



OFFICE OF THE INSPECTOR GENERAL

U.S. NUCLEAR REGULATORY COMMISSION

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Audit of the DNFSB COVID-19 Re-Entry Plan

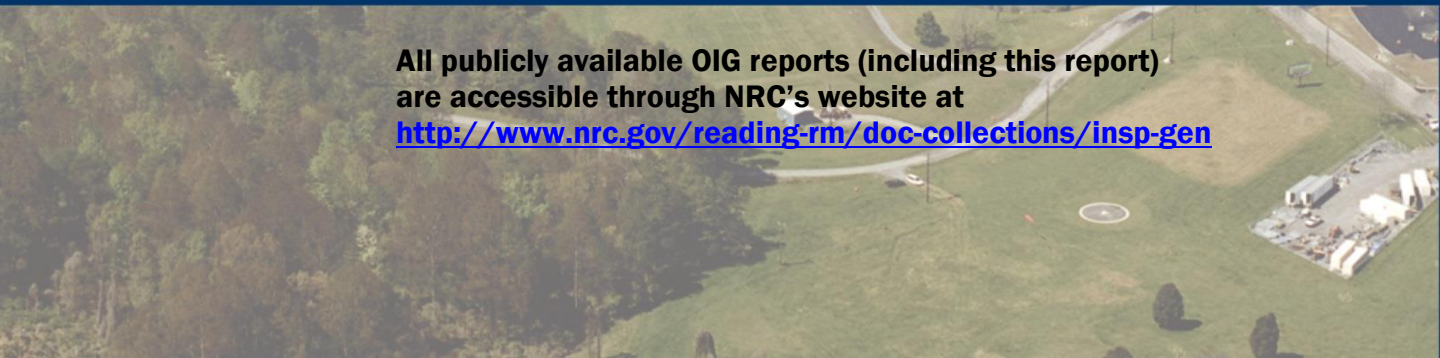
DNFSB-20-A-08

September 25, 2020



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DEFENSE NUCLEAR FACILITIES

SAFETY BOARD

WASHINGTON, D.C. 20004-2901

OFFICE OF THE
INSPECTOR GENERAL

September 25, 2020

MEMORANDUM TO: Glenn Sklar
General Manager

FROM: Dr. Brett M. Baker */RA/*
Assistant Inspector General for Audits

SUBJECT: AUDIT OF THE DNFSB COVID-19 RE-ENTRY PLAN
(DNFSB-20-A-08)

Attached is the Office of the Inspector General's (OIG) audit report titled *Audit of the DNFSB COVID-19 Re-Entry Plan*.

The report presents the results of the subject audit. Following the September 14, 2020, exit conference, the DNFSB staff indicated that they had no formal comments for inclusion in this report.

Please provide information on actions taken or planned on the recommendation within 30 days of the date of this memorandum.

We appreciate the cooperation extended to us by members of your staff during the audit. If you have any questions or comments about our report, please contact me at (301) 415-5915 or Vicki Foster, Team Leader, at (301) 415-5909.

Attachment: As stated

cc: R. Howard, DNFSB



Office of the Inspector General

U.S. Nuclear Regulatory Commission
Defense Nuclear Facilities Safety Board

OIG-20-A-08

September 25, 2020

Results in Brief

Why We Did This Review

Coronavirus Disease-2019 (COVID-19) is a highly contagious respiratory disease caused by the SARS-CoV-2 virus that results in illness levels ranging from mild to severe and, in some cases, can be fatal. Symptoms of COVID-19 typically include fever, cough, and shortness of breath. The United States (U.S.) Department of Health and Human Services declared a Public Health Emergency on January 31, 2020, in response to the rising number of COVID-19 cases. On March 11, 2020, the COVID-19 outbreak was characterized as a pandemic by the World Health Organization. The U.S. Defense Nuclear Facilities Safety Board (DNFSB), as did the federal government, subsequently took steps to contain the spread of COVID-19 among its workforce.

On June 15th, 2020, the Inspector General for the DNFSB and the Nuclear Regulatory Commission (NRC) received a letter from the Chairman of the Subcommittee on Government Operations, House Government Oversight and Reform Committee that requested the examination of the plans and procedures for returning employees to federal offices in the wake of the coronavirus pandemic.

Thus, the audit objective was to determine if the DNFSB's plan for returning employees to government facilities was prepared in accordance with government-wide guidance and agreed-upon best practices for safe, healthy, and effective office re-openings.

