U.S. Department of Energy
Washington, D.C.

ORDER

DOE O 226.1B

Approved: 4-25-2011
Chg 1 (Admin Chg) 5-3-2022

SUBJECT: IMPLEMENTATION OF DEPARTMENT OF ENERGY OVERSIGHT POLICY

1. PURPOSE. This Order establishes requirements and provides direction for implementing Department of Energy (DOE) Policy (P) 226.2, Policy for Federal Oversight and Contractor Assurance Systems, dated August 9, 2016

2. CANCELLATION. This Order cancels DOE Order (O) 226.1A, *Implementation of Department of Energy Oversight Policy,* dated 07-31-07.

   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 (CRD) 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contract unless and until the contract or regulatory commitment is modified to either eliminate requirements that are no longer applicable or substitute a new set of requirements.

3. APPLICABILITY.

   a. Departmental Applicability. Except for the exemptions in paragraph 3.c., this Order applies to all Departmental Elements.

      The Administrator of the National Nuclear Security Administration (NNSA) must assure that NNSA employees comply with their respective responsibilities under this Order. Nothing in this Order 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.

      This Order applies to oversight processes implemented by DOE line management[1] organizations (both Headquarters and Field Elements) that manage or operate onsite oversight programs and DOE independent oversight[2] organizations. This Order covers operational aspects of environment, safety, and health; safeguards and security; cyber security; business and financial systems; and emergency management.

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[1] DOE line management refers to the unbroken chain of responsibility that extends from the Secretary of Energy to the Deputy Secretary, to the Secretarial Officers who set program policy and plans and develop assigned programs, and to the program and Field Element Managers who are responsible for execution of these programs.

[2] Independent oversight refers exclusively to oversight by DOE Headquarters organizations that do not have line management responsibility for the activity. Other DOE directives establish additional requirements for independent oversight activities. Oversight by supporting organizations that are direct reports to line management is not considered DOE independent oversight.

b. DOE Contractors.

(1) Except for the equivalencies/exemptions in paragraph 3.c., the CRD, Attachment 1, sets forth requirements of this Order, which will apply to contracts that include the CRD. The CRD, Attachment 1, must be included in all contracts for the management and operation (M&O) of DOE-owned or DOE-leased facilities (i.e., those contracts that contain 48

C.F.R. 970.5402-2, *Laws, Regulations, and DOE Directives*). In addition, the applicable requirements of the CRD must be included in contracts that do not contain 48 C.F.R. 970.5402-2, but do contain 48 C.F.R. 952.204-2, *Security Requirements*; 48 C.F.R. 952.204-70, *Classification/ Declassification;* and/or 48 C.F.R. 952.223-71, *Integration of Environment, Safety, and Health into Work Planning and Execution*.

c. Equivalencies/Exemptions.

(1) In accordance with the responsibilities and authorities assigned by Executive Order 12344, codified at 50 U.S.C., 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 Order for activities under the director's cognizance, as deemed appropriate.

(2) With respect to intelligence-related activities of the Director, Office of Intelligence and Counterintelligence, and counterintelligence-related activities of the Office of Intelligence and Counterintelligence, this Order applies only to information protection and cyber security measures pursuant to Executive Order 12333.

(3) Consistent with Secretarial Delegation Order Number 00-033.00B to the Administrator and Chief Executive Officer, Bonneville Power Administration, this Order does not apply to oversight of environmental programs or occupational safety and health programs at Bonneville Power Administration.

(4) This Order does not apply to the Office of Inspector General.

(5) Equivalencies and exemptions granted against the requirements of DOE Order (O) 226.1A, *Implementation of Department of Energy Oversight Policy,* dated 07-31-07 will continue to stay in effect after issuance of this Order.

4. REQUIREMENTS.

a. All applicable DOE organizations must:

(1) Establish and implement an effective oversight program consistent with DOE P 226.2 and the requirements of this Order.

(2) Maintain sufficient technical capability and knowledge of site and contractor activities to make informed decisions about hazards, risks, and resource allocation; provide direction to contractors; and evaluate contractor performance.

b. Oversight processes implemented by applicable DOE line management organizations must:

(1) Evaluate contractor and DOE programs and management systems, including site assurance systems, for effectiveness of performance (including compliance with requirements). Such evaluations must be based on the results of operational awareness activities; assessments of facilities, operations, and programs; and assessments of the contractor's assurance system. The level and/or mix (i.e., rigor or frequency in a particular area) of oversight may be tailored based on considerations of hazards, the maturity and operational performance of the contractor's programs and management systems.

(2) Include written plans and schedules for planned assessments, focus areas for operational oversight, and reviews of the contractor's self-assessment of processes and systems. Address the role of the Central Technical Authorities and their support staff for core nuclear safety functions.

(3) Include DOE Headquarters line organizations' conduct of oversight processes that are focused primarily on their DOE Field Elements, including reviewing contractor activities to the extent necessary to evaluate the implementation and effectiveness of the Field Element's oversight of its contractors.

