



The Secretary of Energy
Washington, DC 20585

February 23, 2004

The Honorable John T. Conway
Chairman
Defense Nuclear Facilities Safety Board
625 Indiana Avenue, NW Suite 700
Washington, D.C. 20004-7000

Dear Mr. Chairman:

Thank you for meeting with me and Deputy Secretary McSlarrow, and for your correspondence relating to the Department's proposed rule on Worker Safety and Health, Title 10 Code of Federal Regulations, Part 851.

As you know, ensuring the safety and health of workers at Department of Energy sites is a top personal priority for me. In January of this year, at the Department's Senior Leadership Summit, I designated 2004 the "Year of Safety," and intend to continue to communicate the meaning and breadth of this action through a series of Safety Summits.

I intend that this Department build on an impressive record of success. As you are aware, the incidences of injury and days lost as a result of workplace injury have fallen at DOE for the third straight year and are now well below the rates experienced in private industry. Nevertheless, as I have made clear to my senior managers, we must and will strive to do even better in the years to come.

I am deeply concerned by the perception expressed by the Board and others commenting that the approach of the proposed rule may not be consistent with that goal. Consequently, I have directed that the current proposed rulemaking be suspended to allow further consultations with the Board and to consider the concerns of other interested stakeholders as appropriate.

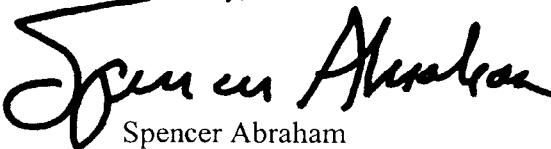
I have further directed Under Secretary Bob Card and Assistant Secretary Bev Cook to work closely with the Board and with the Department's Office of Security and Safety Performance Assurance to address the concerns that have been raised. Any final rule will reflect Congress' direction that the rule "provide a level of protection for workers at [DOE] facilities that is substantially equivalent



to the level of protection currently provided to such workers at such facilities.” Any final rule will carry out Congress’ intent that civil penalties be added to the tools we have for enforcing compliance. And any final rule will reflect my policy that safety standards will not be “written by contractors,” but instead will be subject to the personal approval of more senior Federal officials than is the case today.

I welcome the opportunity to work closely with the Board on this important matter.

Sincerely,

A handwritten signature in black ink that reads "Spencer Abraham". The signature is written in a cursive, flowing style with a large initial "S".

Spencer Abraham