

# The



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# Message

## Department Makes Progress in Reforming Directives and Approach to Oversight and Enforcement

Beginning with his confirmation hearings in January 2009, Energy Secretary Steven Chu challenged the Department of Energy to take a fresh look at how we conduct business. Building on earlier directives reform efforts, the Office of Health, Safety and Security (HSS) broadened its directives review activities during 2009 in response to the Secretary's challenge. For example, in November 2009, following the safety and security reform studies directed by the Deputy Secretary, HSS began a disciplined review of all HSS directives, including a systematic review of the Department's safety and security regulatory model (which includes both DOE directives

and regulations). In addition, we refocused our priorities on mission support (including technical assistance, training, and analysis), required regulatory functions, and required corporate programs.

In the past year, we made progress in reforming directives and the approach to enforcement and oversight by increasing our assistance to line managers, identifying opportunities to streamline requirements, and reviewing directives to eliminate those that do not add value to safety and security. In concert with these efforts, on March 16, 2010, the Deputy Secretary, Daniel Poneman, issued the Department's plan for

safety and security reform. This plan reflected significant advance work and analysis by our HSS staff.

With much of the preparatory work completed, the resulting reform plans are beginning to be implemented. Actions and milestones set out in the plans extend through calendar year 2010. By the end of this effort, the Department plans to achieve a defined end-state vision for safety and security performance, responsibilities, requirements, assurance, and regulatory oversight and enforcement. As further discussed in the following articles, implementing the reform plans will involve senior managers and key staff from both Headquarters and field organizations, and input from the Defense Nuclear Facilities Safety Board and other stakeholders.

This major reform effort will require the timely commitment of Departmental resources throughout the year. Prompt but deliberate implementation will enhance productivity and achieve the Department's mission goals, while maintaining the highest standards of safety and security in Departmental operations. ■

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## Independent Oversight and Enforcement Reform

Within the Office of Independent Oversight and the Office of Enforcement, reform efforts are well under way. A key objective of the reform initiative in both offices is to apply our resources to (1) enable DOE and contractor line management to perform their missions safely, securely, and effectively; and (2) maintain and enhance the workers' and the public's trust in the Department's ability to do just that. We see this objective as an opportunity to fully harness the experience, expertise, and capabilities of our staff to create a synergistic effect.

We are placing greater emphasis on analyzing existing knowledge and information collected by HSS and the DOE line programs to support effective decision-making. These analyses, coupled with significantly increased interaction and discussion among HSS and the DOE program and field offices, are being used to identify and target activities and programs that warrant review by an independent organization. For high-value assets and high-risk activities, we continue to perform independent monitoring that complements DOE line management oversight of operations and provides stakeholders with confidence that DOE systems are effective in protecting workers, the public, the environment, and national security. For lower-risk assets and activities, we will take action when there is evidence of degraded performance or significant or recurring non-compliances that warrants independent action. Such action will be aimed at promoting positive and timely change in the prevailing safety or security posture.

### Independent Oversight

The HSS role in providing independent oversight is recognized and endorsed as an essential element of the Department's self-regulatory framework. HSS continues to actively perform this role, while adjusting our protocols to better reflect oversight based on risk and performance. By the end of the calendar year, HSS plans to conduct six independent safeguards and security assessments at DOE and NNSA nuclear facilities, seven security inspections of field intelligence elements and special access programs, six classified information security system inspections, and ten nuclear safety inspections.

We will continue to perform independent inspections for higher-hazard facilities and activities, with a focus on: (1) facilities containing Category I quantities of special nuclear material, (2) hazard category 1 and 2 nuclear facilities, (3) special access programs, and (4) facilities housing sensitive compartmented information or supporting DOE's intelligence missions. Future inspections will typically use smaller teams than in the past and will involve less time on site. In addition, oversight activities will specifically target facilities and work activities that pose the greatest risk. In the nuclear safety arena, these inspections will be supplemented and supported by a newly established site lead program. Under this program, HSS will assign an experienced nuclear safety professional to each major site with nuclear facilities. The site lead will closely monitor activities and maintain an ongoing dialogue with DOE field personnel. Our aim is

to focus HSS oversight on promptly recognizing, evaluating, and raising potential problems and emerging issues for appropriate attention.

For cases in which a contractor or site exhibits poor or declining safety or security performance, or has experienced a significant adverse event or accident, it may be necessary for HSS to conduct an independent review to ensure that the issues and causes associated with that trend or event have been fully identified, explored, and resolved.