Audit of the DNFSB COVID-19 Re-Entry Plan

What We Found

The OIG found that the DNFSB's plan for returning employees to work was not prepared in full accordance with government-wide guidance and agreed-upon best practices for safe, healthy, and effective office re-openings.

Federal guidance requires agencies to develop plans to protect the health and safety of employees and support a phased return to normal work operations. However, the DNFSB re-entry email communications and the *DNFSB COOP for COVID-19 Pandemic Response* do not sufficiently address 11 of 16 federal government-wide guidance and agreed-upon best practices for re-entry plans. This occurred because the Board did not approve the Request for Board Action by a Board Member to draft a re-entry plan. Without a re-entry plan that complies with federal guidance, the DNFSB may not be able to adequately ensure the safety, health, and well-being of its employees.

What We Recommend

This report makes one recommendation to develop and implement an employee re-entry plan that is in accordance with federal guidance and best practices.

During an exit conference on September 14, 2020, agency management indicated their general agreement with the finding and recommendation in this report. Subsequently, the DNFSB provided the OIG with UC-2020-025, *DNFSB Pandemic Response and Recovery Plan*, Revision 0, September 14, 2020.

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ABBREVIATIONS AND ACRONYMS

CDC	Centers for Disease Control and Prevention
COVID-19	Coronavirus Disease-2019
DNFSB	Defense Nuclear Facilities Safety Board
<i>DNFSB COOP</i>	<i>DNFSB Continuity of Operations Plan</i>
<i>NATIONAL GUIDELINES</i>	<i>National Guidelines for Opening Up America Again</i>
NRC	Nuclear Regulatory Commission
OIG	Office of the Inspector General
OMB	Office of Management and Budget
OPM	Office of Personnel Management
OSHA	Occupational Safety and Health Administration
UC	Unanimous Consent
U.S.	United States

I. BACKGROUND

The U.S. DNFSB continues to fulfill its mission¹ as it deals with a pandemic that has affected millions of people worldwide. COVID-19 is a highly contagious respiratory disease caused by the SARS-CoV-2 virus that results in illness levels ranging from mild to severe and, in some cases, can be fatal. Symptoms of COVID-19 typically include fever, cough, and shortness of breath. The U.S. Department of Health and Human Services declared a Public Health Emergency on January 31, 2020, in response to the rising number of COVID-19 cases. On March 11, 2020, the COVID-19 outbreak was characterized as a pandemic by the World Health Organization. The DNFSB, as did the federal government, subsequently took steps to contain the spread of COVID-19 among its workforce including implementation of maximum telework, workplace flexibilities, and provision of disinfecting wipes, masks and gloves to employees at the office.

The DNFSB headquarters building is located in Washington, D.C. where over 11,427 residents have tested positive for COVID-19 and tragically 580 residents have lost their lives due to COVID-19.² The DNFSB headquarters is in a multi-tenant building leased through the U.S. General Services Administration. The other tenants include the U.S. Department of Justice Daycare, the United States Court of Appeals for Veterans Claims, and the Office of the Federal Public Defender.

On July 22, 2020, the Mayor of Washington D.C. signed an Order to consolidate, clarify, and extend requirements related to wearing masks indoors and outdoors in Washington D.C. and provided additional mechanisms for re-opening buildings located in Washington D.C.

¹ The DNFSB mission is to provide independent analysis, advice, and recommendations to the Secretary of Energy to inform the Secretary in his/her role as operator and regulator of the defense nuclear facilities of the Department of Energy. These recommendations aide the Secretary in providing adequate protection of public health and safety at such defense nuclear facilities, including with respect to the health and safety of employees and contractors at such facilities.

² As of July 22, 2020.

The DNFSB consists of approximately 100 employees. The decision-making body of the Board is legislated to be composed of five Members appointed by the President and confirmed by the Senate. As of August 17, 2020, the DNFSB organizational structure was comprised of four Board Members, including the Chairman, in addition to the General Counsel, the Technical Director, and the General Manager. In September 2020, a newly-appointed Board Member became the Acting Chairman.

On March 13, 2020, the DNFSB activated the *DNFSB Continuity of Operations Plan (DNFSB COOP)*, dated February 2019. The *DNFSB COOP* designates to the DNFSB Chairman the responsibility for providing overall decision authority and ordering the implementation of the *DNFSB COOP*.

