

DOE 3351.1C  
6-23-92

THIS PAGE **MUST** BE KEPT **WITH** DOE 3351.1C, REDUCTION IN FORCE.

**DOE 3351.1C**, REDUCTION IN FORCE, HAS REVISED DOE 3351.1B TO REFLECT ONLY ORGANIZATIONAL TITLE AND ROUTING **SYMBOL** EDITORIAL REVISIONS REQUIRED BY NOTICES IN THE **SEN-6** SERIES. NO SUBSTANTIVE CHANGES HAVE BEEN MADE AT THIS **TIME**. **HOWEVER**, THIS ORDER **WILL** UNDERGO SUBSTANTIVE CHANGES IN THE NEAR FUTURE. IF YOU HAVE ANY QUESTIONS ABOUT PROVISIONS OF THE ORDER, PLEASE CONSULT APPROPRIATE STAFF **MEMBERS** IN THE OFFICE OF PERSONNEL. DUE TO THE **NUMBER** OF PAGES AFFECTED BY THE REVISIONS, THE ORDER **HAS** BEEN ISSUED AS A REVISION.



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

ORDER

DOE 3351.1C

6-23-92

SUBJECT: REDUCTION IN FORCE

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1. PURPOSE. To provide general guidance for planning and conducting a reduction in force involving Department of Energy (DOE) employees in the competitive and excepted service.
  2. CANCELLATION. DOE **3351.1B**, REDUCTION IN FORCE, of 4-24-86.
  3. EXCLUSION. The provisions of this Order do not apply to positions in the **Senior** Executive Service.
  4. REFERENCES.
    - a. Federal Personnel Manual (**FPM**), chapter 351 which states laws and regulations **pertaining** to reduction in force.
    - b. Reference Guide for Personnelists - Reduction in Force, which clarifies procedures and regulations.
    - c. **FPM**, chapter 330, which states laws and regulations pertaining to reemployment priority.
  5. POLICY.
    - a. Before formal reduction-in-force procedures are initiated, a concerted effort should be made to place employees who may become surplus through transfer, reassignment, or other appropriate action. Placement efforts, once undertaken, must be consistently applied. Consideration also should be given to achieving personnel reductions through attrition and restrictions on hiring.
    - b. If a reduction in force becomes necessary, adversely affected employees shall be informed at the earliest possible time and advised of the regulations under which reduction-in-force actions are taken and of their rights and benefits. Placement assistance, both within and outside the Department of Energy, shall be made available to all employees to be separated, in accordance with **applicable FPM** requirements.
    - c. Employees shall be accorded fair and equitable treatment, consistent with the retention preference regulations of the Department and the Office of Personnel Management (**OPM**).

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DISTRIBUTION:  
All Departmental Elements

INITIATED BY:  
**Office of Personnel**

- d. When establishing reduction in force procedures pursuant to law, civil service regulation, or DOE regulation, Heads of Departmental Elements shall assess the impact of the procedures on bargaining unit employees and shall negotiate or consult with exclusive representatives as appropriate under labor relations law or negotiated agreements.

6. RESPONSIBILITIES.

a. Director of Administration and Human Resource Management (AD-1).

- (1) Is responsible for general oversight of the program.
- (2) Ensures that the DOE reduction-in-force program embodies the concepts of managerial efficiency and mission support, and is carried out in accordance with DOE and **OPM** regulations.

b. Director of Personnel (AD-50).

- (1) Develops, promulgates, and implements DOE policies, standards, and procedures concerning reductions in force and related personnel functions consistent with appropriate laws and **OPM** regulations, and ensures that the program is operationally sound.
- (2) Maintains liaison with **OPM** on reduction-in-force policy.
- (3) Provides staff advice, or otherwise makes provision for technical support to the Headquarters and field personnel offices as necessary.
- (4) Evaluates the effectiveness with which any reduction in force and related personnel functions are planned and carried out.
- (5) Reviews plans to conduct a reduction in force and approves designations of competitive areas.

c. Heads of Departmental Elements.

- (1) Determine when reduction in force will be necessary and initiate appropriate action.
- (2) Determine which functions and organizations **will** be affected if a reduction in force is necessary because of program curtailments, reductions in monetary or manpower allocations, or any other causes which require a reduction in the size of the workforce.

