



The Secretary of Energy
Washington, DC 20585

November 20, 1998

The Honorable John T. Conway
Chairman
Defense Nuclear Facilities Safety Board
625 Indiana Avenue, NW, Suite 700
Washington, DC 20004-2901

Dear Mr. Chairman:

The Department has completed its review of the Defense Nuclear Facilities Safety Board's (Board) September 29, 1998, draft report to Congress evaluating external regulation of defense nuclear facilities. As we discussed with your staff, specific comments (enclosed) provide clarifying information and focus on departmental responsibilities for facilities in which the Board has a safety interest.

As noted in my October 19, 1998, interim reply to you, I understand the Board's position and concerns regarding the external regulation of defense nuclear facilities, and agree that a number of significant issues remain to be resolved before the Department would support such action. Likewise, we agree that much progress has been made during the Board's tenure. Through continued improvement applying the tenets of integrated safety management, we look forward to an even safer complex.

We appreciate the opportunity to review this draft report and the cooperation you have extended the Department during the course of our deliberations on this subject. We will continue to keep you informed of the results of the regulatory pilot program as it proceeds.

Yours sincerely,

A handwritten signature in black ink that reads "Bill Richardson".

Bill Richardson

Enclosure

Department of Energy Comments

Page 7, top of page: The second complete sentence states that "Additional DOE facilities to be reviewed in FY 1999 have not yet been announced." We suggest that the following sentence be inserted before this sentence: "The first pilot to be conducted in FY 1999 will be at the Pacific Northwest National Laboratory on the Hanford site in Richland, Washington."

Page 20, table 2, "Follow On Facilities": The entries for Pantex are not accurate. Pantex entries should say:

W69, Revision 3, February 1998

Dynamic Balancer, December 1998

W79, June 1998

B61-11, June 1998

12-116, Phase I, August 1998

B61-7 Alt 920, Rebuild, September 1998

W78 Repair, October 1998

W56, Planned FY 99

W87 LEP, Planned FY 99

12-104A, Paint Bay, Planned FY 99

Other nuclear weapon and material operations - requested MHC to submit implementation plan by end of October 1998.

Page 22 table 2: This table lists the Waste Isolation Pilot Plant (WIPP) incorrectly as an Office of Nuclear Energy Science and Technology (NE) facility. WIPP is an Office of Environmental Management (EM) facility under the cognizance of the Albuquerque Operations Office, not the Idaho Operations office.

Page 25, Item Number 5, "Nuclear Component Production and/or Processing": Kansas City is listed as a Nuclear Component facility and SNL is listed for its Neutron Generator Facility (yet no mention of MDE). Suggest item 5 be re-titled "Component Production", not "Nuclear Component Production and/or Processing."

Page 26, Number 4, "Nuclear Research Reactors" (reference to the Annular Core Research Reactor): Please add a footnote to the reference made to the Annular Core Research Reactor (ACRR) that states as follows: The Office of Nuclear Energy, Science and Technology (NE) currently has responsibility for the Annular Core Research Reactor (ACRR) that is operated for civilian purposes; therefore, the ACRR is not a defense nuclear facility.

Page 30, Item Number 14, second paragraph: Add the words "Accelerator produced" to the beginning of the first sentence. Delete the third sentence and the first word of the fourth sentence.

These changes are necessary because reactor produced tritium has always been considered by-product material under section 11 of the Atomic Energy Act.

Page 37, paragraph at top of page, first full sentence: The sentence states that "A more realistic estimate for compensation and benefits would be \$125 per hour" The figure should be \$121 per hour.

Appendix 3:

Appendix 3 of this report is designated as "Lists of Existing and Planned DOE Defense Nuclear Facilities." The facilities in this list are designated by various categories, e.g. I, IIA, IIB, etc. We recommend that an explanation of these categories be added to this appendix. In addition, some of the facilities have no designation at all. Your letter to NRC dated July 22, 1998, to NRC included the Appendix 3 list of facilities and included a definition for each category. This letter is in Appendix 4. Some specific comments on Appendix 3 are set out below.

