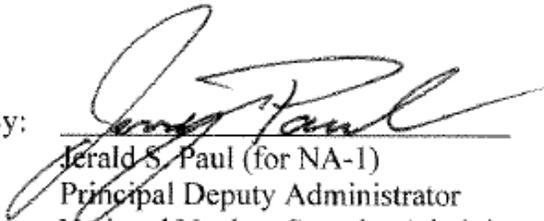


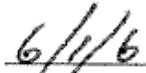


**National Nuclear Security Administration**  
**Central Technical Authority**  
**Management of Nuclear Safety Requirements**  
**NA-1 SD 251.1-1**

**Revision 2.0**  
**June 1, 2006**

Approved By:

  
Gerald S. Paul (for NA-1)  
Principal Deputy Administrator  
National Nuclear Security Administration

  
Date

## Change History

First Issue, January 31, 2006, Revision 1.1

### **Revision 2.0. June 1, 2006**

Multiple modifications to shift emphasis from 'DOE Nuclear Safety Requirements' to 'DOE Regulations, Directives with the potential to affect nuclear safety.'

Fixed error in definition of Technical Standards Manager

Added definition of an 'Exception' to a Directive to complement the definition of an exemption. See the definition for details, as it is a key change to this procedure, needed to meet the intent of knowing where sites are not implementing expectations related to nuclear safety. Essentially, an exception would be an exemption if a tailoring process were not being followed.

Clarified Exemption definition and clarified discussion in section 6.3 for obtaining CTA concurrence.

Deleted definition of Nuclear Safety Requirement (this definition is no longer needed in the document, given the focus on an index of Directives)

Modified CTA, CDNS, and Site Office Manager responsibilities and procedures to focus explicit CTA and CDNS concurrence actions on treatments in contracts that the Site Office Manager identifies as bonafide exceptions to intended requirements for contractors.

Modified responsibilities of HQ Directives Point of Contact (Section 5.4) to reflect an administrative role, and to ensure the NNSA office of primary responsibility is aware of the need for CTA concurrence.

Modified discussion of CDNS Baseline Index of Nuclear Safety Requirements in sections 6.1.1.1 and 6.1.1.2 to incorporate lessons learned from initial review of requirements in contracts.

Added reference to DOE M 450.3-1, *The Department of Energy Closure Process for Necessary and Sufficient Sets of Standards* and included discussion in Section 6.2. Included constraints on the tailoring process to permit effective central management of Directives that have the potential to affect nuclear safety.

Modified 6.2 and subordinate sections to limit requests for CTA concurrence to exceptions to applicable CRD provisions for Directives listed in the Index.

**Added a requirement to 6.2 that sites must disposition new and revised Directives within 9 months of publication, and, by June 1, 2007, evaluate and disposition the**

**most current version of any Directive currently listed in Part I of the *Index of Baseline Nuclear Safety Requirements (Index)* that has not yet been evaluated for inclusion in the site contract.**

Modified 6.2.2.2 to indicate that, as a general rule, Requests for Proposals for NEW contracts at sites that use tailoring processes should revert to the most current version of DOE Directives in the Index unless strong justification exists not to do so.

Included a discussion of Technical Standards in 6.2.

Revised 6.3 Exemptions, clarifying the discussion and renaming the section to 'Exceptions to 10 CFR 830 or Applicable CRD Provisions'

Deleted detailed listing of FRAM responsibilities in Attachment 2.

Made the procedure an NA-1 procedure, rather than an NA-2 procedure, consistent with recent changes to reporting relationships.

Added a supplemental directive designator derived from the Directives System Order and Manual, which this procedure supplements more than any other Directives.

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## **Foreword**

The National Nuclear Security Administration (NNSA) Central Technical Authority (CTA) and Chief of Defense Nuclear Safety (CDNS) exercise specific responsibilities related to Department of Energy (DOE) Regulations and Directives that have the potential to affect nuclear safety. These responsibilities are assigned in DOE-M-411.1-1C, *Safety Management Functions, Responsibilities and Authorities Manual*, and in the NNSA *Safety Management Functions, Responsibilities and Authorities Manual (FRAM)*. This document, issued by the office of the Administrator, provides expectations and guidance for use by subordinate offices to support CTA and CDNS responsibilities until such time as other implementing mechanisms are published.

## 1. PURPOSE

This document provides expectations and guidance for the processes by which the National Nuclear Security Administration (NNSA) Central Technical Authority (CTA) and the Chief of Defense Nuclear Safety (CDNS) perform their duties relating to Department of Energy (DOE) Regulations and Directives with the potential to affect nuclear safety. It implements CTA responsibilities defined in the DOE and NNSA FRAMs, and supplements DOE O 251.1A, *Directives System*, DOE M 251.1-1A, *Directives System Manual*, DOE Order 252.1, *Technical Standards Program*, and DOE STD 1083-95, *Requesting and Granting Exemptions to Nuclear Safety Rules*.

