

Approved: 1-7-04
Sunset Review: 1-7-06
Expiration: 1-7-08

**SUBJECT: SAFEGUARDS AGREEMENT AND PROTOCOL WITH THE
INTERNATIONAL ATOMIC ENERGY AGENCY**

1. OBJECTIVES.

- a. To ensure that the Department of Energy (DOE) complies with the Agreement Between the United States of America and the International Atomic Energy Agency for the Application of Safeguards in the United States (hereafter the Agreement), the Protocol to the Agreement (hereafter the Protocol), and the subsidiary arrangements to the Agreement (hereafter the subsidiary arrangements).
- b. To prescribe policies and responsibilities for DOE to ensure compliance with the Agreement, Protocol, and subsidiary arrangements.

2. CANCELLATIONS. This Order cancels DOE 1270.2B, *Safeguards Agreement with the International Atomic Energy Agency*, dated 6-23-92. Cancellation of DOE 1270.2B does not, by itself, modify or otherwise affect any contractual obligation to comply with the Order. Canceled DOE directives that are incorporated by reference in a contract remain in effect until the contract is modified to delete the reference to the requirements in the canceled directives.

3. APPLICABILITY.

- a. DOE Elements. This Order applies to DOE elements as shown in Attachment 1.
- b. Site/Facility Management Contractors.
 - (1) Except for the exclusions in paragraph 3.c, the Contractor Requirements Document (CRD), Attachment 2, sets forth requirements of this Order that will apply to site/facility management contractors whose contracts include the CRD.
 - (2) This CRD must be included in all site/facility management contracts that involve activities that are potentially subject to application of IAEA safeguards.
 - (3) This Order does not automatically apply to other than site/facility management contractors. Any application of any requirements of this Order to other than site/facility management contractors will be communicated separately from this Order.

DISTRIBUTION:
All Departmental Elements

INITIATED BY:
Office of International Safeguards

- (4) The Office of International Safeguards is responsible for telling contracting officers which site/facility management contractors are affected by this Order. Once notified, contracting officers are responsible for incorporating the CRD into the contracts of affected site/facility management contractors via the laws, regulations, and DOE directives clause of the contracts.
- (5) As the laws, regulations, and DOE directives clause of site/facility management contracts states, regardless of the performer of the work, site/facility management contractors with a CRD incorporated into their contracts are responsible for compliance with the requirements of the CRD.
 - (a) Affected site/facility management contractors are responsible for flowing down the requirements of this CRD to subcontractors at any tier to the extent necessary to ensure the site/facility management contractors' compliance with the requirements.
 - (b) Contractors must not unnecessarily or imprudently flow down requirements to subcontractors. That is, contractors will—
 - 1 ensure that they and their subcontractors comply with the requirements of the CRD and
 - 2 incur only costs that would be incurred by a prudent person in the conduct of competitive business.
- c. Exclusions. In accordance with the responsibilities and authorities assigned by Executive Order 12344 and to ensure consistency throughout the joint Navy and DOE organization of the Naval Nuclear Propulsion Program, the Director of the Naval Nuclear Propulsion Program will implement and oversee all requirements and practices pertaining to this DOE Order for activities under the Director's cognizance.

4. REQUIREMENTS.

- a. All DOE facilities in the United States with source or special fissionable material are eligible for application of International Atomic Energy Agency (IAEA) safeguards under the Agreement and Protocol, excluding only those facilities associated with activities with direct national security significance to the United States.
- b. DOE facilities selected by the IAEA for inspection or reporting under the Agreement or Protocol will be in compliance with the provisions of the Agreement, Protocol, subsidiary arrangements, and applicable facility attachment.

- c. IAEA inspectors will be provided access to DOE facilities selected by the IAEA under the Agreement or Protocol. IAEA inspectors will be entitled to carry out activities at such facilities according to the provisions of the Agreement, Protocol, subsidiary arrangements, and applicable facility attachments. IAEA inspectors will be notified of applicable health, safety, and security procedures that they will need to observe.
- d. National Security Information may be transmitted to the IAEA under the Agreement or Protocol; however, such National Security Information must be transmitted on a controlled basis as necessary and only to comply with the Agreement, Protocol, and subsidiary arrangements.
- e. Implementation activities required under the terms of the Agreement, Protocol, and subsidiary arrangements will be consistent with prudent management practices (e.g., avoiding unnecessary interference in the operation of DOE facilities and minimizing costs).
- f. Information classified as Restricted Data or Formerly Restricted Data must not be revealed, released, or transmitted to the IAEA.

