

Chapter 16

Equivalencies and Exemptions

DOE security orders and manuals often require certain measures to be taken to protect DOE security interests. In some cases, a DOE organization may be unable to comply with the requirements as specified in the directive, but can achieve the security goal in another equally effective manner. In other cases, the security requirement cannot be met as prescribed.

DOE Order 251.1C, *Departmental Directives Program*, Paragraph 6a(3)(c), establishes a process for requesting and approving “equivalencies and exemptions” (collectively called “deviations”) to the requirements in DOE directives. These categories are defined in the HQ Implementation Procedures subsection below. HQ elements seeking an equivalency or exemption from DOE security requirements as they are implemented at HQ must obtain the approval of the Associate Under Secretary for Environment, Health, Safety and Security (AU-1) through the Director, AU-40. All approved equivalencies and exemptions at HQ must be entered into the SSIMS database.

This chapter covers the process for submitting, justifying, considering, approving, and tracking deviations requested by HQ elements.

HQ Implementation Procedures

Definitions:

1. Equivalencies – Equivalencies are alternative methods for meeting a requirement in a directive when that directive specifies how to do something. An equivalency proposes an alternate approach that achieves a level of protection equivalent to the method specified in the directive. The request for an equivalency must demonstrate that the alternate method will provide an equivalent level of protection, with no increased risk to public health and safety, the environment, workers, or security.

At HQ, the Head of Element must request equivalencies for security directives and submit them to AU-40 for processing and final approval by AU-1.

2. Exemptions – Exemptions are a release from one or more requirements in a directive without identifying an equivalent means of meeting the requirement, resulting in the need to accept additional risk. The request for exemption must clearly delineate the level of additional risk and the measures implemented to reduce risk to a reasonably achievable level. Any increase in risk to public health and safety, the environment, workers, or security must be justified.

At HQ, the Head of Element must submit requests for exemptions from security directives to AU-40 for processing and final approval by AU-1. HQ exemptions are extremely rare; therefore, AU-40 scrutinizes all requests for exemptions to ensure that they are fully justified.

Equivalency and Exemption Request Process:

The HSO of the HQ element considering a request for an equivalency or exemption should first consult with the HQ Deviations Program Manager, AU-42. The HSO should explain the need for equivalency or exemption and what alternative actions, if any, could be taken to meet the security requirement. The HQ Deviations Program Manager ensures that the proper security program manager within AU-40 is informed of the element's inability to meet the security requirement and intention to submit a request.

The HSO and the security program manager within AU-40 should attempt to resolve the problem before resorting to an equivalency or exemption request. When the problem cannot be resolved, the request may be processed.

The HSO of the requesting element is responsible for:

- Conducting a formal Vulnerability Assessment (VA) or Risk Assessment (RA) to determine the level of risk entailed by issuing an equivalency or exemption. The VA or RA must fully identify the increased risk to security that may occur and justify the need for the equivalency or exemption. The HQ Deviations Program Manager guides the HSO in performing a VA or RA.
- Preparing a transmittal memorandum from the Head of Element to the Director, AU-40, in the correct format (see Attachment 1600-1). The transmittal memorandum must briefly identify the security requirement that cannot be met and state that an equivalency/exemption request, in the format specified in the HQFMSP, is attached to the memorandum.
- Preparing an equivalency/exemption request and attaching it to the transmittal memorandum to the Director, AU-40 (see Attachment 1600-2).

The Director, AU-40 forwards the equivalency/exemption request to the HQ Deviations Program Manager, who then consults with the AU-40 security program manager and the programmatic expert in the Office of Security Policy (AU-51) to consider the propriety of the request. Based on these consultations, the HQ Deviations Program Manager recommends approval or disapproval to AU-40. AU-40 may coordinate with AU-1 before approving or disapproving the request.

If the request is approved, the HQ Deviations Program Manager issues an equivalency/exemption number and forwards a copy of the approved request to the SSIMS data entry specialist for entry into SSIMS. Another copy of the request is provided to AU-40 for inclusion in the HQ Site Security Plan.

If the request is not approved, the HQ Deviations Program Manager prepares a response memorandum from the Director, AU-40, to the Head of Element for the program element that requested the equivalency or exemption, stating the reason(s) for denying the request.

Expiration Dates of Equivalencies and Exemptions:

The HQ Deviations Program Manager will establish a system to review the continued need for an equivalency or exemption.

If it is determined that the approved equivalency or exemption is no longer needed, the element should notify AU-40 before discontinuing the approved alternative measure(s).

Points of Contact

For the names and contact information for the positions identified in this chapter, call (301) 903-9990 or (301) 903-5287.

Forms/Samples/Graphics

Sample Deviation Request Transmittal Memorandum (see Attachment 1600-1)

Equivalency/Exemption Request (see Attachment 1600-2)

ATTACHMENT 1600-1

Sample Deviation Request Transmittal Memorandum

MEMORANDUM FOR (NAME), DIRECTOR
OFFICE OF HEADQUARTERS SECURITY
OPERATIONS
OFFICE OF ENVIORNMENT, HEALTH, SAFETY AND
SECURITY

FROM: (NAME), (HEAD OF ELEMENT)
NAME OF ELEMENT

SUBJECT: Request for Equivalency (or Exemption)

This memorandum is to request your approval of an (equivalency) or (exemption) to the requirement identified in DOE (Order or Manual), (Title), Paragraph _____. To assist you in evaluating this request, an Equivalency/Exemption Request in the format specified in the Headquarters Facilities Master Security Plan is enclosed.

If you have any questions related to this request, please contact (Name), the Headquarters Security Officer for this office. (Name) can be contacted at phone number _____.

Enclosure

ATTACHMENT 1600-2

EQUIVALENCY/EXEMPTION REQUEST

1. **Type of Deviation:** (Equivalency or Exemption)
2. **Directive Citation:** Number, title, date, and paragraph citation of the directive(s) for which the equivalency or exemption is being requested. Briefly summarize the requirement.
3. **Impacted Entity:** Identity of the HQ element, HQ facility, and facility code (from the Safeguards and Security Information Management System) to be covered by the equivalency or exemption.
4. **Justification:** Specific description of the equivalency or exemption being requested. Explain why the requirement cannot be met in the manner prescribed by the DOE directive.
5. **Proposed Alternative Measures (for an equivalency):** Describe what alternative measures are proposed to meet the requirement. Include the results of the Vulnerability Assessment to document how the alternative measures will result in an equivalent level of protection with no increased risk to the security interest.

Or

5. **Risk Analysis (for an exemption):** If no alternative measures are possible, include the results of the Risk Assessment to clearly identify and justify the type and level of risk to be accepted.
6. **Duration:** Expected duration of the condition for which the equivalency or exemption is requested, including milestones for correcting, alleviating, or eliminating the deviant condition, if applicable. Equivalencies and exemptions can be temporary or permanent. If temporary, provide the date when it is expected to expire.

APPROVED: _____

Date: _____

DISAPPROVED: _____

Date: _____

EQUIVALENCY/EXEMPTION NUMBER: _____

Expiration Date: _____

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