## 2. APPLICABILITY

This document applies to the CTA and the CDNS. This document also applies to other NNSA personnel, inasmuch as it defines the inputs required for the CTA and CDNS to carry out assigned responsibilities.

## 3. REFERENCES

- 3.1 10 CFR 820, *Procedure Rules for DOE Nuclear Activities*
- 3.2 10 CFR 830, *Nuclear Safety Management*
- 3.3 DOE-M-411.1-1C, *Safety Management Functions, Responsibilities and Authorities Manual*,
- 3.4 NNSA *Safety Management Functions, Responsibilities and Authorities Manual*
- 3.5 DEAR 970.5204-2(c)
- 3.6 DOE O 251.1A, *Directives System*
- 3.7 DOE M 251.1-1A, *Directives System Manual*
- 3.8 DOE STD 1083-95, *Requesting and Granting Exemptions to Nuclear Safety Rules*
- 3.9 DOE Order 252.1, *Technical Standards Program*
- 3.10 DOE M 450.3-1, *The Department of Energy Closure Process for Necessary and Sufficient Sets of Standards*
- 3.11 NA-1 SD 251.1-2, *Index of Baseline Nuclear Safety Requirements*

## 4. DEFINITIONS

All terms used in this document are intended to comply with standard definitions used in the DOE Directives System, where standard definitions exist. The following terms are defined explicitly for clarity.

**4.1. Applicable** – A determination that the conditions for which a requirement was designed exist at a given location or in a given situation. For example, conduct of operations requirements for control rooms are applicable at a site where control room

functions are executed, and may not be applicable at a site where control room functions are not executed.

**4.2. Approval Authority** – The duly designated authority to make an approval decision. When used to describe a person, the person having approval authority, i.e. the approving official. Approval authority may be designated in a variety of ways such as through the DOE and NNSA FRAMs, in a DOE Notice, Order or Manual, or by delegation letter.

**4.3. Contract** – Many of the CTA responsibilities in this document relate to requirements in NNSA contracts. For the purpose of this procedure, the term ‘NNSA contracts’ refers only to those NNSA contracts that include DEAR clause 970.5204-2, Laws, Regulations, and DOE Directives (Attachment 1).

**4.4. Directive** – A document that is developed under the DOE Directives System. The DOE Directives system is defined in DOE Order 251.1A, *Directives System*, and DOE Manual 251.1-1A, *Directives System Manual*, and subsequent revisions.

**4.5. Directives Point of Contact** – The DOE Directives system establishes Directives Points of Contact who represent their organizations during the process of developing and revising DOE Directives other than Technical Standards. For NNSA, there is a single Point of Contact (POC) who coordinates the review and comment process for NNSA at the headquarters level, and who ensures that NNSA Subject Matter Expert (SME) comments are adequately addressed prior to providing final NNSA concurrence with the new or revised Directive.

**4.6. Exception** – A treatment of an applicable provision from a Contractor Requirements Document (CRD) in an NNSA contract that would have required an Exemption if a DOE-approved tailoring process had not been followed. See section 6.3.

**4.7. Exemption** – For Federal Personnel, an exemption is formal relief from the need to comply with applicable requirements of DOE Regulations and Directives. For contractors, an exemption is formal relief from the need to comply with an applicable Regulation, or with a provision of a DOE Order, Notice and Manual that is included in the contract. See section 6.3.

**4.8 Technical Standard** – A Directive that is developed under the DOE Technical Standards Program, described in DOE Order 252.1, *Technical Standards Program*.

**4.9. Technical Standards Manager** – The Technical Standards Program establishes Technical Standards Managers who represent their organization during the process of developing and revising DOE Technical Standards. For NNSA, there is a single Technical Standards Manager (TSM) who coordinates the review and comment process for NNSA, and who ensures that NNSA Subject Matter Expert (SME) comments are adequately addressed prior to providing final NNSA concurrence with the new or revised Standard.

**4.10. Nuclear Facility** – This term is used precisely as defined in 10 CFR 830.3. The definition in 10 CFR 830 includes reactor and non-reactor facilities, and applies to radiological facilities as well as Hazard Category I, II, and III facilities. The exclusions provided in 10 CFR 830.3 definition (e.g. accelerator facilities) also apply in this document.

## 5. RESPONSIBILITIES

Responsibilities and authorities related to CTA management of nuclear safety requirements are defined in the DOE and NNSA FRAMs. The brief description in this section consolidates CTA and CDNS responsibilities, and identifies supporting responsibilities of other offices. Note that in the following responsibilities, the phrase ‘NNSA contracts’ refers only to NNSA contracts that include DEAR clause 970.5204-2, Laws, Regulations, and DOE Directives.