Since early last year, HSS has redirected significant resources previously used in performing routine independent oversight of lower-value assets and lower-hazard work activities. We are now much more focused on supporting and assisting DOE and contractor line managers in performing work safely and securely, and in pursuing established safety and security performance goals. HSS has provided this assistance in many different ways, including:

- Supporting NNSA efforts to fundamentally examine security requirements and identify improvements that ensure consistent, risk-informed implementation
- Conducting physical security site assistance visits to recommend improvements in program implementation and performance testing – for example, assisting the SLAC National Accelerator Laboratory in designing innovative approaches for lab security
- Working with NNSA to benchmark risk-based prioritization models and tools and to identify best practices for nuclear material security

- Sharing HSS equipment and capabilities to support realistic site security performance testing
- Continuing to perform cyber security site assistance visits at DOE Headquarters and many field offices and sites, including the Power Marketing Administrations
- Supporting NNSA in reviewing courses provided by the Emergency Operations Training Academy
- Assisting in evaluating site emergency preparedness response exercises
- Participating in operational readiness reviews
- Participating in reviews of documented safety analysis documents
- Assisting two national laboratories in performing broad-based safety reviews
- Supporting two Environmental Management sites by performing independent reviews in response to employee concerns
- Partnering with field offices in performing joint safety assessments, integrated safety management system verification reviews, and targeted reviews of technical issues and corrective action plans
- Developing technical documents, such as criteria review and approach documents, to support line management assessment activities
- Preparing and presenting a series of safety seminars at several national laboratories at their request.

Beyond these direct assistance activities, our Independent Oversight personnel have provided extensive support to the HSS National Training Center to expand and update safety and security training courses and materials. All of these efforts will continue and will be tailored to the needs of the customer. HSS looks forward to providing assistance to all facets of the Department; please contact us if you have a request.

## **Enforcement**

In some cases where performance issues are caused by non-compliances with regulatory requirements, DOE contractors may be subject to review by the HSS Office of Enforcement. Enforcement also serves a vital function within a self-regulatory framework. The DOE enforcement program assures that contractors who do not self-identify, report, and correct non-compliances with the Department's nuclear safety, worker safety and health, and classified information security regulations are held accountable for those deficiencies and are closely monitored until compliant programs are attained.

Our enforcement program is based on ensuring compliance with fundamental safety and security standards, not best business practices. Since it is expected that contractors will experience non-compliances from time to time, enforcement focuses on cases where non-compliant conditions (1) are widespread or recurring, (2) have resulted in adverse events, or (3) have the potential to lead to an adverse event if not corrected. Part of our enforcement reform effort is aimed at clarifying what conditions warrant enforcement action. For example, since the early days of this program, our security enforcement staff has employed a security-

significance database as a tool for systematically analyzing site-specific and complex-wide security incident data to identify trends and potential security-significant non-compliances. Similar tools have been developed and are being evaluated for use in the nuclear safety and worker safety and health arenas. Such tools not only create a solid basis for conducting enforcement investigations, but also foster communications with line managers to ensure that all available data sources have been considered and that undesirable trends in compliance are recognized before the need for enforcement action.

Other reform efforts by our enforcement office are directed at increasing the timeliness of enforcement actions and performing more regulatory assistance and outreach activities. While compliance trends take time to develop, some safety- and security-significant events warrant a rapid response to determine whether compliance issues may have contributed to those events, such as events resulting in significant injuries to employees. In such cases, enforcement will respond more rapidly than in the past. Nonetheless, the outcome of such investigations will not be determined until all of the facts are collected and evaluated. In many future cases, the enforcement process is expected to be shortened by the foregoing changes. For example, there may be no need to issue an investigation report before resolving an enforcement case if the need for enforcement intervention has already been set based on a contractor's compliance trend or the severity of an event that resulted from non-compliant conditions.

The Office of Enforcement will also seek opportunities to increase its interactions with DOE line managers and contractors through its regulatory assistance reviews (formerly known as program reviews) and other activities. These reviews provide feedback to contractors on the effectiveness of their regulatory compliance monitoring programs. Contractors that demonstrate strong programs for self-identifying, self-reporting, and self-correcting non-compliances are less likely to be subject to enforcement action.

## Summary

HSS continues to actively perform its traditional roles in providing independent oversight for high-value assets and high-risk operations, and in enforcing regulatory requirements. Ongoing reform actions in both areas are not a reduction in the level of safety provided to DOE's most valuable resource – its employees – or the security provided to DOE's critical national assets. Rather, these actions are aimed at maximizing the benefits attained through use of our HSS staff in (1) assisting line managers in fulfilling their responsibilities to monitor safety and security performance, (2) sharing our capabilities to assist those managers in achieving their safety and security performance goals, and (3) effectively targeting the areas that warrant independent safety or security oversight or enforcement to provide assurance that the proper level of protection is being achieved and maintained. ■

## Safety and Security Directives Reform

Secretary Chu's challenge to the Department to take a fresh look at how we conduct business presents an opportunity to review whether the most effective and efficient strategies are in place to accomplish the Department's missions safely and securely. Safety and security directives reform, initiated by HSS three years ago, began this process, but the Secretary's challenge is a far more comprehensive and farther reaching driver for reform than the Department has undertaken previously. HSS has embraced this opportunity to right-size our directives set.

