

memorandum

DATE: December 5, 1997

REPLY TO
ATTN OF: EH-31:Office of Nuclear Safety Policy and Standards:R. Englehart:301-903-3718

SUBJECT: DOE Order 5480.21, Unreviewed Safety Questions, Interpretation

TO: Joseph D. Voice
Quality, Safety, and Health
Programs Division, RL

ISSUE

In an e-mail dated 11/6/97 to Dr. Richard W. Englehart of my office, you described a situation where you found Unreviewed Safety Question (USQ) procedures of the operating contractor showing the contractor's facility management responsible for the "declaration" of a USQ, in possible conflict with DOE-RL implementing procedures for DOE Order 5480.21. Those DOE-RL procedures indicate that the DOE programmatic Division Director responsible for the facility is responsible for the "declaration" of a USQ upon recommendation from the operating contractor. You asked the question, "Under DOE Order 5480.21, does the operating contractor have the authority to 'declare' a USQ?"

RESPONSE

Authorities and Responsibilities

The words "declare" or "declaration," "safety evaluation," and "determination" in conjunction with USQ in the Order and its guidance documents is an important part of the answer to the question. The Order (section 10) requires the operating contractor to perform safety evaluations in certain situations and the attachment to the Order (Chapter III, section 6) makes it clear that USQ safety evaluations and USQ determinations (USQDs) are the same thing. Section 9 of the Order provides that PSOs and heads of field organizations are authorized to declare USQs under certain conditions. That is, the operating contractor makes USQ determinations and the DOE can make USQ declarations.

Paragraph 8.c of the Order states: "It is the Department's policy that: Primary responsibility, authority, and accountability for the direction and management of the USQ process reside with the line management of the facility organizations responsible for the design and safety analysis." This refers to the operating contractor, and specifically, that part of the organization responsible for design and safety (not, for example, the part responsible for maintenance). This policy indicates that the operating contractor is expected to make USQ determinations.

Paragraphs 9.a(4) and 9.e(4) provide that PSOs (CSOs) and heads of field organizations have the authority and responsibility to "declare" the existence of a USQ when discovered. The intent of these provisions is related to their oversight responsibilities of the operating contractor. For example, DOE can evaluate facility operations, facility safety analyses, and USQ determination records and determine that a negative USQ determination was inappropriate. In that case, DOE can declare a

USQ. In these respects, DOE is in the position of confirming USQ determinations provided (or recommended) by the operating

contractor. However, the intent was not to place sole authority for identification of positive USQ situations with DOE. Of course, DOE can independently (of the operating contractor) discover a USQ and has the authority and responsibility to make a USQ declaration in that case.

In the e-mail transmittal, your question is put in the context of a discovery type of situation. However, the issue is more broadly based relative to all types of potential USQs. These types are described in the Order as follows. Paragraph 10.b specifies that a USQ safety evaluation shall be performed by the contractor for temporary or permanent changes in the facility as described in the existing safety analyses; for temporary or permanent changes in the procedures as described in the existing safety analyses; and for test or experiments not described in existing safety analyses. Paragraph 10.d calls for a USQ safety evaluation when a contractor identifies information that indicates a potential inadequacy of previous safety analyses or a possible reduction in the margin of safety as defined in the Technical Safety Requirements.

Proposed Changes

In the case of proposed changes, paragraph 7 of the Order states, "The concept of the Unreviewed Safety Question was established to allow contractors to make physical and procedural changes and to conduct tests and experiments without prior DOE approval, as long as these changes do not explicitly or implicitly affect the authorization basis of the facility or result in a Technical Safety Requirement change."

Paragraph 10.a requires the contractor to perform USQ safety evaluations to determine if DOE approval is required. Paragraph 10.b provides the criteria for determining which changes involve a USQ (that is, the USQ determination or USQD is positive). If any criterion is met, the contractor must submit the USQ to DOE for safety review and approval prior to implementation of the change.

Discovery USQs and Reporting

In background discussions dealing with discovery type USQs in your interpretation request, you reviewed the reporting practice followed at Hanford. In section 7.b (Background) of the Order, it is stated that DOE requires that a USQ determination be completed immediately for a potential inadequacy of a safety analysis. Section 10.d discusses the requirements more completely, including notification of DOE upon discovery, which can be done through the Occurrence Reporting requirements of DOE Order 232.1 (formerly, DOE Order 5000.3B). A December 29, 1992 USQ Interpretation Memorandum further qualified "immediate determination" to permit a "reasonable time period to confirm the existence of a potential inadequacy of a previous safety analysis." This refers to a reasonable time to confirm the potential for the inadequacy, not to confirm the inadequacy itself, which may take considerably longer. Therefore, the determination should be accomplished within a few days at most. It may take months to fully analyze the situation and confirm that the potential inadequacy is in fact a real inadequacy. Thus, there should be no situations where DOE is unaware for more than two hours at a minimum, and a few days at a maximum, of a potential inadequacy of the safety analysis and has an opportunity to confirm that appropriate

measures have been taken so that the facility is in a safe condition.

SUMMARY

Contractors have the authority and responsibility to make USQ determinations and to inform DOE of positive USQ determinations. DOE has the authority to declare a USQ, either from its own discoveries or in the process of oversight of contractor's USQ determinations.

/s/

Original signed by:

**Richard L. Black, Director
Office of Nuclear Safety
Policy and Standards**

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