### 5.1 Central Technical Authority

- 5.1.1 Approve this procedure and the *Index of Baseline Nuclear Safety Requirements* (Index) on behalf of the NNSA Administrator.
- 5.1.2 Concur with exceptions in NNSA contracts to DOE Directives identified in Part I of the Index. (Note: see the definition of the term exception in section 4).
- 5.1.3 For NNSA facilities, concur with exemptions to 10 CFR 830 and with exemptions to DOE Directives identified in Part I of the Index.
- 5.1.4 New and Revised Directives.
  - 5.1.4.1 Concur on all new DOE Directives that affect NNSA and that have the potential to affect nuclear safety.
  - 5.1.4.2 Concur on revisions or cancellations of DOE Directives identified in Part II of the Index.
  - 5.1.4.3 Concur on revisions to 10 CFR 830.
  - 5.1.4.4 Concur on Supplemental Nuclear Safety Directives as necessary for use by NNSA employees and contractors (see Chapter IV, DOE M 251.1-1A).
- 5.1.5 Expectations and Guidance.
  - 5.1.5.1 Provide expectations and guidance for use by NNSA employees and contractors in implementing 10 CFR 830 or Directives listed in the Index, as necessary.
  - 5.1.5.2 Provide input to the Assistant Secretary of ES&H and DOE General Counsel on issues concerning Directives as required.
- 5.1.6 Operational Awareness.
  - 5.1.6.1 Maintain operational awareness of the implementation of DOE Regulations and Directives with the potential to affect nuclear safety.
  - 5.1.6.2 Approve the protocol for Biennial Reviews.

## 5.2 Chief of Defense Nuclear Safety

- 5.2.1 Develop, maintain and distribute this procedure and the *Index of Baseline of Nuclear Safety Requirements* (Index).
- 5.2.2 Requirements in Contracts.
  - 5.2.2.1 Evaluate requirements in NNSA contracts to ensure that nuclear safety is adequately covered and provide results of these evaluations to the CTA.
  - 5.2.2.2 Develop and maintain a baseline list of known exceptions taken in NNSA contracts to DOE Directives with the potential to affect nuclear safety.
- 5.2.3 Exemption/Exception Requests.
  - 5.2.3.1 Evaluate requests from NNSA Site Office Managers for exemptions from 10 CFR 830, and for exceptions or exemptions to Directives listed in Part I of the Index, to support decision-making by the CTA.
  - 5.2.3.2 Develop and distribute templates and guidance for use in requesting CTA concurrence with exemptions and exceptions.
- 5.2.4 New and Revised Directives.
  - 5.2.4.1 Provide a list of nuclear safety Directives that require CTA concurrence to the NNSA Directives Point of Contact and NNSA Technical Standards Manager as Part II of the Index.
  - 5.2.4.2 Assist in the development of concurrence packages for Directives.
  - 5.2.4.3 Facilitate preparation and coordination of Supplemental Nuclear Safety Directives as necessary for use by NNSA employees and contractors (see Chapter IV, DOE M 251.1-1A).
- 5.2.5 Expectations and Guidance.
  - 5.2.5.1 Facilitate the preparation and coordination of NNSA expectations and guidance for use by NNSA employees and contractors regarding 10 CFR 830, or Directives listed in the Index.
  - 5.2.5.2 Facilitate preparation and coordination of NNSA inputs to the Assistant Secretary of ES&H on issues concerning DOE Directives with the potential to affect nuclear safety.
- 5.2.6 Conduct on-site reviews of NNSA sites and activities to ensure that DOE Regulations and Directives with the potential to affect nuclear safety are implemented appropriately and effectively.

### **5.3 Site Office Managers**

- 5.3.1 Recommend additions and deletions to DOE Directives with the potential to affect nuclear safety included in the *Index of Baseline Nuclear Safety Requirements* (Index).
- 5.3.2 Ensure that site office procedures are consistent with the provisions of this procedure.
- 5.3.3 For new contracts, coordinate with CDNS regarding Directives to be included in the Request for Proposals; submit requests for CTA concurrence on the disposition in of DOE Directives listed in Part I of the Index prior to contract award.
- 5.3.4 Request CTA concurrence for exemptions to DOE Regulations, or to DOE Directives listed in Part I of the Index, prior to approval.
- 5.3.5 Request CTA concurrence on exceptions in contracts to the CRD provisions of Directives listed in Part I of the Index, prior to approval (see definition of the term 'exception' in section 4 and discussion in section 6.3).
- 5.3.6 As needed, submit requests to the CTA for guidance or expectations on 10 CFR 830, or on DOE Directives listed in the Index.
- 5.3.7 As CTA concurrence is received, develop and maintain an integrated listing of approved exceptions and exemptions to CRD provisions of Directives listed in Part I of the Index, and of exemptions to 10 CFR 830.
- 5.3.8 Support biennial reviews by the CDNS.

### **5.4 NNSA Headquarters Directives Point of Contact**

- 5.4.1 Identify the NNSA primary office of responsibility for Directives listed in Part II of the Index.
- 5.4.2 Ensure that for changes to Directives listed in Part II of the Index, the NNSA primary office of responsibility is aware of the need for CTA concurrence and that CDNS coordination is available to facilitate the concurrence process.
- 5.4.3 Provide consolidated comment resolution matrices to the CDNS for changes to Directives listed in Part II of the Index.
- 5.4.4 Withhold NNSA concurrence on Directives listed in Part II of the Index until CTA concurrence has been obtained.
- 5.4.5 Coordinate with CTA staff and request extensions, as needed, to allow for adequate CTA review of new and revised Directives.

