

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

ORDER

DOE 5483.1A

6-22-83

**SUBJECT: OCCUPATIONAL SAFETY AND HEALTH PROGRAM FOR DOE CONTRACTOR EMPLOYEES
AT GOVERNMENT-OWNED CONTRACTOR-OPERATED FACILITIES**

1. PURPOSE. To establish requirements and procedures to assure that occupational safety and health standards prescribed pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, and the Department of Energy Organization Act of 1977, provide occupational safety and health protection for Department of Energy (DOE) contractor employees in Government-owned contractor-operated (GOCO) facilities which is consistent with the protection afforded private industry employees by the occupational safety and health standards promulgated under the Occupational Safety and Health Act of 1970 (OSHA), Public Law 91-596.
2. CANCELLATION. DOE 5483.1, OCCUPATIONAL SAFETY AND HEALTH PROGRAM FOR GOVERNMENT-OWNED CONTRACTOR-OPERATED FACILITIES, OF 4-13-79.
3. SCOPE. The provisions of this Order apply to all elements of DOE and to DOE contractors whose contracts include the occupational safety and health contract clause specified in DOE Procurement Regulation (PR) 9-50.704-2(a). The provisions of this Order apply only with respect to radiation hazards in the workplace to DOE contractors whose contracts include the radiation protection contract clause specified in DOE PR 9-50.704-2(b).
4. BACKGROUND. Based upon section 4(b)(1) of the Occupational Safety and Health Act of 1970, the provisions of that Act do not apply to the working conditions of DOE contractor employees working in GOCO facilities since DOE exercises statutory authority to prescribe and enforce safety and health standards at these facilities.
5. REFERENCES.
 - a. "Occupational Safety and Health Act of 1970," Public Law 91-596, which establishes Federal requirements for assuring occupational safety and health protection for employees.
 - b. "Occupational Safety and Health Standards," Title 29 CFR Part 1910, which provide general industry safety and health standards pursuant to Public Law 91-596.
 - c. "Occupational Safety and Health Standards for Shipyard Employees," Title 29 CFR Part 1915, which provide shipyard safety and health standards pursuant to Public Law 91-596.
 - d. "Occupational Safety and Health Standards for Agriculture," Title 29 CFR Part 1918, which provide agricultural safety and health standards pursuant to Public Law 91-596.

DISTRIBUTION:

All Departmental Elements
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INITIATED BY:

Assistant Secretary,
Environmental Protection, Safety
and Emergency Preparedness

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- e. "Safety and Health Regulations for Construction," Title 29 CFR Part 1926, which provide construction safety and health standards pursuant to Public Law 91-596.
- f. "Safety and Health Regulations for Longshoring," Title 29 CFR Part 1928, which provide longshoring safety and health standards pursuant to Public Law 91-596.
- g. OSHA Form 200-S, a U.S. Department of Labor form, used to report annual occupational injury and illness survey information on an as requested basis.
- h. DOE 1324.2, RECORDS DISPOSITION, of 5-28-80, which provides retention periods for DOE and contractor records.
- i. DOE 5480.1A, ENVIRONMENTAL PROTECTION, SAFETY, AND HEALTH PROTECTION PROGRAM FOR DOE OPERATIONS, of 8-13-81, which establishes the environmental protection, safety, and health protection program for DOE operations.
- j. DOE 5484.1, ENVIRONMENTAL PROTECTION, SAFETY, AND HEALTH PROTECTION INFORMATION REPORTING REQUIREMENTS, of 2-24-81, which establishes the requirements and procedures for the reporting of information having environmental protection, safety, or health protection significance for DOE operations.
- k. DOE F 5480.2, "Occupational Safety and Health Protection," a poster which outlines contractor responsibilities to provide occupational safety and health protection. The Spanish language version is DOE F 5480.3.
- l. DOE F 5480.4, "Occupational Safety or Health Complaint," which may be used to report information regarding safety and health hazards and/or situations believed to be in nonconformance with the DOE-prescribed OSHA standards.
- m. DOE Form EV-102A, "Summary of DOE and DOE Contractor Occupational Injuries and Illnesses," which is posted in the workplace to notify employees of occupational injury and illness statistics for the previous calendar year.
- n. DOE Form EV-632, "Radiation Protection and Nuclear Criticality Safety," a poster which outlines contractor responsibilities to provide radiation and nuclear criticality safety protection. The Spanish language version is DOE Form EV-632S.
- o. DOE PR 9-50.704-2(a), which specifies the standard clause used in contracts where DOE elects to enforce occupational safety and health requirements.
- p. DOE PR 9-50.704-2(b), which specifies the standard clause used in contracts where DOE elects to enforce radiation protection and nuclear criticality safety requirements.

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6. DEFINITIONS.

