

A.J. Eggenberger, Chairman
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DEFENSE NUCLEAR FACILITIES SAFETY BOARD

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July 29, 2005

The Honorable Linton Brooks
Administrator
National Nuclear Security Administration
U.S. Department of Energy
1000 Independence Avenue, SW
Washington, DC 20585-0701

Dear Ambassador Brooks:

In letters dated January 24, 2003, and February 14, 2003, the National Nuclear Security Administration (NNSA) and the Defense Nuclear Facilities Safety Board (Board) initiated discussion of a new family of directives called NNSA Policy Letters. After several staff-to-staff discussions on the subject, NNSA personnel agreed that use of the NNSA Policy Letter system on issues affecting health and safety at defense nuclear facilities would be suspended pending development of a satisfactory system architecture. NNSA has not provided further data on such an architecture.

On June 20, 2005, NNSA forwarded to the Board for review a new Policy Letter entitled *Differing Professional Opinion Process for the National Nuclear Security Administration*. Specific comments on this Policy Letter are enclosed for your use. However, the Board is concerned that NNSA is proceeding to use the NNSA Policy Letter system on an issue that clearly affects health and safety at defense nuclear facilities without having completed development of the system architecture. Further, the Board was informed during the resolution of comments on the Los Alamos National Laboratory Request for Proposals that use of the NNSA Policy Letter system would be necessary to levy specific List B safety requirements upon the successful bidder.

Therefore, pursuant to 42 U.S.C. § 2286b(d), the Board requests that NNSA provide a briefing to the Board within 60 days of receipt of this letter on (1) the path forward for designing and implementing a satisfactory system architecture for the NNSA Policy Letter system, and (2) the schedule for that path forward.

Sincerely,

A handwritten signature in black ink, appearing to read "A. J. Eggenberger".

A. J. Eggenberger
Chairman

c: Mr. Tyler Przybylek
Mr. James McConnell
Mr. Mark B. Whitaker, Jr.

Enclosure

COMMENT AND RESOLUTION SHEET

1. Document Title			2. Document Number		3. Document Date		4. Date Comments Sent		
Differing Professional Opinion (DPO) Process for the NNSA			Unnumbered		May 2005				
5. Commenting Individual (Office/Name/Signature)				6. Phone		7. Resolution By (Office/Name)		8. Phone	
Defense Nuclear Facilities Safety Board Staff				(202) 694-7135					
Index			12. Type*	13. Comment, Suggested Solution	14. Resolution of Comment				
9. Number	10. Page	11. Section/ Paragraph							
1	all	general	E	<p>[C] It is not clear that the need for a Differing Professional Opinion (DPO) process is limited to the National Nuclear Security Administration (NNSA). A similar process should exist for use by Energy, Science, and Environmental Management personnel. Given that the processes should fit together seamlessly, it is not clear that separate directives (one for NNSA and a separate one for the rest of DOE) will achieve the desired result.</p> <p>[S] Consider revising this process to encompass all aspects of DOE operations, and issuing the revised process under the DOE directives system.</p>					
2	all	general	E	<p>[C] The stated purpose limits the DPO process to "nuclear safety" related issues. The DPO process should address those professional opinions concerning all areas of safety that could affect nuclear activities. The ISM process, which has no stove-pipes in safety areas and which DOE has adopted as a policy, should be followed in all cases.</p> <p>[S] Revise the process to remove the restriction to only nuclear-safety-related issues.</p>					

3	2	II	S	<p>[C] It appears that the statement immediately preceding III was meant to be another bullet (●); if not then it does not seem to be connected.</p> <p>[S] Clarify.</p>	
4	3	II	S	<p>[C] Typo. This is the second time a section numbered "II" appears. Also on page 5, the section numbered VI should be numbered V.</p> <p>[S] Correct numbering of sections, i.e., what is now II should be renumbered to IV and what is now VI should be renumbered to V.</p>	
5	3-5	II (renumber to IV)	E	<p>[C] The resolution process of the DPO contains specific time limits, but these time limits are not tied to the activity that gave rise to the dispute, and no provision is made to ensure the activity is suspended pending resolution. This may allow an activity to proceed down an incorrect path before resolution of the DPO is complete. Example: If an ORR team member submits a DPO on a technical issue in the final report, and the final report recommends starting up the activity, the DPO process would not require resolution of the DPO <u>before</u> start up of the activity is allowed.</p> <p>[S] Insert requirement(s) that will ensure the DPO process is completed before the activity that gave rise to the dispute is allowed to start up/continue.</p>	
6	4-5	II (renumber to IV)	E	<p>[C] The DPO process does not include provisions to recognize the need for or pursue the use of external technical experts to resolve a DPO that may be beyond the capability of DOE/NNSA federal personnel/organizations to resolve.</p> <p>[S] Insert requirement(s) to ensure that, when necessary, appropriate external subject matter expertise is obtained and applied to resolve the DPO.</p>	

7	3-5 & 11	Procedure & Figure	S	<p>[C] The written procedure flows smoothly, but linkage to the figure is difficult to follow.</p> <p>[S] Number each step in the procedure directly on the figure so that the process can be followed easily.</p>	
8	3-5 & 11	Procedure & Figure	E	<p>[C] See comments #1 and #6. There is no mechanism for appealing, if desired, up to the level of the Deputy Secretary/Secretary for a final decision on matters being considered in the DPO process in those cases in which agreement cannot be reached between the "Submitter" and any part of the system.</p> <p>[S] Include such a provision in the process.</p>	