

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

ORDER

DOE 3350.1

Approved: 09-13-82

Change 1: 11-23-84

This directive was reviewed and certified as current and necessary by (Enter Name), (Enter Title) Director, Office of Management, Budget and Evaluation/Chief Financial Officer, XX-XX-XXXX.

SUBJECT: FURLOUGH IN THE SENIOR EXECUTIVE SERVICE

1. PURPOSE. To establish procedures for furlough of career members of the Senior Executive Service (SES) in the Department of Energy (DOE).
2. REFERENCES.
 - a. Title 5, Code of Federal Regulations, part 359, subpart H, contains regulatory authority and procedural requirements for a furlough of SES members.
 - b. Title 5, Code of Federal Regulations, part 1200-1201, provides regulations and procedures of appeal to the Merit Systems Protection Board (MSPB).
 - c. Federal Personnel Manual (FPM) supplement 296-33, subchapter 6, provides information on the computation of creditable service for reduction in force and leave which also applies to service credit for SES furlough under this directive.
3. DEFINITIONS.
 - a. Career Appointee. For the purposes of this directive only, a career member of the SES who is not serving the 1-year probationary period and who is not serving as a reemployed annuitant.
 - b. Competitive Area. For purposes of selection for furlough in the SES, the organizational and geographical area within which career and probationary appointees compete. Each Headquarters first-tier organization and each field organization shall be separate competitive areas. If an organization has activities in more than one commuting area, each commuting area shall be a separate competitive area. For purposes of this Order, first-tier is defined as an organization reporting to the Secretary, Deputy Secretary or Under Secretary, such as the Office of Energy Research or General Counsel.
 - c. Furlough. Placing an appointee temporarily in a nonpay, nonduty status because of lack of work or funds or other nondisciplinary reason when the Department intends to recall the appointee to a pay and duty status within 1 year.

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- d. Performance Rating. The latest official SES performance rating as reviewed by a Performance Review Board and approved by an authorized approving authority. Those who have never received an SES performance rating are presumed to be "fully successful."
- e. Probationary Appointee. A career member of the SES, other than a reemployed annuitant, who has not completed the 1-year probationary period.
- f. Reemployed Annuitant. An annuitant receiving annuity from the Civil Service Retirement and Disability Fund who having completed any required probationary period to acquire SES career appointment status is reemployed in the SES. An annuitant so reemployed serves at the will of the appointing authority.
- g. Service Computation Date. As used in this directive, the date used to identify an appointee's total creditable civilian and military service for retention standing in furlough competition. Creditable service is determined by using FPM 296-33, subchapter 6, pertaining to computation of service for reduction in force and leave purposes.

4. RESPONSIBILITIES.

- | a. Secretary of Energy or Chairman of Executive Personnel Board (EPB).
 - (1) Approves the need for a furlough in the SES.
 - (2) Approves furlough actions for SES appointees.
- | b. Director of Administration. Ensures that Departmental furloughs in the SES are carried out in accordance with governing regulations and Departmental policies and procedures.
- c. Director of Personnel.
 - (1) Develops, promulgates, and implements Departmental procedures for implementing a furlough in the SES and related personnel functions, consistent with appropriate laws and regulations.
 - (2) Maintains liaison with the Office of Personnel Management.
 - (3) Reviews plans to conduct a furlough in the SES, provides staff advice and recommendations, and provides technical support for program implementation.
 - | (4) Assures that furlough records are maintained for at least 1 year from the effective date of the action.

Vertical line denotes change.

- d. Heads of Departmental Elements. Provide requests for personnel action and appropriate data in support of furlough actions affecting subordinate SES appointees.

5. PROCEDURES.

a. Furloughs of 30 or Less Calendar Days (22 or Less Workdays if Furlough Does Not Cover Consecutive Days).

- (1) Selection of which SES member(s) must be furloughed shall be based on sound management reasons that relate to lack of work or funds, or other work interruptions beyond the control of the Department.
- (2) Determination of who will be furloughed and length of such furlough will be made by the Secretary of Energy or Chairman of the Executive Personnel Board.
- (3) Appointees chosen for furlough will receive notification, as described on page 5, paragraph 6.

b. Furloughs Over 30 Calendar Days (Over 22 Workdays if Furlough Does Not Cover Consecutive Days).

- (1) Determination that SES furloughs of over 30 calendar days or over 22 workdays are necessary to enable the Department to meet prescribed budget levels, or for other appropriate reasons, shall be made by the Secretary of Energy or the Chairman of the Executive Personnel Board. The determination will include the competitive area affected and the number of appointees to be furloughed.
- (2) Competition. Selection of which appointees will be furloughed will be made on the basis of retention competition. Within their respective competitive areas, employees will be released for furlough in ascending order as they appear on the retention register.
- (3) Retention Register. A list of all career appointees within a competitive area by group and subgroup is prepared to see who will be retained and who will be furloughed. Appointees compete for retention by virtue of their performance rating, tenure, and length of creditable service.
 - (a) Group I. All career and probationary appointees with exceptional performance ratings.
 - 1 Subgroup A. Career appointees listed in descending order of service computation dates.

