



# **Defense Nuclear Facilities Safety Board**

## **Board Procedures December 2014**

### **Members of the Board:**

Peter S. Winokur, Chairman  
Jessie H. Roberson, Vice-Chairman  
Sean Sullivan, Board Member

## **TABLE OF CONTENTS**

### **1.0 Overview**

- 1.1 Duties of the Chairman
- 1.2 Chairman's Delegation of Authority
- 1.3 Duties of Individual Board Members
- 1.4 Duties of the Collective Board

### **2.0 Board Deliberation Highlights**

- 2.1 Board Meetings, Hearings, & Briefings
- 2.2 Board Resource Planning

### **3.0 Board Documents, General Policies, & Confidentiality**

- 3.1 General Correspondence Review and Approval
- 3.2 Recommendations Review and Approval
- 3.3 Requests for Board Action by a Board Member

### **4.0 Board Travel**

### **5.0 Board Calendar**

### **Appendices**

- 1. Chairman's Delegation of Authority
- 2. Request for Board Action
- 3. Request for Board Action on Recommendation
- 4. Request for Board Action by a Board Member
- 5. Defense Nuclear Facilities Safety Board Notational Vote Response Sheet
- 6. Affirmation of Board Voting Record

## 1.0 Overview

- A. This document encompasses the procedures governing the conduct of business at the Board Member level of the Defense Nuclear Facilities Safety Board. It provides information delineating Board Member duties, responsibilities, and decision-making processes, including voting on proposed Board Actions.
- B. These procedures may be waived or changed by a majority of the Board using the process in Section 3.3. If the waiver or revision requires a vote, Section 2.0 applies. Questions regarding the implementation and interpretation of these procedures are decided by the Board as a collegial body.
- C. These procedures will be reviewed at least every two years to incorporate any organizational updates, consider changes for improving efficiency and effectiveness, and address conformance with any applicable legal requirements and Board Policies.

**Board Member Approval:** See Board Action 2015-029.

## 1.1 Duties of the Chairman

- A. 42 U.S.C. § 2286(c)(2) provides that the Chairman shall be the chief executive officer of the Board and, subject to such policies as the Board may establish, shall exercise the functions of the Board with respect to:
- 1) The appointment and supervision of employees of the Board;
  - 2) The organization of any administrative units established by the Board;  
and
  - 3) The use and expenditure of funds.
- B. The Board may determine by vote, in areas of doubt, whether any matter, action, question or area of inquiry pertains to matters of policy formation and, as such, is reserved to the Board. Subject to such vote, the Chairman has the authority and responsibility to:
- 1) Execute the Board's staff resources plan by selecting, appointing, and fixing the compensation of the Board's employees, including salary and incentive awards;
  - 2) Supervise personnel employed by or assigned to the Board, including issuing performance evaluations, promotions, and disciplinary actions;
  - 3) Approve official travel of Board Members and Board's staff;
  - 4) Assign and organize Board employees in work units, and distribute work supporting the Board's oversight mission at headquarters and in the field. In assigning, organizing, and distributing employee work, the Chairman shall adhere to the priorities established by the Board as specified in the annual work plan;
  - 5) Approve any staff tasking not anticipated in the annual work plan, provided that the new tasking does not preclude work in the approved plan;
  - 6) Procure services from outside experts and consultants in accordance with the Board's statute, the Federal Acquisition Regulation, and other federal laws. In procuring such services, the Chairman shall not exceed the type and amount of services as approved by the Board in the annual staffing plan, or as subsequently modified by the Board;
  - 7) Convene public meetings or hearings as directed by the Board;

- 8) Initiate Board action using notational vote procedures as requested by an Office Director or any Board Member, or as directed by the Board;
- 9) Use and expend all funds appropriated to the Board;
- 10) Sign and implement Board Directives needed to support the administrative requirements of a federal establishment in accordance with applicable laws and regulations;
- 11) Serve as the official spokesperson for the Board;
- 12) Authorize the initial release of information concerning Board actions to individuals outside the agency;
- 13) Serve as the “head of a federal entity,” as that phrase is defined in the Inspector General Act of 1978, as amended (5 U.S.C. App. § 8G) and perform such “head of federal entity” duties as proscribed in federal regulations and statutes; and
- 14) Delegate any of the aforementioned functions in accordance with Section 1.2, and inform the Board Members of any such delegations.

## **1.2 Chairman's Delegation of Authority**

- A. The Chairman or his designee will complete the Chairman's Delegation of Authority form in Appendix 1, documenting the specific authorities delegated, and the person or position receiving the delegated authority. The Chairman and his designee shall date and sign the Chairman's Delegation of Authority form.
- B. The Board's Executive Secretary shall distribute copies of the completed Chairman's Delegation of Authority form to the recipient of the delegation and to all Board Members. The Executive Secretary shall maintain a permanent master file of all current delegations.
- C. The Chairman shall review the master file semiannually and make changes to delegations as appropriate.

### **1.3 Duties of Individual Board Members**

- A. 42 U.S.C. § 2286(c)(5) provides that each Board Member shall have equal responsibility and authority in establishing decisions and determining actions of the Board; have full access to all information relating to the performance of the Board's functions, powers, and mission; and have one vote.
  
- B. In carrying out his or her duties, each Board Member shall:
  - 1) Vote within the times prescribed in these procedures. Failure to vote within the times prescribed shall be recorded as having "No Vote" unless an extension has been agreed to by the Board;
  
  - 2) Except as may be made at a Board meeting or by notational vote, make any requests for staff tasking to the Chairman using the procedure in Section 3.3.
  
  - 3) Except as may be made at a Board meeting, initiate any request for action from the Board using the procedures of Section 3.3;
  
  - 4) Seek the concurrence of other Board Members for any external formal communication such as a speech or presentation discussing Board matters. Any communication for which concurrence has not been granted should make clear that the views presented belong to the individual Member and not the Board.
  
