



NATIONAL CONFERENCE *of* STATE LEGISLATURES

The Forum for America's Ideas

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Speaker
New Hampshire House
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May 24, 2013

The Honorable Ron Wyden
Chairman
Energy and Natural Resources Committee
United States Senate
221 Dirksen Senate Office Bldg
Washington, DC 20510

The Honorable Lisa Murkowski
Ranking Member
Energy and Natural Resources Committee
United States Senate
719 Hart Senate Office Bldg
Washington, DC 20510

The Honorable Dianne Feinstein
Chairman
Energy and Water Development
Appropriations Subcommittee
United States Senate
331 Hart Senate Office Bldg
Washington, DC 20510

The Honorable Lamar Alexander
Ranking Member
Energy and Water Development
Appropriations Subcommittee
United States Senate
445 Dirksen Senate Office Bldg
Washington, DC 20510

Re: Nuclear Waste Administration Act of 2013 Discussion Draft

Dear Chairman Wyden, Senator Murkowski, Chairman Feinstein and Senator Alexander:

The National Conference of State Legislatures (NCSL) applauds your continued efforts to develop bipartisan legislation needed to establish a program to manage the nation's spent nuclear fuel and high level radioactive waste with the release of a discussion draft of the Nuclear Waste Administration Act of 2013 (NWAA).

NCSL has long been on record in support of efforts by both Congress and the administration to address the fundamental questions necessary for developing a solution to address spent nuclear fuel storage and high level radioactive waste management. NCSL urges Congress to move expeditiously to review and act on legislation that builds on the recommendations for a new national radioactive waste management strategy made in Jan. 2012 by the Blue Ribbon Commission on America's Nuclear Future (BRC) and in the Department of Energy's Jan. 11, 2013 report, "Strategy for the Management and Disposal of Used Nuclear Fuel and High-Level Radioactive Waste."

Consent Based Siting

NCSL recognizes the need to develop repository and storage facility siting processes that are efficient and effective in order to enable a constructive environment for these efforts. However, efforts to streamline this process do not necessitate overlooking the role of state legislatures in the process. In order to ensure that such a decision accurately reflects appropriate levels of state consensus, state legislators, and not just a state's governor, must be consulted regularly. Ensuring

such consultation respects the traditional role of state legislatures in the appropriation of funds and performing programming oversight.

There are a number of legislative options for ensuring the consultation process can integrate all aspects of state government and assure state legislative input. One option to consider would be to add “presiding officer of each legislative chamber” to all references to the “Governor or duly authorized official of the state” when mentioned with regards to site selection, study and siting for both the repository and storage facility processes. This would make it consistent with the Nuclear Waste Policy Act of 1982 section 117, which clearly states that the Department of Energy “shall consult and cooperate with the Governor and legislature of such State.” NCSL strongly urges this committee, as it moves forward to develop a program for the long-term treatment and disposal of high-level radioactive waste, to ensure adherence to this requirement.

Nuclear Waste Administration

NCSL supports the creation of a public-private partnership to manage the back end of the nuclear cycle, as was recommended by the final report of the BRC, rather than establishment of a new federal agency. Additionally, in response to the questions put forth by the senators, NCSL would note that given the importance placed on state, local, and tribal consultation in the draft, the senators should consider adding such representation to the Oversight Board and other advisory committees, as discussed in Section 205. In order to not overburden the board structures, the appointments could be made through the national organizations representing state, local and tribal elected officials such as NCSL.

Interim Storage Linkages

NCSL supports federal action to develop consolidated interim storage facilities to temporarily house high level radioactive waste inventories until a permanent repository is operational. With respect to the senators’ questions pertaining to establishing a linkage between progress on development of a repository and progress on development of a storage facility, NCSL neither supports nor opposes such a linkage. However, NCSL does believe that consolidated interim storage facilities should be licensed for a specific, limited period of time not to exceed 25 years.

