

# LANDER COUNTY COMMISSIONERS

Chair: Heather Estes  
Vice Chair: Jim Fouts  
Commissioner: Jerry LaMiaux



---

August 14, 1996

Ms. Corinne Macaluso  
U.S. Dept. of Energy  
C/O Lois Smith  
TRW Environmental Safety Systems, Inc.  
600 Maryland Ave. S.W. Ste. 695  
Washington, D.C. 20024

Re: Section 180 (c) Comments

Dear Ms. Macaluso:

Lander County appreciates the opportunity to provide comments on DOE's proposed Policies and Procedures for Implementing the Emergency Response Technical Assistance and Funding Provisions of Section 180 (c) of the Nuclear Waste Policy Act, as amended (NWPA).

Our overall impression of the proposed policy is that it diminishes the role of local emergency responders and their training requirements for NWPA shipments. Far too much emphasis is given to state agencies and organizations whose responsibility under the law is to provide "*training for public safety officials of appropriate units of Local Government and Indian tribes.*" State recipients or Section 180 (c) grant funds primarily fulfill an administrative and instructional function. To be more consistent with NWPA, the proposed policies and procedures need to focus more on the training requirements and response capabilities of local and tribal officials.


Furthermore, the *Basis for Cost of Program* in the Appendix does not appear to provide sufficient funding for state recipients to actually fulfill the obligation DOE has under Section 180 (c). It appears that DOE is attempting to pass responsibility for local emergency response preparedness to State grant recipients without an adequate level of funding. DOE needs to ensure that appropriate local emergency response capabilities are available for NWPA shipments. The level of funding provided to State recipients should be determined by the training requirements of local officials and tribes.

Let it also be noted that the State of Nevada strongly objects to DOE arbitrarily determining the amount of funding a State will require to adequately train personnel and prepare for shipments under Section 180 (c). Nevada is adamant in their belief that DOE cannot devise a formula that will sufficiently account for the vastly different circumstances found in the various states and tribes affected by NWPA shipments and that any grant program that is implemented must allow individual states and tribes to assess their own funding needs and present these to DOE as part of the application package for grant assistance. The Lander County Board of Commissioners concur with the State of Nevada's objection to this method of determining funding requirements.

Enclosed are specific comments to the proposed Policies and Procedures for Implementing the Emergency Response Technical Assistance and Funding Provisions of Section 180 (c) of the NWPA, as amended. We also hereby reiterate comments that the Lander County Board of Commissioners previously submitted during the March, 1995 180(c) comment period.

If you have any questions concerning these comments, please do not hesitate to contact me at (702) 635-2885.

Sincerely,

A handwritten signature in cursive script that reads "Heather Estes".

Heather Estes, Chair  
Lander County Board of Commission

enclosure

**LANDER COUNTY COMMENTS**  
**DOE'S PROPOSED POLICIES AND PROCEDURES FOR IMPLEMENTING THE**  
**EMERGENCY RESPONSE TECHNICAL ASSISTANCE AND FUNDING PROVISION OF**  
**SECTION 180 (C) OF THE NWPA, AS AMENDED**

1. Page 2. Safe Routine Transportation does not appear to specifically mention an interim storage site. The implementation of 180 (c) must be capable of accommodating transportation to an interim site. According to DOE's Revised Program Plan, a strategy has been devised based upon the assumption that an interim storage site could be designated by 1999. Even if President Clinton vetos pending legislation in the House and Senate, an interim site could be selected in less than three years with Administration support.
2. The suggested grant funding process, although flexible, appears to shift the burden of Section 180(c) to State government agencies. Section 180(c) clearly states that the *Secretary shall provide technical assistance and funds to States for training for public safety officials of appropriate units of Local Government and Indian Tribes.* This language suggests that DOE has an obligation to ensure that appropriate local governments and Indian tribes are adequately trained not state agencies. The language also suggests that funds are to be used specifically for the training of local government public safety officials and Indian tribes. *"Appropriate" Local Governments and Indian Tribes are the focus of 180(c) funding.*
3. Eligibility and Timing of Grants and Technical Assistance: The variable amount of funding should be based upon shipment miles rather than route miles. Shipment miles would recognize those regions where waste shipments converge such as Nevada. Route miles should be used to determine a base level of funding. Some states may have relatively few shipments whereas others may be faced with several hundred each year. For states or regions with few shipments, it may be more cost effective to provide escorts rather than to distribute 180(c) funding. DOE should review the cost effectiveness of emergency response escorts for states which will have relatively few shipments.
4. The grant application process needs to ensure that appropriate public safety officials of Local Governments and Indian tribes are adequately trained to respond to NWPA shipments. DOE needs to ensure that communities along transportation routes are adequately prepared. Limitations should be placed on administrative funds available to state grant recipients. State grant recipients need to identify in the grant application process the number of communities and amount of training to be provided with 180(c) funds. A consultation and coordination requirement with affected Local Governments should be required in the grant application process. Furthermore, local agencies should be able to appeal directly to DOE if conflicts arise between the state recipient and a Local Government.

