

DATE: OCT 29 1982

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Tab E

TO: EP-1

SUBJECT: ACTION MEMORANDUM: Transfer of Functions from EP to NE and DP

TO: The Secretary
The Deputy Secretary

Under Secretary

PROBLEM

Over time and for a variety of reasons, a number of operational programs were assigned to the Environment, Safety and Health (ES&H) function. Because of the independent oversight role of ES&H, these programs present an apparent conflict of interest and diminish our ability to focus on nuclear safety oversight.

Each of these programs is briefly described below along with a recommendation for their relocation to DP or NE.

BACKGROUND

A primary role of ES&H is to provide independent oversight and assurance for the Department's environment, safety and health programs which are carried out by the line Assistant Secretaries and the Director of Energy Research. The ES&H staff develops policy and standards, appraises the implementation of that policy through on-site assessments, and provides technical assistance in ES&H matters.

During its existence in the Atomic Energy Commission, the Energy Research and Development Administration and the early days of DOE, the ES&H function picked up a number of operational programs. ES&H gained these programs largely because they had the technical expertise which the line Assistant Secretaries lacked at the time. Now that NE and DP have dedicated safety personnel on their immediate staffs, and in light of the conflict between ES&H's oversight role with its current responsibility for these line programs, a review of the organizational location of these programs is proper.

Line Programs Carried Out in EP/ES&H

Four programs currently managed by EP/ES&H should be transferred to Defense Programs or Nuclear Energy:

1. Loss of Fluid Test (LOFT) and Power Burst Facility (PBF) are programs carried out by DOE for the NRC. NE should and can manage this program in the execution of its line nuclear R&D activities thus removing an inherent conflict of interest with EP/ES&H safety oversight of these activities.

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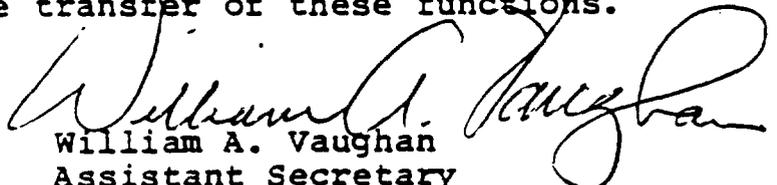
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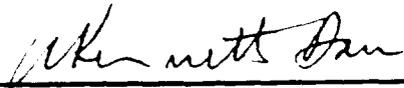
2. Marshall Islands health care, radiological monitoring, dose assessments and environmental studies programs can more effectively be carried out by DP which has requested that this program be transferred from EP/ES&H to DP. Such a transfer would remove a present conflict of interest with EP/ES&H's safety oversight function.
3. Nevada Dose Assessments program is developing data on radiation epidemiology and exposure levels of off-site populations related to Nevada weapons testing. This program also is more appropriately the responsibility of DP.
4. Radiological Surveys and Certification of remedial actions necessary for clean-up of contaminated sites is a line responsibility of NE which has both the resources and technically qualified staff to carry out the program.

Each of these programs is briefly described, with options for their organizational location, followed by an outline of pros and cons for each option, in the attachment.

Recommendation

With your approval, I will undertake detailed discussions with the appropriate Assistant Secretaries in the preparation of a proper package for the Assistant Secretary for Management and Administration to effect the transfer of these functions.


William A. Vaughan
Assistant Secretary
Environmental Protection, Safety,
and Emergency Preparedness

Approved: 

Disapproved: _____

Date: 5 Nov 1982

Concurrence: *NE-1 See attached

DP-1 See attached

MA-1 See attached

ER-1 Concur via phone

GC-1 Concur via phone
(no legal objection)

CP-1

*Concur LOFT and radiological survey and certification,
nonconcur PBF - see attached memo

Attachment - Options for Transfer of Four Programs from
EP to NE and DP

1. Loss of Fluid Test (LOFT) Power Burst Facility (PBF)

Program Mandate

P.L. 93-438 Energy Reorganization Act of 1974 requires cooperation with NRC by DOE for research services.

Program Objectives

To perform nuclear safety research for the NRC.

To assure the safe operation of LOFT & PBF programs at DOE facilities.

Resources

NRC provides DOE with resources to perform the research, but no resources for EP to perform the line safety management job.

EP has no available staff to implement the line management responsibility.

Benefiting Organizations

Nuclear Regulatory Commission (NRC)

Rationale of Current Management

EP was assigned the safety assurance role in 1974 because of its superior expertise.

