



The Deputy Secretary of Energy
Washington, DC 20585

December 4, 1995

The Honorable John T. Conway
Chairman
Defense Nuclear Facilities Safety Board
Suite 700
Washington, D.C. 20004

Dear Mr. Conway:

This is in response to your letters of November 2 and 21, 1995, concerning various aspects of the accelerated reduction of DOE orders effort. I would like to address each of the major points in your two letters.

As you know I believe that it is desirable from a management perspective to provide for the periodic review of DOE orders to ensure their continued effectiveness. In response to concerns raised by the Board. I agreed at the September 20, 1995, public hearing that DOE would examine whether an administrative structured review could substitute for an automatic termination clause for DOE's nuclear safety orders. When DOE resolved this issue by concluding that it would not subject nuclear safety orders to a sunset provision, apparently some of the safety orders of interest to the Board already had been issued or were in the final stages of being issued. Follow-up corrective action was taken to ensure that the relevant safety orders would not be subject to automatic termination. I understand that these modifications of the orders were completed on October 26. I regret the confusion on this matter but am satisfied that we have reached the proper resolution.

With respect to the "crosswalks" issue, the Department has determined that contract modifications related to environment, safety and health requirement would not be made prior to the completion of crosswalks, nor would contracts be modified with respect to nuclear safety requirements in advance of an integrated safety review. This policy determination was reflected in the terms of the interim transition policy statement issued on October 6, 1995. My staff has provided your staff with a DOE Acquisition Letter 95-12, issued on November 1, 1995, which provides additional guidance to DOE contracting officers about the crosswalks and integrated safety reviews, as well as a list of revised DOE orders for which the crosswalks and integrated safety reviews are applicable.

On the question of when DOE will provide to the Board the promised crosswalks and guidance documents and standards that are intended to accompany the revised DOE nuclear safety orders, I understand that some of these materials already have been provided to the Board's staff. We have been told that the Board requires more before it


can complete its analysis of the new orders. We need to jointly manage this process. I understand that DOE staff, headed by the General Counsel, Robert Nordhaus, will meet with your staff today. At least one of the objectives of this meeting will be to reach agreement on what further materials DOE needs to provide. Mr. Nordhaus has informed me that he will reinstitute regular meetings between the Board staff and representatives of all of the relevant offices in the Department to ensure a successful closure process.

On the final point in your November 2 letter, we recognize that there may have been instances when an order and policy statement were issued without clear language regarding the status of guidance documents. This language will be made more specific in the final Policy Statement 450.2 and will conform to the language in DOE Order 420.1 relating to facility safety. The comment period on the Interim Policy Statement closes on December 7, 1995; thereafter, we will be pleased to discuss any other proposed changes to that statement with you before final issuance. Conforming language also will be incorporated into DOE Order 251.1 concerning the directives system. We also will be pleased to receive any further comments the Board may suggest for improvements to DOE Order 251.1.

With respect to the points raised in your November 21 letter, it is regrettable that either of us must take time on this matter. I regard it as a central tenet of the relationship between this Department and the Board that we provide you, when we are in a position to do so, with all the documents that you require to carry out the statutory responsibilities of the Board. I would have thought that Secretary O'Leary's memorandum of September 7, 1994, could not have been clearer on this point. I have asked Tom Todd, my staff director, to make sure that all of the addressees of the Secretary's memo redistribute it to their staffs and emphasize through appropriate means the importance of routinely providing the covered materials to the Board.

I appreciate your desire to resume the cooperative activities that marked much of the accelerated directives reduction effort. I share that desire.

Sincerely,

A handwritten signature in black ink that reads "Charles B. Curtis". The signature is written in a cursive, slightly slanted style.

Charles B. Curtis