflict. If the DRB confirms that a conflict exists, one or more of the affected directives must be revised.

- d. The following principles regarding directives must be applied to simplify and clarify directives, reduce unnecessary burden, and ensure that directives support improved Departmental management and mission accomplishment.
- (1) What vs. How. Directives shall be written clearly and will specify the goals and requirements that must be met and to the extent possible, refrain from mandating *how* to fulfill the goals and requirements, thus increasing emphasis on results. However, it will sometimes be necessary to specify *how* requirements are to be met in directives that cover high risk functions such as safety and security or areas that require consistency such as financial reporting and information technology.
 - (2) Duplication of Laws, Regulations, or National Standards. Departmental directives shall not duplicate or be inconsistent with applicable laws or regulations. To the extent possible, directives also should be written so that they are consistent with or incorporate widely accepted national standards.
 - (3) Improved Planning. The need for a new directive or a major revision to an existing directive must be confirmed early in the planning process. Organizations developing a directive will also assess the inherent risk or particular need for consistency to determine the degree of prescription required. The estimated financial impact of proposed directives will be determined, as appropriate, and factored into the decision making process. Program offices with oversight for affected contractors will establish procedures for soliciting the views of those contractors on proposed directives early in the planning process.
 - (4) Applicability. Organizations developing a directive are responsible for identifying specifically which Departmental elements need to be covered by the proposed directive. These organizations should not approach development of directives from a one size fits all perspective. Departmental elements and contractors covered by directives should make full use of exemptions and equivalencies, as appropriate, to avoid unnecessary burden.
 - (5) Impasse Process. Understanding that consensus is not always possible, in instances where consensus among relevant Departmental elements on a proposed directive is not achieved expeditiously, the established impasse process will be used to resolve differences. Issues that cannot be resolved quickly will be elevated to the Deputy Secretary for decision. Dissenting

views on directives will also be included in the review packages to ensure that the Department's senior leadership is aware of differing positions.

- (6) Unofficial Guidance. Existing requirements that cross organizational lines and apply to contractors but were not developed and promulgated through the formal directives process are to be considered invalid unless/until they have been reviewed and adopted through that process. To the extent possible, program offices, including field offices, should limit supplementing directives with additional guidance.
- e. A Directives Review Board (DRB) will be established and chaired by the Director, Office of Management. The Board will advise, as well as concur, on individual directives before their release for DOE-wide comment and final issuance. Board membership will be comprised of a senior representative from each of the three Under Secretarial offices, the Office of the General Counsel, and the Office of Health, Safety and Security.
- f. Development of a directive must follow one of the processes outlined in this Order (Appendices A and B), or in rare circumstances, an expeditious process approved by the Deputy Secretary.
 - (1) Appendix A (Process #1) will be used for Orders and Guides.
 - (2) Appendix B (Process #2) will be used for Policies and Notices.
 - (3) Appendix C will be used to determine the applicability of a directive to the Bonneville Power Administration (BPA).
 - (4) Appendix D will be used for directives involving high risk functions, primarily those concerning nuclear facilities, as determined by the DRB. A list of directives meeting the criteria in Appendix D will be maintained by the DRB, including those directives addressing public health and safety in the construction, operation and decommissioning of a DOE defense nuclear facility, as defined in section 318 of the Atomic Energy Act.
 - (5) Appendix E will be used to request exemptions for directives published prior to this Order and requiring CTA concurrence.
 - (6) Copies of all Justification Memoranda will be sent by the Office of Information Resources to the Office of the Chief Financial Officer (CFO). In addition, when the DRB determines that a proposed Order appears to involve the potential for significant budgetary or other resource impacts on the Department, the affected Program Secretarial Officers will prepare a detailed financial impact analysis, which will be shared with the DRB and the CFO prior to Stage VI of the directives development process as outlined in Appendices A and B.

- g. The Office of Information Resources will publish an annual Directives Agenda prior to the beginning of each fiscal year. This agenda will, at a minimum, include all directives reviews due for certification as required in paragraph 7 of this Order.

5. DIRECTIVES TYPES.

a. Policies.

- (1) Establish high level expectations in the conduct of the Department's mission and impact two or more Departmental elements.
- (2) Are either memoranda issued by the Secretary or Deputy or documents developed by an OPI using Process #2 outlined in Appendix B to this Order.
- (3) Will be posted in RevCom for information purposes.
- (4) Remain in effect until canceled by the Secretary or Deputy Secretary.

b. Orders.

- (1) Establish management objectives, requirements and assignment of responsibilities for DOE Federal employees consistent with policy and regulations.
- (2) Are documents developed by an OPI and issued by the Secretary or Deputy Secretary using Process #1 outlined in Appendix A to this Order.
- (3) If requirements for contractors (e.g., M&O contractors) are necessary, they must be included in the form of an Attachment called a Contractor Requirements Document (CRD).
- (4) Detailed instructions describing how requirements are to be implemented should be included in the form of appendices.

c. Notices.

- (1) Have the same effect as an Order, but are issued in response to a Departmental matter requiring prompt action to establish short-term management objectives.
- (2) Are documents developed by an OPI and issued by the Secretary or Deputy Secretary using Process #2 outlined in Appendix B to this Order.
- (3) Are expedited through the directives process and expire after one year.

- (4) Must be converted to or incorporated into an Order within one year of the effective date of the Notice unless an extension is granted or the Notice is allowed to expire.
- (5) May be extended through the issuance of another Notice provided the conversion of the Notice to an Order has been initiated.

d. Guides.

- (1) Provide an acceptable, but not mandatory means for complying with requirements of an Order or rule. Note: Alternate methods that satisfy the requirements of an Order are also acceptable. However, any implementation selected must be justified to ensure that an adequate level of safety commensurate with the identified hazards is achieved.
- (2) Are documents prepared by an OPI, issued by the Office of Management and developed using Process #1 outlined in Appendix A to this Order.
- (3) Cannot be made mandatory by reference in an Order, Notice, appendix to a directive, or Technical Standard.

e. Technical Standards.

- (1) Are nonmandatory criteria issued under DOE O 252.1.
- (2) Provide DOE-approved possible methodology and criteria for meeting requirements in Orders or rules.
- (3) Can be made mandatory under DOE regulatory or contractual provisions.

6. DIRECTIVES CONTENT AND FORMAT.

- a. Orders and Notices. The format specified below should be followed. An alternative format, as demonstrated by this Order, is allowed when approved by the Office of Information Resources. Note: There are no similar content or format requirements for Policies and Guides.

- (1) Purpose. A paragraph that defines the program or subject matter and its goals/objectives. Goals should be stated in simple, straightforward language that describes the results to be achieved by issuance of the directive.
- (2) Cancellation. When a new directive replaces one currently in use, the canceled directive is identified by number, title and date. If a canceled directive included a CRD, the following text must be added:

Cancellation of a directive does not, by itself, modify or otherwise affect any contractual or regulatory obligation to comply with the directive. Contractor Requirements Documents (CRDs) that have been incorporated into a contract remain in effect throughout the term of the contract unless and until the contract is modified to either eliminate requirements that are no longer applicable or substitute a new set of requirements.

