

A.J. Eggenberger, Chairman
Joseph F. Bader
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DEFENSE NUCLEAR FACILITIES SAFETY BOARD

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November 22, 2005

Jonathan L. Snare, Esq.
Deputy Assistant Secretary of Labor
for Occupational Safety and Health
U.S. Department of Labor
Occupational Safety and Health Administration
200 Constitution Avenue, NW
Washington, DC 20210

Dear Mr. Snare:

Thank you for the opportunity to provide information regarding the Occupational Safety and Health Administration (OSHA) radiation standards contained in 20 Code of Federal Regulations (CFR) Part 1910, *Occupational Safety and Health Standards*, Subpart 1096, "Ionizing Radiation." The Defense Nuclear Facilities Safety Board (Board) is an independent government agency charged with the responsibility of providing independent health and safety oversight of the Department of Energy's (DOE) defense nuclear facilities.

In the *Federal Register* dated May 3, 2005 (Volume 70, Number 84), OSHA Docket No. H-016, OSHA expressed interest in obtaining information that could be used to assess the appropriateness of revising its standard for occupational exposure to ionizing radiation. Specifically, OSHA requested information regarding duplication/overlapping/conflicting rules. Items 54 and 55 of this *Federal Register* notice stated:

54. Are there any State or Federal regulations that might duplicate, overlap or conflict with OSHA issuing guidance or a revised standard concerning ionizing radiation? If so, identify which ones and explain how they would duplicate, overlap or conflict.

55. Are there any Federal programs in areas such as defense, energy or homeland security that might be impacted by guidance or a revised standard concerning ionizing radiation? If so, identify which ones and explain how they would be impacted.

The employees of the Board comply with the radiological protection requirements contained in 10 CFR Part 835, *Occupational Radiation Protection*, since they work closely with DOE at DOE sites. However, they are not directly covered by these requirements since the Department of Labor has not approved the application of 10 CFR Part 835 as an alternative

standard for federal workers. Instead, the Board's employees fall under the general requirements of 29 CFR Part 1960, *Basic Program Elements for Federal Employees*, and 29 CFR Part 1910, *Occupational Safety and Health Standards*, Subpart 1096, "Ionizing Radiation."

Currently, the radiological protective requirements of 10 CFR Part 835 bound those of 29 CFR Part 1960 and Part 1910. However, changes to these standards could potentially cause them to be in conflict with 10 CFR Part 835 and negatively impact the Board's operations. The Board thus requests that future changes to 29 CFR Part 1910, Subpart 1096 and any OSHA guidance or revised standards on radiation protection be provided to the Board for comment.

Sincerely,

A handwritten signature in black ink, appearing to read "A. J. Eggenberger". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

A. J. Eggenberger
Chairman

c: The Honorable John S. Shaw
Mr. Mark B. Whitaker, Jr.