(4) Include an issues management process that is capable of categorizing findings based on risk and priority, ensuring relevant line management findings are effectively communicated to the contractors, and ensuring that problems are evaluated and corrected on a timely basis. The issues management process must ensure for issues categorized as high significance findings:

(a) A thorough analysis of the underlying causal factors is completed;

(b) Corrective actions that will address the cause(s) of the findings and prevent recurrence are identified and implemented;

(c) After completion of a corrective action or a set of corrective actions, the conduct of an effectiveness review using trained and

qualified personnel that can verify the corrective action/corrective action plan has been effectively implemented to prevent recurrences;

(d) Documentation of the analysis process and results described in (a) and maintenance tracking to completion of plans and schedules for the corrective actions and effectiveness reviews described in (b) and (c) above, in a readily accessible system; and

(e) When findings and/or corrective actions apply to more than one Secretarial Office, a lead office is appointed by mutual agreement between the affected Secretarial Officers.

(5) Be tailored according to the effectiveness of contractor assurance systems, the hazards at the site/activity, and the degree of risk, giving additional emphasis to potentially high consequence activities.

c. DOE line management must establish and communicate performance expectations to contractors through formal contract mechanisms. Such expectations (e.g., safety performance measures and commitments) must be established on an annual basis, or as otherwise required or determined appropriate by the Field Element.

d. DOE line management must have effective processes for communicating oversight results and other issues in a timely manner up the line management chain, and to the contractor as appropriate, sufficient to allow senior managers to make informed decisions.

e. For activities and programs at Government-owned and Government-operated facilities and sites that are not under the cognizance of a DOE Field Element, DOE Headquarters program offices must establish and implement comparably effective oversight processes consistent with requirements for the contractor assurance system (see attachment 1) and DOE line management oversight processes.

5. RESPONSIBILITIES.

a. The Administrator, NNSA; the Under Secretary of Energy; and the Under Secretary for Science. The Administrator, NNSA; the Under Secretary of Energy; and the Under Secretary for Science maintain operational awareness of nuclear operations. To assist in these responsibilities, the Secretary has established Central Technical Authorities to maintain operational awareness, especially with respect to complex, high-hazard nuclear operations, for ensuring that the Department's safety policies and requirements are adequate and properly implemented.

b. Administrator, NNSA; Cognizant Secretarial Officers; DOE and NNSA Procurement Executives; and Program Secretarial Officers.

(1) Establish oversight programs and implement the requirements in this Order at Headquarters and Field Elements.

(2) Ensure that Field Elements perform effective oversight in all relevant areas and place high priority on oversight of high consequence activities, such as high hazard nuclear operations, and assist the Field Elements in implementing and improving documented oversight program plans and schedules through direction and feedback.

(3) Establish and maintain appropriate qualification standards for personnel with Headquarters and Field Element oversight responsibilities and clear, unambiguous lines of authority and responsibility for oversight.

c. Central Technical Authorities

(1) Maintain awareness of the implementation of nuclear safety requirements and guidance consistent with principles of Integrated Safety Management across the organization (including, for example, reviewing documented safety analyses, authorization agreements, and readiness reviews as necessary to evaluate the adequacy of safety controls and implementation).

(2) Periodically review DOE organizations to determine whether sufficient numbers of qualified Federal and dedicated support personnel are provided to effectively fulfill the organizations' nuclear safety responsibilities.

(3) Periodically assess DOE Headquarters and Field Element programs for oversight of high consequence activities, such as high hazard nuclear operations.

d. Office of Environment, Health, Safety and Security.

(1) Serves as Office of Primary Interest for DOE O 226.1B.

(2) Distributes lessons learned resulting from independent oversight appraisals and/or corrective actions as part of the Department's Operating Experience Program.

(3) Coordinates any changes, revisions, or directives developed in support of this Order.

(4) Consults with Program Secretarial Officer or NNSA Administrator on request for exemptions/equivalencies from this Order.

e. Office of Enterprise Assessments. Conducts independent oversight and ensures that high priority is placed on independent oversight of operational awareness activities and appraisals of high consequence activities.

f. Heads of Field Elements/Heads of Contracting Activities.

(1) Establish oversight programs and implement the requirements in this Order.

(2) Notify the contracting officer of affected contracts so that the CRD, or its applicable requirements, may be incorporated into those affected contracts as appropriate.

(3) Establish and implement line management oversight programs and processes at the Field Element level to meet the requirements of this Order and hold personnel accountable for implementing these programs and processes.

(4) Approve the initial contractor assurance system description. Review and assess the effectiveness of the Contractor Assurance System.

(5) Establish performance expectations and communicate same to contractors through formal contract mechanisms.

(6) Use the results of DOE line and independent oversight and contractor assurance systems to make informed decisions about corrective actions and the acceptability of risks and to improve the effectiveness and efficiency of programs and site operations.

g. Contracting Officers, once notified, must incorporate the CRD or equivalent national and international consensus standards or contract clauses into their contracts as soon as practical but no later than 6 months after the effective date of this Order.

