

# MAINE STATE LEGISLATURE

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**ADVISORY COMMISSION ON RADIOACTIVE WASTE  
AND DECOMMISSIONING**

**SUNSET REVIEW REPORT**

**Pursuant to the Government Evaluation Act  
(MRSA Title 3, Chapter 35)**

**December 27, 1999**

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 JOHN M. NUTTING, DISTRICT 20  
 JAMES D. LIBBY, DISTRICT 34

AMY B. HOLLAND, LEGISLATIVE ANALYST  
 DAVID C. WEBB, LEGISLATIVE ANALYST  
 MELISSA HINKLEY, COMMITTEE CLERK



STATE OF MAINE

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 ROBERT A. DAIGLE, ARUNDEL  
 DAVID L. TOBIN, WINDHAM

ONE HUNDRED AND NINETEENTH LEGISLATURE

COMMITTEE ON NATURAL RESOURCES

April 30, 1999

Senator Richard J. Carey, Chair  
 Advisory Commission on Radioactive Waste and Decommissioning  
 10 State House Station  
 Augusta, Maine

Dear Senator Carey,

As you know, the Government Evaluation Act (MRSA Title 3, chapter 35) establishes a process for legislative committees to review and evaluate agencies within their jurisdiction. In accordance with that law, we are informing you of our intent to review the Advisory Commission on Radioactive Waste and Decommissioning during the Second Regular Session of the 119th Legislature.

That law requires the Commission to prepare and submit a program evaluation report to the Natural Resources Committee by November 1, 1999. That program evaluation report must include the following information in a concise but complete manner:

- A. Enabling or authorizing law or other relevant mandate, including any federal mandates;
- B. A description of each program administered by the agency or independent agency, including the following for each program:
  - (1) Established priorities, including the goals and objectives in meeting each priority;
  - (2) Performance criteria, timetables or other benchmarks used by the agency to measure its progress in achieving the goals and objectives; and
  - (3) An assessment by the agency indicating the extent to which it has met the goals and objectives, using the performance criteria. When an agency has not met its goals and objectives, the agency shall identify the reasons for not meeting them and the corrective measures the agency has taken to meet the goals and objectives;

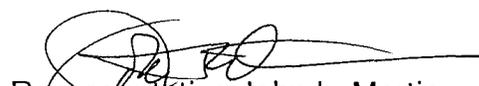
- C. Organizational structure, including a position count, a job classification and an organizational flow chart indicating lines of responsibility;
- D. Compliance with federal and state health and safety laws, including the Americans with Disabilities Act, the federal Occupational Safety and Health Act, affirmative action requirements and workers' compensation;
- E. Financial summary, including sources of funding by program and the amounts allocated or appropriated and expended over the past 10 years;
- F. When applicable, the regulatory agenda and the summary of rules adopted;
- G. Identification of those areas where an agency has coordinated its efforts with other agencies in achieving program objectives and other areas in which an agency could establish cooperative arrangements;
- H. Identification of the constituencies served by the agency or program, noting any changes or projected changes;
- I. A summary of efforts by an agency or program regarding the use of alternative delivery systems, including privatization, in meeting its goals and objectives;
- J. Identification of emerging issues for the agency in the coming years; and
- K. Any other information specifically requested by the committee of jurisdiction.

The committee will start its review of the Commission no later than February 1, 2000, as provided in law, and we anticipate submitting our findings, recommendations and any implementing legislation to the Legislature no later than March 15, 2000.

Thank you for your cooperation in this matter. We look forward to working with you.

Sincerely,

  
Senator Sharon Anglin Treat  
Senate Chair

  
Representative John L. Martin  
House Chair

cc: Members, Natural Resources Committee  
Senator Mark W. Lawrence, President of the Senate  
Representative G. Steven Rowe, Speaker of the House  
Dale Randall, Radioactive Waste Coordinator, DHS

## Advisory Commission on Radioactive Waste & Decommissioning

Sen. Richard Carey (Chair)  
Sen. Sharon Treat  
Sen. Norman Ferguson  
Rep. David Shiah  
Rep. Charles Laverdiere  
Steven Keegan, Southern Maine Medical Center  
Jaime Mallon, Maine Yankee Atomic Power Plant  
Joseph Blinick, Ph.D., Maine Medical Center

Hon. James Mitchell, Public Member  
Hon. June Meres, Public Member  
Don Hudson, Chewonki Foundation  
Ron Ouellette, Maine Yankee Citizen's Advisory Panel  
Clough Toppan, P.E., Dept. of Human Services  
Bob Demkowicz, Dept. of Environmental Protection  
Robert Marvinney, Ph.D., Representing Dept. of Conservation

November 10, 1999

Sen. Sharon A. Treat, Chair  
Rep. John L. Martin, Chair  
Committee on Natural Resources  
115 State House Station  
Augusta, Maine 04333-0115

Dear Sen. Treat and Rep. Martin:

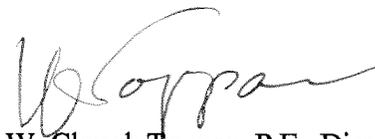
As you are aware, the Committee on Natural Resources in accordance with the State Government Evaluation Act is required to review the activities of the Advisory Commission on Radioactive Waste and Decommissioning (ACRW&D) and submit a report to the Legislature no later than March 15, 2000.

I am writing to acknowledge the fact that while the ACRW&D was notified of the report requirement in a timely manner, the notification was made to a brand new staff person and unfortunately the notice was not given the proper attention. Staff has since had a number of discussions with your committee's staff support, Amy Holland, and is now working to complete the report.

Specifically, the report requirement was brought up at the last ACRW&D meeting on October 21, 1999. The Commission Chair, Sen. Richard Carey, appointed a sub-committee to draft the necessary report immediately. The sub-committee, chaired by former Representative June Meres, met on November 9, 1999, and sees no problem in completing the report promptly. The next ACORW&D meeting is scheduled for December 14, 1999 where the workgroup will present the report to the Commission for final approval.

We expect the final approved report to be submitted to your office in time for the start of the legislative session. I apologize for the lateness of this report and would be pleased to answer any questions you may have. I can be reached at 287-5686.

