



August 26, 1996

U.S. Department of Energy
c/o Lois Smith
TRW Environmental Safety Systems, Inc.
600 Maryland Avenue, SW
Suite 695
Washington, DC 20024

RE: Section 180(c) Comments

Dear Ms. Smith:

Nye County appreciates the opportunity to submit comments in response to the notice of proposed policy and procedures on the implementation of Section 180(c). As you are aware, Nye County is the situs jurisdiction for the Yucca Mountain Project and, depending on the outcome of current legislation, an interim spent fuel storage facility. As it appears, a substantial volume of the country's most radioactive waste will funnel into Nye County by truck and/or rail. Additionally, a substantial volume of low-level radioactive waste is already being transported to the Nevada Test Site. We are therefore very concerned that Nye County emergency personnel be both adequately equipped and trained to respond to radioactive waste transportation accidents.

Principles for Implementation of 180(c)

Nye County believes that the Office of Civilian Radioactive Waste Management (OCRWM) should observe the following principles in implementing Section 180(c) of the Nuclear Waste Policy Act.

1. *Local Governments must receive the assistance they need*

Emergency preparedness and response to radiological accidents is the responsibility of the affected state, local, and tribal governments, as well as the federal government. It is the local government, however, that is most predominantly the first responder to these accidents. The local emergency personnel are usually the closest in proximity and naturally have the first response responsibility to protect the people of their community, their property, and the environment from harm.

Although Section 180(c) is not interpreted as providing *direct* funding and technical assistance to

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affected local governments, local responders will, in perhaps all cases except State Highway Patrols, be the first responder to a radiological accident or incident. **This designation should be recognized and identified in the policy and procedures, and a mechanism should be included that clearly requires states to distribute the majority of training and assistance funds directly to the local level.** The policy and procedures should also include mandatory integration of local concerns into the evaluation criteria prior to distributing grants. Interaction between state planners and local emergency response planners during the application process would facilitate this integration process.

According to a Council on State Governments' staff analysis of data from Nevada Agency for Nuclear Projects, Nuclear Waste Project Office, 1996, *High-Level Nuclear Waste Shipping Route Maps to Yucca Mountain and Shipment Number Estimates; Multipurpose Canister Base Case*, about 16,000 spent fuel shipping containers are projected to pass through Nevada by rail and highway. This volume is not only significant enough to justify additional resources for the State of Nevada to disperse to their affected communities, but it clearly indicates the volume of waste that will enter Nye County.

In addition, a presentation at the recent Transportation External Coordination Working Group (TEC/WG) meeting in Pittsburgh documented that by the year 2000, under the ten-year program, over 60,000 shipments of various types of radioactive waste will be transported to other sites. Nye County will permanently host a significant proportion of these estimated shipments.

Therefore, a distinction must be made between Nye County as the community designated as the storage and/or disposal site for spent nuclear fuel and nuclear waste and the transportation corridor communities. DOE needs to provide additional assistance for the *situs* jurisdiction, predominantly due to the volume of waste that will be funneled into the County and the density of population. Nye county's rural economy does not support current infrastructure demands, much less be able to appropriately protect the safety of our citizens from a radiological accident or incident.

2. The special needs of rural emergency responders must be met

Nye County is the size of Vermont and New Hampshire combined. With such a vast area to cover, local emergency personnel may have to travel a long distance to reach an accident scene. The County lacks adequate infrastructure to insure quick travel over such long distances and often across rough terrain. Additionally, Nye County has many volunteer public safety personnel who, though committed to their work, are in many cases not prepared for the types of

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radiological waste transportation accidents that could occur as waste is transported through the County. These circumstances require additional special resources including emergency equipment and transportation vehicles.

A full listing of necessary equipment should be required from all communities. Nye County, for example, does not have the proper equipment to measure alpha radiation. The equipment in Nye's possession for measuring gamma and beta radiation are from the Cold War era and quite outdated. Finally, response vehicles will be needed that can respond in harsh winter weather and rough terrain.

Nye County joins other that have commented on this issue when we suggest the Department offer training in the communities where the local responders reside and to guarantee that certain levels of training and equipment be supplied. The proper equipment is also a necessity for training since the teams can not effectively train without it.

Assistance for additional full-time professional positions to insure rural communities are prepared for accidents is also required. This is especially essential for Nye County where both distance and number of shipments are major variables. In order to adequately respond to a radiological accident, Nye County will require at least 2 four person teams in the County.

