

## Alliance for Nuclear Accountability

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### **Watchdog groups call for Congress to protect nuclear weapons communities—stop DOE limitations on Safety Board**

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Watchdog groups from across the country are insisting the Department of Energy withdraw DOE Order 140.1, a controversial order that would compromise safety at dozens of facilities in the US nuclear weapons complex, and are asking key Congressional committees to annul the revised order and preserve the critically important prerogatives of the Defense Nuclear Facilities Safety Board (DNFSB).

The order, first announced by DOE in April, 2018, has drawn scrutiny from members of Congressional committees with oversight over the Energy Department. DOE Order 140.1 seeks to limit access to information and personnel by the Safety Board .

Kathy Crandall Robinson will speak at a November 28 hearing in Washington, DC, at which DNFSB is soliciting comments from Department officials and members of the public. “Order 140.1, with its degradation of DNFSB’s role and authority, threatens to send us on a glide path back to a careless era as if this were a time when safety concerns and dangers at nuclear weapons facilities are shrinking. They are not,” Robinson says. “Instead, there are aging facilities, facilities operating where serious safety concerns have been raised, and some facilities where plans for increased production of nuclear weapons components could lead to novel dangers. For example, the President’s Nuclear Posture Review calls for production of 80 plutonium pits per year by 2030 and plans are being laid for increased pit production at Los Alamos as well as new capabilities at Savannah River Site.”

Members of the Alliance for Nuclear Accountability, a national network of organizations that addresses nuclear weapons production and waste cleanup issues, hail the work of the DNFSB as a critical guard against DOE and National Nuclear Security Administration efforts to cut corners on safety.

“The Safety Board works outside of the media spotlight,” said Tom Clements, Director of Savannah River Site Watch in Columbia, South Carolina. “Its value to the public is immeasurable. DNFSB frequently provides information about SRS operations which DOE fails to communicate. The role of the Safety Board should be expanded, not curtailed.”

Marylia Kelley, Executive Director of Tri-Valley CAREs in Livermore, California, said, “The DNFSB is absolutely vital to worker and public safety. I have spent 35 years monitoring Livermore Lab. I can tell you that workers and community members rely on the Safety Board to do its job—every day!”

## **DOE nonresponsive to public concerns**

In August 2018, ANA sent a letter to Secretary of Energy Rick Perry outlining the concerns of the Alliance. ANA groups noted that DOE is required by law to provide the Safety Board with ready access to facilities, personnel and information “as the Board considers necessary to carry out its responsibilities.” Noting that DOE’s Order was promulgated and put into effect with no public input, the ANA groups called for DOE to rescind the current Order.

Two months later, ANA has received no response—not even an acknowledgement of our letter—from the Department.

ANA’s letter asked Perry, at a minimum, to hold the Order in abeyance and to hold public hearings across the DOE weapons complex within 90 days to explain the need for the change in the DOE’s Order and to receive public comment.

“When it comes to safety, too often we get lip service from DOE and NNSA. Citizens have no way of checking up on them,” said Ralph Hutchison, coordinator of the Oak Ridge Environmental Peace Alliance. “We rely on the Safety Board. Their reports provide a window into the operations at sites across the country. Too often, they tell us of problems and incidents that pose risks to workers and potentially to the public. Of course, DOE and NNSA sometimes find this inconvenient—but that’s a small price to pay for operating as safely as possible. We are grateful for the technical expertise and the transparency that are the hallmarks of the work of DNFSB. This effort to constrain them is wrongheaded and dangerous.”

## **The need for Congressional action**

The DNFSB held an initial hearing on August 28, 2018 to receive testimony from DOE and NNSA officials along with Safety Board technical personnel and the public. The hearing was marked by DOE’s insistence that the Order meant little in the way of actual change, and the Safety Board’s growing skepticism.

After the hearing Congressmen Adam Smith (WA) and Jim Cooper (TN) wrote a letter to the Safety Board expressing their concerns. Subsequently, Safety Board plans to reorganize itself were put on hold, and DOE was called on to explain Order 140.1 to Congress.

ANA believes DOE cannot be trusted to modify its Order in ways that preserve the integrity and access required by DNSFB’s authorizing legislation. In a letter dated November 27, 2018, ANA wrote to Congressional committee leaders asking for Congressional action to compel DOE to meet its obligations and provide unfettered access to DNSFB to information, documents, personnel and defense nuclear facilities across the weapons complex.

## **The need for DNFSB oversight**

The public outcry comes in response to the DOE’s effort to implement DOE Order 140.1 in ways that would dramatically limit the Safety Board’s role at some of the most dangerous nuclear facilities in the country.

Under the revised order, the Safety Board is prohibited from talking to contractor employees—the people closest to the work—without getting authorization from managers and DOE.