Respectfully yours,



W. Clough Toppan, P.E., Director  
Division of Health Engineering

WCT/



STATE OF MAINE  
DEPARTMENT OF HUMAN SERVICES  
DIVISION OF HEALTH ENGINEERING  
10 STATE HOUSE STATION  
AUGUSTA, MAINE  
04333-0010

ANGUS S. KING, JR.  
GOVERNOR

KEVIN W. CONCANNON  
COMMISSIONER

December 29, 1999

Senator Sharon Anglin Treat, Chair  
Representative John L. Martin, Chair  
Committee on Natural Resources  
115 State House Station  
Augusta, Maine 04333-0115

To Whom It May Concern:

Enclosed please find the Government Evaluation Act report that was requested in your letter dated April 30, 1999 to Senator Richard J. Carey, Chair of the Advisory Commission on Radioactive Waste and Decommissioning.

We hope that all the questions have been answered to your satisfaction, but if you have any additional questions we would be glad to provide you with whatever information you need. If you need to contact the Commission staff person you can call Tom Hillman in the Radiation Control Program at 287-8401.

If you would like to contact me, I can be reached at 287-5686.

Sincerely,

A handwritten signature in black ink, appearing to read "W. Clough Toppan".

W. Clough Toppan, P.E.  
Director  
Division of Health Engineering  
Bureau of Health



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## Introduction

The enclosed report is in response to the Government Evaluation Act (MRSA Title 3, chapter 35) which establishing a process for legislative committees to review and evaluate agencies within their jurisdiction. In accordance with that law, the Advisory Commission on Radioactive Waste and Decommissioning has completed, and answered to its best ability, items A to K.

The report is set up in a format that addresses each item.

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**ITEM A:** The following Enabling Statutes apply to the Advisory Commission on Radioactive Waste and Decommissioning (ACORWD).

**TITLE 38: WATERS AND NAVIGATION**

- CHAPTER 14-A: NUCLEAR WASTE ACTIVITY
- SUBCHAPTER I: GENERAL PROVISIONS
- § 1453-A. Advisory Commission on Radioactive Waste and Decommissioning

**1. Establishment; Purpose.**

The Advisory Commission on Radioactive Waste and Decommissioning, referred to in this section as the "commission," is established. The commission shall advise the Governor, the Legislature and other pertinent state agencies and entities on matters relating to radioactive waste management and decommissioning of nuclear power plants and provide information to the public and create opportunities for public input in order to facilitate public understanding of radioactive waste and decommissioning issues.

[1997, c. 700, §3 (amd).]

**2. Membership;**

Appointment. The commission consists of 17 members, appointed as follows:

- A. The commissioner or the commissioner's designee; [1997, c. 700, §4 (ren).]
- B. The Commissioner of Human Services or the commissioner's designee; [1993, c. 664, §15 (new); §21 (aff).]
- C. The State Geologist or a designee; [1993, c. 664, §15 (new); §21 (aff).]
- D. One person from a commercial nuclear power facility situated in the State, appointed by the Governor; [1993, c. 664, §15 (new); §21 (aff).]
- E. Two persons from organizations that hold licenses issued by the State for the use of radioactive material, one appointed by the President of the Senate and one appointed by the Speaker of the House of Representatives; [1993, c. 664, §15 (new); §21 (aff).]
- F. Three Senators, appointed by the President of the Senate, at least one belonging to the political party holding the largest number of seats in the Senate and at least one belonging to the political party holding the 2nd largest number of seats in the Senate. One of the Senators appointed must serve on the joint standing committee of the Legislature having jurisdiction over natural resources matters and one Senator must serve on the joint standing committee of the Legislature having jurisdiction over utility and energy matters; [1997, c. 700, §4 (amd).]

G. Three members of the House of Representatives, appointed by the Speaker of the House of Representatives, at least one belonging to the political party holding the largest number of seats in the House of Representatives and at least one belonging to the political party holding the 2nd largest number of seats in the House of Representatives. One member of the House of Representatives appointed must serve on the joint standing committee of the Legislature having jurisdiction over natural resources matters and one member of the House of Representatives must serve on the joint standing committee of the Legislature having jurisdiction over utility and energy matters; [1997, c. 700, §4 (amd).]

H. Four members of the general public with a knowledge of and interest in the management of radioactive materials and radioactive waste, 2 of whom are appointed by the Governor, one of whom is appointed by the President of the Senate and one of whom is appointed by the Speaker of the House of Representatives. Of these 4 members, one must be a resident of the local community in which the nuclear power plant is located and one must represent a local advisory group on nuclear power plants; and [1997, c. 700, §4 (amd).]

I. One member representing an environmental advocacy organization, appointed by the Speaker of the House of Representatives. [1997, c. 700, §4 (new).]

The terms of the legislative members expire the first Wednesday in December of even-numbered years. The terms of the public member appointed by the President of the Senate, one public member appointed by the Governor and the licensee member appointed by the Speaker of the House of Representatives expire December 31, 1997 and every 2 years thereafter. The terms of the public member appointed by the Speaker of the House of Representatives, the licensee member appointed by the President of the Senate and one public member appointed by the Governor expire December 31, 1996 and every 2 years thereafter. The term of the member representing an environmental advocacy organization expires December 31, 2000 and every 2 years thereafter. Notwithstanding this subsection, any public member or licensee member may be removed by the appointing authority at the pleasure of the appointing authority and a new member may be appointed to complete the term of the preceding appointee. Members may continue to serve until their replacements are designated. Vacancies must be filled by the appointing authority to complete the term of the preceding appointee. The commission shall elect the chair and vice-chair from its membership by majority vote of all members present. [1997, c. 700, §4 (amd).]

### **3. Duties:**

The duties of the commission are to:

A. Provide opportunities for public input and disseminate information to the general public and promote public understanding concerning the management of radioactive waste and the decommissioning of nuclear power plants; [1997, c. 700, §5 (amd).]

B. Study the management, transportation, treatment, storage and disposal of radioactive waste, including high-level and low-level radioactive waste and mixed waste, generated in this State; [1993, c. 664, §15 (new); §21 (aff).]

