November 28, 2012

Honorable Carl Levin, Chairman
Committee on Armed Services
228 Russell Senate Office Building
Washington, DC 20510

Honorable John Sidney McCain
Committee on Armed Services
228 Russell Senate Office Building
Washington, DC 20510

Dear Chairman Levin and Ranking Minority Member McCain:

I am writing to reiterate the AFL-CIO’s strong opposition to provisions in the House FY 2013 National Defense Authorization Act (H.R. 4310) that would seriously weaken worker and nuclear safety protections at Department of Energy (DOE) nuclear weapons complexes. We urge you to reject the inclusion of these provisions in any conference report on this legislation.

Decades of neglect, secrecy, and lax oversight at DOE weapons facilities during and after the Cold War resulted in high worker exposures to radiation, beryllium, and toxic chemicals that caused death and disease to thousands of workers. Over the years, we worked with Congress and DOE to change these practices and to strengthen worker safety and health protections and oversight at these facilities. In 2002 significant progress was made when Congress, in the Defense Authorization Act, directed DOE to adopt regulations requiring comprehensive safety and health programs at DOE contractor facilities and provided for increased oversight and penalties for violations. These regulations – Worker Safety and Health Programs (10 CFR Part 851) – and rules on beryllium and radiation, coupled with enhanced DOE oversight, have significantly improved conditions at DOE contractor facilities.

H.R. 4310 would wipe out this progress, weaken worker protections, and return to the days of “self-regulation” with little or no oversight at the nuclear weapons facilities.

Specifically, Section 3115 of the bill would strip the authority of the Secretary of Energy to oversee and enforce regulations to protect the health and safety of workers at DOE nuclear weapons facilities, transferring these responsibilities from DOE’s Office of Health, Safety, and Security (HSS) to the quasi-independent National Nuclear Security Administration (NNSA). Meaningful DOE enforcement of specific safety and health standards would be replaced with “performance-based oversight” by the NNSA, which has no expertise or competence in this area.
The House bill would also weaken the level of protection afforded to workers. Worker safety standards could be no more protective than those issued under Section 6 of the Occupational Safety and Health Act. H.R. 4310 would eliminate the more protective specific safety and health standards that have been put in place at DOE facilities to address the ultra-hazardous nature of the work performed at these facilities, including congressionally-mandated requirements for comprehensive safety and health programs. Workers would be stripped of the right to be protected from retaliation for raising safety and health concerns and the right to be involved in workplace inspections. The bill would also eliminate requirements for employers to record and report injuries and illnesses.

H.R. 4310 would also erode nuclear safety and public health protections. The bill would significantly weaken the authority of the Defense Nuclear Facilities Safety Board, which provides the only independent nuclear oversight at the national labs, and hinder the board’s ability to provide findings and recommendations for addressing threats to worker and public safety.

Past failures at DOE weapons facilities have caused massive disease, death, and contamination, which have cost the government and taxpayers billions of dollars for environmental remediation and compensation. The adoption of the House-passed worker safety and health and nuclear safety provisions would turn back the clock and allow a return to conditions and practices that caused these disasters.

The protection of workers and the public should not be weakened or compromised. The AFL-CIO strongly urges you to reject these provisions in any conference agreement on the FY 2013 National Defense Authorization Act.

Sincerely,

[Signature]

William Samuel, Director
GOVERNMENT AFFAIRS DEPARTMENT