“In an institution with a terrible track record of abusing whistleblowers, it is crucial that DNFSB have access to any and all personnel as they explore safety issues at our sites,” said Beatrice Brailsford of the Snake River Alliance in Idaho. “Stifling the collection of

information from the people who have the most direct knowledge is a brazen attempt to control and limit the Safety Board's access."

The DOE Order also removes some facilities— rated Category 3 and under nuclear facilities—from DNFSB oversight altogether. "In essence, this makes DOE and NNSA self-policing," Brailsford said. "There will be virtually no independent oversight on safety issues at some of these dangerous nuclear facilities. That is unacceptable."

### **Safety Board track record**

Tom Carpenter, Executive Director of Hanford Challenge, noted numerous instances of Safety Board intervention that identified serious safety concerns. "The list of Safety Board accomplishments is too long to enumerate here," Carpenter said. "Within just the past several years, the Safety Board identified numerous concerns about the build-up of explosive and flammable hydrogen gases in the Hanford waste tanks. They have also tagged issues at the Waste Treatment Plant, including criticality control, flaws in the design and construction of electrical systems, and erosion and corrosion in the pulse jet mixer system for high-level waste.

"These were issues the Board raised because DOE and its contractor had failed to self-identify or correct them. The Board identified major issues with the potential releases of ammonia at the Waste Treatment Plant as well as design flaws that could deliver fatal doses to workers in some parts of that facility."

ANA groups charge that many hazards identified by the DNFSB across the nuclear weapons complex would not have otherwise been brought forward or corrected, creating unacceptable safety conditions that would present a menace to human health, safety, and the environment.

"The Safety Board can save taxpayers' dollars when they are listened to," noted Hutchison. "In Oak Ridge, the Safety Board repeatedly pushed for the NNSA to integrate safety into the design of the multi-billion dollar Uranium Processing Facility bomb plant. NNSA refused—the result was a financial disaster that cost taxpayers more than half a billion dollars. It didn't have to happen—if NNSA had listened to the Safety Board, it wouldn't have happened."

Don Hancock of Southwest Research and Information Center in Albuquerque, New Mexico noted, "In a June 2011 report, the DNFSB identified that the Waste Isolation Pilot Project [WIPP] underground repository 'does not adequately address the fire hazards and risks associated with underground operations.... [nor] recognize the potential impact of a fire on WIPP's ability to process waste, and ultimately on the ability to reduce inventories of transuranic waste at other DOE sites.' Unfortunately, DOE did not adequately address those problems and a February 5, 2014, underground fire shut down the facility."

Joni Arends, Executive Director of Concerned Citizens for Nuclear Safety in Santa Fe, New Mexico, cited Safety Board reports as key documentation in establishing worker exposures on the job; an October 2018 article in the *Santa Fe New Mexican* was able to use DNFSB reports after one sick worker's exposure records disappeared. "Protecting worker safety at Los Alamos National Lab is essential," Arends said, "and DNFSB reports are a critical record of incidents that we might otherwise never learn about."

### **DOE Order limits Safety Board access**

Many of the Safety Board's most useful contributions come in the process of evaluating DOE/NNSA construction projects for safety. The revised DOE Order prohibits DNFSB from having access to construction plans for expensive and dangerous facilities.

“What makes this even more outrageous,” said Jay Coghlan, Executive Director of Nuclear Watch New Mexico, “is that NNSA and DOE consistently top the Government Accountability Office’s list of high risk projects—every time the GAO updates their list, they repeat their finding on DOE and NNSA, that poor management makes them highly susceptible to project failure, cost and schedule overruns, and outright fraud.”

DNFSB recommendations in New Mexico and Oak Ridge have led to increased attention to seismic concerns as new facilities were being designed.

Coghlan said, “This Order will shackle dissenting voices, put a straightjacket on those who best know unsafe conditions (the workers themselves), and encourage additional retaliation against whistleblowers. The attempt to remove Hazard Category-3 and under facilities from DNFSB purview appears to run counter to the Safety Board’s enabling legislation.”

Kelley agreed. “At Livermore, the Order means DNFSB may be barred from inspecting—or even entering—the Tritium Facility and other hazardous buildings in which severe safety violations have led to major radiation releases.”

The job of the Board is set out in the congressional legislation that created it in 1988. Its statutory mission is to “provide independent analysis, advice, and recommendations to the Secretary of Energy to inform the Secretary, in the role of the Secretary as operator and regulator of the defense nuclear facilities of the Department of Energy, in providing adequate protection of public health and safety at defense nuclear facilities.” The Board also reports to Congress annually.

“Limiting access to information, facilities and personnel, as proposed by the new DOE Order, will hamper the Board’s important oversight work to keep Congress, DOE, the public and the media informed about DOE’s failures to keep workers and the public safe,” said Arends.

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ANA letter to Congressional Armed Services at: <http://bit.ly/ana-armedservices>

ANA letter to Secretary of Energy Perry at: <http://bit.ly/ana-dnfsb>

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