

# **U.S. Department of Energy**

## **Washington, D.C.**

# **POLICY**

**DOE P 450.2A**

5-15-96

**SUBJECT: IDENTIFYING, IMPLEMENTING AND COMPLYING  
WITH ENVIRONMENT, SAFETY AND HEALTH REQUIREMENTS**

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## **PURPOSE**

This Policy sets forth the framework for identifying, implementing and complying with environment, safety and health (ES&H) requirements so that work is performed in the DOE complex in a manner that ensures adequate protection of workers, the public and the environment. This framework is an integral part of the Department's commitment to a standards-based management system.

This Policy reaffirms the commitments in the Department's Nuclear Safety Policy, SEN-35-91 (9-9-91) and the Environment, Safety and Health Policy for the Department of Energy Complex (7-20-93), including the commitments to excellence and continuous improvement in all Departmental operations.

## **SCOPE**

This Policy applies to requirements that are designed to protect workers, the public and the environment from hazards associated with activities conducted in the DOE complex ("ES&H requirements").

## **CANCELLATION**

This Policy cancels DOE P 450.2, IDENTIFICATION, IMPLEMENTATION, AND COMPLIANCE WITH ENVIRONMENT, SAFETY AND HEALTH REQUIREMENTS, of 10-6-95.

## **IDENTIFICATION OF REQUIREMENTS**

### **Integrated Review of Safety Requirements**

The Department recognizes that integrated review of safety requirements can be a valuable tool for ensuring adequate protection for workers, the public and the environment. An integrated review of safety requirements starts with a disciplined analysis of the work to be performed, the potential hazards associated with that work, and the operational and administrative controls required to conduct that work safely. On the basis of this analysis, an appropriate set of ES&H requirements is identified to ensure adequate protection. This set includes all applicable statutory and regulatory requirements plus those DOE Orders and other standards that are determined to be

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appropriate for incorporation as contractual requirements to assure adequate protection. An integrated review of safety requirements should be conducted in a manner appropriate to the subject of the review and should take advantage of existing reviews and analyses to the extent practicable.

### **Transition to Rules and Revised Orders**

The Department is replacing a number of its ES&H Orders with new rules and revised Orders (and accompanying Contractor Requirement Documents). The resulting transition must be managed so as to ensure adequate protection throughout. Consistent with maintaining adequate protection, costs and benefits should be considered appropriately.

Even though many ES&H Orders will be canceled as corresponding rules and revised Orders are issued, cancellation of these Orders does not, by itself, modify or otherwise affect any contractual obligation based on the canceled Orders. Requirements in canceled Orders which are incorporated and implemented in a contract will remain in effect until the contract is modified to delete those requirements. If a contractor submits proposed modifications to a contract to utilize the revised ES&H Orders, Departmental line management will direct the contracting officer to approve, disapprove, or provide a conditional approval of the proposed modifications within 90 days.

Prior to changing a contract to substitute the requirements in a revised Order for requirements in one or more canceled ES&H Orders, Departmental line management responsible for approving such contract changes must confirm that the revised contract requirements will continue to ensure adequate protection of workers, the public and the environment. If such substitution will result in significant changes in the implementation of nuclear safety requirements for a Department of Energy defense nuclear facility (as that term is defined in the Atomic Energy Act of 1954), Departmental line management must consider whether its decision on the proposed contract changes should be based on an integrated review of safety requirements and, if so, what type of review is appropriate to the related hazards.

To the extent the Department further revises ES&H Orders in the future, the transition will likewise be managed in an appropriate fashion to ensure adequate protection of workers, the public, and the environment throughout.

## **IMPLEMENTATION OF REQUIREMENTS**

### **Ensuring Adequate Protection at Diverse Facilities**

Compliance with a requirement is achieved through the implementation of programs, plans, practices, procedures and other actions that are appropriate for a particular workplace. The Department will work with its contractors to tailor implementation to reflect the circumstances of a particular workplace. For some workplaces, for example, this process may result in a decision to increase reliance on industry standards and commercial practices. While implementation will vary to reflect the diversity of the DOE complex, the commitment to ensuring adequate protection will remain constant.

