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NATIONAL CONFERENCE OF STATE LEGISLATURES

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May 18, 1995

U.S. Department of Energy  
c/o Ms. Lois Smith  
TRW Environmental Safety Systems  
2650 Park Tower Drive, Suite 800  
Vienna, Virginia 22180

Dear Ms. Smith,

Attached please find comments from the National Conference of State Legislatures on Section 180(c). Our Radioactive Waste Interim Storage and Transportation Working Group reviewed and approved these comments at its meeting on May 4, 1995.

Members were especially concerned that shipments to a private facility would not be covered under Section 180(c) funding and they urged that the Department of Energy allow 180(c) funding for any shipments that are ultimately destined for an NWPFA facility, even though temporary storage may occur at a private storage facility.

NCSL appreciates this opportunity to comment and looks forward to a continuing dialogue on Section 180(c).

Sincerely,

James B. Reed  
Program Principal, Transportation

Attachment

## Comments

In response to the January 3, 1995 "Notice of Inquiry" by the U.S. Department of Energy Office of Civilian Radioactive Waste Management on Safe Transportation and Emergency Training; Technical Assistance and Funding.

Submitted by the National Conference of State Legislatures  
May 18, 1995

### Introduction

Section 180(c) of the Nuclear Waste Policy Act of 1982, as amended (42 USC 10101 et seq.) requires that the U.S. Department of Energy provide "technical assistance and funds to states for training for public safety officials of appropriate units of local government and Indian tribes through whose jurisdiction the Secretary (of Energy) plans to transport spent fuel or high-level radioactive waste under subtitle A or subtitle C. Training shall cover procedures required for safe routine transportation of these materials as well as procedures for dealing with emergency response situations. The Waste Fund shall be the source of funds for work carried out under this section."

In 1992 DOE issued a strategy document for implementing Section 180(c). The strategy had five steps:

1. Continue consultations with affected parties,
2. Develop implementation options,
3. Select and explain preferred option,
4. Issue implementation process plan,
5. Initiate funding under 180(c).

DOE is seeking comments on various options in order to proceed to step 3. NCSL offers the following comments in response to the notice of inquiry.

NCSL has been involved in DOE's consultation process on Section 180(c) at the staff and legislator level since 1989 and has provided input at various times including comments on the strategy paper dated January 25, 1991. In May 1992, NCSL published a State Legislative Report, "Federal Training Assistance for the Transportation of Spent Fuel." The NCSL High-Level Radioactive Waste Transportation Task Force received regular updates from DOE on Section 180(c) from 1991 to 1994.

### Current Policy

Current NCSL policy on this issue reads:

"DOE should provide opportunities and funding for training of state and local emergency responders to radiological accidents that are coordinated with ongoing programs for emergency preparedness. DOE is to be commended for initiating an open discussion with states and affected parties on how to meet the Section 180(c) requirements of the NWPA that require technical assistance and funding for training of state and local public safety officials along routes for DOE shipments of high-level waste with respect to routine transportation of these materials and emergency response situations."

In addition, "DOE should fully fund or allow states to assess fees to assure coordinated emergency response in case of a transportation accident involving nuclear waste. DOE should seek to enter into a memorandum of understanding with each corridor state to spell out responsibilities, liability, compensation, response time, cleanup and other duties connected with emergency situations."

### Specific Comments

Within the context of the overall NCSL policy, these specifics are offered:

1. DOE's spent fuel shipments will require corridor states to expend resources to protect public health and safety, therefore, no shipments should occur prior to receipt of Section 180(c) funds by the states.
2. Section 180(c) rules should apply to all spent fuel shipments ultimately destined for a DOE facility, whether or not those shipments are transported to and stored on an interim basis at a private facility.
3. DOE should provide funding with adequate lead time so states can prepare for such shipments in a sound and cost effective manner.
4. Prior to expenditure of Section 180(c) funds, DOE should identify shipping routes to enable states, Indian tribes and local governments to focus resources on actual shipping routes.
5. DOE should examine the option of having DOE response teams travel with spent fuel shipments from origin to destination to enhance local capabilities.
6. In response to question #2 in the notice of inquiry (Which option offers the greatest flexibility for recipients?), NCSL supports the hybrid option of having the Office of Civilian Radioactive Waste Management establish agreements with individual corridor states (as noted in the NCSL policy), supplemented with agreements with selected national and regional organizations to help ensure coordination and baseline uniformity. States should have flexibility to apply the OCRWM funds within the state emergency management structure in a manner that is both administratively efficient and effective in accomplishing the mission of protecting public safety. Agreements that DOE has had with various states connected with shipments to the Waste Isolation Pilot Plant and the cesium shipments from Colorado to Washington could serve as models for the OCRWM program.
7. Regarding question #7 on what should be included under "technical assistance," NCSL supports a broad definition that includes but is not limited to provision of suitable response equipment, assistance for route planning, assistance with emergency plan development, training course development and exercising, assistance in cleanup, decontamination and radiation protection, and shipment tracking capability.
8. On question #8, training, NCSL believes that all appropriate training should be funded, including but not limited to first responders, incident commanders, awareness training, and radiological training. Costs covered would include actual training sessions, training manuals, travel expenses, and other associated costs.

### Conclusion

NCSL appreciates the opportunity to comment and looks forward to continued consultation with DOE on this important issue.