- a. Compliance Inspection. A documented visit to and evaluation of a GOCO facility, to include an examination of the equipment, physical plant, methods, operations, procedures, and processes, to assess and assure the contractor's conformance with the DOE-prescribed OSHA standards.
- b. Complaint. An oral or written communication by an employee or representative thereof, alleging that there are conditions in the work environment which are in violation of the DOE-prescribed OSHA standards or which pose safety or health hazards to employees.
- c. Contracting Officer (CO). A DOE official designated by Headquarters to enter into or administer contracts between DOE and contractors, and make contract-related determinations and findings.
- d. Contracting Officer's Representative. A DOE employee designated in writing by the contracting officer to represent the contracting officer for administrative and technical functions regarding the contract between DOE and the contractor.
- e. Contractor. For purposes of this Order, any DOE prime contractor or subcontractor thereto subject to the contractual provisions of DOE PR 9-50.704-2(a) or (b).
- f. Contractor Employee. A person who is employed by a contractor.
- g. Discrimination. Discharge, demotion, reduction in pay, coercion, restraint, threats, or other negative actions taken against a contractor employee by a contractor, as a result of the employee's exercise of occupational safety and health rights set forth in this Order.
- h. DOE-Prescribed OSHA Standards. Occupational safety and health requirements promulgated under Public Law 91-596 and listed on page I-1, paragraph 1.
- i. Exception. An interim release from a DOE-prescribed OSHA standard, granted after a request for a temporary or permanent variance. Exceptions shall not exceed 180 days and are not renewable.
- j. Field Organization. A DOE field-based office which is responsible for the management, coordination, and administration of operations under its purview, and reports to the cognizant program Secretarial Officer(s) or equivalent, through the appropriate program office(s).
- k. Government-Owned Contractor-Operated Facility. For the purposes of this Order, a facility owned or leased by DOE or a contractor for the account of DOE in connection with which DOE prescribes and enforces through contractual provisions, occupational safety and health standards pursuant

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to the authority in the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, and the Department of Energy Organization Act of 1977, for contractor employees working therein. A listing of these GOCO facilities is maintained by the Office of Operational Safety (EP-32).

- l. Imminent Danger. Any condition or practice which is such that a hazard exists that could reasonably be expected to cause death or serious physical harm to employees (permanent or prolonged impairment of the body or temporary disablement requiring hospitalization), unless immediate actions are taken to mitigate the effects of the hazard and/or remove employees from the hazard.
- m. National Institute for Occupational Safety and Health. An Agency of the U. S. Department of Health and Human Services, established under Public Law 91-596 with major responsibility to undertake National occupational safety and health research and development activities.
- n. Occupational Safety and Health Administration. An Agency of the U. S. Department of Labor, established under Public Law 91-596 with major responsibilities to promulgate, prescribe, and enforce occupational safety and health standards.
- o. Permanent Variance. A release from a DOE-prescribed OSHA standard. Such variances are not time-specified.
- p. Program Office. A Headquarters organization which is responsible for assisting and supporting field organizations in safety and health, administrative, management, and technical areas, and reports to the cognizant program Secretarial Officer.
- q. Program Secretarial Officer. An outlay program manager, which includes the Assistant Secretaries for Conservation and Renewable Energy, Fossil Energy, Defense Programs, and Nuclear Energy, and the Director of Energy Research.
- r. Representative of Employees. A person chosen by contractor employees to represent their occupational safety and health related views, interests, and concerns. For purposes of access to an employee's bioassay, monitoring, or radiation exposure records, if the representative is not the recognized/certified collective bargaining agent, then he or she must have the employee's written authorization for such access.
- s. Safety and Health Director. The primary field organization staff manager responsible for the overview and coordination of the occupational safety and health program administered by a field organization for its contractor operations.

- t. Temporary Variance. A short-term release from a DOE-prescribed OSHA standard. Such variances shall not exceed 1 year, except that in unusual cases a renewal may be granted, not to exceed an additional year.

7. RESPONSIBILITIES AND AUTHORITIES.

- a. Under Secretary. Line management responsibility for occupational safety and health at GOCO facilities flows from the Under Secretary to the program Secretarial Officers to the Heads of the Field Organizations.
- b. Assistant Secretary, Environmental Protection, Safety, and Emergency Preparedness (EP-1).
- (1) Promulgates, amends, or revokes, as appropriate, DOE-prescribed OSHA standards for GOCO facilities, and responds to requests for such actions.
 - (2) Determines the disposition of and responds to requests for permanent variances from the DOE-prescribed OSHA standards.
- c. Director of Operational Safety (EP-32).
- (1) Provides reviews for and makes appropriate recommendations to the Assistant Secretary, Environmental Protection, Safety, and Emergency Preparedness, in the following areas:
 - (a) Requests for promulgation, amendment, or revocation of DOE-prescribed OSHA standards.
 - (b) Requests for permanent variances from the DOE-prescribed OSHA standards.
 - (2) Determines the disposition of and responds to requests for temporary variances from the DOE-prescribed OSHA standards.
 - (3) Determines appropriateness of and responds to requests concerning abatement of violations of DOE-prescribed OSHA standards.
 - (4) Investigates and responds to requests for resolution of problems associated with field organization investigation of and/or response to complaints.
 - (5) Maintains a listing of Departmental GOCO facilities.
 - (6) Coordinates matters regarding paragraphs 7c(1)-(5), above, with the appropriate safety and health officials of the cognizant program office(s).

d. Directors of Naval Reactors and Administrative Services, Heads of Field Organizations, and Officials Designated as Contracting Officers or Contracting Officer's Representatives.

