



The Council of
State Governments
**MIDWESTERN
OFFICE**

August 12, 2003

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Dear Dr. Chu:

On behalf of the Midwestern Radioactive Materials Transportation Committee, I am writing to convey our gratitude for the Office of Civilian Radioactive Waste Management (OCRWM) resuming its regional cooperative agreement with The Council of State Governments' Midwestern Office. As you are aware, the committee worked extensively with the other regions and with OCRWM in the 1990s to begin developing the transportation program. Now that the President has selected Yucca Mountain for development as a national repository, we believe our work with the program will be more important than ever. Reestablishing the regional agreements and renewing support for the Transportation External Coordination Working Group (TEC/WG) are two key steps in the process of developing OCRWM's transportation program.

We appreciated the opportunity to discuss with other stakeholders the elements of OCRWM's Transportation Strategic Plan during the recent TEC/WG meeting in Alexandria. We confess, however, that it was disappointing not to hear more from OCRWM regarding its plans for developing this document. In July 2002, Secretary Abraham committed to Congress that "the Department will develop a Transportation Plan in 2003 that will address operational requirements and policies, funding for first responder training, and the manner in which DOE will work with State and Tribal governments regarding the shipments of these materials [meaning spent fuel and high-level waste] to Yucca Mountain." It seems that the Strategic Plan now envisioned by OCRWM for completion in 2003 will

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constitute a plan for the development of a comprehensive transportation plan. Even though this Strategic Plan may only be an outline of key steps, the committee feels it is imperative that OCRWM solicits stakeholder comments on the draft document prior to its finalization.

The Midwestern region is committed to working closely with OCRWM in the development of a comprehensive Transportation Plan and assisting OCRWM in preparing for spent fuel shipments by 2010. Given the possibility of early acceptance of spent fuel at the Yucca Mountain site, the job before us is even more urgent. In the interest of improving our own ability to contribute substantively to OCRWM's Transportation Plan, we are writing to share some ideas and pose questions on what we believe are critical issues.

Section 180(c) Assistance

At a recent meeting, an OCRWM official mentioned the following proposed dates: 2005 for issuing application packages for Section 180(c) assistance, 2006 for selecting routes, and 2007 for awarding financial assistance to the corridor states and tribes. If the applications will be issued in 2005, then we have just two years in which to finalize the 180(c) policy, and another year to settle on the routes. It took OCRWM and the states over five years to develop the draft policy and procedures, produced in 1998. We presume that the draft policy and procedures will be the starting point for finalizing the 180(c) policy. None-the-less, implementing policy by 2005 will be a real challenge. It is important for the Midwestern states to have a sense of your plan and timetable for finalizing this new policy.

Record of Decision on Mode

It is important for OCRWM to issue its Record of Decision regarding the mode of transport to Yucca Mountain before getting too far in developing the Transportation Strategic Plan. Until OCRWM finalizes its mode of transport, the ability of states to engage in even preliminary shipment planning is greatly hampered. We hope that OCRWM can settle this matter soon. Does OCRWM have a target date for issuing this decision?

Regional Planning Process

The established regional planning process has successfully brought DOE and the corridor states together to plan and conduct shipments of spent fuel and transuranic waste. DOE followed this process in making several cross-country shipments of foreign research reactor spent fuel. In addition, transuranic waste shipments to WIPP continue to demonstrate the value of the regional approach to transportation planning. We trust that OCRWM will follow this model in planning and executing shipments under the Civilian Radioactive Waste Management System.

Nuclear Regulatory Commission Regulation of Transportation

DOE's brochure entitled *Spent Nuclear Fuel Transportation* states that DOE follows "the strict Department of Transportation and Nuclear Regulatory Commission (NRC) transportation rules, including the use of NRC-certified transportation casks, advance route approvals and notification, and shipment escorts." The Nuclear Waste Policy Act, however, would appear to limit the extent to which OCRWM must follow NRC regulations. Specifically, the Act mentions only the use of NRC-certified casks and the provision of advance notification to states. Will OCRWM transport spent fuel entirely under NRC regulations or will it instead follow the example of DOE's Office of Environmental Management and adhere solely to DOE orders?

Full-Scale Cask Testing

In the 1990s, the Midwestern states expressed their support for full-scale cask testing. In March of 2003, several members of the committee participated in a public workshop to discuss the NRC's draft proposal for conducting full-scale tests of spent fuel shipping casks. At the workshop, the NRC staff indicated that funding for these tests would come from OCRWM. Given the program's budget constraints, will OCRWM continue to support the NRC's full-scale testing proposal in FY04? If so, will doing so compromise OCRWM's ability to continue to support other transportation-related activities, such as the regional cooperative agreements? And, if OCRWM does *not* intend to support the NRC's full-scale testing proposal in the coming year, when will OCRWM resume this important activity?

Winter Shipments

Winter weather conditions in the Midwest often cause serious delays for shipments. Truck shipments, of course, are more vulnerable than rail shipments to conditions such as snow and ice-covered roadways and poor visibility. Nevertheless, in the event of an accident, emergency responders would have a difficult time getting to either a truck shipment or a rail shipment during severe winter weather. It is important for OCRWM to address the implications of seasonal weather conditions in its transportation plan. As one possible approach, we request that OCRWM examine the feasibility of scheduling shipments so that northern sites would ship in summer months and southern locations would ship during winter.

Barge Shipments

The Great Lakes provide drinking water to 40 million people. Sport fishing, boating, and other water-based tourism constitute a multi-billion dollar industry for the Great Lakes states. The U.S. shares all but one of the Lakes with Canada. Given the great importance of this natural resource to the economy of the Midwest and to the nation as a whole, it is all but certain that the public and elected officials in the Great Lakes states will oppose barge shipments on the Lakes.

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We recommend that OCRWM eliminate the option of shipping spent fuel by barge on the Great Lakes and, instead, seek alternative means of getting the waste to rail terminals.

Routing

DOE's Transportation Practices Manual cites the route-selection process in the "Acquisition of Waste Acceptance and Transportation Services" RFP as the one OCRWM will follow for selecting routes to Yucca Mountain. With the RFP now dead, will OCRWM commit to following this process? Specifically, we believe that DOE must retain the responsibility for interactions with states and other stakeholders, and for final route approval.

Assessing the Threat of Terrorism

Given the increased focus by the federal and state governments on potential acts of terrorism, how does OCRWM intend to address this issue in terms of the security and safety of spent nuclear fuel and high-level radioactive waste shipments? Would OCRWM be willing to request the NRC to reexamine this issue in order to determine the adequacy of the current physical protection regulations under 10 CFR 73? Would OCRWM be willing to ask the NRC to assess the consequences of attacks that have the potential for radiological sabotage? Does OCRWM intend to include an analysis of these issues in all environmental impact statements associated with Yucca Mountain?

The committee appreciates the opportunity to bring these matters to your attention. We eagerly await your reply. If you should have any questions, please do not hesitate to contact either Ms. Lisa Sattler (920.803.9976) or me (217.786.6365).

Thank you for your support of the CSG Midwestern Radioactive Materials Transportation Committee. We look forward to working with you and your staff to develop the transportation system.

Sincerely,

A handwritten signature in black ink, appearing to read "Timothy A. Runyon". The signature is fluid and cursive, with a large initial 'T' and 'R'.

Timothy A. Runyon

Division of Nuclear Safety

Illinois Emergency Management Agency, and
Chair, CSG Midwestern Radioactive Materials

Transportation Committee