



Department of Energy

Washington, DC 20585

JM Chronology
JM RECEIVED 9/19/2014
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DRB DISCUSSION 10/2/2014

September 19, 2014

MEMORANDUM FOR: INGRID KOLB
DIRECTOR, OFFICE OF MANAGEMENT

THROUGH: KEVIN T. HAGERTY 
DIRECTOR, OFFICE OF INFORMATION RESOURCES

FROM: LADORIS G. HARRIS 
DIRECTOR, OFFICE OF ECONOMIC IMPACT AND DIVERSITY

SUBJECT: Notice of Intent to Revise DOE Order 442.1A, *Department of Energy Employee Concerns Program*

PURPOSE: To update the Order, originally developed and approved in 2001.

JUSTIFICATION: The Employee Concerns Program (ECP) has been a successful program throughout the DOE complex, and was the subject of a Secretarial Statement of support in October 2012. The Defense Nuclear Facilities Safety Board (DNFSB) previously recommended that DOE ECP Order 442.1A be revised in order to ensure consistency with DOE Order 226.1 (now 226.1B), related to the Department's Oversight Policy.¹ Specifically, the DNFSB previously recommended that the existing Contractor Requirements Document (CRD) be revised to make it clear that the requirements of DOE ECP Order 442.1A are extended to the Department's contractors.

At a time when the Department is working to implement a safety conscious work environment (SCWE) throughout the DOE complex, it is essential to ensure that DOE has a robust ECP in place. Revisions to ECP Order 442.1A will help to bring about greater consistency throughout the DOE complex in the approach to processing employee concerns, and to support SCWE efforts.

There are no valid external, consensus, or other standards (e.g., ISO, VPP, etc.) available which can be used in place of this directive.

¹ This information related to the DNFSB recommendation was included in ED's notice of intent to revise the DOE ECP Order, dated October 24, 2007. However, this information has not been independently verified in the preparation of the instant memorandum.



Recd 9/19/2014 C. Beale

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

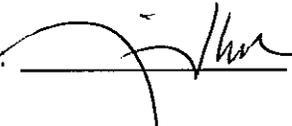
Most DOE field site offices already have an established Employee Concerns Program. Therefore, the proposed revised ECP Order will have minimal impact on DOE field site offices. In cases where DOE field site offices do not have an established ECP, they will be requested to dedicate resources to establish a program or to formalize a memorandum of understanding with another DOE field site office for the processing of employee concerns from their sites.

Many of the largest DOE contractors already have an established Employee Concerns Program. However, some of their processes may need to be modified to fully comply with the revised ECP Order. Where a DOE contractor to which the revised ECP Order would apply does not have an established ECP, the contractor would be required to dedicate resources to establish a program consistent with the Order.

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

Concur:  Nonconcur: _____ Date: 10-2-14

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
Total	150

(Note: The standard schedule of up to 150 days will be used unless otherwise specified by the Directives Review Board.)

Risk Identification and Assessment

Employee Concerns Program

[In the first column, using short bullets, fill in "what can go wrong", or a brief description of a potential benefit from a program or action. Add additional rows as necessary. Fill in the other columns using the rating guidelines in the attached reference pages.]

Risk	Probability	Impact	Risk Level
People			
1. DOE federal and/or contractor employees may choose not to report health, safety, security, quality, and/or environmental concerns that can have an impact on DOE employees or individuals in the community.	Possible	Medium	Significant
2. DOE federal and/or contractor employees may choose not to report harassment, hostile work environment, intimidation, and/or retaliation concerns that may impact employees in the work environment, or ultimately impact individuals in the community.	Possible	Medium	Significant
Mission			
3. DOE federal and/or contractor employees may choose not to report health, safety, security, quality, and/or environmental concerns. If an incident were to occur due to a lack of reporting, it could impact the mission of the Department.	Possible	Medium	Significant
4. DOE federal and/or contractor employees may choose not to report harassment, hostile work environment, intimidation, and/or retaliation concerns. The lack of reporting could have an unintended impact on safety, which could impact the mission of the Department. The lack of reporting could also lead to less worker productivity based on the work environment, which could also impact the mission of the Department.	Possible	Medium	Significant
Assets			
5. DOE federal and/or contractor employees may choose not to report health, safety,	Possible	Medium	Significant

security, quality, and/or environmental concerns. If an incident were to occur due to a lack of reporting, the assets of the Department would also be impacted.			
Financial			
6. DOE federal and/or contractor employees may choose not to report health, safety, security, quality, and/or environmental concerns. The lack of reporting could have unintended consequences that have a financial impact on the Department.	Possible	Medium	Significant
7. DOE federal and/or contractor employees may choose not to report fraud, waste, and/or abuse concerns. If such concerns go unreported, the lack of reporting could have a financial impact on the Department.	Possible	Medium	Significant
8. DOE federal and/or contractor employees may choose not to report harassment, hostile work environment, intimidation, and/or retaliation concerns. The lack of reporting could have unintended consequences that have a financial impact on the Department.	Possible	Medium	Significant
Customer and Public Trust			
9. DOE federal and/or contractor employees may choose not to report health, safety, security, quality, and/or environmental concerns that can have an impact on the community, which may affect customer and public trust.	Possible	Medium	Significant
10. DOE federal and/or contractor employees may choose not to report fraud, waste, and/or abuse concerns. The lack of reporting could have unintended consequences that may affect customer and public trust.	Possible	Medium	Significant

Gap Analysis of Existing Risks and Controls

[Identify all controls that currently exist, excluding controls developed within this subsystem. Add more categories as necessary.]

