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**DEFENSE NUCLEAR FACILITIES
SAFETY BOARD**

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December 22, 2004

The Honorable Kyle E. McSlarrow
Deputy Secretary of Energy
1000 Independence Avenue, SW
Washington, DC 20585-1000

Dear Mr. McSlarrow:

On December 13, 2004, the Defense Nuclear Facilities Safety Board (Board) received draft Department of Energy (DOE) Policy 226.1, *Department of Energy Oversight Policy*. In order to facilitate rapid publication, the forwarding memorandum requested that comments on the draft document be provided by December 17, 2004. For reasons explained below, the Board is unable to provide comments at this time.

As you are aware, the Board held a series of eight public hearings on revised oversight policies under consideration by DOE and the National Nuclear Security Administration for defense nuclear facilities. Based on the record of those hearings, the Board issued Recommendation 2004-1, *Oversight of Complex, High-Hazard Nuclear Operations*, and Technical Report DNFSB/TECH-35, *Safety Management of Complex, High-Hazard Organizations*. DOE's Implementation Plan for the Recommendation is due December 23, 2004, at which time the Board will begin assessing its adequacy. The Board has already observed that DOE's oversight policies and practices will necessarily figure prominently in DOE's Implementation Plan. Absent an acceptable Implementation Plan, it is not possible to evaluate this draft Policy in the context in which it will be implemented.

Further, the Board believes that it is premature for DOE to issue an oversight policy in advance of completing its work on the Implementation Plan for Recommendation 2004-1. It would be advisable to hold in abeyance any further action on DOE Policy 226.1 until the Implementation Plan has been fully accepted by the Board.

Sincerely,

John T. Conway
Chairman

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