The Deputy Secretary of Energy
Washington, DC 20585

June 10, 2005

The Honorable A. J. Eggenberger
Acting Chairman
Defense Nuclear Facilities Safety Board
625 Indiana Avenue, NW
Washington, D.C. 20004

Dear Mr. Chairman:

On June 10, 2005, the Secretary of Energy approved the enclosed DOE Policy 226.1, *Department of Energy Oversight Policy*. This important directive clarifies expectations and will lead to improvements in our oversight processes on many fronts, to include safeguards and security, cyber security, emergency management, and environment, safety and health programs.

This Policy is the result of extensive coordination within the Department and has benefited from the review and comments provided by the Board staff. Consistent with the request received from your staff on April 20, 2005, the Department has reviewed the impact of the revised Implementation Plan for Recommendation 2004-1 on this Policy to ensure the Policy conforms to the Implementation Plan. The Department has identified no immediate changes necessary.

Please be assured that we are coordinating very closely with the 2004-1 Implementation Plan Team. At this time, the related Order that is under-going review is consistent with the revised Implementation Plan. We will provide the draft Order to your staff for review today, and we welcome your comments.

If you have any questions, please contact Mr. Michael Kilpatrick, Director, Office of Independent Oversight and Performance Assurance, at (202) 586-4399.

Sincerely,

Clay Sell

Enclosure

cc w/enclosure:
M. Whitaker, DR-1
J. Paul, NA-1
K. Davis, NA-1
J. McConnell, NA-1
K. Davis, NA-1
J. Mangeno, NA-3.6
W. Desmond, NA-70
J. Fairobent, NA-41
J. Shaw, EH-1
R. Hardwick, EH-2
F. Russo, EH-3
P. Bubar, EM-3.2
B. Costlow, ME-40
R. Topolski, ME-43
L. Fuller, ME-43
J. Newell, ME-100
L. Dever, SC-80
J. Hawthorne, SO-10
L. Wilcher, SO-20
M. Thompson, SO-20
S. Bishop, SP-1.22
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U.S. Department of Energy
Washington, D.C.

POLICY

DRAFT
DOE P 226.1

Approved: XX-XX-05

SUBJECT: DEPARTMENT OF ENERGY OVERSIGHT POLICY

PURPOSE AND SCOPE

The purpose of this Policy is to establish a Department-wide oversight process to protect the public, workers, environment, and national security assets and to perform its business operations effectively through continuous improvement. As used in this Policy, any reference to DOE is also meant to include the National Nuclear Security Administration (NNSA).

The scope of this Policy includes assurance systems implemented by DOE contractors[1] and DOE organizations that manage or operate on site; oversight programs implemented by DOE line management (both Headquarters and field elements);[2] and DOE independent oversight[3] Organizations. This Policy covers such operational aspects as environment, safety, and health; safeguards and security; cyber security; emergency management; and business operations.

TERMINOLOGY

"Assurance systems" encompass all aspects of the activities designed to identify deficiencies and opportunities for improvement, report deficiencies to the responsible managers, and complete corrective actions effectively.

"DOE Oversight" encompasses activities performed by DOE organizations to determine the effectiveness of Federal and contractor programs and management systems, including assurance and oversight systems. Oversight programs include operational awareness activities, onsite reviews, assessments, self-assessments, performance evaluations, and other activities that involve evaluation of contractor organizations and Federal organizations that operate Government-owned sites.

"Site programs" refers to programs that protect the public, workers, environment, and national security interests or that are essential to support mission activities. Site programs specifically include environment, safety, and health; safeguards and security; cyber security; emergency management; and business operations programs.

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[1] DOE contractors are those that operate under contracts governed by 48 CFR 970.5204-2, *Laws, Regulations, and DOE Directives;* however, this Policy should also apply to contracts governed by 48 CFR 952.204-2, *Security Requirements*; 48 CFR 952.204-70, *Classification/Declassification*; and/or 48 CFR 952.223-71, *Integration of Environment, Safety, and Health into Work Planning and Execution.*

[2] DOE line management refers to the management chain with responsibility for the site. This chain typically extends from the responsible site organization (e.g., site office or field office) to the responsible program office or Under Secretary and ultimately to the Deputy Secretary and Secretary of Energy.

[3] Independent oversight refers exclusively to oversight by DOE Headquarters organizations that do not have line management responsibility for the activity.