B-1. Study issues relating to the decommissioning of nuclear power plants, including, but not limited to, environmental issues; [1997, c. 700, §6 (new).]

B-2. Monitor the decommissioning of nuclear power plants; [1997, c. 700, §6 (new).]

C. Monitor methods, criteria and federal timetables for siting and constructing high-level radioactive waste repositories or storage facilities; [1993, c. 664, §15 (new); §21 (aff).]

D. Monitor the Texas siting effort and Texas Low-Level Radioactive Waste Disposal Compact Commission activities and, if events require, propose legislation to reinstitute an in-state siting effort for the storage or disposal of low-level radioactive waste in the State; [1993, c. 664, §15 (new); §21 (aff).]

E. Advise the Governor, the Legislature, the department and the Department of Human Services or their successors, the State's member of the Texas Low-Level Radioactive Waste Disposal Compact Commission and other pertinent state agencies and entities, as appropriate, on relevant findings and recommendations of the commission; [1993, c. 664, §15 (new); §21 (aff).]

F. Receive a written report from the State's member of the Texas Low-Level Radioactive Waste Disposal Compact Commission within 60 days after a meeting of that commission or an oral report from that member at the next scheduled meeting of the Maine Commission on Radioactive Waste, whichever comes first; and [1993, c. 664, §15 (new); §21 (aff).]

G. Prepare a newsletter recording developments relevant to radioactive waste issues. [1993, c. 664, §15 (new); §21 (aff).]  
[1997, c. 700, §§5, 6 (amd).]

#### **4. Meetings and reports.**

The commission shall meet at least 4 times a year. The commission shall submit an annual report of activities to the Governor, the President of the Senate, the Speaker of the House of Representatives, the joint standing committee of the Legislature having jurisdiction over natural resource matters and the joint standing committee of the Legislature having jurisdiction over utility and energy matters by February 15th of each year.

[1997, c. 700, §7 (amd).]

## **5. Compensation.**

Members of the commission are entitled to legislative per diem in compensation for attendance at commission meetings in accordance with the provisions of Title 5, chapter 379, except that all legislative members of the commission must obtain prior approval of out-of-state travel from their respective presiding officers.

[1993, c. 664, §15 (new); §21 (aff).]

## **6. Staff assistance.**

The Department of Human Services and the department shall provide assistance to the commission in the conduct of its business. The State Nuclear Safety Advisor and the Public Advocate shall provide consultation as requested.

[1997, c. 700, §8 (amd).]

## **7. Repeal.**

This commission is subject to review and terminates in accordance with Title 3, chapter 35, not including the grace period, no later than June 30, 1999, unless continued or modified by law.

[1995, c. 488, §5 (amd).]

Section History: 1993, c. 664, § 15 (NEW). 1993, c. 664, § 21 (AFF). 1995, c. 333, § 3,4 (AMD). 1995, c. 488, § 5 (AMD). 1995, c. 642, § 13,14 (AMD). 1997, c. 700, § 2-8 (AMD).

## **§ 1454-A. Radioactive Waste Advisory Commission Fund**

### **1. Establishment.**

There is established the Radioactive Waste Advisory Commission Fund to be used to carry out the purposes of this chapter. Money allocated to the commission from this fund must be administered by the Commissioner of Human Services in accordance with established budgetary procedures and this section. The commissioner may accept state, federal and private funds to be used as appropriate to carry out the functions of the Advisory Commission on Radioactive Waste as set forth in section 1453-A.

[1995, c. 333, §5 (amd).]

### **2. Allocation.**

Money in the fund established by this section must be allocated from time to time by the Legislature to the Department of Human Services to fund advisory and public

information activities of the commission. These amounts become available in accordance with Title 5, chapters 141 to 155.

The commission may receive and expend federal grants and payments for the purpose of carrying out its duties.

[1995, c. 333, §5 (amd).]

### **3. Balance carried forward.**

Any unexpended balance does not lapse, but must be carried forward to the same fund for the next fiscal year and must be available for the purposes authorized by this chapter.

[1993, c. 664, §17 (new).]

### **4. Financial reports.**

The Commissioner of Human Services shall report quarterly to the Advisory Commission on Radioactive Waste and annually, before February 1st, to the joint standing committee of the Legislature having jurisdiction over natural resource matters on the expenditures from the Radioactive Waste Advisory Commission Fund for the previous fiscal year and on the budget for the coming year. Those reports must include line item detail on expenditures, including in-state travel and out-of-state travel, printing, mailing and hearings, personnel, consultant services, general operating expenses, supplies and overhead for the commission and transfers of funds under subsection 5.

[1995, c. 333, §5 (amd).]

### **5. Transfer of funds.**

Notwithstanding Title 5, section 1585, funds allocated under this section may be transferred as necessary to accomplish the purposes of this chapter from the Department of Human Services to other agencies, including the Department of Environmental Protection, Natural Resources Information and Mapping Center, Maine Land Use Regulation Commission, Division of Health Engineering and the State Planning Office.

[1995, c. 333, §5 (amd); c. 502, Pt. E, §32 (amd).]

Section History:

1993, c. 664, § 17 (NEW). 1995, c. 333, § 5 (AMD). 1995, c. 502, § E32 (AMD).

## **TITLE 22: HEALTH AND WELFARE**

- SUBTITLE 2: HEALTH
- PART 2: STATE AND LOCAL HEALTH AGENCIES
- CHAPTER 160: RADIATION PROTECTION ACT

§ 679. Low-level radioactive waste disposal State regulation of low-level radioactive waste disposal is subject to the primary jurisdiction of the Department of Human

Services, as specified in section 676, except that disposal of low-level radioactive waste in the State is also subject to regulation by the Department of Environmental Protection. [1993, c. 664, §9 (amd).]

Section History:

1983, c. 345, § 13,14 (NEW). 1993, c. 664, § 9 (AMD).

**§ 679-A. Low-level radioactive waste management**

**1. Designated.**

The department is designated as the agency to fulfill the state regulatory and enforcement requirements for the Texas Low-Level Radioactive Waste Disposal Compact, referred to in this chapter as the "compact." The department shall also execute the administrative requirements of the compact as defined in subsection 2, paragraph B.