- (1) Determine those contractors that are subject to this Order and advise them accordingly.
- (2) Review design, engineering, construction, and related planning documents and activities to assure compliance with the DOE-prescribed OSHA standards in the construction, modification, operation, or decommissioning of GOCO facilities.
- (3) Provide for and participate in the development of new occupational safety and health standards or modification to existing standards as required by Chapter I.
- (4) Process requests for promulgation, amendment, or revocation of standards, and requests for temporary or permanent variances from the DOE-prescribed OSHA standards in accordance with the procedures in Chapter I.
- (5) Grant or deny requests for exceptions to DOE-prescribed OSHA standards in accordance with the procedures for exceptions in Chapter I.
- (6) Assure that compliance inspections of GOCO facilities are conducted in accordance with the inspection procedures in Chapter I.
- (7) Assure that contractor employee complaints are investigated and handled in accordance with the complaint procedures outlined in Chapter II.
- (8) Investigate and take appropriate actions regarding accidents and allegations of discrimination as set forth in Chapter 111.
- (9) Consider, in contract renewal or in other reviews of contractor performance, violations of the DOE-prescribed OSHA standards and the timing and manner of correction. Willful violation of the standards or refusal or failure to abate violations of the standards may be justification for contract termination.
- (10) Establish procedures to admit (as a matter of comity, for safety and health orientation or consultation) officials of the National Institute for Occupational Safety and Health, the Occupational Safety and Health Administration, and the various State safety and health agencies, provided they meet field organization requirements. Such visits are to be coordinated with the Office of Operational Safety (EP-32) and the cognizant program office(s).

(11) Require contractors to:

- (a) Furnish to contractor employees, employment and a place of employment which are as free from occupational safety and health hazards as possible.
- (b) Establish and implement programs and procedures in support of this Order which assure that:
 - 1 There is meaningful contractor employee participation in all aspects of the occupational safety and health program.
 - 2 All existing equipment, materials, facilities, and operations are in compliance with DOE-prescribed OSHA standards.
 - 3 All equipment and materials which are to be procured and all new facilities, modifications, or additions to existing facilities comply with DOE-prescribed OSHA standards.
 - 4 The workplace is monitored for, and records maintained of, known toxic substances and harmful physical agents which are used or produced at the GOCO facility.
 - 5 Availability and maintenance of, requests for changes to, and requests for variances or exceptions from, the DOE-prescribed OSHA standards are in accordance with Chapter I.
 - 6 Contractor employees are fully informed of their rights, protections, obligations, and responsibilities as required by Chapter I.
 - 7 Compliance inspections are conducted in GOCO facilities, using the inspection procedures of Chapter I as general guidelines.
 - 8 Contractor employee safety and health complaints are investigated promptly and resolved equitably according to the requirements of Chapter II.
 - 9 Contractor employees who exercise their rights under this Order are not discriminated against, as required by Chapter III.

- 10 Occupational safety and health records and information are maintained and posted as prescribed by Chapter III.
- 11 Accident investigations are conducted as required by Chapter III.



WILLIAM S. HEFFELFINGER
Director of Administration

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CHAPTER I
STANDARDS, INSTRUCTIONS, AND INSPECTIONS

1. DOE-PRESCRIBED OSHA STANDARDS. As applicable to their work in GOCO facilities, contractors shall comply with the following DOE-prescribed OSHA standards:
 - a. Occupational Safety and Health Standards, " Title 29 CFR Part 1910.
 - b. "Safety and health Regulations for Construction," Title 29 CFR Part 1926.
 - c. "Occupational Safety and Health Standards for Shipyard Employees," Title 29 CFR Part 1915,
 - d. "Safety and Health Regulation for Longshoring," Title 29 CFR Part 1918.
 - e. "Occupational Safety and Health Standards for Agriculture," Title 29 CFR Part 1928.
2. STANDARDS FILE. Each contractor shall assure that current copies of DOE-prescribed OSHA standards cited in paragraph 1, above, along with the contractor's own safety and health procedures applicable to the workplace, are available in a place and form reasonably accessible to all employees and their authorized representatives.
3. DOE-PRESCRIBED OSHA STANDARDS PROMULGATION, AMENDMENT, OR REVOCATION. Contractors and contractor employees (or representatives thereof), may submit written requests to the cognizant CO or CO representative that new standards be promulgated to cover occupational safety and health hazards not addressed by the existing DOE-prescribed OSHA standards, or that the existing standards be amended or revoked to assure effective coverage of hazards. The CO or CO representative, the safety and health director, and other appropriate elements of the field organization shall provide a comprehensive review and evaluation of the request and forward it (along with their recommendation) to the Office of Operational Safety (EP-32) within 60 days of receipt of the request. EP-32 shall review and coordinate the request and recommendation of the field organization with the appropriate program office(s). Based on an analysis of the request and supporting information, EP-32 shall recommend to the Assistant Secretary, Environmental Protection, Safety, and Emergency Preparedness (EP-1), that Headquarters promulgate, amend, or revoke the standard(s) in question. EP-1 shall provide a decision in writing through the field organization and contractor to the requestor, within 60 days of receipt of the request by EP-32. If the decision is that a new, amended, or revoked standard is not needed, the requestor shall be so informed and no further action shall be necessary. However, if the decision is that a new, amended, or revoked standard is needed, a proposed or temporary standard shall be issued by EP-1 within 60 days after such a decision has been made. Field organizations, contractors, contractor

