



**Transportation External Coordination Working Group
U.S. Department of Energy (DOE) Transportation Protocols Topic Group
Fifth Meeting, Indianapolis, Indiana, July 25, 2000**

Meeting Notes and Action Items

The fifth meeting of the Transportation External Coordination (TEC) Working Group's DOE Transportation Protocols Topic Group was held at the Radisson City Centre Hotel in Indianapolis, Indiana July 25, 2000. Participants for all or part of the day included: Mona Williams, DOE/NTP; Robert Alcock, DOE/HQ; Alex Thrower, SAIC, Robert Fronczak, AAR; Carol Peabody, DOE/HQ; Michael Conroy, MACTEC; Audrey Eidelman, ECA; Kathleen Grassmeier, DOE/NV; Ray English, DOE/NR; Harlan Keaton, Florida Department of Health; Michael Tyacke, BBWI/INEEL; David Crose, Indiana EMA; Lisa Sattler, CSG/MW; Roger Mulder, Texas Energy Conservation Office; Phillip Paull, CSG/ERC; Ira Baldwin, NCSTS; Thor Strong, Michigan LLRWA; Ron Ross, WGA; Bill Mackie, New Mexico Energy, Minerals and Natural Resources Department; Corinne Macaluso, DOE/RW; Jim Klaus, DOE/CAO; Patricia Armijo, DOE/NTP; Ed Wilds, Connecticut Radiation Division, Carlisle Smith, Ohio PUC; Paul Seidler, Robinson/Seidler; Sam Dixon, City of Westminster, Colorado; Barbara Byron, California Energy Commission; Michael Hickman, DOE/Defense Programs; Elizabeth Helvey, J.K. Research Associates; and Max Powell, DOE/YMPO.

Ms. Williams began the session at approximately 8:15 a.m. with roundtable introductions and a brief outline of the meeting's agenda. She noted two protocols, transportation planning and emergency response, had been extensively revised and would be discussed first. She indicated the draft protocols, key issue papers, and comment response matrices had been distributed to the topic group members electronically; additional copies were not available per the working policy of the group. The group then began to examine and discuss the draft protocols one by one.

Emergency Response

Ms. Williams stated the introductory language had been altered to clarify local officials play a key role in emergency response.

One participant noted headers and numbering should be corrected. Ms. Williams noted Section 7 has been added regarding public information in response to comments on the last draft. Ms. Peabody stated the Writing Group had, after much discussion, decided this section, and a companion one in the transportation planning draft protocol, are logical places

to address the coordination of public information in lieu of a separate public information protocol. Mr. Ross noted under section II.B.7.c all information referencing state, tribal or local actions should be reviewed with the appropriate state, tribal or local authority before release. (Mr. Ross was commenting on behalf of Ken Niles, Oregon Office of Energy, who had submitted written comments in advance. These will be incorporated into the comment response matrix.) Section II.B.7.d also does not mention news releases or information coming from DOE on classified shipments will be coordinated with state and tribes, and they should be.

Several participants observed response to incidents or accidents involving barge and air shipments are not included in this protocol and asked it be considered. Mr. Keaton noted barging in Florida could begin as early as 2004. An option to consider barge and air shipments in Revision 1 of the protocols was suggested, as was putting placeholders for barge and air shipments in the protocols along with rail shipments to WIPP. Another participant suggested indicating in the introduction these types of shipments will be addressed as they are planned. Mr. English noted the Writing Group may decide not to address barge or air shipments at this time, as it would take longer to complete the protocols, and asked whether that would pose problems for the states. Several commenters responded it would depend on how many shipments were done; if the numbers increase significantly, then perhaps they should be addressed.

Transportation Planning

Mr. Fronczak commented in the introductory paragraph and in Section F(1), the carriers should be included among the parties from whom DOE receives input in developing transportation and communications plans. Ms Williams agreed this was an oversight which will be corrected. She pointed out Section F had been prepared in response to comments from the topic group and opened the floor to discussion of that section.