- C. In addition to the above, each Board Member is expected to:
  - 1) Review and comment on the Strategic Plan prior to the final vote;
  
  - 2) Review and comment on the annual budget submission prior to the final vote;
  
  - 3) Review and comment on the annual financial plan and any significant changes occurring throughout the year;
  
  - 4) Review and comment on the annual work plan;
  
  - 5) Independently interview and provide comment to the Chairman on each technical candidate for hire;
  
  - 6) Independently interview all other federal hires as requested by the Chairman;
  
  - 7) Independently review and provide timely comment on all Board letters and recommendations;

- 8) Participate in daily business briefings with technical, business, and legal managers;
- 9) Participate in periodic briefings by the Department of Energy's (DOE) Program Secretarial Officers for National Nuclear Security Administration and Environmental Management, focused on programs, Board safety priorities, and emerging concerns;
- 10) Participate in periodic briefings by the DOE Head of Health, Safety, and Security focused on DOE and Board safety priorities and emerging concerns;
- 11) Participate in all weekly, monthly, and quarterly status briefings by DOE and its contractors responding to Board letters, recommendations, site visits, or Departmental projects and safety initiatives;
- 12) Develop, review, and comment on external Board or Board Member speeches, presentations, or other public communications;
- 13) Participate in briefings with the Office of Management and Budget (OMB), members of the public, members or committees of Congress, and other parties with an interest in DOE defense nuclear facility safety matters;
- 14) Prepare for and participate in public hearings and various other safety inquiries;
- 15) Review and evaluate site representatives' weekly reports, technical group leads' weekly status reports, and the General Manager's monthly performance report;
- 16) Review and evaluate changes to DOE directives, guides, and orders;
- 17) Prepare for and participate in site visits.

#### **1.4 Duties of the Collective Board.**

- A. All matters of policy formation belong to the Board as a whole. The Board may determine by majority vote, in areas of doubt, whether any matter, action, question, or area of inquiry pertains to matters of policy formation.
  
- B. The Board, acting by or through a quorum as defined in 42 U.S.C. § 2286(e), will review and approve by majority vote the following actions:
  - 1) Issuing Recommendations to the Secretary of Energy under 42 U.S.C. § 2286d, and accepting the Secretary's responses to each Recommendation, as well as the associated implementation plan;
  - 2) Evaluating the content and implementation of the standards relating to the design, construction, and decommissioning of DOE defense nuclear facilities to ensure adequate protection of the public health and safety;
  - 3) Certifying as complete the review required by 42 U.S.C. § 2286a(b)(4) of the design of a new defense nuclear facility as soon as possible, and in any case before construction begins;
  - 4) Issuing to the Secretary of Energy periodic reports under 42 U.S.C. § 2286a(b)(4) during the construction of new defense nuclear facilities;
  - 5) Initiating investigations under 42 U.S.C. § 2286a(b)(2), appointing the Board's officer(s) designated to conduct the investigation, and delineating the Board's officers' authorities, such as recommending that the Chairman issue and serve subpoenas;
  - 6) Issuing new or revised regulations under 42 U.S.C. § 2286b(c) to carry out the Board's responsibilities;
  - 7) Scheduling hearings under 42 U.S.C. § 2286b(a), including the date, time, location, subject matter, and list of potential witnesses;
  - 8) Scheduling meetings of the Board;
  - 9) Issuing the agenda for meetings;
  - 10) Authorizing any Member(s) to hold hearings;
  - 11) Directing the Chairman as may be requested in a Request for Board Action by a Board Member (Appendix 4), or by regular motion at a meeting;

- 12) Issuing Board letters to the Secretary of Energy, DOE officials, and other federal and state officials concerning health and safety matters under the jurisdiction of the Board;
- 13) Issuing reporting requirements for the Secretary of Energy under 42 U.S.C. §2286b(d);
- 14) Initiating special studies, including studies performed by outside experts under contract to the Board, pertaining to the adequate protection of public health and safety at DOE defense nuclear facilities under 42 U.S.C. § 2286b(i), such as technical reports or Board-sponsored research projects not specifically directed by Congress;
- 15) Issuing any Board policy statement further defining how the Board will execute its statutory functions set forth in 42 U.S.C. § 2286a(b);
- 16) Approving the annual budget request to Congress, including the personnel plan contained within the annual budget request;
- 17) Moving to obtain the advice and recommendations of the Nuclear Regulatory Commission's staff and the Advisory Committee on Reactor Safeguards on matters relating to the Board's responsibilities;
- 18) Entering into an agreement with the National Research Council and/or any other appropriate group or organization of experts outside the federal government;
- 19) Issuing the staff resources plan containing the priorities for staff work;
- 20) Revising the number and location of permanent staff assignments at any DOE defense nuclear facility;
- 21) Issuing the Board's Annual Report to Congress under 42 U.S.C. § 2286e(a);
- 22) Issuing any communication expressing the establishment of a Board opinion or position on matters before the Board;
- 23) Submitting any proposals for legislative changes to OMB and Congress;
- 24) Approving any request for new Board funding before transmittal to OMB or Congress;

- 25) Issuing the Board's Strategic Plan and Annual Performance objectives as required by the Government Performance and Results Act of 1993, GPRA Modernization Act (GPRAMA) of 2010, and OMB Circular A-11;
- 26) Determining, in areas of doubt, whether any action, matter, or area of inquiry is within the purview of the Board or the sole function of the Chairman; and
- 27) Issuing these procedures and any changes thereto.