(3) Applicability.

- (a) Departmental Applicability. The OPI specifies the subject matter, functions, or Departmental elements to which the directive applies. For example:

This Order applies only to sites with fixed wing aircraft.

or

The CRD must be included in all contracts involving activities associated with the treatment, storage and disposal of hazardous waste.

If any part of the Order applies to the NNSA, the following language must be added to the Departmental Applicability paragraph:

The Administrator of NNSA will assure that NNSA employees and contractors comply with their respective responsibilities under this directive. Nothing in this Order/Notice will be construed to interfere with the NNSA Administrator's authority under section 3212(d) of Public Law (P.L.) 106-65 to establish Administration-specific policies, unless disapproved by the Secretary.

If any part of the Order applies to the Naval Nuclear Propulsion Program, the following language must be added to the Departmental Applicability paragraph:

In accordance with the responsibilities and authorities assigned by Executive Order 12344, codified at 50 USC sections 2406 and 2511 and to ensure consistency through the joint Navy/DOE Naval Nuclear Propulsion Program, the Deputy Administrator for Naval Reactors (Director) will implement and oversee requirements and practices pertaining to this Directive for activities under the Director's cognizance, as deemed appropriate.

Note: The Bonneville Power Administration (BPA) Administrator has authority to determine, for all Department of Energy directives, which directives, or parts thereof, are applicable to the BPA, with the following exceptions:

- 1 Those directives specified in Appendix C to this Order 251.1C, which will be fully applicable to BPA; and,
- 2 Those directives issued after September 27, 2002 that specifically state that they are applicable to BPA.

(b) DOE Contractors.

- 1 Contractors are bound by applicable laws and regulations and the terms and conditions of their contracts and CRDs that are incorporated into contracts through the use of the clause at 48 CFR (DEAR) 970.5204-2, laws, regulations and DOE directives. Therefore, if the OPI intends any requirements to apply to a contractor, those requirements must be written into a CRD which is attached to the directive. Requirements identified in a CRD apply only when the CRD is incorporated in a contract. Also, in the body of the directive, the OPI must identify the program offices responsible for determining which contracts the CRD should apply to and for notifying the cognizant contracting officer.
- 2 A directive with a CRD attached must use the following italicized text:

Except for the equivalencies/exemptions in paragraph 3.c. the Contractor Requirements Document (CRD) sets forth requirements of this Order/Notice that will apply to contracts that include the CRD.

The CRD must be included in contracts that . . .

[Here the OPI describes criteria that program offices use to identify contracts that should incorporate the CRD and assigns responsibility to program offices to identify to which contracts the CRD should apply and to notify the cognizant contracting officer.]

(c) Equivalencies/Exemptions.

- 1 Equivalencies are alternatives to how a requirement in a directive is fulfilled in cases where the “how” is specified. These represent an alternative approach to achieving the goal of the directive. Unless specified otherwise in the directive, Equivalencies are granted, in consultation with the OPI, by the Program Secretarial Officer or their designee, or in the case of the NNSA, by the Administrator or designee, and documented for the OPI in a memorandum.
 - 2 Exemptions are the release from one or more requirements in a directive. Unless specified otherwise in the directive, Exemptions are granted, in consultation with the OPI, by the Program Secretarial Officer or their designee, or in the case of the NNSA, by the Administrator or designee, and documented for the OPI in a memorandum. For those directives listed in Attachment 1 of DOE O 410.1, CTA concurrences are required prior to the granting of Exemptions.
 - 3 The basis for approving exemptions and equivalency requests must be documented in the approval memorandum. Any increase in risk to public health and safety, the environment, workers, or security must be justified.
- (4) Directives Requirements. Actions that must be completed in order to achieve the directive’s purpose. In cases where it is necessary to include more detailed information or provide direction on how requirements are to be completed, they must be added in the form of an Appendix to the Order or Notice. To provide greater clarity, requirements may be organized into general and more specific topic areas. Note: Manuals will no longer be renewed and will be phased out over time as a result of this Order.
- (5) Responsibilities. Duties or responsibilities assigned to a position or office to implement, manage and/or oversee each directive. This section summarizes top-level responsibilities. It should not duplicate every requirement contained in the requirements section, but must broadly state who has responsibility for implementing each requirement.
- (6) References. List sources cited in the directive and additional information sources to assist in implementing the directive. A short statement of relevance to the Order should be included with each reference. Applicable sections of lengthy references should be identified where possible.

- (7) Definitions (optional). To be included to help readers understand requirements or terminology unique to the technical discipline addressed in the directive. Definitions used should comport with those used in this Order 251.
 - (8) Contact. Provide the name and telephone number of the responsible organization.
 - (9) Contractor Requirements Document (CRD). The CRD must identify (not reference) each requirement in the directive that is intended to apply to a contractor. The CRD should be incorporated by DOE contracting officers into contracts without alteration unless the CRD specifies how alterations are to be determined and/or approved.
 - (10) Appendices.
 - (a) Contain “how” requirements and associated responsibilities. These should focus on actions to be completed or processes that must be followed to achieve the directive’s purpose. Note: When Manuals are scheduled for renewal, they will be converted into appendices within Orders.
 - (b) Contain other information necessary for purposes of ensuring effective implementation with an Order. For example, forms, check-sheets, matrices, pictures, graphs, etc.
7. DIRECTIVES REVIEW, CERTIFICATION AND CANCELLATION. One year after initial issuance, a directive must be reviewed for accuracy by the OPI. Thereafter, it must be reviewed and certified every four years by the OPI to verify continuing relevance and/or whether any action (i.e., revision or cancellation) is necessary. Review and certification follows a two-step process.
- a. The OPI must send a memo to the Office of Information Resources, for review by the DRB, attesting to the directive’s continuing relevance or in cases where a revision is needed submit a Justification Memorandum as part of Appendix A (Process #1) for Orders and Guides. (Note: Extension of a Notice must follow Process #2 of Appendix B.) Orders and Guides that have not been certified every four years are subject to cancellation by the Director, Office of Management, in consultation with the DRB.
 - b. Cancellation of a directive requires submission of a Justification Memorandum to the DRB through the Office of Information Resources.
 - (1) In cases of cancellation initiated by the OPI, the Justification Memorandum must be prepared by the OPI.