One participant commented the protocol should emphasize OCRWM is responsible for coordination with state, tribal and local officials, not its contractors. Phil Paull had questions about the relationship between the protocols and the Yucca Mountain RFP. Ms. Macaluso replied the RFP would be modified to include the protocols and other relevant information becoming available since the last draft.

Mr. Crose stated the section addressing communications plans should make clear states will have input to the development of the communications plans. Mr. English responded the Writing Group had contemplated the communications plans would be developed as part of the transportation planning process, which is collaborative. Ms Williams suggested while the intent was to have states' input into those transportation plans under this protocol, the writing group should revisit this section to make that point clearer, including the development of fact sheets and key messages. Lisa Sattler suggested the protocol should make clear DOE will assist the states in responding to any inquiries regarding transportation from their constituents.

Ms. Peabody noted the implementation guidance would include references to basic planning documents in Attachment A of the protocol. Ms. Sattler said she would like to see greater emphasis on this information in the protocol and commented DOE programs should be encouraged to consult with NTP. Several transportation and communications plans have been used successfully and should be referenced. Mr. Ross suggested the T-REX library be added as a reference.

Ms. Sattler raised a question about the relationship of the protocols to *the Program Managers' Guide to Transportation Planning*, and asked whether the Guide was still being used. Some participants suggested the protocols may supercede the Guide; others felt the Guide was still very useful and relevant. Ms. Grassmeier stated the Guide had not been referenced because it was up to the individual program manager to decide how to implement her program. Ms Sattler responded if that were the case, then the whole purpose of the protocols did not make sense. She disagreed the protocols should be developed for stakeholders; they should be guidance for DOE managers and should mesh with the other guidance that's available. Mr. English responded while DOE will certainly use the guidance, there is a real need for stakeholders to have a better understanding about how DOE ships materials. Ms. Williams agreed NTP will review the two documents together and work the issue through the Communications Topic Group.

Ms Williams said NTP currently plans to revise and reissue the Guide after the protocols are completed; this will ensure the Guide and the protocols complement one another. Several commenters reiterated their opposition to simply getting rid of the Guide; Ms. Williams assured them NTP would work with them on this issue and not act unilaterally.

Mr. Smith asked a question about the description of the acceptable rating for carriers in section D. The word "satisfactory" will be put into quotes to indicate that specific grading. Participants extensively discussed whether the struck-out list of factors to be considered in determining whether a carrier or mode of transportation can meet DOE's requirements should be reinserted.

Ms. Sattler suggested the deleted first paragraph under Section E. should be reinstated because states and tribes do have expertise available. Mr. Ross noted Mr. Niles suggested the language be broadened to include high-level radioactive materials and not just waste; Ms. Williams agreed. Mr. Paull asked whether that category of materials was clearly defined; Mr. Strong suggested it might include all highway route controlled quantity materials. Mr. English replied that had been the working definition, but it wouldn't always work well.

Commenters again noted their position all shipments of TRU waste be treated like shipments to WIPP, and expressed their dissatisfaction with DOE's resolution on this issue thus far. Ms. Williams committed to getting a decision made on this issue by the next time the group met.

Mr. Ross suggested the section mentioning NWPAs shipments (II.D.2) be modified to include "safety" along with "enhances operations." Ms. Macaluso said the language had

been taken from the RW RFP, but DOE would look at the language again to see if it should be changed.

Ms. Sattler suggested the discussion of transportation plans should list a recovery plan and cleanup plans as well.

Transportation Operational Contingencies

Participants discussed whether the definition of this protocol in the introduction should be expanded to include reference to national disasters and available emergency response crews. In section II A (1.), ~~Atoll-free~~ is to be removed and the section will be made clearer. Ms. Sattler will suggest a rework.