## 2.0 Board Deliberation Highlights

- A. When the Board is considering action on a matter of policy:
  - 1) The nature, substance, and timing of any proposed actions by the Board are speculative until the Board acts by a vote. Prior to a vote, Board Members, Board employees, contractors, or subcontractors of the Board, when communicating with outside persons or agencies, should refrain from speculating about potential Board action;
  - 2) If the Board is considering a recommendation, by law, the substance of the recommendation may not be disclosed to the public until after the final recommendation has been transmitted to the Secretary of Energy.
- B. No Board action requiring a vote of the Board will be approved unless an affirmative vote has been cast by a majority of Board Members participating in the vote after a quorum has been established. Pursuant to 42 U.S.C. § 2286(e), three Board Members constitute a quorum. Board Members casting a vote to “Approve,” “Disapprove,” or to “Abstain” shall be considered as participating, and thus will be counted towards the quorum. A Board Member who is recorded as having a “No Vote” and/or any Board Member who recuses himself/herself from participating in a particular matter in order to avoid any actual or apparent conflict of interest is not considered as participating, and is thus not included for purposes of determining a quorum. The proposed Board action is not approved if the total number of Board member votes to approve is tied with the number of votes to disapprove.
- C. Once the Board acts, the Chairman has the exclusive responsibility and authority for authorizing the initial release of information concerning Board actions to individuals outside the agency.
- D. The Board has determined that a quorum includes Board Members who are participating in Board actions by video or audio link.
- E. Board Members are independent officials and conduct their oversight responsibilities in accordance with the Board’s enabling legislation and applicable federal statutes and regulations. Board Members routinely participate in public conferences and discussion forums, publish papers, and give interviews to trade publications and other media sources. Unless the Board has voted to issue official communications, such as a Recommendation, technical report, or Board letter to the Secretary of Energy, individual Board Members need to ensure that their views on a subject are not construed as official Board positions. As such, the following advisory should be included in oral or written communications of individual Board Members: *The views expressed herein are solely those of the author (speaker), and no official*

*support or endorsement by the Defense Nuclear Facilities Safety Board or the U.S. Government is intended or should be inferred.*

## 2.1 Board Meetings, Hearings, & Briefings

### A. General:

- 1) When holding meetings, hearings, or briefings, the Board is governed by its enabling statute, 42 U.S.C. § 2286 et seq., the Government in the Sunshine Act, 5 U.S.C. § 552b, and the Board's rules for implementing the Government in the Sunshine Act, 10 C.F.R. Part 1704. These procedures are intended to provide for the conduct of orderly Board business. If any conflicts arise between these procedures and the aforementioned provisions of law, and any other applicable laws, the conflicting provision of these procedures shall be invalid;
- 2) During any proceeding, these procedures may be waived by unanimous consent of the Board Members participating or by vote as specified in section 3.3.

### B. Meetings:

- 1) Open Meeting Defined. An agency meeting of a quorum of Board Members pursuant to 10 C.F.R. Part 1704, noticed in the Federal Register pursuant to the Government in the Sunshine Act and open to public observation.
- 2) Meeting Procedures:
  - a) The Board shall approve the meeting agenda by vote prior to giving notice, as required by 10 C.F.R. Part 1704;
  - b) A quorum includes Members participating by video or audio link;
  - c) The Chairman shall convene and preside over the meeting. The Vice Chairman shall preside over the meeting in the absence of the Chairman. If both the Chairman and the Vice Chairman are absent, the longest tenured Board Member present shall preside over the meeting;
  - d) The Chairman shall conduct the meeting as prescribed in the agenda. The order of agenda items may be changed with the consent of the Board;
  - e) The Chairman may end discussion on any item, subject to overrule by the Board. Any Member may move to end discussion of an item by "moving the question" or "moving to table." If either motion is made and seconded, the Board shall immediately vote to move the question or table. If a majority votes to move the

question, the Board shall immediately proceed to a vote on the question. If a majority votes to table, the item or issue is tabled until the next Board meeting;

- f) The business of the meeting shall be limited to items listed on the agenda;
- g) Any Member may raise a point of order on procedural matters. Once raised, the Chairman shall rule on the point of order;
- h) Any Member may object to a ruling of the Chairman by moving “to overrule.” If such motion is made and seconded, the Board shall immediately vote on the motion;
- i) 10 C.F.R. 1704.4 contains the conditions for closing Board meetings to the public. Procedures for closing meetings are specified in 10 C.F.R. 1704.5;
- j) The Board shall maintain a complete, verbatim transcript or electronic recording of any meeting closed to the public. For meetings closed under Exemption 8, 9A, or 10 of the Government in the Sunshine Act, the Board may maintain meeting minutes in lieu of a transcript or electronic recording. Minutes, if maintained, must meet the requirements of 10 CFR 1704.8.

3) Voting at Meetings:

- a) Any Member may move for a vote on a request for Board action presented in the agenda. The Board shall vote after sufficient discussion unless such motion is withdrawn by the Member making the motion;
- b) Any Member may propose and move for a vote on a request for Board action that was not presented in the agenda, but does regard the business of an agenda item. If such motion is made and seconded, the Board shall vote after sufficient discussion, unless such motion or second is withdrawn;
- c) Voting on procedural motions (overruling, tabling, or moving the question) shall occur without discussion;
- d) No vote shall be permitted if the request for Board action regards business not listed on the agenda;
- e) Any motion on a request for Board action may be amended prior to the vote. Friendly amendments are made without objection and so noted by the Chairman for the record. If an objection is raised,

there shall first be a vote on the amendment prior to a vote on the request for Board action.

- f) At the conclusion of the voting process, the Board's Executive Secretary will prepare a Voting Summary sheet (Appendix 6) to document the outcome of each vote;
- 4) Staff Tasking Generated at Meetings. At the conclusion of a meeting, the appropriate supporting staff member shall prepare a memorandum containing any Board Member request for staff action made at the meeting. The memorandum shall be routed to all Board Members who shall have three business days to raise objections or suggest changes. A formal vote on the memorandum is not required, but may be called for by any Member if conflicts arise. The Chairman shall task the staff as indicated in the final memorandum.
- 5) Public Participation. The public will be provided the opportunity to comment at open meetings.

#### C. Hearings

- 1) Public Hearing Defined. A hearing accessible to individuals from the public, authorized under the Board's enabling statute, for the purpose of taking testimony and gathering information from DOE and contractor witnesses relevant to public and worker health and safety at DOE defense nuclear facilities.
- 2) Combined Meeting and Hearing. When any hearing has a quorum in attendance, the hearing shall be considered a combined meeting and hearing, and the procedures of a meeting specified above shall be followed.
- 3) Hearings Held by One or Two Board Members:
  - a) All hearings shall be approved by vote of the Board, including the time, place, agenda, Board Member(s) participating, and Board Member chairing;
  - b) Hearings shall be noticed the same as a meeting, except the notice shall state the name(s) of the Board Member(s) conducting the hearing and the persons expected to testify or submit information;
  - c) Non-participating Board Members may submit witness questions to the participating Board Member(s) prior to the hearing. At the hearing, the participating Board Member(s) shall indicate for the record the name of the submitting Board Member and read the

questions to the appropriate witness;

- d) The Board Member approved by the Board shall chair the hearing;
- e) The approved agenda shall be adhered to;
- f) During the hearing, any participation by a quorum of the Board (other than the submission of written questions made prior to the hearing) shall cause the hearing to be a combined meeting and hearing, and the proceedings shall cease until a quorum is neither present nor participating, or until such time as proper notice has been made;
- g) Transcripts or electronic recordings of hearings shall be made the same as for meetings.