- (3) Determine when a functional transfer is needed to facilitate the furtherance of the DOE mission and initiate action to obtain appropriate approvals.
- (4) Notify the Director of Personnel in writing before initiating any reduction-in-force action.

d. **Servicing Personnel Offices.**

- (1) Provide technical operations support to organizational units serviced in order that all reduction-in-force planning and personnel actions are carried out consistent with the provisions of this Order and with applicable regulations.
- (2) Maintain liaison with appropriate OPM offices and other organizations regarding reduction-in-force policies.
- (3) Provide advice and guidance concerning alternatives available to employees adversely affected by reduction-in-force actions.
- (4) Establish competitive levels and maintain associated records for review.

e. **Managers and Supervisors.**

- (1) Determine which positions are to be abolished, insofar as authorized by supervisors.
- (2) Provide Information to affected employees.
- (3) Give appropriate consideration to employees reached for separation by reduction in force in other organizations when filling positions, in their own organizations.

7. **PRIOR NOTIFICATION OF REDUCTION-IN-FORCE PLANS.**

- a. In order to ensure coordination with interested organizations and compliance with applicable laws and regulations (including Presidential policy as stated in the Office of Management and Budget memorandum of 12-14-77), organizations which plan to conduct a reduction in force **shall** notify the Director of Personnel in writing as far in advance of the anticipated effective date as possible, but no less than 3 weeks prior to the date when reduction-in-force notices are to be given to employees. The following information must be included in the notice:

- (1) The specific reason for the reduction in force (e. g., a reduction in workload).

- (2) The approximate number of employees to be directly adversely affected by the reduction in force and the actions to be taken (e.g., number to be separated, downgraded, or reassigned).
  - (3) The estimated number of days of advance notice that employees **will** be given and whether employees will be in a nonpay status during any of this time period.
  - (4) The proposed relocation or outplacement efforts which are planned for the affected employees.
  - (5) Assistance required, if any, from other organizations and from the Director of Personnel.
  - (6) A request for approval of the competitive area to be used if this represents a change from the established area or if no such area has been established previously.
  - (7) The estimated cost in terms of severance pay and lump sum annual leave entitlements and the estimated salary savings through the remainder of the fiscal year. **If the RIF** results in whole or in part from a determination to obtain services by contract, include also the estimated additional contractor costs and the government's most efficient organization cost.
- b. In the event of a transfer of function, the following additional information is required.
- (1) The identification of the unit or function being transferred.
  - (2) The identification of the gaining and losing organizations.
  - (3) The reasons **for the transfer**.
  - (4) The proposed effective date of the transfer, the number of employees affected, and the estimated number of employees who will accompany the function.
- c. Reduction-in-force plans will not be made public and reduction-in-force notices will not be issued to employees until the Director of Personnel responds to the notification. **Such response** will occur normally within 10 workdays of receipt of all required information.

- d. In the event that circumstances beyond the control of the organization conducting the reduction in force preclude providing the required written notification within the time limit required, such notification may be provided orally at the discretion of the Director of Personnel.

## 8. COMPETITIVE AREAS.

- a. Requests to the Director of Personnel for changes in approved competitive areas **should** be submitted at **least** 120 days in advance of any proposed reduction in force. If a competitive area is to be in effect less than 90 days prior to the effective date of the reduction in force, the request must be submitted to OPM through **the** Director of Personnel. Normal competitive areas are as follows:
  - (1) Each Headquarters first-tier organization shall be a separate competitive area. Such areas shall include all employees of the organization within the Washington, D.C., commuting area.
  - (2) Each field element holding delegated personnel authority and which is operationally and functionally independent of other DOE activities in the commuting area shall be in a separate competitive area. If such an office has activities in more than one commuting area, each commuting area shall be a separate competitive area.
  - (3) Each field element not holding delegated personnel authority or which is not independent of other DOE activities in the commuting area shall be considered a field activity of the appropriate Headquarters office, and shall be a separate competitive area.
- b. A **list** of the competitive areas for each organizational component must be made available by the servicing personnel office to all employees within that component, and will be published annually. A **full** description of **all** competitive areas, the dates they were established, and the dates of any changes **will** be maintained in the Office of Personnel and **will** be available for review **by** employees and their representatives, as appropriate, to the extent **that** the records relate to each employee's situation.