- (2) In cases of cancellation initiated by the Director, Office of Management, the Justification Memorandum will be prepared by the Office of Information Resources. The OPI will be invited to a DRB meeting to discuss the proposed cancellation and will be provided the opportunity to address the reason(s) for cancellation.
 - (3) If approved for cancellation by the Director, Office of Management, in consultation with the DRB, notice of cancellation will be posted in RevCom for a period of 30 days.
 - (a) In cases where there are uniform concurrences in RevCom, the directive will be listed on the Office of Information Resources web site as canceled.
 - (b) In cases where there is a non-concurrence in RevCom, the issue will be sent to the Impasse process, and ultimately decided by the Deputy Secretary, if necessary.
- 8. UNAUTHORIZED DIRECTIVES. With the exception of documents issued by the Secretary or Deputy Secretary (e.g., memoranda), unauthorized directives are documents that purport to apply on-going requirements (other than legal requirements) to more than one Departmental element and that have not been reviewed and promulgated through the processes described in this Order. Exceptions are allowed for unique requirements promulgated through acceptable alternative programs or processes covered by an Order, if addressed in 3.c. of this Order, or as otherwise directed by the Secretary or Deputy Secretary.
 - a. Acceptable alternative programs or processes must have an approved and current order outlining the methodology for promulgating unique requirements.
 - b. The Office of Information Resources will notify the DRB when unauthorized directives are identified. The DRB will review the document and will make a determination of its compliance with the directives program.
 - c. The OPI must address unauthorized directives in one of the following ways:
 - (1) withdraw the document;
 - (2) modify the document (e.g., restrict its applicability to one element) so that it no longer fits the description of an unauthorized directive; or
 - (3) convert the document to a directive following one of the processes described in this Order.

Note: Headquarters and field elements are authorized to publish supplemental directives for use by those organizations and their contractors, provided the

supplemental directives do not contradict, delete, or duplicate provisions in any applicable Policy, regulation, Order, or Notice.

9. DIRECTIVES NUMBERING SYSTEM.

- a. All Policies, Orders, Notices, and Guides have a letter identifying the type of document, a three-digit number identifying the subject matter category, a suffix showing the sequence within that subject matter category, and for revisions, a capital alpha character indicating the revision level. In the case of page changes or administrative changes, the numbering is not changed.
- b. The following examples show how the numbering system works for various directives.
 - (1) Policies. In DOE P 111.1, *Departmental Organization Management System*, “P” stands for Policy, “111” is the subject matter category (Organization and Structure), and “.1” indicates the first policy directive in this category. Subsequent revisions must be “.1A,” “.1B,” etc.
 - (2) Orders. In DOE O 151.1, *Comprehensive Emergency Management System*, “O” stands for Order, “151” is the subject matter category (Emergency Management), and “.1” indicates that this is the first Order in this category. Subsequent revisions must be “.1A,” “.1B,” etc.
 - (3) Notices. In DOE N 221.14, *Reporting Fraud, Waste and Abuse*, “N” stands for Notice, “221” is the subject matter category (Inspector General Relations), and “.14” indicates that this is the fourteenth issuance of the Notice.
 - (4) Guides. Are numbered similar to Orders and Notices but the initial letter designator is “G,” followed by the primary three-digit subject code. For example: *The DOE Risk Management Guide in support of DOE Order 413.3* is numbered DOE G 413.3-7.

10. PROCESSING AND IMPLEMENTATION OF DOE DIRECTIVES.

- a. Directives must be processed as outlined in Appendix A or Appendix B of this Order.
- b. A monthly DOECast message listing directives issued during the previous month will be transmitted throughout the Department by the Office of Information Resources.
- c. As new directives with a Contracting Requirements Documents are promulgated, contracting officers will be notified by the Office of Information Resources of the directives’ existence through DOE and NNSA Procurement Executives.

- d. All directives, unless classified, will be posted on the website maintained by the Office of Information Resources. Directives containing classified information will have an unclassified summary posted on the website.
- e. The four-year certification memoranda will be posted on the directives web site.

11. CONFORMING CHANGE PROCESS.

- a. Where changes to one directive affect other directives, the Office of Information Resources, with concurrence from the OPI, will determine whether the change is administrative or non-administrative. If the Office of Information Resources and the OPI disagree as to the nature of the change(s), the directive will undergo a formal review as outlined in either Appendix A or B.
 - (1) Administrative changes are those that do not alter requirements or responsibilities in the affected directives, and thus do not require that the directives undergo a formal review and comment process as outlined in either Appendix A or B.
 - (2) Non-administrative changes are those that alter requirements or responsibilities in the affected directives. These require the directives to undergo a formal review and comment process as outlined in either Appendix A or B to conform to the proposed changes. Conforming changes to affected directives must be processed and reviewed as a package along with the primary directive being revised.
- b. Administrative changes will be made by the Office of Information Resources.
- c. For non-administrative changes, the DRB and affected OPIs will be contacted by the Office of Information Resources for purposes of revising the directives. Resolution of the issues must be tracked by the OPI and DRB.

12. RESPONSIBILITIES.

- a. Secretary of Energy. Approve Policies, Orders and Notices or delegate approval authority to the Deputy Secretary.
- b. Deputy Secretary.
 - (1) As the Secretary's designee, approve Policies, Orders and Notices.
 - (2) Render a decision on issues on proposed directives or changes to existing directives that cannot be resolved by the OPI of a directive and opposing Departmental elements, organizations or offices.
- c. Secretarial Officers.
 - (1) For Orders, Notices or Guides for which the Secretarial Officer is the OPI:

- (a) Initiate and submit to the Director, Office of Management, through the Office of Information Resources, a Justification Memorandum that describes the need for a proposed directive;
 - (b) Ensure that OPIs have the necessary support to engage in efforts to draft and publish directives within the prescribed timetable established by the DRB;
 - (c) Review requests for Exemptions or Equivalencies;
 - (d) Submit DRB approved Policies, Orders and Notices to the Secretary or Deputy Secretary for approval, through the Office of Management;
 - (e) Submit DRB approved Guides to the Director, Office of Management, through the Office of Information Resources, for issuance; and,
 - (f) Provide assistance to offices affected by their directives.
 - (2) Assist the DRB in obtaining accurate estimates of the financial and/or resource impacts of proposed Directives on their organizations, sites or contractors.
 - (3) Ensure that Policies, Orders and Notices initiated by others are implemented within their organizations and incorporated into contracts in a timely fashion, as appropriate.
 - (4) Establish procedures for soliciting and consolidating the views of their contractors and stakeholders on draft directives throughout the different stages of the directive development process.
 - (5) Identify to the Office of Information Resources, names of Directives Points of Contact (DPC) that are adequately trained to process and provide guidance on the development of directives and have the authority to represent their respective organizations.
 - (6) Grant Exemption or Equivalency determinations in consultation with the OPI.
- d. Directives Review Board Members.
- (1) Where applicable (i.e., depending on the process), disseminate Justification Memoranda and draft directives in a timely fashion within their organizations.