D. Briefings to the Board

- 1) Defined:
  - a) Staff briefing to the Board. A session attended by three or more Members for which the purpose is to have the Board's staff or expert consultants to the Board brief or otherwise provide information to the Board concerning any matters within the purview of the Board under its authorizing statute, provided that the Board does not engage in deliberations that determine or result in the joint conduct or disposition of official Board business on such matters;
  - b) Department briefing to the Board or external organization briefing to the Board. A session attended by three or more Members for which the purpose is to have DOE, including its contractors, or other persons or organizations (external organization briefing) brief or otherwise provide information to the Board concerning any matters within the purview of the Board under its authorizing statute, provided that the Board does not engage in deliberations that determine or result in the joint conduct or disposition of official Board business on such matters;
  - c) Board Member briefing. Any briefing, whether by staff, the DOE, or an external organization, given to one (1) or two (2) Board Members only. As no Board quorum will be present, the procedures of this section are optional, except that such briefings shall normally appear on the Board calendar.
- 2) Each Board Member in attendance at any such briefing shall ensure

adherence to the requirement of 10 CFR 1704.3 to have a member of the Office of the General Counsel present.

- 3) Any Board Member may request a briefing. If at least two (2) additional Board Members agree to attend, the briefing shall be scheduled on the Board calendar as a briefing to the Board.
- 4) Requests for staff briefings made by a Board Member must be approved by the Chairman after considering the impact on staff workload. If denied, the Board Member may bring the request to the full Board using the procedure in Section 3.3.
- 5) Staff briefings shall have a stated subject matter and purpose. A detailed agenda is optional, depending on the complexity of the matter at issue. The agenda and a staff briefing paper, if produced, should be provided to all Board Members at least one business day before the scheduled briefing.
- 6) Department briefings should have a written agenda. The Board Member or designated staff arranging an external organization briefing shall make every reasonable effort to provide a draft agenda to all Board Members no later than one week prior to the briefing. Each Board Member shall have one business day to provide comments on the draft agenda.
- 7) During any briefing, Board Members may ask questions designed to clarify the information provided. Board Members should direct questions to the briefer. Conversation between Board Members may be construed as deliberations and should be avoided.
- 8) During the briefing, Board Members may not hold preliminary discussions or exchange of views which effectively predetermine official actions.
- 9) In no case shall a briefing result in Board determination of a course of action or the formulation of a Board position with respect to a matter of business before the Board. The disposition of official Board business can only be accomplished at a meeting as described above or through the Board Decision Document processes in Section 3.

## 2.2 Board Resource Planning

- A. The Board shall establish a strategic plan as required by the Government Performance and Results Act of 1993, GPRAMA of 2010, and OMB Circular No A-11 (2012). Annually or as events dictate, the Board shall receive and evaluate reports from the Office Directors as to the progress toward meeting the strategic goals.
- B. The Board shall approve by vote of the Board a resource plan consisting of a staffing plan and an annual work plan. The staffing plan shall contain the number and skill set of staff full-time equivalent (FTE) employees, the number and location of staff stationed at DOE sites, and the skills and services needed from external sources (e.g., contracts, interagency agreements). The work plan shall contain the anticipated staff workload needed to meet the Board's strategic goals and objectives, including the workload for monitoring and/or analyzing DOE activities.
- C. Staffing plan:
  - 1) The Board shall annually approve a staffing plan as part of the budget submission process;
  - 2) Within one (1) month following an appropriation for the fiscal year or other significant action on the Board's budget, the Board shall review and approve any changes to the plan;
  - 3) At least quarterly, the Board shall compare the applicable actual staff makeup to that called for by the plan and shall approve any changes to the plan as conditions warrant.
- D. Annual work plan.
  - 1) The Board shall annually approve a work plan as part of the budget submission process. The work plan will reflect a prioritized workload for the next fiscal year to meet strategic goals and objectives, including the workload for monitoring and/or analyzing DOE activities. Specific inputs should include:
    - a) Tasks to meet the strategic plan goals and objectives;
    - b) Prioritized work to monitor, analyze, and assess defense nuclear facilities;
    - c) Staff tasking in support of public meetings and hearings;
    - d) Staff tasking in support of Board travel;

- e) Staff tasking in support of correspondence with the Secretary of Energy; and
  - f) Staff tasking in support of correspondence with Congress.
- 2) In association with the approval of the Board's next fiscal year's work plan, the Board shall review assessments including metrics of the current year's annual work plan. Where circumstances prevented the accomplishment in the current year of any staff tasking approved as part of the current year's plan, the Board shall specifically determine whether that tasking should be carried forward to the next year or be cancelled.
  - 3) The Board shall review the annual work plan for consistency with the Board's strategic goals and objectives, and ensure the alignment of Board tasks to the expected DOE work focus for the coming fiscal year. Upon approval by the Board, the plan shall guide the formulation of the Board's annual budget submission to Congress.
- E. Execution. The Chairman shall adhere to the approved staffing plan in making personnel employment and contract decisions. The Chairman and the Office Directors shall adhere to the approved annual work plan in making staff assignments. Any Board Member or Office Director may bring before the Board a proposal to revise the Board's current annual work plan. A proposal identifying new staff work should also identify the previously planned work that will be deferred or canceled.