5. Page 4, 1st Para. indicates that it will be the applicants decision as to who gets trained... If the applicant is allowed to decide who receives training assistance, how will DOE ensure that adequate emergency response training has occurred along transportation routes? DOE has a shared responsibility in this process. Funding is to be provided to states for the purpose of training local public safety officials and tribes. The language in this notice suggests that the entire burden for emergency response preparedness falls to the applicant once the grant is made. Yet, local officials for whom the grants are made, have little if no input to the application and training process.
6. Pg. 7, para. 5 (Eligibility Criteria) *Recipients will be required to encourage.....*Lander County questions whether this language is strong enough. Most Local Governments will participate in Section 180(c) related training, if adequate funding is provided. Simply encouraging such participation does appear to meet the purpose of Section 180(c). To ensure that the intent of Section 180(c) is met, a portion (75 percent) the funding provided to the state recipients should be reserved or given priority to training programs for Local Governments and tribal officials. State agencies should not be given complete discretionary authority over Section 180(c) funds. Local and tribal participation through some type of consultation requirement in the grant application process should be required. DOE needs to foster a cooperative atmosphere between direct grant recipients and those who are supposed to receive training (local and tribal officials).
7. Pg. 7. Funding for training should be available to jurisdictions who may respond to an emergency situation regardless of location. The goal of Section 180(c) funding should be to establish a well trained emergency response network. It is possible in certain locations that emergency response can be or will be provided by agencies which do not have nuclear waste shipments passing directly through their jurisdictions. DOE needs to provide flexibility in the application process to allow for such a situation.
8. Fund Allocation Formula: Greater consideration needs to be given to shipment miles. As the number of shipments increase, so will the probability of an accident. The level of risk will also increase among local residents. Increased response capabilities is an effective means to manage risk perception among community members. We agree that every jurisdiction facing shipments should receive a base level of funding. However, shipment miles should be incorporated into the allocation formula to recognize a greater number of shipments and the increased risk associated with such shipments.
9. Pg. 9, Para. 1: While it might be true that Local and tribal Governments need not receive a guaranteed amount of Section 180(c) funds directly, local public safety officials should receive the majority of funds indirectly through training assistance. DOE has the responsibility to ensure that local public safety officials are adequately trained. DOE needs to ensure that the majority of Section 180(c) funds are not spent on state agency bureaucracy. It may be appropriate to limit administrative costs for each grant recipient, and or designate a portion of funding required for training assistance of local public safety officials and tribes.

10. The proposed funding/budget requirements (Basis for Cost of Program) is not based upon the training requirements of local communities and Indian tribes. The Basis for Cost of Program falls well short of the intent of Section 180(c). There is no mention of the costs required to provide training for local communities. The use of Section 180(c) funds to train only state personnel is questionable at best and does not appear to be consistent with the Nuclear Waste Policy Act. Upon review of the cost basis, one can only conclude that DOE does not intend to provide sufficient funding to ensure that local communities are adequately trained NWPA shipments.

**LANDER COUNTY 180 (C) COMMENTS**  
**ADDRESSED TO DOE, C/O LOIS SMITH -DATED MARCH 28 , 1995**

Implementation of Section 180(c) of the Nuclear Waste Policy Act needs to recognize several issues:

1. The isolated and rural nature of communities located along transportation routes in Nevada and across the County: Many communities are located significant distances from urban areas where more sophisticated emergency response capabilities are currently located. Areas of Lander County are in excess of 200 miles from our State's Capital, Carson City.
2. The volunteer nature of local emergency response agencies in communities such as Battle Mountain and Austin, Nevada: Without full-time trained staff, it may be difficult to maintain the availability of adequately trained emergency response personnel. Furthermore, accessibility of training resources is difficult requiring volunteers to travel to urban areas to obtain assistance and training.
3. Limited financial capacity to support emergency management capabilities for high level nuclear waste: Financial assistance needs to be provided for training, equipment, and medical services. Smaller communities do not have financial resources available to fund adequate response capabilities.
4. Responsibility needs to be clearly delineated: Financial assistance needs to be consistent with the responsibility and the functions of the local emergency response providers.
5. Subsidies need to be directed to local emergency responders, to deal with as few agencies as possible. For the sake of maximum cost effectiveness and best communication of on-going, changing conditions, it is critical to deal as directly as possible with local entities.

DOE needs to continue to ensure adequate emergency response capabilities are maintained along transportation routes throughout the course of high-level nuclear waste shipping campaign. Such a campaign may continue for twenty or more years. Continued financial commitment is required to ensure adequate response capabilities.