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MEMORANDUM FOR INGRID KOLB
DIRECTOR
OFFICE OF MANAGEMENT
Carmille Beher
THROUGH: *For* KEVIN T. HAGERTY
DIRECTOR
OFFICE OF INFORMATION RESOURCES

FROM: GLENN S. PODONSKY
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OFFICE OF HEALTH, SAFETY AND SECURITY

SUBJECT: Notice of Intent to Revise DOE Policy 442.1, *Differing Professional Opinions on Technical Issues Related to Environment, Safety, and Health*, and DOE Manual 442.1-1, *Differing Professional Opinions Manual for Technical Issues Involving Environment, Safety and Health*

PURPOSE: This memorandum provides background and justification for revising Department of Energy (DOE) Policy 442.1, *Differing Professional Opinions on Technical Issues Related to Environment, Safety, and Health* (April 16, 2006), and DOE Manual 442.1-1, *Differing Professional Opinions Manual for Technical Issues Involving Environment, Safety and Health* (November 16, 2006). These two directives will be combined into a single DOE Order and the process and related citations will be updated.

JUSTIFICATION: Background: DOE committed to develop and implement a differing professional opinion process in the *Department of Energy Action Plan - Lessons Learned from the Columbia Space Shuttle Accident and Davis-Besse Reactor Pressure-Vessel Head Corrosion Event*, dated July 2005. That Action Plan was submitted by the Deputy Secretary to the Defense Nuclear Facilities Safety Board (DNFSB) on July 29, 2005, as part of DOE's Commitment 17 in response to DNFSB Recommendation 2004-1. The differing professional opinion process is essential for DOE to identify and correct problems before events occur. The differing professional opinion process is available to all DOE employees and contractor employees to report concerns on technical issues related to environment, safety and health, and it provides a mechanism for DOE management to become aware of potential issues so that action can be taken to prevent incidents. There are no valid external, consensus or other "Standards" (e.g., International Standards Organization, Voluntary Protection Program, etc.) available which can be used in place of this directive.



Summary of Development Process: In accordance with the Office of Health, Safety and Security's (HSS) 2010 directives reform effort, the Office of Quality Assurance Policy and Assistance has established a working group, that includes representatives from the Office of the Chief of Defense Nuclear Safety; the Office of the Chief of Nuclear Safety; the Office of Health, Safety and Security; the Office of Nuclear Energy; the Office of Science; and the Office of Economic Impact and Diversity to participate in the drafting of this document, and all DOE offices and participating DOE contractors will provide comments through the RevCom process. In the four years that the differing professional opinion process has been in place (through the policy and the manual), the Office of the Chief of Defense Nuclear Safety and the Office of the Chief of Nuclear Safety have processed a number of differing professional opinions and their experience will be a factor in updating this process. Coordination with these offices will continue throughout the revision development process.

Applicability: This Order will apply to all DOE Elements and all DOE contractors with respect to differing professional opinions involving technical issues related to environment, safety or health. It will not be applicable to concerns submitted anonymously, which may be submitted through the DOE Employee Concerns Program. The following will continue to be excluded from the differing professional opinion process:

- Naval Reactors,
- Bonneville Power Administration, and
- Administrative, contract, or personnel related issues except to the extent that they are directly involve technical issues related to environment, safety and health.

In addition, the differing professional opinion process will continue to include screening criteria which will exclude certain types of submittals from review under the differing professional opinion process.

The differing professional opinion process requirements are primarily performed by DOE; contractor involvement will continue to be limited.

No changes to the current applicability have been proposed.

Major Changes: One major change is the format of the directive which will be revised from a policy and a manual to an order consistent with DOE Order 251.1C, *Departmental Directives Program* (01/15/2009). In addition, expected areas of change include (1) updating the process to be consistent with the documented process of the Office of the Chief of Defense Nuclear Safety, (2) clarifying the entry points of the process for submitters of differing professional opinions, and (3) designating the Differing Professional Opinion Managers consistent with current practice as follows:

- National Nuclear Security Administration (NNSA) nuclear issues - the Office of the Chief Defense Nuclear Safety
- NNSA non-nuclear issues – NNSA Office of the Administrator
- Non-NNSA nuclear issues – Office of the Chief of Nuclear Safety
- Non-NNSA non-nuclear issues – HSS

The Contractor Requirements Document is expected to be streamlined to reference the differing professional opinion process which is to be included as an attachment to the Order.

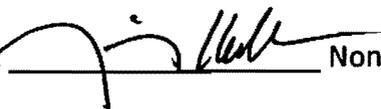
Recommended Development Schedule: The proposed schedule for development of this directive is provided in the table below. Additional time is needed because the effort has only recently been initiated, and is required to obtain meaningful feedback from stakeholder organizations.

IMPACT: The proposed directive does not duplicate existing laws, regulations or national standards and it does not create an undue burden on the Department.

The differing professional opinion process will have minimal administrative costs for DOE headquarters and the field. On the basis of experience to date, less than five differing professional opinions are expected to be submitted per year. Costs are expected related to screening potential differing professional opinions, performing investigations and, if needed, developing and implementing corrective actions; however, these costs may be more than offset by the cost avoided by correcting problems before events occur.

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Concur:  Nonconcur: _____ Date: 11-18-10

Justification Memorandum (Continued)

<u>Standard Schedule for Directives Development</u>	<u>Standard</u> (Days)	<u>Proposed</u> (Days)
Draft Development (Writer)	60	180
Process/Post (MA-90)	5	5
Review and Comment (Interested Parties)	45	55
Comment Resolution (Writer)	30	60
Process/Post (MA-90)	5	5
Concurrence (Writer)	15	25
Preparation of Final Draft (Writer)	5	5
Total	165	335

Writer requests an
extended schedule


11-18-10