3. *The funding distribution equation must reflect low population density and volume of waste to be transported*

The current apportionment formula does not include population as a variable. We advocate that population density be integrated into the formula as an inverse variable. Unlike their urban counterparts, rural areas like Nye County lack the necessary infrastructure and resources to adequately respond to emergency situations. One reliable indicator of a rural area is low population density and can, therefore, be equated with a greater need for financial assistance. Nye County also proposed that the number of shipments entering a community should be included in the funding equation to better determine impact on a community. As mentioned in OCRWM notice of proposed policy and procedures, the "route miles" traveled is essential to determine assistance, but that necessary variable should be combined with the above two suggestions.

In the Appendix to the notice of proposed policy and procedures it says, "one can conservatively say it would take an emergency vehicle an hour to travel 80 miles in either direction." Nye County does not agree that the 80 miles in either direction over a period of one hour is a

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conservative estimate. The Nevada State vehicle code states that emergency response vehicles are allowed to travel at a maximum of 15 miles over the speed limit. Travel speed on Route 95, Nye's main highway, ranges from 25 miles per hour to 70 miles per hour. Weather and mountainous terrain create additional variables that must be addressed in any policy formulation.

4. *Jurisdictional issues should be resolved*

The respective roles and responsibilities of federal, state, tribal, and local governments should be clarified well in advance of training. Nye County will require a clear definition of response responsibilities and assistance particularly if a transportation route is selected through the Nellis Air Force Range (Nellis AFR) and the Nevada Test Site (NTS). Depending on selection of modes of transportation and routes, Nye may have differing responsibilities as a first responder. For example, responsibility must be determined for the following two scenarios: 1) an incident on the heavy haul route from Caliente across NTS to an interim storage area adjacent to Yucca Mountain; and 2) a rail accident outside of the Nellis AFR and NTS, but still inside the Nye County boundaries.

In considering scenarios like these and others, OCRWM should recognize that presently Nye County does not have an operating rail line. Consequently local emergency responders are totally unprepared to deal with any rail emergency, much less one involving radioactive materials. The fact that a new transportation mode would be created in Nye County further distinguishes its emergency preparedness and training needs vis a vis other jurisdictions on potential rail routes. Additionally, Nye County will be required to respond to accidents on controlled lands, such as NTS and Nellis AFR, even if federal agencies were designated as probable first responders. The County has an obligation to safeguard its citizens, a responsibility that cannot be delegated to other agencies.

Coordination at all levels of government to assure a safe and quick response should be a critical goal in the emergency response training program. A liaison system is critical to meet this goal. Included in the coordination should be a process of identifying all emergency service centers across the County and a method to enhance communication of information about shipments. The local government responders should at a minimum be responsible for taking the appropriate actions outlined in the *Department of Transportation Emergency Response Guidebook*:

- administer emergency measures to save lives and attend to the injured;
- determine if radioactive or other hazardous materials are present in the transportation incident, and obtain information about these materials

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- notify appropriate authorities to obtain radiological expertise if necessary; and
- determine the action required to prevent further damage to life or property.

Local governments near, but not on, transportation routes should also be eligible for assistance, however assistance should be limited to realistic contamination dispersion scenarios.

5. *Adequate notification and lead time need to be provided*

One of local governments' biggest concerns is the proposed process for notification of transportation routes and notification of planned shipments. According to the *Federal Register* notice, "the Department intends to notify the governor or tribal leader of a state or tribal government with a letter and information packet, including an application." The participation at the local level is proposed to be coordinated through the state or tribe. The application (state or tribe) would be required to demonstrate in its plan how the local jurisdictions will benefit from the program; however, no mechanism is provided that mandates notification to the local government or that local government should be given the opportunity to participate.

Secondly, the Department has stated that it will work with states and tribes to provide shipment information, any safety precautions taken, and the Department's resources to assist the states and tribes in case of an accident or incident. States should have the responsibility to convey this information immediately and directly to the officials in the affected local governments along the transportation route.

The same access to routing information that the states receive should be afforded to Nye County as well. Nye County suggests a specific mechanism be inserted to insure reporting information to the local government for planning purposes.

6. *Shipments should not be initiated until local emergency responders are properly prepared*

As pressure mounts in Congress for DOE to begin accepting spent fuel, we believe it is imperative that DOE commit to providing emergency response training and equipment to local jurisdictions as a pre-condition for beginning shipments. DOE should take the responsibility to clarify for Congress and other parties how long it will take to prepare for shipments and indicate that shipments will not begin until local responders have the training and equipment they require to respond to transportation accidents and incidents. We agree with OCRWM that at least a three year funding period is required prior to the first shipment of waste through a community.