### **5.5 NNSA Headquarters Technical Standards Manager**

- 5.5.1 Make recommendations to the CDNS for CTA concurrence (or non-concurrence) on revisions or cancellations of Technical Standards included in Part II of the *Index of Baseline Nuclear Safety Requirements* after consolidating comments from appropriate NNSA personnel and ensuring appropriate resolution.
- 5.5.2 Notify the CDNS of any new Technical Standard that should be considered for possible inclusion in Part II of the *Index of Baseline Nuclear Safety Requirements*.

## 6. PROCESSES

This section defines the processes by which the CTA and the CDNS execute assigned responsibilities associated with Nuclear Safety Requirements.

### 6.1. Index of Baseline Nuclear Safety Requirements

**6.1.1.** The CDNS develops, maintains and distributes a listing of DOE Directives that warrant CTA involvement because they have sufficient potential to affect nuclear safety. This *Index of Baseline Nuclear Safety Requirements (Index)*, which is approved by the CTA on behalf of NA-1, consists of two parts.

**6.1.1.1.** Part I of the Index is designed for use by Site Office Managers. It lists the DOE Orders, Notices and Manuals for which CTA concurrence is needed on exemptions or decisions not to implement provisions of the associated Contractor Requirements Document. Included in this part are Orders, Notices and Manuals that directly impact the establishment, verification, and maintenance of the safety bases (defined per 10 CFR 830) for NNSA nuclear facilities. See section 6.2.

**6.1.1.2.** Part II of the Index is designed for use by the NNSA points of contact for the DOE Directives System and Technical Standards Program. It identifies the set of DOE Directives and Standards that require CTA concurrence prior to providing NNSA concurrence to any revision or cancellation. See section 6.4.

**6.1.2.** Site Office Managers recommend to the CDNS changes (additions or deletions) to the Index as needed to support operational requirements.

**6.1.2.1.** Recommended changes should include a brief supporting rationale and be submitted to the CDNS.

**6.1.2.2.** Semiannually, CDNS will evaluate and consolidate any recommended changes to the Index, combine them with changes that result from changes to Directives, and prepare a revised Index for CTA approval.

a) Changes to Directives incorporated into the Index will include Directives that are published in the period that closes ninety calendar days prior to revision of the Index.

b) The revision will include a *Changes* section that highlights changes made since the last revision.

**6.1.2.3.** Following CTA approval, CDNS will distribute copies of the Index as needed.

## 6.2 Requirements in Contracts

The CTA does not concur or non-concur on the treatment of Regulations in contracts.

The treatment of Directives in existing M&O contracts are partially grandfathered under this procedure: i.e. there is no need to retroactively change existing contracts to comply with this procedure. However, as revisions to Directives are made or new Directives are issued, the process followed to make changes to existing contracts must be consistent with this procedure.

**In some cases, Directives may be listed in Part I of the *Index of Baseline Nuclear Safety Requirements (Index)* that were published more than 9 months before this procedure, but have not yet been treated in site contracts. Site Office Managers must, by June 1, 2007, evaluate and disposition the most recent version of any Directive currently listed in Part I of the Index that has not yet been evaluated for inclusion in the site contract.**

**6.2.1. Use of Tailoring Processes.** Department of Energy Acquisition Regulations allow sites to use DOE approved processes—such as the use of Work Smart Standards, Standards and Requirements Identification Documents, or approved Safety Management System processes—to tailor and reach agreement on necessary and sufficient requirements for use in site contracts. Tailoring approaches taken in many cases involve some modification of the wording of an applicable CRD provision, or the use of an alternate source requirement to satisfy the CRD provision. **This procedure places restrictions not found in DOE Directives on the use of tailoring processes at NNSA sites.**

**6.2.1.1.** To reduce the need for tailoring, NNSA Site Offices and Management and Operating contractors responsible for nuclear facilities must be fully engaged in the Department of Energy Directives System and Technical Standards Program review and comment processes, with special attention to Directives listed in Part I of the Index.

**6.2.1.1.1.** During the review and comment period, Site Office Managers must alert the CTA, through the CDNS, when an applicable provision in a Directive listed in Part I of the Index could not be implemented at a site as written.

**6.2.1.1.2.** The CDNS must ensure that issues raised by Site Office Managers are adequately resolved, or recommend NNSA non-concurrence to the CTA.

**6.2.1.2.** Care must be taken when tailoring requirements in Directives listed in Part I of the Index to ensure that the performance expected is achieved.

**6.2.1.2.1.** As a baseline, NNSA expects the contractual treatment of applicable CRD provisions from Directives that are listed in Part I of the Index to

satisfy reasonable performance expectations for those CRD provisions, even when a tailoring process is used.

**6.2.1.2.2.** Satisfying reasonable performance expectations means that a knowledgeable person reviewing the approach taken in the contract would reasonably conclude that the requirements of the provision are being met.

