

**MEMORANDUM OF UNDERSTANDING BETWEEN THE U.S. DEPARTMENT OF
ENERGY AND THE DEFENSE NUCLEAR FACILITIES SAFETY BOARD**

I. RECITALS

WHEREAS, the Defense Nuclear Facilities Safety Board (DNFSB) and the U.S. Department of Energy (DOE) (collectively, the Parties) enter into this Memorandum of Understanding (MOU) in furtherance of certain provisions of the Atomic Energy Act of 1954, as amended (AEA), that are applicable to DOE defense nuclear facilities, 42 U.S.C. §§ 2286-2286l;^[1]

WHEREAS, the mission of the Board^[2] is to provide independent analysis, advice, and recommendations to the Secretary of Energy, in the role of operator and regulator of the defense nuclear facilities of DOE, in providing adequate protection of public health and safety at such defense nuclear facilities, including with respect to the health and safety of employees and contractors at such facilities;

WHEREAS, the Board is authorized to establish binding reporting requirements for the Secretary of Energy; conduct public hearings and meetings with DOE officials and to determine the participants and subject matter for hearings and meetings; and issue recommendations in accordance with statute; and

WHEREAS, DOE is required to fully cooperate with the Board and provide Board Members and DNFSB personnel access to facilities, personnel, and information as the Board considers necessary to carry out its responsibilities, subject to the Secretary of Energy's authority to deny access to information only to any person who (A) has not been granted an appropriate security clearance or access authorization by the Secretary; or (B) does not need such access in connection with the duties of such person;

Therefore, the Parties agree to the following:

II. INTERFACE BETWEEN DNFSB AND DOE

1. DOE will provide DNFSB Resident Inspectors with access to facilities, personnel, and information in a manner equivalent to site employees, such as Facility Representatives, Cognizant System Engineers, and other employees with access to defense nuclear facilities.
2. DNFSB staff will follow site/facility access requirements, as well as processes agreed upon pursuant to this MOU, when requesting access to DOE facilities, personnel, and information.
3. DNFSB will provide DOE reasonable advance notice of upcoming DNFSB oversight visits and reviews, along with information needed to establish that the DNFSB employees and/or contractors meet the access requirements for the site. Whenever practicable, DNFSB will provide an agenda in advance for an oversight visit or review, including details on its scope and schedule.

4. DOE will support DNFSB oversight activities by providing access to facilities, personnel, information, and appropriate resources as necessary to address items in DNFSB agendas.
5. DNFSB will review DOE directives⁽²⁾ that the Board believes may affect safety at defense nuclear facilities and may provide comments to DOE on its directives via written correspondence or via the DOE review and comment process. DNFSB may also communicate with DOE regarding the implementation of directives. DOE will consider DNFSB's feedback on the substance, implementation, and prioritization of directives.
6. DOE will provide timely communication to DNFSB regarding any plans for new or updated regulations that have the potential to affect nuclear safety at DOE defense nuclear facilities. DNFSB may provide feedback to DOE on its plans for new or updated regulations that DOE will consider as it proceeds with rulemaking.
7. For Board correspondence addressed to the Secretary of Energy (including draft and final recommendations), the Secretary, or the Secretary's designee, will respond to the Board in writing as required by statute.
8. The Board will establish due dates associated with reporting requirements. If DOE believes it cannot meet a due date, the Secretary of Energy will inform the Board in writing that additional time is necessary to meet the Board's reporting requirement. The Board will inform the Secretary in writing if additional time will affect the Board's safety oversight.
9. DOE and DNFSB will communicate, as appropriate, following the issuance of recommendations and during implementation plan development, to provide clarification and address factual accuracy concerns.
10. Once the Secretary of Energy transmits an implementation plan (IP) to the Board, any significant IP revisions will be sent to the Board as soon as practicable. The Board, at its discretion, may communicate any issues related to IPs or IP revisions to the Secretary, and commits to do so promptly.
11. The Board will identify to the Secretary of Energy the DOE and/or contractor personnel it seeks to participate in a Board hearing and/or meeting. The Secretary of Energy, or the Secretary's designee, will make every effort to resolve participation issues with the Board.
12. The Parties will make a good-faith effort to resolve all interface issues expeditiously and at the lowest possible level. However, the Board, the Secretary of Energy, and the Deputy Secretary of Energy will maintain open lines of communication and may at any point use such dialogue to resolve interface issues.

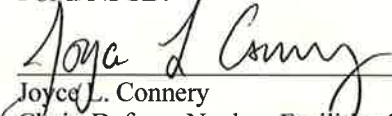
III. MISCELLANEOUS

1. This MOU is effective on the date it is signed by the Parties or, if it is signed on different dates, on the later of the two dates identified below in Section IV (Signatories). The MOU will remain in effect unless and until it is terminated by one or both of the Parties by providing 90 days' advance written notice to the other Party.


2. Each individual signing this MOU warrants that he/she has authority to execute it on behalf of the Party for whom he/she has signed.
3. This MOU may be executed in counterparts, each of which will constitute an original, and both of which will constitute one and the same MOU.
4. This MOU may not be amended except in a written document signed by both Parties.
5. The Parties will implement the provisions of this MOU via a supplementary document to be agreed to by career staff of each of the Parties (Supplementary Document).
6. This MOU does not create any legally enforceable right or cause of action for either Party or any other person or entity. The Supplementary Document will describe standard practices for DNFSB and DOE staffs to follow.
7. The Parties will review this MOU and the Supplementary Document at least once every two years after the MOU's effective date. Following each such review, the Parties will update or otherwise modify the MOU and Supplementary Document, as appropriate.

IV. SIGNATORIES

For DNFSB:


 Joyce L. Connery
 Chair, Defense Nuclear Facilities Safety Board

For DOE:


 David M. Turk
 Deputy Secretary of Energy

Date:

February 17, 2022

Date:

Feb 17, 2022

^[1] As used in this MOU, the terms “DNFSB,” “DOE,” and “Parties” encompass all relevant instrumentalities of DNFSB and DOE, including the National Nuclear Security Administration (NNSA), with responsibilities pertaining to defense nuclear facilities.

^[2] As used in this MOU, the term “Board” means the Presidentially appointed members of the Defense Nuclear Facilities Safety Board exercising the mission and functions of the Board under the AEA.

^[3] As used in this MOU, “directives” includes DOE Policies, DOE Orders, DOE Notices, DOE Manuals, DOE Guides, DOE Handbooks, DOE Technical Standards, and NNSA Policies, Supplemental Directives, and Business Operating Procedures.