- (2) Manage efforts to screen, reconcile and consolidate comments emanating from their organizations.
 - (3) Participate in DRB meetings for the purposes of discussing and concurring on proposed directives.
 - (4) Consult with the Central Technical Authorities, DOE Departmental Representative to the Defense Nuclear Facilities Safety Board (DNFSB), and other stakeholders as appropriate on the development and maintenance of the list of directives promulgated in accord with paragraph 4.f.(4).
- e. Director, Office of Management.
- (1) In accordance with delegated authority from the Secretary, administers the Departmental Directives Program.
 - (2) Serves as Chairperson of the DRB, convening DRB meetings and alerting the CFO when significant potential for budgetary or other resources appear necessary to implement requirements of a proposed directive.
 - (3) Serves as representative on the DRB for Departmental staff/support offices not already represented on the DRB.
- f. Director, Office of Information Resources.
- (1) Manages all aspects of the Directives Program and processes.
 - (2) Manages the web site where all directives and related information are posted.
 - (3) Reviews and coordinates requests which differ from the established directive templates, development processes and/or associated development software configuration.
 - (4) Provides support and advice to OPIs in program offices.
 - (5) Tracks progress of directives development including the development of the annual Directives Agenda.
 - (6) Solicits, consolidates and forwards comments from the National Laboratories Directors' Council spokesperson on Justification Memoranda.
 - (7) Distributes to DRB members any comments related to Justification Memoranda, and where appropriate, draft directives.

- (8) With OPI consultation, determines whether a proposed change to an existing directive alters requirements and thus, requires a formal review and comment process.
- (9) With OPI consultation, makes administrative changes to directives or their drafts.
- (10) Coordinates with all Departmental elements the selection of DPCs.
- (11) Publishes an annual Directives Agenda prior to the beginning of each fiscal year to include all directive reviews that are required during the upcoming fiscal year.
- (12) Tracks all memoranda signed by the current or former Secretary or Deputy Secretary for incorporation as Policy directives.

g. Offices of Primary Interest.

- (1) Create Justification Memoranda and draft directives.
- (2) Solicit comments from Program Counsel on draft directives prior to submitting the drafts for the first review and comment, Stage IV of Appendices A and B.
- (3) Lead efforts to engage organizations in order to resolve differences over comments.
- (4) Work with the Office of the General Counsel and the Office of Management (Office of Procurement and Assistance Management) in developing a CRD for non-NNSA elements. For NNSA elements, work with the Program Counsel in the NNSA Office of the General Counsel and the NNSA Office of Acquisition and Supply Management.
- (5) Coordinate with the DOE Departmental Representative to the DNFSB, as appropriate.
- (6) Using the prescribed directives process, document the basis for resolution of all comments.
- (7) Complete directives on schedule.
- (8) In a directive, identify program offices responsible for determining which contracts the CRD should apply to and notify the cognizant contracting officers.

- (9) Consult with the Office of Information Resources as to whether a proposed change to an existing directive is administrative or alters requirements and thus requires a formal review and comment process.
 - (10) Interpret or clarify provisions of a directive (e.g., provide responses to frequently asked questions).
 - (11) Consult with offices seeking Equivalencies or Exemptions,
- h. DOE Departmental Representative to the DNFSB.
 - (1) Coordinates directives reviews with the DNFSB.
 - (a) Provides the OPI with DNFSB comments through the process used by the Department (e.g., RevCom, Appendix A).
 - (b) Facilitates communication between the OPI and DNFSB regarding DNFSB comments prior to a directive's approval.
 - (c) Informs the DNFSB when a directive is considered for cancellation.
 - (2) Informs the DNFSB when new Secretarial memoranda, which could affect health and safety at defense nuclear facilities, are presented to the DRB.
- i. Directives Points of Contact (DPCs).
 - (1) Solicit information on a proposed directive, directive revision, or directive cancellation from subject matter experts and input comments approved by the Secretarial Officer into the directives review and comment tools (e.g., RevCom) as directed by their management, and represent the office or organization for whom they serve (e.g., screen comments, provide concurrence).
 - (2) In consultation with their management, assign subject matter experts as needed for each draft directive issued for review and comment by the Office of Information Resources.
- j. Contracting Officers. Incorporate CRDs into contracts in a timely fashion without alteration, unless the CRD specifies how alterations are to be determined and/or approved.
- k. Central Technical Authorities. Requirements regarding the role and responsibility of Central Technical Authorities related to the directives process are established in DOE O 410.1, *Central Technical Authority Responsibilities Regarding Nuclear Safety Requirements*. Nothing in this Order should be construed as contrary to or

rescinding the requirements, processes, roles and responsibilities previously published in DOE O 410.1.

- l. Chief Financial Officer. Participate in DRB meetings involving directives for which a financial impact analysis has been completed. Develop and share best practices with program offices regarding the creation of financial impact analyses.

13. REFERENCE.

P.L. 106-65, Title XXXII National Nuclear Security Administration Act, as amended, which established a separately organized agency within the Department of Energy.

DNFSB letter to Under Secretary of Energy, Honorable Thomas P. Grumbly; 1996. The letter explains the importance of using a tool to track requirements.

14. DEFINITIONS.

- a. Certification. Process for reviewing and certifying directives that have been in effect for four or more years, for accuracy and continued relevance. A certification date is placed below the approval date on the directive.
- b. Contractor. For purposes of the directives system, corporate organizations under contract with DOE to perform services with the clause at DEAR 970.5204-2, laws, regulations, and DOE directives, in their contract. [Note: This definition of contractor does not include all of the procurement contracts entered into by DOE.]
- c. Counsel. General Counsel, Procurement Counsel, Program Counsel, etc., all refer to attorneys assigned to various parties for the purpose of providing legal advice and guidance.
- d. Departmental Elements. Headquarters elements or first-tier organizations as listed in the *Correspondence Style Guide*, Office of the Executive Secretariat.
- e. Directives Point of Contact (DPC). The DPC is designated by the Departmental element and provides the liaison between his/her organization and the DOE Directives Program. See the directives web site for more information.
- f. Equivalencies. Alternatives to how a requirement in a directive is fulfilled in cases where the "how" is specified. These represent an acceptable alternative approach to achieving the goal of the directive.
- g. Exemption. A release from one or more requirements in a directive.
- h. Manuals. Supplement other directives, laws, regulations, or other requirements by providing more instructions or details on how the provisions of those directives or laws must be carried out throughout DOE. Manuals identify procedural requirements in more detail than Orders for DOE Federal employees and intended requirements for contractors, which must be in the form of the CRD attached to

the Manual. Note: Manuals will remain in effect until revised according to this Order and will be phased out over time as a result of this Order.

- i. National/International Standards. Standards are developed through a process that is open to participation by representatives of all interested parties, transparent, consensus-based, and subject to due process. These might be developed by governmental organization or private sector groups such as the American Society for Testing and Materials (ASTM) or the International Organization for Standards (ISO).
 - j. Office of Information Resources. The office within the Office of Management charged with responsibility for managing the Directives Program.
 - k. Office of Primary Interest (OPI). The office responsible for originating the directive, the author's office.
 - l. Procurement Management System. The procurement programs managed by DOE and NNSA Senior Procurement Executives that ensure the development and implementation of Department-wide policies, procedures, programs, and management systems pertaining to procurement and financial assistance.
 - m. RevCom. A web-based software application used by the Office of Management for the review and comment of draft directives.
 - n. Requirements. Actions that must be completed or processes that must be followed in order to achieve a directive's purpose.
 - o. Responsibilities. Duties or responsibilities assigned to a position or office to implement, manage and/or oversee directives.
 - p. Secretarial Officer. Program Secretarial Officers as listed in the *Correspondence Style Guide*, Office of the Executive Secretariat.
 - q. Unauthorized Directives. Documents that purport to apply requirements (other than legal requirements) to more than one Departmental element and that have not been reviewed and promulgated through the processes described in this Order. Exceptions are allowed for unique requirements promulgated through acceptable alternative programs or processes covered by an Order, the procurement management system, or as otherwise directed by the Secretary or Deputy Secretary.
15. CONTACT. Questions concerning this directive should be addressed to the Office of Information Resources at 202-586-5955.

