Clark County Local Emergency Planning Committee

January 22, 2008

Ms. Corinne Macaluso,
U.S. Department of Energy
c/o Patricia Temple
Bechtel SAIC Company, LLC
955 N. L'Enfant Plaza, SW.
Suite 8000
Washington, DC 20024

Re: 180(c) Policy Document, Federal Register Notice 7/23/07, Volume 72, Number 140, Page 40139-40145

Dear Ms. Macaluso,

This letter from the Clark County Local Emergency Planning Committee (LEPC) is in response to the U.S. Department of Energy's (DOE) Federal Register notice of October 22, 2007 requesting public comment on the "proposed Section 180(c) policy to provide technical and financial assistance to States and Indian Tribes to train public safety officials along routes over which DOE will transport spent nuclear fuel or high-level radioactive waste to a repository at Yucca Mountain, Nevada. The training will cover both safe routine transportation and emergency response procedures. Proposed planning grant levels will not exceed $200,000 annually and training grants will not exceed $100,000 annually and both will be subject to congressional appropriations. The eligible states and tribes are expected to receive these funds up to four years prior to actual waste transportation shipments and each year thereafter."

The Clark County LEPC is a multi-jurisdictional committee composed of emergency response, planning and communication organizations specialists; higher education institutions; environmental organizations; business leaders, trade and professional associations in the chemical industry; representatives from the media, utility companies and state and federal government agencies. The LEPC is organized, in part, to facilitate an all hazards emergency preparedness approach to public safety matters as determined appropriate by the LEPC membership.

The LEPC was organized by the Clark County Board of Commissioners in 1986, for emergency coordination purposes, and subsequently assumed the duties under the Emergency Planning and Community Right-to-Know Act (EPCRA), also known as Title III of the Superfund Amendments and Reauthorization Act (SARA) passed by congress in 1986. The Clark County Board of Commissioners directed the LEPC to monitor and inform the public about the use of hazardous chemicals in Clark County. As Manager of the Clark County Office of Emergency Management, I serve as the LEPC Chairman.

500 S. Grand Central Pkwy • PO Box 551713 • Las Vegas, NV 89155-1713 • (702) 455 - 5710

The LEPC is strongly committed to providing for the public safety of Clark County's citizens by assuring that proper resources and planning for emergencies be available and utilized. Participating members include: Clark County Fire Department; City of Las Vegas Fire and Rescue, City of North Las Vegas Fire Department, Las Vegas Metropolitan Police Department, City of Henderson Police Department, City of North Las Vegas Police Department, Emergency managers from Clark County and the cities of Las Vegas,, North Las Vegas, Henderson, Boulder City, Mesquite; the Las Vegas Valley Water District, the Clark County Reclamation District, Kern River Gas Transmission Company, Nevada Power Company, Southwest Gas Corporation, Sprint Nextel (Embarq), Tronox, LLC, TIMET, Las Vegas Security Chiefs Association, Clark County Nuclear Waste Division, Nevada Highway Patrol, Nevada Department of Transportation, Nevada Division of Environmental Protection, University of Nevada Las Vegas, National Weather Service, NNSA/NSO, US Environmental Protection Agency, Federal Bureau of Investigation, Nellis Air Force Base, the Southern Nevada Health District, Sunrise Hospital & medical center, University Medical Center, Valley Hospital Medical Center, American Medical Response, MedicWest Ambulance; Nevada Senate, American Red Cross, Nevada Broadcasters

The Clark County LEPC has identified several critical shortcomings in DOE's proposed rule that are detailed below. These include:

- Insufficient coordination and integration with local public safety agencies "all hazards" planning and response functions as mandated under the National Incident Management System (NIMS);
- Inappropriately narrow interpretation of public safety needs;
- Insufficient funding to appropriately prepare and train local public safety personnel, combined with inadequate determination of local needs and capacity.

Insufficient coordination and integration with local public safety agencies "all hazards" planning and response functions as mandated under the National Incident Management System (NIMS)

By its nature, public safety and emergency response is a local government function. This is clearly recognized under the National Incident Management System (NIMS) that provides the overarching guidance on how all levels of government should coordinate responses to emergency events. Clark County's LEPC has been actively involved in assessing the potential impacts to public safety agencies since at least 1999 and has produced several reports resulting from these needs assessments. In order to appropriately prepare and plan for high-level nuclear waste and spent fuel shipments, the DOE should focus on local public safety agencies in their planning process in a tiered fashion as outlined in NIMS (X).

Inappropriately narrow interpretation of public safety needs

Section 180(c) of the Nuclear Waste Policy Act states: "The Secretary (of DOE) shall provide technical assistance and funds the States for training for public safety officials of appropriate units of local government and Indian tribes through whose jurisdiction the Secretary plans to transport spent nuclear fuel or high – level radioactive waste under subtitle A or subtitle C. Training shall cover procedures required for safe routing of these materials as well as procedures for dealing with emergency response situations."

Even if all materials were transported, either via rail or truck, outside of Clark County, which is not possible, Clark County agencies would still be involved in responses and recovery. A small county is unlikely to have full-time first responders, and would soon be overwhelmed and require assistance, support, or most likely have other agencies take primary responsibility for the response. This necessity of relinquishing command would simply be based upon resource availability.