**6.2.1.3.** Tailoring must not be used to clarify the basic expectations or assumptions in a Directive listed in 10 CFR 830 as a safe harbor methodology or as providing DOE expectations on meeting the Rule; authoritative clarification should be obtained from the CTA so that it can be disseminated at an NNSA level and passed to the Office of Primary Interest as a suggested revision to the affected Directive.

**6.2.1.4.** As the senior line manager at a site, the Site Office Manager determines whether a proposed treatment of a CRD provision would meet reasonable performance expectations. Site Office Managers are responsible and accountable to the CTA in exercising this function.

**6.2.1.5.** As new and revised Directives listed in Part I of the Index are evaluated under tailoring processes, justification that explains how the contractual treatment will meet (or not meet) applicable CRD provisions must be documented and maintained for the life of the contract, both for CRD provisions to be explicitly included in the contract, and for CRD provisions not explicitly included in the contract. Justification must also be retained for modifications to CRD provisions. If a new contract 'inherits' a set of tailored requirements from a previous contract, the associated documentation must be maintained for the life of the new contract.

**6.2.1.6.** As Site Office personnel tailor new and revised Directives listed in Part I of the Index, the Site Office Manager must ensure that an integrated listing is developed and maintained that indicates which provisions of the CRDs have been implemented, which have been omitted, and which have been implemented with exceptions or in a modified form. This listing must be maintained along with the justification discussed in 6.2.1.5.

**6.2.1.7.** CTA concurrence must be requested prior to approval if the Site Office Manager determines that a proposed contractual treatment of an applicable Directive listed in Part I of the Index would not satisfy reasonable performance expectations. See Section 6.3.

**6.2.1.8.** Tailoring that modifies language in Directives not found in Part I of the Index does not require CTA concurrence. While not a requirement, an appropriate approach is to follow the discussion in 6.2.1.2 - 6.2.1.6. for Directives found in Part II of the Index.

**6.2.2 Concurrence on Revised or New Directives in Existing Contracts.** For existing contracts, Site Office Managers are responsible for tracking changes to or new issuance

of Directives that may affect their sites. Semiannually, the CDNS will distribute an update of the *Index of Baseline Nuclear Safety Requirements* (Index) to identify those Directives changes of interest to the CTA.

**6.2.2.1.** Within 9 months of the publication of a new or revised Directive listed in Part I of the Index, or within the period provided for in the Directive if such a period is provided, Site Office Managers must evaluate the Directive, develop tailored requirements as appropriate, and make associated modifications to the contract. If contract modifications are not made within the allotted time, the Site Office Manager may request a temporary exemption where warranted. This time constraint also applies if a tailoring process is not used.

**6.2.2.2.** CTA concurrence does not have to be requested when a CRD provision from a Directive listed in Part I of the Index is omitted from the contract because it is determined to be not applicable (see the definition of applicable in section 4). Omissions should be documented per 6.2.1.5. and 6.2.1.6.

**6.2.2.3.** CTA concurrence does not have to be requested when the Site Office Manager concludes that the proposed treatment of a CRD provision would meet reasonable performance expectations for that provision.

**6.2.2.3.1.** Site Office Managers are encouraged to consult with appropriate NNSA subject matter experts as needed in making this determination;

**6.2.2.3.2.** CDNS staff members are available to facilitate these discussions as needed.

**6.2.2.3.3.** Where agreement cannot be met on whether an approach satisfies a CRD provision, CTA guidance should be requested as discussed in section 6.5.

**6.2.2.4.** CTA concurrence is required when the Site Office Manager concludes that a proposed approach to an applicable CRD provision of a Directive listed in Part I of the Index would not meet reasonable performance expectations for that provision. The Site Office Manager must request CTA concurrence to the exception prior to implementing the approach, as described in section 6.3.

### **6.2.3 Requirements in New Contracts**

**6.2.3.1 No Change in Nuclear Safety Directives.** If a new contract 1) replaces an existing contract or is a contract extension, 2) makes no change to the scope of the technical work being performed, 3) neither adds nor deletes Directives listed in Part I of the Index that were previously included in the contract, and 4) the CTA had previously concurred on the Directives included in the contract, then CTA concurrence is not required. The existing baseline of Regulations and Directives affecting nuclear safety in the site contract and in the CDNS database remain unchanged.

**6.2.3.2 All Other New Contracts.** For all other new contracts, including extensions in which the requirements affecting nuclear safety have been modified or where new technical activities are to be included, Site Office Managers should forward a request for CTA concurrence through the CDNS. As a general practice, sites that use approved processes to tailor contract requirements should consider reverting to the most current version of applicable DOE Directives listed in Part I and II of the Index, rather than any tailored subset. This does not preclude the use of a tailoring process at a later date, or the adoption of the results of previous tailoring activities, where justification was appropriately documented and retained.

**6.2.3.2.1 Initial Coordination of Requirements.** Initial coordination of requirements with the Office of the CDNS should occur before release of the Request for Proposals (RFP), if an RFP is prepared. Additional coordination should occur as the list of applicable requirements is further refined in preparation for contract award.

