

[DNFSB LETTERHEAD]

November 2, 1995

The Honorable Charles B. Curtis
Deputy Secretary of Energy
Washington, D.C. 20585-1000

Dear Mr. Curtis:

During the period March 1995 until September 20, 1995, when the Defense Nuclear Facilities Safety Board (Board) conducted its third in a series of public hearings on nuclear safety standards in conjunction with your meeting of the Directives Management Board at the Department of Energy (DOE), the DOE and Board staffs accomplished significant improvements in developing new DOE nuclear safety Orders over those that had been drafted by DOE initially. However, during the public meeting Board members made it clear that they could not conclusively determine the adequacy of the new DOE safety orders and safety rules until they had an opportunity to review (1) the guidance documents and standards that would accompany the new Orders and rules, and (2) the cross walks (pathways) from the old safety Orders to the new safety Orders. The latter are necessary to ensure that no important safety requirement has been lost in the transition.

Also, at the September 20 meeting, you and the Board members agreed that it would be inappropriate to subject DOE Orders and other requirements related to nuclear safety to an automatic sunset provision. Nevertheless, since then numerous nuclear safety Orders have been issued and sent out to the field with such a sunset provision. After repeated efforts by our staff, DOE is now in the process of revising the safety requirements pertaining to safety at defense nuclear facilities to eliminate the automatic sunset provision.

I regret to inform you, that since our September 20 meeting, the productive interchange between our staffs on the other issues has apparently broken down. Despite repeated requests, we have not obtained from DOE a promised tracing of the existing safety requirements contained in the 52 DOE Orders of interest to the Board to their concomitant revised Orders, rules and other requirements (the cross walk). Similarly, we have not yet received all of the guidance documents and standards that are necessary to evaluate the set of DOE's safety requirements and guidance as a whole.

In two instances, DOE revised and issued, in interim format, a safety Order and policy statement before comments by the Board's staff had been resolved. Most importantly, the Policy Statement (DOE Policy 450-2 - *Identification, Implementation, and Compliance with Environment, Safety and Health Requirements*) does not contain the clear admonition that, where applicable and appropriate, guidance documents be followed unless a justifiable alternative method exists. This admonition is now clearly contained in revised DOE Order 420.1 on facility safety; the Policy Statement and DOE Order 251.1 - *Directives System* - should be revised to lend uniformity. Also, DOE Order 251.1 was issued before other outstanding safety issues raised by the Board's staff had been resolved.

The Board members are eager to bring to closure the Board's determination of the adequacy of DOE's new nuclear safety Orders and rules. We await the receipt of the promised material.

Sincerely,

John T. Conway
Chairman

c: Mr. Mark Whitaker