- 2 Subgroup B. Probationary appointees listed in descending order of service computation dates.
 - (b) Group II. All career and probationary appointees with highly successful performance ratings.
 - 1 Subgroup A. Career appointees listed in descending order of service computation dates.
 - 2 Subgroup B. Probationary appointees listed in descending order of service computation dates.
 - (c) Group III. All career and probationary appointees with fully successful ratings or no rating.
 - 1 Subgroup A. Career appointees listed in descending order of service computation dates.
 - 2 Subgroup B. Probationary appointees listed in descending order of service computation dates.
 - (d) Group IV. All career and probationary appointees with minimally satisfactory ratings.
 - 1 Subgroup A. Career appointees listed in descending order of service computation dates.
 - 2 Subgroup B. Probationary appointees listed in descending order of service computation dates.
 - (e) Group V. All career and probationary appointees with unsatisfactory ratings.
 - 1 Subgroup A. Career appointees listed in descending order of service computation dates.
 - 2 Subgroup B. Probationary appointees listed in descending order of service computation dates.
- (4) Discretionary Exception. An exception to the general order of release for furlough may be made by the EPB to continue an appointee in a duty and pay status when his or her duties are such that they cannot be interrupted at the particular time of furlough. Appointees performing necessary phasedown work in the absence of appropriations may similarly be excepted from furlough and will be considered to be in a delayed pay, duty status, i.e., they remain in duty status to accomplish the closedown of their activity, but are not paid for those services until a new continuing resolution or appropriation legislation is passed.

- (5) Return From Furlough. When the Department recalls appointees to duty in the same competitive area from which they were furloughed, it shall normally recall them in the order of their retention standing, beginning with the highest standing employee, if all are not recalled to duty at the same time. An exception may be made to provide appropriate supervision if preparation for resumption of operations requires that certain individuals be recalled out of order.
6. NOTICE. Appointees are entitled to a written notice 30 calendar days in advance of the effective date of the furlough. The full notice period may be waived only in the event of unforeseeable circumstances, such as the failure of Congress to pass a continuing budget resolution. The written notice shall advise the appointee of the:
- a. Reason for the Departmental decision to take the furlough action;
 - b. Expected duration of the furlough and the effective dates;
 - c. Basis for selecting the appointees for furlough when some but not all of the SES appointees in a given organizational unit are being furloughed;
 - d. The reason, if the notice period is less than 30 calendar days;
 - e. Place where the appointee may inspect the regulations and records pertinent to the action; and
 - f. Appeal rights to the MSPB, including the time limit for the appeal and the location of the MSPB office to which the appeal should be sent.
7. ENTITLEMENTS UNDER FURLOUGH.
- a. Annual Leave.
 - (1) Appointees cannot elect to use paid leave during their furlough.
 - (2) Accrued annual leave granted prior to furlough may be completed consistent with governing Departmental leave policies:
 - (a) An employee who is on annual leave that was approved and began prior to the effective date of the furlough will be placed on furlough automatically when the approved period of leave expires.
 - (b) An employee who is on emergency annual leave on the day preceding the effective date of the furlough will be placed on furlough automatically on the effective date of the furlough.
 - (c) Any leave that had been approved, but which had not begun as of the effective date of the furlough, will be canceled.

Vertical line denotes change.

- (3) Leave may not be granted during a furlough or upon selection of an appointee to be furloughed.

b. Sick Leave.

- (1) Paid leave cannot be granted for an illness that occurs during a furlough.
- (2) Paid leave may be granted for an illness that began prior to a furlough, to the extent of the appointee's accrued leave and to the extent that the appointee remains sick.
- (3) If annual or compensatory time is being used in lieu of sick leave, the employee will be placed on furlough automatically upon the expiration of the period of illness.

c. Leave Accrual.

- (1) Employees do not accrue annual or sick leave if they are furloughed for one or more entire pay periods; e.g., if an employee is furloughed for all 10 workdays in pay period 4, no leave is earned for that pay period.
- (2) If employees are furloughed for an entire pay period and, in addition, the furlough extends into part of the preceding or subsequent pay period, leave is earned on a pro rata basis for that previous and/or subsequent pay period. For example, if an employee is furloughed for the last 2 days of pay period 4 and the entire pay period 5, no leave is earned for pay period 5, but for pay period 4 the employee earns 80 percent of normal sick and annual leave accrual (10 workdays in a pay status equal 100 percent leave accrual; 8 workdays in a pay status equal 80 percent leave accrual).
- (3) If the entire duration of a furlough is less than one full continuous pay period, full leave is earned for the affected pay period(s), rather than on a pro rata basis. For example, if an employee is furloughed for the last 5 days of pay period 4 and the first 5 days of pay period 5, there is no reduction of leave accrual by reason of furlough for either pay period.
- (4) If an employee's aggregate furlough time totals the hours in one pay period (i.e., an aggregate of 80 hours during a leave year in a nonpay status) his or her sick leave credit is reduced by one-half day and his or her annual leave credit is reduced by either one-half, three-fourths, or a full day, depending on the individual's leave earning category. For purposes of determining reduction in leave credits, the only hours counted toward the 80 hour aggregate will be those in a nonpay

