



# Los Alamos Study Group

*Nuclear Disarmament • Environmental Protection • Social Justice • Economic Sustainability*

August 30, 2018

Mr. Bruce Hamilton, Acting Chairman  
Defense Nuclear Facilities Safety Board  
625 Indiana Avenue, Suite 700  
Washington, DC 20004-2901

Re: [Part 2](#) of our comments on DOE Order 140.1  
[Part 1](#) of our comments

For reference:

- [Defense Nuclear Facilities Safety Board Convenes Hearing, Condemns Restrictive Trump Safety Order](#), LASG press release, Aug 28, 2018
- [Massive Staff Cut, Reorganization Proposed at Defense Nuclear Facilities Safety Board](#), press release, Aug 17, 2018
- [Recent media articles and other pertinent information](#)
- [Letter](#) from senators Udall and Heinrich to the Chair and Ranking Member of the Senate Appropriations Energy and Water Development Subcommittee

Acting Chairman Hamilton and other members of the Board:

Thank you for organizing this week's excellent and much-needed [hearing](#) on Department of Energy (DOE) [Order 140.1](#). You can find our post-hearing press release at the above link as well as regional and national articles of interest.

We were pleased to see the [letter](#) from senators Udall and Heinrich and concur with all its points. We see *both* the proposed reorganization and DOE O. 140.1 as devastating blows to the DNFSB which happen to more or less coincide in time and in effect, because without adequate staff the DNFSB will have to dramatically curtail its activities with or without DOE O. 140.1.

We doubt the agency can survive either blow, let alone both, and still continue to function at a high level of competence and coverage of facilities and issues. It is deeply troubling to us that the proposed reorganization, unlike DOE O. 140.1, is a deep self-inflicted wound. We urge you to pause and reconsider its implementation, as now do the New Mexico senators also.

We believe the DNFSB staff is too small, not too large – much too small. At LANL alone, DNFSB inspectors cannot and do not visit most nuclear facilities, and the Board has not been able to fulfill major portions of its legislated responsibilities, e.g. in overview of nuclear facility design.

We were heartened and impressed by the Acting Chairman's admission that he had been wrong to oppose this week's hearing, and we hope that those of you who supported the reorganization plan – the peremptory unveiling of which shared the same transparency issues as O. 140.1 – will likewise reconsider your decision. A simple Board decision could relabel the plan a “discussion draft.” Hopefully this could be done before too much institutional knowledge is lost.

We support increasing the number of field inspectors (though we must reserve judgment on how these additional inspectors would be deployed).

With the hearing as background, we urge you to write Secretary Perry asking him to formally suspend and where necessary rescind application of Order 140.1, as illegal and in violation of your offices. We believe you should tell Secretary Perry that you must and will ignore the Order and proceed with your statutory responsibilities. Congressional authorization, appropriations, and the appropriate government affairs committees should be notified, as well as the Attorney General. We urge the Board to proceed with its own mandated agenda.

Every single instance of resistance, time-wasting, and lack of access from DOE and contractor staff should be carefully logged, with the names of the personnel involved, dates, and other specific information, and organized for immediate and periodic submission to Congress, as examples of illegal conduct that cannot be allowed to continue.

Before the hearing, we thought it would be valuable to point out some of the contradictions of O 140.1 with the DNFSB portion of the Atomic Energy Act. The hearing accomplished this better than we could have done. Now the question is whether the DNFSB's own conduct will also become illegal, by acquiescing to DOE's illegal Order.

We were pleased to hear that the Board is planning to conduct up to two further hearings on this matter. Hopefully you will be able to attract the actual decisionmakers, i.e. the Secretary and National Nuclear Security Administration (NNSA) Administrator, rather than their representatives to these hearings. If you cannot, we believe your subpoena power should be used. What else is it for?

We would like to request a hearing in New Mexico, not just on this Order but following the logic above, on topics of particular interest to the Board. The hearing should focus primarily on Los Alamos National Laboratory (LANL), where there have been many problems and challenging new missions, and where there are new and repurposed nuclear facilities planned. The outstanding issues mentioned in the Board's [letter of July 23, 2018](#) to NNSA Administrator comprise a partial draft agenda, in our view, if supplemented by the issues mentioned in the exhibits of this week's hearing.

We would like to reiterate our view that the Board should seek a clearer legislative mandate to advise DOE on worker safety and health. The board may wish to reach out to worker organizations, i.e. unions, to testify regarding O. 140.1 and broader worker safety

issues. We believe DOE nuclear worker safety is currently being degraded across the DOE complex by deadline pressures.

For the Study Group,

/s/

Greg Mello, Executive Director

cc: Secretary Rick Perry  
Administrator Lisa Gordon-Hagerty