### **3.0 Board Documents, General Policies, & Confidentiality**

- A. Policies, rulemaking, adjudicatory matters, as well as general information, are provided to the Board for consideration primarily in document form.
- B. Decision documents may be initiated by the Chairman through tasking of the Board's staff, by a Board Member via approved written request for Board action, by an Office Director as a result of a specific requirement defined in the Board's approved Directives, or by any Office Director who identifies a mission or policy issue appropriate for collegial review by the Board.
- C. Draft and final documents requiring Board review or action are to be delivered to all Board Members simultaneously.
- D. During the conduct of the Board's oversight work, Board members, employees of the Board, contractors, and subcontractors may have access to information that is not available to the public. Such information may include, but is not limited to safety-privileged information; classified information; attorney/client privileged information; unclassified controlled nuclear information (UCNI); official use only information (OUO); patent rights; Privacy Act information; personally identifiable information; and proprietary information, such as trade secrets or privileged/confidential commercial or financial information, and pre-decisional drafts. The Board established administrative procedures for the access, storage, handling, and disposal of information as documented in the Board's Administrative Directives and Operating Procedures system. All Board Members, employees, contractors, and subcontractors are required to maintain the confidentiality of all such data and follow the data disclosure requirements and protection procedures applicable to the data.
- E. Information and documents obtained during the course of an investigation and the investigative proceedings record may be protected from disclosure under several provisions of federal statutes and court decisions, as well as the Board's investigative procedures.
- F. The Board Members, working with the Board's staff and support contractors, develop a variety of draft documents that assist the Board in making informed decisions regarding public and worker health and safety throughout the DOE defense nuclear complex. Many of these documents are considered "works-in progress" and are labeled "Draft—Not Reviewed for Public Release." These documents are internal, pre-decisional documents and are not to be shared with individuals outside the Board. This provision is not intended to restrict legitimate cooperation with an appropriate authority as permitted by law.
- G. For actions being considered by the Board, only the final Board-approved version can be shared, unless the Chairman specifically approves a request

by a Board Member or Office Director to discuss specific elements of a document under consideration outside the Board.

- H. When Board action is complete, the Chairman alone may authorize the initial release of information to individuals outside the agency.

### 3.1 General Correspondence Review and Approval

- A. General. This section describes the Board's normal correspondence review and approval procedure:
- 1) Time periods in days are "calendar days" or "business days." One business day shall be considered to be one 24-hour period that is stayed when interrupted by weekends and holidays;
  - 2) Unless additional time is granted, a Board Member who does not respond within the time periods stated in this procedure shall be presumed to have abstained from that procedural step, and the process shall move forward to the next step. If the procedural step is a notational vote, the Board Member shall be recorded as having "No Vote";
  - 3) Board Members shall make their best effort to anticipate circumstances that pose difficulty in adhering to the time periods in this procedure and, as desired, either seek unanimous consent for a deviation, or instruct the Executive Secretary that they will not participate;
  - 4) In the extraordinary circumstance where a Board Member is unable to participate for a considerable or indeterminate period of time (for example, incapacitation), the remaining Board Members may by unanimous consent designate in advance of any correspondence process or step of any process that the incapacitated Board Member will be non-participating. Once the incapacitated Board Member's status has been so designated, the remaining Board Members may move to the next step in the process. An incapacitated Member shall be recorded as "No Vote."
- B. Orange Folder routing. During the Orange Folder process, the Board Members review and comment on the initial staff-proposed correspondence. The staff then makes its best effort to integrate those comments and produce a final staff-proposed correspondence. Board Members are expected to independently review and comment during the "first round" of the Orange Folder process. The purpose of independent review is to ensure each Board Member provides an objective input based on her/his expert knowledge. Specific steps are as follows:
- 1) Documents requiring Board action must be provided to the Board's Executive Secretary for processing and be accompanied by a completed copy of the Request for Board Action form (Appendix 2).
  - 2) The Board's Executive Secretary will:
    - a) Log in or verify the action request is logged into the Board's action tracking system;

- b) Review the document package for completeness. If incomplete, the package will be returned to the originator and so noted in the action tracking system;
  - c) Determine the end date of the review period and enter the date on the cover sheet of the document; and
  - d) Simultaneously distribute to all Board Members the complete proposed document with any attachments and a copy of the Request for Board Action form. At the discretion of each Board Member, distribution shall be by a paper copy in an Orange Folder and/or an electronic copy labeled "Orange Folder."
- 3) Board Members may have up to five (5) calendar days to review and comment on the proposed action, and return their original documents with comments directly to the Executive Secretary. Additional time may be necessary for large documents or reports, and may be proposed by the applicable Office Director or requested by any Member. If proposed or requested, the Executive Secretary shall notify all Members of the time extension. The extension will be automatically granted unless an objection is raised by a Member. If an objection is raised, the extension is denied.
- 4) Board Members should independently review and comment on an Orange Folder document during their initial review. Once all Board Members have returned their Orange Folder, Members may review the comments of others.
- 5) The Executive Secretary will deliver the entire document package, including all feedback from Board Members, to the originating office for staff review of comments and, as needed, document changes or reconsideration. The Executive Secretary will note in the Board's action tracking log the date the package was returned.
- 6) If at any time prior to a final Board vote, the Office Director responsible for the proposed document determines that the action should not be finalized, the basis for this decision must be summarized on a Request for Board Action form and provided to the Board's Executive Secretary. The Executive Secretary shall distribute the Request for Board Action to all Board Members. The document shall be withdrawn unless a Board Member objects within three (3) business days. The completed Request for Board Action shall be forwarded by the Executive Secretary to the Records Manager for maintenance in accordance with the requirements in Board Directive AD 19-1, *Records Management Program*.