5. RESPONSIBILITIES.

- a. Deputy Administrator for Defense Nuclear Nonproliferation (NNSA).
 - (1) Represents DOE before the Department of State, Congress, and the IAEA on matters pertaining to the Agreement, Protocol, and subsidiary arrangements.
 - (2) Participates in resolution of proposed changes to the list of DOE facilities eligible for the application of IAEA safeguards where agreement has not been achieved by the Assistant Deputy Administrator of the Office of Nonproliferation and International Security, the responsible Program Secretarial Officer (PSO) and the Director of the Office of Security for non-NNSA facilities, and the responsible NNSA Deputy or Associate Administrator and the Chief of Defense Nuclear Security for NNSA facilities.
 - (a) When resolution is not achieved, refers the matter to the Under Secretary for Nuclear Security for resolution.
 - (b) If the Under Secretary for Nuclear Security is unable to achieve resolution, refers the matter to the Office of the Secretary.

b. Assistant Deputy Administrator of the Office of Nonproliferation and International Security (NNSA).

- (1) Approves plans and procedures developed by the Director of the Office of International Safeguards for implementing the Agreement, Protocol, and subsidiary arrangements.
- (2) Participates or designates representatives to participate with the Department of State and the Director of the Office of International Safeguards in policy development and decision making related to areas in which the Agreement, Protocol, or subsidiary arrangements can affect programs or facilities under the Assistant Deputy Administrator's cognizance.
- (3) Maintains the option to concur on all notifications to offices external to DOE in which implementation of the Agreement, Protocol, or subsidiary arrangements can affect programs under the Assistant Deputy Administrator's cognizance.
- (4) Serves as the DOE representative to the IAEA Steering Committee (ISC).
- (5) Participates with the responsible PSOs or NNSA Deputy or Associate Administrators in resolution of proposed changes to the list of DOE facilities eligible for the application of IAEA safeguards.

c. Director of the Office of International Safeguards (NNSA).

- (1) Requests, as appropriate, the participation of other potentially affected DOE/NNSA organizations, including a representative from the NNSA Office of the General Counsel, in the activities of the Negotiating Team.
- (2) Develops plans and procedures for implementing the Agreement, Protocol, and subsidiary arrangements and coordinates them with potentially affected DOE/NNSA organizations.
- (3) Serves as the DOE representative to the ISC Subcommittee on International Safeguards and Monitoring (SISM) and designates the DOE representative to the Subgroup on IAEA Safeguards in the United States (SISUS). Leads the DOE Negotiating Team delegation to establish subsidiary arrangements including facility attachments for DOE facilities selected by the IAEA for the application of safeguards. The Director may delegate these responsibilities to staff of the Office of International Safeguards.
- (4) Participates with the Department of State in policy development and decision making related to the Agreement, Protocol, or subsidiary

arrangements, including such matters as designation and acceptance of IAEA inspectors, access of IAEA inspectors to DOE facilities, and scope of inspection and inspector activities.

- (5) Establishes channels for transmission to the Department of State, for submittal to the IAEA, of safeguards documents prepared in accordance with the Agreement, Protocol, and subsidiary arrangements. These safeguards documents include design information questionnaires; draft facility attachments; nuclear material transaction, material balance, and inventory reports; special reports; amplifications; and clarifications.
- (6) Serves as the initial DOE point of contact for other Federal agencies (e.g., Department of State, Department of Defense, and the Nuclear Regulatory Commission [NRC]) regarding issues related to the Agreement, Protocol, and subsidiary arrangements.
- (7) Notifies the PSO or NNSA Deputy or Associate Administrator responsible for affected DOE facilities about IAEA actions under the Agreement, Protocol, and subsidiary arrangements including notification of upcoming IAEA inspections under the Agreement or reporting under the Protocol. Concurrently notifies managers of affected DOE facilities of upcoming IAEA inspections and reporting requirements.
- (8) Participates with the Chief Financial Officer and other appropriate heads of Headquarters elements in developing and disseminating policies and procedures for recovering the costs of special requests from the IAEA, as authorized under the Agreement and Protocol.
- (9) Ensures the opportunity for interested organizations to participate in interagency policy meetings related to implementation of IAEA safeguards at DOE facilities. In addition to the Office of Nonproliferation and International Security, such organizations may include potentially affected PSOs, NNSA Deputy and Associate Administrators, the Office of Security, the Chief of Defense Nuclear Security, and managers of DOE field element offices responsible for the facilities involved.
- (10) Serves as the primary source of information within DOE concerning implementation of the Agreement, Protocol, and subsidiary arrangements. In this capacity, the Director:
 - (a) provides technical guidance on safeguards;
 - (b) provides assistance in implementing the Agreement, Protocol, and subsidiary arrangements; and

