ONE HUNDRED NINTH CONGRESS

U.S. House of Representatives
Committee on Energy and Commerce
Washington, DC 20515–6115

JOE BARTON, TEXAS
CHAIRMAN

November 10, 2005

The Honorable Samuel W. Bodman
Secretary
Department of Energy
Forrestal Building
1000 Independence Avenue, S.W.
Washington, D.C. 20585

Dear Secretary Bodman:

As you know, the report to accompany H.R. 2419, the FY2006 Energy and Water Development Appropriations bill, includes language providing $50 million to the Department of Energy (DOE) to "develop a spent nuclear fuel recycling plan." The report directs DOE to select one or more "advanced recycling technologies," to perform design work on an "Engineering Scale Demonstration" of such technology, to prepare "the overall program plan," and to "initiate a competition to select one or more sites suitable for development of integrated recycling facilities," including work on an Environmental Impact Statement.

The report language proposes that DOE make a total of $20 million available to as many as four "site offerors," and directs the Secretary to begin site selection competition by June 30, 2006, with a target for the initiation of construction of one or more recycling facilities in 2010.

This report language proposes a substantially new policy for nuclear waste disposal in this country, involves the expenditure of substantial sums, and raises a number of complex questions. In order to assist Members of Congress in understanding the implications of this legislation, we request that you respond to the attached questions by Wednesday, November 23, 2005.

Sincerely,

JOHN D. DINGELL
RANKING MEMBER

RICK BOUCHER
RANKING MEMBER
SUBCOMMITTEE ON ENERGY
AND AIR QUALITY

Attachment

cc: The Honorable Joe Barton, Chairman
Committee on Energy and Commerce

The Honorable Ralph M. Hall, Chairman
Subcommittee on Energy and Air Quality

Questions regarding FY2006 Energy and Water Development Appropriations Act (H.R. 2419)

1. Does the Administration support the policy set forth in the report language, including: (a) the expenditure of $50 million for the purpose of developing one or more "integrated recycling facilities"; (b) the requirement that the Department of Energy (DOE) conduct a competition to select one or more sites for such a facility (or facilities); and (c) the proposal to grant $20 million to "site offerors"?

2. Does DOE currently have statutory authority to select a site for, construct, and operate an "integrated recycling facility," pursuant to the Nuclear Waste Act, the Atomic Energy Act, or any other law? If so, please identify such existing authority and how it would authorize DOE to implement the policy set forth in the report language. If not, please identify what specific additional statutory authority would be needed.

3. If the Department currently has statutory authority to select a site for, construct, or operate an "integrated recycling facility":

   a. Does such authority bar location of such a facility in any specific location, such as the State of Nevada?

   b. Does such authority require licensing of any such facility by the Nuclear Regulatory Commission (NRC)?

   c. Would the Department's exercise of such authority be subject to the requirements of the National Environmental Policy Act (NEPA)? If so, at what point in the process proposed by the report language would such requirements be triggered? Would the Department be required to evaluate alternatives to the proposed action?

4. Please provide a list of all DOE sites that would be eligible for the type of integrated recycling facility described by this report language. What other types of Federal sites would be eligible?

5. How would the Department include DOE sites in the competition for siting an integrated recycling facility? Who would speak for the site – the contractor, the community, the Governor of the affected State?

6. How realistic are the deadlines set forth in the report language – submission by the Secretary of a "detailed program plan" to Congress by March 31, 2006; initiation of the site selection competition by June 30, 2006; site selection in FY2007; and initiation of construction of one or more facilities by FY2010?

7. What impact would implementation of this report language have on the Department's ability to fulfill its responsibility to construct and operate a permanent repository under the Nuclear Waste Policy Act? Specifically, please describe the impact on budget priorities, personnel, and other resources necessary for the Yucca Mountain repository program.

8. How would the Department ensure that the $20 million provided under this report language for "site offerors" (applicants to host an integrated recycling facility) is spent wisely?

9. Press reports indicate that in a speech before the 2005 Carnegie International Nonproliferation Conference on November 7, 2005, Secretary Bodman proposed that developed nuclear countries offer "cradle-to-grave" nuclear fuel services for other countries who agree to forego plans for enrichment and reprocessing. Does the Secretary's proposal depend on the U.S. adopting a policy similar to that proposed in the report language?

10. The bill also slashed funding for the Yucca Mountain program conducted pursuant to the Nuclear Waste Policy Act to $450 million, $127 million less than the FY2005 funding level and $201 million less than the Administration's FY2006 request.

    a. How much money is expected to be contributed by ratepayers to the Nuclear Waste Fund in FY2006?

    b. How much of the amount ratepayers contribute will be appropriated from the Nuclear Waste Fund for the Yucca Mountain repository program during FY2006?

    c. What, if any, assurance do ratepayers have that the amount of money they contribute to the Nuclear Waste Fund in FY2006 above that which is appropriated to the Yucca Mountain repository for that year will be spent for its intended purpose – and not effectively diverted to other spending priorities?

    d. Please describe how the reduction of $201 million compared to your request will affect the program activities described in your request.