BY ORDER OF THE SECRETARY OF ENERGY:



JEFFREY F. KUPFER
Acting Deputy Secretary

APPENDIX A

REVIEW AND COMMENT PROCESS #1 (FULL PROCESS)

Orders and Guides require a Justification Memorandum and are subject to the development process described below. While Orders and Guides have different levels of compliance and approval as defined in paragraph 5 of this Order, both have the same review and comment process as delineated in this Appendix.

1. STAGE 1. JUSTIFICATION MEMORANDUM.

- a. The OPI must develop a Justification Memorandum that meets the following requirements:
 - (1) Be written using the prescribed template (see the Office of Information Resources directives web site).
 - (2) Justify why the Order or Guide is necessary, specify which Departmental elements, offices or organizations the subject directive covers, and indicate if or how those elements, offices, and organizations have been involved at this stage.
 - (3) Qualitatively and, where possible, quantitatively describe anticipated costs and beneficial impacts associated with implementation.
 - (4) Identify issues that must be resolved or addressed, all conflicts with existing directives, and any impacts to other directives or Departmental functions or operations.
 - (5) When applicable, be accompanied by a one to two page outline of the Order or Guide that follows the directives principles outlined in the body of this Order.
 - (6) Be signed by the Secretarial Officer initiating the proposed Order or Guide and sent to the Director, Office of Management, through the Office of Information Resources.
- b. The Office of Information Resources must ensure that the Justification Memorandum meets the requirements of this directive. If it does not, the Justification Memorandum will be returned to the Secretarial Officer for revision. Once the Justification Memorandum meets the requirements of this directive, the Office of Information Resources emails it to the Directives Review Board (DRB) members for a 10-20 day review (number of days depends upon factors such as complexity of subject matter, time of year, etc.). During the review, DRB members may email the Office of Information Resources any comments to be addressed at the biweekly DRB meeting.

- (1) Departmental elements with oversight for affected contractors (other than DOE's national laboratories) must establish procedures for soliciting the views of their contractors on proposed Orders or Guides.
 - (2) The national laboratories have the opportunity to comment on the need for a proposed Order or Guide through the National Laboratories Directors Council. The Director, Office of Information Resources will solicit the views of the national laboratories on the Justification Memorandum.
2. STAGE II. FIRST REVIEW BOARD MEETING. The Director, Office of Management, will convene a biweekly meeting of the DRB to discuss Justification Memoranda. A senior representative from the office initiating each Justification Memorandum will be invited to address the DRB. In cases of a non-concurrence with a Justification Memorandum:
 - a. The office of primary interest (OPI) will have the opportunity to explain in greater detail the need for the Order or Guide and answer any questions posed by the DRB members.
 - b. DRB members must reach consensus on whether to recommend to the Director, Office of Management that the Order or Guide be developed.
 - c. If the DRB fails to reach consensus, the Order or Guide will be referred to the Impasse Process, Stage VII.
3. STAGE III. DEVELOPMENT OF THE FIRST DRAFT.
 - a. The OPI (writer) that receives approval to proceed from the Director, Office of Management, through the organization's Secretarial Officer will be given a specified number of days in which to develop a draft for submission to the Office of Information Resources. During this time, the OPIs must:
 - (1) Engage stakeholders such as Headquarters Secretarial Offices that manage field offices, contractors, and field offices and solicit any substantive technical comments on the draft.
 - (2) Engage appropriate program counsel.
 - b. When the first draft is completed, the OPI must email a copy as an attached MS Word document to the Office of Information Resources.
 - c. The Office of Information Resources will then process the draft for posting in RevCom.
4. STAGE IV. FIRST REVIEW AND COMMENT.
 - a. Directives Points of Contact (DPCs) will have a specified number of days in which to solicit, reconcile, consolidate and submit proposed comments for

approval by their Secretarial Officer or his/her designee. Review time frames will be consistent with the complexity of the document and need for technical review.

- b. The DOE Departmental Representative to the DNFSB must enter DNFSB comments into RevCom.

5. STAGE V. DEVELOPMENT OF THE SECOND DRAFT.

- a. After receiving comments, the OPI will have a specified number of days in which to consider comments and create a comment and response document and a redlined/strikeout second draft.
- b. When the documents are completed, the OPI must email copies of the documents as attached MS Word documents to the Office of Information Resources to be processed for a second posting in RevCom.
- c. At the end of the second posting, DPCs must submit either concurrence or nonconcurrence in RevCom and then forward any comments approved by their Secretarial Officers or their designees to their respective DRB representatives.
- d. OPI's will then have a specified number of days in which to attempt to resolve any non-concurrences, after which time their Secretarial Officer responsible for the proposed Order or Guide will submit the proposed Order or Guide through the Office of Information Resources for approval. The Departmental Representative to the DNFSB will facilitate communication between the OPI and DNFSB.
 - (1) In the case of Orders, the proposed Order must be submitted through the Office of Information Resources and the Office of Management to the Deputy Secretary for approval.
 - (2) In the cases of Guides, the proposed Guide must be submitted through the Office of Information Resources to the Director, Office of Management, for approval.

6. STAGE VI. SECOND REVIEW AND COMMENT RESOLUTION.

- a. At the conclusion of Stage V, the Office of Information Resources will present a final draft to the DRB members at their bi-weekly meeting for their concurrence. The Director, Office of Management will serve as DRB representative for Departmental staff/support offices not represented on the DRB. The Director, Office of Management may invite Secretarial Officers (or designee) to attend the DRB meeting, as appropriate.
- b. In the case of Orders, if DRB members reach consensus, the Director, Office of Management, will present the proposed Order to the Deputy Secretary for approval. In the case of Guides, if DRB members reach consensus, the Director, Office of Management will approve the Guide. If DRB members cannot reach consensus in either case, the Director, Office of Management, will direct the

Office of Information Resources to inform the OPI of the impasse and the reasons for the non-concurrence.

7. STAGE VII. IMPASSE PROCESS.

- a. Upon receiving notification of an impasse from the Office of Information Resources, the Secretarial Officer who signed the Justification Memorandum will be invited to a meeting of the DRB.
- b. Acting as a neutral party, the Director, Office of Management, will engage the DRB members and invited Secretarial Officer (or designee) on any unresolved comments/issues in an effort to facilitate resolution.
- c. If comments/issues cannot be resolved by the DRB, the Director, Office of Management, will advise the OPI to prepare a final draft and the dissenting organizations to prepare 1-2 page summary papers, which summarize their positions. The Director, Office of Management, will then forward the final draft and summary papers to the Deputy Secretary. The Deputy Secretary renders a decision on the issues and decides whether to approve the Order, or in cases of Guides, develop and/or issue the Guides.