**6.2.3.2.2 Request for Concurrence.** As early as practical, once the list of DOE Orders, Notices and Manuals to be included in the contract is final but no later than 30 days prior to executing the contract, the Site Office Manager should have the contracting officer forward to the CTA, through the CDNS, a request for concurrence with the Directives affecting nuclear safety included in the contract. The request should specifically justify the omission (if any) or modification of CRD provisions from Directives listed in Part I of the *Index of Baseline Nuclear Safety Requirements*.

**6.2.4 CDNS Evaluation/CTA Response to Directive Requirements in Contracts.** For changes to existing contracts and for new contracts, the CDNS will evaluate requests for concurrence and provide a recommendation to the CTA. The CTA will respond to the Site Office Manager no later than 30 calendar days after the request is submitted if concurrence is not to be granted, unless additional information is needed. Absent a response, concurrence may be assumed after 30 days. If additional information is requested, an additional fourteen calendar days must be allowed following provision of the requested additional information to permit its review by the CTA.

The CTA does not provide concurrence for contractual treatment of Regulations, or of Directives not listed in Part I of the Index.

### **6.3 CTA Concurrence on Exemptions and Exceptions**

**General.** CTA concurrence is required prior to approval for exemptions to 10 CFR 830 (and the use of alternative methodologies to meet 10 CFR 830), exemptions to Directives listed in Part 1 of the Index, and for exceptions taken in contracts to Directives listed in Part 1 of the Index. See definitions for the meaning of an exemption and exception.

Some situations that are similar to those described above do NOT require a request for CTA concurrence. These include provisions omitted because they are inapplicable, duplicate requirements, are equivalencies, or involve requirements for non-nuclear facilities. Each of these is discussed below for clarity.

**Inapplicability.** A Directive may be applicable to a site, but a specific CRD provision in an applicable Directive may not be applicable (see definition of applicable).

**Duplicate Requirements.** Some CRD provisions duplicate portions of other requirements. These are sometimes combined or omitted in a way that meets the expectations of the CRD provisions not included. Special attention must be paid to situations in which CRD provisions may be similar but not identical, such as when CRDs exist in both an Order and an implementing Manual, or when DOE requirements overlap other federal, state or local requirements. Care must be taken to ensure that all applicable performance expectations are met.

**Equivalencies.** Some codes such as National Fire Protection Association (NFPA) codes include within their framework provisions for routinely granting equivalencies with the approval of the Authority Having Jurisdiction (AHJ). In NNSA, the AHJ is typically the Site Office Manager. AHJs granting routine equivalencies do not need to request CTA concurrence. However, equivalency provisions in a code invoked by a Directive do not take precedence over explicit requirements in an applicable Directive CRD. If an equivalency permitted under a code would violate an explicit requirement in an applicable Directive CRD, use of an equivalency alone to waive the requirement is not appropriate.

**Non-Nuclear Facilities.** Some requirements, such as fire protection and conduct of operations, apply both to nuclear facilities and non-nuclear facilities at the same site. Usually, CTA concurrence is not required to exceptions to requirements for non-nuclear facilities, even if concurrence would be required for an exception to the same requirement in a nuclear facility. CTA concurrence is required, however, if the application of the exception to a Directive listed in Part I of the Index would affect the safety of a nuclear facility, e.g. situations where nuclear and non-nuclear facilities are commingled and a fire in a non-nuclear facility would threaten a nuclear facility, or where the product of a non-nuclear facility affects the safety of a nuclear facility.

### **6.3.1 Procedure: Requests for Concurrence.**

**General.** The responsible Site Office Manager must submit requests for CTA concurrence to the CDNS. The CDNS will process and forward the requests to the CTA. The same information needed to support an exemption request to the Approval Authority must be submitted to obtain CTA concurrence. This information is described in DOE-STD-1083-95 for Rules, and in DOE M 251.1-1A for DOE Orders, Notices and Manuals. In addition, the request must include a copy of the concurrence page, if the site office uses a concurrence page in evaluating the proposed exception. Any missing signatures or

non-concurrences must be supported by a written minority opinion. Additional information may be requested by the CDNS on a case-by-case basis to support evaluation of a particular request.

**6.3.1.1 Rules.** If the exemption is to a requirement in a nuclear safety rule, then the Site Office Manager should comply with responsibilities included in DOE-STD-1083-95, which include responsibilities and time limits for provision of information to the NNSA Cognizant Secretarial Officer (CSO) established in the DOE FRAM. The concurrence request should be forwarded to the CTA at the same time as the approval request is submitted to the NNSA CSO. The process for obtaining approval for alternative methodology to be used in place of a safe harbor is not formalized in a DOE Directive; contact the CDNS on appropriate format and processes to be followed.

Per the NNSA FRAM, site office managers are responsible for coordinating alternative methodologies with the DOE Office of Environment, Safety and Health.