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On page 3 of OCRWM's *Notice of Proposed Policy and Procedures* it says that a "significant route change made later than two years prior to the expected start of NWPA shipments through a jurisdiction could generate some difficulty in administering Section 180(c)" and proposes the use of "escorts with more training and equipment" to overcome the problem. This language could be interpreted by those who would accelerate shipments of spent nuclear fuel and high-level waste as justifying the use of escorts as an adequate substitute for local training. DOE should make it very clear that this should not be the case, and that local training *must* be completed before the first shipments begin.

7. *Conducting exercises are critical to reaching the appropriate preparedness level and should be included in the definition of technical assistance*

Conducting exercises is essential to test the preparedness of a community to respond to a radiological accident. Under the definition of technical assistance, funding should be provided for exercises and drills, critical to a rural community like Nye County. If the funds are not available for such activities then DOE should be *required* to conduct drills and exercises with states, tribes, and local governments prior to waste shipments. The Department indicates it will work with recipient jurisdictions on transportation emergency planning matters through the provision of technical assistance and, as budget allows, by conducting exercises and drills, however, the notice of proposed policy and procedures states that exercises and drills are to be conducted separately from the Section 180(c) program. Funding for exercises and drills should be included under 180(c) because they need to be coordinated together with other 180(c) preparations for optimal effectiveness.

8. *Flexibility should be allowed wherever possible*

Each state, tribe and local government is unique and approaches emergency response in its own way. Allowing for flexibility without reinventing the wheel was the sentiment expressed at the TEC/WG meeting and is one in which Nye County agrees. OCRWM should specify goals that 180(c) is intended to meet, but not dictate how recipients of assistance shall meet those goals. This is especially true for new training courses. We support the policy of adopting modular training formats to allow for trainers and local governments to select the best fit for them. In other words, the modularization concept proposed by OCRWM will allow states and locals to pick and choose those programs that will be most beneficial to their community(s).

9. *Policy should apply to all waste destined for geologic disposal*

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Eligibility should not be restricted by waste type or destination, but rather should help local governments prepare for all types of hazardous materials transportation emergencies. Assistance should be provided for training of all waste that ultimately would require disposal in a geologic repository or interim storage site, not just spent fuel and high-level waste. A repository or interim storage facility will be permitted to accept other waste such as those referred to as "greater than Class C" or "miscellaneous wastes requiring geologic disposal." Therefore, 180(c) funding and assistance should apply to these wastes in the same manner as they apply to spent reactor fuel shipments. Local responders that are equipped to respond to all accidents involving nuclear wastes will be more effective and reassuring to the residents of their community.

10. *The training assets at the Nevada Test Site should be preserved*

The emergency response training courses at NTS have been praised and could be used as a model for Section 180(c) funded training. These courses should be made more readily accessible to local communities throughout Nevada. Recently in Nye County, 45 county volunteers took two-day radioactive waste accident responder courses held in Amargosa Valley and Goldfield in late May and early June in preparation for transportation of low level nuclear waste from the Double Tracks clean-up site.¹

Nye County also supports the concept of a distance learning curriculum because it has the potential to reach a greater number of people, provides a cost effective training method, supplies standardized materials, and allows for a flexible training schedule. While Nye County lacks the necessary infrastructure to support such a curriculum, it is presently applying for funds to enhance equipment to that we may support such endeavors in the future. This initiative will save time and resources.

11. *Best practices used and new technology optimized*

Local governments and rail carriers should be involved in developing the policy for best practices and new technology. Determining the level of risk with newer, unproven modes is

¹The Double Tracks site is roughly 14 miles east of Goldfield, Nevada. It is the location where tests of nuclear weapons durability in 1963 scattered plutonium and other radionuclides over a 7.4 acre area. Starting at the end of July, trucks carrying low level radioactive waste began traversing Nye County as part of the Double Tracks cleanup effort. The cleanup involves the removal of 6-8 inches of contaminated topsoil over an area of about an acre or two. The contaminated soil will be deposited at the Nevada Test Site. DOE originally did not involve Nye County in the planning process for this project. The Department now has agreed to notify the county whenever a shipment is to enter the public highway.

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essential. If this issue can not be funded by 180(c), then OCRWM should be responsible for tackling this issue and should include formal interaction with the local government and carriers to determine the best technologies. The job accomplished by the local responder must be optimized through use of the best available technology.