8. CLASSIFIED DIRECTIVES. Classified directives are subject to the same review processes as unclassified directives; however, this information cannot be transmitted by unclassified e-mail systems. In order to adequately protect the classified information, steps 1.b., 3.b. and 5.b. will not use email to transmit the classified directives. Classified directives will be transmitted by paper copies that are appropriately marked and controlled or transmitted through classified email systems. Additionally, classified directives will not be posted in RevCom and step 3.c. will be used to post an unclassified description of the directive.

APPENDIX B

REVIEW AND COMMENT PROCESS #2 (EXPEDITED PROCESS)

Notices require Justification Memoranda and are subject to the development process described below. Policies, with the exception of those issued as memoranda by a Secretary or Deputy Secretary, also require Justification Memoranda and are subject to the development process described below. The Secretary or Deputy Secretary will determine which memoranda they wish to have incorporated into the Directives Program as Policies. – Note: This includes memoranda issued prior to the effective date of this Order.

1. STAGE 1. JUSTIFICATION MEMORANDUM.

- a. The OPI must develop a Justification Memorandum that meets the following requirements:
 - (1) Be written using the prescribed template (see the Office of Information Resources directives web site).
 - (2) Justify why the Policy or Notice is necessary, specify which Departmental elements, offices or organizations the directive covers; and indicate if or how those elements, offices, and organizations have been involved at this stage.
 - (3) Qualitatively and, where possible, quantitatively describe anticipated costs and beneficial impacts associated with implementing the directive.
 - (4) Identify issues that must be resolved or addressed, all conflicts with existing directives, and any impacts to other directives or Departmental functions or operations.
 - (5) When applicable, be accompanied by a one to two page outline of the directive that follows the directives principles outlined in the body of this Order.
 - (6) Be signed by the Secretarial Officer initiating the proposed directive and sent to the Director, Office of Management, through the Office of Information Resources.
- b. The Office of Information Resources must ensure that the Justification Memorandum meets the requirements of this directive. If it does not, the Justification Memorandum will be returned to the Secretarial Officer for revision. Once the Justification Memorandum is consistent with this directive, the Office of Information Resources emails it to DRB members for a 10-20 day review (number of days depends upon factors such as complexity of subject matter, time of year, etc.). During this review, DRB members may email the Office of

Information Resources any comments in preparation for the biweekly DRB meeting.

- (1) Departmental elements with oversight for affected contractors (other than DOE's national laboratories) must establish procedures for soliciting the views of their contractors on proposed directives.
- (2) The national laboratories have the opportunity to comment on the need for a proposed directive through the National Laboratories Directors Council. The Director, Office of Information Resources will solicit the views of the national laboratories on the Justification Memorandum.

2. STAGE II. FIRST REVIEW BOARD MEETING. The Director, Office of Management, will convene a biweekly meeting of the DRB to discuss the Justification Memoranda. A senior representative from the office providing each Justification Memorandum will be invited to address the DRB. In cases of a nonconcurrence on a Justification Memorandum:

- a. The office of primary interest (OPI) will have the opportunity to explain in greater detail the need for the Policy or Notice and answer any questions posed by the DRB members.
- b. DRB members must reach consensus whether to recommend to the Director, Office of Management that the Policy or Notice should be developed for its completion.
- c. If the DRB fails to reach consensus, the Policy or Notice will be referred to the Impasse Process, Stage VII.

3. STAGE III. DEVELOPMENT OF THE FIRST DRAFT.

- a. The OPI (writer) that receives approval to proceed from the Director, Office of Management, through the responsible Secretarial Officer will be given a specified number of days in which to fully develop their draft for submission to the Office of Information Resources. During this time, OPIs must:
 - (1) Engage stakeholders such as Headquarters Secretarial Offices that manage field offices, contractors, and field offices, and solicit any substantive technical comments on the draft.
 - (2) Engage appropriate program counsel.
- b. When the first draft is completed, the OPI must email a copy of the draft as an attached MS Word document to the Office of Information Resources.

- c. The Office of Information Resources will then email the draft to the DRB members, and when appropriate, the DOE Departmental Representative to the DNFSB.

4. STAGE IV. FIRST REVIEW AND COMMENT.

- a. DRB members will have a specified number of days in which to solicit, reconcile, consolidate, approve and submit proposed comments from their respective organizations. Review time frames will be consistent with the complexity of the document and need for technical review.
- b. The DOE Departmental Representative to the DNFSB must email DNFSB comments to the Office of Information Resources, when appropriate.

5. STAGE V. DEVELOPMENT OF THE SECOND DRAFT.

- a. After receiving comments through the Office of Information Resources, the OPI will have a specified number of days in which to consider comments and create a redlined/strikeout second draft. The Departmental Representative to the DNFSB will facilitate communication between the OPI and DNFSB.
- b. When the document is completed, the OPI must email a copy as an attached MS Word document to the Office of Information Resources for submission to the DRB, and DOE Departmental Representative to the DNFSB when appropriate.

6. STAGE VI. SECOND REVIEW AND COMMENT RESOLUTION.

- a. At the conclusion of Stage V, DRB members will discuss the proposed directive at their bi-weekly meeting and will decide whether to concur on the redlined/strikeout draft. For Departmental staff/support offices not represented on the DRB, the Director, Office of Management will serve as their representative on the DRB. In some cases, the appropriate Secretarial Officers may be invited by the Director, Office of Management to attend the DRB meeting.
- b. If DRB members reach consensus, the Secretarial Officer responsible for the proposed directive will be asked by the Office of Information Resources to submit the proposed directive through the Director, Office of Management, to the Deputy Secretary for approval. If DRB members cannot reach consensus, the Director, Office of Management, will direct the Office of Information Resources to inform the aforementioned Secretarial Officer of the impasse and the reasons for the non-concurrence.

7. STAGE VII. IMPASSE PROCESS.

- a. If notified by the Office of Information Resources of an impasse, the Secretarial Officer (or deignee) who signed the Justification Memorandum will be invited to a meeting of the DRB.

- b. Acting as a neutral party, the Director, Office of Management, will engage the DRB members and invited Secretarial Officer or their designee on any unresolved comments/issues in an effort to facilitate resolution.
 - c. If comments/issues cannot be resolved by the DRB, the Director, Office of Management, will advise the OPI to prepare a final draft and the dissenting organizations to prepare 1-2 page summary papers, which summarize their positions. The Director, Office of Management, will then forward the final draft and summary papers to the Deputy Secretary. The Deputy Secretary renders a decision on the issues and decides whether to approve the Order, or in cases of Guides, develop and/or issue the Guides.
8. CLASSIFIED DIRECTIVES. Classified directives are subject to the same review processes as unclassified directives; however, this information cannot be transmitted by unclassified e-mail systems. In order to adequately protect the classified information, steps 1.b., 3.b. and 5.b. will not use email to transmit the classified directives. Classified directives will be transmitted by paper copies that are appropriately marked and controlled or transmitted through classified email systems. Additionally, classified directives will not be posted in RevCom and step 3.c. will be used to post an unclassified description of the directive.

