

**STATEMENT  
BY**

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**PRESENTED  
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Despite a safety record equivalent to or in most cases superior to private commercial companies, the Department of Energy (DOE) has been, for many years, subject to criticism from public interest groups for its safety program. Likewise, it has been criticized for what is alleged to be poor management and a tendency to use secrecy to protect its bad practices from public scrutiny. Efforts have been made throughout the years to subject the DOE defense activities to more independent oversight, including regulatory review in order to correct these alleged failings.

In 1988, Congress enacted legislation that created the Defense Nuclear Facilities Safety Board (Board), “an independent establishment in the Executive Branch” to recommend to the Secretary of Energy, actions “the Board determines are necessary to ensure adequate protection of public health and safety.” Despite strong initial opposition from DOE and the Administration, the Congress had concluded that safety oversight by an independent agency was essential. At the same time, the Congress strongly resisted efforts by some that would have made the Board a regulatory agency. Defense facilities operated by the Department of Energy were not to be subjected to shutdown or mandated restrictions by an independent regulatory authority.

When the Congress in 1988, established the Defense Nuclear Facilities Safety Board, the Senate Armed Services Committee Report that accompanied the bill was clear in what the Board was intended to accomplish.

“The Board is expected to raise the technical expertise of the Department substantially, to assist and monitor the continued development of DOE’s internal ES&H organization, and to provide independent advise to the Secretary. Above all, the Board should be instrumental in restoring public confidence in DOE’s management capabilities....”

Today, twelve years after taking form, how well has the Board met the Congressional intentions in its advisory role to the Secretary of Energy?

With 42 formal sets of recommendations and a total of 198 specific recommendations, not to mention numerous suggestions and 29 Technical Reports, has the Board adequately realized the expectations of the Congress?

### **Raise the Technical Expertise of the Department of Energy Substantially**

If the Board is to carry out its responsibilities successfully, its members and staff of necessity must be technically competent. Accordingly, the Board expects our engineers and scientists to maintain the highest level of technical knowledge and they are encouraged to continually improve their skills through academic study. Currently 92 percent hold advanced degrees, 22 percent of which are at the Ph.D. level. Ten technical staff members are located at priority sites.

The Board has three strategic areas of concentration:

- ! Safe management and stewardship of the nation's nuclear stockpile and nuclear weapons components;
- ! Safe disposition of the hazardous remnants of nuclear weapons production; and
- ! Complex-wide health and safety issues.

In the final analysis however, it is the DOE personnel and DOE contractors who respond to Board recommendations who are responsible for safety at DOE defense facilities and who accomplish safety improvements.

During the past 12 years, in response to Board recommendations and suggestions and in some cases its own initiative, DOE has made significant improvements in its safety activities. Each year, the Board in its Annual Report to the Congress, as required by statute, lists the DOE improvements and that information and accompanying discussions are available to the public on the Board's Web page.

The need to improve technical expertise within DOE is nothing new. More than 20 years ago, a DOE March 1981 report cited a lack of sufficient numbers of highly competent technical people in DOE Headquarters' organization with nuclear responsibilities and that field office organizations also suffer from this lack. Since then, numerous other internal and external reports also noted this major deficiency.

The Board's Recommendation 93-3 and DOE's Implementation plans have resulted in some correcting actions but a number of specific actions have not been taken. DOE did apply for and obtain excepted appointment authority but has not sufficiently used its authority. At lower levels—such as GS-14 and below—Facility Representatives have been selected and properly trained. However, technical managers above GS-14 in DOE Headquarters and in the field responsible for safety have not gotten the attention they deserve. Also, the Human Resources Organization has been less than forceful in using its resources to help solve the problem.

Hopefully the recent changes in the leadership of the DOE Technical Capability Panel will give renewed life to overcoming the challenges we face. While there has been some improvement in technical competency, it has not been substantial and that is why Recommendation 93-3, although closed out, still needs further implementation.