The former DNFSB Chairman updated the DNFSB employees weekly from March 13, 2020 to August 4, 2020 through email communication and attached the *DNFSB COOP for COVID-19 Pandemic Response*, as revised per the Chairman. The former DNFSB Chairman's initial email communications and the *DNFSB COOP for COVID-19 Pandemic Response* encouraged the DNFSB employees to telework during core duty hours, with the exception of essential staff, including information technology, front desk staff, and the leadership team. The resident inspectors were directed by the former Chairman to follow U.S. Department of Energy guidance for their assigned sites.³

Subsequently, in the communications for the weeks of June 15 and June 29, 2020, the former Chairman directed Office Directors, Deputy Directors, Associate Directors, the leadership team, and a small support staff to return to work at the DNFSB headquarters building two days per week.

On June 15th, 2020, the Inspector General for the DNFSB and the NRC received a letter from the Chairman of the Subcommittee on Government Operations, House Government Oversight and Reform Committee that requested the examination of the plans and procedures for returning employees to federal offices in the wake of the coronavirus pandemic.

³ The DNFSB resident inspectors relocate to the Department of Energy sites with defense nuclear facilities and perform direct oversight of the safety of operations and advise on the overall safety conditions at defense nuclear facilities.

II. OBJECTIVE

The audit objective was to determine if the DNFSB's plan for returning employees to government facilities was prepared in accordance with government-wide guidance and agreed-upon best practices for safe, healthy, and effective office re-openings. The report appendix contains information on the audit scope and methodology.

III. FINDING

The OIG found that the DNFSB's plan for returning employees to work was not prepared in full accordance with government-wide guidance and agreed-upon best practices for safe, healthy, and effective office re-openings.

The DNFSB's Plan Did Not Fully Address Guidance and Best Practices

Federal guidance requires agencies to develop plans to protect the health and safety of employees and support a phased return to normal work operations. However, the DNFSB re-entry email communications and the *DNFSB COOP for COVID-19 Pandemic Response* do not sufficiently address 11 of 16 federal government-wide guidance and agreed-upon best practices for re-entry plans. This occurred because the Board did not approve the Request for Board Action by a Board Member to draft a re-entry plan. Without a re-entry plan that complies with federal guidance, the DNFSB may not be able to adequately ensure the safety, health, and well-being of its employees.

What Is Required

Federal Requirements and Guidance

Federal guidance requires agencies to develop plans to protect the health and safety of employees and support a phased return to normal work operations. These requirements are stipulated in the following documents:

White House--*National Guidelines for Opening up America Again*

On April 16, 2020, the President of the United States issued the *National Guidelines for Opening Up America Again* (hereafter, *National Guidelines*) describing the data-driven gating criteria to be met before a region or state proceeds to a phased approach for gradually resuming operations. In addition, the *National Guidelines* offer guidance based on U.S. Centers for Disease Control and Prevention (CDC) information and the advice of public health experts on topics such as the need for individuals to maintain social distancing.

The Office of Management and Budget (OMB)/The Office of Personnel Management (OPM)--Memorandum M-20-23, *Aligning Federal Agency Operations with the National Guidelines for Opening Up America Again*

The OMB/OPM Memorandum M-20-23, *Aligning Federal Agency Operations with the National Guidelines for Opening Up America Again* establishes near-to mid-term processes to align federal agency operations to the *National Guidelines*. The OMB/OPM Memorandum M-20-23 parallels the *National Guidelines* by supporting the transition of federal government operations back to a normal state. The memorandum also supports maintaining practices which have proven successful in fighting the virus and calibrates a return to normal operations to the phase of the state, county, region, or metropolitan area.

The OMB/OPM Memorandum M-20-23 indicates that when developing new policies and processes, agencies should review the CDC and Department of Labor guidance and other appropriate resources.

Occupational Safety and Health Administration (OSHA) -- *Guidance on Returning to Work*

In June 2020, U.S. Occupational Safety and Health Administration (OSHA) 4045-06, *Guidance on Returning to Work* provided supplemental information that focuses on the need for employers to develop and implement strategies for basic hygiene (e.g., hand hygiene, cleaning and disinfection), social distancing, and identification and isolation of sick employees. The OSHA re-entry guidance also identifies engineering and administrative controls, work process flexibilities, assessment of occupational job hazards, and employee training.

