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WESTERN GOVERNORS' ASSOCIATION

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July 18, 1996

Daniel A. Dreyfus
Director
Office of Civilian Radioactive Waste Management
U.S. Department of Energy
1000 Independence Avenue, S.W., Rm. 5A-085
Washington, DC 20585

Dear Director Dreyfus:

As Chairman and Vice Chairman of the Western Governors' Association, we are pleased to provide you with copies of selected policy resolutions which were adopted by the Western Governors on June 24, during the 1996 WGA Annual Meeting. The Western Governors' policy resolutions express the governors' collective position on significant issues and Federal legislation affecting the West.

We believe you will find the enclosed policy resolutions of special interest and encourage you to review them. The Western Governors are interested in your response and opinions regarding the enclosed resolutions, as well as other issues you believe are affecting the West.

WGA is an Association of Governors from the eighteen western states and the three Pacific flag islands. As expressed in the resolutions before you, the Governors believe that cooperation among the States, the Administration, Congress and those who live in the West is essential to effectively address these issues.

We encourage you to contact Jim Souby, executive director of WGA, or Rich Bechtel, director of the WGA Washington Office, if you have comments or questions regarding these or other WGA resolutions, or if you would like to acquire other WGA policy resolutions.

Sincerely,

Edward T. Schafer
Governor of North Dakota
Chairman

Roy Romer
Governor of Colorado
Vice Chairman

enclosures

SPONSORS: Governors Miller and Nelson
SUBJECT: Funding for Emergency Preparedness for Spent Nuclear Fuel and High-Level
Radioactive Waste Transportation

A. BACKGROUND

1. The Nuclear Waste Policy Act, as amended (NWPA) provides for the siting and construction of a repository for spent nuclear fuel and high-level radioactive waste (HLW) and for the transportation of spent fuel and HLW from over 100 generator sites around the country to the repository. Section 180 (c) of the Act requires DOE to provide technical and financial assistance to states "for training public safety officials of appropriate units of local government and Indian Tribes through whose jurisdiction [DOE] plans to transport spent nuclear fuel or high-level radioactive waste."
2. Bills pending before Congress would, if enacted into law, authorize the construction of an interim storage facility for spent fuel and HLW in Nevada and could result in the shipment of nuclear materials to such a facility as early as 1998.
3. Reports prepared for the U.S. Department of Energy (DOE) have identified over 100 cities with populations of 100,000 or more in 43 states that could be impacted by spent fuel shipments to a repository and/or an interim storage facility.
4. Data on spent fuel and high-level waste inventories indicates that there could be as many as 61,500 truck shipments and between 1,800 and 10,400 rail shipments during the 25 year loading phase of facility operations.
5. The ability of states and communities along nuclear waste transportation routes to adequately prepare to assure safe transport of these materials through their jurisdictions and to respond effectively to emergency situations requires that the federal government identify shipping routes at least five years prior to planned shipments, and provide financial and technical assistance for training and emergency preparedness at least 3 years before shipments begin.
6. In 1994, the Western Governors recommended that the Department promulgate regulations that would insure that each state located along a nuclear waste route would have access to adequate resources to assure safe transport of these materials and to respond to accidents and incidents (ref. WGA Resolution 94-005).

7. The NWPA specifically states that the generators of spent fuel and HLW are responsible for paying the costs of disposing those materials. The Nuclear Waste Fund was established to fund NWPA activities, including the transportation of spent fuel and HLW and preparedness and emergency response along potential shipping routes.
8. On May 16, 1996, DOE published a notice in the *Federal Register* seeking comments on proposed policies and procedures for implementing its Section 180 (c) responsibilities. That notice articulates the Department's position that it is not required to provide funds and technical assistance for states and tribes to fully prepare for and respond to spent fuel and HLW shipments within their borders, but that DOE's responsibility is only to assist states and tribes to "incrementally increase their [current] level of preparedness for NWPA shipments." DOE also proposes to deny all funding for critical activities such as alternate route designation, route and risk assessment, emergency preparedness drills and exercises, record keeping, infrastructure improvement, and equipment maintenance. This comes at a time when both DOE and the Federal Emergency Management Agency are reducing funding for radiological and emergency responder training, monitoring equipment and preparedness.

B. GOVERNORS' POLICY STATEMENT

1. The Western Governors' Association finds that the Section 180.(c) implementing policies and procedures proposed in the May 16, 1996 *Federal Register* notice - jeopardize western and other states' ability to assure safe and uneventful transport of spent fuel and HLW and, at the same time, subject states to potentially costly unfunded mandates.
2. The Governors believe it is the responsibility of the generators of spent fuel and HLW and the federal government, not the states, to pay for all costs associated with assuring safe transportation, responding effectively to accidents and emergencies that will inevitably occur, and otherwise assuring public health and safety.
3. The Governors believe implementing policies and procedures for Section 180 (c) of the NWPA must assure that states are fully compensated for all training, preparedness, and response costs associated with spent fuel and HLW shipments within their borders. Funding formulae for Section 180 (c) assistance to states must not be based on arbitrarily-established DOE criteria, but on state-specific assessments of need funded under Section 180 (c).

