

**SPONSOR:** Governor Miller  
**SUBJECT:** Fulfilling a Federal Obligation to Fund Preparations For Shipments of Spent Nuclear Fuel and High-Level Radioactive Waste

**A. BACKGROUND**

1. Section 180(c) of the Nuclear Waste Policy Act and similar provisions of new legislation proposed by Congress that would supercede the original NWPA Act requires the Secretary of Energy to provide technical assistance and funds to states and tribes for training required for the safe routine shipment and for emergency situations involving the transportation of spent nuclear fuel and high-level radioactive waste under the Act. Funds for implementing these provisions are derived from the users of nuclear power for management of commercial spent nuclear fuel and from the U.S. Treasury for the management of Department of Energy waste.
2. As a result of the Federal Government's policies on the storage and disposal of spent fuel and high-level radioactive waste, western transportation corridor states, local governments and Indian tribes will be required to expend substantial effort and resources to protect the public health and safety of their residents.
3. Sound, cost-effective preparation for spent fuel and high-level waste shipments requires adequate lead time. The cost-effective expenditure of Section 180(c) funds requires that shipping routes be identified early (as recommended in WGA Resolution 93-003) to enable states, tribes, and the federal government to focus resources on actual shipping routes and not allocate resources along all potential shipping routes.
4. The Department of Energy issued a Notice of Proposed Policy and Procedures in the Federal Register in May 1996, that set forth an approach to Section 180(c) implementation which would jeopardize western and other states' ability to assure the safe and uneventful transport of spent fuel and high-level radioactive waste and, at the same time, would subject states to potentially costly unfunded mandates.
5. The Department of Energy's impending failure to meet the objective of the Nuclear Waste Policy Act to begin picking up spent fuel from reactors in 1998 has spawned private sector activities to locate a Monitored Retrievable or Interim Storage facility in the West. If developed, such a private facility would trigger the

potential shipment of 10,000 metric tons or more of spent fuel through the West. These shipments would occur outside the shipping system being developed by the Department of Energy and outside the waste management system envisioned under the Nuclear Waste Policy Act.

**B. GOVERNORS' POLICY STATEMENT**

1. The Western Governors strongly recommend that the Department of Energy expeditiously promulgate regulations to implement Section 180(c). Such regulations should:
  - a. Apply to all shipments to a Monitored Retrievable or Interim Storage facility and repository regardless of whether such facility is operated by the Department of Energy or another entity;
  - b. Prohibit shipments of spent fuel and high-level waste to storage facilities or a repository if Section 180(c) funds and assistance have not been made available to states and tribes;
  - c. Provide for the development and funding of state and tribal plans that identify:
    - 1) the minimum elements necessary to ensure safe routine transportation and procedures for dealing with emergency response situations,
    - 2) the current emergency response and safe transportation capabilities along each corridor,
    - 3) the activities needed to achieve the minimum elements necessary to ensure safe routine transportation and emergency response, and
    - 4) performance measures to evaluate programs implemented under the plan.
  - d. Provide annual implementation grants to states and tribes with 75 percent of the grant funds allocated according to the number of projected shipment miles in the jurisdiction and 25 percent of the funds allocated by the Secretary to ensure minimum funding levels and program capabilities among impacted states and tribes;
  - e. Provide flexibility in the expenditure of Section 180(c) funds by states and tribes pursuant to the provisions of the state or tribal plan; and
  - f. Establish Regional Training Advisory Teams of states and tribes to review and coordinate plans along shipment corridors and a National Training

Advisory Committee to report to the Department of Energy on progress and needed additional actions.

2. The governors continue to insist that no shipments of spent fuel and high-level radioactive waste 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.
3. The governors recommend that the Department of Energy involve western states and tribes in the process of soliciting comments and developing final regulatory language that will implement the provisions of this policy statement.

**C. GOVERNORS' MANAGEMENT DIRECTIVE**

1. This resolution is to be conveyed to the Secretary of Energy and the appropriate committees of Congress. The Western Interstate Energy Board, in conjunction with the WGA staff, is directed to provide regulatory language to the Department of Energy as a beginning point for the promulgation of rules to implement Section 180(c).

**Note:** This policy resolution was originally adopted by the western governors in 1994 as 94-005. It was modified and readopted in 1997.



## WESTERN GOVERNORS' ASSOCIATION

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September 8, 1997

Lake H. Barrett  
Acting Director  
Office of Civilian Radioactive Waste Management  
U.S. Department of Energy  
1000 Independence Avenue, S.W., Rm. 5A-085  
Washington, DC 20585-0115

Dear Mr. Barrett:

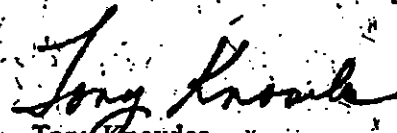
As Chairman and Vice Chairman of the Western Governors' Association, we are pleased to provide you with copies of selected policy resolutions which were adopted by the Western Governors on July 29, in Las Vegas. The policy resolutions express the Governors' collective position on significant issues and federal legislation affecting the West.