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employees, and representative thereof, whose working conditions would be affected by the standard, shall have the opportunity to review and comment on proposed or temporary standards before their promulgation or amendment as final standards. The Field organization shall develop and implement procedures for such review and comment so that the results thereof are provided to EP-32 within 90 days of receipt (in the field) of the proposed or temporary standard. EP-32 shall review and coordinate the comments with the appropriate program office(s) and provide a recommendation to EP-1. After consideration of the comments, analyses thereof, and recommendation, EP-1 shall promulgate a new, amended, or revoked standard within 180 days of receipt of the comments by EP-32. EP-32 shall effect DOE-wide notification of the final standard by formal correspondence to appropriate Departmental Elements, contractors, and the requestor of the standard.

4. VARIANCE AND EXCEPTION REQUEST, EVALUATION, AND RESPONSE PROCEDURES.

a. Temporary Variances.

- (1) A contractor may apply to the appropriate CO or CO representative for a temporary variance from the DOE-prescribed OSHA standards. A request for a temporary variance shall contain:
 - (a) A specification of the standard from which the contractor seeks a variance.
 - (b) A representation that the contractor is unable to comply with the standard and a detailed statement of the reasons therefor.
 - (c) A statement of the steps the contractor has taken and will take to protect employees from the hazard covered by the standard, to include the conditions the contractor must maintain and the practices, means, methods, operations, and processes which must be adopted and utilized to the extent they provide protection equivalent to that of the standard for which the variance is requested.
 - (d) A certification that the contractor has informed employees of the application by giving a copy thereof to their authorized representative (where applicable), posting a statement, giving a summary of the request, and specifying where a copy may be examined (e.g., at the place or places where notices to employees are normally posted), and by other appropriate means. A description of how employees have been informed shall be contained in the certification. The information to employees also shall inform them that they may comment on the request to the appropriate CO or CO representative.
 - (e) A statement of when the contractor will be able to comply with the standard and what steps have been taken and will be taken by the contractor to come into compliance with the standard.

- (2) The CO or CO representative, the safety and health manager, and other appropriate elements of the field organization shall review the contractor's request and the employees' comments and submit the field organization's recommendation, together with the contractor's request and contractor employee comments, to the Director of Operational Safety (EP-32) within 30 days of receipt of the request. After review and evaluation of the request, comments, and recommendation, and after coordination with the appropriate program office(s), EP-32 shall approve a temporary variance if the request establishes that (a) the contractor is unable to comply with the standard because of unavailability of professional or technical personnel, materials or equipment, funding needed to come into compliance with the standard, or because necessary construction or alteration of facilities must be completed in order to comply; (b) the contractor is taking all available steps to safeguard employees against the hazards covered by the standard; and (c) the contractor has an effective program for coming into compliance with the standard as quickly as practicable.
- (3) A temporary variance may be in effect for no longer than the period needed by the contractor to achieve compliance with the standard or 1 year, whichever is shorter, except that in unusual circumstances (e. g., lack of programmatic funding) such a temporary variance may be renewed not more than once. Such a renewal also shall be in effect for no longer than 1 year. An application for renewal must be filed and processed in the manner specified in paragraph 4a(2), above at least 90 days prior to expiration of the temporary variance. Employees also shall be given an opportunity to review and comment on a request for a renewal, as outlined on page I-2, paragraph 4a(1)(d).
- (4) The Director of Operational Safety shall inform the field organization of the results of the evaluation of the request for a temporary variance or the extension thereof, within 180 days of receipt of the request.

b. Permanent Variances.

- (1) DOE contractors may apply to the appropriate CO or CO representative for a permanent variance from the prescribed OSHA standards. The request for variance shall contain the same information specified on page I-2, paragraphs 4a(1)(a)-(d). The CO or CO representative, the local safety and health office, and other appropriate elements of the field organization shall review the contractor's request and the employees' comments and submit their recommendation, together with the contractor's request and contractor employee comments, to the Director of Operational Safety (EP-32) within 30 days of receipt of the request. After review and evaluation of the request, comments, and recommendation, and after coordination with the appropriate program office, EP-32 shall submit a recommendation to the Assistant Secretary, Environmental Protection, Safety, and Emergency Preparedness (EP-1), for consideration.

