

John T. Conway, Chairman
A.J. Eggenberger, Vice Chairman
John W. Crawford, Jr.
Joseph J. DiNunno
Herbert John Cecil Kouts

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

625 Indiana Avenue, NW, Suite 700, Washington, D.C. 20004
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March 15, 1995

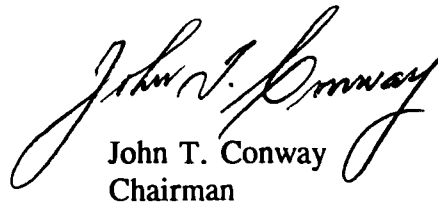
The Honorable Hazel R. O'Leary
Secretary of Energy
Washington, D.C. 20585

Dear Secretary O'Leary:

By letter dated February 13, 1995, (copy enclosed) Chairman Kathleen McGinty, Executive Office of the President, Council on Environmental Quality, requested that I designate a senior official from the Defense Nuclear Facilities Safety Board to participate as a member of the Advisory Committee on External Regulation of the Department of Energy.

This will confirm that in response to Ms. McGinty's request, Mr. Joseph J. DiNunno, member of the Defense Nuclear Facilities Safety Board, has been so designated.

Sincerely,


John T. Conway
Chairman

c: The Honorable Kathleen McGinty
The Honorable John F. Ahearn
The Honorable Charles B. Curtis
The Honorable Gerald F. Scannell

Enclosures (2)

DEPARTMENT OF ENERGY

CHARTER

ADVISORY COMMITTEE ON EXTERNAL REGULATION
OF DEPARTMENT OF ENERGY NUCLEAR SAFETY

1. Committee's Official Designation:

Advisory Committee on External Regulation of Department of Energy Nuclear Safety (the "Advisory Committee" or "Committee").

2. Objectives and Scope of Activities:

To provide advice, information and recommendations to the Secretary of Energy, the White House Office of Environmental Policy and the Office of Management and Budget, on whether and how new and existing Department of Energy facilities and operations, except those facilities and operations covered under Executive Order 12344 (U.S.C. 7158), might be externally regulated to ensure nuclear safety. The Committee shall conduct an assessment of the technical, regulatory, institutional and resource issues related to the potential establishment of an external regulatory regime for nuclear safety with respect to Department of Energy facilities and operations.

The assessment will begin with (a) an identification of the Department of Energy's nuclear facilities and operations now and projected in the future, and (b) an appraisal of the current nuclear safety oversight structure (no change from current law) in order to have a baseline against which to identify and measure meaningful improvements to nuclear safety, and to understand the implications, cost and otherwise, that would derive from options of change.

The assessment will include an evaluation of the historical separation between commercial and defense nuclear activities; the potential advantages and disadvantages of external safety regulation compared to the existing regulatory framework for environment, safety and health; and the concerns and criticisms that have been expressed about DOE's safety oversight by the Congress, the National Academy of Sciences, the Advisory Committee on Nuclear Facility Safety, the Defense Nuclear Facilities Safety Board, and others. Significant transition issues associated with any new regulatory regime will be identified, including a realistic appraisal of both Federal and non-Federal resource impacts.

The Committee's deliberations may result in a set of regulatory options, rather than a single recommendation, for establishing external regulation of nuclear safety at Department of Energy facilities and operations. In this event, the Committee report shall include a discussion of the advantages and disadvantages for each proposed regulatory option.

3. Description of Committee's Duties:

The duties of the Advisory Committee are solely advisory. They shall be:

- a. Conduct the assessment, as set forth in Section 2 of this Charter, and develop a report and recommendations on whether and how the Department of Energy might be externally regulated to ensure nuclear safety.
- b. Ensure that full consideration is given to the ongoing and planned Departmental efforts to ensure nuclear safety. The Committee shall conduct its activities so as not to detract from the Department's critical efforts to improve current safety conditions.
- c. Ensure meaningful and broad stakeholder participation in the assessment, and in the development of recommendations.

4. Officials to Whom this Committee Reports:

The Advisory Committee shall report to the Secretary of Energy. The Committee's report and recommendations shall be submitted simultaneously to the Secretary of Energy, the White House Office of Environmental Policy and the Office of Management and Budget.

5. Duration and Termination Date:

The Advisory Committee shall terminate thirty (30) days after submission of its report and recommendations to the Secretary of Energy, the White House Office of Environmental Policy and the Office of Management and Budget. The Committee will establish a due date during its initial deliberations. This Charter shall expire two (2) years from the date of its establishment, subject to renewal and extension by the Secretary of Energy.

6. Agency Responsible for Providing Necessary Support:

Direct financial and administrative support for the Committee shall be provided by the Department of Energy. Upon request, each participating Federal agency shall support the Committee by providing pertinent information relative to that agency. Some participating entities will also be asked to provide staff support to the Committee.

7. Estimated Annual Operating Cost:

The estimated annual operating cost of direct support to the Committee is \$1.0 million, and requires approximately eight (8) person-years of full-time staff support.

8. Estimated Number and Frequency of Meetings:

The Committee is expected to meet approximately eight (8) times, to be scheduled as the Committee deems necessary to complete its duties.

9. Subcommittees:

To facilitate the functioning of the Committee, subcommittees may be formed. The objective of the subcommittees would be to undertake fact-finding and analysis for the parent committee, with respect to matters which are related to the responsibilities of the parent committee.

