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January 4, 2013

The Honorable Peter B. Lyons
Assistant Secretary of Energy for Nuclear Energy
U.S. Department of Energy
Office of Nuclear Energy/NE-1
1000 Independence Avenue, SW
Washington, DC 20585

Dear Dr. Lyons:

On behalf of the four state regional groups, we are pleased to present the enclosed "States' Expectations for Consultation and Cooperation in Developing and Operating a Transportation System to Move Spent Fuel and High-Level Radioactive Waste." We developed these expectations in follow up to the meeting we attended on October 3-4, 2012, with you and Office of Nuclear Energy staff working on DOE's Nuclear Fuels Storage and Transportation Planning Project (NFSTPP).

Our purpose in preparing this statement of expectations is to describe the states' vision for the type of consultative, cooperative process needed in development of a transportation system for moving spent fuel to facilities for storage or disposal. We view this statement as the first step in our engagement with DOE's Office of Nuclear Energy. We look forward to working with you and your staff in the coming months and years to define with greater specificity the many system elements that will help the transportation program succeed.

It is our understanding that the states and tribes will be invited to a meeting with the NFSTPP staff in March. We believe that the agenda for the meeting should include a discussion of our statement and DOE's response.

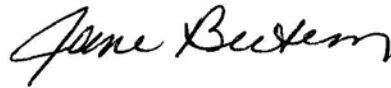
Our regional cooperative agreements with DOE make it possible for us to be actively engaged in transportation planning. We greatly appreciate DOE's support for these agreements. We look forward to continuing to work with you and your staff through the regional groups and through DOE's National Transportation Stakeholders Forum.

Peter B. Lyons
January 4, 2013
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Sincerely,



Major Lance Evans
Co-Chair, CSG Midwestern Radioactive
Materials Transportation Committee



Jane Beetem
Co-Chair, CSG Midwestern Radioactive
Materials Transportation Committee



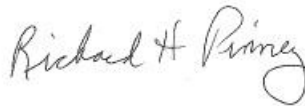
Mike Broderick
Chair, SSEB Radioactive Materials
Transportation Committee



Brian Maske
Chair, SSEB Transuranic Waste
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John Giarrusso, Jr.
Co-Chair, CSG Northeast High-Level
Radioactive Waste Transportation Task Force



Richard H. Pinney
Co-Chair, CSG Northeast High-Level
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Ken Niles
Chair, WIEB High-Level Radioactive Waste
Committee

Enclosure

cc: Jeffrey Williams
Corinne Macaluso

The States' Expectations for Consultation and Cooperation in Developing and Operating a Transportation System to Move Spent Fuel and High-Level Radioactive Waste

Purpose

State agencies protect the health and safety of the public and they are accountable to state governors and legislatures. Historically, they have been involved in planning and overseeing large-scale shipping campaigns to move spent fuel and high-level radioactive waste. There are significant risks (physical and societal) that must be safely managed, as well as significant institutional challenges. These risks and challenges will need to be addressed in system design, planning, and operations over the life of the transportation program. To address these challenges, the U.S. Department of Energy (DOE) and the affected states will strive to implement the 2006 recommendations of the National Academies (NAS) and the 2012 transportation recommendations of the Blue Ribbon Commission on America's Nuclear Future (BRC) in an integrated transportation system design.

That a sizable segment of the population is fearful of radioactive waste transportation is well documented. The persistent public concerns about radioactive waste shipments led the NAS, in its 2006 study "Going the Distance," to find that, while there are "no fundamental technical barriers to the safe transport of spent nuclear fuel and high-level radioactive waste,...there are a number of social and institutional challenges to the successful initial implementation of large-quantity shipping programs." The NAS defined "success" in terms of shipments taking place in a "safe, secure, timely, and publicly acceptable manner." State involvement in transportation planning will not only contribute to safe, secure, and timely transportation, but will help to increase the likelihood of public acceptance by addressing the concerns that will inevitably arise in prospective corridor communities.