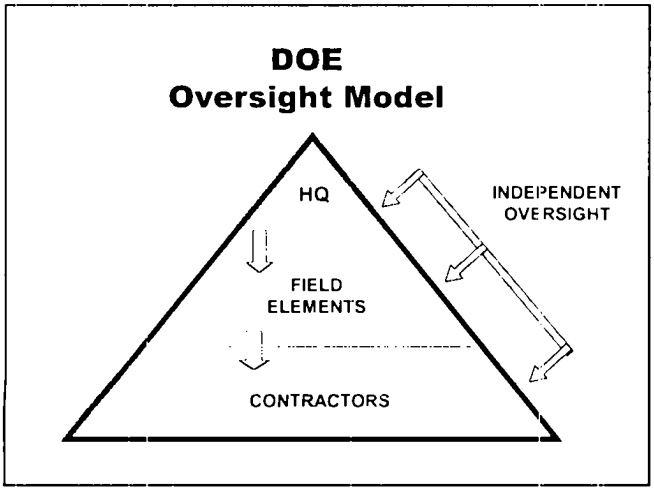
"Site management systems" refers to required management systems that provide the framework for a set of related site programs. Site management systems specifically include Integrated Safety Management and Integrated Safeguards and Security Management.

POLICY

It is DOE policy to protect the public, workers, environment, and national security assets and to perform its business operations effectively. To meet this goal, all DOE organizations must implement an assurance system that ensures compliance with applicable requirements, pursues excellence through continuous improvement, provides for timely identification and correction of deficient conditions, and verifies the effectiveness of completed corrective actions. Additionally, DOE oversight programs must determine whether programs, management systems, and assurance systems comply with requirements and are effectively implemented.

It is DOE policy to implement assurance systems and oversight programs that include four essential elements:

- a comprehensive and rigorous assurance system at all sites implemented by the contractor (for Government-owned/contractor-operated sites) and Federal organizations (for Government-owned/Government-operated sites) that manage or operate on a DOE site;
- DOE field element line management oversight processes, such as inspections, reviews, surveillances, surveys, operational awareness, and walkthroughs, that evaluate programs and management systems and the validity of the site assurance system;
- DOE Headquarters line management oversight processes that are focused on the DOE field elements and also look at contractor activities to evaluate the implementation and effectiveness of field element line management oversight; and
- independent oversight processes that are performed by DOE organizations that do not have line management responsibility for the management of the activity and thus provide an independent perspective for senior management on the effectiveness of programs and activities at all organizational levels (Headquarters, field, and contractor).



The four elements are designed to work as a comprehensive system to provide assurance that DOE activities are safe and secure. Oversight of high consequence activities, such as high hazard nuclear operations, require additional rigor, such as instituting Central Technical Authorities for core nuclear safety functions. The assurance system puts responsibility and accountability at the appropriate organizational level (both Federal and contractor) to implement comprehensive

and rigorous processes that ensure adequate protection of the public, workers, environment, and national security assets and effective and efficient operations. The DOE Headquarters and field element line management oversight processes put responsibility and accountability on line management to determine the effectiveness, on an ongoing and regular basis, of site operations and to ensure timely corrective actions if performance does not meet expectations. The independent oversight processes determine whether Headquarters, field, and contractor line management are effectively implementing their responsibilities and provide an additional basis for credibility throughout the system. These assurance systems and oversight activities will be tailored to meet the needs and unique differences of each site or activity. Consistent with quality assurance objectives, thorough, rigorous assessments and corrective actions are required to ensure performance and quality improvement.

ATTRIBUTES OF EFFECTIVE OVERSIGHT

An effective oversight process incorporates the following attributes into the four essential elements of oversight as appropriate.

Program Plan

Documented program plans need to identify the program areas to be reviewed, the periodicity of reviews, the reviews necessary to maintain the baseline oversight program, the qualifications of review personnel, and the source of review criteria. Documented program plans need to describe the various oversight methods used, how they are used, and how the results of the various methods are integrated and considered as a whole to give an accurate oversight picture.

Continuous Improvement

Assurance systems and oversight processes will identify ways to make programs more effective and efficient through improved performance and report such opportunities to line managers for their consideration. Line managers at all levels—from the Secretary of Energy to the DOE program office to the field element to the contractor—are responsible for using the results of DOE line and independent oversight processes and assurance systems. These results are to be used to make informed decisions about corrective actions that will improve the effectiveness and efficiency of their programs and operations and about the acceptability of residual risks. The use of external, nationally recognized experts should be considered to carry out independent risk and vulnerability studies and to validate that contractor management systems meet applicable standards. DOE sites and DOE line management must have effective processes for communicating issues up the management chain to senior management using a graded approach that considers hazards and risks. The processes must provide sufficient technical basis to allow managers to make informed decisions. Processes for resolving disputes about oversight findings and other significant issues shall also be implemented and include provisions for independent technical reviews of significant issues.

