

# STATE OF NEBRASKA

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September 27, 1996

E. Benjamin Nelso  
Governor

Honorable Hazel O'Leary  
Secretary  
United States Department of Energy  
1000 Independence Avenue SW  
Washington, DC 20585

Dear Secretary O'Leary:

I previously expressed concern for the burden placed on Nebraskans by the federal government's failure to make adequate preparation for spent nuclear fuel and high-level radioactive waste shipments under the *Nuclear Waste Policy Act of 1982*. My concern is heightened by the Office of Civilian Radioactive Waste Management's issuance of the notice of proposed policy and procedures for implementing Section 180(c).

Nebraska will be a major thoroughfare for the shipment of nuclear wastes. The spent nuclear fuel from nuclear power plants is but a fraction of the wastes destined to traverse Nebraska. Add to these the increased shipment of nuclear waste generated by the Department of Defense and the increased acceptance and storage of spent nuclear fuel from foreign reactors as provided for in the *Nuclear Nonproliferation Treaty*. With the high volume of waste to be shipped, accidents are inevitable.

It is important that the program of technical assistance to the states established under Section 180(c) be stable to be of true value to states affected by transportation of nuclear wastes. Needed stability cannot be achieved unless regulations are established for implementation of Section 180(c). Without regulations, implementation can change with changes in federal administration all to the detriment of the states which must prepare for shipment of hazardous wastes of unprecedented volume and duration.

I support distribution of Section 180(c) funds to the states through direct grants administered by the Office of Civilian Radioactive Waste Management. This should be more efficient than using other federal agencies. However, the value of grants to the states will be lost or greatly reduced if unreasonable restrictions are placed on the use of funds. Specifically, there is no reason to limit the purchase of "appropriate equipment" to ten percent of a state's annual 180(c) funds. States differ widely in experience with spent nuclear fuel and high level waste and can be expected to have widely differing needs for equipment. Similarly, the use of Section 180(c) funds for drills and exercises should not be denied.

Each state is best situated to know what its equipment and training needs are and should be able to assess those needs and use the grant funds to meet those needs. Each state should be fully compensated for all training, preparedness and response costs associated with shipments of high level waste and spent fuel within its borders.

As you know, we do not intend to allow shipments of nuclear waste to enter the state unless adequate preparations have been made. It is therefore important that the Department of Energy's 180(c) regulations, policy and procedures require that no shipments can be made through a state until the state/tribe has received Section 180(c) assistance for three years prior to shipment. Beginning the grant application process four years prior to the commencement of shipments may provide adequate time for assistance under Section 180(c) to begin three years prior to the start of shipments.

I am particularly concerned that the Department of Energy will begin a shipping program under the Nuclear Waste Policy Act without providing 180(c) funding at least three years in advance since the United States Court of Appeals has ruled that DOE has an obligation to begin disposing of utility spent nuclear fuel in January 1998. This is little more than a year away, and it is obvious that inadequate preparations for the states have been made by DOE to ship the wastes as provided by the Nuclear Waste Policy Act.

The Western Interstate Energy Board and Western Governors' Association have also commented on the proposed policy and procedures. I fully support and endorse their comments.

Sincerely,

A handwritten signature in black ink, appearing to read "E. Benamin Nelson". The signature is fluid and cursive, with a prominent initial "E".

E. Benamin Nelson  
Governor