What We Found

The DNFSB's Plan for Returning Employees to Government Facilities Did Not Fully Address Federal Guidelines and Best Practices

The DNFSB re-entry email communications and the *DNFSB COOP for COVID-19 Pandemic Response*, Rev. 14, August 4, 2020, do not sufficiently address 11 of 16 federal government-wide guidance and agreed-upon best practices for employee re-entry to federal facilities. Specifically, the *National Guidelines for Opening up America Again*, the OMB/OPM Memorandum M-20-23, and the OSHA *Guidance on Returning to Work*.

White House--*National Guidelines for Opening up America Again*

As required in *National Guidelines*, the Board has not:

- Established policies in accordance with federal, state, and local regulations and guidance, and informed by best practices, regarding social distancing and protective equipment; temperature checks; testing, isolating and contact tracing; sanitation; use and disinfection of common and high-traffic areas; and business travel. Staff indicated that policy is non-existent.
- Implemented measures to monitor the workforce for indicative symptoms. For example, the DNFSB does not have a screening

process for identifying symptomatic employees before they enter the building.

- Implemented procedures for workforce contact tracing, following employee COVID positive tests. The former Chairman indicated staff are not aware of the contact tracing procedures and staff will be informed of contact tracing procedures when necessary.

The OMB/OPM Memorandum M-20-23

As required in the OMB/OPM Memorandum M-20-23, the Board has not:

- Established gating criteria for phases for re-entry. For example, the DNFSB re-entry email communications and the *DNFSB COOP for COVID-19 Pandemic Response* do not specify the gating criteria for moving between phases in the geographic areas where the DNFSB operates.
- Established two-way communication to address staff concerns that would have more effectively communicated management decision making to the staff. For example, the Board has not fully addressed concerns staff raised about returning to the workplace, such as optional mask wearing and building ventilation.
- Established entry screening policies and procedures as required by federal guidelines and best practices. For example, the DNFSB does not have a screening policy and procedure for entering the building.
- Adhered to the CDC guidelines for cleaning protocols. For example, the CDC guidelines for cleaning work areas following a confirmed or suspected case are not reflected in the DNFSB re-entry email communications and the *DNFSB COOP for COVID-19 Pandemic Response*.

The OSHA Guidance on Returning to Work

As required in the OSHA's guidance, the Board has not:

- Assessed job exposure through hazard assessments.

- Developed protocols for staff who are returning to work after they have tested positive or have been exposed to COVID-19.
- Developed training for the staff to understand their risk of exposure and how to properly use personal protective equipment (PPE).
- Developed policies for anti-retaliation so staff understand their rights to a safe and healthy work environment.

Appendix B contains a crosswalk between the requirements in the guidance and the DNFSB's actions.

Why This Occurred

The Board Did Not Approve the Development of a Re-Entry Plan

The DNFSB re-entry email communications and the *DNFSB COOP for COVID-19 Pandemic Response* do not fully address federal guidelines and best practices because the Board did not approve the Request for Board Action by a Board Member to draft a re-entry plan. On June 24, 2020, a Board Member initiated a request for Board action for Office Directors to develop plans to protect the health and safety of employees and to support a phased return to normal work operations. However, the Board action to draft a re-entry plan was null and void because the former Chairman abstained from voting and a quorum was not achieved. Three members of the Board would constitute a quorum, which is the minimum number of members that must be present to make a proceeding valid. The former Chairman believed a re-entry plan was already in place with the COOP and that emergency operations, such as the pandemic, require unity of command as opposed to command by committee.

Why This Is Important

Safe, Healthy, and Effective Office Reopening

The DNFSB cannot adequately ensure the safety, health, and well-being of its employees without a re-entry plan that complies with federal

guidance. Without established procedures that would be included in an activated re-entry plan, management and staff do not have a clear understanding of the process for returning to the office, including gating criteria and cleaning protocols to limit the risk of COVID-19 infection.

Recommendation

The OIG recommends that the Board

1. Develop and implement an employee re-entry plan that is in accordance with federal guidance and best practices.

IV. AGENCY COMMENTS

An exit conference was held with the agency on September 14, 2020. Agency management stated their general agreement with the finding and recommendation in this report and opted not to submit formal comments. Subsequently, the DNFSB provided the OIG with UC-2020-025, *DNFSB Pandemic Response and Recovery Plan*, Revision 0, September 14, 2020.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

The audit objective was to determine if the DNFSB's plan for returning employees to government facilities was prepared in accordance with government-wide guidance and agreed-upon best practices for safe, healthy, and effective office re-openings.

