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1900 MARKET STREET PHILADELPHIA, PA 19103-3508 215.665.2000 800.523.2900 215.665.2013 FAX www.cozen.com

Stephen A. Cozen
Chairman
Direct Phone 215.665.2020
Direct Fax 215.665.3701
SCOZEN@COZEN.COM

May 28, 2002

VIA FEDERAL EXPRESS MAIL

The Honorable Spencer Abraham
The Secretary of Energy
1000 Independence Avenue, S.W.
Washington, DC 20585-1000

Re: Report of DOE Fire Commission on Safety and Preparedness

Dear Secretary Abraham:

The purpose of this letter is to discuss the Fire Commission's perspective on the state of the Department of Energy's (DOE) fire safety programs. It is my hope that you and your safety staff will give serious consideration to implementing the Commission's recommendations.

We have found through our public meetings, site visits and interviews with DOE personnel over the past 18 months that the agency has an exceptionally competent and professional cadre of fire safety engineers, technicians, and managers at all levels of the organization. Moreover, we have determined that DOE has the requisite fire safety orders and standards to support an effective fire protection program.

What requires your attention however, is ensuring leadership and commitment for fire safety programs at the highest levels of agency management. It is essential that senior DOE managers support the agency's fire safety professionals by acting upon standing recommendations contained in internal fire safety reports and by enforcing uniform fire safety standards and requirements through contracts.

After more than a year evaluating these programs, the Commission recommends that the following actions be taken:

1. The Secretary should reaffirm, through a policy statement or equivalent directive, the validity and applicability of **both** industry and DOE-promulgated fire safety criteria to all Departmental Field Elements and contractors.

The Commission concluded that fire risk remains significant at DOE sites, in part because of the inconsistent application of a minimum set of fire safety standards. DOE fire safety criteria are necessary to minimize hazards that are unique to the Department and to rectify any perceived weaknesses or omissions in industry standards. These criteria can be applied flexibly, provided that adequate safety margins are maintained through the established "equivalency" process, as delineated in DOE O 420.1.

In an effort to clearly articulate our concern in simple terms, we believe that compliance with local codes or nationally recognized minimum standards is neither sufficient nor should be left to the vagaries of contract negotiations. Appropriate DOE criteria must be the standard which governs contractor conduct. We are satisfied that a risk/benefit analysis would support this conclusion.

2. Management systems at all DOE sites should manifest a forceful and **measurable** commitment to fire safety.

This commitment should begin with **establishing and sustaining a safety conscious mindset throughout DOE and** the implementation of (a) effective performance measures, such as those developed by the DOE Fire Safety Committee, and (b) a safety-based prioritized budget process that features input from the (fire) safety community. To be effective, local management systems require current data on fire protection programs that have been subjected to trend analysis to identify fire precursors.

3. Site fire departments and brigades should be subject to independent certification. Such certification is available through the Commission on Fire Accreditation International and the Department of Defense.

Acknowledging some of the lessons learned from the events of September 11th, the Commission concluded that not all DOE sites are fully prepared to respond in a timely and effective manner to credible site emergencies. While conceding that during our site visits, and comprehensive assessments, there was evidence of much progress, emergency responders though dedicated and experienced have seemingly been constrained by a lack of a sense of urgency on the part of their management, hiring restrictions and budget curtailments.

4. Building upon existing emergency preparedness plans, DOE sites should be directed to strengthen relationships with Federal, state and local emergency response organizations that share responsibility for preparation for, and response to, natural and man-made disasters.

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May 28, 2002
Page 3

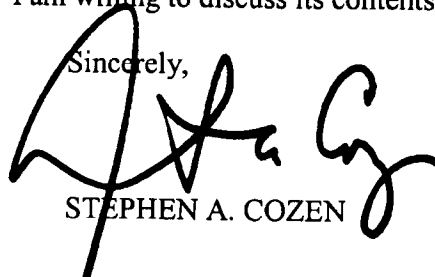
Much work has been done since the Cerro Grande Fire of May 2000 to better prepare the Department for future emergencies. The Commission observed that many of the actions implemented at Los Alamos National Laboratory, Idaho National Environmental and Engineering Laboratory, and Hanford have resulted in improved Emergency Preparedness. Nevertheless, weaknesses were observed in areas such as hazard communication and fuels management. The Commission calls to your attention that the Department has yet to promulgate a wildland fire safety policy as you have previously directed.

5. Work with the Department's fire safety community.

While welcoming the opportunity to provide the Secretary with an independent perspective of DOE fire safety, the Commission noted the nationally acclaimed expertise that is available both within the Department and with the Defense Nuclear Facilities Safety Board. The DOE Fire Safety Committee is one mechanism, among others, that can provide management with advice and perspective on the vast array of fire safety issues confronting the Department. This resource should be utilized.

Attachment I is a list of important observations made by the Commission. The Attachment is intended to provide more detail discussion of the issues and provide additional insights into our findings.

With the issuance of this letter, I am notifying you that the work of the DOE Fire Safety and Preparedness Commission is complete. I am willing to discuss its contents with you if needed.