- (c) coordinates DOE plans, procedures, and policy development related to implementation of the Agreement, Protocol, and subsidiary arrangements with PSOs, NNSA Deputy and Associate Administrators, the Office of Security, and the Chief of Defense Nuclear Security.
- (11) Maintains a current list of DOE facilities eligible for the application of IAEA safeguards. Notifies the PSO or NNSA Deputy or Associate Administrator responsible for affected DOE facilities of IAEA selections of DOE facilities for application of safeguards.
- (12) Advises appropriate PSOs, NNSA Deputy and Associate Administrators, and managers of DOE field element offices of obligations and associated actions that will be necessary to satisfy requirements of the Agreement, Protocol, and subsidiary arrangements.
- (13) Issues guidance for acceptance of accreditation credentials presented by IAEA inspectors and for escorting IAEA inspectors at DOE facilities.
- (14) Receives safeguards documents from Heads of Field Elements that have been approved pursuant to Section 5.h(19) of this Order and prepared in accordance with the Agreement, Protocol, and subsidiary arrangements. Transmits the safeguards documents to the Department of State for transmittal to the IAEA. Safeguards documents include design information questionnaires; draft facility attachments; nuclear material transaction, material balance, and inventory reports; special reports; amplifications; and clarifications. Reviews and coordinates safeguards documents with cognizant Headquarters elements for appropriateness before release from DOE.
- (15) In accordance with Article 22 of the Agreement, ensures nuclear material under safeguards pursuant to the Agreement and Protocol is at all times at least equivalent in amount and composition to any material that would be subject to IAEA safeguards in the United States under other suspended agreements between the United States, the IAEA, and possibly other parties.
- (16) Prepares guidance documents, as required, to facilitate implementation of this Order.
- (17) Has lead DOE responsibility for fulfilling duties assigned to DOE as a responsible agency under the AInteragency Procedures for the Implementation of the U.S.-IAEA Safeguards Agreement, *Federal Register*, vol. 63 (28), 7041B7044, February 11, 1998.

- (18) Obtains agreement with 1) the responsible PSO and the Office of Security for non-NNSA facilities, or 2) the responsible NNSA Deputy or Associate Administrator and the Chief of Defense Nuclear Security for NNSA facilities whenever an organization believes that a DOE facility previously excluded from the list of facilities eligible for the application of safeguards under the Agreement and Protocol should be considered for addition to the list.
 - (19) Following the Section 5.c(18) coordination process, notifies the SISUS of proposed additions to the list of DOE facilities eligible for application of IAEA safeguards.
 - (20) Obtains agreement with 1) the responsible PSO and the Office of Security for non-NNSA facilities, or 2) the responsible NNSA Deputy or Associate Administrator and the Chief of Defense Nuclear Security for NNSA facilities whenever an organization believes that a DOE facility on the list of facilities eligible for application of safeguards is scheduled to be engaged in activities with direct national security significance to the United States and should, therefore, be deleted from the list.
 - (21) Following the Section 5.c(20) coordination process, notifies the SISUS of deletions from the list of DOE facilities eligible for application of IAEA safeguards.
 - (22) Maintains procedures for notification of upcoming inspections at DOE facilities selected for the application of IAEA safeguards.
 - (23) Makes available the current list of IAEA inspectors formally designated for service in the United States to Heads of Field Elements responsible for facilities subject to IAEA inspection.
- d. Director of the Office of Security.
- (1) For all DOE facilities, including NNSA facilities, develops and maintains policies and procedures for reporting nuclear materials transactions, material balances, and inventory information to and from the Nuclear Materials Management and Safeguards System, as necessary for reporting such information to the Department of State for transmittal to the IAEA, in accordance with the provisions of the Agreement, Protocol, and subsidiary arrangements.
 - (2) For all non-NNSA facilities-
 - (a) develops and maintains procedures for controlled release to the IAEA of classified National Security Information and any other sensitive DOE information;