[1993, c. 664, §10 (new).]

**2. Duties of the department.**

The department shall:

A. Develop rules to fulfill the State's responsibilities and requirements for the compact pursuant to the contract requirements set forth in Article IV, Section 4.05, subsections (1) to (4), (6) and (8) of the compact. [1993, c. 664, §10 (new).]

B. Provide for the disbursement of funds from the Radioactive Waste Fund to fulfill the requirements of Article IV, Section 4.05, subsection (6) of the compact, to compensate the state commission member and to fund the activities of the Advisory Commission on Radioactive Waste as described in Title 38, section 1453-A; and [1993, c. 664, §10 (new).]

C. Report annually to the Advisory Commission on Radioactive Waste on its activities pertaining to this section. [1993, c. 664, §10 (new).]

[1993, c. 664, §10 (new).]

**3. Employees.**

To fulfill the requirements of this section, the department may employ staff subject to the Civil Service Law.

[1993, c. 664, §10 (new).]

Section History:

1993, c. 664, § 10 (NEW).

## **§ 679-B. Radioactive Waste Fund**

### **1. Establishment.**

There is established the Radioactive Waste Fund to be used to carry out the purposes of this chapter. Money allocated from this fund must be administered by the commissioner in accordance with established budgetary procedures and this section. The commissioner may accept state, federal and private funds to be used as appropriate to ensure safe and effective low-level radioactive waste management and to monitor and evaluate plans for storage and disposal of high-level radioactive waste.

[1993, c. 664, §10 (new).]

### **2. Service fee;**

ceiling. Except for waste that is exempt in accordance with subsection 4, the department shall assess annually by September 1st each low-level radioactive waste generator a service fee on all low-level radioactive waste generated in this State that is shipped to a low-level radioactive waste disposal facility, stored awaiting disposal at such a facility or stored for any other purpose. The service fee must be based 50% on the volume and 50% on the radioactivity of the waste disposed in a disposal facility in the previous calendar year or placed in storage in the previous calendar year if the State did not have access to a disposal facility for that year, but each generator must be assessed a minimum of \$100 annually. Each generator must pay this service fee within 30 days, except that any generator may choose to make quarterly payments instead. Any radioactive waste for which a service fee was assessed and collected under this section can not be reassessed for the purposes of this section. The radiation control program within the Division of Health Engineering shall adopt rules in accordance with the Maine Administrative Procedure Act concerning the calculation of the fee and the exemptions to the fee, consistent with this section. The revenue from this service fee each year must amount to \$135,000 and must be credited to the fund established in subsection 1 and used to carry out the purposes of this section and of Title 38, section 1453-A. If the Advisory Commission on Radioactive Waste, as established in Title 38, section 1453-A is dissolved, the service fee ceiling must be lowered by the amount of the budget of that commission.

[1995, c. 333, §1 (amd).]

### **3. Compact fee assessment;**

ceiling. In addition to the service fee assessed under subsection 2, the commissioner shall annually by September 1st, beginning in 1994, assess any amount necessary to fulfill the payment requirements to the Texas Low-Level Radioactive Waste Disposal Compact Commission pursuant to section 679-A, subsection 2, paragraph B less any balance carried forward under subsection 6. The commissioner shall assess each generator such a fee using the same method for computing individual assessments as set out in subsection

2. Each generator must pay the fee within 30 days, except that any generator may choose to make quarterly payments instead.  
[1993, c. 664, §10 (new).]

#### **4. Fee exemptions.**

The following types of low-level radioactive waste are exempt from the fees established in subsections 2 and 3:

A. Waste that is authorized by the United States Nuclear Regulatory Commission for disposal without regard to its radioactivity; [1993, c. 664, §10 (new).]

B. Waste that is authorized by the United States Nuclear Regulatory Commission to be stored at the site of generation for decay and ultimate disposal without regard to its radioactivity; and [1993, c. 664, §10 (new).]

C. Radioactive waste or other material that is returned to the vendor, including, but not limited to, sealed sources. [1993, c. 664, §10 (new).]  
[1993, c. 664, §10 (new).]

#### **5. Allocation from fund.**

Money in the Radioactive Waste Fund established by this section must be allocated from time to time by the Legislature for the following purposes: to the Radioactive Waste Advisory Commission Fund as established in Title 38, section 1454-A to fund the activities of the Advisory Commission on Radioactive Waste as described in Title 38, section 1453-A for advisory and public information activities; and to the department for administrative and regulatory activities as described in this section. These amounts become available in accordance with Title 5, chapters 141 to 155.

The department may receive and expend federal grants and payments for the purpose of carrying out its duties set out in section 679-A, subsection 2.  
[1995, c. 333, §2 (amd).]

#### **6. Balance carried forward.**

Any unexpended balance in the Radioactive Waste Fund may not lapse, but must be carried forward in the same amount for the next fiscal year and must be available for the purposes authorized by this chapter.  
[1993, c. 664, §10 (new).]

#### **7. Financial reports.**

The department shall report annually before February 1st to the joint standing committee of the Legislature having jurisdiction over natural resource matters on the income to and expenditures from the Radioactive Waste Fund for the previous year and on the budget for the coming year. Those reports must include total fees received from each generator,

line item detail on expenditures including in-state travel and out-of-state travel, printing, mailing and hearings, personnel, consultant services, general operating expenses, supplies and overhead for the department and transfer of funds under subsection 8.  
[1993, c. 664, §10 (new).]

#### **8. Transfer of funds.**

Notwithstanding Title 5, section 1585, funds allocated under this section must be transferred as necessary to accomplish the purposes of this section and Title 38, chapter 14-A from the department to other agencies, including the Department of Environmental Protection, the State Planning Office, the Natural Resources Information and Mapping Center and the Maine Land Use Regulation Commission.  
[1993, c. 664, §10 (new); 1995, c. 502, Pt. E, §32 (amd).]

#### Section History:

1993, c. 664, § 10 (NEW). 1995, c. 333, § 1,2 (AMD). 1995, c. 502, § E32 (AMD).

