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September 26, 1995

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Subject: Comments on the Detailed Policy Options for 180(c) Policy and Procedures

Dear Ms. Macaluso:

On behalf of the Northeast High-Level Radioactive Waste Transportation Task Force, we are writing to respond to the U.S. Department of Energy's (DOE) Notice of Inquiry (NOI) on "Detailed Options for 180(c) Policy and Procedures" published in the *Federal Register* on July 3, 1995. These comments supplement our letter of May 22, 1995 on an earlier Notice of Inquiry. The Task Force would like to thank DOE for allowing further comments on this critical component of the high-level radioactive waste transportation system.

The Task Force is composed of representatives from the states of Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, and Vermont. Because of the high concentration of spent nuclear fuel that is located in the region, the Northeast states have a significant interest in assisting in the development of policies and procedures to implement Section 180(c) of the Nuclear Waste Policy Act (NWPA).

The Northeast Task Force believes strongly that DOE has the legal obligation to begin accepting spent fuel according to the waste acceptance schedule on January 31, 1998. Seven of the states represented on this Task Force are participating in litigation to enforce DOE contracts executed following the NWPA of 1982.¹ In this context, DOE must begin implementation of Section 180(c) technical assistance and funding on a priority, rather than a contingency basis.²

¹The Northeast states joined in the lawsuits are Connecticut, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania and Vermont.

²Were it not that DOE is required by law to accept spent fuel in 1998, Section 180(c) funding would be of no immediate concern. Providing training and technical assistance funds now for spent fuel transportation in 2010 or beyond would be ineffective.

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The following are comments regarding the implementation of provisions of Section 180(c) of the NWPA. While the NOI touched on a broad number of issues concerning 180(c) implementation, the Northeast Task Force offers comments which are specific to the interests and concerns of Task Force members and requests that these comments be considered in the implementation of Section 180(c).

Emergency Response Training Goals

The Northeast Task Force believes that Section 180(c) funds should be used to train emergency response personnel and other first responders primarily for awareness and recognition activities, first aid, and clearance and security in the incident area. The Task Force also believes that emergency response training programs must be timed carefully to coincide with the actual waste shipments campaign. Due to high turnover rates among emergency response personnel, any training funds provided to states prior to shipping may be not be utilized as efficiently as possible.

Safe, Routine Transportation Definitions and Training Goals

Regarding safe, routine transportation training goals, the Task Force believes that many states already have in place comprehensive structures for radiological transportation training and implementation. The Task Force believes that 180(c) funds should be used to augment these programs, by providing states with extra training and state-of-the-art equipment acquisition. However, caution should be exercised to ensure the cost-effective use of these funds and avoid duplication of existing programs.

Finally, the Task Force notes that a critical component of safe, routine transportation should include training in performance of point-of-origin and point-of-destination inspections, and training in the use of TRANSCOM, the DOE satellite-based tracking system.

Eligibility Criteria

Developing criteria to determine which jurisdictions will be able to receive 180(c) funding is critical to the efficient implementation of Section 180(c). The Task Force believes that training funds should be provided according to the base level of funding for all routes potentially handling spent fuel covered by 180(c) for the duration of possible shipments. In addition, these training funds should be provided to the appropriate jurisdictions one to three years prior to the waste shipment campaign.

Funding Allocation Formulas

The formula for determining the amount of funds each jurisdiction will receive is another important component of the 180(c) provision. Among the options described in the "Detailed Options for 180(c) Policy and Procedures" document the Task Force believes first that a more detailed assessment and description of the various options available should be developed by the Department prior to a firm decision. Secondly, the Task Force believes that a minimum level of funding should be provided to affected states and jurisdictions for standardized training programs. After a minimum amount has been provided to states, the most important factors in the formula to determine additional funding are a combination of route miles and at-risk populations along the route. This will ensure funding to jurisdictions in the region regardless of the size of the area.

Another important aspect of the funding mechanism is to whom the funding should be provided. The Task Force believes that funding should be allocated to a single source within each state and tribe. These authorized entities will in turn be responsible for allocation of funding to local jurisdictions. Administrative flexibility is the key to this dimension of funding allocations. The Department should give these single governmental entities the freedom to evaluate their specific jurisdictional circumstances and prioritize their funding needs. There should be no restrictions on the use of these training funds, although the Task Force recommends that the DOE periodically audit the use of the funds to ensure training effectiveness and compliance with the provisions of Section 180(c).

Procedural Options for Funding

There are a number of existing Federal programs and agencies that could be used as the conduit to distribute the funds authorized by Section 180(c) and provide technical assistance. The Task Force believes that the Federal Emergency Management Agency's Comprehensive Cooperative Agreement Program is the preferred governmental entity to perform these functions. A second option could be the Department of Transportation's Hazardous Materials Transportation Act grants. Whatever the mechanism, the Task Force strongly recommends against creating any type of new program to distribute Section 180(c) funds.

Routing Scenarios

Many of the above comments are dependent upon the Department of Energy beginning the process to determine the routes along which high-level radioactive waste and spent nuclear fuel will be transported. The Task Force encourages the Department, in close consultation with the Task Force and other authorized state officials, to establish and publish contingency routing scenarios, using the assumption that the final disposal facility will be located in Nevada.

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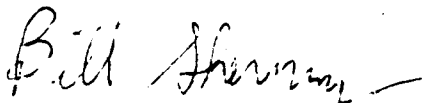
Conclusion and Final Comments

In conclusion the Task Force would like to emphasize to the DOE four broad comments regarding the document "Detailed Options for 180(c) Policy and Procedures".


1. States or Indian tribes who are provided funds under Section 180(c) must be allowed maximum flexibility in the use of those funds. They should be allowed to prioritize their specific needs and utilize the funds accordingly.
2. Administrative efficiency is important to the effective implementation of Section 180(c). Existing federal programs are adequate mechanisms to distribute the funds, coordinate policies and procedures and provide technical assistance. Creating a new program would be costly and duplicative.
3. Section 180(c) funds should be provided to a single administrative entity within each state or tribe. This will streamline fund allocation and allow each state to determine their own needs regarding high-level radioactive waste transportation.
4. The Department must establish the contingency routing identification, evaluation and assessment process as soon as possible. Meaningful fund allocation and training cannot begin until the routes have been identified.

The Northeast High-Level Radioactive Waste Task Force appreciates the opportunity to comment on the policies of the DOE and OCRWM. If you have any questions, please contact Russell Paule-Riggs, the staff person for the Task Force, at 212-912-0128.

Sincerely,



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