

February 11, 1998

Lake Barrett, Acting Director  
Office of Civilian Radioactive Waste Management  
U.S. Department of Energy  
1000 Independence Avenue, S.W.  
Washington, DC 20585

Dear Mr. Barrett:

On behalf of the Midwestern High-Level Radioactive Waste Committee, I am writing to submit the Midwestern region's comments on Draft RFP No. DE-RP01-98RW00320, *Acquisition of Waste Acceptance and Transportation Services for the Office of Civilian Radioactive Waste Management*. The committee membership includes the 12 Midwestern states: Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin. Because the transportation system of the Civilian Radioactive Waste Management System is likely to affect most of the Midwestern states, we have closely followed the development of OCRWM's market-driven approach to waste acceptance and transportation. On May 7, 1997, the committee commented on the original draft RFP (see the attached letter). We offer the enclosed comments as a supplement to our previous letter.

On the whole, the committee is pleased with the changes OCRWM has made to the draft RFP. As you are aware, the Midwestern committee recently participated with the three other regions in the Second Joint Meeting of the Regional Radioactive Waste Transportation Committees. At that meeting, the four regions reached consensus on three key transportation issues: privatization, route selection, and transportation planning. It is encouraging to note that the revised RFP appears to be on the right track in addressing two of these three issues.

First, the regions agreed that privatization could benefit the transportation program as long as OCRWM were to maintain control over the institutional program.<sup>1</sup> We applaud, therefore, OCRWM's decision to "re-emphasize" its "active and prominent role in institutional interactions to clarify that DOE will retain primary responsibility to the States, Tribes and local units of government for assuring appropriate interaction and consideration of their transportation input" (Exec. Summary, p. 5). We are hopeful that this decision demonstrates a renewed commitment at OCRWM to working with the states and the regional cooperative-agreement groups to enhance the safety of the transportation program.

Second, the four regions agreed that route planning should proceed as a joint effort between DOE and the regional cooperative-agreement groups rather than as a carrier-driven activity. This statement captures in a general sense what the committee has consistently urged OCRWM to do — namely, engage in early route selection and involve the affected states in the selection process. We find it gratifying to see OCRWM finally accept our suggestion and commit in writing to retaining "final approval on selection/finalization of proposed transportation routes" for commercial spent nuclear fuel (Exec. Summary, p. 6). Although we are pleased with this apparent change in policy, we believe the final RFP should spell out the details of OCRWM's plan for selecting the routes — including what we anticipate will be a significant role for the states.

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<sup>1</sup> The committee voiced a similar opinion in its May 1997 letter.

It is with respect to the third consensus point — transportation planning — that the draft RFP falls far short. The four regions agreed that, because transportation planning issues are similar for all of DOE's transportation programs involving radioactive materials, the department should be consistent in its approach to resolving these issues with the states. The regions identified the WGA *WIPP Transportation Safety Program Implementation Guide* as the preferred model for all DOE transportation planning.

We believe the process the draft RFP outlines for transportation planning is highly inefficient in that it would create an undue burden on the states, generate unnecessary costs to the program, and very likely put the safety of the transportation system in jeopardy. OCRWM would have the four Regional Servicing Contractors (RSCs) develop their own transportation plans, presumably resulting in as many as four different protocols for safe parking (as one example) and four different satellite tracking systems. As a consequence, many states will be faced with reviewing multiple transportation plans and learning multiple sets of procedures.

This type of fragmented approach simply does not make sense. Whether responding to an accident or preparing to inspect or escort a shipment, a Midwestern state official will understandably be wont to treat all shipments of commercial spent nuclear fuel in the same manner — regardless of the region of origin. Requiring states to be fluent in four different transportation plans will only lead to confusion, which will, in turn, lead to mistakes. At best, these mistakes will simply delay shipments; at worst, they will compromise safety.