Requirements and Performance Objectives

DOE oversight programs and assurance systems will evaluate performance against requirements and performance objectives, which may include laws, regulations, national standards, DOE

directives, DOE-approved plans and program documents (e.g., security plans, authorization basis documents, and quality assurance plans), site-specific procedures/manuals, criteria review and approach documents, other contractually mandated requirements, and contractual performance objectives. Requirements and performance objectives are established and interpreted through approved processes so that they are relevant to the site and mission.

Personnel Competence

Personnel responsible for managing and performing assurance and oversight functions will possess experience, knowledge, skills, and abilities commensurate with their responsibilities. Line managers are responsible for ensuring that their personnel with oversight responsibilities meet applicable qualifications standards. Continuing training and professional development activities are encouraged to supplement individual experience and provide a means to maintain awareness of changes and advances in the various fields of expertise.

Baseline Oversight Program and Priorities

Headquarters, field and contractor line management are responsible and accountable for establishing and implementing a baseline oversight program that provides for an adequate assessment of programs, management systems, and assurance systems. Clear and unambiguous lines of authority and responsibility for performing line management oversight functions will be established and maintained. Line management will provide its oversight processes with sufficient resources and access to conduct an effective oversight program. Site assurance systems and DOE oversight processes will be tailored to be effective and efficient and will take into account hazards and risks (including risks associated with potentially hazardous activities and risks to DOE missions including schedule, cost, and scope uncertainties). Oversight priorities are to be based on a systematic analysis of hazards, risks, and past performance of organizations, programs, and facilities, including previous assessment results. Higher hazard or risk activities (e.g., facilities with a higher nuclear material attractiveness level) and less mature programs will be assessed more frequently and/or in more depth. The scope and results of reviews by external regulators (e.g., the Environmental Protection Agency) and organizations (e.g., the Defense Nuclear Facilities Safety Board) are important factors in determining oversight priorities but are not a substitute for effective line management oversight.

DOE Headquarters and field element line management regularly assess site assurance systems to determine the appropriate level of overlap and redundancy of DOE Headquarters and field element line management oversight. Accordingly, DOE line management organizations may increase their frequency and/or depth based on performance deficiencies or events or may decrease the frequency and/or depth of line management oversight assessments to reflect sustained effective site performance. Although external organization reviews and the effectiveness of assurance systems are considered in determining DOE line management oversight priorities and the scope and frequency of oversight activities, DOE line management must always maintain an adequate minimum baseline oversight program that enables DOE line management to understand the hazards and risks of activities.

Performance Indicators and Measures

Performance indicators and measures will be used as one mechanism to help line management identify adverse trends and promote improvements. This data is considered in a variety of management decisions, such as allocating resources, establishing goals, identifying performance trends, identifying potential problems, and applying lessons learned and good practices. Site performance criteria will focus on results and system-based metrics to drive improvements in site programs and management systems at DOE sites.

Self-Assessments of Line Management Functions

DOE Headquarters, field element and contractor line management must perform self-assessments of its activities, including its oversight activities and activities necessary to support site assurance and mission activities. Headquarters, field element, and contractor management organizations are responsible for establishing effective management assessments and line management oversight processes and to address shortcomings, identified through self-assessments, in their oversight programs.

Federal Responsibility and Accountability for Activities

DOE line management will require that contracts adequately delineate contractor responsibilities for programs, management systems, and assurance programs. Contractors are responsible for complying with the terms of their contracts and providing adequate assurances (through assurance systems) that their contracts are implemented in a safe, secure, and effective manner. DOE line management and contractors may perform some assessments jointly to increase efficiency and promote common understanding of processes and results. However, DOE line management is responsible and accountable for understanding and accepting the hazards and risks associated with activities. To accomplish this, DOE has the right and responsibility to perform oversight at the level necessary to understand the hazards and risks, to ensure compliance with applicable requirements, to pursue excellence through continuous improvement, to ensure timely identification and correction of deficient conditions, and to verify the effectiveness of completed corrective actions.

SAMUEL W. BODMAN
Secretary of Energy