**ITEM B: Description of program including, established priorities, goals, objectives, performance criteria, progress, or reasons for not meeting goals, objectives or making progress.**

#### 1. Duties of the Advisory Commission on Radioactive Waste and Decommissioning

- A. Provide opportunities for public input and disseminate information to the general public and promote public understanding concerning the management of radioactive waste.
- B. Study the management, transportation, treatment, storage and disposal of radioactive waste, including high-level and low-level radioactive waste and mixed waste, generated in this state.
- C. Monitor the methods, criteria and federal timetables for siting and constructing high-level radioactive waste repositories or storage facilities.
- D. Monitor the Texas siting effort and Texas Low-Level Radioactive Waste Disposal Compact Commission activities and, if events require, propose legislation to reinstate an in-state siting effort for the storage or disposal of low-level radioactive waste in the state.
- E. Advise the Governor, the Legislature the department and the Department of Environmental Protection or their successors, the state's member of the Texas Low-Level Radioactive Waste Disposal Compact Commission and other pertinent state agencies and entities, as appropriate, on relevant findings and recommendations of the commission.
- F. Receive a written report from the State's member of the Texas Low-Level Radioactive Waste Disposal Compact Commission within 60 days after a meeting of

that Commission or an oral report from that member at the next scheduled meeting of the Advisory Commission on Radioactive Waste, whichever comes first.

- G. Prepare a newsletter recording developments relevant to radioactive waste issues.

## 2. The priorities of the ACORWD

- A. The decommissioning of the Maine Yankee Atomic Power Plant.
- B. Study the management, transportation, treatment, storage and disposal of radioactive waste.
- C. Provide opportunities for public input and disseminate information to the general public.
- D. Monitoring the Texas siting effort of the Texas Compact (Texas, Maine and Vermont).
- E. All remaining duties are set as equal after the first four.

The siting effort was of high priority in the past, but has since diminished due to the negative results in Texas' effort to locate a site. Current legislation in Texas has stalled the effort until the year 2002 when their session reconvenes. Increased activity and concern on the Maine Yankee Decommissioning has elevated this issue to the number one priority of the Commission.

## 3. Assessment in meeting its duties

- A. The Commission meetings are open to the public and a portion is dedicated to public comments. One group that repeatedly is heard from at meetings is "Friends of the Coast". Information is disseminated to the public by means of a newsletter (mentioned below) and a WEB site. The site can be found on the State of Maine WEB site. The site is maintained by the Radiation Control Program and contains information and links to other related sites in order to promote public understanding concerning the management of radioactive waste.  
Site: <http://janus.state.me.us/dhs/eng/rad/rad.htm>.
- B. Meetings of the Commission present speakers and have provided site visits that study the management, transportation, treatment, storage and disposal of radioactive waste, including high-level and low-level radioactive waste and mixed waste, generated in this State. Staffing provided by the Radiation control Program creates a "subject matter expert" base of knowledge for the Commission. The RCP staff attend courses in management, treatment, storage, transportation and disposal in order to accomplish the duties of their own program. Knowledge is passed onto the Commission and public by meeting presentations, newsletters and the WEB site. A number of the Commission members and regular attendees are also expert in this field and share their knowledge and experiences.
- C. The Commission is made up from a broad range background pertinent to the subject of radiation. Meeting are regularly attended by Uldis Vanags of the State Planning

Office, representatives of Maine Yankee and the public. Uldis Vanags is also the state member of the Texas Low-level Radioactive Waste Disposal Compact Commission. As a result, the Commission is well informed of methods, criteria and federal timetables

D. The Commission monitors the high-level radioactive waste effort and the Texas siting effort by means of information collected by the Radiation Control Program. The program receives updates from the Low Level Waste Forum published by Afton Associates. This information is disseminated to the Commission during meeting and to the public through the WEB site and newsletter.

The commission is a key body in tracking the events in the country and state in the matters of radioactive waste.

E/F. Advises the Governor and receives the Texas report. This has never been fulfilled because there is not a active Texas Compact Commission and they have never met.

G. The commission is striving to increase its public outreach due to the nature of the decommissioning process at Maine Yankee. This will constitute reviving a former newsletter process and increased coverage on the state webpage.

**ITEM C: Organizational structure including a position count, and job classifications, and an organizational flow chart indicating lines of responsibility.**

ADVISORY COMMISSION ON RADIOACTIVE WASTE and DECOMMISSIONING

The Advisory Commission on Radioactive Waste and Decommissioning is an appointed State commission charged with advising the Governor, the Legislature and other pertinent state agencies and entities on matters relating to radioactive waste management and provide information to the public and create opportunities for public input in order to facilitate public understanding of radioactive waste issues. The commission consists of 17 members, appointed as follows:

A. The commissioner or the commissioner's designee; [1997, c. 700, §4 (ren).]

B. The Commissioner of Human Services or the commissioner's designee; [1993, c. 664, §15 (new); §21 (aff).]

C. The State Geologist or a designee; [1993, c. 664, §15 (new); §21(aff).]

D. One person from a commercial nuclear power facility situated in the State, appointed by the Governor; [1993, c. 664, §15 (new); §21 (aff).]

E. Two persons from organizations that hold licenses issued by the State for the use of radioactive material, one appointed by the President of the Senate and one appointed by the Speaker of the House of Representatives; [1993, c. 664, §15 (new); §21 (aff).]

F. Three Senators, appointed by the President of the Senate, at least one belonging to the political party holding the largest number of seats in the Senate and at least one belonging

to the political party holding the 2nd largest number of seats in the Senate. One of the Senators appointed must serve on the joint standing committee of the Legislature having jurisdiction over natural resources matters and one Senator must serve on the joint standing committee of the Legislature having jurisdiction over utility and energy matters; [1997, c. 700, §4 (amd).]

G. Three members of the House of Representatives, appointed by the Speaker of the House of Representatives, at least one belonging to the political party holding the largest number of seats in the House of Representatives and at least one belonging to the political party holding the 2nd largest number of seats in the House of Representatives. One member of the House of Representatives appointed must serve on the joint standing committee of the Legislature having jurisdiction over natural resources matters and one member of the House of Representatives must serve on the joint standing committee of the Legislature having jurisdiction over utility and energy matters; [1997, c. 700, §4 (amd).]