We strongly urge OCRWM to work with the regional cooperative-agreement groups to develop a single national transportation plan for the Civilian Radioactive Waste Management System. If OCRWM were to initiate the development process immediately and draw from the examples set by other DOE programs, it could complete a rudimentary transportation plan well before releasing the final RFP. Potential offerers could then use the draft plan in preparing their proposals. OCRWM and the regions could continue to refine the transportation plan as necessary, with a final plan in place well before the start of operations.

The committee believes a single national transportation plan would benefit both the Civilian Radioactive Waste Management System and the states. We hope OCRWM will give serious thought to our suggestion. Our interest in helping OCRWM to ensure the safety of the transportation program derives from our commitment to protecting the health and safety of the public and the environment in the Midwest. In fulfilling this commitment, we are prepared to work with OCRWM and the other regions to develop a national transportation plan to support the safe transport and timely acceptance of commercial spent nuclear fuel.

We appreciate the opportunity to comment on the revised draft RFP. If you have any questions about our comments, please contact Lisa R. Sattler, Senior Program Manager with the Council of State Governments' Midwestern Office (630/810-0210).

Sincerely,

Donald A. Flater, Chief  
Bureau of Radiological Health,  
Iowa Department of Public Health, and  
Chair, Midwestern High-Level Radioactive  
Waste Committee

**The Council of State Governments**  
**Midwestern High-Level Radioactive Waste Committee**

Comments on OCRWM's Draft RFP No. DE-RP01-98RW00320,  
*Acquisition of Waste Acceptance and Transportation Services for the*  
*Office of Civilian Radioactive Waste Management*

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<b>Page</b>	<b>Section</b>	<b>Comment</b>
C-1	1.1	According to this section, the objective of the RFP is to contract with private industry “. . . to accept Spent Nuclear Fuel (SNF). . .” As defined in the glossary, spent nuclear fuel does not include high-level radioactive waste (HLW), which is also destined for disposal in the repository. In our earlier comments, we asked about OCRWM's plans for transporting HLW canisters for disposal. Not having received an answer, we again raise this question.
C-1	1.2	The committee is extremely pleased to read that “DOE will retain responsibility for policy decisions, stakeholder relations, and implementing Section 180(c) of the NWPA.”
C-3	1.3	Although the RFP contains two figures depicting “workflows” and contract phases, it does not contain an actual timeline showing major milestones. Because most actions depend on the completion of some other action, it is difficult to determine the chronology of major events during the 14-year contract period. The final RFP should include a timeline showing, at a minimum, the following activities in relation to the three phases: <ul style="list-style-type: none"><li>• Route selection, from preliminary identification to final OCRWM approval;</li><li>• Initiation of Section 180(c) assistance;</li><li>• Transportation planning, from preliminary discussions to final revision;</li><li>• Awarding of contracts (to initiate Phase A);</li><li>• Publication of the repository Environmental Impact Statement and Record of Decision (to initiate Phase B);</li><li>• Start of operations at the Federal Facility (to initiate Phase C);</li><li>• Pre-operational testing at the Federal Facility; and</li><li>• Pre-startup operations demonstration and readiness reviews (including dry-run shipments).</li></ul>
C-4	1.3, cont.	The RFP states that “Railroad cars to be used to transport SNF transportation casks shall meet the Association of American Railroads (AAR) standards for unrestricted interchange in Rules of Interchange for Railroad Cars (M0152) and Field Manual of the AAR Interchange Rules (M0101).” For the transport of radioactive materials, the AAR has advocated the use of the best available proven technology, including electronic braking systems, premium

suspension, and on-board defect detection systems. Furthermore, AAR has indicated that the rail transport system should be designed and tested *as a system*. OCRWM should consult with AAR regarding the benefit of incorporating these requirements in the final RFP.

The RFP refers to “procedures used for highway transport” meeting “applicable Commercial Vehicle Safety Alliance (CVSA) inspection standards.” Later in the document, OCRWM refers to the *enhanced* CVSA inspection standards. The committee suggests replacing “applicable” in the first instance with “enhanced” to make the reference unambiguous.

C-5            1.4.1            The committee is pleased to see OCRWM make an attempt to maximize the use of rail transport and thereby reduce the total number of shipments required to move spent nuclear fuel as part of the CRWMS.