Working Capital Fund

NCSL supports your efforts to direct annual funding within the Nuclear Waste Administration Working Capital Fund and the Nuclear Waste Fund for their intended purpose of managing radioactive wastes and ensure that they not be subject to non-related federal discretionary spending. These funds should be isolated for developing permanent disposal, consolidated interim storage facilities and for the use of financing mechanisms and incentives to voluntary host communities.

Nuclear Waste Transportation

NCSL supports the draft’s language that provides for advanced notification to states through which transportation of spent nuclear fuel and high level radioactive waste will take place. NCSL also supports efforts to provide assistance from the administrator of the Nuclear Waste Administration to states to train public safety officials, acquire safety response equipment and other safety programs related to the transportation of nuclear waste. Additionally, state, local and tribal governments should be involved in a meaningful manner with regard to development and implementation of transportation quality assurance measures including radiation emissions standards, cask designs, support facilities, and transportation equipment.

NCSL has an extensive history of working on issues related to nuclear waste management and welcomes the opportunity to work with Congress to continue to move the conversation forward. Please feel free to contact NCSL staff Ben Husch (202-624-7779 or ben.husch@ncsl.org) or Tamra Spielvogel (202-624-8690 or tamra.spielvogel@ncsl.org) for more information.

Sincerely,



Representative John McCoy, Washington
Co-Chair, NCSL Environment Committee



Senator Ross Tolleson, Georgia
Co-Chair, NCSL Environment Committee



Representative Jim Gooch Jr., Kentucky
Co-Chair, NCSL Energy, Transportation and
Agriculture Committee



Senator John C. Watkins, Virginia
Co-Chair, NCSL Energy, Transportation and
Agriculture Committee

Attached: NCSL Radioactive Waste Management Policy Directive



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RADIOACTIVE WASTE MANAGEMENT

***Joint policy directive of the NCSL Environment Standing Committee
and the NCSL Energy, Transportation and Agriculture Standing Committee***

The federal government should work with NCSL and similar organizations in an effort to ensure that state legislators are included in all aspects of nuclear waste management strategies.

Low-Level Waste NCSL maintains that states are best prepared to license and regulate low-level waste disposal facilities that operate within their borders in order to protect the health, safety and welfare of their citizens. NCSL urges the federal government to continue to provide states both with support and flexibility in their efforts to dispose of low-level radioactive waste. States and state compacts should have authority to limit/allow the import and export of waste to and from their state or region. The federal government should adopt policies that clarify the responsibility of the federal government for federal waste, identify any federal waste that might be disposed at compact facilities, and ensure that any federal waste disposed of at compact or unaffiliated state facilities is subject to negotiation and the same laws, regulations, fees and requirements as nonfederal waste. The federal government should adopt clear policies with regard to naturally occurring and accelerator produced radioactive material waste and mixed wastes that respect states' authority to protect the health, safety and welfare of their citizens. NCSL encourages the federal government to work with NCSL toward these ends.

High-Level Waste and Used Fuel Management

NCSL urges the federal government to expeditiously research, develop and license a high-

level waste/used nuclear fuel disposal and consolidated interim storage facilities at technically and scientifically suitable sites. NCSL favors the creation of a public-private partnership to manage the back end of the nuclear cycle. The federal government should consult with states at each step of the process to ensure they play an integral role in the development of high-level waste/used nuclear fuel storage and disposal policies and obtain state, local and tribal government informed consent before locating permanent disposal or consolidated interim storage facilities. The federal government should provide fair and equitable compensation to state and local governments of host states. This should include funding of independent oversight activities by state executive and legislative branches so that the host state may participate in and conduct its own assessments of a proposed waste repository site and disposal technology. The federal government should comply with state laws and regulations during the process of site selection and characterization, and the construction, operation and decommissioning of permanent disposal or consolidated interim storage facilities.

Consolidated interim storage facilities should be licensed for a specific, limited period of time not to exceed 25 years. High-level waste/used nuclear fuel recycling should be a priority waste management strategy.

Annual funding from the Nuclear Waste Fund should be used for nuclear waste management and not subject to non-related federal discretionary spending. These funds should be isolated for developing permanent disposal and consolidated interim storage facilities.