H. Four members of the general public with a knowledge of and interest in the management of radioactive materials and radioactive waste, 2 of whom are appointed by the Governor, one of whom is appointed by the President of the Senate and one of whom is appointed by the Speaker of the House of Representatives. Of these 4 members, one must be a resident of the local community in which the nuclear power plant is located and one must represent a local advisory group on nuclear power plants; and [1997, c. 700, §4 (amd).]

I. One member representing an environmental advocacy organization, appointed by the Speaker of the House of Representatives. [1997, c. 700, §4 (new).]

The terms of the legislative members expire the first Wednesday in December of even-numbered years. The terms of the public member appointed by the President of the Senate, one public member appointed by the Governor and the licensee member appointed by the Speaker of the House of Representatives expire December 31, 1997 and every 2 years thereafter. The terms of the public member appointed by the Speaker of the House of Representatives, the licensee member appointed by the President of the Senate and one public member appointed by the Governor expire December 31, 1996 and every 2 years thereafter. The term of the member representing an environmental advocacy organization expires December 31, 2000 and every 2 years thereafter. Notwithstanding this subsection, any public member or licensee member may be removed by the appointing authority at the pleasure of the appointing authority and a new member may be appointed to complete the term of the preceding appointee. Members may continue to serve until their replacements are designated. Vacancies must be filled by the appointing authority to complete the term of the preceding appointee. The commission shall elect the chair and vice-chair from its membership by majority vote of all members present.[1997, c. 700, §4 (amd).]

Status/Name	Termination Date	Representing
Active – Bob Demkowicz Dept. of Environmental Protection State House Station # 17 Augusta, ME 04333 287-7680 FAX: 287-2814 287-7681 bob.a.demkowicz@state.me.us	Seat 1	Department of Environmental Protection Commissioner or Designee
Active - Clough Toppan, P.E., Director Division of Health Engineering 10 State House Station Augusta, ME 04333-010 287-5686 FAX: 287-4172 e-mail: clough.toppan@state.me.us	Seat 2	Department of Human Services Commissioner or Designee
Active - Dr. Robert Marvinney State Geologist 22 State House Station Augusta, ME 04333-0022 287-2801 FAX: 287-2353 e-mail: robert.marvinney@state.me.us	Seat 3	Maine State Geologist or Designee
Active - Jaime Mallon Maine Yankee Atomic Power Plant 321 Old Ferry Road Wiscasset, ME 04578 882-5643 FAX: 882-2353 email: mallonj@myapc.com	December 31, 2000 Term expires Dec 31st of even numbered years.  Seat 4	Representing a Maine Nuclear Power Plant  Appt. by Governor
Active - Steven Keegan 32 Morrell's Mill Road North Berwick, ME 03096 283-7000 FAX:	December 31, 1998 Term expires Dec 31 <sup>st</sup> of even numbered years.  Seat 5	Radioactive Material Licensee Representative  Appt. by Senate President
Active - Joseph Blinick, PhD Maine Medical Center 22 Bramhall Street Portland, ME 04102 871-4325 FAX: e-mail: blinij@mail.mmc.org	December 31, 1997 Term expires Dec 31 <sup>st</sup> of odd numbered years.  Seat 6	Radioactive Material Licensee Representative. Representing Maine Medical Center  Appt. by Speaker of the House
Active - Sharon Treat Senator, State of Maine 28 Kingsbury Street Gardiner, ME 04345 582-6702 FAX: 588-0458 e-mail: streat@powerlink.net	December 6, 2000 Term expires the first Wednesday in December of even numbered years  Seat 7	State of Maine  Appt. by President of the Senate. Belonging to Political Party holding the largest number of seats in the Senate
Active - Richard Carey (Chair) Senator, State of Maine PO Box 474 Belgrade, ME 04917 495-3333,	December 6, 2000 Term expires the first Wednesday in December of even numbered years  seat 8	State of Maine.  Appt. by President of the Senate. Belonging to Political Party holding the largest number of seats in the Senate
Active - Norman Ferguson Senator, State of Maine Box 36, Howard Pond Road Hanover, ME 04237 364-7641 FAX:	December 6, 2000 Term expires the first Wednesday in December of even numbered years  Seat 9	State of Maine  Appt. by President of the Senate. Belonging to Political Party holding the 2 <sup>nd</sup> largest number of seats in the Senate
vacant	December 6, 2000 Term expires the first Wednesday in December of even numbered years  Seat 10	State of Maine  Appt. by Speaker of the House. Belonging to Political Party holding the largest number of seats in the House.
Active – David Shiah Representative, State of Maine 17 Dunn Farm Lane Bowdoinham, ME 04008 666-5902 e-mail: dshiah@horton.col.k12.me.us	December 2, 1998 Term expires the first Wednesday in December of even numbered years  Seat 11	State of Maine  Appt. by Speaker of the House. Belonging to Political Party holding the largest number of seats in the House

ADVISORY COMMISSION ON RADIOACTIVE WASTE AND DECOMMISSIONING  
SUNSET REVIEW REPORT

Active – Charles Laverdiere Representative, State of Maine PO Box 670 Wilton, ME 04294 Office #: 645-4963 : 645-5330 FAX: 645-2017 e-mail: repccl@somtel.com	December 2, 1998 Term expires the first Wednesday in December of even numbered years  Seat 12	State of Maine  Appt. by Speaker of the House. Belonging to Political Party holding the 2 <sup>nd</sup> largest number of seats in the House.
Active - Ron Ouellette Physics Consultants INC 194 ashmont St. Portland, ME 04103 773-1313 v-mail: 872-1453 e-mail: rono@ime.net	December 31, 1999 Term expires Dec 31 <sup>st</sup> of odd numbered years.  Seat 13	Public Member with knowledge of and interest in the management of radioactive materials and waste.  Appt. by Governor
June Meres  376 Bigelow Hill Road Norridgewock, ME 04957 e-mail: meresjc@mint.net 634-3376	December 31, 2000 Term expires Dec 31 <sup>st</sup> of even numbered years.  Seat 14	Public Member with knowledge of and interest in the management of radioactive materials and waste.  Appt. by Governor
Vacant  (Position needs to be from locality with Nuclear power plant and must rep a local Advisory Group)	December 31, 1999 Term expires December 31 <sup>st</sup> of odd numbered years  Seat 15	Public member with Knowledge of and interest in the management of radioactive materials and waste.  Appt. by Senate President
Active – James Mitchell 52 Birch Point Road Freeport, Maine 04332 207-865-6516 email: jmitch8564@aol.com	December 31, 1998 Term expires December 31 <sup>st</sup> of even numbered years  Seat 16	Public Member with Knowledge of and interest in the management of radioactive materials and waste  Appt. by Speaker of the House
Active - Don Hudson, Ph.D. Chewonki Foundation 485 Chewonki Neck Road Wiscassett, ME 04579 882-7323 FAX: 882-4074 e-mail: dhudson@chewonki.org	December 31, 2000 Term expires December 31 <sup>st</sup> of even numbered years  Seat 17	Representing Environmental Advocacy Organization  Appt. by Speaker of the House