According to this section, RSCs must “notify the appropriate States of each shipment in accordance with NRC regulations.” The committee has two comments about this sentence. First, we believe OCRWM should revised the sentence to say “. . . in accordance with NRC regulations and State requirements,” since some states — notably, Ohio — have specific laws on shipment notification.

Second, the committee notes that, for the past 5 years, DOE's TEC/WG has recommended the notification of tribes in the same manner as states. To our knowledge, OCRWM has agreed to do so. As reference on p. C-14 indicates that tribes will receive prenotification; OCRWM should revise the RFP, however, to make sure that all references to prenotification under NRC regulations include tribes as well as states.

The committee believes OCRWM should include the following under “Activities Prior to Transport”:

- Obtain NRC approval of routes and ensure that routes conform with State Routing Plans;
- Contact the Federal Railroad Administration or appropriate state agencies to arrange for safety inspections of the rail routes; and
- Provide courtesy calls to the states and tribes to inform them of the estimated time of a shipment's arrival within the jurisdiction's borders.

C-5            1.4.2            OCRWM should include “arranging and coordinating en route state inspections” as one of the Activities During Transport.

C-6            1.4.3            It is unclear why OCRWM will require the RSCs to provide storage systems at the Federal Facility for the first five years of operation. Neither the title nor the stated objective of the RFP mentions storage. If OCRWM plans to use this RFP to acquire services for storage in addition to waste acceptance and transportation, then it should modify the title and objective accordingly.

OCRWM might wish to emphasize the distinction between Federal Facility Support Equipment and RSC-owned equipment. At first, the two statements in this section regarding spare parts appeared to contradict one another. Upon closer reading, however, it became evident that one sentence applied to the former equipment and the other sentence applied to the latter.

C-11            2.2.5.1            OCRWM should describe in detail its planned approach to selecting routes. This section states that the Purchaser Site Servicing Plans “shall identify preliminary primary and alternate transportation routes,” yet there is no indication of what OCRWM will do with these routes. Presumably, OCRWM’s statements regarding final route approval and consideration of state and tribal input are an indication that it will distribute the preliminary routes for review and comment by the affected states. We believe “final approval” and “consideration of state input” should mesh into a single decision-making process. We also believe that, having stated its commitment to selecting routes and soliciting state input, OCRWM must take care to specify in the RFP exactly which steps in the route-selection process will fall within the RSC’s purview and which ones will remain under OCRWM’s control.

At the Second Joint Meeting of the Regional Radioactive Waste Transportation Committees, several states voiced concern over OCRWM’s apparent intention not to follow the acceptance policy of “oldest fuel first.” The committee believes OCRWM should reconsider this policy decision and, in doing so, solicit the input of the regional cooperative-agreement groups and other stakeholders.

The committee considers the “no-empty compartments” provision to be a sound, cost-efficient strategy for accepting and transporting spent nuclear fuel. We wonder, however, whether it will affect acceptance rates or the position of Purchasers in the queue.

C-13            2.2.7            It is illogical to have the development of OCRWM’s Transportation Policy and Procedures document follow the preparation of regional transportation plans. If the plans are indeed to include protocols and procedures which the “RSC shall follow . . . during all transportation activities,” then the Midwestern states would much prefer to see all RSCs adhere to one standard plan rather than four different ones. The committee believes certain transportation activities should be standardized throughout the program rather than decided regionally by the individual RSCs. Transportation planning is one of those activities.

Not only is developing four transportation plans inefficient, but the schedule as written does not appear to leave sufficient time to complete all transportation planning prior to the start of Phase C. OCRWM plans to distribute portions of the plans to the states for review and comment (6 months), receive and consider comments (6 months), update the plans (6 months), then develop a transportation policy and procedures document (1 year), which states will then wish to review (6-12 months to complete the review and incorporate comments). The entire process will take approximately

3-3½ years to complete, assuming a rather rigorous schedule — one the committee is not confident OCRWM and its RSCs will be able to meet. The committee reiterates its belief that OCRWM should develop a single national transportation plan in cooperation with the regional committees with the goal of having at least a preliminary plan in place by the time OCRWM publishes the final RFP.

