



3670-01-P

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Memorandum of Understanding between the U.S. Nuclear Regulatory Commission and the Defense Nuclear Facilities Safety Board

AGENCY: Defense Nuclear Facilities Safety Board.

ACTION: Notice; Memorandum of Understanding.

SUMMARY: On May 18, 2020, the Defense Nuclear Facilities Safety Board (DNFSB) and U.S. Nuclear Regulatory Commission (NRC) entered into a Memorandum of Understanding (MOU) to revise and update an earlier agreement of June 22, 1990. The purpose of this MOU is to provide the basis for the DNFSB to receive assistance from the NRC on matters pertaining to the DNFSB's responsibilities, as well as administrative support.

FOR FURTHER INFORMATION CONTACT: Tara Tadlock, Manager of Board Operations, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW, Suite 700, Washington, DC 20004-2901, (800) 788-4016.

SUPPLEMENTARY INFORMATION: On June 22, 1990, DNFSB and NRC entered into a Memorandum of Understanding (1990 Agreement) to provide a process whereby the DNFSB can receive assistance from the NRC pursuant to the Atomic Energy Act of 1954, as amended. On November 28, 1990, DNFSB and NRC approved Appendix A to the 1990 Agreement to provide Employee Assistance Program support services to the DNFSB. On May 18, 2020, the DNFSB and the NRC entered into a new MOU to replace

the 1990 Agreement and cancel Appendix A. The new agreement is reproduced in its entirety below.

Authority: 42 U.S.C. 2286b(f)

Dated: May 26, 2020.

Bruce Hamilton,
Chairman.

MEMORANDUM OF UNDERSTANDING BETWEEN DEFENSE NUCLEAR
FACILITIES SAFETY BOARD AND U.S. NUCLEAR REGULATORY
COMMISSION

I. PURPOSE

The purpose of this memorandum of understanding (MOU) is to provide the basis for the Defense Nuclear Facilities Safety Board (DNFSB) to obtain assistance from the U.S. Nuclear Regulatory Commission (NRC) and the Advisory Committee on Reactor Safeguards (ACRS) on matters pertaining to the DNFSB's responsibilities as well as administrative support for the DNFSB's activities.

II. AUTHORITY AND BACKGROUND

The DNFSB was established by Chapter 21 of the Atomic Energy Act of 1954, as amended (AEA) (42 U.S.C. 2286–2286l). The DNFSB’s mission is to provide independent analysis, advice, and recommendations to the Secretary of Energy with regard to the adequate protection of public health and safety at defense nuclear facilities. Section 2286b of the AEA authorizes the DNFSB to obtain the advice of the NRC staff and the ACRS on matters pertaining to the DNFSB’s responsibilities, with the consent of and under appropriate support arrangements with the NRC. In addition, the NRC will, consistent with the NRC’s mission, provide the DNFSB with requested administrative support. These technical and administrative support services are provided under the authority of the Economy Act of 1932, as amended (31 U.S.C. 1535).

III. EXECUTION AND POINTS OF CONTACT

The NRC will provide technical and administrative support services to the DNFSB as agreed upon to meet the requirements of the AEA. The NRC and the DNFSB will each designate a liaison who will direct and monitor all interactions between the two organizations. The NRC liaison is the Assistant for Operations, Office of the Executive Director for Operations. The DNFSB liaison is the Executive Director of Operations or his/her designee. Execution of this MOU will proceed as follows:

1. The DNFSB will direct all requests for NRC or ACRS assistance to the NRC liaison.

2. Requests for NRC support of an ongoing nature (e.g., contractual support) will be covered by an appendix to this MOU, which must be approved by the Commission.
3. Requests for NRC support of an ad hoc or one-time nature will be handled as follows:
 - a. Requests for assistance requiring 4 staff hours or less may be made orally to the NRC liaison. When support for a specific request exceeds a total of 16 hours in any one month, additional requests for support must be submitted to the NRC liaison in writing for approval.
 - b. Requests for assistance that are likely to require more than 4 staff hours will be submitted in writing and must be approved by the NRC Executive Director for Operations.
4. The NRC will evaluate all requests to determine the amount of time needed to fulfill each request and advise the DNFSB of the required staff hours. The NRC shall attempt to fulfill each request within the DNFSB's requested timeframe. To keep the Commission informed, the NRC staff shall notify the Commission of requests from the DNFSB.
5. The NRC liaison will forward requests for ACRS assistance to the Advisory Committee Management Officer (ACMO). The ACMO will inform the DNFSB liaison if and when the ACRS may provide advice or recommendations.

IV. RELEASE OF INFORMATION

The parties agree that information developed during the course of any service performed under this MOU should not be released except in accordance with the Freedom of Information Act (FOIA) (5 U.S.C. 552), the Federal Advisory Committee Act (5 U.S.C. App. 2 10), the NRC and the DNFSB's respective FOIA regulations, and all other applicable laws. Decisions on disclosure of DNFSB information to the public under FOIA regarding services provided under this MOU shall be made by the DNFSB following consultation with the NRC.

Nothing in this MOU shall prevent or impair the parties' obligations to provide records and information to Congress or any cognizant congressional committee or subcommittee, the U.S. Government Accountability Office, or other Federal agencies, including the U.S. Department of Justice.

V. AMENDMENTS AND APPENDICES

The NRC and the DNFSB, by mutual agreement, may amend this MOU or enter into any supplementary agreement as they deem appropriate.

VI. DURATION

The provisions of this MOU shall be effective on the date of the last signature. This MOU may be terminated by either party by providing 90 days advance written notice to the other party.

VII. MISCELLANEOUS

This MOU is not legally binding and shall not be construed to create any legal obligation on the part of either party. This MOU shall not be construed to provide a private right or cause of action for or by any person or entity.

This MOU sets forth the entire understanding of the parties and supersedes any and all prior agreements or understandings relating to the subject matter hereof. No representation, promise, inducement, or statement of intention has been made by either party that is not embodied in this MOU, and neither party shall be bound by or liable for any alleged representation, promise, inducement, or statement of intent not embodied in this MOU.

The section headings of this MOU are for convenience purposes only and shall not be given any substantive effect or otherwise affect the construction hereof.

Any issues arising from the interpretation or implementation of this MOU will be settled through consultations between the parties or such other means as they may mutually decide.

VIII. AGREEMENT

Dated: May 18, 2020

Bruce Hamilton

Chairman, Defense Nuclear Facilities Safety Board.

Dated: May 14, 2020

Margaret M. Doane,

Executive Director for Operations, U.S. Nuclear Regulatory Commission.

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