- 7) If the staff is unable to accommodate a Board Member's comment, the applicable Office Director or designee shall explain the staff rationale to the Board Member.
  - 8) After the document originator is satisfied that all Board Member comments and changes are disposed, the final staff document will be provided to the Board's Executive Secretary.
- C. Yellow Folder routing. The Yellow Folder provides the opportunity for Board Members to initiate amendments to the final staff document.
- 1) The Board's Executive Secretary will simultaneously distribute to all Board Members the complete final staff document and any attachments. At the discretion of each Board Member, distribution shall be by a paper copy in a Yellow Folder and/or an electronic copy labeled "Yellow Folder."
  - 2) Amendments. Within one (1) business day any Board Member may indicate to the Executive Secretary an intention to propose one or more amendments to the final staff document. The amendment process shall be as follows:
    - a) The Executive Secretary shall notify all Board Members and Office Directors of the Member's intent to propose one or more amendments;
    - b) The notational vote on the final staff document shall be stayed until after voting on all proposed amendments has occurred;
    - c) The Board Member proposing amendments shall submit the text of all proposed amendments to the Executive Secretary by no later than 5:00 PM EST on the business day following the day the Member made the notification of intent to submit amendments. The text of the proposed amendments may be accompanied by a brief explanation of their purpose;
    - d) The Executive Secretary shall immediately provide the amendments to all Board Members and Office Directors;
    - e) As soon as practicable, the Board Members should receive input from the Office Directors as to whether any technical, legal, or administrative issue is raised by the amendment. The Office Directors should not comment on the writing style or tone of the amendment text, or the underlying policy issues raised by the amendment, unless specifically asked to do so by a Member;

- f) One business day after distributing the amendments, the Executive Secretary shall distribute a notational vote sheet for each amendment;
- g) Notational votes on all proposed amendments shall occur within one business day and prior to voting on the final document.
- h) The Executive Secretary shall amend the final staff document to reflect any approved amendments and shall distribute the revised document per paragraph D below;
- i) If no amendments were approved, the Executive Secretary shall immediately cause a notational vote on the final staff document to occur;

D. Blue Folder process. The Blue Folder process provides for final voting. The Blue Folder process shall begin at the completion of the amendment process or, if no Member indicated intent to submit amendments, one business day after distribution of the Yellow Folder.

- 1) The Board's Executive Secretary will simultaneously distribute to all Board Members the complete final staff document or, if applicable, the final amended document, plus any attachments. At the discretion of each Board Member, distribution shall be by a paper copy in a Blue Folder and/or an electronic copy labeled "Blue Folder."
- 2) Each Board Member will have three calendar days to evaluate the proposed final action and complete their voting form.
- 3) All original documents, including notational voting sheets, will be returned directly to the Board's Executive Secretary by each Board member.
- 4) The Board's Executive Secretary will complete the Affirmation of Board Voting Record form (Appendix 6).

E. Post-voting administration.

- 1) The Board's Executive Secretary shall notify the Office Director responsible for the document of the voting results, and if the document was approved:
  - a) Coordinate assembly of the Green folder for the Chairman's signature;
  - b) Coordinate distribution of the signed document;

- c) Note the date of approval of the final proposed document and sign the Request for Board Action;
  - d) Provide a copy of the Request for Board Action, the Affirmation of Board Voting Record, and the final signed document to each Board Member; and
  - e) Coordinate the disposition of the complete document package with the Records Manager in accordance with Board Directive AD 19-1, *Records Management Program*.
- 2) If the document was not approved, the Board's Executive Secretary shall:
- a) Note the disapproval on the Request for Board Action;
  - b) Provide a copy of the Request for Board Action and the Affirmation of Board Voting Record to the Board Members and the document originator; and
  - c) Coordinate the disposition of the complete document package with the Records Manager in accordance with Board Directive AD 19-1, *Records Management Program*.

### **3.2 Recommendations Review and Approval**

- A. This section describes the Board's Recommendation review and approval procedure. The provisions of paragraph A of Section 3.1 shall apply to this section.
  
- B. The Board will review and/or approve by vote the following actions:
  - 1) Draft Recommendations. This document is a Board-approved final draft recommendation to be released to the Secretary of Energy for review;
  - 2) Any extension of time beyond 30 days requested by the Secretary of Energy for comment on a Draft Recommendation;
  - 3) Final Recommendation. This document is a Board-approved final recommendation approved for release to the Secretary of Energy and the Public. This document includes consideration of Secretary of Energy comments on the Draft Recommendation, if any.
  
- C. Draft Recommendation process.
  - 1) Orange Folder routing. The Orange Folder routing procedure of section 3.1 shall be followed, except:
    - a) In reviewing for completeness, the Executive Secretary shall require a written statement from the Technical Director that all supporting documents required by the Board's enabling statute have been included.
    - b) Board Members shall have up to ten (10) calendar days to review and comment on the staff-proposed Draft Recommendation, and return their original documents with comments directly to the Executive Secretary.
  - 2) Yellow Folder routing. The Yellow Folder routing procedure of section 3.1 shall be followed.
  - 3) Blue Folder routing. The Blue Folder process of section 3.1 shall be followed, except-each Board Member shall have five (5) calendar days to evaluate the proposed Draft Recommendation and complete their voting form.
  - 4) Post-voting administration. The post-voting administration process of section 3.1 shall be used, and in addition:
    - a) The confidentiality of the document shall be maintained;

- b) If the Board voted affirmatively to proceed, the Board’s Executive Secretary shall ensure a “Draft Recommendation” watermark is installed on each page of the document when coordinating assembly of the confidential package for the Chairman’s approval and release to the Secretary of Energy for review;
    - c) The Draft Recommendation and any related findings, supporting data, and analysis shall be date-stamped and hand carried to the office of the Secretary of Energy and to the office of the DOE Departmental Representative to the Board;
- D. Final Recommendation process. The final recommendation process begins with the earlier of receipt of the Secretary of Energy’s comments on the Draft Recommendation, or the expiration of the time allotted for the Secretary of Energy to comment.
  - 1) If the Secretary of Energy has provided no comments, the Draft Recommendation process shall be repeated beginning with step 3, “Blue Folder process.” In repeating the process, all internal Board documentation shall refer to “Final Recommendation” rather than “Draft Recommendation.” If the Board approves the Final Recommendation, there will be no watermark on the final document, and the final document, along with all related Secretarial correspondence, will be made public as soon as practicable after it has been received by the Secretary of Energy.
  - 2) If the Secretary has provided comments, the following process shall be used:
    - a) Ten (10) business days from the date of receipt of comments from the Secretary of Energy, the Board’s Executive Secretary shall obtain from the Technical Director for delivery into a Yellow Folder: a proposed Final Recommendation, including all supporting documents, a copy of the Secretary of Energy’s comments, a narrative describing the staff’s rationale for disposition of the Secretary of Energy’s comments, and a copy of the original Draft Recommendation;
    - b) The Draft Recommendation process shall be repeated beginning with step 2, “Yellow Folder process.” In repeating the process, all internal Board documentation shall refer to “Final Recommendation” rather than “Draft Recommendation.” Intention to submit amendments shall be made within three (3) business days of receipt of the Yellow Folder. If there are proposed amendments, follow steps C, 2 under section 3.1. If no Member indicates intent to submit amendments, the Executive Secretary

shall proceed to the Blue Folder process. If the Board approves the final recommendation, there will be no watermark on the final document, and the final document, along with all related Secretarial correspondence, will be made public as soon as practicable after it has been received by the Secretary of Energy.

