

# GAO Highlights

Highlights of [GAO-21-141](#), a report to congressional committees

## Why GAO Did This Study

Established by statute in 1988, DNFSB has broad oversight responsibilities regarding the adequacy of public health and safety protections at DOE defense nuclear facilities. In May 2018, DOE issued Order 140.1, a new order governing DOE's interactions with DNFSB. DNFSB raised concerns that the order could affect its ability to perform its statutory mandate.

Congressional committee reports included provisions for GAO to review DOE Order 140.1. This report examines (1) the extent to which the order was consistent with DNFSB's original enabling statute and with long-standing practices, as well as actions DOE has taken in light of changes to the statute outlined in the FY20 NDAA; and (2) outstanding areas of concern that DNFSB and DOE identified, and the potential effects of these concerns on how the two agencies cooperate. GAO reviewed legislation and agency documents; visited DOE sites; and interviewed DNFSB, DOE, and NNSA officials and contractor representatives.

## What GAO Recommends

GAO is making a recommendation to DOE and DNFSB that they collaborate to develop a written agreement, and an additional two recommendations to DOE, including that it develop more robust training on Order 140.1A. DOE and DNFSB agreed to develop a written agreement. DOE agreed with one of the other two recommendations, but did not agree to provide more robust training. GAO maintains that the recommended action is valid.

View [GAO-21-141](#). For more information, contact Allison Bawden at (202) 512-3841 or [bawdena@gao.gov](mailto:bawdena@gao.gov).

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## NUCLEAR SAFETY

### DOE and the Safety Board Should Collaborate to Develop a Written Agreement to Enhance Oversight

## What GAO Found

The Department of Energy's (DOE) Order 140.1 included provisions inconsistent with the Defense Nuclear Facilities Safety Board's (DNFSB) original enabling statute—the statute in place when the order was issued—and with long-standing practices. For example, GAO found that Order 140.1 contained provisions restricting DNFSB's access to information that were not included in the statute. GAO also found Order 140.1 to be inconsistent with long-standing DNFSB practices regarding staff's access to certain National Nuclear Security Administration (NNSA) meetings at the Pantex Plant in Texas, where nuclear weapons are assembled and disassembled (see fig.). In December 2019, the National Defense Authorization Act for Fiscal Year 2020 (FY20 NDAA) amended DNFSB's statute to clarify and confirm DNFSB's authority and long-standing practices between the agencies. DOE replaced Order 140.1 with Order 140.1A in June 2020.

National Nuclear Security Administration's Pantex Plant, Located Near Amarillo, Texas



Source: Consolidated Nuclear Security, LLC (CNS). | GAO-21-141

DNFSB, DOE, and NNSA officials that GAO interviewed identified concerns with Order 140.1 that GAO found are not addressed under DOE's Order 140.1A. In particular, DOE's Order 140.1A was not part of a collaborative effort to address DNFSB's remaining concerns related to access to information and other regular interagency interactions. For example, DNFSB officials cited concerns that DOE could interpret a provision of DNFSB's statute authorizing the Secretary of Energy to deny access to information in a way that could limit DNFSB access to information to which it has had access in the past. GAO has previously recommended that agencies develop formal written agreements to enhance collaboration. By collaborating to develop an agreement that, among other things, incorporates a common understanding of this provision, DOE and DNFSB could lessen the risks of DNFSB being denied access to information important for conducting oversight. DOE and NNSA officials, as well as contractor representatives involved in operating the facilities, also raised concerns that insufficient training on Order 140.1 contributed to uncertainties about how to engage with DNFSB staff when implementing the order, a problem that GAO found could persist under Order 140.1A. Providing more robust training on Order 140.1A would help ensure consistent implementation of the revised order at relevant facilities.