DOE-STD-1083-95 provides the NNSA Cognizant Secretarial Officer (CSO) 180 days to review the exemption request. The evaluation by the CTA (through the CDNS) occurs concurrently with that of the CSO. A CTA decision on concurrence is issued to the CSO within 180 days except where special circumstances warrant a delay in the decision. In these cases, the CTA provides the reason for the delay and the projected decision date in writing to the requesting contractor, the Site Office Manager, and the CSO within 180 days of the request for concurrence.

The CSO must not approve the exemption request unless CTA concurrence is received, or the 180 calendar-day review period has passed without objection or request for additional information.

**6.3.1.2 Orders, Notices and Manuals.** For exemptions or exceptions to Orders, Notices and Manuals, the Site Office Manager must submit the concurrence request at least 30 days prior to final approval. The concurrence request should be forwarded to the CTA, through the CDNS.

The NNSA approval authority must not approve the exemption or exception unless CTA concurrence is received, or the 30 calendar-day review period has passed without objection or request for additional information. If the CTA requests additional information, final approval must not be granted until either the CTA issues a concurrence or until fourteen days after the requested information is provided.

**6.3.2 Non-Concurrence.** Based on the CDNS evaluation of the request, the CTA may non-concur on an exception or exemption. In the event that a request to the NNSA CSO results in conditional approval by the approving official, the CTA may concur in whole or in part with the conditions imposed by the approving official. The CTA may also place limits on the conditions under which his concurrence applies. See Section 7 of this document for required actions in the event of a non-concurrence by the CTA.

## 6.4 New and Revised Requirements, and Cancellations

**6.4.1 New Requirements.** CTA concurrence is required prior to NNSA's concurrence with the issuance of new Rules, Orders, Notices, Manuals, Standards and Guides that could affect nuclear safety or that constitute new guidance on acceptable methodology to meet nuclear safety expectations. The NNSA Directives Point of Contact or Technical Standard Manager should notify the CDNS of any new or proposed Order, Notice, Manual, Guide or Technical Standard that should be evaluated for potential nuclear safety implications.

When notified of a new or revised Order, Notice, Manual, Guide or Technical Standard, the CDNS will review the draft document and notify the NNSA Directives Point of Contact or Technical Standard Manager whether to consider it a potential Nuclear Safety Requirement. The CDNS will facilitate technical evaluation of draft documents and determine whether to recommend CTA concurrence and inclusion in the *Index of Baseline Nuclear Safety Requirements*.

**6.4.2 Revisions and Cancellations.** CTA concurrence is required prior to NNSA's concurrence with revisions to and cancellations of 10 CFR 830 sections, or the Directives that are listed in the Index. The CDNS will provide the Index to the NNSA Headquarters Directives Point of Contact and the NNSA Headquarters Technical Standard Manager. When a revision to any document in Part II of the Index is made (or a proposal is made to cancel a document in Part II of the Index), the NNSA Directives Point of Contact or Technical Standard Manager must work with appropriate CDNS staff and the NNSA office of primary responsibility to review the changes and comments from NNSA organizations, and make a recommendation to the CDNS for CTA concurrence. CTA concurrence must be obtained prior to NNSA concurrence being issued through the Directives approval processes.

## 6.5 Expectations and Guidance

The CTA provides expectations and guidance related to 10 CFR 830 (the *Nuclear Safety Management Rule*) and the Directives listed in the Index. Such expectations and guidance represent the official NNSA position to resolve disputes regarding NNSA expectations on nuclear safety matters.

**6.5.1. Requests for Guidance.** Formal requests for guidance must be submitted through the responsible Site Office Manager to the CTA, through the CDNS. The CDNS will coordinate with DOE/EH, affected site offices, and relevant subject matter experts in developing a position to present to the CTA.

**6.5.2. Technical Bulletin.** In addition to the formal response to the Site Office Manager, the guidance provided by the CTA will be published in a subsequent NNSA Technical Bulletin. However, formal guidance should not be confused with the questions and answers that routinely appear in the NNSA Technical Bulletin. The questions and

answers are intended only to address isolated confusion on issues to which there is a generally accepted understanding.

**6.5.3. Proposed Changes to DOE Directives (including Technical Standards).** The DOE Directives System and Technical Standards Program include provisions for proposing changes to existing Directives, and for proposing new Directives. NNSA personnel proposing changes to Directives listed in the *Index of Baseline Nuclear Safety Requirements*, or proposing new standards or requirements that affect nuclear safety, should coordinate the proposed wording with the CDNS. In general, CDNS will not be lead on proposed revisions and new issuances. However, as discussed in section 6.4, new or changed requirements affecting nuclear safety will require CTA concurrence prior to formal NNSA concurrence on the final document. Ensuring CDNS awareness of the proposed revision or new document helps assure a seamless concurrence process.