4. The Governors continue to insist that no shipments of spent fuel and HLW shall be made to storage facilities or a repository until DOE has identified shipping routes and Section 180 (c) funds and assistance have been made available to states at least three years prior to the start of shipments, notwithstanding any sudden changes in DOE's shipping schedule.

C. GOVERNORS' MANAGEMENT DIRECTIVE

1. This resolution shall be transmitted to the Secretary of Energy and made part of the record of decision with respect to the implementing policies and procedures for Section 180 (c) assistance. The resolution shall also be conveyed to the Secretary of Transportation, Chairman of the Nuclear Regulatory Commission, the Director of the Department of Energy Office of Civilian Radioactive Waste Management, members of the western delegation and committees of Congress, and the Governors of those western states and Indian tribes potentially affected by spent nuclear fuel and HLW transportation.

Western Governors' Association
Resolution 93-003 (Modified and Readopted in 1996)

June 22, 1993
Tucson, Arizona
June 24, 1996
Omaha, Nebraska

SPONSOR: Governor Batt
SUBJECT: A Transportation Program for Shipment of Spent Fuel Under the Nuclear Waste Policy Act

A. **BACKGROUND**

1. Under the *Nuclear Waste Policy Act of 1982* (NWPA), the federal government agreed to accept spent nuclear fuel from commercial nuclear reactors beginning on January 31, 1998. For the past 10 years nuclear utility ratepayers have been paying into the Nuclear Waste Fund to finance the disposal of spent fuel. Many of the nation's nuclear utilities have been relying on the federal government to take possession of the spent fuel for disposal beginning in 1998. The U.S. Department of Energy (DOE) is responsible for the management and permanent disposal of these wastes.
2. Disposal of spent fuel under the NWPA and the *Nuclear Waste Policy Act Amendments of 1987* (NWPAA) will require transporting increasingly large quantities of spent nuclear fuel and high-level radioactive wastes.
3. As pressure has increased on DOE to honor the 1998 deadline, various schemes have been suggested to meet the deadline, including a December 1992 DOE proposal to quickly build interim storage capacity at an existing federal facility.
4. Western governors have recognized for some time that the successful management of spent nuclear fuel requires the development of a safe, publicly acceptable transportation plan. In 1985, 1988, 1991, and again in 1992, the WGA adopted policy resolutions urging DOE to develop a comprehensive transportation plan to guide all transportation decisions under the NWPA, the NWPAA, and other DOE nuclear waste programs (including mixed waste). Such a comprehensive plan is necessary to allow the federal government and the states to execute their respective responsibilities to ensure the safety of citizens along shipping routes and the uneventful movement of these wastes. DOE has yet to develop such a plan.
5. To help guide preparations for the shipment of spent nuclear fuel, the Western Interstate Energy Board has developed a strategic plan and a schedule of activities which need to be accomplished before large scale shipments can begin. This plan and schedule clearly show that there is insufficient time between now and 1998 to implement a prudent transportation plan.

B. GOVERNORS' POLICY STATEMENT

1. The Western Governors' Association finds that, as a result of previous federal government inaction and delays, and a lack of strategic planning involving stakeholders, DOE cannot develop a national transportation program in time to meet the 1998 spent fuel acceptance date.
2. In order to expedite development of a system for accepting commercial spent nuclear fuel and high-level radioactive waste, the federal government must expand its focus beyond siting and develop, in coordination with the states, a logical, and timely transportation program. This involves DOE policy commitments to:
 - develop responsible routing criteria;
 - develop a sound methodology for evaluating optional mixes of routes and transportation modes;
 - fix the shipping origins and destinations points as early as possible;
 - ensure the availability of rail and truck shipping casks;
 - expeditiously evaluate and select the design for a multi-purpose casks;
 - conduct full-scale cask testing; and
 - fulfill emergency preparedness requirements (Section 180(c) of the *Nuclear Waste Policy Act Amendments*) prior to shipping spent fuel.
3. The federal government must also examine alternate waste acceptance options, such as providing funds to utilities for expanding on-site storage or for assessing other options.

C. GOVERNORS' MANAGEMENT DIRECTIVE

1. This resolution shall be conveyed to the President, Secretaries of Energy and Transportation, the chairman of the Nuclear Regulatory Commission, and appropriate members and committees of Congress.
2. The Western Governors' Association staff, in cooperation with the Western Interstate Energy Board, shall monitor the implementation of this resolution and provide the Department of Energy with assistance in the development and implementation of a plan for the transportation of spent nuclear fuel under the NWPAA.