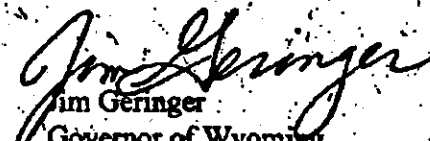
We believe you will find the enclosed policy resolutions of special interest and encourage you to review them. The Western Governors are interested in your response and opinions regarding the enclosed policy positions, as well as other issues you believe are important to the West.

WGA is an Association of Governors from the eighteen western states and 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. Additionally, all of WGA's active policy resolutions and general description of its programs are available on the Western Governors' Association home page, "[www.westgov.org](http://www.westgov.org)."

Sincerely,

  
Tony Knowles  
Governor of Alaska  
Chairman, WGA

  
Jim Geringer  
Governor of Wyoming  
Vice Chairman, WGA

enclosure

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SPONSOR: Governor Leavitt  
SUBJECT: Private Storage of Commercial Spent Nuclear Fuel

**A. BACKGROUND**

1. The Nuclear Waste Policy Act of 1982 requires the Federal Government to provide for permanent disposal of spent nuclear fuel.
2. The Nuclear Waste Policy Act requires the owners and operators of nuclear power reactors to assume primary responsibility for providing interim storage of spent nuclear fuel. The Act requires that federal officials expedite the effective use of existing reactor storage facilities and the addition of needed new storage capacity, consistent with:
  - a. Protection of public health and safety, and the environment;
  - b. Economic considerations;
  - c. Continued operation of such reactor;
  - d. Any applicable provisions of law; and
  - e. Views of the population surrounding such reactor.
3. U. S. Department of Energy (DOE) originally projected that a deep geologic repository would be available for acceptance of spent nuclear fuel in 2003. Recently DOE revised their schedule to project that the repository will not be available until at least 2010.
4. Both DOE and the Nuclear Regulatory Commission (NRC) have determined that technology for safe, cost effective, dry cask, at-reactor storage exists, and some designs are currently licensed and in use in this country and abroad.
5. On December 1, 1989, the Western Governors' Association adopted Resolution 89-024 which stated that spent nuclear fuel should remain at reactor sites until a state has agreed to storage and DOE provides reasonable transportation, safety, and emergency response assurances to the western states. The resolution was readopted in 1992 and 1995.

6. WGA's current resolution 89-024 effectively expresses concerns with DOE interim storage sites. However, similar concerns exist with a private high level nuclear waste interim storage facility, which could be sited in the West, distant from existing reactors.
7. At a private, interim storage facility, each nuclear utility that stores spent nuclear fuel will retain ownership and liability for its own waste.
8. Moreover, federal resources will not be available to enhance state and local infrastructure and emergency response capabilities.
9. Without an available permanent disposal site, there is no guarantee that a private interim storage site will be temporary. There is no way to ensure that spent fuel rods which are shipped and stored at a private temporary or interim facility will ever be removed.
10. Under its current regulatory authority, NRC can license a surface storage area for 20 years. The license may be renewed. NRC has determined that spent fuel can be stored safely for 100 years and some congressional bills have called for an initial 100 year licensing period. However, there is no data that surface storage is viable for longer than 100 years.
11. The General Accounting Office, with concurrence from DOE, has determined that sufficient temporary capacity exists for spent fuel to be stored at existing sites, pending completion of a permanent disposal facility.

**B. GOVERNOR'S POLICY STATEMENT**

1. It is the objective of the Western Governors' Association to support the national policy for permanent deep geologic disposal of spent nuclear fuel. Congress and the Administration must anticipate that, if a permanent deep geologic repository does not open on schedule, most reactors will need interim storage.
2. A private interim storage facility shall not be located within the geographic boundaries of a western state without the written consent of the governor.

3. Commercial spent nuclear fuel should remain in interim storage at the reactor site until:
  - a. A permanent storage/disposal site is operational.
  - b. DOE and the nuclear utility companies have worked with the corridor states to implement an acceptable transportation plan for shipping the waste to permanent storage or disposal sites.
  - c. DOE and the nuclear utility companies have put into place adequate infrastructure capacity to handle, store, and dispose of this waste.
  - d. DOE, the U.S. Department of Transportation and the nuclear utility companies have ensured adequate state and local emergency and medical responder training and the resources in case of an accident or mishap while shipping this waste.
  
4. It is not the intent of this resolution to interfere with DOE's compliance with agreements that have been negotiated with the western states for the cleanup of DOE sites and facilities or which are contained as part of a court decree or settlement agreement, such as those now in place between DOE and the states of Colorado, Idaho, and Washington.

**C. GOVERNOR'S MANAGEMENT DIRECTIVE**

1. The Western Governors' Association shall convey this resolution to the appropriate members and committees of Congress, the Secretary of Energy, Secretary of Transportation, chairman of the Nuclear Regulatory Commission, and the nuclear utilities.
  
2. The Western Governors' Association and the Waste Task Force are to work with Congress, the Nuclear Regulatory Commission, the U.S. Department of Energy and the National Association of Utility Regulators to develop the appropriate elements of policy to anticipate the need for interim storage at reactor sites.