**6.5.4. Interpretations.** As codified in 10 CFR 820.51, the DOE General Counsel is responsible for interpreting the Atomic Energy Act of 1954, as amended, Nuclear Safety Statutes, and DOE Nuclear Safety Requirements. If a regulatory interpretation is required pursuant to 10 CFR 820.51, the CTA, with the assistance of the CDNS, formulates a technical position and coordinates it with the NNSA General Counsel for appropriate review and possible issuance by the DOE General Counsel. Expectations and guidance issued by the CTA are not interpretations. NNSA expectations and guidance must be consistent with interpretations issued by the General Counsel. Should an interpretation be issued that is contrary to previous guidance issued by the NNSA CTA, the interpretation would take precedence and the CTA guidance would have to be modified accordingly.

## 6.6 Operational Awareness

The CDNS, on behalf of the CTA, conducts Biennial Reviews, for cause reviews, and assistance visits to address the implementation of the nuclear safety management rule and the requirements in the *Index of Baseline Nuclear Safety Requirements*. These reviews evaluate site office performance in multiple areas, including the contractual treatment of Directives listed in the Index. Results are provided to the CTA and line management for use as appropriate. A protocol for the conduct of Biennial Reviews is developed and maintained by the CDNS, and approved by the NNSA CTA.

When a contributing cause to performance issues is identified that relates to the treatment of CRD provisions from Part I and Part II of the Index, the treatment of the CRD provision must be explicitly discussed in the report for the review.

## **7. CTA NON-CONCURRENCE**

Strong, informal communication during development of concurrence packages usually results in a package with which the CTA concurs. However, it is possible that the CTA could non-concur on a given package, in whole or in part, or with conditions of approval imposed by a NNSA approving official.

When the approval authority is within NNSA and below the level of NA-2, approval must not be issued if the CTA non-concurs. If an approval has already been issued at a level below NA-2, and the CTA subsequently non-concurs, the approval is rescinded. In either case, the originator may appeal to NA-1. If the non-concurrence involves changes made to a contract, the Site Office Manager must take whatever actions necessary to have the contract brought into compliance with the CTA decision.

When the approval authority is not within NNSA, and CTA concurrence is required, concurrence for NNSA must not be provided prior to receiving CTA concurrence. In the event that the CTA non-concurs, a non-concurrence must be submitted on behalf of NNSA.

## **Attachment 1: DEAR Clause 970.5204-2**

As prescribed in 48 CFR 970.0470-2, insert the following clause:

Laws, Regulations, and DOE Directives (DEC 2000)

(a) In performing work under this contract, the contractor shall comply with the requirements of applicable Federal, State, and local laws and regulations (including DOE regulations), unless relief has been granted in writing by the appropriate regulatory agency. A List of Applicable Laws and regulations (List A) may be appended to this contract for information purposes. Omission of any applicable law or regulation from List A does not affect the obligation of the contractor to comply with such law or regulation pursuant to this paragraph.

(b) In performing work under this contract, the contractor shall comply with the requirements of those Department of Energy directives, or parts thereof, identified in the List of Applicable Directives (List B) appended to this contract. Except as otherwise provided for in paragraph (d) of this clause, the contracting officer may, from time to time and at any time, revise List B by unilateral modification to the contract to add, modify, or delete specific requirements. Prior to revising List B, the contracting officer shall notify the contractor in writing of the Department's intent to revise List B and provide the contractor with the opportunity to assess the effect of the contractor's compliance with the revised list on contract cost and funding, technical performance, and schedule; and identify any potential inconsistencies between the revised list and the other terms and conditions of the contract. Within 30 days after receipt of the contracting officer's notice, the contractor shall advise the contracting officer in writing of the potential impact of the contractor's compliance with the revised list. Based on the information provided by the contractor and any other information available, the contracting officer shall decide whether to revise List B and so advise the contractor not later than 30 days prior to the effective date of the revision of List B. The contractor and the contracting officer shall identify and, if appropriate, agree to any changes to other contract terms and conditions, including cost and schedule, associated with the revision of List B pursuant to the clause of this contract entitled, "Changes."

(c) Environmental, safety, and health (ES&H) requirements appropriate for work conducted under this contract may be determined by a DOE approved process to evaluate the work and the associated hazards and identify an appropriately tailored set of standards, practices, and controls, such as a tailoring process included in a DOE approved Safety Management System implemented under the clause entitled "Integration of Environment, Safety, and Health into Work Planning and Execution." When such a process is used, the set of tailored (ES&H) requirements, as approved by DOE pursuant to the process, shall be incorporated into List B as contract requirements with full force and effect. These requirements shall supersede, in whole or in part, the contractual environmental, safety, and health requirements previously made applicable to the contract by List B. If the tailored set of requirements identifies an alternative requirement varying from an ES&H requirement of an applicable law or regulation, the contractor shall request an exemption or other appropriate regulatory relief specified in the regulation.

(d) Except as otherwise directed by the contracting officer, the contractor shall procure all necessary permits or licenses required for the performance of work under this contract.

(e) Regardless of the performer of the work, the contractor is responsible for compliance with the requirements of this clause. The contractor is responsible for flowing down the requirements of this clause to subcontracts at any tier to the extent necessary to ensure the contractor's compliance with the requirements.