- (b) provides guidance to DOE field element offices on safeguards and security programs to facilitate IAEA activities while protecting and accounting for nuclear materials and sensitive information;
 - (c) reviews site safeguards and security plans pertaining to inspections by IAEA inspectors at individual DOE facilities;
 - (d) monitors safeguards aspects of implementation of the Agreement, Protocol, and subsidiary arrangements and ensures potential problems are identified to responsible PSOs and DOE field element offices;
 - (e) participates with the Director of the Office of International Safeguards and the responsible PSOs in determining whether a DOE facility should be placed on or deleted from the list of facilities eligible for application of IAEA safeguards.
- e. Chief of Defense Nuclear Security (NNSA). For all NNSA facilities—
 - (1) Develops and maintains procedures for controlled release to the IAEA of classified National Security Information and any other sensitive DOE information;
 - (2) Provides guidance to NNSA field element offices on safeguards and security programs to facilitate IAEA activities while protecting and accounting for nuclear materials and sensitive information;
 - (3) Reviews site safeguards and security plans pertaining to inspections by IAEA inspectors at individual NNSA facilities;
 - (4) Monitors safeguards aspects of implementation of the Agreement, Protocol, and subsidiary arrangements and ensures that potential problems are identified to responsible NNSA Deputy or Associate Administrators and to DOE field element offices;
 - (5) Participates with the Director of the Office of International Safeguards and the responsible NNSA Deputy or Associate Administrator in determining whether a NNSA facility should be placed on or deleted from the list of facilities eligible for application of IAEA safeguards.
- f. Program Secretarial Officers and NNSA Deputy and Associate Administrators.
 - (1) Oversee field implementation of the Agreement, Protocol, and subsidiary arrangements to ensure effectiveness without unnecessary adverse impact on the operation of DOE facilities or on implementation of DOE programs.

- (2) Participate, as necessary, in meetings of the SISM or SISUS for technical discussions and decisions relating to activities that can significantly affect DOE programs and facilities.
- (3) Participate, as necessary, with the DOE representative on the Negotiating Team.
- (4) Participate with the Director of the Office of International Safeguards in determining whether a DOE facility should be placed on the list of facilities eligible for application of IAEA safeguards. Notify the Director of the Office of International Safeguards when a DOE facility under the PSO's or Administrator's cognizance should be placed on the list of facilities eligible for application of IAEA safeguards.
- (5) Upon notification of IAEA actions by the Director of the Office of International Safeguards, direct responsible Heads of Field Elements to implement appropriate responses that are consistent with the Agreement, Protocol, and subsidiary arrangements.
- (6) Review and approve safeguards documents related to the Agreement, Protocol, and subsidiary arrangements prepared by DOE field elements. Safeguards documents include design information questionnaires; draft facility attachments; nuclear material transaction, material balance, and inventory reports; special reports; amplifications; and clarifications.
- (7) Ensure Headquarters and field resources, including budgets, are adequate to meet DOE responsibilities under the Agreement, Protocol, and subsidiary arrangements.
- (8) Advise contracting officers at the time of initiation of a procurement request, or at any time that it is known that a contract will fall within the scope of this Order, so that appropriate provisions are included in contracts.
- (9) Ensure appropriate written notice is given to the Director of the Office of International Safeguards whenever a facility on the list of facilities eligible for application of safeguards under the responsibility of the PSO or NNSA Deputy or Associate Administrator is scheduled to be engaged in activities with direct national security significance to the United States and should, therefore, be deleted from the list.
- (10) Ensure their staffs and subordinate field elements comply with the requirements of this Order and the Agreement, Protocol, and subsidiary arrangements.

- g. Chief Financial Officer. Participates with the Director of the Office of International Safeguards and other appropriate Headquarters elements in the development and dissemination of principles and procedures for recovering eligible costs under Article 14 of the Agreement from the IAEA following special IAEA requests. In general, the United States will bear the expenses incurred in implementing its responsibilities under the Agreement, Protocol, and subsidiary arrangements. However, if DOE or its contractors incur extraordinary expenses as a result of a specific request by the IAEA, DOE may request the IAEA to reimburse such expenses provided the IAEA has agreed in advance to do so.
- h. Heads of Field Elements.
- (1) Provide direction to and oversight of DOE/NNSA contractors managing facilities or operations under their responsibility to ensure compliance with the Agreement, Protocol, subsidiary arrangements, and applicable facility attachments.
 - (2) Follow direction from the PSO or NNSA Deputy or Associate Administrator with responsibility for DOE facilities that are eligible for the application of IAEA safeguards under the Agreement or Protocol, and consider advice from the Director of the Office of International Safeguards as to actions required under the Agreement, the Protocol, and subsidiary arrangements.
 - (3) Designate DOE field element participants and, as appropriate, contractor participants to serve as a DOE field office team for preliminary technical negotiations and for drafting and reviewing draft design information questionnaires and facility attachments. The DOE field office team will participate as appropriate in meetings with the Office of International Safeguards when invited by the PSO or NNSA Deputy or Associate Administrator or the Director of the Office of International Safeguards.
 - (4) Ensure that implementation activities under the Agreement, Protocol, and subsidiary arrangements are consistent with prudent management practices (e.g., avoiding unnecessary interference in the operation of DOE facilities and minimizing costs).
 - (5) Ensure DOE contractors that manage facilities excluded from inspection or reporting because of activities with direct national security significance notify the DOE field element office when such activities terminate and the facility could be considered for addition to the list of facilities eligible for application of safeguards.
 - (6) Initiate the procedure for possible addition of facilities to the list of facilities eligible for application of IAEA safeguards by informing the responsible PSO or NNSA Deputy or Associate Administrator when DOE