### 3.3 Requests for Board Action by a Board Member

- A. Individual Board Members may seek nominal staff support by making a request directly to the applicable office director. Nominal requests are those that do not require significant staff resources (e.g., a request to be briefed on work the staff has already performed, or a request to have a simple inquiry made to DOE or NNSA) or those where the anticipated staff resources align with the previously approved annual work plan. Nominal requests can be verbal; no specific form or format is required. When the request is more than nominal, as concluded by any Board Member or the applicable office director, the procedure below shall be utilized.
- B. Individual Board Members may submit written proposals for consideration by the full Board. These may involve policy matters before the Board or proposed staff tasking that could impact the Board's approved annual work plan. Some matters, such as the preparation of a proposed recommendation, may involve both Board policy and staff tasking. In those cases, the procedure below for staff tasking shall be used since the staff tasking will necessarily precede any Board vote on the policy matter. A Request for Board Action by a Board Member form (Appendix 4) will be utilized to document and preserve these exchanges and decision making. The requesting Board Member will complete the Request for Board Action by a Board Member form, sign the request, and submit it to the Board's Executive Secretary.
- C. Upon receipt, the Executive Secretary will log the request into the Board's action tracking system.
- D. If the request involves staff tasking, the following process shall be used:
  - 1) The Executive Secretary will submit the request to the Chairman for processing;
  - 2) The applicable Office Director will produce an assessment of the impact on the approved annual work plan and summarize it on the Request for Board Action by a Board Member form;
  - 3) The responsible Office Director shall forward the completed Request for Board Action by a Board Member form to the Executive Secretary for voting in accordance with the following steps:
    - a) The Executive Secretary shall provide a copy of the completed Request for Board Action by a Board Member form with any Office Director assessments to each Board Member. Board Members shall register their vote within one (1) business day of receipt of the completed Request for Board Action by a Board Member;

- b) The Executive Secretary will complete Affirmation of Board Voting Record forms, distribute copies to each Board Member and the relevant Office Directors, and forward the complete package to Records Management for preservation.
- E. If the request involves a policy matter before the Board:
  - 1) The Executive Secretary will provide a copy of the Request for Board Action by a Board Member to all Board Members simultaneously, in paper or electronic form;
  - 2) Each Board Member will register their vote and return it to the Executive Secretary for processing. The time frame for initiating voting on any such proposal must be consistent with, and not exceed, the time frames specified elsewhere in these procedures for specific types of actions. For example, if the Board has a three calendar day time period to vote on a proposed correspondence and a Board Member has proposed that type of correspondence, the time frame allowed for the vote should be three calendar days;
  - 3) The Executive Secretary will complete Affirmation of Board Voting Record forms, distribute copies to each Board Member and the relevant Office Directors, and insert the file copy into the document package containing the subject of the proposal.
- F. If the request involves a waiver of, or revision to, these procedures:
  - 1) In a particular circumstance, the Board may, by unanimous consent, waive these procedures, in whole or in part, without the formality of a separately recorded vote. If any Board Member withholds consent, the Board must adhere to these procedures or else vote to waive them in whole or in part using the procedure in paragraph D. above;
  - 2) The procedure of paragraph D. above shall be used to make revisions.

#### 4.0 Board Travel

- A. General Guidelines. Board Members will follow the Federal Travel Regulation and the Board Directive and Operating Procedure on travel. The decision to schedule Board Member or full Board travel is a policy matter, and is reserved to the Board. The Chairman alone has the authority to administer travel funding, including the authority to deny or cancel any Board Member or staff travel for funding reasons. In accordance with Section 1 of these procedures, the Chairman may delegate his authority over funding.
- B. Scheduling Board/Board Member travel:
  - 1) The Board shall approve an annual Board/Board Member travel plan submitted by the Technical Director in conjunction with the submission of the annual work plan. The Technical Director may at any time submit a revised Board/Board Member travel plan. A Board/Board Member travel plan shall include the approximate dates of travel, the number of Board Members travelling, and a brief summary of the purpose of the travel;
  - 2) Proposed travel submitted by the Technical Director shall be submitted to the Board for notational vote using the procedure of Section 3.1;
  - 3) Any Board Member may propose Board/Board Member travel and bring the proposal to a vote using the procedure of Section 3.3. The submission shall include the approximate dates of travel, the number of Board Members travelling, and a brief summary of the purpose of the travel. Although Board/Board Member travel is considered a policy matter, the staff tasking procedure of Section 3.3 shall be used due to the considerable staff resources necessitated by travel preparations.
- C. Detailed Itinerary, Agenda, and Manifest. Two (2) months prior to any scheduled Board/Board Member travel, the Board shall review and approve a detailed itinerary, agenda, and manifest for the travel submitted by the Technical Director. Within two (2) months of the Board's approval of proposed travel and the actual travel date, this step should be accomplished as soon as practicable.
- D. All Board Member travel shall be reviewed by the General Counsel or his designee.
- E. Board Members shall minimize travel to, and dwell time at, DOE locations. Board Member travel has considerable impact on the site representatives and the DOE local management.

