



Alliance for Nuclear Accountability

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A national network of organizations working to address
issues of nuclear weapons production and waste cleanup

August 27, 2018

The Honorable James Richard Perry
Secretary of Energy
U.S. Department of Energy
1000 Independence Avenue SW
Washington, DC 20585-1000

Re: Need to rescind or hold in abeyance DOE Order 140.1 *Interface with the Defense Nuclear Facilities Safety Board* at Each of the DOE Nuclear Security Sites

Dear Secretary Perry:

We write today about our grave concerns regarding DOE Order 140.1 *Interface with the Defense Nuclear Facilities Safety Board* (5/14/2018), which limits the Department of Energy (DOE) and National Nuclear Security Administration (NNSA) requirements to provide access to information, facilities, and personnel to the Defense Nuclear Facilities Safety Board (DNFSB or Board) at some of the most dangerous nuclear facilities in the country. The Order does not cite the legal responsibilities of the Secretary of Energy:

"The Secretary of Energy shall fully cooperate with the Board and provide the Board with ready access to such facilities, personnel, and information as the Board considers necessary to carry out its responsibilities under this subchapter. Each contractor operating a Department of Energy defense nuclear facility under a contract awarded by the Secretary shall, to the extent provided in such contract or otherwise with the contractor's consent, fully cooperate with the Board and provide the Board with ready access to such facilities, personnel, and information of the contractor as the Board considers necessary to carry out its responsibilities under this subchapter." 42 U.S.C. 2286c(a). *Emphasis added.*

We believe that DOE Order 140.1 falls short of compliance with the letter and intent of those legal requirements. For example, the Order prevents the Board from having anything to do with matters that do not have broad public impact, such as worker safety. It removes the Category 3 or below facilities from the Board's oversight altogether, eliminates the Board's access to pre-decisional documents, and greatly limits access to contractor personnel. Since the Order was approved on May 14, 2018, it has already limited the flow of information from the nuclear security sites to the Board, workers, and the public - creating a chilling effect and endangering worker and public health and safety.

The Alliance for Nuclear Accountability (ANA) is a national network of organizations working to address issues of nuclear weapons production and waste cleanup. Our more than 30 member organizations are located near DOE and NNSA sites and have extensive experience with DOE operations across the weapons complex and the work of the Safety Board.

We believe the revised Order 140.1 should be rescinded.

The current order was issued with no opportunity for public review or comment. Should DOE refuse our request to rescind the order, we request that DOE and NNSA hold public hearings at each site subject to DNFSB oversight within 90 days to explain to its workers and the public the clear meaning and import of DOE Order 140.1 and to hold the implementation of the Order in abeyance until DOE has heard and considered public comment on the Order. We believe workers and the public whose safety may be compromised by the constraints being placed on DNFSB's access to information have a right to hear why the changes are necessary to DOE M 140.1-1B, *Interface with the Defense Nuclear Facilities Safety Board*, dated 03-30-01.

Given the serious implications for the new Order, we request a response to this letter by September 12, 2018. Please direct your response to Beatrice Brailsford, ANA Board President.

Sincerely,



Beatrice Brailsford
President, Alliance for Nuclear Accountability
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208/233-7212

cc: Senator John McCain of Arizona
Senators Dianne Feinstein and Kamala Harris of California
Senators Mike Crapo and James Risch of Idaho
Senators Dean Heller and Catherine Cortez Masto of Nevada
Senators Tom Udall and Martin Heinrich of New Mexico
Senator Jack Reed of Rhode Island
Senators Lindsey Graham and Tim E. Scott of South Carolina
Senators Lamar Alexander and Bob Corker of Tennessee
Senators John Cornyn and Ted Cruz of Texas
Senators Maria Cantwell and Patty Murray of Washington
Representatives John Garamendi and Eric Swalwell of California
Representative Mike Simpson of Idaho
Representative Ruben Kihuen of Nevada
Representatives Ben R. Lujan, Michelle Lujan Grisham, and Steve Pearce of New Mexico
Representative Marcy Kaptur of Ohio
Representative Jeff Duncan of South Carolina
Representatives Jim Cooper and Chuck Fleischmann of Tennessee
Representative Mac Thornberry of Texas

Representatives Jaime Herrera Beutler, Daniel Newhouse, and Adam Smith of Washington