- (2) If EP-1 determines that the contractor has demonstrated that the conditions, practices, means, methods, operations, or processes to be used will provide employment and a place of employment which is as safe and healthful as those which would prevail if the contractor complied with the standard, a permanent variance shall be approved and the requesting organization shall be notified accordingly, within 180 days of receipt of the request by EP-32.
 - (3) However, if the permanent variance request is not approved by EP-1, the requesting organization shall be notified of the rationale for the determination, within 180 days of receipt of the request by EP-32.
- c. Exceptions. The CO or CO representative may grant exceptions from the DOE-prescribed OSHA standards after evaluation of a contractor's request for a temporary or permanent variance. To provide such an evaluation, the CO or CO representative shall consult with the safety and health director and other appropriate elements of the field organization. An exception shall be granted only where the contractor has demonstrated that contractor employees will be provided protection equivalent to that provided by the standard(s) for which the temporary or permanent variance is being requested. The exception is to be effective only until a decision on the issuance of a variance is made by Headquarters, but in no case is an exception to be effective for longer than 180 days, beginning with the date of Headquarters' receipt of the request. The exception shall not be renewable.

5. INSTRUCTIONS TO AND INFORMATION FOR EMPLOYEES.

- a. All contractor employees shall be instructed by the-contractor to:
 - (1) Observe the DOE-prescribed OSHA standards applicable to their work and report promptly to the contractor any condition which may lead to a violation of these standards.
 - (2) Report emergencies and respond to warning signals which may be activated in the event of fire, radiation, or other possible emergencies.
- b. All contractor employees shall be instructed by the contractor initially and periodically (at least annually) regarding the requirements outlined by the DOE safety and health poster, DOE Forms 5480.2 and 5480.3, or DOE Forms EV-632 and EV-632S, as appropriate. Questions concerning the DOE poster may be brought to the attention of the contractor or to the field organization.
- c. All contractor employees shall be fully informed (at least annually) by the contractor of their rights, protections, and obligations, which include nondiscrimination: the filing of complaints: availability of the

DOE-prescribed OSHA standards and of complaint form DOE F 5480.4 (Attachment II-1); and accompaniment of the DOE inspector during the conduct of compliance inspections or during the conduct of inspections based on the filing of complaints.

- d. All contractor employees shall be informed that the contractor is required to monitor the employee's workplace for radiation exposure and known toxic materials or harmful physical agents which are used or produced at the GOCO facility, and to maintain records of the data as required by Title 29 CFR Part 1910.20, "Access to Employee Exposure and Medical Records." Employees or their authorized representatives are to be provided with an opportunity to observe monitoring or measuring for toxic materials and harmful physical agents and to have access to the results thereof. Each employee or former employee or representative thereof, within 15 days of a written request, shall be provided access to or copies of any records of cumulative recorded occupational radiation dose or any monitoring or bioassay records relevant to potential exposure to toxic materials or harmful physical agents during employment. Employees will be notified of any information indicating that a radiation dose or an exposure to toxic materials or harmful physical agents may have exceeded the limits specified by the DOE-prescribed OSHA standards.
 - e. All contractor employees or former employees shall have access to their personal safety, health, and medical records consistent with the provisions of the Freedom of Information Act and the Privacy Act.
6. COMPLIANCE INSPECTIONS.
- a. Occupational safety and health professionals of field organizations shall conduct unannounced compliance inspections of GOCO facilities, using the DOE-prescribed OSHA standards as requirements. These inspections are in addition to occupational safety and health appraisals or audits required by any other DOE Order, and shall be conducted on a priority basis with respect to the safety and health hazards involved and the number of employees affected. The compliance inspection may be a separate visit or it may be a part of a visit scheduled for other safety and health-related purposes. The inspection shall be conducted so that a representative sample (i.e., some large buildings, some small, and a variety of operations, including construction) of each GOCO facility is inspected every year. Where violations of the DOE-prescribed OSHA standards are noted, appropriate follow-up actions shall be taken to assure the effectiveness of corrective actions taken on deficiencies noted during initial compliance inspections.
 - b. The contractor shall not be notified in advance of compliance inspections, except for situations involving contractor employee complaint allegations of imminent danger where DOE may elect to notify the contractor immediately to assure elimination of the danger and/or removal of employees from the danger (page II-2, paragraph 3b) before the inspection is conducted. DOE personnel may be assisted by third party specialists when needed. The contractor shall provide such assistance and information as may be required by the inspector to aid in the inspection.