Transportation of Radioactive Waste and Used Nuclear Fuel

NCSL urges the federal government to ensure safe and reliable modes of transportation of radioactive wastes. DOE should seek to enter into a memorandum of understanding with each corridor state to spell out responsibilities, liability, compensation, response time, cleanup, shipping, planning and other duties connected with emergency situations. State, local and tribal governments should be given funding and technical assistance for ongoing emergency preparedness, independent safety inspections of drivers, vehicles and shipping containers, training of state and local public safety officials along radioactive waste transportation routes, and state emergency management communications centers. State,

local and tribal governments should be involved in a meaningful manner with regard to radiation emissions standards, cask designs, support facilities, transportation equipment and other elements of the transportation system. The federal government should respect state and tribal authority to assess reasonable fees which fund activities connected to the safe routine transportation of high-level waste/used nuclear fuel shipments. The federal government should assure transportation accident prevention through the use of superior drivers; carrier compliance with shipping contracts and all applicable federal, state and local regulations; independent safety inspections of drivers, vehicles and shipping containers; designation of safe parking areas during abnormal conditions; advance notice to the appropriate state and local agencies regarding shipments; and state access to information on shipments' status (i.e. real-time shipment tracking information where appropriate). Special criteria should be applied to the shipment of high-level waste/used nuclear fuel, including the development of guidelines for routing when shipping by rail, the use of dedicated trains moving at safe speeds for rail shipments, safety inspections at origin and enroute, and full-scale testing of casks used for used fuel transport.

Defense-Generated Transuranic (TRU) Waste

NCSL urges the federal government to appropriate adequate funds and expedite its responsibilities with regard to disposal of defense-generated transuranic (TRU) waste. The federal government should implement a compensation program that recognizes equity considerations for state and local governments hosting a TRU waste repository and the federal government's obligation to provide such compensation. Host communities should be given assistance to subsidize and maintain an independent environmental monitoring and analytical laboratory to assure the character of the waste and ensure public confidence and safety.

Federal Facilities Cleanup

The states insist that the cleanup and disposal programs at the federal government's network of nuclear weapons production facilities and national research labs advance in a safe, cost-effective and expeditious manner. The U.S. Department of Energy, the Department of Defense and any future owners should be subject to all state laws governing the cleanup of hazardous and radioactive waste materials. States are also committed to the cleanup and

conversion of closed military and other federal facilities containing hazardous and radioactive waste materials to other beneficial uses as soon as possible. NCSL encourages the Department of Defense to lessen the impacts of closing these facilities by entering into partnerships with business and other private interests in order to turn them into sites of commerce and development.

All federal cleanup efforts must be conducted in full consultation with the affected state, tribal and local governments. An ongoing dialogue with the states should be maintained to ensure effective state involvement in critical cleanup related decisions. Cleanup work must be accomplished in strict compliance with federal facility agreements and federal and state laws governing the cleanup of hazardous and radioactive waste materials. The federal government should give state and federal regulators complete enforcement authority necessary to ensure such compliance.

The federal government should continue to use the contract review process to provide effective oversight and to evaluate integrated contracts for cost accountability. Cost-effective solutions must be developed and implemented by federal agencies to meet cleanup standards that protect human health and the environment. State, tribal and local governments must have a continuing, substantive role in the planning and oversight activities of the waste-management effort. The Department of Energy must recognize that cultural resources and artifacts may be present on DOE sites, and must partner with affected Indian tribes to identify and mitigate impacts to those resources.

Pollution prevention practices should be followed and whenever possible recovered materials should be recycled or reused. Action should be taken to manage federal radioactive, hazardous, and mixed waste sites as soon as possible, but safety and quality cleanup must remain the priority. Federal cleanup efforts should enforce priorities and meet milestones set forth in federal-state consent orders regarding the cleanup of specific sites. A fully funded and comprehensive long-term stewardship program for all of the federal facilities must be developed to ensure that communities are protected in perpetuity.