12. *Constancy and consistency of 180(c) policy across administrations and programs must be assured*

Constancy and consistency are required across the board, however we will highlight two specific areas where these principles are critical to the effectiveness of the program. First, we are concerned that instituting 180(c) through the implementation of policy and procedures will be less robust than a rulemaking, especially if administrations change. In the interest of hastening actions of 180(c), it is acceptable to proceed with an interpretation of policy and procedures. In the longer run, however, we believe OCRWM should pursue, at a minimum, a negotiative rulemaking process to implement 180(c). This technique was undertaken by the Nuclear Regulatory Commission with affected parties to meet the challenges of implementing the Licensing Support System.

Secondly, constancy and consistency are essential in implementing both a safe transportation and emergency response training program and a transportation program contracted out by DOE. Under the privatization of transportation (the "market-driven" strategy), DOE's responsibilities to ensure adequacy and timeliness of training would increase, because routing and scheduling by a private contractor could occur in a less public forum than in a public agency. It is important to recognize that, in a national campaign to move highly radioactive materials, it is of paramount importance to local communities to understand and manage their risks, understand and influence the process of selection of routes, and know in advance the schedules for shipments. This is even more critical if the transportation campaign is to be accelerated as anticipated in current legislative initiatives.

13. *Rail transportation must be selected as the primary transport mode*

Nye County believes that rail must be the preferred mode of transportation of radioactive waste. The rail option minimizes traffic, keeps shipments off roads frequently used by Nye County residents, and allows more waste per shipment, meaning less shipments. This is true for both low level nuclear waste and high level nuclear waste. If a mode of transportation is determined early then emergency responders can train in a more cost effectiveness manner by focusing on rail transportation routes.

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14. Risk monitoring and reduction is necessary

Local government must have the resources to continuously collect data on measures to address risk issues and implement specific measures to reduce or mitigate potential risks identified through risk assessment and monitoring. Understanding the risks involved with nuclear waste transportation is essential for the first responders (local government). Minimizing fear of the responders ultimately leads to better and more efficient response and less fear in the community.

Although the *Federal Register* notice on page 6 explains risk monitoring and reduction are "outside the scope of training emergency response and safe routine transportation activities," we disagree. The Department's responsibility to minimize impacts necessitates producing baseline impact assessments for affected communities. Measurements must be taken to insure over a course of time that impacts are minimized against the measured baseline. The affected communities should participate as a partner with DOE in measuring the risks to the community and safeguard against potential harms to the surrounding environment.

15. Administrative burdens should be minimized

The administration portion of the proposed policy may put a burden on the States. The number of agencies and layers through which assistance must pass before it gets to local emergency responders should be minimized. OCRWM should provide a method easily administered that directs funds to local government.

Conclusion

In conclusion, Nye County generally supports the OCRWM proposal to establish a grant program for providing assistance to States and Tribes. We also advocate that Nye County presents a unique situation to OCRWM. The unique distinction between the Nye County and transportation corridor communities is based on the volume of waste to be handled and the density of population. Our County will have more shipments pass across rails and/or roads than any transportation corridor community and will host the disposal site for waste to be deposited. Nye County's rural economy does not support current infrastructure demands, must less be able to appropriately protect the safety of our citizens from a radiological accident or incident. We should be assured that our unique needs will be met to insure the health, safety and welfare of our residents.

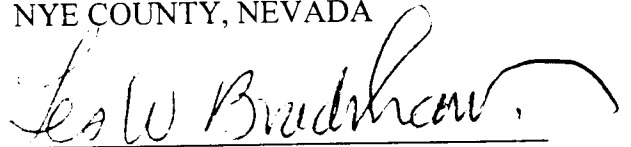
We propose two levels of funding for OCRWM's safe transportation and emergency response

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training grant program. One level of funding to States and tribes with the objective of disseminating the funds to local governments, *and* another separate dispersal for the host community, Nye County. Transportation corridor communities will not bear the multitude of shipments that Nye County will, nor will they confront the long-lasting impacts of nuclear waste storage and/or disposal.

Nye County looks forward to continuing to work with OCRWM in implementation of 180(c). Please call me at (702) 482-8183 if you have any questions.

Very truly yours,
NYE COUNTY, NEVADA

A handwritten signature in cursive script that reads "Les W. Bradshaw". The signature is written in black ink and is positioned above a horizontal line.

Les W. Bradshaw
County Manager

LWB/jfw

cc: Nye County Board of Commissioners
Nevada Congressional Delegation
Joe Strolin, Nevada Nuclear Waste Project Office