status for each pay period of service during the leave year in which annual leave accrued. For example, an employee who normally earns 6 hours of annual leave and 4 hours of sick leave per pay period and is initially furloughed for 4 days (32 hours) in one pay period and 5 days (40 hours) in the next pay period is credited with 6 hours of annual leave and 4 hours of sick leave for each of these two pay periods. If the employee is then furloughed for as much as 1 day (8 hours) in the next pay period, the aggregate time in a nonpay status would total or exceed 80 hours and a deduction would be made from the employee's leave balance for that period of three-fourths of a day of annual leave (6 hours) and one-half day (4 hours) of sick leave.

- d. Service Credit. For retirement, leave, reduction in force, and severance pay, up to 6 months in the aggregate in any calendar year in a nonpay status is creditable.
- e. Probationary Period. Absence in nonpay status during periods of furlough is creditable for up to a total of 22 workdays toward the fulfillment of the 1-year SES probationary period. Any nonpay time in excess of the total of 22 workdays will extend the 1-year period of SES probation by an equal amount. For example, if an employee's 1-year probationary period would normally end on 7-12 and he or she accumulated 24 days in a nonpay status, the probationary period ending date would be extended to 7-14.
- f. Unemployment Compensation. Depending upon laws of the state in which employed, unemployment compensation is usually payable for each week in which income paid by the Government does not exceed the State's prescribed ceiling or percentage. Normally, 5 consecutive days in nonpay status is qualifying.
- g. Retirement.
 - (1) Consecutive Furlough. No withholdings while in a nonpay status for up to 12 months. As cited on page 7, paragraph 7d, service credit will be given for time spent in a nonpay status which does not exceed 6 months in the aggregate in any calendar year. However, if withholding deposits are not made to cover this period of service, the annuity otherwise payable is reduced by an amount equal to 10 percent of the balance due and unpaid, unless the employee elects to eliminate the service credited during nonpay status entirely for annuity computation purposes.
 - (2) Discontinuous Furlough. Contributions are adjusted each pay period in proportion to the basic salary received.

h. Life Insurance.

- (1) Consecutive Furlough. Coverage continues without cost while the appointee is in a nonpay status, for up to 12 months.
- (2) Discontinuous Furlough. Coverage continues and the balance of the appointee's pay during a pay period (after deduction for retirement, Federal income tax, and health benefits) is applied toward the appointee's withholding for life insurance.

i. Health Benefits.

- (1) Enrollment continues for up to 365 days of nonpay status (or periods of nonpay status interrupted by less than an aggregate of 4 months of pay status).
- (2) The enrollee is responsible for payment of his or her share of the cost of health insurance for each pay period during which the health insurance continues. If the employee's available salary in any pay period is insufficient to cover the full employee share, the employee is still responsible for paying the full amount due. If the employee does not make payments to the Department during nonpay status, he or she would be subject to withholdings from future salary upon return to duty to cover the amount due as an indebtedness to the Government. If the indebtedness cannot be withheld in full from salary, it may be recovered from a lump sum payment of accrued annual leave or other sources available to the Department for recovery of an indebtedness due the United States.
- (3) Employees may only avoid the requirement to pay their share of health benefits insurance by cancelling the insurance prospectively.

8. APPEAL TO MSPB. Career appointees who believe the regulations or Departmental procedures governing SES furloughs have not been correctly applied may appeal to the MSPB within 20 calendar days of the effective date of the furlough action. Appeal rights apply to both short and extended furloughs.

9. FURLOUGH OF NONCAREER, LIMITED TERM, LIMITED EMERGENCY, AND REEMPLOYED ANNUITANT APPOINTEES. Such appointees serve at the pleasure of the appointing authority and may be furloughed at any time without regard to competitive selection procedures; may be furloughed without 30 days advance written notice; and, by regulation, have no appeal right to the MSPB.



William S. Heffelfinger
Assistant Secretary
Management and Administration

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

PAGE CHANGE

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11-23-84

SUBJECT: FURLOUGH IN THE SENIOR EXECUTIVE SERVICE

1. PURPOSE. To transmit revised pages to DOE 3350.1, FURLOUGH IN THE SENIOR EXECUTIVE SERVICE, of 9-13-82.
2. EXPLANATION OF CHANGES. The overview of Departmental furloughs in the Senior Executive Service is now reflected as the responsibility of the Director of Administration, furlough documentation responsibilities have been added to the Director of Personnel, and the content of furlough notices has been amended to provide a reason if the notice period is less than 30 calendar days.

3. FILING INSTRUCTIONS.

a.	<u>Remove Page</u>	<u>Dated</u>	<u>Insert Page</u>	<u>Dated</u>
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	6	9-13-82	6	9-13-82

- b. After filing the attached pages, this transmittal may be discarded.

BY ORDER OF THE SECRETARY OF ENERGY:



WILLIAM S. HEFFELFINGER
Director of Administration

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Office of Personnel