

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Shutdown Plan in the Event of a Lapse in Appropriations (August 2025)

Lapse Plan Summary Overview	
Estimated time (to nearest half day) required to complete shutdown activities	0.5 days
Total approximate number of agency employees expected to be on-board before implementation of the plan:	110
Total number of employees to be retained under the plan for each of the following categories:	
Compensation is financed by a resource other than annual appropriations:	0 FTE
Necessary to perform activities expressly authorized by law:	29 FTE
Necessary to perform activities necessarily implied by law:	7 FTE
Necessary to the discharge of the President's constitutional duties and powers:	0 FTE
Necessary to protect life and property:	28 FTE
Excepted Employees (regardless of category)	36 FTE
Brief summary of significant agency activities that will continue during a lapse:	
<p>Activities that support the planning and preparation of the Fiscal Year 2027 Budget will continue during a lapse. The Defense Nuclear Facilities Safety Board (DNFSB) will also continue its national security and public safety oversight operations at DOE defense nuclear facilities for as long as possible using OMB approved apportioned funds (carryover) from the previous fiscal year. If the lapse continues to the point where no funding is available, the Executive Director of Operations (EDO) may designate specific mission critical staff and appropriate mission support staff to support continued national security and safety oversight at DOE defense nuclear facilities and execute other excepted activities, and to reconstitute operations after the lapse.</p> <p>If an urgent safety situation arises at a DOE defense nuclear facility, the EDO may declare additional staff to be excepted employees and recall them to duty as necessary.</p>	
Brief summary of significant agency activities that will cease during a lapse:	
<p>Once carryover funds are exhausted, the agency's national security and safety oversight operations at DOE defense nuclear facilities will be limited and performed by excepted employees deemed necessary. Other nuclear safety oversight activities performed by DNFSB may cease, such as routine safety reviews. Site visits by Board members and staff, reviews of documentation, formal investigations, inspections, and other ongoing fact-finding activities may also cease. Posting of information on the safety conditions at DOE defense nuclear facilities on the DNFSB public website will cease.</p>	

Background Information

The DNFSB is an independent establishment within the Executive Branch that was created in 1988 to provide safety oversight of Department of Energy (DOE) defense nuclear facilities.

DOE defense nuclear facilities are defined by statute to include (with certain exceptions): (1) nuclear production or utilization facilities under the control or jurisdiction of the Secretary of Energy and operated for national security purposes; and (2) nuclear waste storage facilities under the control or jurisdiction of the Secretary of Energy (42 U.S.C. § 2286g).

The DNFSB reviews standards, events, practices, design and operational data, and facility design and construction related to DOE defense nuclear facilities and provides independent analysis, advice, and recommendations to the Secretary of Energy that are necessary for the adequate protection of public health and safety. (42 U.S.C. § 2286a(b)). The DNFSB obtains information used in developing analysis, advice, and recommendations from resident inspectors, frequent communication with DOE officials, site visits by Board Members and staff, reviews of documentation, formal investigations, inspections, and other fact-finding activities.

The Board is required to submit draft recommendations to the Secretary of Energy to enable the Secretary the opportunity to provide comments prior to the Board's submission of final recommendations (42 U.S.C. § 2286d(a)). The Secretary of Energy is then required to respond to final Board recommendations by transmitting to the Board, in writing, a statement on whether the Secretary accepts or rejects, in whole or in part, the recommendations, a description of the actions to be taken in response, and the Secretary's views on such recommendations (42 U.S.C. § 2286d(c)). If, as a result of its reviews, the Board determines that an imminent or severe threat to public health and safety exists, the Board is required to transmit any related recommendations directly to the President as well as the Secretary of Energy, and to transmit a copy to the Secretary of Defense for information purposes (42 U.S.C. § 2286d(h)).