## 5.0 Board Calendar

- A. The Board's Executive Secretary shall maintain a single Board Calendar of meetings and travel for all Board Members.
- B. Board Members shall provide inputs to the Executive Secretary as necessary so that the Member's whereabouts during normal business hours are accounted for. Normal business hours of the Board shall be the same as normal business hours for the Board's staff. The Chairman shall set the normal business hours for the staff.
- C. Unless otherwise noted on the Board Calendar, Board Members shall be assumed to be available for business at the Board Headquarters. The Board calendar shall reflect official travel or official business in Washington, D.C., (but away from Headquarters, or "off-site") when appropriate. When Board Members are away from Headquarters during normal business hours for personal reasons, the Board Calendar shall reflect that Member as "out."
- D. A Board Member who desires to participate in a Board meeting or briefing by phone shall notify the Executive Secretary as soon as possible. The Executive Secretary is responsible for making call-in arrangements as needed.
- E. In addition to the status of Board Members, the Board Calendar shall also reflect travel, "off-site," or "out" status of the Office Directors. Meetings or briefings involving Office Directors, but not any Member, will normally not be placed on the Board Calendar.

**APPENDIX 1**

**CHAIRMAN'S DELEGATION OF AUTHORITY**

The Chairman of the Defense Nuclear facility Safety Board hereby delegates the following authorities

Authority to approve:  (Dir., POL., OP, etc.)

|                      |                 |                      |
|----------------------|-----------------|----------------------|
| <input type="text"/> | consistent with | <input type="text"/> |
| <input type="text"/> | consistent with | <input type="text"/> |
| <input type="text"/> | consistent with | <input type="text"/> |
| <input type="text"/> | consistent with | <input type="text"/> |

The following restrictions apply:

  
  

Prerequisite Requirements:

  

This delegation of authority expires on [Click here to enter a date.](#) and is subject to a semiannual review.

Signature of Chairman  [Click here to enter a date.](#)

Signature of Delegated  [Click here to enter a date.](#)

**APPENDIX 2**

**REQUEST FOR BOARD ACTION**

Title of Action Document

Complete review by

[Click here to enter a date.](#)

Brief description of Purpose

  
  

Relevant background information attached (initial)

Summarize any staff difference of opinion regarding the Proposed action

  
  

Summarize any time sensitive considerations

  
  

Requestor signature

[Click here to enter a date.](#)

Responsible Office Director signature

[Click here to enter a date.](#)

Executive Secretary signature

[Click here to enter a date.](#)

Final disposition of proposed action summary

  
  
  

Executive Secretary signature

[Click here to enter a date.](#)

**APPENDIX 3**

**REQUEST FOR BOARD ACTION ON RECOMMENDATION**

**Recommendation # and Title**

**Brief description of Recommendation Basis**

**Relevant background information attached (initial)**

-Risk Assessment (if required)

-Economic and technical review

**Summarize any staff difference of opinion regarding the Proposed Draft Recommendation**

**Summarize any time sensitive considerations**

**Requestor signature**  [Click here to enter a date.](#)

**Office Director's signature**  [Click here to enter a date.](#)

**Executive Secretary signature**  [Click here to enter a date.](#)

**Board approves release of Proposed Draft Recommendation for 30-day S-1 review**

**Executive Secretary signature**  [Click here to enter a date.](#)

**Package submitted for Board Notational Voting on Final Proposed Recommendation**

**Executive Secretary signature**  [Click here to enter a date.](#)

**Final disposition of Recommendation Summary**

**Executive Secretary signature**  [Click here to enter a date.](#)

**Office Director's signature**  [Click here to enter a date.](#)

**APPENDIX 4**  
**REQUEST FOR BOARD ACTION BY A BOARD MEMBER**

Requester signature  [Click here to enter a date.](#)

Brief description of Requested Action

Attachments (init)  (included clean version of any proposed document or modified document)

Summarize any time sensitive considerations

Requestor signature  [Click here to enter a date.](#)

Executive secretary  [Click here to enter a date.](#)

If Board member vote required, each Board member should initial below:

---

|       | APRVD                    | DISAPRVD                 | ABSTAIN                  | RECUSAL                  | <u>NO</u><br><u>VOTE*</u> | COMMENT                  | DATE  |
|-------|--------------------------|--------------------------|--------------------------|--------------------------|---------------------------|--------------------------|-------|
| _____ | <input type="checkbox"/>  | <input type="checkbox"/> | _____ |
| _____ | <input type="checkbox"/>  | <input type="checkbox"/> | _____ |
| _____ | <input type="checkbox"/>  | <input type="checkbox"/> | _____ |
| _____ | <input type="checkbox"/>  | <input type="checkbox"/> | _____ |
| _____ | <input type="checkbox"/>  | <input type="checkbox"/> | _____ |

Final Disposition Summary

Executive Secretary signature  [Click here to enter a date.](#)

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**APPENDIX 5**

**DEFENSE NUCLEAR FACILITIES SAFETY BOARD  
NOTATIONAL VOTE RESPONSE SHEET**

**FROM:** \_\_\_\_\_

**SUBJECT:**

|  |
|--|
|  |
|--|

  

|  |
|--|
|  |
|--|

**Approved**\_\_\_\_\_      **Disapproved**\_\_\_\_\_      **Abstain**\_\_\_\_\_

**Recusal – Not Participating**\_\_\_\_\_

**COMMENTS:**      **Below**\_\_\_\_\_      **Attached**\_\_\_\_\_      **None**\_\_\_\_\_

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Date**

**APPENDIX 6**

**AFFIRMATION OF BOARD VOTING RECORD**

**SUBJECT (& doc #):** \_\_\_\_\_

The Board, with Board Member(s) *approving*, Board Member(s) *disapproving*, Board Member(s) *abstaining*, and Board Member(s) *recusing*, have voted to approve / disapprove the above document on, 2013.

The votes were recorded as:

|       | APRVD                    | DISAPRVD                 | ABSTAIN                  | RECUSAL                  | <u>NO<br/>VOTE*</u>      | COMMENT                  | DATE  |
|-------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|-------|
| _____ | <input type="checkbox"/> | _____ |
| _____ | <input type="checkbox"/> | _____ |
| _____ | <input type="checkbox"/> | _____ |
| _____ | <input type="checkbox"/> | _____ |
| _____ | <input type="checkbox"/> | _____ |

\*Reason for "No Vote":

This Record contains a summary of voting on this matter together with the individual vote sheets, views and comments of the Board Members.

\_\_\_\_\_  
Executive Secretary to the Board

Attachments:

1. Voting Summary
2. Board Member Vote Sheets

cc: Board Members  
OGC  
OGM Records Officer  
OTD