Laws	<ul style="list-style-type: none">• List controls as relevant
External Regulation	<ul style="list-style-type: none">•
DOE Regulation	<ul style="list-style-type: none">• 10 C.F.R. Part 708 (as it relates to contractor whistleblower complaints)
DOE Orders	<ul style="list-style-type: none">•
Contract Controls	<ul style="list-style-type: none">•
External Assessments	<ul style="list-style-type: none">• DNFSB Recommendation 2011-1

Risk Mitigation Techniques

[Use the risk mitigation techniques and guidance within the attached reference to fill out the chart below. List all risks that have been identified in the gap analysis. When examining the relative cost-benefit of a proposed control be careful to notice situations where a risk-specific control may also (directly or indirectly) address a separate risk identified in the gap analysis.]

Risk Assessment for [Directive Number, Directive Title]					
Risk/Opportunity	Risk Level	Potential Cost/Benefit	External Control(s)	Proposed Mitigation Technique	Internal Control (if needed)
<p>People</p> <p>1. DOE federal and/or contractor employees may choose not to report health, safety, security, quality, and/or environmental concerns that can have an impact on DOE employees or individuals in the community.</p>	<p>Significant</p>	<p>Updating the ECP Order and improving the Contractor Requirements Documents (CRD) will have the following benefits: (1) clarification of Order requirements and responsibilities; and (2) increased awareness of and access to the ECP for the reporting of concerns.</p>	<p>Employees may report to line management; however, ECP provides an independent avenue for the reporting of concerns.</p>	<p>Monitoring Mitigation Technique</p>	<p>If the ECP Order and CRD are updated, the Headquarters ECP will conduct outreach to field site ECPs and to contracting officers. The Headquarters ECP will also provide training to field site and contractor ECPs on the changes to the Order and CRD.</p>

<p>2. DOE federal and/or contractor employees may choose not to report harassment, hostile work environment, intimidation, and/or retaliation concerns that may impact employees in the work environment, or ultimately impact individuals in the community.</p>	<p>Significant</p> <p>Same</p>	<p>Employees who meet certain criteria may file a claim of retaliation with the Department of Labor. However, the ECP provides a more flexible and informal avenue for the reporting of retaliation concerns.</p>	<p>Monitoring</p> <p>Same</p>
<p>Mission</p>			
<p>3. DOE federal and/or contractor employees may choose not to report health, safety, security, quality, and/or environmental concerns. If an incident were to occur due to a lack of reporting, it could impact the mission of the Department.</p>	<p>Significant</p> <p>Same</p>	<p>See 1 above.</p>	<p>Monitoring</p> <p>Same</p>
<p>4. DOE federal and/or contractor employees may choose not to report harassment, hostile work environment, intimidation, and/or retaliation concerns. The lack of reporting could have an unintended impact on</p>	<p>Significant</p> <p>Same</p>	<p>See 1 and 2 above.</p>	<p>Monitoring</p> <p>Same</p>

<p>safety, which could impact the mission of the Department. The lack of reporting could also lead to less worker productivity based on the work environment, which could also impact the mission of the Department.</p>		
<p>Assets</p> <p>5. DOE federal and/or contractor employees may choose not to report health, safety, security, quality, and/or environmental concerns. If an incident were to occur due to a lack of reporting, the assets of the Department would also be impacted.</p>	<p>Significant</p> <p>Same</p>	<p>See 1 above.</p> <p>Monitoring</p> <p>Same</p>
<p>Financial</p> <p>6. DOE federal and/or contractor employees may choose not to report health, safety, security, quality, and/or environmental concerns. The lack of reporting could have unintended consequences that have a</p>	<p>Significant</p> <p>Same</p>	<p>See 1 above.</p> <p>Monitoring</p> <p>Same</p>

financial impact on the Department.			
7. DOE federal and/or contractor employees may choose not to report fraud, waste, and/or abuse concerns. If such concerns go unreported, the lack of reporting could have a financial impact on the Department.	Significant	Same	Employees may file a complaint of fraud, waste, and/or abuse. However, the ECP provides a more flexible and informal avenue for the reporting of such concerns.
8. DOE federal and/or contractor employees may choose not to report harassment, hostile work environment, intimidation, and/or retaliation concerns. The lack of reporting could have unintended consequences that have a financial impact on the Department.	Significant	Same	See 1 and 2 above.
Customer and Public Trust			
9. DOE federal and/or contractor employees may choose not to report health, safety, security, quality, and/or environmental concerns	Significant	Same	See 1 above.

<p>that can have an impact on the community, which may affect customer and public trust.</p>			
<p>10. DOE federal and/or contractor employees may choose not to report fraud, waste, and/or abuse concerns. The lack of reporting could have unintended consequences that may affect customer and public trust.</p>	<p>Significant</p>	<p>See 7 above.</p>	<p>Monitoring Same</p>