APPENDIX C

DIRECTIVES ISSUED BEFORE 9-27-02 THAT ARE FULLY APPLICABLE TO BPA

1500.4A, *Travel Charge Card Program*
2300.1B, *Audit Resolution and Follow Up*
2340.1C, *Coordination of General Accounting Office Activities*
3350.1, *Furlough in the Senior Executive Service*
3351.2, *Reduction in Force in the Senior Executive Service*
3792.3, *Drug-Free Federal Workplace Testing Implementation Program*
5480.4, *Environmental Protection, Safety and Health Protection Standards*
5500.11, *Power Marketing Administration Emergency Management Program*
5632.1C, *Protection and Control of Safeguards and Security Interests*
M 200.1-1, *Telecommunications Security Manual*
M 251.1-1A, *Directives System Manual*
M 440.1-1, *DOE Explosives Safety Manual*
M 471.2-1B, *Classified Matter Protection and Control Manual*
M 471.2-2, *Classified Information System Security Manual*
M 472.1-1B, *Personnel Security Program Manual*
M 473.2-1A, *Firearms Qualification Courses Manual*
M 473.2-2, *Protective Force Program Manual*
M 475.1-1A, *Identifying Classified Information*
M 5632.1C-1, *Manual for Protection and Control of Safeguards and Security Interests (except Chapters III and IX)*
N 221.8, *Reporting Fraud, Waste, and Abuse*
N 251.44, *Extension of DOE Directives on Security*
N 326.8, *Annual Confidential Financial Disclosure Report (OGE 450)*
N 471.3, *Reporting Incidents of Security Concern*
N 473.8, *Security Conditions*
O 151.1A, *Comprehensive Emergency Management System*
O 221.1, *Reporting Fraud, Waste, and Abuse to the Office of the Inspector General*
O 221.2, *Cooperation with the Office of the Inspector General*
O 221.3, *Establishment of Departmental Position on Inspector General Reports*
O 224.2, *Auditing of Programs and Operations*
O 251.1A, *DOE Directives System*
O 440.2A, *Aviation Management and Safety*
O 470.1, *Safeguards and Security Program*
O 470.2A, *Security and Emergency Management Independent Oversight and Performance Assurance Program*
O 471.2A, *Information Security Program*
O 472.1B, *Personnel Security Activities*
O 473.2, *Protective Force Program*
O 551.1A, *Official Foreign Travel*
P 142.1, *Unclassified Visits by Foreign Nationals*
P 205.1, *Departmental Cyber Security Management Program*
P 251.1, *Directives System*
P 470.1, *Integrated Safeguards and Security (ISMS) Policy*
SEN-19A-92, *Department of Energy Executive Committee*

APPENDIX D

DIRECTIVES REQUIRING ADDITIONAL DOCUMENTATION

Certain directives involving high risk functions, primarily those concerning nuclear facilities, will be developed using greater rigor and will require additional documentation. The following process will be used to identify and process these directives.

1. Directives (or successor documents) meeting the below criteria must be developed using requirements tracking and basis documentation to permit users to trace any requirements in the original directive to the comparable requirement(s) in the revised directive and the basis for each requirement. The criteria include directives that:
 - a. Set requirements regarding the establishment, verification and maintenance of the safety basis for DOE nuclear facilities;
 - b. Establish requirements regarding the integration of safety into the operation, design and construction of defense nuclear facilities;
 - c. Provide guidance for use in implementing the requirements established in the directives listed in 1.a. and 1.b. of this appendix. Any “requirements” to be tracked in these instances are the mandatory elements of such directives; or,
 - d. Are developed by the Office of Health, Safety and Security.
2. For each directive in the Directives Program, judgment will be applied by the Directives Review board (DRB) as to whether “requirements tracking” and basis documentation are warranted. Those directives chosen will be listed on the directives web site maintained by the Office of Information Resources. The OPI will be expected to prepare “requirements tracking” and basis documentation accordingly.
3. “Requirements tracking” and basis documentation are necessary to permit any user to trace any requirements in the original directive to the comparable requirement(s) in the revised directive and the basis for each requirement. The form of the requirements tracking and basis documentation will be proposed in the justification memorandum and agreed to by the DRB when approving the justification memorandum.
4. Depending on the extent of changes made to the directive, the requirements tracking and basis documentation is generally expected to be a cross walk combined with an explanation for each requirement but may simply be a line-in/line-out of the revised directive (e.g., where there are only a few changes to the directive).

APPENDIX E

LEGACY EXEMPTION PROCESS

This Appendix, which is taken from Chapter X of DOE M 251.1-1B, will be used for directives published prior to this Order (DOE O 251.1C) and requiring CTA concurrence. However, as these same directives are revised according to DOE O 251.1C, the new process outlined in paragraph 6.a.(3)(c) of DOE O 251.1C will be used. Note: the terms “EH” or “ES&H” used in this Appendix refer to the Office of Health Safety and Security (HSS), “CSO” refers to Cognizant Secretarial Officer, and “ESE” refers to Energy, Science and Environment.

1. GENERAL PROVISIONS. An exemption under the Directives Program is a release from one or more requirements in a DOE Order, Notice, or Manual that has been granted to a DOE element or a contractor.¹

If the Order, Notice, or Manual includes specific provisions for exemptions, equivalencies, or other forms of relief from the requirements in the document, then those provisions must be applied.

If the document does not include specific provisions for relief, the process in this chapter applies to granting permanent or temporary relief from the applicable requirements in those documents.

This exemption process does not apply to requirements in regulations.

An approved exemption must be submitted to the Office of Information Resources.

- a. Requirements for Federal Employees. When a DOE Order, Notice, or Manual is issued, the requirements in that document automatically apply to Federal elements as stated in the document. To acquire exemption from a requirement in a directive, a Federal element must use the relief process specifically included in the directive, or if there is no relief process in the directive, the exemption process in this chapter. Federal elements are required to meet all applicable directives requirements unless relief is granted through one of these processes. An exemption granted to a contractor does not relieve Federal elements from the responsibility to obtain an exemption to related requirements for Federal elements.
- b. Requirements for Contractors.
 - (1) Requirements in DOE Orders, Notices, and Manuals apply to contractors to the extent that they are incorporated in the contract. Contracting officers incorporate requirements from directives by referencing or copying sections of the CRD into the contracts.

¹ There are a number of terms used for relief processes including but not limited to exemptions, equivalencies, variances, and relief. This chapter applies to all such terms.