1. The list of facilities in Appendix 3 should have a key that explains the meaning of the different categories.
2. Table titled, "Office of Defense Programs, Nuclear Facilities, Accelerators, & Radiographic Facilities" : The Hot Cell Facility at Sandia National Laboratories is listed as a Defense Programs (DP) nuclear facility. This facility is now an Office of Nuclear Energy, Science and Technology (NE) nuclear facility.
3. Table titled, "Office of Energy Research Nuclear Facilities, Accelerators, & Radiographic Facilities": Except for the possible exception of the Radiochemical and Engineering Development Center that is erroneously categorized under the table titled "Office of Nuclear Energy...Facilities," no Energy Research (ER) facility is under the jurisdiction of the DNFSB. However, by listing Energy Research facilities within the DNFSB report, a reader could infer that ER facilities could be under the jurisdiction of the DNFSB, which of course is not the case. The Office of Energy Research prefers that the listings of Energy Research facilities (including the five ER facilities erroneously listed under the table "Office of Nuclear Energy...Facilities", see comment #5) be removed from the DNFSB Report.
4. Table titled, "Office of Energy Research Nuclear Facilities, Accelerators, & Radiographic Facilities," Facility Entry "Environmental Measurements Laboratory," which is listed twice. This laboratory is now an Environmental Management (EM) facility, and is no longer an ER facility. If the DNFSB chooses to list the non-Defense facilities under ER management, then these two entries should be removed from the Energy Research table.
5. Table titled, "Office of Energy Research Nuclear Facilities, Accelerators, & Radiographic Facilities," Facility Entry "TFTR," which is at PPPL. If the DNFSB chooses to list the non-Defense facilities under ER management, then the "Current Status" column needs to be changed

from "Operating" to "Shut Down," and the "Future Status" column needs to be changed from "Operating" to "Awaiting D&D".

6. Table titled, "Office of Energy Research Nuclear Facilities, Accelerators, & Radiographic Facilities," Facility Entry "Bldg. X-7725 Recycle Assembly Storage yard-South", which is at Portsmouth: This entry is not an ER facility and should be removed from the Energy Research table if the DNFSB chooses to list a table of ER facilities that are not under the jurisdiction of the DNFSB.

7. Table titled, "Office of Nuclear Energy Nuclear Facilities, Accelerators, & Radiographic Facilities," Facility Entry "High Flux Beam Reactor (HFBR)": If the DNFSB chooses to list non-Defense Energy Research facilities, then the following changes need to be made to the HFBR entry:

- (a) the "Current Status" column needs to be changed from "Operating" to "Shut Down,"
- (b) the "Future Status" column needs to be changed from "Operating" to "TBD," and
- (c) the "Remarks" column needs to say "Secretary of Energy to decide future status in June 99."

8. Table titled, "Office of Nuclear Energy Nuclear Facilities, Accelerators, & Radiographic Facilities,": If the DNFSB chooses to list Energy Research facilities that are non-Defense facilities, then the following Energy Research facilities are erroneously listed under the table, "Office of Nuclear Energy Nuclear Facilities, Accelerators, & Radiographic Facilities," and should be placed under the table, "Office of Energy Research...Facilities." If the DNFSB chooses to remove the listing of Energy Research facilities, then the following 5 facilities listed under "Office of Nuclear Energy...Facilities" should also be removed:

- (a) Bldg 205, G&K Wing Complex, at ANL-E,
- (b) High Flux Beam Reactor (HFBR), at BNL,
- (c) Brookhaven Medical Research Reactor (BMRR), at BNL,
- (d) Bldg. 7920 of the Radiochemical Engineering and Development Center (REDC) at ORNL, and
- (e) Bldg. 7930 of the Radiochemical Engineering and Development Center (REDC) at ORNL.

Note: The High Flux Beam Reactor (HFBR) and the Brookhaven Medical Research Reactor are Office of Energy Research facilities that are managed by the Office of Nuclear Energy, Science and Technology (NE).

9. Table titled, "Office of Nuclear Energy Nuclear Facilities, Accelerators, & Radiographic Facilities,": The High Flux Isotope Reactor (HFIR) is an Office of Energy Research facility that is managed by the Office of Nuclear Energy, Science and Technology (NE).