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August 19, 1993

Office of the Chief Counsel
 Federal Highway Administration
 U.S. Department of Transportation
 HCC-10, Room 4232
 400 Seventh Street, S.W.
 Washington, D.C. 20590

FHWA-97-2180-42

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 LECS/REGS. DIV.
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Subject: Comments of Docket Number MC-92-4

To The Record:

The ten western states through which U.S. Department of Energy plans to ship transuranic waste will be made from interim storage sites to the Waste Isolation Pilot Plant (WIPP) in New Mexico, have been studying under the Western Governors' Association WIPP Safe Transport Technical Advisory Group the issues related to the safe transport of radioactive waste. Based on the findings of the Technical Advisory Group and their published proposed procedures for the safe transport of transuranic radioactive waste, I am providing comment on FHWA's Notice of Proposed Rulemaking, Docket Number MC-92-4, establishing motor carrier safety permit program. The western states are concerned about both the effective and efficient enforcement of motor carrier safety regulations and the safety of the states' residents through which the material is to pass.

Due to the focus of WGA's expertise in this area, I will limit the comments on those sections related to radioactive materials. Agencies from the western states will provide individual comments on these and other sections as they deem appropriate. Those comments presented below represent the collective response of the Technical Group to FHWA's proposed rules.

Section 15 of the HMTUSA requires, in part, inspection of commercial motor vehicles transporting highway route controlled quantities of radioactive material before each trip. In considering the development of inspection requirements for radioactive materials and in trying to determine what type of inspection criteria is needed, FHWA examined the procedures contained in current inspection methods. The FHWA reviewed, (1) the North American Uniform Driver/Vehicle Inspection Procedure, (2) a draft of a Commercial Vehicle Safety Alliance (CVSA) document entitled, "Recommended National Procedures for the Safe Inspection of Commercial Highway Vehicles Transporting Spent

Fuel/Transuranic Waste and High Level Radioactive Wastes,” (3) a RSPA document entitled, “A Guide for the Inspection of Radioactive Material Shipments by Motor Vehicle,” and (4) a RSPA document entitled, “A Guide for the Inspection of **Radioactive Material** Shipments by Motor Vehicle or at Freight Facilities.”

The FHWA proposes to require the use the general inspection requirements contained in Part 396 and the inspection standards found in Appendix G to subchapter B to meet the requirement that a vehicle transporting highway route controlled quantities of radioactive material be inspected before each trip. FHWA states that it also believes that a Level 1 North American Uniform Driver/Vehicle Inspection can be used to satisfy the inspection requirement if the inspection is carried out by an inspector who is qualified under Section 396.19.

FHWA has solicited comments regarding its selection of inspection criteria. The FHWA also seeks input as to whether radiological monitoring should be included within the inspection criteria. The Technical Group (which including the states of Arizona, California, Colorado, Idaho, Nevada, New Mexico, Oregon, Utah, Washington and Wyoming) suggests that FHWA adopt as its required inspection criteria, the CVSA Enhanced Level 1 Inspection for Radioactive Materials (as set forth in the CVSA document entitled “Recommended National Procedures for the Safety Inspection of Commercial Highway Vehicles Transporting Spent Fuel, Transuranic Waste and High-Level Radioactive Wastes” September 1991). These criteria were developed by CVSA under a cooperative agreement with the U.S. Department of Energy. Additionally, CVSA worked with the Conference of Radioactive Control Program Director (CRCPD) in developing compatible inspection procedures for the container and radiological material.

The Technical Advisory Group believes that the safety of WIPP, DOE and commercial radioactive material shipments will be significantly enhanced through strict compliance with regulatory requirements and development of inspection standards which focused jointly on the driver, the vehicle, the container and the radiological cargo. The WGA Technical Advisory Group participated with CVSA and CRCPD in the development of the CVSA Enhanced Level 1 Inspection criteria with the intention of WGA and the U.S. Department of Energy (DOE) utilizing the transuranic waste shipments to WIPP as a pilot for the application of the CVSA Enhanced Level 1 Inspection criteria. Given delays in opening WIPP, WGA, DOE and the Technical Group have now looking at the up coming shipments of cesium 135 capsules from Colorado to Hanford, Washington. Recognizing that the safe and uneventful shipment of these materials, and public safety are of primary concern, FHWA should acknowledge the work of CVSA, CRCPD, DOE and WGA, and adopt as its required inspection criteria, the CVSA Enhanced Level 1 Inspection for Radioactive Materials. FHWA should specify that in order to pass the inspection, the vehicle must be defect free. Inspectors would be certified through CVSA and the states and perform the inspections at the point of origin at specific intervals during transit and at the destination.

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This could be accomplished through state oversight; of course, this would place an additional burden upon the states.

If you or your staff have questions regarding the above comments or would like additional information regarding **WGA's** proposed procedures please call either Captain David Rich, Idaho State patrol and chairman of the WGA WIPP Technical Advisory Group at 208-334-3850 or Laura Scheele of my staff at 303-623-9378.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ronald W. Ross". The signature is written in black ink and is positioned below the word "Sincerely,".

Ronald W. Ross
Program Manager
Environmental Issues

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FHWA DOCKET MC-92-4-44
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