facilities under the Field Element Heads responsibility are not associated with activities with direct national security significance to the United States.

- (7) Ensure DOE contractors that manage facilities eligible for application of safeguards notify the DOE field element office when negotiations or plans are initiated that could lead to a facility being judged to be engaged in activities with direct national security significance to the United States and therefore requiring deletion from the list.
- (8) Ensure appropriate written notice is given to the responsible PSO or NNSA Deputy or Associate Administrator whenever a facility on the list of facilities eligible for safeguards is scheduled to be engaged in activities with direct national security significance to the United States and should, therefore, be deleted from the list.
- (9) Notify managers of affected facilities of upcoming IAEA inspections, and direct affected managers to:
 - (a) prepare for the inspection as soon as practical;
 - (b) keep readily available a file of current information for the identification of inspectors designated by the IAEA for inspections in the United States;
 - (c) maintain current arrangements for ready access and departure by IAEA inspectors.
- (10) Notify managers of affected facilities of upcoming reporting requirements to the IAEA and direct affected managers to prepare appropriate information to satisfy reporting obligations.
- (11) Ensure IAEA inspectors are identified properly before entering a DOE facility and are free to carry out their duties under the Agreement, Protocol, subsidiary arrangements, and applicable facility attachment after they have entered the facility. Ensure that IAEA inspectors comply with applicable site and facility health, safety, and security procedures.
- (12) Exercise care to ensure that classified information provided to the IAEA and its inspectors is limited to information required to be provided to the IAEA under the terms of the Agreement, Protocol, and subsidiary arrangements, including facility attachments.
 - (a) Under ordinary circumstances, classified information provided to the IAEA will be limited to information on nuclear material accounting, including nuclear materials transactions, material

balances, and inventory information for facilities on the list of facilities eligible for application of safeguards.

- (b) When questions arise as to the appropriateness of providing specific classified information, the proposal for resolution will be coordinated with the Director of the Office of International Safeguards and, as appropriate, the Director of the Office of Security or the Chief of Defense Nuclear Security.
 - (c) Where classified information is provided to the IAEA and its inspectors and the information is to be protected by the IAEA under its Asafeguards confidential designation, the recipient will be informed that the information is classified by DOE.
- (13) Ensure IAEA inspectors are escorted during inspections by appropriately trained DOE and/or contractor personnel who are aware of applicable access procedures. Ensure escorts have appropriate background qualifications and clearances.
- (14) Ensure IAEA inspectors and any IAEA staff members carrying out functions under the Agreement, Protocol, and subsidiary arrangements have the benefit of safety and radiation protection measures in effect at each facility, including emergency assistance, medical care in case of accidents, and all other health and safety protection required for other visitors to DOE facilities under U.S. laws or DOE directives or practices.
- (15) Inform the Director of the Office of International Safeguards; the Director of the Office of Security or the Chief of Defense Nuclear Security, as appropriate; and the responsible PSO or NNSA Deputy or Associate Administrator of unusual incidents or circumstances involving actual or possible loss of nuclear material subject to safeguards under the Agreement or Protocol, where the Agreement, Protocol, or subsidiary arrangements provide for reporting these events to the IAEA. The Office of Emergency Management (NNSA) must also be informed of all such incidents and circumstances whether or not the events are to be reported to IAEA.
- (16) Inform the Director of the Office of International Safeguards; the Director of the Office of Security or the Chief of Defense Nuclear Security, as appropriate; and the responsible PSO or NNSA Deputy or Associate Administrator of any issue that may result in the need to terminate IAEA safeguards on nuclear materials or facilities. Such notification must include information on the particular facility where safeguards are applied and the associated reasons for termination of safeguards.