In looking at how the Department has done business in the past, we recognize that improvements can be made. In some cases, there is unnecessary process and "red tape" that adds little or no value – we are going to identify and eliminate these obstacles. In other cases, the regulatory structure grew up in multiple layers that became overly cumbersome and complex, sometimes simply because, in a large bureaucracy, it is often easier to just add something new on top, instead of making the right adjustment to the existing regulatory structure. In these cases, our goal is to simplify and clarify and make sure that we are adding value to mission accomplishment. Finally, and positively, we recognize that in some cases the regulatory structure contained overly prescriptive process requirements intended to move the Department in the right direction. Now that the Department has moved in that direction, these requirements have accomplished their goals and can now be right-sized, recognizing the current maturity of established processes and performance.

Additionally, HSS recognizes and supports the tenet that safety and security performance will see the greatest improvements where the line programs are actively committed and responsible for the performance of their organizations.

As a result of these efforts, HSS has identified 24 directives for near-term cancellation, subject to consultation with key stakeholders. In fact, one of these cancellations has already been approved. HSS has also developed approaches for safety and security disciplines that are expected to reduce by more than half the number of existing safety and security directives for which HSS is the office of primary interest. Throughout this reform, the Department remains committed to protecting its workers, the public, and the environment from the full range of safety hazards and security threats.

HSS is also actively pursuing the near-term actions in the Department's reform plan issued by the Deputy Secretary on March 16, 2010, consistent with the urgency that the Deputy Secretary has communicated on this effort. We are working closely with the Office of Management to identify ways to streamline the directives process while ensuring that the process remains disciplined and transparent. We are reaching out to various internal and external stakeholders, including worker unions, the Defense Nuclear Facilities Safety Board, and key Congressional staff and committees. HSS submitted justification memos to the directives program for the cancellation of 23 safety and security directives. We have also made progress on three near-term security directive changes

to provide relief from burdensome requirements: (1) the revised Departmental order on Unclassified Controlled Nuclear Information (UCNI) was approved by the Deputy Secretary and issued, and the former UCNI Manual was cancelled (the first cancellation as part of this reform); (2) the Deputy Secretary approved a policy memorandum on changes to foreign visits and assignments protocols (these changes are being incorporated into appropriate directive revisions); and (3) proposed changes to the Information Security Manual (DOE Manual 470.4-4A) regarding accountable classified removable electronic media (ACREM) have been provided to the directives staff for processing.

Beyond these near-term actions, HSS is pursuing directives changes in each of its major disciplines: oversight and enforcement, worker safety, security, classification, environmental protection, quality assurance, operating experience, and nuclear safety. These efforts are being led by the responsible HSS managers. We are working closely with internal and external stakeholders to finalize the specific scope of directive cancellations and revisions in each of

these disciplines. Formal justification memos will be initiated for each identified directive cancellation or revision, and proposed changes will be put into Department-wide review during 2010. Many of these actions are expected to be completed and issued this calendar year; others will be well on the path to completion.

Directives reform represents a significant level of effort for the responsible HSS staff, as well as the senior managers and key staff from Headquarters and field organizations who are working closely with HSS to achieve the desired reforms. Participation and support from line programs will be needed to: (1) finalize the scope of planned directives changes; (2) develop draft revisions to directives to streamline requirements and eliminate overly bureaucratic, process-focused requirements; (3) review proposed revisions; and (4) ultimately, implement changes in existing contracts and organizational procedures and processes. For directives reform, we plan to make all changes through the established Department directives process, which provides for DOE-wide review and comment. In all cases, we will solicit stakeholder input and seek to engage

stakeholders to understand their viewpoints. The Department's senior managers have committed to provide the necessary support in partnership with HSS to achieve the Department's reform plan.

Ultimate success will be measured through near-term relief from specific low-value, burdensome requirements, as well as longer-term streamlining of requirements that will lead to measurable productivity improvements this calendar year as the Department continues to pursue its mission safely and securely. If you have suggestions on specific requirements that do not add value to safety and security and should be considered for revision or elimination, please contact the appropriate HSS level-1 manager or subject matter expert with your suggestions (see table on next page). If you are willing to help in the process of developing or reviewing these changes, please offer your assistance to the appropriate HSS contacts. If you have general questions about this reform effort, please contact Steve Kirchhoff (202/586-3373 or [stephen.kirchhoff@hq.doe.gov](mailto:stephen.kirchhoff@hq.doe.gov)) or Bill Eckroade (202/287-5403 or [william.eckroade@hq.doe.gov](mailto:william.eckroade@hq.doe.gov)). ■

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## Solicitation of Comments, Questions, and Suggestions



HSS welcomes your thoughts about our newsletter. Please send or phone comments, questions, or suggestions to:

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