Scope

This audit focused on determining if the DNFSB's plan for returning employees to government facilities was prepared in accordance with government-wide guidance and agreed-upon best practices for safe, healthy, and effective office re-openings. We conducted this performance audit at the DNFSB and the NRC OIG offices (Rockville, Maryland), from July 2020 through August 2020. For the purpose of this audit, information was requested from February 28, 2020 through August 4, 2020. Internal controls related to the audit objective were reviewed and analyzed.

Methodology

The OIG reviewed relevant criteria such as the *National Guidelines for Opening Up America Again*, the OMB/OPM Memorandum M-20-23, *Aligning Federal Agency Operations with the National Guidelines for Opening Up America Again*, and the OSHA *Guidance on Returning to Work*. The OIG reviewed internal DNFSB guidance documents relevant to its re-entry plans including the *DNFSB COOP*, the *DNFSB COOP for COVID-19 Pandemic Response*, the DNFSB Board Notational Vote 2020-300-025 Request for Board Action, the DNFSB's Telework Program, and agency announcements.

The OIG conducted interviews with the DNFSB managers and staff to gain an understanding of roles, responsibilities, and processes related to the DNFSB's re-entry plan. The OIG interviewed the Board Members and staff from the Office of the General Manager, the Office of the Technical Director, and the Office of the General Counsel. Further, the OIG

analyzed the DNFSB surveys sent to the staff regarding parking spaces and the staff's concerns and desire to return to the office. In addition, the OIG requested and reviewed invoices and pictures of the COVID-19 supplies at the DNFSB.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our finding and conclusion based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our finding and conclusion based on our audit objective.

Throughout the audit, auditors considered the possibility of fraud, waste, and abuse in the program.

The audit was conducted by Vicki Foster, Team Leader; Jimmy Wong, Audit Manager; George Gusack, Senior Auditor; Megan Tate, Management Analyst; Bobbie Castillo, Student Intern; and Kathryn Cates, Student Intern.

CROSSWALK BETWEEN REQUIREMENTS AND THE DNFSB'S ACTIONS

White House <i>National Guidelines for Opening Up America Again</i>		
Guidance/ Best Practice	The DNFSB Actions	Sufficiently Addressed (Yes/No/Partial)
1. Develop and implement appropriate policies	Weekly Chairman agency announcements <i>COOP for COVID-19 Pandemic Response, Rev. 14, August 4, 2020</i>	No
2. Monitor workforce for indicative symptoms	Staff self-assessment of symptoms	No
3. Develop and implement policies and procedures for workforce contact tracing	Do not have policies and procedures in place for contact tracing	No

Source: OIG Generated

Appendix B

OMB/OPM M-20-23 Memorandum		
Guidance/ Best Practice	The DNFSB Actions	Sufficiently Addressed (Yes/No/Partial)
4. Establish gating criteria for phases for re-entry	No defined criteria for phases for re-entry	No
5. Effective communication to all stakeholders	Weekly Chairman agency announcements	No
6. Maximum telework, schedule, and workplace flexibilities	Telework policy updated as of June 24, 2020 Weekly Chairman agency announcements <i>COOP for COVID-19 Pandemic Response, Rev. 14, August 4, 2020</i>	Yes
7. Entry screening policies and procedures	No policy and procedure Stop sign poster	No
8. Implement social distancing procedures	Use social distancing where possible Consider wearing mask, especially when social distancing is challenged Two persons to an elevator	Partial
9. Adhere to CDC guidelines for cleaning protocols	No policy and procedure defined	No

Source: OIG Generated

Appendix B

OSHA <i>Guidance on Returning to Work</i>		
Guidance/ Best Practice	The DNFSB Actions	Sufficiently Addressed (Yes/No/Partial)
10. Controls – engineering, administrative, personal protective equipment	Provide masks but leave it optional to staff	Partial
11. Hazard assessment	Self-assessment	No
12. Basic and Industrial Hygiene	Sanitizer, wipes, soap, water and paper towels provided upon request	Yes
13. Identification and isolation	Self-assessment	Partial
14. Return to work after illness/exposure	No protocol in place	No
15. Training	No training available	No
16. Anti-retaliation	No protocol in place	No

Source: OIG Generated

TO REPORT FRAUD, WASTE, OR ABUSE

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Hotline Program
Mail Stop O5-E13
11555 Rockville Pike
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COMMENTS AND SUGGESTIONS

If you wish to provide comments on this report, please email the OIG using this [link](#).

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