Options

Relocate to Nuclear Energy

Pro

Consistent with the reactor safety activities in NE.

Line safety responsibilities for R&D programs should reside with DOE program offices.

NE has safety headquarters staff capable of managing this program.

Con

EP is the official DOE contact with NRC under the Memorandum of Understanding.

Retain in Environmental Protection, Safety, and Emergency
Preparedness

Pro

Experienced and competent staff exist in EP to manage this program but is committed to Departmental oversight responsibilities.

EP is the official DOE contact with NRC for management of programs carried out in DOE facilities under the Memorandum of Understanding.

Con

Represents a conflict of interest for EP/ES&H whose role is oversight and evaluation of DOE safety efforts.

NRC currently has many other safety-related projects being performed in DOE facilities but EP has no direct line safety responsibility for them.

EP nuclear safety personnel are needed to perform department oversight function and this responsibility dilutes currently limited capability.

Recommendation

Relocate to Nuclear Energy (NE) because this will reestablish programmatic line safety responsibility for reactor safety. EP will retain general oversight role as with all nuclear safety programs.

2. MARSHALL ISLANDS

Program Mandates

P.L. 96-205 Omnibus Insular Areas Act of 1979-80, requires DOE to fund health care, radiological monitoring, dose assessments, environmental studies and educational information

P.L. 96-134 Appropriations for U.S. Territories requires DOE to provide Medical care and treatment

Interagency agreements with DOI and DOD requires DOE to provide radiological assessments and assistance

Program Objectives

Provide health and environmental services for Marshall Islands population related to weapons test effects

Assess health risks of resettlement of atolls

Resources

For this activity, EP's FY 83 budget is \$4.145M and 1/2 professional staff year.

Benefitting Organizations

Marshall Islands, DOI, DOJ, President's representative for compact negotiations, DOE/DP, DOD.

Rationale for Current Management

Health effects activities were more compatible with ES&H program.

Credibility of DOE efforts were thought to be enhanced if independent from DP.

Health effects research originally combined with safety programs in AEC.

Options

Relocate to Defense Programs (DP)

Pro

Primarily an operational program related to past weapons testing - a major DP activity.

Logistical support for the Pacific is now managed by DP through the Nevada Operations Office.

DP has requested transfer of the program to them.

Con

DP has limited HQ medical, health or environmental expert staff to direct the program.

Relocate to Energy Research

Pro

ER possesses HQ medical, health and environmental expert staff to direct efforts on this program.

Laboratory and field research staff supported by ER currently provide the medical, health and environmental services for this Marshall Islands program.

Con

This is an operational program, not directly related to the fundamental research being sponsored by ER.

ER has not expressed an interest in taking over the Marshall Islands program.

Retain in Environmental Protection, Safety and Emergency Preparedness

Pro

Historically, EP has retained management of the program because of its perceived expertise.

Health and environmental expert HQ staff currently direct this program in EP. Medical support is provided through laboratory programs.

Con

This is an operational program, and thus it represents a conflict with EP/ES&H oversight role.

Safety and health is a line program responsibility; DP has requested transfer of program to them.

Recommendation

Relocate to Defense Programs because this is primarily an operational program related to past weapons testing and logistical support in the Pacific managed by DP through Nevada (NVO).

3. Nevada Dose Assessments

Program Mandate

P.L. 79-585 Atomic Energy Act of 1946

P.L. 83-703 Atomic Energy Act of 1954

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Develop data resource for radiation epidemiology studies and litigation proceedings related to Nevada weapons testing.

Reassess radiation exposure levels of off-site populations.

Resources

For this activity, EP's FY 83 budget is \$1.4M and 3/4 professional staff year.

Benefitting Organizations

DOE/GC, DOE/DP, DOI, DOD, States of Utah, Nevada, Arizona, and California, HHS.

Rationale for Current Management

Health effects activities were more compatible with EP/ES&H program.

EP/ES&H provides technical guidance for DOE programs and operations.

Options

Relocate to Defense Programs (DP)

Pro

Program currently managed by the Nevada Operations Office.

The assessments related to health impacts of nuclear weapons testing at the Nevada Test Site, a major DP activity.

DP funds a separate, but related information collection effort.

Con

Credibility of DOE efforts or commitment may be questioned (a major reason for not locating the program in DP originally).

DP has no health effects HQ experts to direct the program.