6. DEFINITIONS.

a. *Assurance systems* encompass all aspects of the processes and activities designed to identify deficiencies and opportunities for improvement, report deficiencies to the responsible managers, complete corrective actions, and share in lessons learned effectively across all aspects of operation.

b. *DOE Oversight* encompasses activities performed by DOE organizations to determine whether Federal and contractor programs and management systems, including assurance and oversight systems, are performing effectively and complying with DOE requirements. Oversight programs include operational

awareness activities, onsite reviews, assessments, self-assessments, performance evaluations, and other activities that involve evaluation of contractor organizations and Federal organizations that manage or operate DOE sites, facilities, or operations.

c. *Site programs* refers to programs that protect the public, workers, the environment, and national security interests or support essential mission activities. Site programs may include environment, safety, and health; safeguards and security; cyber security; and emergency management.

d. *Site management systems* refers to required management systems that provide the framework for a set of related site programs. Site management systems can include Integrated Safety Management, Quality Assurance Programs, Environmental Management Systems, Radiation Protection Programs, and Worker Safety and Health Programs.

7. CONTACT. Questions concerning this Order should be addressed to the Office of Health and Safety at (301) 903-7385.

BY ORDER OF THE SECRETARY OF ENERGY:

DAVID TURK
Deputy Secretary of Energy

CONTRACTOR REQUIREMENTS DOCUMENT
DOE O 226.1B, *IMPLEMENTATION OF DEPARTMENT OF ENERGY OVERSIGHT POLICY*

Contractor Assurance System

1. RESPONSIBILITIES.

Regardless of the performer of the work, the contractor is responsible for complying with the requirements of this Contractor Requirements Document (CRD). The contractor is responsible for flowing down the requirements of this CRD to subcontractors at any tier

to the extent necessary to ensure the contractor's compliance with the requirements. Contractors must monitor and evaluate all work performed under their contracts, including the work of subcontractors, to ensure work performance meets the applicable requirements for environment, safety, and health, including quality assurance and integrated safety management; safeguards and security; cyber security; business and financial systems; and emergencymanagement.

2. REQUIREMENTS.

a. The contractor must establish an assurance system that includes assignment of management responsibilities and accountabilities and provides evidence to assure both the Department of Energy's (DOE) and the contractor's managements that work is being performed safely, securely, and in compliance with all requirements; risks are being identified and managed; and that the systems of control are effective and efficient.

b. The contractor assurance system, at a minimum, must include the following:

(1) A method for validating the effectiveness of assurance system processes. Third party audits, peer reviews, independent assessments, and external certification may be used and integrated into the contractor's assurance system to complement, but not replace, internal assurance systems.

(2) Rigorous, risk-informed, and credible self-assessment and feedback and improvement activities. Assessment programs must be risk-informed, formally described and documented, and appropriately cover potentially high consequence activities.

(3) A structured issues management system that is formally described and documented and that:

(a) Captures program and performance deficiencies (individually and collectively) in systems that provide for timely reporting, and taking compensatory corrective actions when needed.

(b) Contains an issues management process that is capable of categorizing the significance of findings based on risk and priority and other appropriate factors that enables contractor management to ensure that problems are evaluated and corrected on a timely basis. For issues categorized as higher significance findings, contractor management must ensure the following activities are completed and documented:

(1) A thorough analysis of the underlying causal factors is completed;

(2) Timely corrective actions that will address the cause(s) of the findings and prevent recurrence are identified and implemented;

(3) After completion of a corrective action or a set of corrective actions, an effectiveness review is conducted using trained and qualified personnel that can validate the effectiveness of corrective action/plan implementation and results in preventing recurrences; and

(4) Documentation of the analysis process and results described in (1) above, and maintenance and tracking to completion of plans and schedules for the corrective actions and effectiveness reviews described in (2) and (3) above in a readily accessible system.

(5) Communicates issues and performance trends or analysis results up the contractor management chain to senior management using a graded approach that considers hazards and risks, and provides sufficient technical basis to allow managers to make informed decisions and correct negative performance/compliance trends before they become significant issues.

(4) Timely and appropriate communication to the Contracting Officer, including electronic access of assurance-related information.

(5) Continuous feedback and improvement, including worker feedback mechanisms (e.g., employee concerns programs, telephone *hotlines*, employee suggestions forms, labor organization input), improvements in work planning and hazard identification activities, and lessons learned programs.

(6) Metrics and targets to assess the effectiveness of performance, including benchmarking of key functional areas with other DOE contractors, industry, and research institutions.

c. The contractor must submit an initial contractor assurance system description to the Contracting Officer for DOE review and approval. That description must clearly define processes, key activities, and accountabilities. An implementation plan that considers and mitigates risks should also be submitted if needed and should encompass all facilities, systems, and organization elements. Once the description is approved, timely notification must be made to the Contracting Officer of significant assurance system changes prior to the changes being made.

d. To facilitate appropriate oversight, contractor assurance system data must be documented and readily available to DOE. Results of assurance processes must be analyzed, compiled, and reported to DOE as requested by the Contracting Officer (e.g., in support of contractor evaluation or to support review/approval of corrective action plans).