### **Restoring Public Confidence**

Board Members have held 81 public meetings, 46 in Washington DC and 35 at locations in proximity to DOE defense sites at which DOE and others openly review DOE defense activities. Board Members on visits to DOE sites seek out contacts with union representatives, local interested parties and local elected officials. Board site representatives are encouraged to be responsive to Advisory Boards and other public interest group inquiries.

The Department of Energy's reactions to the events of September 11<sup>th</sup> are having an adverse effect on DOE's past efforts to gain public support. Many documents that were declassified—some of us with National Defense Security background would say should not have been declassified—have been available to the public and potential terrorists for years. Attempts to withdraw them from the public web sites and public document rooms are resulting in not unexpected criticism. While most Americans support the DOE security objectives, the news media and public interest groups, I believe, will subject the DOE to increasing criticism, that will tend to erode public confidence in its management capabilities. How the DOE can successfully respond to such criticism and maintain public confidence is yet to be seen. The extent to which the Defense Nuclear Facilities Safety Board will be able to continue to play a role or, as the Congress stated, be instrumental in restoring public confidence in DOE "management capabilities" will be made more difficult.

During the 12 years that the Board has been in existence, 8 Secretaries or Acting Secretaries and 7 Deputy or Acting Deputy Secretaries have served DOE with varying philosophies and objectives for the DOE and its National Laboratories. In one case, our weapons laboratories were encouraged to divert their resources from weapons work to assisting private industry in commercial activities. If somewhat disconcerting, this concept was not as draconian as one aspired by earlier Secretaries who took office with the expressed intention to do away with the DOE altogether.

It was a pleasant surprise then to receive and read Secretary Abraham's remarks at the October 15<sup>th</sup> Quarterly Leadership Meeting when he set forth his expectations during his tenure.

He cited "ensuring the safety of our [DOE] employees and of those communities surrounding DOE facilities" as the first of three expectations required of his managers, without detracting from the important other two: i.e., highest standards of security and the recognition of the need to hire the most capable work force. This is in accordance with the stated objectives of the Congress, when it established the Defense Nuclear Facilities Safety Board.

Of particular importance, was his articulation that DOE's "overarching mission is national security," an objective that for too long a time has not been clearly understood by many, both within and outside the government.

Equally important, was his message that DOE's science programs and national laboratory work should relate to and support national security missions. It should be understood by the national laboratories and others in the scientific community that those programs in the areas of basic energy sciences, high energy physics, biology, etc. have always been supported because of their potential contributions to the knowledge base supporting the nation's strength.

### **Role of DOE and Its Contractors**

The DOE's authority and responsibilities in nuclear activities has its origin in the Atomic Energy Act of 1954 as amended and the Energy Reorganization Act of 1974 as amended. While DOE is authorized to use the services of contractors to perform work, it is the DOE that is authorized by law to among other things:

- ! Conduct experiments and do research and development work in the military application of atomic energy.
- ! Engage in the production of atomic weapons or atomic weapon parts.
- ! Provide for safe storage, processing, transportation and disposal of hazardous waste, including radioactive waste.

The National Laboratories are a valuable asset to our nation and their work and the capable work of other contractors are essential to the success of DOE's mission. In no way, however, can the DOE and its federal force be relieved of their responsibilities to ensure the work is properly and safely performed.

Numerous examples exist where DOE Facility Representatives, other DOE Representatives and Board Site Representatives have uncovered faulty work and safety problems on the part of contractors. We continue to observe instances when contractor line managers claim readiness to proceed on hazardous work and DOE operational readiness reviews reflect inadequate training of workers, faulty procedures and other safety problems. Board site representatives observe and comment on specific safety improvement needs. We routinely inform DOE of these and other findings. That service by the Board has not been provided as a form of regulatory review, but has been solely assistance to ensure that DOE's mission is unencumbered by safety problems.

On one hand, DOE personnel should not do the work and the planning for which the contractor is being paid. On the other hand, DOE personnel should not abrogate DOE's responsibilities and permit contractors to work without Federal oversight.