- (17) In conjunction with the relevant PSO or NNSA Deputy or Associate Administrator, provide funding and other resources to adequately satisfy DOE's obligations under the Agreement, Protocol, and subsidiary arrangements.
- (18) Advise contracting officers at the time of initiation of a procurement request, or at any time that it is known that a contract will fall within the scope of this Order, so that appropriate provisions including the Contractor Requirements Document in Attachment 2, are included in contracts.
- (19) Prepare safeguards documents in accordance with the Agreement, Protocol, and subsidiary arrangements. Submit the documents to the relevant PSOs or NNSA Deputy or Associate Administrators for their review and approval. Following approval from the relevant PSOs or NNSA Deputy or Associate Administrators, submit the safeguards documents to the Director of the Office of International Safeguards through appropriate channels. Safeguards documents include design information questionnaires; draft facility attachments; nuclear material transaction, material balance, and inventory reports; special reports; amplifications; and clarifications.
- (20) Direct any question, complaint, or request related to IAEA inspections to the Director of the Office of International Safeguards.
- (21) Inform managers of affected DOE facilities of their responsibilities and obligations as necessary for successful implementation of the Agreement, Protocol, and subsidiary arrangements.
- (22) Heads of Field Elements do not have approval or denial authority for IAEA inspections at DOE facilities or for IAEA inspectors. Note: This limitation supersedes any approval authority given or implied under DOE N 142.1.

6. DEFINITIONS.

- a. Design Information Questionnaire. An IAEA form used in accordance with the Agreement or the Protocol to provide to the IAEA information on facilities selected by the IAEA for the application of safeguards. There are different forms for different types of facilities.
- b. DOE Contractor. An entity that receives an award from DOE, including management and operating contractors, to manage, operate, or provide site services to DOE research or production facilities that are principally engaged in work for DOE.

- c. Effective Kilogram. A special unit for quantities of nuclear material defined under the Agreement as (1) for plutonium, its weight in kilograms; (2) for uranium with an enrichment of 0.01 (1 percent) and above, its weight in kilograms multiplied by the square of its enrichment; (3) for uranium with an enrichment below 0.01 (1 percent) and above 0.005 (0.5 percent), its weight in kilograms multiplied by 0.0001; and (4) for depleted uranium with an enrichment of 0.005 (0.5 percent) or below, and for thorium, its weight in kilograms multiplied by 0.00005. As an example of (2) above, 10 kilograms of uranium with an enrichment of 0.03 (3 percent) would equal 0.009 effective kilograms (10 kilograms X 0.0009).
- d. Facility. A facility is 1) a reactor, a critical facility, a conversion plant, a fabrication plant, a reprocessing plant, an isotope separation plant, or a separate storage installation; or 2) any location where nuclear material in amounts greater than one effective kilogram is customarily used.
- e. Facility Attachment. That portion of the subsidiary arrangements that pertains to a particular installation that has been identified under Article 39(b) of the Agreement.
- f. Formerly Restricted Data. Classified information jointly determined by the Deputy Administrator for Defense Programs and the Department of Defense to be related primarily to the military use of atomic weapons and removed by the Deputy Administrator for Defense Programs from the category of Restricted Data under Section 142(d) of the Atomic Energy Act of 1954, as amended.
- g. Heads of Field Elements. For the purposes of this Order, the term *Heads of Field Elements* includes DOE service centers and DOE operations, field, site, area, and project offices.
- h. IAEA Steering Committee (ISC). An interagency group that coordinates United States policy related to the IAEA. The ISC coordinates U.S. assistance to help improve IAEA safeguards effectiveness and resolves interdepartmental issues relating to the Agreement, Protocol, or subsidiary arrangements. The ISC is composed of representatives from the Departments of Defense, Energy, and State; the Office of Management and Budget; the NRC; and the National Security Council.
- i. List of Facilities Eligible for Safeguards. A list, provided to the IAEA by the United States under Article 1(b) of the Agreement, of facilities within the United States containing source or special fissionable material that are not associated with activities with direct national security significance to the United States and, hence, eligible for application of safeguards under the Agreement.
- j. National Security Information. Information pertaining to the national defense and foreign relations of the United States and classified in accordance with Executive Order 12958.

