

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS FOR 1996

HEARINGS
BEFORE A SUBCOMMITTEE OF THE
COMMITTEE ON APPROPRIATIONS
HOUSE OF REPRESENTATIVES
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SUBCOMMITTEE ON ENERGY AND WATER DEVELOPMENT

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by the National Academy of Sciences, the Plutonium Safety Study that you were just talking about?

Dr. O'TOOLE. No, the National Academy of Sciences did do a study on long-term disposition of plutonium, you are quite right and technological options for that. The study I was talking about was done by my office, and it is the Plutonium Vulnerability Study talking about near-term environment, safety and health threats posed by plutonium at our facilities. I would be happy to get you a copy.

Mr. RIGGS. I would appreciate that. Thank you, Mr. Chairman.

Mr. MYERS. Thank you, Frank. The committee recognizes and is pleased to see the Close-Up students here. The thing this committee and DOE is trying to do is make sure that you and your children and your grandchildren will have an adequate, safe supply of energy supplies of various sources, so we are pleased to see you here. We hope you get something out of it. We hope we do, too. Thank you for coming today.

Mr. Fazio.

OFFICE OF TECHNOLOGY ASSESSMENT

Mr. FAZIO. Thank you, Mr. Chairman.

Welcome, Dr. O'Toole. I want to note you are a graduate of OTA and I know that OTA is an issue that is on the agenda of this Congress in terms of its survival. I really believe strongly that we ought to maintain OTA. I think your stature enhances the image of an institution that, in my view, has sent a number of worthy graduates into further public sector participation, and if you would be interested in making a comment at all about the agency, I would be happy to hear it for the record.

Dr. O'TOOLE. Sure, I will be glad to take that opportunity. I loved OTA, and have never been in a more collegial and scientifically credible place, and I have been at Yale and Johns Hopkins and other esteemed institutions. I would also add that had we taken OTA's advice on spent nuclear fuel. We might not be at this juncture now, but it does give analytical advice, not political advice. That is both perhaps its value and its failing in these times, but thank you for those remarks. I do think it is a very valuable institution as well.

DEFENSE NUCLEAR FACILITY SAFETY BOARD

Mr. FAZIO. I asked Secretary O'Leary yesterday if she would respond for the record to the fusion study that was just completed by OTA, and she said she would do so. I wanted to ask you a little bit about the debate going on in Congress about risk assessment and other aspects of regulatory reform. That debate has focused sharply on alleviating the burden by requiring agencies to analyze the impact of their regulations before being promulgated.

I think there is general support for that. But I understand the Defense Nuclear Facility Safety Board is responsible for providing recommendations about safety issues that have a real impact on your budget. Is that fair to say?

Dr. O'TOOLE. Yes.

Mr. FAZIO. Could you tell me how much of your budget is really dedicated to dealing with issues that are raised by the board?

Dr. O'TOOLE. Well, my office contains the six people who are the liaison for the board. The defense board has about 150 people devoted exclusively to telling us what to do, and they can create a lot of work. Coordinating that across the nuclear programs in DOE has been something of a challenge, and those six people are basically trying to coordinate those efforts. That is about a

million dollars in my office, which is only a small part of what the DOE as a whole spends, of course, on implementing safety board recommendations.

I really could not estimate what DOE spends on implementing the board's recommendations. It would be in the hundreds of millions of dollars category given all of the recommendations that have come in since the board began in 1990.

Mr. FAZIO. I am interested in exploring this because it may be that we have a case study here for questions related to the micromanagement of your budget by an independent entity. I am interested in knowing what you might have been doing that has been placed on the back burner because of the priority that must be given to decisions that the board makes that ultimately you have to implement.

Dr. O'TOOLE. Well, the implementation would be the responsibility of the line program offices, the Tom Grumblys and Vic Reises of the Department, not I, for the most part, with some exceptions. I think one of my--your question is very timely, actually because tomorrow we are convening the Federal Advisory Committee Panel that is seeking to advise us and the Congress on external regulation of DOE, whether or not we ought to cease this era of self-regulation and establish some entity with the capability of levying penalties on DOE for nonconformance with health and safety rules.

One of the problems with the board is it is devoted to nuclear safety, and half of all the fatalities in DOE sites since the dawn of the Atomic Energy Commission have been construction incidents. So that plus the sexiness, if you will, associated with radioactivity, I think, sometimes skews our priorities toward very high consequence, but low probability scenarios such as the possibility of an earthquake taking down a building at Rocky Flats, a situation in which we are poised to spend tens of millions of dollars correcting instead of implementing effective monitoring programs to prevent beryllium disease in people at Rocky Flats, which is a fatal disease that we know people are getting as a consequence, and we know how to prevent by preventing exposures. So that is my first concern, that the Board's emphasis on nuclear safety prohibits the kind of multidisciplinary approach that is really necessary in today's world.

I think the lack of any opportunity to investigate the cost implications and the relative benefits of the Defense Board recommendations is also a negative which we could change if we had the statutory authority to change the way we deal with the Board. Most regulators have a period for public comment after they suggest a rule or a proposal.

We have 45 days to respond to a board recommendation, and although they are only recommendations, the political penalty for saying to this group of eminent people who think we have a safety problem, no, we are not going to do that, is quite high. So, for the most part, we accept the recommendation and then try to figure out what we got ourselves into. That may not be the best way to proceed, either.

REGULATORY OVERSIGHT BURDEN

Mr. FAZIO. Would you broaden responsibility of the board or would you eliminate this sort of oversight entity? What new model would you recommend given your personal views on this, and what could we in general do to streamline the oversight process, maybe make some improvements in the regulatory burden that DOE deals with in this regard?

Dr. O'TOOLE. Well, I think we should learn from the past 20 years of regulation. I think we have demonstrated pretty clearly that regulating pollutant-by-pollutant or media-by-media or discipline-by-discipline, whether you are talking about water and then air or you are talking about

Superfund and then RCRA or you are talking about nuclear safety and industrial hygiene, doesn't make sense. You really need a multidisciplinary approach to these kinds of problems, so that would be my first comment.

Mr. FAZIO. Would that imply, then, that you think this board should have a broader mandate to be multidisciplinary in its approach to safety?

Dr. O'TOOLE. I would prefer to see one regulator approaching health and safety from a coherent multidisciplinary perspective and not three or four regulators, but perhaps not this board in its current format.

Mr. FAZIO. Do you have, without making policy for the department here, and I don't want to push you into that, do you have some other model in mind?

Dr. O'TOOLE. Well, it is tempting, but I think it would probably be prudent to wait until the External Advisory Committee has some time to, you know, consider. This is a great committee that does encompass the kind of multidisciplinary talent I am speaking of. I really am interested in hearing their views and seeing what they can come up with.

LABORATORY OVERSIGHT

Mr. FAZIO. Okay. I will leave it at that. I just want to touch on the other issue related to national labs. Obviously, they are now in a more competitive mode trying to see whether they have a future whether they will survive. There is an interest in outside work.

We have the Galvin report which has been presented to this committee by the Chairman himself. He talks about corporatization of the multipurpose national labs as a solution to what he, I think, clearly called micromanagement from Congress and perhaps even DOE.

I am wondering what you think of that basic theory, should the labs do their job with less interference or is there a downside to that? I would be interested in your thoughts about how they may be able to improve their culture, operate more entrepreneurially and hopefully more effectively.

Dr. O'TOOLE. Labs are tough. You know, labs are special places. Scientists are weird, and you want them weird.

Mr. RIGGS. Did you say weird or nerd?