



Department of Energy
National Nuclear Security Administration
Washington, DC 20585
September 9, 2013

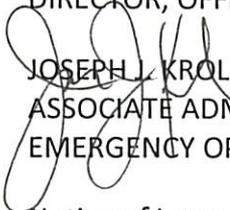


JM CHRONOLOGY

JM RECEIVED 9/14/13
OUT FOR REVIEW 9/23/13
DRB DISCUSSION 10/3/13

MEMORANDUM FOR: CYNTHIA A. LERSTEN
ASSOCIATE ADMINISTRATOR FOR
MANAGEMENT AND BUDGET

THROUGH: INGRID KOLB
DIRECTOR, OFFICE OF MANAGEMENT

FROM:  JOSEPH L. KROL
ASSOCIATE ADMINISTRATOR FOR
EMERGENCY OPERATIONS

SUBJECT: Notice of Intent to Develop or Revise DOE O 150.1, *Continuity Programs*

PURPOSE: This memorandum provides justification for revision of DOE O 150.1, *Continuity Programs*, which sets forth Department continuity planning requirements mandated by National Security Presidential Directive-51/Homeland Security Presidential Directive-20, dated May 2007. This revision will bring DOE O 150.1 into compliance with mandatory Department of Homeland Security (DHS) directives that have been published since the Order was issued in 2008.

JUSTIFICATION: The present Order was issued in May 2008. DHS updated Federal Continuity Directive-1 in October 2012 and Federal Continuity Directive-2 in July 2103. DOE O 150.1 and Departmental Continuity Plans must be brought into compliance with these mandatory documents.

Note. On a separate matter of training, the Office of General Counsel was requested to look at the legality of the Directive. Their statement is included below:

“National Security Presidential Directive-51/ Homeland Security Presidential Directive-20 (NSPD-51/ HSPD-20) sanction the creation of a National Continuity Implementation Plan: “The National Continuity Coordinator, in consultation with the heads of appropriate executive departments and agencies, will lead the development of a National Continuity Implementation Plan (Plan), which shall include prioritized goals and objectives, a concept of operations, performance metrics by which to measure continuity readiness, procedures for continuity and incident management activities, and clear direction to executive department and

Continuity - rec'd 9/16/13

agency continuity coordinators” (NSPD-51/HSPD-20 (8)). The Implementation Plan, in turn, calls on DHS to “develop Federal Continuity Directives that identify specific TT&E (Test, Training and Exercise) requirements, including required continuity training, types and frequency of exercises...” (p. 29). Federal Continuity Directives prescribe requirements for each element of the TT&E Program, which is left to each agency to develop. (FCD-1, Annex K). According to the NNSA Office of General Counsel, an FCD is not a law but it carries the persuasiveness of law because DHS’s authority to issue these documents is statutorily based and consistent with Presidential direction. DHS was tasked by the president to “Develop and promulgate Federal Continuity Directives in order to establish continuity planning requirements for executive departments and agencies” (See NSPD 51/HSPD-20, 16(b)). Although NSPDs are executive policies, they carry the persuasiveness of law because they provide specific direction from the President (as the head of all executive branch agencies) to the executive agencies. Therefore, executive branch agencies are required to follow them.”

IMPACT: The proposed Order does not duplicate existing laws, regulations, or national standards and it does not create undue burden on the Department. Since the Continuity Program is departmentally unique, there are no valid external, consensus, or other standards available, which can be used in place of this directive. The revised Order gives further definition as to what is expected of completed comprehensive continuity plans. Initial discussions on updating this directive have already taken place with the Program Secretarial Offices and field elements. Several comments that have been incorporated came from various program offices and field elements to assist in better implementation.

An Enterprise Risk Management, Risk Identification and Assessment has been performed in accordance with applicable standards, and is included in this package.

The cost impact is expected to be minimal, since continuity plans are already in place across the Department. Changes required reflect lessons learned across the Executive Branch over 5 years and can be accomplished as part of the normal continuous improvement process.

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OPI/OPI CONTACT: Continuity Program Office (NA-41), Al Cerrone, 301-903-5886

DECISION:

Ingrid Kolb, Director, Office of Management (MA-1):

Concur:  Nonconcur: _____ Date: 10-3-13

Cynthia A. Lersten, Associate Administrator for Management and Administration (NA-MB-1):

Concur:  Nonconcur: _____ Date: 10-4-13

Unless determined otherwise by the Directives Review Board (DRB), writers will have up to 60 days in which to develop their first draft and submit to the Office of Information Resources, MA-90.

<u>Standard Schedule for Directives Development</u>	<u>Days</u>
Draft Development	Up to 60 days
Review and Comment (RevCom)	30
Comment Resolution	30
Final Review	30

Table 1: Enterprise Risk Management Model

Risk Assessment for DOE O 150.1 B					
Risk/ Opportunity	Risk Level	Potential Cost/Benefit	External Controls	Proposed Mitigation Technique	Internal Control (if needed)
Risk - DOE Elements (HQ and Field) are unable to effectively plan and execute continuity program when required.	Extreme	<p>It will bring DOE O 150.1 into compliance and will improve the current continuity plans for both HQ and the field sites</p> <p>Procedures will be updated to provide reassurance to leadership.</p> <p>Safety and health of the Department's workers at both HQ and the field</p>	<p>NSPD-50/HSPD-20</p> <p>Federal Continuity Directives 1&2</p> <p>DOE Organization Act</p>	Update Continuity Program based on requirements.	DOE implementation of the DOE Organization Act

Risk Assessment for DOE O 150.1B					
Risk/ Opportunity	Risk Level	Potential Cost/Benefit	External Controls	Proposed Mitigation Technique	Internal Control (if needed)
Mission Risk - DOE Elements (HQ and Field) are unable to effectively plan and execute continuity and therefore unable to execute the Department's essential functions in support of the Secretary and the President.	Extreme	<p>An updated DOE Order will codify the Administration's desire to perform the Department's mission under all types of events.</p> <p>This will also provide confidence /trust between the Department and other agencies that DOE will be able to perform it mission under all conditions</p>	<p>NSPD-50/HSPD-20</p> <p>Federal Continuity Directives 1 &2</p> <p>DOE Organization Act</p>	Update the Order based on current DOE organizational structure and requirements.	DOE implementation of the DOE Organization Act