



Department of Energy

Washington, DC 20585

March 25, 2024

The Honorable Joyce L. Connery
Chair, Defense Nuclear Facilities Safety Board
625 Indiana Avenue NW, Suite 700
Washington, DC 20004

Dear Chair Connery:

I am writing in response to your January 24, 2024, letter to Secretary Granholm regarding the Department of Energy's (DOE) revision of DOE Order (O) 251.1D, *Departmental Directives Program* and the enclosure in which the Defense Nuclear Facilities Safety Board (DNFSB) identified five areas of concern. I am responding on the Secretary's behalf.

As you noted, in 2023, Deputy Secretary Turk issued a memorandum directing modifications to the directives development process to promote greater efficiency. These modifications included: revitalizing the Directives Review Board (DRB); instituting standardized timelines for directives development; and elevating the authority to propose the creation or revision of directives. The memorandum also underscores the responsibility of Departmental Elements to incorporate directives into affected contracts in a timely manner.

In revising DOE O 251.1D, obsolete processes are being updated and streamlined to create a more transparent and collaborative directives development process. These changes have been coordinated with all Departmental Elements as well as DNFSB staff. Most comments offered by the DNFSB have been incorporated into the directive, and in instances when a comment was not accepted, the Directives Program provided the rationale. Several issues, which are raised in your letter, are addressed in the enclosed report.

The Department has a robust review and comment process, which provides the DNFSB staff the opportunity to review draft DOE directives. We value the expertise of the DNFSB and are committed to continued collaboration with the Board to ensure our directives promote safe operations throughout the DOE complex.

As requested, DOE is working with your staff to schedule a briefing on the enclosed report. If you have any questions regarding this response, please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read "Ingrid Kolb", is written over a thin, curved line.

Ingrid Kolb, Director
Office of Management

Enclosure

ENCLOSURE
Response to Issues with Draft DOE Order 251.1E

Below are DOE's responses to each of the DNFSB concerns listed in the DNFSB's January 24, 2024, letter.

Prioritization Criteria — The Directives Program issues an annual call to Departmental Elements requesting information on any plans to create or modify directives in the coming year. DOE O 251.1E requires Heads of Departmental Elements (HDE) to approve the responses. It also requires Offices of Primary Responsibility (OPRs), which are all led by an HDE, to ensure directives under their purview remain technically accurate, up-to-date, and relevant.

We believe these requirements address the Board's concern that OPRs keep safety directives accurate and current. However, to reinforce OPR responsibilities regarding safety directives, DOE O 251.1E has been modified to require that during the prioritization process OPRs must consider updates needed that affect national and nuclear safety and security directives.

Core Directives Processes — Both DOE O 251.1D and DOE O 251.1E state that "directives must be written to clearly and concisely specify the goals and requirements that must be met while refraining from mandating how to fulfill them to the greatest extent possible." In accordance with that requirement, as well as the Deputy Secretary's direction to improve efficiency, the directives process has been modified to remove burdensome, ineffective steps. Placing the process on the directive's website will provide the Directives Review Board, which is comprised of senior executives representing all Departmental Elements and DOE National Laboratories, the ability to modify steps within the overall development process that prove to be ineffective. This more flexible approach places the Department in a better position to be responsive in creating and modifying directives in a timely manner without compromising the well-established collaborative, transparent development process.

The changes to the directives process address burdensome and ineffective procedures, which often resulted in directives taking three or more years to complete. For example, OPRs were required to use Integrated Project Teams (IPTs) to develop initial drafts of directives. IPTs typically included numerous subject matter experts representing multiple organizations and sites. While intended to promote transparency and collaboration, in practice, IPTs hindered progress and stalled the development of necessary requirements. The process has been modified to limit the use of IPTs to instances when the OPR recommends and the DRB agrees that an IPT is necessary. Such changes will significantly reduce the time to develop an initial draft and preserve the opportunity for review, comment, and comment resolution by Departmental Elements, DOE contractors, and other stakeholders.

Regarding the suggestion that a requirement be included to define and assign subject matter experts to be involved with each directive revision, DOE O 251.1E appropriately places the responsibility of determining who will work on a directive with the HDE or their representative. This provides each Departmental Element with the ability to determine who is in the best

position to help draft and/or review a directive on their organization's behalf. It is unclear how adding a requirement to assign subject matter experts with "sufficient knowledge and capabilities" would be defined, or why this directive would restrict a Departmental Element's ability to make that determination.

To address concerns regarding engaging with stakeholders, the draft order requires the OPR to address and resolve the comments before the directive is approved. This is also a requirement for the directive to move forward in the review and comment system. This would not be possible without engaging with stakeholders. Failure to resolve comments would result in an impasse.

Communication between Directives Writers and Users — Ensuring that requirements are implemented effectively is the responsibility of line management. To reinforce this point, in his memorandum, the Deputy Secretary reminded Departmental Elements that it is their responsibility to expeditiously incorporate approved directives into affected contracts. Also, a requirement has been added to DOE O 251.1E for HDEs to communicate any issues with implementing a directive to the OPR in a timely manner.

Invoked Technical Standards — In accordance with DOE O 251.1E, a determination on whether to invoke (require) a voluntary consensus standard or a DOE technical standard in a DOE order is made during the directives development process. Typically, OPRs, who are experts on the subject matter, propose invoking a standard, which is then subject to the review and comment process. In addition, individual Departmental Elements have the authority to invoke voluntary consensus standards or a DOE technical standard for their program if they deem it necessary, including by incorporating them as enforceable contract provisions. This approach allows for flexibility and enables Departmental Elements to tailor requirements to best fulfill their mission priorities. To strengthen the process for determining whether to invoke a standard, a requirement has been added to DOE O 251.1E instructing OPRs planning to invoke a technical standard to develop and document the criteria used to make that determination and make that information available upon request.

Decoupled Orders and Invoked Technical Standards — The requirement to concurrently revise a DOE technical standard and the directive that invokes it led to significant delays in issuing needed updates to directives. While it would be ideal to have these documents revised and reviewed in lockstep, technical standards take substantially longer to issue than directives, making this approach unworkable. Halting the development of a directive to wait for the completion of a technical standard would prevent organizations from implementing other needed requirements, which is not acceptable and could pose unnecessary risks.

Additionally, it should be noted that once a technical standard is revised, it is the responsibility of the OPR to determine its continued application to the directive. If it is determined that an updated standard should be invoked, the OPR begins the directives revision process.