## **Continuity of Ongoing Efforts**

During the transition to requirements in new rules and revised DOE Orders, the Department and its contractors should take advantage of implementation efforts already completed or underway, especially where these past efforts reflect integrated approaches to safety management, such as the development of S/RIDs or the Necessary and Sufficient Process. Implementation of new rules and revised orders need not trigger major revision to existing programs, plans, practices and procedures. Contractors can "stay the course" and use existing programs, plans, practices and procedures developed under canceled Orders if they meet the requirements in new rules and revised Orders and if continuation of these programs, plans, practices and procedures adequately protects workers, the public, and the environment.

## **Implementation Plans**

Certain rules and Orders require development and approval of implementation plans. Implementation plans identify the programs, plans, practices, procedures and other actions to be used in complying with a requirement in a manner commensurate with the hazards associated with a particular workplace, and the schedules for implementing such actions in order to achieve compliance. Contractors that will not be in compliance with rule requirements on or before the applicable regulatory deadline for compliance must seek an exemption in accordance with the provisions of the particular rule or 10 C.F.R. Part 820.

## **Guidance**

Guidance documents, including technical standards, can assist contractors in implementing requirements. Because of the importance of guidance documents to implementation, the Department will endeavor to develop and issue guidance documents concurrently with the development of requirements.

Guidance documents are intended to provide useful information and methodologies on how a requirement might be implemented. They include background information regarding the intent of the requirement and its technical underpinnings.

Unlike the requirements specifically set forth in a rule or Order, the provisions in guidance documents are not mandatory. Failure to follow a guidance document does not in itself indicate noncompliance with a specific requirement -- a finding of noncompliance must be based on a failure to satisfy the requirement. The guidance provided in implementation guides and standards referenced therein are considered acceptable methods to satisfy requirements. Alternative methods that satisfy the requirements of a rule or Order are also acceptable. Any implementation method selected must be justified to ensure that an adequate level of safety commensurate with the identified hazards is achieved.

In order to provide appropriate opportunities for public input on guidance relating to nuclear safety rules, the Department will: (1) make such guidance documents developed by DOE readily available to the public when issued; (2) publish notice of their availability in the **Federal Register**; and (3) accept comments from the public concerning guidance documents.

## **COMPLIANCE WITH REQUIREMENTS**

The Department is committed to working with its contractors to achieve compliance with requirements. If cooperative efforts do not result in contractor performance that satisfies ES&H requirements, the Department will not hesitate to seek compliance through the use of statutory, regulatory, and contractual enforcement tools.

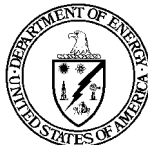
### **Contractual Mechanisms**

A contractor's performance in implementing ES&H requirements will be a major factor in determinations relating to the award of discretionary fees under DOE contracts. Moreover, the extent to which a contractor complies with ES&H requirements will be a major factor in determining whether circumstances warrant competition rather than extending a contract and, in egregious cases, may be a basis for terminating a contract.

### **Nuclear Safety Requirements**

With respect to ES&H requirements that are also nuclear safety requirements, the Department has additional enforcement tools. Where appropriate, the Department will issue Compliance Orders, as authorized by Subpart C of 10 C.F.R. Part 820, to prevent or rectify any violation of any nuclear safety requirement. The Department will evaluate violations of nuclear safety requirements that have been adopted by rulemaking or imposed by Compliance Order to determine whether the violation warrants the issuance of a Notice of Violation pursuant to Subpart B of 10 C.F.R. Part 820 and, if so, whether the Department should impose civil penalties or another appropriate sanction. In evaluating the severity of violations, the Department will be guided by the Enforcement Policy Statement, which is an appendix to 10 C.F.R. Part 820. Whenever the Department discovers any potential criminal violation, the Department will refer the matter to the Department of Justice.

**BY ORDER OF THE SECRETARY OF ENERGY:**



ROBERT R. NORDHAUS  
General Counsel