General Strategy

The DNFSB will assess if the ongoing situation exempts the agency from furloughing employees. If not, DNFSB's strategy will be to continue public health and safety oversight operations at DOE defense nuclear facilities for as long as possible using OMB approved apportioned funds (carryover) from the previous fiscal year. During this period, DNFSB will institute controls to exercise even greater fiscal restraint. These controls will be designed, for example, to minimize spending and delay procurements where possible.

If sufficient carryover is available, DNFSB will continue full operations. DNFSB will reevaluate its strategy weekly to determine if furloughs are necessary and to update spend plans. If necessary, priority will be given to keeping DNFSB's resident inspectors stationed at DOE defense nuclear facilities, and to keeping key staff personnel working to continue providing safety oversight at priority sites and maintaining essential agency administrative activities. If DNFSB reaches the point where no funding is available, routine safety oversight activities will cease, including receiving safety complaints from workers at DOE sites and the public. Activities that support the planning and preparation of the Fiscal Year 2027 Budget will continue during a lapse.

The designated DOE sites are the Hanford site, the Pantex Plant, the Savannah River Site, the Y-12 National Security Complex/Oak Ridge National Laboratory, and Los Alamos National Laboratory.

In the event of an urgent or emergency situation that may threaten the adequate protection of public health and safety at a DOE defense nuclear facility, the EDO may declare additional DNFSB staff to be excepted employees and recall them to duty. Additionally, if DOE executes a partial or total shutdown of DOE defense nuclear facilities as any portion of its response to a funding lapse, the Chair may identify excepted employees to monitor the DOE shutdown for safety purposes.

Specific Information Required by OMB Circular No. A-11

DNFSB estimates that it will take one-half day to complete shutdown operations.

The total number of DNFSB employees expected to be on-board before implementation of this contingency plan is approximately 110. This number includes Board members, who are not subject to furlough.

The following DNFSB employees are designated as excepted and will be retained to protect life and property or perform activities expressly authorized or necessarily implied by law, when all previously appropriated funding is expended: resident inspectors at designated DOE defense nuclear sites, site-specific cognizant engineers, the EDO, the Deputy Executive Director of Operations, the Technical Director, the Chief Administrative Officer, the General Counsel, the Chief Financial Officer, the Budget Officer, the Chief Information Officer, one cybersecurity specialist, and one supervisory security specialist.

Designation of Excepted Activities in the Event of an Emergency

The following are considered by DNFSB to be required functions to respond to an emergency that may threaten adequate protection of the public or worker health and safety at a DOE defense nuclear facility during a funding lapse.

1. Formal Action by the Board

A quorum of the Board (including the Chair) is required to preserve the ability of DNFSB to respond to any unforeseen accident, emergency, or, in the words of our enabling statute, “imminent or severe threat” to public health and safety at DOE defense nuclear facilities. As the Board members are appointed by the President, they are not subject to furlough.

2. DNFSB Oversight Activities

The DNFSB’s oversight during a funding lapse would be focused on national security and maintaining public safety. DNFSB would continue to maintain adequate protection of the public and workers at DOE defense nuclear facilities and to respond to any imminent or severe threats.

3. Legal Matters

There is an ongoing need for legal advice to the Chair regarding the disposition of formal agency business in accordance with the Government in Sunshine Act and the Board’s

enabling statute. Moreover, legal support is necessary in the event that DNFSB investigations require the use of subpoenas or appearances before courts to gain access to information or facilities in the event of an emergency. It is assumed that the courts will continue to operate during a funding lapse. Legal support may also be required to respond to lawsuits involving DNFSB and safety issues.

4. Administrative Matters

DNFSB must maintain a small group of administrative personnel to provide minimal support to mission essential functions and to support the protection of life and property.

Resumption of Operations

Furloughed employees will be directed to monitor the Office of Personnel Management website, the DNFSB website, and their personal email for updates on progress toward restoration of appropriations. Once appropriations are restored, DNFSB will notify furloughed employees via the DNFSB emergency notification system and the DNFSB website to provide instructions on returning to work. Supervisors will have the flexibility to approve the use of accrued annual leave, compensatory time off, or credit hours by employees who have problems returning to work on the specified day.