The Chairperson, in consultation with the Under Secretary of Energy, will appoint members of subcommittees. Members from outside the Committee may be appointed to any subcommittee to secure the expertise necessary to conduct subcommittee business. Subcommittees shall meet as the Advisory Committee deems appropriate.

10. Members:

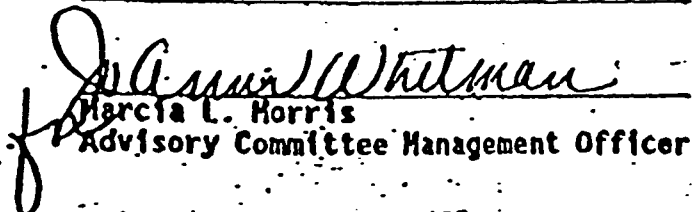
Approximately twenty (20) Advisory Committee members shall be appointed by the Secretary of Energy for a term of two years, which may be extended by the Secretary. Membership shall include representatives of the affected Federal entities, appropriate experts, and key non-Federal stakeholders. Membership shall reflect a balance of expertise and viewpoints. Non-Federal Committee members may be compensated in accordance with Federal law.

11. Chairperson:

The Secretary of Energy shall designate a Chairperson from among the members of the Advisory Committee.

This Charter for the Advisory Committee named above is hereby approved on:

Date: JAN 25 1995



Marcia L. Morris
Advisory Committee Management Officer

Date Filed: JAN 25 1995

Department of Labor, Occupational Health and Safety Administration, Nuclear Regulatory Commission, Defense Nuclear Facilities Safety Board, and Office of Management and Budget. Non-Federal participants will come from State governments; Indian Nations; national and local environment, safety and health organizations; management and operating contractor organizations; unions; and others.

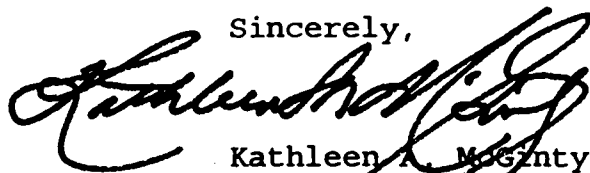
The Committee is expecting to hold approximately six public meetings. Meetings will be conducted primarily at locations near Department of Energy facilities to ensure opportunities to hear public testimony and tour DOE facilities. It is anticipated that the Committee will produce a final report on options and recommendations by the end of 1995.

The Department of Energy's representatives on the Committee will be Dr. Tara O'Toole, Assistant Secretary for Environment, Safety and Health, and Bruce G. Twining, DOE Albuquerque Operations Office Manager. The Executive Director is Thomas H. Issacs of the Department of Energy. The professional support and administrative staff is being drawn from participating federal entities, augmented by contractor staff as needed.

I am asking you to help by designating a senior official to participate as a member of the Advisory Committee on External Regulation of DOE Nuclear Safety.

Please respond directly to Secretary Hazel R. O'Leary with the name of your designee. If you have any questions, please call Thomas H. Issacs, 202-254-3826. Although the Department of Energy is taking the initiative to organize the Advisory Committee, its success depends upon the full cooperation of all participants. Thank you in advance for your assistance in this important endeavor for the environment, safety and health.

Sincerely,



Kathleen A. McGinty
Chair, Council on
Environmental Quality

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Enclosures



EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY
WASHINGTON, D.C. 20503

Kathleen A. McGinty
Chair

February 13, 1995

John T. Conway, Chairman
Defense Nuclear Facilities Safety Board
625 Indiana Ave., N.W., Suite 700
Washington, D.C. 20555

Dear Mr. Conway:

I am writing to ask your assistance through the designation of a senior official from your agency to participate in an independent Federal advisory committee to make recommendations on external regulation of nuclear safety at U.S. Department of Energy (DOE) facilities. DOE proposed such a task force during a March 8, 1994, hearing before Chairman Lehman's Subcommittee on Energy and Mineral Resources as a major step in the Department's continuing effort toward regulatory reform. This proposal was made in response to pending legislation that would have subjected DOE facilities to external nuclear safety regulation, and in anticipation of the Defense Nuclear Facilities Safety Board's recommendations regarding external oversight of the Department's nuclear facilities. (The Defense Board is required by statute to make such recommendation in its fifth annual report to Congress, due February 1995.) I am enclosing a copy of the charter for the Advisory Committee on External Regulation of DOE Nuclear Safety.

The Department and its predecessor agencies, the Atomic Energy Commission and the Energy Research and Development Administration, have operated for almost half a century as self-regulated entities subject to congressional oversight. However, in recent years, DOE has become increasingly subject to a variety of environmental and other forms of external regulation. At the same time, the magnitude and direction of DOE's national security and energy missions have been subject to major changes. In performing this new examination, the Department is encouraging the Committee to recommend whatever changes in regulatory oversight for environment, health, and safety of nuclear activities it finds appropriate and consistent with the current and anticipated DOE mission. The Committee also is expected to make recommendations concerning a regulatory structure that can achieve the most effective and efficient management of nuclear safety for all DOE facilities and operations.

The Committee will be comprised of senior federal officials and senior representatives of external stakeholder organizations. Federal participants are being requested from the Department of Defense, Department of Energy, Environmental Protection Agency,