The Radioactive Waste Section of the Radiation Control Program was formed in September 1994. The section is responsible for the implementation and enforcement of rules complying with the provisions of the Texas Compact and provide staff support to the Advisory Commission on Radioactive Waste and Decommissioning. This section is staffed by Thomas Hillman, Assistant Engineer, paygrade 22, who can be reached at (207)287-8401.

What is the Texas Compact?

The Texas Compact is an agreement between the states of Maine, Texas and Vermont regarding the disposal of commercial low-level radioactive waste. As a compact, these States require only one disposal facility for the compact region (rather than one in each State) and have the authority to deny out-of-compact wastes access to regional disposal facilities. The formation of each Compact requires the approval of the federal government through Congressional consent legislation. Thus far nine Compacts have received the approval of Congress. The Texas Compact, though approved by all three party states, has not yet received Congressional approval.

Under the Texas Compact agreement, the States of Maine and Vermont each contribute \$25 million to the State of Texas, in exchange for 50 years of access to the proposed

Texas low-level radioactive waste disposal facility. Maine and Vermont benefit under this arrangement by being ensured access to a low-level radioactive waste disposal facility, avoiding a far more expensive in-state siting process. The benefits for Texas are two fold. Firstly, as a Compact, Texas may exclude the importation of any out of Compact low-level radioactive wastes, as provided by the 1980 Low-Level Radioactive Waste Policy Act and its 1985 amendment. Secondly, Texas will use the majority of the \$50 million towards construction costs of a facility. (Ten percent of the \$50 million will be paid to the host county.) Notwithstanding the costs described above, Maine generators will be assessed disposal fees at the same rate as Texas generators.

## History

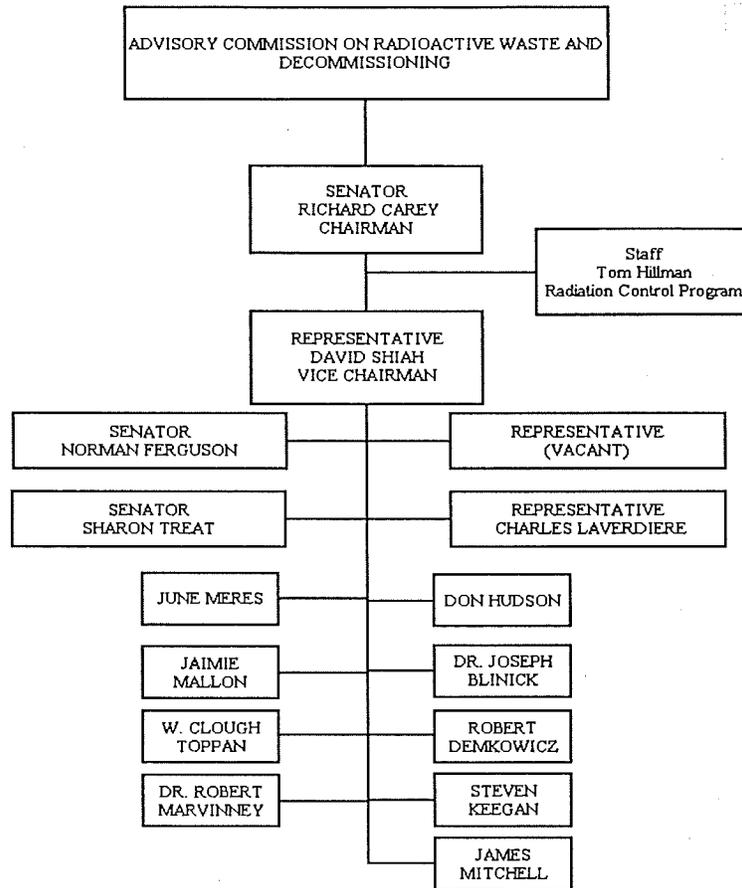
Prior to the joining the Texas Compact, Maine complied with federal law as a "go it alone" state, working to establish a disposal facility within Maine. The siting effort, costing some \$7 million, was directed by the Maine Low-Level Radioactive Waste Disposal Authority (the Authority).

Simultaneously, Maine pursued efforts to join into a Compact with other States. These activities were coordinated through the Office of the Public Advocate. Stephen Ward, Maine's Public Advocate, was instrumental in negotiating the Texas Compact agreement. Mr. Ward continues to assist efforts to gain Congressional approval of the Texas Compact.

Maine law requires voter approval of low-level radioactive waste compacts by public referendum. On November 2, 1993, 73 percent of Maine voters approved of the Texas Compact.

Upon Maine's approval of the Texas Compact, the Authority's siting activities were discontinued. The Authority was formally terminated in June 1994, by the same legislation that transferred non-siting related responsibilities to the Department of Human Services

# ORGANIZATIONAL CHART



**ITEM D: Compliance with federal and state health and safety laws, including the Americans with Disabilities Act, the federal Occupational Safety and Health Act, affirmative action requirements and worker’s compensation.**

Compliance with federal and state health and safety laws, including the Americans with Disabilities Act, the federal Occupational Safety and Health Act, affirmative action requirements and workers’ compensation are adhered to by the nature of the Commission. The Commission and RCP are state organizations that are required to adhere to the mentioned laws and acts.

