

NUCLEAR WASTE REPOSITORY PROJECT OFFICE
P.O. BOX 1767 • TONOPAH, NEVADA 89049
(702) 482-8183 • FAX (702) 482-9289

May 10, 1995

U.S. Department of Energy
c/o Ms. Lois Smith
TRW Environmental Safety Systems
2650 Park Tower Drive
Suite 800
Vienna, Virginia 22180

RE: Comments on 180(c) Notice of Inquiry

Dear Ms. Smith:

Nye County appreciates the opportunity to submit comments in response to the Notice of Inquiry on the implementation of Section 180(c) of the Nuclear Waste Policy Act, as amended. As you know, Nye County is the *situs* jurisdiction for the Yucca Mountain Project and a potential interim spent fuel storage facility. Under most current scenarios, a substantial volume of the nation's most radioactive waste will funnel into Nye County, by truck and rail. In addition, 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 personnel be adequately equipped and trained to respond to transportation accidents.

Principles for Implementation of 180(c)

Nye County believes that OCRWM should observe the following principles in implementing 180(c), regardless of which implementation option is ultimately selected.

1. ***Implementing procedures must ensure that local governments receive the assistance they need***

Section 180(c) provides for assistance for State and Tribal governments only. With the possible exception of State Highway Patrols, however, local governments are likely to be the first responders to a transportation accident. **The guidance for implementing 180(c) should require that States provide the majority of training and assistance funds directly to local government emergency service providers.**

2. *Give state and local governments as much flexibility as possible*

Each state and local government is different and approaches emergency response on its own terms. Whatever approach is adopted to providing assistance under Section 180(c) should be as flexible as possible. This means that the procedures for implementing 180(c) should be oriented toward outcomes and not process; in other words, OCRWM should specify the goals that 180(c) is intended to meet, but not dictate how recipients of such assistance shall meet those goals.

3. *Provide adequate lead time*

Nye County is increasingly concerned that there may not be adequate time to train and equip emergency responders. Proposed legislation now before Congress would dramatically accelerate the schedule for DOE to begin accepting and transporting spent fuel, yet DOE has failed to develop any contingency plans for early shipment of spent fuel. DOE offers assurances that it will be ready to ship when required, but there is no way that DOE can assure that State and local governments will have equipped and trained their personnel to handle transportation accidents. It is increasingly evident that 180(c) will have to be implemented much sooner than expected. Given that so much time has been lost, the only alternative is to begin providing assistance as soon as possible.

4. *Ensure that funding is adequate*

We are concerned that OCRWM has not developed estimates of the cost of providing assistance under Section 180(c). In these tight budgetary times funding for emergency response training and equipment must compete with other priorities, both within OCRWM and DOE, and elsewhere. We urge that DOE immediately begin scoping out the cost of complying with 180(c), and over the longer run, establish funding for emergency response planning and training as a top departmental priority. In addition we urge that DOE amend its FY 96 budget submission to Congress to include funding for 180(c).

5. *Make no shipments until local emergency responders are adequately equipped*

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. In other words, DOE should clarify for Congress and other parties how long it will take to prepare for shipments and indicate that shipments will not begin until local jurisdictions have the training and equipment they need to respond to transportation accidents. We believe that at least 3 years will be required for States and Tribes to develop and implement an adequate assistance program.

6. *Minimize administrative burdens*

We urge that DOE select an approach to implementing 180(c) which minimizes the administrative burden on all parties. One way to do this is to minimize the number of layers through which assistance must pass before it gets to local emergency responders.

7. *Consider special needs of rural emergency responders*

Many transportation corridors, especially in the West, are sparsely populated even though they may experience a great deal of traffic. Emergency service personnel may have to travel a considerable distance to get to the scene of an accident. Moreover, rural fire departments usually have a relatively large number of volunteers who will require special attention and resources. It may be necessary, for example, to provide assistance for additional professional positions to ensure that rural communities are equipped for transportation accidents. We urge that implementation of Section 180 (c) recognizes and accommodates the special needs of rural communities.

8. *Preserve Training Assets at the Nevada Test Site*

The Department of Energy provides a variety of excellent radiation emergency response training courses at the Nevada Test Site. Such courses would provide an unsurpassed training resource to local governments. Our understanding is that budget constraints could result in the reduction or even elimination of some of these courses--precisely at the time when they may be needed the most. **We urge DOE to maintain these courses and support their use as a foundation for training under 180(c).**

9. *Assistance should be made available to cover shipments to a private interim storage facility*

Shipments of spent fuel to a private storage facility will pose the same challenges for emergency response as shipments to a federally owned facility. We believe it is therefore imperative that OCRWM provide assistance to enable States and Tribes to prepare for private shipments. As long as the federal government retains the ultimate responsibility for the eventual disposition of all spent fuel, we believe 180(c) should also apply to shipments to a private facility. States and Tribes must be able to assure their residents that they are capable of responding to transportation accidents involving spent fuel shipments regardless of their destination.

10. *Section 180(c) should apply to all wastes destined for geologic disposal*

A variety of waste types, including Greater-Than-Class-C wastes, DOE spent fuel, and "miscellaneous wastes requiring geologic disposal" may ultimately be transported to a repository. Although we recognize that these waste types probably do not pose the degree of hazard that spent fuel and high-level waste do, an accident involving these other waste types may well be perceived by the public in the same light as accidents involving spent fuel. To counter these perceptions, States and Tribes must be equipped to respond to *all* accidents involving nuclear wastes.

11. Assure constancy of 180(c) policy across federal administrations

Our understanding is that OCRWM plans to issue its policy for 180(c) through an interpretation of policy and procedures. This appears to back off from an earlier preference for implementing 180(c) through a formal rulemaking. We are concerned that implementation of 180(c) through an interpretation of policy and procedures will be less robust than a rulemaking, especially if and when administrations change. In the interest of hastening action under 180(c), it may be acceptable to proceed with an interpretation of policy and procedures. In the longer run, however, we believe OCRWM should use the rulemaking process to implement 180(c).

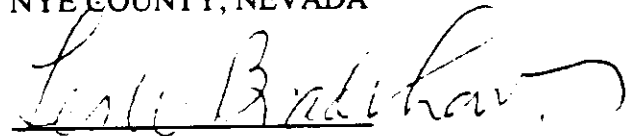
Preferred Option for Implementing Section 180(c)

Consistent with the principles outlined above, Nye County believes that the best option for implementing 180(c) is for OCRWM to establish a grant program for providing assistance to States and Tribes.

In our judgment a direct OCRWM grant program would be simpler to administer than other alternatives, minimize the layers of bureaucracy through which funds must flow, maximize flexibility for States and Tribes, provide greater assurance that local governments will receive the funds they need, and reduce competition with other funding priorities.

Nye County looks forward to continuing to work with OCRWM regarding the implementation of Section 180(c). Please call me at (702) 482-9289 if you have any questions on these comments.

Very truly yours,
NYE COUNTY, NEVADA



Les Bradshaw, Manager
Nuclear Waste Repository Project Office

cc: William Offutt, Manager, Nye County, Nevada
Nevada Congressional Delegation
Joe Strolin, Nevada Nuclear Waste Project Office
Yucca Mountain Affected Units of Local Government
Bob Nelson, Nye County Emergency Management Supervisor