In section II A (2.), it was agreed the text will be strengthened to emphasize caution and common sense in making decisions. Mr. Seidler suggested it be made clear decisions on whether to ship LLW should address weather trends along routes, and breakdowns can occur due to rugged terrain. He added language is needed on notifying local communities. In response to Mr. Seidler's comment that Nevada poses a special set of circumstances, Ms. Williams described the balance DOE must strike between local concerns and states' views of their roles. This is an ongoing issue, she said. Mr. Ross suggested these specific problems with LLW shipments in Nevada be resolved through the NTS intermodal group; Mr. Seidler responded the local communities had thought they had resolved the issue, but there have been mixed signals coming from the site on this. Mr. Grassmeier agreed the site and the local communities have differing viewpoints on the LLW transportation issue.

Mr. Paull noted there seemed to be a good deal of word changes, such as "will" to "may," which when added up weaken the entire protocol considerably and should be changed. Ms. Peabody said it would be very helpful if commenters could send in suggested text alterations; that way the Writing Group can see precisely what changes need to be made. Mr. Fronczak noted the terms "road" and "track" in referring to truck and rail shipments should be consistent.

Mr. Mackie suggested the language include "environmental conditions" or other language to include contingencies such as forest fires. Large fires may overtax available state and local emergency response resources, he said.

Safe Parking

Commenters opined the key issue in this protocol is it is too vague regarding LLW and isotopes. Participants suggested adding language similar to the transportation operational contingencies regarding caution and common sense; this would strengthen the LLW and mixed LLW section. Mr. Wilds asked whether the protocol required listing safe havens along specific routes; Mr. Klaus responded it did not, and drew a distinction between "safe havens" and "safe parking."

Carrier and Driver Requirements

Participants defined the key issue in this protocol as the concern highly qualified drivers and carriers be selected. Several noted requirements for carriers of spent fuel and HLW should be at least as stringent as those for WIPP shipments. Mr. English responded there has been extensive discussion as to how this might or might not be implemented, given the use of common carriers. Mr. Ross said the states view this as partly a public confidence issue; the public needs assurance about the qualifications of the drivers.

Lisa Sattler pointed out “satisfactory” or “unsatisfactory” should be in quotes where these words indicate a grade. In the language regarding mandatory drug testing, alcohol should be added. After some discussion, Messrs. Fronczak and Ross agreed to provide a list of rail training programs for section III, 4th paragraph.

Tracking

Stakeholders commented they would like to see consistency with WIPP requirements, and wanted to see all TRU shipments tracked by TRANSCOM. Participants also recognized carriers are responsible for and have mechanisms for tracking LLW and mixed LLW. As in other protocols, reviewers said all transuranic waste shipments should be treated the same way as shipments to WIPP.

The group then adjourned for lunch and reconvened to discuss the remaining protocols.

Emergency Notifications

The key issue in this protocol is the timeliness of DOE notifications. The Writing Group addressed this issue in the last draft and chose to use the word “promptly” rather than prescriptively suggest a specific time. Several commenters disagreed with this approach. Ms. Williams indicated DOE’s intent was to be fully responsive but not to set up issues such as those which could arise if a notification were a few seconds or minutes behind an artificially selected time window.

Mr. Paull asked if there was a practical distinction between “initiating” a notification or “making” one. Mr. English replied “initiate” had been used because DOE should not necessarily wait until it has complete details before notifying other entities; notifying as soon as possible is the ultimate goal. Mr. Seidler noted in Nevada, local responders in rural areas are hours away from Federal or State responders, but 911 should be able to cover those areas.

Another commenter suggested “mechanical breakdown” be added to the list of qualifying criteria.

Ms. Williams also committed the Writing Group would review the language of all the protocols one final time to ensure states and tribes aren’t being committed to specific actions.

Emergency Response

There were no specific discussions or comments regarding this protocol.

Inspections

Mr. Niles (through Mr. Ross) suggested statements such as “in accordance with applicable regulations” be changed to provide greater specificity and examples. He also noted there is no requirement for even a cursory pre-departure inspection for LLW shipments. Mr. Smith urged caution in referencing regulations specifically, as RSPA periodically re-orders its regulations and the citations will change. Mr. Mackie suggested language be added to show post-shipment SNF inspections are at the States’ discretion. He added WIPP shipments are not routinely inspected after their arrival in Carlsbad.