- (2) As stated in Department of Energy Acquisition Requirements (DEAR) 48 CFR 970.0470(b), the program office must identify requirements in the Directives System that are applicable to a contract, develop a list of applicable requirements, and provide the list to the contracting officer. The contracting officer must include that list in the contract. That list constitutes the list of applicable directives referred to as List B in 48 CFR 970.5204-2.
- (3) In some cases, requirements included in List B will be tailored to the specific hazards and needs of activity through a DOE-approved process. Such processes include the Standards/Requirements Identification (S/RID) Process, the Work Smart Standards Process, and the Safety Management System [See 48 CFR 970.0470(c) and (d)]. If a requirement from a directive is excluded from List B using one of these processes, then it is not a contract requirement and does not require requesting an exemption.
- (4) If a requirement of a directive is included in List B of the contract and temporary or permanent relief from the requirement is sought, use this exemption process (unless there is another relief process specifically included in the directive).

2. EXEMPTION APPROVAL PROCESS.

a. NNSA Facilities and Activities.

- (1) Review and Approval.
 - (a) The approval authority must provide copies of the exemption request, appropriate supporting documentation, and the draft exemption, and with respect to each exemption request views from the following parties before granting an exemption:
 - 1 the CSO;
 - 2 the OPI;
 - 3 HSS; and
 - 4 the NNSA CTA for requirements listed on the NNSA Index of Baseline Nuclear Safety Requirements.
 - (b) The approval authority may not grant the exemption until—
 - 1 the parties have indicated that there is no objection or
 - 2 thirty (30) calendar days have passed without objection after providing the parties the draft exemption and associated documentation (If a party requests additional

information they will be granted an additional 14 calendar days after requested additional information has been provided).

- (c) If one of the parties objects, the approval authority must proceed as follows or deny the exemption.

- 1 Work with the objecting party to resolve any issues and withdraw the objection.
- 2 For unresolved objections from NNSA personnel, raise the issue to the NNSA Administrator or designee for resolution.
- 3 For unresolved objections from parties outside of NNSA, raise the matter through the NNSA Administrator or designee to the Deputy Secretary for resolution.

- (2) Approval Authority. Unless otherwise stated in the directive, approval is as follows.

- (a) Heads of Departmental NNSA elements (which include operations and field office managers) approve exemptions to requirements in DOE Orders, Notices, and Manuals for activities and facilities under their direction except as provided in paragraph 2.a.(2)(b).
- (b) For ES&H requirements in Orders, Notices, and Manuals for hazard category 1 nuclear facilities, the Under Secretary for Nuclear Security approves exemptions. This authority may be delegated to other heads of Departmental NNSA elements.

b. ESE Facilities and Activities.

- (1) Concurrence.

- (a) The approval authority must provide copies of the exemption request, appropriate supporting documentation, and the draft exemption, and request concurrence on each exemption from the following parties before granting an exemption:

- 1 the CSO;
- 2 the OPI;
- 3 HSS; and
- 4 the ESE CTA for requirements listed on the ESE Index of Baseline Nuclear Safety Requirements.

- (b) The approval authority may not grant the exemption until—
 - 1 the parties have concurred or
 - 2 thirty (30) calendar days have passed without nonconcurrence after providing the parties the draft exemption and associated documentation (if a party requests additional information they will be granted an additional 14 calendar days after requested additional information has been provided).
 - (c) If one of the parties submits nonconcurrence, the approval authority must proceed as follows or deny the exemption.
 - 1 Work with the nonconcurring party to resolve any issues and withdraw the nonconcurrence.
 - 2 For nonconcurrences from DOE personnel, raise the issue to the Under Secretary for Energy or the Under Secretary for Science, as appropriate for resolution.
 - 3 For nonconcurrences from parties outside of ESE, raise the matter to the Deputy Secretary for resolution.
- (2) Approval Authority. Unless otherwise stated in the directive approval is as follows.
 - (a) Heads of Departmental elements (which include operations and field office managers) approve exemptions from requirements from DOE Orders, Notices, and Manuals for activities and facilities under their direction except as provided in paragraph 2.b.(2)(b).
 - (b) For ES&H requirements in Orders, Notices, and Manuals for hazard category 1 nuclear facilities, the Under Secretary for Energy, Science and Environment approves exemptions to requirements in DOE Orders, Notices, and Manuals. This authority may be delegated to other heads of Departmental elements.
- c. Other than NNSA or ESE Facilities and Activities.
 - (1) Concurrence.
 - (a) The approval authority must provide copies of the exemption request, appropriate supporting documentation, and the draft exemption and request concurrence on each exemption from the following parties before granting an exemption:

- 1 the CSO;
 - 2 the OPI; and
 - 3 HSS; and
 - 4 the Office of the General Counsel.
 - (b) The approval authority may not grant the exemption until—
 - 1 the parties have concurred, or
 - 2 thirty (30) calendar days have passed without nonconcurrence after providing the parties the draft exemption and associated documentation (if a party requests additional information they will be granted an additional 14 calendar days after requested additional information has been provided).
 - (c) If one of the parties submits nonconcurrence, the approval authority must proceed as follows or deny the exemption.
 - 1 Work with the nonconcurring party to resolve any issues and withdraw the nonconcurrence.
 - 2 Raise the matter to the Deputy Secretary for resolution.
- (2) Approval Authority. Unless otherwise stated in the directive, heads of Departmental elements (which include operations and field office managers) approve exemptions from DOE Orders, Notices, and Manuals for activities and facilities under their direction.

3. EXEMPTION REQUESTS.

- a. Requests for exemptions must include the following information.
 - (1) Site or facility for which an exemption is being requested.
 - (2) Reference to the requirements for which exemption is sought.
 - (3) Identification and justification of the acceptance of any additional risks that will be incurred if the exemption is granted.
 - (4) Benefits to be realized by providing the exemption.
 - (5) Whether the exemption being requested is temporary or permanent and for temporary exemptions, indication of when compliance will be achieved.

- (6) Identification of other pertinent data or information used as a basis for obtaining an exemption.
- b. Requests for exemptions to environment, safety, and health requirements must also address the following:
 - (1) A description of any special circumstances that warrant the granting of an exemption, including whether—
 - (a) application of the requirement in the particular circumstances would conflict with another requirement;
 - (b) application of the requirement in the particular circumstances would not achieve, or is not necessary to achieve its underlying purpose;
 - (c) application of the requirement in the particular circumstances would not be justified by any safety and health benefit;
 - (d) the exemption would result in a health and safety benefit that compensates for any detriment that would result from granting the exemption; or
 - (e) other material circumstances that exist were not considered when the requirement was adopted for which it is in the public interest to grant an exemption.
 - (2) Steps to be taken to provide adequate protection of health, safety, and the environment, and a statement that adequate protection will be provided.
 - (3) A description of any alternative or mitigating actions that have or will be taken to ensure adequate safety and health and protection of the public, the workers, and the environment for the period the exemption will be effective.

4. APPROVAL CRITERIA.

For all exemption decisions, the basis for approving the exemption must be documented in the approval and the approving authority may grant an exemption only if the exemption—

- a. is not prohibited by law;
- b. would not present an undue risk to public health and safety, the environment, facility workers, or security; and
- c. is warranted under the circumstances.