**ITEM E: Financial summary, including sources of funding by program and the amounts allocated or appropriated and expended over the past 10 years.**

The following table includes reported fees, expenses, and balance for the Radioactive Waste Fund for each fiscal year from June 1988 to the estimated revenue in June 2001.

**Financial Summary, amount appropriated and expended for FY88-01**

			FY		fees \$		Expenses \$		Balance \$
\$250,000.00 Legislative cap.									
							Beginning balance FY88		69,951
			1988		394,422		392,248		72,125
			1989		177,875		138,762		111,238
			1990		137,312		156,204		92,346
			1991		157,960		166,328		83,978
			1992		166,022		172,816		77,184
			1993		172,424		146,236		103,372
			1994		146,946		146,178		104,140
<b>Program moved from DEP to DHS</b>									
							Legislative transfer of revenue plus expenses for partial year of DEP staffing.		34,482
\$135,000.00 Legislative cap									
							beginning balance to DHS =		69,658
			1995		65,024		64,856		69,826
			1996		65,174		73,549		61,451
			1997		57,227		82,266		36,412
			1998		103320		84,799		54,933
Waste survey not completed in spring of 1998 (for waste generated in CY 1997) due to lack of technical staffing. Therefore no fees were generated for FY 1999.									
			1999		610		97,333		-41,790
Fees only received due to late payments in FY 1999									
			2000	estimated	115,620		80,507		-6,677
			2001	planned	80,677		74,000		0

**ITEM F: The regulatory agenda and the summary of rules adopted.**

The Advisory Commission is by its name advisory. Its functions are primarily monitoring and advising. The commission is not a rule making body. There were changes to the statutes in 1997 to include monitoring the activities of a decommissioning nuclear power plant, but these changes were accomplished through the legislative process and no rule making was undertaken.

**ITEM G: Identification of those areas where an agency has coordinated its efforts with other agencies in achieving program objectives and other areas in which an agency could establish cooperative arrangements**

The commission is an importer and exporter of information on the matter of radioactive waste. The commission is a small group of individuals that must work with other agencies of the state government to achieve its duties. The commission meets at least four times a year to accomplish this. The agency that the commission coordinates with the most is the Department of Human Services. This Department's Radiation Control Program, part of the Bureau of Health's Division of Health Engineering, provides the day to day operation. The program provides assistance in newsletters, WEB site and communication. All commissioners are accessible by the public, but the Radiation control Program is the primary receiver of calls from the public on radiation matters

The commission works very closely with the Department of Environmental Protection, State Planning Office, Office of the State Nuclear Advisory and the Office of the Nuclear Inspector. These agencies provide as well as receive information from the commission. An issue that has involved all these agencies lately has been the clean up level that Maine Yankee Atomic Power Company will adhere to during its decommissioning. The commission works closely with Steven Ward of the Public Advocate Office on matters concerning the Low-level siting effort in Texas as part of the Texas Compact.

Annual reports are provided to the Governor's office, President of the Senate, Speaker of the House of Representatives, the joint standing committee of the Legislature having jurisdiction over natural resource matters and the joint standing committee of the Legislature having jurisdiction over utility and energy matters. The commission is essentially the governor's eyes and ears in the matter of radioactive waste and decommissioning.

**ITEM H: Identification of the constituents served by the commission, noting any changes or projected changes.**

The main and most important constituent is the public. In order to ultimately serve the public it must also serve other organizations that serve the public. This means that the commission serves the public directly and via organizations. The commission interacts with its constituents by having a diverse composition of members. A review of the members of the commission shows that members come from government, the public,

public groups, hospitals and industry. The commission is designed in this manner to best serve its constituents.

Annual reports are provided to the following constituents served by the commission. The Governor's office, President of the Senate, Speaker of the House of Representatives, the joint standing committee of the Legislature having jurisdiction over natural resource matters and the joint standing committee of the Legislature having jurisdiction over utility and energy matters. The commission is essentially the governor's eyes and ears in the matter of radioactive waste and decommissioning.

No changes or projected changes are seen at this time.

**ITEM I: A summary of efforts by an agency or program regarding the use of alternative delivery system. Including privatization, in meeting its goals and objectives**

This item was found to be non-applicable to the commission.

**ITEM J: Identification of emerging issues for the agency in the coming years.**

1. Maine Yankee Atomic Power Company is in the process of decommissioning its power plant in Wiscasset, Maine. This operation will continue to the year 2003-4 and has dominated the attention of the commission. The public's attention in this matter reflects the high priority the commission has gives it.
2. A future issue will be the storage of high level waste on the Maine Yankee site. This issue has created great concern for the commission's constituents. The storage site is defined as temporary, however until a national site is opened the high level may be on site for a significant amount of time.
3. The siting of a low-level waste site in the Texas Compact is still an on going issue and will continue to be until a site has been established. Texas has not determined a site and will not revisit the issue until the year 2001. Other compacts around the country are having the same problems of determining low-level waste sites and legal issues have resulted.
4. Low level waste will still be an issue even after Maine Yankee has finished decommissioning. The same volume of low-level waste leaving the state will not have the same level as before, but other producers still exist. These producers are the state's industries, hospital and institutions. The management and method of dealing with this waste are still pertinent.
5. The governor of South Carolina has promised to shut down the Barnwell site. Barnwell is a waste burial site for all types of radioactive waste. The closing of this site will result in a change in the management of waste in this state. The commission monitors the status of current and future waste sites. Low-level waste sites are a controversial issue in this country and the commission advises and informs its constituents on present and future developments.

In summary the duties of the commission are as important in the next five years as they have been in the past. The commission voted that it would seek to continue until the next review period.

**ITEM K:** Any additional information specifically requested by the committee of jurisdiction.

No additional information has been requested. The commission would be pleased to provide additional information if the reviewers so desire. Please contact the:

Advisory Commission on Radioactive  
Waste and Decommissioning  
C/O Radiation Control Program  
#10 State House Station  
157 Capitol Street  
Augusta, Maine 04333-0010

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Low Level Waste  
ACRWD Staff  
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