- k. Negotiating Team. A team composed of members of the SISUS or their designees. The Negotiating Team negotiates with the IAEA to arrive at mutually agreed subsidiary arrangements and transitional subsidiary arrangements to the Agreement and Protocol and also undertakes such other responsibilities as may be designated by the SISM or ISC.
- l. Nuclear Materials Management and Safeguards System. The national database and information support system for nuclear materials controlled by the United States Government, created to support national safeguards and management objectives in the domestic and foreign use of nuclear resources. The system stores data on nuclear material transactions and inventories and produces a wide range of printed reports for use by DOE, including NNSA, and NRC. The system is used to satisfy the nuclear materials information obligations in agreements between the United States and foreign entities. In addition, the system provides the reporting interface between facilities selected for the application of safeguards under the provisions of the Agreement and the Protocol. The system is a centralized computer database that processes data received by way of unclassified and classified electronic links including the Secure Information Management and Exchange Network (SIMEX) used by a number of facilities, DOE/NNSA elements and organizations, and NRC offices in the United States.
- m. Restricted Data. As defined in the Atomic Energy Act of 1954, includes all data concerning (1) the design, manufacture, or use of atomic weapons; (2) the production of special nuclear material; and (3) the use of special nuclear material in the production of energy but does not include data declassified or removed from the Restricted Data category under Section 142 of the Atomic Energy Act of 1954.
- n. Safeguards. Those measures applied under the Agreement and Protocol to enable IAEA to detect possible diversion of nuclear material.
- o. Subgroup on IAEA Safeguards in the United States (SISUS). A division of the ISC Subcommittee on International Safeguards and Monitoring (SISM). The SISUS monitors implementation of the Agreement, Protocol, and subsidiary arrangements; carries out responsibilities specifically prescribed in the Agreement and Protocol; and undertakes such other working level activities as may be designated by the SISM or ISC.
- p. Subsidiary Arrangements. Documents setting forth details for implementing the Agreement and Protocol that have been mutually agreed upon by the United States and IAEA. Subsidiary arrangements are required by Article 39 of the Agreement. The subsidiary arrangements include a general part applicable to those facilities in the United States identified by IAEA for the application of safeguards in accordance with the Agreement and Protocol. The general part identifies the substance of communications to be made, format of documents,

procedures to be followed, and time limits for various actions. A separate facility attachment containing all other necessary arrangements, specified in sufficient detail to permit the IAEA to fulfill its responsibilities in an effective and efficient manner, is prepared for each such facility selected by the IAEA for the application of safeguards.

Refer to Article 90 of the Agreement for additional definitions.

7. REFERENCES.

- a. Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 et seq. Available online at: <http://www.nrc.gov/who we are/governing laws.html>.
- b. U.S. Department of State, "Interagency Procedures for the Implementation of the U.S.-IAEA Safeguards Agreement," *Federal Register*, vol. 63 (28), 7041-7044, February 11, 1998. Available online at: <http://www.gpoaccess.gov/fr/retrieve.html>.
- c. "Agreement Between the United States of America and the International Atomic Energy Agency for the Application of Safeguards in the United States." Done at Vienna November 18, 1977; entered into force December 9, 1980. Available online at: <http://dosfan.lib.uic.edu/acda/treaties/usiaea1.htm>.
- d. "Subsidiary Arrangements to the Agreement Between the Government of the United States of America and the International Atomic Energy Agency for the Application of Safeguards in the United States of America," June 1, 1978.
- e. "Unclassified Foreign Visits and Assignments." DOE N 142.1. Available online at: <http://www.directives.doe.gov/directives/read.html>.

8. CONTACT. Questions concerning this Order should be addressed to the Office of International Safeguards at (202) 586-8460.

BY ORDER OF THE SECRETARY OF ENERGY:



KYLE E. MCSLARROW
Deputy Secretary

**DEPARTMENT OF ENERGY ORGANIZATIONS TO
WHICH DOE O 142.2 IS APPLICABLE**

Office of the Secretary
Office of the Chief Information Officer
Office of Civilian Radioactive Waste Management
Office of Congressional and Intergovernmental Affairs
Office of Counterintelligence
Departmental Representative to the Defense Nuclear Facilities Safety Board
Office of Environment, Safety, and Health
Office of Environmental Management
Office of Independent Oversight and Performance Assurance
Office of the Inspector General
Office of Intelligence
Office of Management, Budget, and Evaluation and Chief Financial Officer
National Nuclear Security Administration
Office of Nuclear Energy, Science, and Technology
Office of Policy and International Affairs
Office of Science
Secretary of Energy Advisory Board
Office of Security
Office of Energy Assurance

**DEPARTMENT OF ENERGY ORGANIZATIONS TO
WHICH DOE O 142.2 IS NOT APPLICABLE**

Office of Energy Efficiency and Renewable Energy
Energy Information Administration
Office of Economic Impact and Diversity
Office of Electric Transmission and Distribution
Office of General Counsel
Office of Fossil Energy
Office of Hearings and Appeals
Office of Public Affairs
Office of Worker and Community Transition
Bonneville Power Administration
Southeastern Power Administration
Southwestern Power Administration
Western Area Power Administration

