

June 21, 2001

The Honorable Spencer Abraham
Secretary of Energy
1000 Independence Avenue, SW
Washington, DC 20585-1000

Dear Secretary Abraham:

The Defense Nuclear Facilities Safety Board (Board) is required by its enabling statute to review and evaluate the content and implementation of standards relating to the design, construction, operation, and decommissioning of defense nuclear facilities of the Department of Energy (DOE). A number of the Board's formal recommendations have dealt with this aspect of the Board's charter, beginning with Recommendation 90-2, *Codes and Standards*, issued on March 8, 1990. Since then, several recommendations have addressed the subject directly, and other correspondence has included discussions of the importance of adherence to appropriate safety standards.

In a letter dated October 24, 1995, the Board announced its closure of Recommendation 90-2, based on the anticipated Implementation Plan for Recommendation 95-2, *Integrated Safety Management*, then under development. However, DOE subsequently rejected portions of Recommendation 95-2, and the Board withdrew its closure of Recommendation 90-2 on January 26, 1996, reiterating its view that the Implementation Plan for Recommendation 90-2 remained in effect in a letter dated March 21, 1996. Recommendation 95-2 was subsequently fully accepted by DOE, and the Board accepted the implementation plan on May 7, 1996.

In the ensuing years, DOE's development and implementation of appropriate safety standards for defense nuclear facilities have been documented. However, Recommendation 90-2 has not been formally closed. The enclosed chronology of pertinent activities sets forth the basis for the Board's conclusion that formal closure of Recommendation 90-2 is called for, in order to complete the record. To that end, this letter serves that purpose.

Sincerely,

John T. Conway
Chairman

c: Mr. Mark B. Whitaker, Jr.

Enclosure

Enclosure

Recommendation 90-2, *Codes and Standards*, Closure Chronology

March 8, 1990, Recommendation 90-2 recommended:

- ! “That the Department identify the specific standards which it considers apply to the design, construction, operation and decommissioning of defense nuclear facilities of the Department of Energy (including all applicable Department Orders, regulations, and requirements) at the following defense nuclear facilities . . .”
- ! “That the Department provide its views on the adequacy of the standards identified in the above process for protecting public health and safety at the defense nuclear facilities referred to, and determine the extent to which the standards have been implemented at these facilities.”

October 11, 1995, Recommendation 95-2, Integrated Safety Management, stated:

- ! “The Board has viewed the Order Compliance Self-Assessment Program of DOE as an initial activity in the formulation of the S/RIDs. As part of this compliance self-assessment, DOE required the contractors to justify in documented form the rationale for judging requirements to be non-applicable. This procedural requirement has been reported to have caused the expenditure of more effort than merited to achieve the end result the Board sought, which was the establishment of the particular subset of requirements upon which the safety management programs at a site would be structured. In the recommendations below, the Board seeks to streamline the process of arriving at an Authorization Basis and Authorization Agreements with respect to DOE’s safety management of its sites, facilities, and activities. The review and acceptance by DOE of (1) the hazards assessment of the work contracted, (2) the standards/requirements identified as appropriate, and (3) safety management controls committed by the contractor for conduct of the work would in effect constitute, in the view of the Board, a DOE determination of adequacy relative to sufficiency of the requirements base.”
- ! “The Board now wishes to combine and modify these recommendations into a form that (1) reflects what it has learned from DOE’s response to the recommendations, (2) more sharply focuses continued activity on the objectives DOE and the Board seek to achieve, and (3) is more clearly consonant with the actions which DOE has under way to modify DOE’s system of Orders.”
- ! “In addition, the Board now wishes to replace Recommendations 90-2 and 92-5.”

October 24, 1995, Board letter stated:

! “Therefore, the Board is closing the following recommendations at this time . . .”

Recommendation 90-2 (DOE’s Nuclear Safety Standards Program) DOE is currently revising its schedule for development and implementation of Standards/ Requirements Identification Document (S/RID). The revised schedule will then be consolidated with Recommendation 94-5. Recommendation 95-2 provides additional information which would apply to Recommendation 90-2 closure.

January 17, 1996, DOE letter contained a partial acceptance and a partial rejection of Recommendation 95-2.

January 26, 1996, Board letter stated:

! “In the meantime, since Recommendation 95-2 has not been accepted fully, the Board considers that the commitments made by DOE in response to Recommendation 90-2 and 92-5 are still in effect.”

March 21, 1996, Board letter stated:

! “Please be advised that the Board’s closure of Recommendation [90-2] was conditioned on the acceptance of Recommendation 95-2. Since Recommendation 95-2 was not fully accepted by the Secretary of Energy. Recommendation 90-2 has not been closed and its Implementation Plan remains operative as set further in Board letter of January 26, 1996, to Secretary O’Leary.”

April 18, 1996, DOE letter forwarding DOE’s Recommendation 95-2 Implementation Plan stated:

! “The Department believes that this Implementation Plan meets the intent of Recommendation 95-2.”

May 7, 1996, Board letter accepting DOE’s Recommendation 95-2 Implementation Plan also stated:

! “The Board notes that, in forwarding this implementation plan, DOE advises that it meets the “intent” of Recommendation 95-2. The Board is in accord that it does that and more, as evidenced by the statement of principles, the objective to make safety

planning an integral part of work planning and execution, the commitment to safety requirements identification as a key part of the work planning process, the work review and authorization process, and the commitment to organize and staff the resources needed to define expectations and direct the contractors. As such, these actions will result in an embodiment of concepts the Board advocated in our documents, DNFSB/TECH-5 and -6. In light of such accord, the Board will assume, unless otherwise advised, that the issues that led DOE by letter of January 17, 1996, to accept partially the recommendation have been resolved.”

March 11, 1997, memorandum from Under Secretary Grumbly to Office/Field Managers stated:

- ! “The purpose of this memorandum is to clarify my expectations regarding continuation of efforts described in the Department’s Implementation Plan issued on November 9, 1994, in response to Board Recommendation 90-2, “*Codes and Standards.*” The Department and the Board have agreed that the remaining activities not yet completed are subsumed under the Department’s response to Board Recommendation 95-2, ‘*Safety Management.*’ ”

48 CFR (DEAR) 970.5204-78 laws, regulations, and DOE directives mandates the use of List A (Laws) and List B (Order, standards) in the contract.

December 23, 1997, Board Reporting Requirement requested:

- ! Status of key elements of ISM implementation for 53 priority and follow-on facilities of interest to the Board. This included “Does the contract currently contain a set of applicable safety requirements (e.g., DOE Orders, regulations, and statutes).

February 24, 1998, DOE letter forwarded the information requested in the Board’s/ December 23, 1997, letter.

October 25, 1999, Deputy Secretary memorandum provided ISM Implementation Criteria that had to be met to declare ISM implemented, including:

- ! *Criterion 1*—DOE and contractor organizations have established and are maintaining agreed-upon sets of applicable requirements and standards. The DOE Head of Contracting Activity (HCA, or Contracting Officer) has incorporated agreed-upon sets of standards into contracts. DOE and contractor organizations have demonstrated they have in place a defined, functional, configuration management infrastructure to maintain their selected “standards set” (e.g., List A/List B, S/RIDs, “Work Smart” standards).

October 4, 2000, Safety Management Implementation Team Director memorandum:

- ! Declaring ISM implemented at all sites with the exception of the Los Alamos National Laboratory and certain activities at the Y-12 Plant and the Nevada Test Site. Criterion 1 above has been met at all sites.