- c. The DOE inspector shall meet with the contractor management of the specific operation, building, location, and activity to be inspected to explain the purposes of the visit. The contractor management representative and the representative authorized by the employees shall be given an opportunity to accompany the DOE inspector during the inspection. DOE shall be responsible for determining that the employee representative is in fact the person designated by the employees. Employees may be represented by a third party of their choice who is not an employee (such as an industrial hygienist or a safety engineer). Where it is impossible for the DOE inspector to determine the authorized employee representative, he or she shall consult with the CO or CO representative, and appropriate elements of the field organization to make a determination. Where there is no representative authorized by employees, the DOE inspector shall consult with a reasonable number of employees concerning safety and health conditions in the workplace.
- d. When the inspection party moves from one section of the facility to another, or where the security restrictions would prevent access, a different representative authorized by the employees may accompany the inspector.
- e. In the event the inspector discovers a situation which presents an imminent danger to contractor employees' safety and health, he or she shall take immediate and effective remedial action to assure that employees are removed from the danger area and/or that the danger is eliminated. This should be accomplished by working closely with the contractor, contractor employees, and representatives thereof, as appropriate. As soon as possible, the DOE inspector also shall notify the CO or CO representative, the safety and health director, and any other appropriate elements of the field organization of the facts and circumstance of the imminent danger situation. The field organization and the contractor shall assure that the matter is investigated and that prompt actions are taken to preclude recurrence of a similar imminent danger situation.
- f. Upon completion of the inspection, the DOE inspector shall hold a closeout meeting with the contractor management and, if requested, with the employees or authorized employee representatives to inform them of the inspection findings. A combined meeting may be held if the participants agree. When the inspection discloses a violation of the DOE-prescribed OSHA standards, a copy of the notice of violation with abatement dates will be transmitted formally from the CO or CO representative within 30 days after the completion of the inspection. The contractor shall notify the CO or CO representative in writing as soon as practicable, but not later than 30 days after receipt of the written findings, of the planned or completed abatement actions taken in response to the notice of the violation(s). Copies of the notice of violation(s) shall be posted conspicuously by the contractor in the general area of the violation for a period of 5 working days or until the violation is corrected, whichever is longer. Contractor employees or authorized representatives of employees may file written notices with the CO or CO representative in situations where they believe that the time fixed for abatement is unreasonable. The CO or CO representative, the safety and health director, and other

appropriate elements of the field organization shall review the written notice and provide a written response thereto within 15 days of receipt. If not satisfied with the field organization's response, the employee or representative thereof may refer, in writing, unresolved differences to the Director of Operational Safety (EP-32) for resolution. EP-32 shall review and evaluate such referrals in consultation with the appropriate program office(s). Based on their evaluation, a recommended course of action to resolve the problem shall be provided to the field organization. Within 30 days of the request, EP-32 shall provide a written response to the employee or representative thereof which details the actions taken and the rationale therefor.

- g. In a situation where a contractor is unable to correct a violation or comply with the standards in a reasonable length of time due to funding limitations or other DOE-imposed restrictions, the contractor shall provide the CO or CO representative with full details and an alternate plan to provide safety and health protection equivalent to that provided by the standard(s) during the period of noncompliance. In such cases, the CO or CO representative shall consult with the safety and health director and other appropriate elements of the field organization. Based upon this consultation, the CO or CO representative shall determine an appropriate course of action to be followed and also shall advise the contractor to notify employees of this course of action through the posting procedure noted on page I-6, paragraph 6f.

CHAPTER 11

OCCUPATIONAL SAFETY AND HEALTH COMPLAINTS

1. SUBMISSION.

- a. Initially, contractor employees or representatives thereof should attempt resolution of their complaints by submitting to their contractor management, either directly or through their authorized employee representative, reports of any conditions or practices which they consider hazardous to their safety or health, or which they believe are in violation of the DOE-prescribed OSHA standards.
- b. Contractor employees or their representatives may submit complaints directly to the DOE field organization safety and health manager or the CO or CO representative, particularly in situations where the complainant wishes to remain anonymous (to the contractor), or where the complainant believes that unsafe/unhealthy conditions still exist or violations of standards still remain after being brought to the attention of and addressed by contractor management.
- c. Complaints may be submitted to either contractor management or to the DOE by completing DOE F 5480.4 (Attachment 11-1), by sending a letter or telegram, or by oral means. Oral complaints shall be recorded on DOE F 5480.4 by DOE and/or the contractor. Irrespective of the means of submission, the complaint should set forth with reasonable particularity the pertinent facts and circumstances involved. In all situations where the complaint is submitted to DOE and anonymity is requested by the complainant, the DOE shall not divulge the complainant's identity to contractor personnel or to any other persons not essential to the processing and investigation of the complaint.

2. INSPECTION.

- a. Should the contractor receive a complaint from an employee or an authorized representative, the contractor shall confer with the employee or the authorized representative and conduct a joint inspection of the conditions or circumstances identified by the complaint.
- b. Should the field organization receive a complaint, the facts and circumstances of the complaint shall be reviewed and, if determined necessary by the DOE, an inspection shall be made to investigate the complaint allegations within 15 days of receipt of the complaint. However, the inspection should be made as immediately as is possible. In making the inspection, the same procedures set forth on pages 1-5 through 1-7, paragraphs 6b-g, shall apply. Followup compliance inspections shall be conducted, as appropriate,