Retain in Environmental Protection (EP)

Pro

Health risk assessment programs have traditionally been assigned to EP/ES&H.

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EP/ES&H has health effects HQ expert to direct the program.

Credibility of DOE's efforts and commitments are enhanced through EP.

EP's Dose Assessment Advisory Group lends a high degree of prestige to the program.

Con

ES&H for nuclear weapons testing activities should be a line program responsibility of DP.

EP funds only a portion of the total effort on assessing public health impacts of past nuclear weapons testing.

Energy Research

Pro

ER has HQ staff and field/laboratory programs compatible with assessing health effects from exposure to nuclear radiation.

Program originally was assigned to the Office of Health and Environmental Research, now in ER.

Con

ER's programs are primarily fundamental research in nature.

This is a line operational program responsibility; in this sense it is least compatible with ER.

Recommendation

Relocate to Defense Programs (DP) because the principal concern is related to weapons testing activities; DP funds separate but related information collection effort and the program is implemented thru Nevada Operations Office.

4. Radiological Surveys and Certification

Program Mandate

P.L. 83-703 Atomic Energy Act of 1954

P.L. 95-604 Uranium Mill Tailings Radiation Control Act of 1978

Program Objective

Radiological surveys and monitoring.

Oversight of DOE remedial actions performed by NE and DP.

Certification of clean-up.

Resources

For this activity, EP's FY 83 budget is \$5.5M and 5 professional staff years.

Benefitting Organizations

Private land owners, DOE/NE, DOE/DP, DOJ, and States.

Rationale for Current Management

ES&H had health expertise.

Options

Relocate to Nuclear Energy (NE)

Pro

NE now conducts all on-site remedial clean-up operations and should, for efficiency and management effectiveness, conduct the on-site radiological surveys.

The surveys are operational in nature and relate to health protection of the public, a line program ES&H responsibility.

NE would have all the information needed in order to certify that clean-up and certification are all conducted by NE.

Con

Credibility of DOE's efforts may be questioned if surveys, clean-up and certification are all conducted by NE.

Retain in Environmental Protection, Safety, and Emergency Preparedness

Pro

Retention of the on-site radiological surveys and certification by EP might provide more credibility to DOE's efforts on remedial action programs.

would maintain the 1979 agreement on the division of responsibilities for the formerly utilized sites remedial action program that provided for a strict "check and balance" system.

Con

To a large extent the radiological surveys and certifications are an operational activity that should be part of the line program manager's responsibility.

Independent oversight and audit authorities are already provided through DOE Order 5480.1A.

Assign EP the additional responsibility for all onsite radiological surveys and monitoring during remedial action.

Pro

Eliminates some potential for duplication of effort in the radiological survey and monitoring activities.

Could reduce the potential for unwarranted remedial operations since these would be based on surveys by an independent group (similar to the Marshall Islands experience).

Con

Requires additional resources for EP which are not readily available within current budget.

Separation of radiological survey activity from removal and cleanup operations is not efficient.

Raises the potential for delays or interruptions of remedial action operations by having two separate onsite managers designating what should be cleaned up.

Eliminates an important integration between the remedial action operations and the survey activities.

Assign EP responsibilities for identification only of potential sites, concurrence in proposed actions relative to environmental, safety and health issues and conduct of normal ES&H oversight responsibilities under DOE Order 5480.1A. Assign NE responsibility for all site related operations including radiological surveys for the designation of remedial action sites, preparation of remedial action plans, implementation of cleanup, and site certification.

Pro

Provides single DOE representation for site owners and local authorities throughout the conduct of on-site remedial action activities once the site is identified as potentially requiring remedial action.

Improves the efficiency of the remedial action process by eliminating sequential or duplicative activities by two separate DOE organizations.

Maintains the credibility of the Department in maintaining an independent oversight for key environmental safety and health issues.

Permits EP to focus its available resources on its customary oversight functions.

Con

It may appear to limit the current system of independent overview and assessment.

The required concurrences or ES&H reviews of a proposed action, a responsibility of EP, produce delays in the program unless carefully structured to comply with NE's operational plan.

Some transfer of resources of personnel and budget may be necessary.

Recommendation

Relocate to Nuclear Energy which is responsible for conducting on-site remedial operations and should also be responsible for the surveys and certification. This would result in responsibility for surveys and certification accountability for all on-site operations under one DOE unit. Environmental Protection (EP) would retain independent oversight and health risk assessment support to assure credibility of DOE's action.