



November 26, 1984

## **POLICY ISSUE** (Information)

SECY-84-449

For: The Commissioners

From: William J. Dircks  
Executive Director for Operations

Subject: RECOMMENDATIONS OF THE DEPARTMENT OF ENERGY'S ADVISORY  
PANEL ON ALTERNATIVE MEANS OF FINANCING AND MANAGING  
RADIOACTIVE WASTE FACILITIES

Purpose: To inform the Commissioners on the Panel's forthcoming  
recommendations in preparation for review of DOE's draft  
report to Congress

Background: Section 303 of the Nuclear Waste Policy Act requires the  
Secretary of Energy to "undertake a study with respect to  
alternative approaches to managing the construction and  
operation of all civilian radioactive waste facilities,  
including the feasibility of establishing a private  
corporation for such purpose." The Act directs the  
Secretary to "consult" with the Chairman of the Commission  
in conducting the study, which was to have been reported to  
Congress by January 7, 1984.

In carrying out these provisions, DOE elected to establish  
an Advisory Panel pursuant to the provisions of the Federal  
Advisory Committee Act. The background on the  
establishment of the Panel and a listing of Panel members  
was provided to the Commissioners in SECY-84-118 (March 15,  
1984). An update on the Panel's activities as of August  
1984 was provided to the Commissioners in SECY-84-338  
(August 23, 1984). The Panel held ten meetings between  
January and November of 1984, which were attended by NRC  
staff observers. The Director of NRC's Office of Nuclear  
Material Safety and Safeguards briefed the Panel on the  
Commission's regulatory role on February 22, 1984.

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WM Record File

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Discussion:

The Panel's tenth and final meeting on November 13 and 14 concluded in a meeting with Secretary Hodel to discuss their recommendations and forthcoming report. The report, which will be available in final draft form by December 7, concludes that several organizational forms are more suited than DOE for managing the waste program, including an independent federal agency or commission, a public corporation, and a private corporation. Among these alternative organizations, the draft report identifies a public corporation as the Panel's preferred alternative, as it best meets criteria the Panel developed for an acceptable waste management organization. In particular, the draft report indicates that a public corporation would be stable, highly mission-oriented, able to maintain credibility with stakeholders, and more responsive to regulatory control than a federal executive agency.

As described in the draft report, the corporation, "FEDCORP," would have a seven-member Board of Directors appointed by the President and confirmed by the Senate, serving staggered seven-year terms. The President would designate a Chairman of the Board. The Board would appoint a Chief Executive Officer to serve at their pleasure as manager of the corporation and to be an ex officio member of the Board.

Regarding financing, the draft report concludes that the fee on nuclear-generated electricity (currently 1 mil per kilowatt-hour) provided for in NWPA is fair, shows no evidence of serious flaw to date, and appears to be adaptable to a change in organizational structure.

The Panel's draft also recommends adoption of several specific program components which are independent of the type of organization Congress ultimately chooses to run the program. These could be instituted by DOE and later transferred to a new organization. Foremost among these, the Panel believes an Advisory Siting Council should be established by DOE, with representatives from all legitimate stakeholders. The Council would provide oversight concerning site selection processes, and would review and comment on siting recommendations made by the site selection authority. Under the Panel's plan, the NWPA procedures for State and Tribe participation in siting decisions would be retained. In addition, the draft report recommends that an oversight contractor with a systems

integration function should be hired, that a waste fund oversight commission and a scientific peer review board should be established, and that the selected organization should be exempted from civil service requirements.

In a letter to Secretary Hodel dated July 8, 1983, the Chairman indicated that the Commission intended to limit its area of consultation on the AMFM study to the examination of potential impacts on NRC regulatory responsibility which may flow from any recommended alternative management proposal. The Panel has stated that they do not intend any change in NRC's regulatory role as a result of their recommendations. The staff has expressed to the Panel that it would be of value to state the Panel's intent concerning regulation in the report to avoid any potential misunderstanding. Although the transfer of functions to a public corporation (or other organization) would affect some of NRC's procedures for doing business in the waste program, the staff does not expect any major impact on regulatory responsibilities.

The Panel expects to submit its final report to the Secretary before the start of the 99th Congress. After developing its own draft report to Congress, DOE is expected to submit the draft to the Commission for a brief review and consultation period. Secretary Hodel stated in a February 16, 1984 letter to Chairman Palladino that the NWPA consultation requirement cannot be met until the Chairman is given the opportunity to review and comment on the Department's draft report to Congress.

The staff will provide the Commission with copies of the final draft of the Panel's report when it is received (approximately December 7 according to present DOE plans), and within 30 days of the date of receipt we will also provide a staff review of that report with such recommendations as may be appropriate. No Commission action is anticipated to be required until such time as Secretary Hodel provides the Commission with his report to Congress for consultation as required by Section 303 of the NWPA. We can only assume at this time that his report will fundamentally reflect the recommendation of the Panel Report.

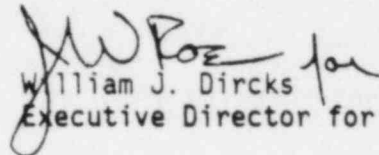
The staff notes that this action involves no new resource requirements.

The Commissioners

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Schedule:

The Panel expects to submit its final report to the Secretary before the beginning of the 99th Congress. It is expected that DOE's draft report to Congress will be forwarded to the Commission for review and comment shortly thereafter.

  
William J. Dircks  
Executive Director for Operations