

United States Senate

WASHINGTON, DC 20510

September 5, 2018

The Honorable Rick Perry
Secretary
U.S. Department of Energy
1000 Independence Ave. NW
Washington, DC 20585

Dear Secretary Perry:

We write in regard to DOE's new Order 140.1, Interface with the Defense Nuclear Facilities Safety Board, which severely limits the DNFSB's statutory oversight responsibility to ensure the safety of communities and workers at New Mexico's two nuclear security labs and the Waste Isolation Pilot Plant. We believe implementation of Order 140.1 must immediately be suspended while the members of the DNFSB, Congress and the public have time to review and offer constructive feedback on how to maintain and enhance the board's critical safety role.

Congress established the DNFSB as an independent safety organization in 1988 to address mounting health and safety concerns at DOE nuclear facilities across the country, which are largely unregulated by any other state or federal agency. We believe the board helps DOE fulfil its mission of maintaining a safe, secure and reliable nuclear deterrent. However, DOE issued the new order on working with the DNFSB on May 14, 2018, with no public notice or announcement in the Federal Register. Tellingly, DOE openly acknowledges it denied the board's request to review a draft version of Order 140.1. On August 28, the DNFSB held the first of three public hearings on Order 140.1 where the immediate impacts of the new order were highlighted, including the staff's recent difficulties accessing information related to three safety issues at Los Alamos National Laboratory. All four board members spoke in unanimous opposition to the changes, citing fears the order violated DNFSB's statutory authority to access important DOE facilities, documents, and staff, in addition to diminishing its ability to offer formal safety recommendations directly to DOE. In addition, WIPP would be completely eliminated from the board's oversight.

We strongly support the mission of the DNFSB and oppose any attempt to weaken the board's ability to help protect health and safety in our communities. The board's expertise will be especially valuable as plans for production of plutonium pits are developed and implemented at LANL. In light of the many concerns with the changes made by Order 140.1, we urge you to suspend the new order to give the members of the board an opportunity to provide comments and feedback, including issues raised by stakeholders at the planned public hearings. DOE should then reissue an order that fully complies with DNFSB's legal authority to continue to protect workers and the community. We look forward to hearing from you.

Sincerely,



Tom Udall
United States Senator



Martin Heinrich
United States Senator