3. IMMINENT DANGER COMPLAINTS - SUBMISSION AND INSPECTION.

- a. Any employee or authorized representative of employees who believes that an imminent danger exists, shall bring this matter to the attention of the appropriate contractor, supervisor, or designated official. If the imminent danger is determined to be valid, the contractor shall take immediate and effective remedial actions to remove employees from the danger area and/or eliminate the danger. The contractor shall conduct an inspection as soon as possible thereafter to assure that appropriate actions have been taken to preclude recurrence of the imminent danger situation.
- b. The employee or the authorized representative also may visit or call the DOE at the field organization level to request an immediate elimination of the danger and an inspection of the alleged imminent danger situation. DOE shall ascertain immediately whether there is a reasonable basis for the imminent danger complaint. If the complaint is determined to be valid, DOE shall take immediate and effective actions to remove employees from the danger area and/or eliminate the danger. This may be accomplished by conducting an immediate DOE inspection and/or by contacting the contractor immediately. In any event, DOE shall conduct an inspection as soon as possible to assure that appropriate actions have been taken to preclude recurrence of the imminent danger situation. In making the inspection, the same procedures set forth on pages 1-5 through 1-7, paragraphs 6b-g, shall apply. Followup compliance inspections shall be conducted, as appropriate.

4. RESPONSE TO COMPLAINANTS.

- a. The contractor shall inform each complainant of the results of the inspection and the actions taken to address and/or correct the safety and health concerns, problems, and/or violations of the DOE-prescribed OSHA standards noted by a complaint filed with the contractor.
- b. For complaints filed with DOE, DOE shall provide a written response to the complainant within 15 days after the completion of the complaint inspection, except, obviously, in those situations where the complainant's identity cannot be determined. The response shall be sent to the complainant's home address, unless he or she has specifically requested that mail be sent to his or her place of employment. The response shall provide the results of the DOE inspection prompted by the complaint, and shall document all actions taken on complaint-related allegations of unsafe/unhealthful conditions and/or violations of the DOE-prescribed OSHA standards. If it is determined that no inspection is necessary, DOE shall respond to the complainant within 15 days of receipt of the complaint, and state why an inspection was not conducted.

5. COMPLAINT RESOLUTION. Contractor employees or representatives thereof who are not satisfied with the adequacy or effectiveness of the field

organization's investigation of or response to their complaint allegations may submit a written request for complaint resolution to the Director of Operational Safety (EP-32). The request must include the pertinent facts and particulars, and the basis for the request (e.g., inadequate action taken on violation of a standard, or no employee or representative allowed to participate in inspection), along with a copy of the original complaint and the field organization's response thereto. EP-32 shall conduct an investigation of the situation, in coordination with the appropriate program office(s). Within 30 days of receipt of the request, EP-32 shall provide a written response to the employee or representative thereof, and to the field organization. The response shall indicate the actions taken or planned as a result of the request for complaint resolution.

OCCUPATIONAL SAFETY OR HEALTH COMPLAINT

DOE Form 5483.1 (7-82)		U.S. DEPARTMENT OF ENERGY CONTRACTOR EMPLOYEE OCCUPATIONAL SAFETY OR HEALTH COMPLAINT	
This form is provided for the assistance of any DOE contractor employee or representative thereof who (1) believes that a violation of a DOE safety or health standard exists and (2) desires to file a complaint. It is not intended to constitute the exclusive means by which a complaint may be registered with the contractor or with the DOE.			
1.A. (THE UNDERSIGNED BELIEVES THAT A VIOLATION OF A DOE OCCUPATIONAL SAFETY OR HEALTH STANDARD EXISTS AT THE PLACES OF EMPLOYMENT INDICATED BELOW, RESULTING IN A JOB SAFETY OR HEALTH HAZARD TO EMPLOYEES.)			
(Check One) <input checked="" type="checkbox"/> Employee <input type="checkbox"/> Representative of employees <input type="checkbox"/> Other (Specify) _____			
B. DOES THE HAZARD(S) IMMEDIATELY THREATEN DEATH OR SERIOUS PHYSICAL HARM?			<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
2. CONTRACTOR'S NAME	3. ADDRESS (Street, City, State, Zip Code)	4. TELEPHONE NO.	
Computer Services, Ltd.	P.O. Box 1234 Mercury, NV 89023	985-4000	
5. SPECIFY THE PARTICULAR BUILDING OR WORKSITE WHERE THE ALLEGED VIOLATION IS LOCATED, INCLUDING ADDRESS. Building 400X, Nevada Test Site, Nevada			
6. KIND OF ACTIVITY	7. NAME AND PHONE NUMBER OF CONTRACTOR'S AGENT(S) IN CHARGE		
Computer Center	John A. Doe 985-4028		
8. DESCRIBE BRIEFLY THE HAZARD WHICH EXISTS INCLUDING THE APPROXIMATE NUMBER OF EMPLOYEES EXPOSED TO OR THREATENED BY SUCH HAZARD. (Continue on another sheet if necessary) Books and computer paper are stored in the hallways, presenting a fire and/or tripping hazard to all 150 employees of the Computer Center.			
9. LIST BY NUMBER AND/OR NAME THE PARTICULAR OSHA STANDARD(S) PRESCRIBED BY THE DOE WHICH YOU BELIEVE HAS BEEN VIOLATED, IF KNOWN Title 29 CFR, Part 1910.36, Occupational Safety and Health Standards			
10.A. TO YOUR KNOWLEDGE, HAS THIS VIOLATION BEEN THE SUBJECT OF ANY UNION/MANAGEMENT GRIEVANCE OR HAVE YOU (OR ANYONE YOU KNOW) OTHERWISE CALLED IT TO THE ATTENTION OF, OR DISCUSSED IT WITH, THE EMPLOYER OR ANY REPRESENTATIVE? (Check one)			<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
B. IF "YES" IS CHECKED ABOVE, PLEASE GIVE THE RESULTS, INCLUDING ANY EFFORTS BY MANAGEMENT TO CORRECT THE VIOLATION. The situation has been brought to the attention of management, but nothing has been done yet to remove the hazard.			
11. PLEASE CHECK ONE: <input type="checkbox"/> I do not want my name revealed to the employer. <input checked="" type="checkbox"/> My name may be revealed to the employer.			
James R. Smith (Signature)		July 2, 1983 (Date)	James R. Smith (Typed or printed name)
IF YOU ARE A REPRESENTATIVE OF EMPLOYEES, GIVE THE NAME OF YOUR ORGANIZATION.			
ADDRESS OF ORGANIZATION (Street, City, State, Zip Code)			TELEPHONE NO.