Sincerely,

STEPHEN A. COZEN

SAC/n

Attachments

c: **VIA FEDERAL EXPRESS MAIL**
All the Commissioners (see attached list)
Robert G. Card, Under Secretary for Energy, Science and Environment
General John A. Gordon, Administrator, National Nuclear Security Administration
Kyle E. McSlarrow, Chief of Staff
Joseph P. McMonigle, Deputy Chief of Staff
Beverly A. Cook, Assistant Secretary, Environment, Safety and Health
James J. Mangeno, Senior Advisor, for Environment, Safety and Health
Frank B. Russo, Acting Deputy Assistant Secretary, Office of Performance
Assessment and Analysis

OBSERVATIONS OF THE DEPARTMENT OF ENERGY'S COMMISSION ON FIRE SAFETY AND PREPAREDNESS

DOE Fire Safety Policy

Observation:

DOE has a generally well-defined and comprehensive fire safety program that is reflected in a series of directives:

- DOE Orders (principally Orders 420.1 and 440.1A)
- Implementation Guides to DOE Orders
- Standards (e.g., DOE-STD-1066-97)
- Guidance Documents
- Model of Fire Protection Program Documents

Concerns: These directives are not consistently incorporated into contract clauses nor are they effectively enforced. This lack of compliance was discerned in a number of independent reviews of fire safety programs across the complex including the Comprehensive Fire Safety Review of the Hanford Site and the Independent Review of the Open Burning Event at the Environmental Management Waste Facility Construction Site (Oak Ridge Reservation). The Commission also observed a deficiency in contract fire safety requirements during its on-site reviews at the Los Alamos National Laboratory and at Hanford.

DOE's contracting process can be used to provide incentives for effective fire safety programs. But the use of incentives must be premised on the incorporation into the contract of comprehensive fire safety requirements against which performance and compliance can be evaluated. The Commission understands the diverse nature of the missions within DOE and the need to allow flexibility in tailoring requirements. However, a minimum set of standards must be applied at all DOE sites to ensure safety of the workers, public, and the environment. The Commission believes this minimum standards set will allow the contractors sufficient flexibility on "how" to meet those requirements and at the same time operate facilities in an efficient and safe manner.

The Commission is aware that there is an ongoing debate within DOE on the need for DOE-promulgated safety and health directives. Some contend that DOE can rely solely on industry standards such as those promulgated by the National Fire Protection Association (NFPA).

The Commission recognizes that DOE appropriately relies on NFPA consensus fire safety standards as baseline fire safety criteria. However, application of these standards must be driven by DOE safety and health directives and where necessary be supplemented with enhanced protection to address unique DOE hazards and circumstances. Again, the Commission recognizes the need to apply requirements

flexibly, however, this need cannot take precedence over the fundamental principle that fire safety must be grounded in an adequate set of mandatory safety standards.

Measuring Management's Commitment to Fire Safety

Observation:

There are only three fire-safety related performance measures in affect for DOE Field Elements: They are:

- Fire Losses: dollars value of facilities lost due to fires
- Loss Rates: dollar value of damage per DOE property due to fires
- Recurring Fire Protection Program Cost, i.e., non-construction related costs associated with fire department and fire protection activities at DOE sites.

These performance measures are reportable items under DOE 231.1, "Environment, Safety and Health Reporting."

Concerns: The concern by the Fire Safety and Preparedness Commission members is that:

- Current Performance Measures do not provide relevant results. Usually, there are no reoccurring fires; most of the information is diverse in nature and does not have a lot of magnitude (except Cerro Grande fires – rare), and
- DOE is no longer publishing or reporting fire-safety performance measure data, i.e., since 1998 there has been no Annual Fire Summary.

There is no valid performance measure of DOE's fire safety and preparedness programs and would be consistent with generally accepted good management practices. It is hard to determine the amount of dollars spent on fire protection; whether it is being spent wisely; or if what is being spent is prioritized to deal with high-level hazards.

DOE's professional fire protection community to include their fire department and engineering staff personnel, have not always been involved in development of various aspects of site budgets dealing with fire safety and preparedness.

Independent Certification of Site Fire Departments

Observation:

DOE Directives require that all emergency response stations at DOE sites conduct a Baseline Needs Assessment (BNA). A number of BNAs, such as at Pantex Plant near Amarillo, Texas and at Argonne National Laboratories-East in DuPage County, Ill., revealed significant weaknesses in response and staffing levels. Some sites, such as Los Alamos National Laboratories in Northern New Mexico, have not had a BNA in years.

Concern: The Fire Commission is concerned that should a fire occur at a given DOE site the response may not be credible due to a lack of site management awareness as to it emergency departments needs to respond in an effective and timely manner. Sites have not completed efforts to achieve conformance with standards.

A related concern pertains to the recent issuance of NFPA Standard 1710. This standard defines such things minimum response time, personnel, apparatus and equipment. The concern is that although DOE site contractors are required to conform to this new standard, there is neither a DOE directive on conformance to it nor has any DOE site yet undertaken efforts to comply.

