

April 2, 2007

The Honorable Mitch Daniels
Governor of Indiana
State House, Room 206
200 West Washington Street
Indianapolis, IN 46204

Dear Governor Daniels:

We are writing to you as co-chairs of The Council of State Governments' Midwestern Radioactive Materials Transportation Committee, to which you and your fellow Midwestern governors have appointed representatives. The purpose of our letter is to inform you that the U.S. Department of Energy (DOE) has proposed a bill – the Nuclear Fuel Management and Disposal Act – that would allow DOE to preempt state laws, rules, and regulations regarding the transport of radioactive waste to the national repository being planned for Yucca Mountain in Nevada. A copy of DOE's proposal is enclosed.

In 2006, the states were unified in their opposition to identical preemption language in Senate Bill 2589. The Council of State Governments passed a resolution at the national level calling for the removal of Section 7 from S. 2589. We are enclosing a copy of that resolution for your information.

We thought it important to alert the governors to the resurrection of Section 7 because, while some repository-related provisions in the new proposal may have merit, the preemption language in Section 7 has the potential to seriously curtail if not completely eliminate state involvement in planning and overseeing shipments to the repository. Specifically, the following state-level activities are threatened by Section 7:

- State inspections: If Section 7 is enacted, the states could lose their authority to require their own independent state inspections of DOE's shipments prior to departure or en route. Prior to departing, shipments leaving nuclear power plants will undergo inspections by state personnel. In the Midwest, nine states are planning to conduct such inspections: Illinois, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, Ohio, and Wisconsin. In addition, several states – including Illinois, Missouri, and Ohio – require a state inspection of shipments that pass through the state. State inspections are necessary to ensure that the material is packaged and secured properly to protect the public from exposure.
- State escorts: States could lose the authority to escort DOE's shipments if Section 7 is enacted. Some states require, and many states elect to provide,

state escorts for shipments of spent fuel and high-level radioactive waste. Illinois, Iowa, Missouri, Nebraska, and Ohio routinely escort shipments of highly radioactive waste. State escorts not only provide security for shipments but they also have the authority to divert shipments to safe parking or onto alternative routes in the event of emergencies or other unforeseen events, such as changes in national threat levels. Equally important, the escorts provide the states with a direct link to the shipments within their borders.

- State fees: States could lose their authority to levy fees on DOE's shipments if Section 7 becomes law. Illinois, Indiana, Iowa, Minnesota, and Nebraska currently charge fees on shipments of spent fuel, high-level waste, and other radioactive waste. The revenue from fees covers some of the costs of training emergency responders, inspecting shipments, providing state escorts, and monitoring shipments. Other states – including Missouri and Ohio – have considered legislation to enact fees after seeing the benefit that neighboring states derive from the practice.

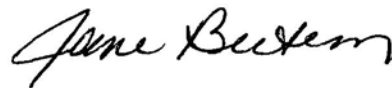
As you can see, Section 7 has great potential to infringe upon the states' ability to protect the health and safety of the public and of the environment through oversight of radioactive waste shipments within their borders. Because we feel such state involvement is vital to the safety, security, and public acceptance of these shipments, the Midwestern Radioactive Materials Transportation Committee thought it was important to call this matter to the attention of the Midwestern governors.

Thank you for the opportunity to share our observations about the potential impact on the states of Section 7 of DOE's proposed Nuclear Fuel Management and Disposal Act. If you have any questions about this letter, the 2006 CSG resolution, or the recently proposed bill, please contact the committee's senior staff person, Lisa R. Janairo, at 920-458-5910.

Sincerely,



Robert Owen, Co-Chair
CSG Midwestern Radioactive Materials
Transportation Committee



Jane Beetem, Co-Chair
CSG Midwestern Radioactive Materials
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Enclosures (2)

cc: Betsy Burdick
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