## 9. COMPETITIVE LEVELS.

- a. **Prior** to initiating a reduction in force, servicing personnel offices **shall** establish competitive levels for each position within the affected competitive area. Positions in the same grade and classification series that are similar enough in duties, pay schedule, working conditions, and qualifications requirements so that the incumbent of one position could successfully perform the

critical elements of any of the other positions without a loss of productivity beyond that normally expected in the orientation of any new, but fully qualified, employee are in the same competitive level.

- b. Positions in the competitive service and positions in the excepted service must be in separate competitive levels. Excepted positions filled under different appointment authorities also must be in different levels. In either the competitive or excepted service, different levels must be established for positions:

- (1) Under different pay schedules;
- (2) Filled on a seasonal basis;
- (3) Filled on a part-time basis;
- (4) Filled on an intermittent basis;
- (5) Filled on a full-time permanent basis;
- (6) Filled on an on-call basis;
- (7) Filled by a supervisor or manager; and
- (8) Filled by an employee in a formally designated trainee program as provided for in the FPM.

- c. Each servicing personnel office should maintain a list of its competitive levels. If positions having the same title, series, and grade are placed in different levels, a justification should usually be included in the record. The dates the levels were established and the dates of any changes also must be included in the record. The record must be made available for review by employees or their representatives, as appropriate, to the extent that the record relates to each employee's situation. It should be made clear to all employees that changes in competitive levels may occur at any time preceding a reduction in force. Any changes in competitive levels must usually be completed and documented before reduction-in-force notices are issued.

10. EFFECT OF REDUCTION IN FORCE. The fact that an employee occupies a position that is abolished or is displaced from the position he or she encumbers does not necessarily mean that the employee **will** be adversely affected by reduction in force. An employee is not adversely affected by reduction in force when:

- a. Reassigned to a comparable vacancy outside the competitive level;
- b. Reassigned to a comparable vacancy within the competitive level;  
or



- c. The employee is not within reach for release from his or her competitive level. In this last instance, unless assigned to a vacancy as in subparagraphs a **or** b, the employee is reassigned to a continuing position within his or her competitive level displacing a lower ranking employee.

11. RETENTION REGISTER.

- a. Retention registers will be established by the servicing personnel **office** before any employee is released by reduction in force. The **register** must contain the name of every competing employee **officially** assigned to, or temporarily promoted from, a position in the competitive level, except employees on military duty with restoration rights. Competing employees are those employees in tenure groups **I, II, or III**. Noncompeting employees are listed separately, but on the same document. A separate register is prepared for each competitive **level**.
- b. Registers will reflect each employee's retention standing based on tenure group, subgroup, length of service, and three annual performance ratings.
- c. Noncompeting employees in the competitive level must be released first; competing employees are released in the inverse order of their recent standing beginning with the **lowest**.
- d. An employee who has received a written decision to demote him or **her** because of unacceptable performance competes in the position to which he or she has been or will be demoted.

12. ASSIGNMENT RIGHTS.

- a. The right to assignment exists if a tenure group I or II employee in the competitive service with a current annual performance rating of minimally successful or higher is released from his or her competitive level and if a position exists within the employee's present competitive area which:
  - (1) Will last at least 3 months;
  - (2) Is a position for which the employee is qualified;
  - (3) Requires no reduction, or the least reduction, in the applicable representative rate;
  - (4) Is held by an employee in a lower retention subgroup (bumping rights) or who has less retention standing and occupies a position previously held by the released employee (retreat rights). The only exception to this provision is

that an employee with a current annual rating of minimally successful may only retreat to a position **held** by an employee with a current annual rating of minimally successful or unsatisfactory; and

- (5) Is no more than three grades or appropriate grade intervals or equivalent below the position from which the employee was released. The only exception to this provision is that a preference eligible employee with a service connected compensable disability of 30 percent or more may retreat, but not bump, five grade intervals or equivalent.
  - b. If **all** the above-mentioned conditions are met, the released employee has the right to be offered the occupied position.
  - c. The Department is not required to offer an employee a position with a higher representative rate than the position from which the employee is released, nor is the Department required to offer vacant positions. The employee does not have the right to select among specific positions when more than one position is available that would satisfy the employee's assignment rights.
  - d. In the event that an employee's right of assignment can be satisfied only by assignment to a sensitive position, the assignment cannot be delayed or denied because the employee does not have an appropriate security clearance. However, until such time as the appropriate clearance is obtained the employee may be assigned to perform only the nonsensitive duties of the position, may be detailed to a nonsensitive position or set of duties, may be granted leave (only upon the employee's request), or if appropriate, may be suspended under Executive Order 10450.
  - e. An **employee** in the **excepted** service does not have assignment **rights** when the employee is released from his or her competitive level.
13. REDUCTION-IN-FORCE NOTICE. If it is not possible at the beginning of the notice period to specifically determine all of the actions that will be taken, a general notice may be issued to **all** employees potentially involved in the reduction in force. This general notice will begin the required notice period, but must be supplemented by a specific notice to each employee as soon as details are available, but no **later** than 10 days before the end of the notice period. The employee generally must be given a reduction-in-force notice of at least 30 days, but not more than 90 days. The last day of the minimum notice period may not fall on a Saturday, Sunday, or legal holiday, nor may the day the employee receives the notice be counted as the first day of the minimum period.