Strengthening Emergency Preparedness Relationships

Observation:

DOE sites are situated in communities across the country. Mutual aid agreements and the coordination of emergency preparedness response plans is a fundamental basis for developing an effective and coordinated response to potential fire hazards. DOE facilities have resources that can aid in emergency responses occurring within surrounding communities and vice versa. Risk awareness between the sites and their neighbor communities makes for a better understanding of what needs to be done collectively to protect their respective people and properties.

Concern: The Fire Safety Commissioners expressed concern on the need for more extensive coordination and planning efforts to occur between DOE facilities and their surrounding communities. They need to assign direct organizational responsibility for assessing and responding to the risk of wildfire both inside and outside the gates.

Limiting focus only within the facility gates is not satisfactory, as evidenced by the lack of collaboration between federal, state, and local agencies, and other neighbors that resulted in the Cerro Grande fire. DOE sites need to actively participate with adjacent landowners in pre-fire planning and projects. They need to develop cross-agency and cross-ownership pre-wildfire planning efforts.

Various examples of cooperative planning efforts are available, e.g., the California Fire Plan and Fire Safe Council model (www.fire.ca.gov). Cooperative programs can include: regional assessment of fuel hazard risks, assessment of firefighting resources, pre-wildfire planning and prevention, identification of assets at risk etc. Other collaborative fire safety planning efforts could include:

- Development of firefighting response plans for wildfires,
- Preparation of mutual aid and firefighting response plans with adjoining jurisdictions, both in terms of wildfire escapes from the facility, and wildfire incursions onto the facility from outside, and
- Participation in National Fire Plan:

DOE should establish a liaison status with the National Fire Plan, and participate as an associate with the new interagency, Secretary-level fire plan alliance.

Working with DOE's Fire Safety Community

Observation:

DOE benefits from a large and diverse community of fire safety professionals. This community includes engineers, technicians, managers, and fire department personnel. Many are recognized nationally and internationally for their knowledge and experience. In 1990, a group of these professionals organized a standing Fire Safety Committee with responsibilities to advise management on the state of fire safety.

The Committee issued a White Paper in 1998 delineating a number of fire safety issues along with recommendations for management action. In 2000, the Defense Nuclear Facilities Safety Board (DNFSB) issued Technical Report 27, Fire Protection at Defense Nuclear Facilities.

This report identified a number of significant fire safety issues, some of which were the same as those identified in the Fire Safety Committee's White Paper. The issues identified in these two reports have not, for the most part, been seriously addressed by DOE.

Concern: The Commission believes that the community of fire safety professionals knows and understands the concerns of fire safety within the DOE. They can contribute to remedying many of these concerns. However, their efforts to improve fire protection at DOE facilities will succeed only with the support of DOE senior management.

Mr. Stephen A. Cozen
Cozen O'Connor
The Atrium
1900 Market Street
Philadelphia, PA 19103

Ms. Jessie Roberson
U.S. Department of Energy
Office of Environmental Management
1000 Independence Avenue Southwest
Washington, DC 20585

Mr. Eric Lamar
Assistant to the President
International Association of Fire Fighters
1750 New York Ave., NW
Washington, DC 20006

Ms. Eleanor Towns
Regional Forester
United States Forest Service
333 Broadway Boulevard, SE
Albuquerque, NM 87102-3498

Chief Kenneth O. Burris
Operating Officer
United States Fire Administration
16825 South Seton Avenue
Emmitsburg, MD 21727

Chief Mike Freeman
Los Angeles County Fire Department
12320 North Eastern Avenue
Los Angeles, CA 90063

Ms. Lorlee Mizell
Director
Benton County Emergency Services
651 Truman Avenue
Richland, WA 99352

Mr. Jack Snell
Director
National Institutes of Standards and Technology
Building and Fire Research Laboratory
100 Bureau Drive, Stop 8600
Gaithersburg, MD 20899-8600

Ms. Gary Briese
Executive Director
International Association of Fire Chiefs
4025 Fair Ridge Drive
Fairfax, VA 22033-2868

Dr. John Till
Rear Admiral (USN), (Retd.)
President
Risk Assessment Corporation
417 Till Road
Neeses, SC 29107-9545

Dr. Paul Croce
Vice President and Manager
Factory Mutual Research
1151 Boston-Providence Hwy.
Norwood, MA 02062

Ms. Debra McBaugh
Section Head, Environmental
Washing Department of Health
Division of Radiation Protection
P.O. Box 47827
Olympia, WA 98504-7827

Dr. Andrea Tuttle
Director, California Department of Forestry
And Fire Protection
California Resources Agency Building
1416 9th Street
Sacramento, CA 94244

Mr. Anthony O'Neill
Vice President
National Fire Protection Association
1110 N. Glebe Road, Suite 210
Arlington, VA 22201

Daniel L. Arnold, PE
Seneca Fire Engineering, LLC
1401 Johnson Ferry Road
Suite 328
PMB C19
Marietta, GA 30062-6436

Ms. Kathleen Almand
Executive Director
Society of Fire Protection Engineers
7315 Wisconsin Ave., Suite 1225 W
Bethesda, MD 20814

Namelist: 5/28/02

Stephen A. Cozen
Chairman
Cozen & O'Connor
1900 Market Street
Philadelphia, PA 19103-3508