CONTRACTOR REQUIREMENTS DOCUMENT
DOE O 142.2, *Safeguards Agreement and Protocol with the*
International Atomic Energy Agency

1. GENERAL REQUIREMENTS.

- a. This Contractor Requirements Document (CRD) establishes the requirements for Department of Energy (DOE) contractors, including National Nuclear Security Administration (NNSA) contractors, whose contracts involve an activity that is potentially subject to the application of safeguards by the International Atomic Energy Agency (IAEA). In the performance of DOE contracted obligations, each contractor must assist DOE, as directed by DOE, in meeting DOE's obligations under the "Agreement Between the United States of America and the International Atomic Energy Agency for the Application of Safeguards in the United States" (the "Agreement", the Original Protocol to the Agreement (hereafter the "Original Protocol"), the subsidiary arrangements to the Agreement, and the Interagency Procedures for the Implementation of the U.S.-IAEA Safeguards Agreement.
- b. Regardless of the performer of the work, the contractor is responsible for complying with the requirements of this 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. In doing so, the contractor must not unnecessarily or imprudently flow down requirements to subcontractors. That is, the contractor will ensure that it and its subcontractors comply with the requirements of this CRD and incur only those costs that would be incurred by a prudent person in the conduct of competitive business.
- c. DOE contractors do not have approval or denial authority for IAEA inspections at DOE facilities or for IAEA inspectors. Note: This limitation supersedes any approval authority given or implied under DOE N 142.1.

2. SPECIFIC REQUIREMENTS.

- a. Provide information and reports to the DOE field element office, as requested by DOE, to assist DOE in meeting DOE obligations under the Agreement, Protocol, and subsidiary arrangements.
- b. Upon notification of an upcoming IAEA inspection, affected contractors must
 - (1) prepare for the inspection as soon as practical;

- (2) keep readily available a file of current information for the identification of inspectors designated by the IAEA for inspections in the United States;
 - (3) maintain current arrangements for ready access and departure by IAEA inspectors.
- c. Ensure IAEA inspectors are identified properly before entering a DOE facility. Ensure IAEA inspectors are informed of health, safety, and security requirements applicable to the facility to be inspected.
- d. Ensure IAEA inspectors are escorted during inspections by appropriately trained personnel. Ensure escorts have appropriate background qualifications and clearances and are knowledgeable of health, safety, and security procedures applicable to the facilities to be inspected.
- e. Provide access to IAEA inspectors, as directed by DOE, to DOE facilities managed by the contractor that are selected by the IAEA for inspection under the procedures in Article 2 of the Protocol. Ensure IAEA inspectors are free to carry out their duties under the Agreement, Protocol, subsidiary arrangements, and applicable facility attachment after they have entered the facility.
- f. Exercise care to ensure classified information provided to IAEA inspectors is limited to information required to be provided to the IAEA under the terms of the Agreement, Protocol, and subsidiary arrangements, including facility attachments.
 - (1) Under ordinary circumstances, classified information provided to the IAEA is to be limited to information on nuclear material accounting, including nuclear materials transactions, material balances, and inventory information for facilities on the list of facilities eligible for application of safeguards.
 - (2) When questions arise as to the appropriateness of providing specific classified information, the proposal for resolution will be coordinated with the DOE field element office.
 - (3) Where classified information is provided to an IAEA inspector and the information is to be protected by the IAEA under its "safeguards confidential" designation, the inspector is to be informed that the information is classified by DOE.
- g. Ensure IAEA inspectors have the benefit of safety and radiation protection measure in effect at each DOE facility, including emergency assistance, medical care in case of accidents, and all other health and safety protection required for other visitors to DOE facilities under U.S. laws or DOE directives or practices.

- h. Inform the DOE field element office of unusual incidents or circumstances involving actual or possible loss of nuclear material subject to safeguards under the Agreement or Protocol.
- i. Direct any question, complaint, or request related to IAEA inspections to the DOE field element office.
- j. Notify the DOE field element office when negotiations or plans are initiated that could lead to a DOE facility being judged to be engaged in activities of direct national security significance and therefore requiring deletion from the list of DOE facilities eligible for the application of IAEA safeguards.
- k. Notify the DOE field element office when a DOE facility excluded from IAEA inspection because of associated activities with direct national security significance can be considered for addition to the list of DOE facilities eligible for application of IAEA safeguards because of the termination of activities with direct national security significance.
- l. Designate a point of contact concerning matters relating to IAEA safeguards and inform the DOE field element office of the person's name and contact information.