Recovery and Cleanup

Mr. Fronczak said this protocol, and perhaps the indemnification law itself, needed clarification with regard to liability of rail carriers. The way he reads the language, he said, it could be implied carriers are required to spend themselves into bankruptcy on cleanup before Price-Anderson indemnification applies. Mr. Fronczak agreed to have AAR legal counsel available to discuss this further with DOE legal counsel. Mr. Niles suggested environmental restoration be added to and explained in the glossary. He also wanted the Price-Anderson Act more fully explained in the protocol.

Emergency Planning

One issue in this protocol concerns DOE’s interpretation of section 180 (c) in the Nuclear Waste Policy Act. DOE does not believe shipments to a private interim storage facility like the PFS facility in Utah can be supported with funds from the Nuclear Waste Fund; some commenters disagreed with this assertion. Ms Williams agreed to make sure the appropriate people in the OCRWM program are made aware of stakeholders concerns.

The role of TEPP coordinators was also discussed as a key issue. Ms. Sattler suggested this protocol needs a better description of what DOE will do under this protocol. For example, it is unclear what TEPP coordinators will do to ensure emergency planning is adequately included in transportation and communications plans. Ms. Sattler also suggested emphasizing on page 4 DOE is not providing the training or the instructors. Other specific comments included: protocols should expand on how emergency planning is going to be addressed, or how TEPP coordinators will assist in the preparation of emergency planning; and how states are to coordinate with both TEPP and program representatives.

Mr. Ross added the language still implied this was the current state of the TEPP program, rather than what it hoped to accomplish in the future.

Security

A participant noted Section II A (1.) should be consistent with other protocols regarding university shipments. In subsection (d.) should also make clear DOE may request escorts from state, tribal or local officials.

Projected Shipment Planning

Mr. English said this protocol needs to be rewritten to emphasize the ongoing dialogue.

Routing

The issue of shipping by rail to WIPP was discussed; Ms. Williams has this as an action item. Ms. Sattler raised an issue regarding whether university and research reactor shipments should be included. There were no other specific discussions or comments regarding this protocol.

Following the review of the specific protocols, Ms. Williams briefly discussed the options DOE is considering for implementing the protocols. These are:

1. Secretarial policy letter—least complicated approach;
2. DOE Orders
3. Contract letters; most difficult; usually pertains to safety practices.

Ms. Williams indicated she expects a decision from DOE management in late September/October; she will inform the group as soon as one is taken. Normally a DOE order is not subject to public comment, but the participants would like to see the changes to existing protocol language that would be necessary to put the protocols into an order.

Ms. Williams also reviewed the current schedule, which is to have a completed package and path forward by the time the administration changes. Mona asked the topic group to get the package out to their constituents for review and comment. Ms. Sattler asked if there is a particular order to the protocols, and Ms. Williams asked for suggestions as the package is further reviewed. A draft introduction and appendices are planned for late September, with a topic group call in October. Ms. Sattler asked to have the call in November, after the Western states meet in late October. Following a final internal review, DOE will release the full package of protocols, including the glossary and introduction, to the group in midwinter. The February meeting of the topic group will be its final meeting, she said.

There being no further comments, the group then adjourned.

Action Items:

1. Topic group participants will circulate drafts to their constituents and get comments to DOE by September 15, 2000.
2. Ms. Williams will obtain an answer to the TRU waste transportation issue by the next meeting.
3. OCRWM will provide clarification why NWSA Section 180(c) does not require training and technical assistance to prepare for potential PFS shipments.

4. Writing Group will review protocols language to ensure states are not being committed to actions outside their roles.
5. NTP will review the Program Managers' Guide to ensure consistency with the protocols.
6. Messrs. Ross and Fronczak will provide a list of training programs for Section III, Rail Carrier Requirements, in the Carrier/Driver Requirements Protocol.
7. Ms. Sattler will provide a suggested rewrite of Section II in Operational Contingencies Protocol.
8. Mr. Fronczak will check with AAR legal counsel regarding the Price-Anderson discussion in the Recovery and Cleanup protocol.