14. TRANSFER OF FUNCTION.

- a. A transfer of function exists if any Departmental activity is transferred from one competitive area to another, or if the competitive area is moved to another commuting area. If no employee need be separated or downgraded as a result of the transfer of function, reduction-in-force procedures do not apply since OPM regulations do not require the losing organization to use reduction-in-force procedures to separate employees who decline to transfer with their function.
- b. The gaining organization **need** not conduct a reduction in force unless it must release any competing employees from their competitive levels because more employees identified with the function were transferred than are actually needed to carry on the function at the new location. The losing organization's servicing personnel office is responsible for correctly determining those employees identified with the function that is being transferred. This determination is subject to verification by the gaining personnel office.
- c. **In** the event the transfer of function will cause the gaining organization to conduct a reduction in force, the gaining organization may determine the retention rights of incoming employees in advance of the actual or paper transfer of employees. **This** should be done by combining the retention register of the function being transferred with the comparable register of the gaining organization. If assignment rights need to be determined, the servicing personnel office of the gaining organization should request the applicable Official Personnel Folders for review. If any of the incoming employees must be separated, the losing organization's servicing personnel office should act as agent for the gaining organization and assist in terminating those employees to be separated because of reduction in force.
- d. Lump-sum and severance payments must be **paid** from the gaining organization's appropriations unless the losing **organization** chooses to fund such cost. Employees separated in this manner do not have assignment or retreat rights in the losing organization and are placed on the reemployment priority list of the gaining organization. **If** the losing organization is both willing and **able** to retain in grade those employees identified with the function, these procedures do not apply.

15. INTERNAL PLACEMENT ASSISTANCE.

- a. Except in a transfer of function, employees have no right of assignment to another competitive area. If, however, another competitive area exists within the local commuting area, affected employee(s) may be referred for consideration. In this instance,

the affected employee's **SF-171** and appropriate reduction-in-force information shall be forwarded by the servicing personnel office **to** the personnel office serving the other competitive area for consideration for any existing vacancies for which that office may be recruiting.

- b. Every effort should be made to place the affected employee in an appropriate position prior to separation. The receiving personnel office must notify the personnel office serving the separating employee of the availability of any such position within 3 workdays after receipt of the request for placement assistance.

16. **APPEAL RIGHTS.**

- a. **If** an employee who has been furloughed for more than 30 days, separated, or demoted through reduction in force believes the action deprives him or her of any rights to which entitled under the DOE or the OPM regulations, he or she may appeal such action to the Merit Systems Protection Board, except as provided in paragraph **16d**. Before appealing, the employee or the employee's designated representative should review applicable regulations and all the records and registers having a bearing on the reduction-in-force action.
- b. The appeal must be in writing and sent to the appropriate office of the Merit Systems Protection Board. The following information should be included in the appeal:
  - (1) Full name, address, telephone number, and signature;
  - (2) Agency and organizational unit taking the action;
  - (3) Title of position, grade, and pay rate;
  - (4) Nature and date of action;
  - (5) Date of the notice (enclose a copy if possible); and
  - (6) Reasons for believing the reduction-in-force action is improper and the corrective or remedial action requested.
- c. Appeals may be filed after the effective date of the action, but not later than 20 calendar days after the effective date of the reduction-in-force action.

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- d. Employees **in** a bargaining unit covered by a negotiated grievance procedure that includes reduction in force must use the negotiated grievance procedure and may not appeal reduction-in-force actions **to** the Merit Systems Protection Board.

BY ORDER OF THE SECRETARY OF ENERGY:



DOLORES L. ROZZI  
Director of Administration  
and Human Resource Management

