

[DNFSB LETTERHEAD]

November 21, 1995

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

Dear Mr. Curtis:

In my letter to you dated [November 2, 1995](#), I noted that cooperative activities between staff of the Department of Energy and the Defense Nuclear Facilities Safety Board regarding revision of DOE safety Orders, rules, and standards, had deteriorated following the public hearing on September 20, 1995. One of the most important items mentioned in that letter was the failure of DOE to fulfill its promise to deliver to the Board for review all safety guidance documents and technical standards which support the recently issued revised DOE Orders and proposed rules. The Board has now been informed that a number of interim guidance documents and technical standards have been sent to the field and distributed for comment and "use" prior to Board review and comment. In fact, the Board was not even on DOE Headquarters' distribution list for receipt of these safety documents. When asked why not, Board staff was informed by its counterpart in DOE (EH) that no commitment exists that safety guidance documents and attendant technical standards are to be reviewed by the Board prior to distribution.

The Board considers this issuance to be in contravention of the explicit agreement we had with you and the Secretary of Energy regarding the Board's review of the entire set of rules, Orders, guidance, and attendant technical standards governing nuclear safety prior to their issuance. It also contravenes the specific written instructions from the Secretary of Energy, dated [September 7, 1994](#), directing DOE officials to routinely transmit to the Board rules, Orders, and standards during development, as well as the statement of general principles articulated in the Secretary's [August 2, 1991](#) memorandum to DOE Headquarters and field office elements stating that documentation on issues pertaining to nuclear safety at DOE defense nuclear facilities are to be transmitted in all cases to the Board (copies enclosed).

At the September 20, 1995 public hearing, Board Members reiterated that Board responsibility for reviewing and evaluating the content and implementation of nuclear safety standards, including all applicable Department of Energy Orders, regulations, and requirements, was a continuing one. Furthermore, we emphasized that it was impossible to analyze the safety implications of revised safety requirements, either in a particular area such as fire protection, or throughout the entire defense nuclear complex without analyzing all of the relevant rules, DOE Orders, standards, and guidance documents, which must be viewed as a whole.

The Board is committed to meeting its obligations to review and evaluate DOE nuclear safety standards as set forth and defined in the Board's enabling statute, 42 U.S.C. § 2286a(a)(1). The Board is certain that you and the Secretary wish to fulfill the commitments previously agreed to and do not condone the breakdown of the cooperative activities that up to September 20 had been so productive. The Board Members and its staff stand ready to

resume such activities.

Sincerely,

John T. Conway
Chairman

Enclosures

c: Mr. Mark Whitaker, EH-9