The states engaged in transportation planning with the DOE's Nuclear Fuels Storage and Transportation Planning Project have developed this statement to convey their expectations for how they will be involved in planning and overseeing the transportation system, whether the activity is managed by DOE or by a successor entity. These expectations are based on the highly successful transportation program for shipping transuranic waste to DOE's Waste Isolation Pilot Plant (WIPP) in New Mexico, which the BRC cited as a model for shipments of spent fuel and high-level radioactive waste. The states' expectations apply to a pilot-scale program to move "stranded" spent fuel from shutdown reactors to consolidated storage sites, as well as to the larger program to move the nation's inventory of spent fuel and high-level radioactive waste to one or more repositories.

This statement is but the first step in the process of building a collaborative relationship between the states and DOE. With all parties having a clear understanding of how they will work together to develop the transportation system, they can move on to the next step of defining the necessary elements of that system to ensure success.

The States' Expectations

As envisioned by the states, a truly cooperative, consultative approach is characterized by highly engaged stakeholders that are committed to working together to solve a problem. All parties seek to understand the perspectives of other stakeholders in an attempt to find common ground, where possible, and to reach a compromise when reaching agreement is not possible. Achieving successful collaboration between DOE and the states requires the following:

Adherence to a Model Process for Successful Shipping Campaigns: To engage the states fully in transportation planning, DOE will follow the model established in the mid-2000s for developing the Section 180(c) policy and procedures in resolving other transportation institutional issues, including implementation of the NAS and BRC recommendations and lessons learned from the WIPP transportation program. Elements of the 180(c) process include:

- Direct, frequent interaction between DOE and the states.
- The establishment of a national working group with regional representatives selected by the individual regions to ensure a broad range of experience.
- Regional representatives contributing substantively to written work products rather than limiting their role to a formal process of reviewing and commenting.
- An aggressive schedule that demonstrates a commitment to making progress.
- A commitment from program management, staff, contractors, and the states to stay on track.

This is the model states expect DOE and its successor to follow when finalizing the Section 180(c) policy and procedures, identifying routes, and developing the transportation plan and other plans to be developed in the future. Additional transportation-related issues and options for resolving them will be identified by DOE and the states working in collaboration.

Sustained Efforts to Build Relationships: DOE and its successor must recognize that the regional cooperative agreements contribute to the transportation system through the relationships they foster in addition to the written products that result from their efforts. To build the strong working relationships that underpin successful transportation planning efforts, personnel from DOE or its successor agency will:

- Meet face-to-face with regional committees at least twice each year.
- Participate in quarterly conference calls with the regions to provide interim updates on progress and to identify issues for resolution.
- Speak during National Transportation Stakeholders Forum (NTSF) and regional webinars on program-related topics.
- Speak at public meetings hosted by state agencies and/or at legislative hearings.
- Seek opportunities to incorporate feedback from the states into policy decisions, plans, and other products.

Development of Mutual Understanding: When DOE cannot accommodate the states' specific requests, staff will provide a detailed explanation for not doing so and will work with the states

to identify alternative approaches that may achieve similar ends. The states, in turn, will strive to understand the constraints faced by DOE or its successor; seek to remove or reduce those constraints, when possible; and help to identify solutions that work within the limitations.

Implementation

To implement this vision, DOE or its successor agency will require consistent and adequate funding over long lead-times for transportation system development and operation; reliable agency support for needed legislative measures; and the ability to recruit and retain a top-flight team with the skills required for stakeholder engagement. It will also require consistent support from top management. DOE will need to keep costs in context: While a consultative, cooperative approach to transportation planning may involve costs greater than those required by current regulations, this additional investment is less than the potential costs of contention and delay.

Defining Success

This process will require reliable federal funding for ongoing and special efforts, as well as the active participation of federal agencies. Working through the regional groups – and following the expectations outlined above – the states commit to identifying and working toward resolution of issues in transportation system design and operation.

Prepared by

The Council of State Governments, Midwestern Office
Western Interstate Energy Board
Southern States Energy Board
The Council of State Governments, Eastern Regional Conference

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