An accident in an outlying county could require assistance from multiple LEPC members. The problem presented by the proposed policy is the failure to identify which members would be impacted or in need of training and which might not require training. LEPC could be certain in stating that tier one training should begin with the Emergency managers, Police and Fire departments, Security Chiefs, and hospital and medical personnel be provided technical assistance and funds directly for training to cover

procedures required for safe routing of spent nuclear fuel or high – level radioactive waste as well as procedures for dealing with emergency response situations. Further, as noted in comments from the International Association of Fire Fighters (IAFF), all tier one emergency responders "should be consistent with the Occupational Safety and Health Administration (OSHA) awareness or operations levels "when necessary or appropriate." DOE should clarify that all emergency responders trained with Section 180(c) funds must, at a minimum, be trained at the operations level.

In providing five different levels of hazardous materials emergency response training, OSHA appropriately recognized that individuals should be trained at different levels, depending on the duties and functions each worker is expected to perform. Unfortunately, the level of training that is currently provided to emergency response personnel in many states and localities is at the "awareness" level. Awareness training is intended for employees at facilities where hazardous substances are present, and is intended to 1) train such employees to recognize potential releases of a hazardous substance and 2) initiate a response sequence by contacting the appropriate emergency response entity, such as the local fire department. This level of training is inadequate to prepare first responders to respond to a hazmat call.

The minimum level of training needed by first responders is the "operations" level. Training in operations is specifically designed for the initial emergency response which occurs within minutes of the incident being reported. These emergency responders stabilize the situation and prepare the emergency scene for the hazmat specialists who will undertake direct mitigation. The mission of responders who are trained at the operations level is to "protect nearby persons, property, and the environment from the effects of the release." They are trained to contain the release from a safe distance, keep it from spreading and prevent exposures. Clearly, this is the minimum level at which first responders should be trained (October 18, 2007 IAFF comments to DOE/OCRWM). Tier two, or secondary training should be given to the balance of the LEPC membership. This would include private corporations, utility companies, volunteer organizations, other governmental districts that maybe impacted and all other members.

Further, as noted by the IAFF, "hazardous materials response training is not a one-time event. It is essential that all first responders undergo refresher training to ensure continued proficiency. OSHA's Hazardous Waste Operations and Emergency Response Standard requires emergency responders to receive annual refresher training "of sufficient content and duration to maintain their competencies." In addition to providing responders an opportunity to brush up on perhaps seldom-used knowledge and skills, refresher training is vital to familiarize responders with new technology which may be used or encountered during a response. This is especially crucial when considering a response to an incident involving nuclear waste.

We agree with the comments made by the International Association of Fire Fighters in response to the policy document that in order to assure that refresher training remains a priority, DOE should require that all emergency responders trained with Section 180(c) funds receive annual refresher training, and, to the extent possible subject to appropriations, maintain its initial training grant funding levels from year to year to provide for both initial and refresher training to emergency responders (October 18, 2007 IAFF comments to DOE/OCRWM). This training would allow the unified command system to work at its fullest since all potential impacted parties would have had the same training and common procedures for any such incidents.

Finally, technical assistance may be needed to support the update or development of interlocal or mutual aid agreements that would then require interagency review and approval, the development or updating of asset inventory lists, training in the use of tracking systems, and other technology skills that may be needed to support preparedness and response.

Insufficient funding to appropriately prepare and train local public safety personnel

DOE has indicated in public meetings that it intends to fund only the incremental public safety training costs not covered by existing federal programs coordinated through the Department of Homeland Security but to date has not conducted any analysis of what that gap might be. Clark County's Department of Comprehensive Planning Nuclear Waste Division (NWD) in coordination with the Clark

County LEPC has conducted a number of needs assessment studies for all local public safety entities within Clark County. These studies indicate that Clark County public safety agencies will require $23,397,120 just to provide for training needed to prepare for shipments under DOE's narrow interpretation of its responsibilities under the provisions of section 180(c) of the NWPA. In addition, the NWD in coordination with the Clark County LEPC has determined that the actual financial burden to local governments to ensure public health and safety within Clark County, if DOE proceeds with its plan to ship HLNW and spent fuel to Yucca Mountain will likely reach $367,485,153 just to prepare for shipments.

The Clark County LEPC believes that section 180 (c) of the Nuclear waste Policy Act (NWPA) in itself falls short of appropriately providing for the protection of the public health and safety by limiting public safety support to planning and training, the DOE in its proposed plan further narrows allowable activities in such a way that local public safety agencies will be left with an enormous unfunded mandate to meet their obligation to protect the public health and safety of their residents. In the final analysis, the Clark County LEPC considers funding authorized under Section 180(c) to be extremely important, yet as outlined in the policy document, is woefully inadequate to meet the intent of the law. Without an approach, which will provide for proper long-term training and other technical assistance as recommended by the Clark County LEPC, the policy falls short of addressing first responder needs at the local level.

On behalf of the Clark County LEPC, thank you for taking these comments into consideration as you finalize the policy document.

Sincerely,

JAMES P. O'BRIEN, PH.D.
Chairman