CHAPTER III

NONDISCRIMINATION, INJURY AND ILLNESS INFORMATION, AND ACCIDENT INVESTIGATIONS

1. NONDISCRIMINATION.

- a. No contractor shall discharge or in any manner demote, reduce in pay, coerce, restrain, threaten, or take any other negative actions against any contractor employee as a result of the employee's filing of a complaint, or in any other fashion, exercising on behalf of himself or herself or others any right set forth in this Order.
- b. Any employee who believes he or she has been discharged or in any other manner discriminated against, in violation of this Order, may file a complaint with the cognizant CO or CO representative within 30 days after the alleged discrimination, setting forth the nature of the alleged discrimination. The CO or CO representative, the safety and health director, and other appropriate elements of the field organization shall investigate the complaint, and if it is found that such discrimination has occurred, the field organization shall assure that appropriate measures are taken by the contractor, including rehiring or reinstatement of the employee, restoration of lost seniority, and back pay. The field organization shall report the disposition of the matter to the contractor employee filing the complaint of alleged discrimination within 30 days after receipt of the complaint.

2. RECORDKEEPING.

- a. Contractors subject to the provisions of DOE PR 9-50.704-2(a) shall be responsible for recording and reporting recordable occupational illnesses and injuries, as required by DOE 5484.1, ENVIRONMENTAL PROTECTION, SAFETY, AND HEALTH PROTECTION INFORMATION REPORTING REQUIREMENTS, of 2-24-81.
- b. All contractors shall be responsible for maintaining records of employees' exposures to toxic materials or harmful physical agents, as appropriate. Such records shall be maintained in perpetuity.
- c. A central file of all violations of DOE-prescribed OSHA standards noted during inspections (and abatement actions) shall be maintained by field organizations. A central file also shall be maintained by the field organizations of formal employee safety and health complaints and their disposition. Upon request, any of these safety and health violation or complaint-related records shall be made available for review by employees directly affected by such information, or by their authorized representatives. DOE 1324.1, RECORDS DISPOSITION, of 5-28-80, Attachment IV, DOE Records Schedule 25, paragraph 1b, specifies the retention period for these records.
- d. DOE contractors subject to the provisions of DOE PR 9-50.704-2(a) shall respond to requests for injury/illness recordkeeping information from the U.S. Department of Labor, Bureau of Labor Statistics, or the Bureau's cooperating State agencies, as appropriate. The information shall be

returned to the requestor on OSHA Form 200-S (included with the request) in accordance with the instructions accompanying the request, and a copy thereof shall be provided to the safety and health director of the field organization. The contractor shall include a statement on the OSHA Form 206-S which states: "With respect to work performed under contract with the DOE at (name of contractor and/or GOCO facility) this employer is not subject to the Occupational Safety and Health Act of 1970, under section 4(b)(1) of that Act."

3. POSTING.

- a. Each DOE contractor shall post DOE Forms 5480.2 and 5480.3 or DOE Forms EV-632 and EV-632S, as appropriate, and include the information specified.
- b. Each year, from 2-1 until 3-1, DOE contractors subject to the provisions of DOE PR 9-50.704-2(a) shall post a completed DOE Form EV-102A.
- c. The required forms shall be posted in a sufficient number of places to permit contractor employees working in or frequenting any portion of the GOCO facility to observe the information on the way to or from their place of employment.

4. ACCIDENT INVESTIGATIONS. Accident investigations shall be conducted in accordance with 5484.1, ENVIRONMENTAL PROTECTION, SAFETY, AND HEALTH PROTECTION INFORMATION REPORTING REQUIREMENTS, of 2-24-81.