Regardless of whether OCRWM or the RSCs develop the transportation plan(s), DOE's *Program Managers' Guide to Transportation Planning* should serve as the guide for the planning process.

According to the final bullet on this page, the transportation plans will include “guidelines for preparation of procedures during Phase B for selecting primary and alternate routes in accordance with applicable NRC and DOT regulations for all transportation modes selected.” As we stated earlier, OCRWM should develop a detailed process and associated timeline for selecting preliminary routes and eventually finalizing those routes in cooperation with the states. In addition, OCRWM should revise the sentence to say “. . . in accordance with applicable NRC, DOT, and State and Tribal regulations for all transportation modes selected.”

- C-14      2.2.7      Does OCRWM really intend for RSCs to develop their own satellite tracking systems for spent nuclear fuel shipments? One result of such an approach could be the establishment of four different systems, each one requiring the states to acquire special equipment, software, and training. As we stated earlier, some aspects of the transportation system should be standardized throughout the program. Satellite tracking is one of those activities.
- C-14      2.2.8      The RFP states that “[a]ll information planned for release to the public . . . shall be submitted to DOE for review for technical accuracy and DOE policy issues 30 days prior to release by the RSC.” Will this same restriction apply to the information the RSCs plan to release to the states?
- The committee believes it would be beneficial for OCRWM to spell out the differences between DOE-state interactions and RSC-state interactions.
- Lastly, the final RFP should include detailed information on the review and comment process OCRWM envisions for the communications and outreach plans. For example, when will states receive the draft plan, which state representatives will OCRWM contact, and how much time will OCRWM allot for the comment period?
- C-14      2.2.9      Since the RSCs' Emergency Response Plans will “indicate steps to be undertaken by carriers and shippers to ‘assist’ emergency responders in performing their duties,” the committee believes OCRWM should distribute these plans in draft to the states for their review.
- C-16      2.2.11      The committee believes OCRWM should share with stakeholders all the information it receives from RSCs on the “potential environmental impacts” of this procurement action.



the Federal Facility). Second, although the RFP makes it clear that an RSC must “implement any required corrective action” identified during the Federal Facility Equipment Compatibility and Pre-Operational Testing, there is no mention of the RSC having this same obligation following the Pre-Startup Operations Demonstration and Readiness Review.

Lastly, assuming the Federal Facility will conduct the 90-day testing period on only one RSC at a time, completing the testing of all four RSCs will take one year. Does OCRWM intend to stagger the start of operations by region? If so, how will it determine which region will go first? If not, what is OCRWM's schedule for coordinating all the necessary reviews to complete them prior to the start of operations yet without an inordinate delay between testing and operations?

C-22 2.3.1.5 What does OCRWM envision for “demonstration of the Transportation Cask Systems”? Will this demonstration include full-scale cask testing? The committee believes OCRWM should give potential offerers an incentive to include full-scale testing in their proposals.

C-23 2.3.1.5 If RSCs must provide dual-purpose storage systems for the first two years of operations, why will OCRWM require RSCs to conduct a “rail shipment of an empty Transportation Cask” rather than a dual-purpose cask? Such a restriction is illogical.

The pre-startup operations demonstration should also include demonstration of an intermodal shipment, if applicable.

C-23 2.3.1.6 Although it is important for the Federal Facility Operator to be able to communicate directly with the RSCs' carriers, the committee suggests emphasizing the role of the RSC in coordinating its carriers' activities with the Federal Facility's schedule. That is, while it is acceptable for the Federal Facility Operator to contact the carrier directly during a shipment, the committee sees no benefit in the Federal Facility Operator bypassing the RSC to work directly with the carrier in scheduling shipments. Such coordination should be the responsibility of the RSCs.

Also, interactions with states should be an integral part of “Establish[ing] Communications and Coordination.”

C-24 2.3.4 The term “training support” implies that some other entity will do the training with the RSC's assistance. This section, however, describes the RSC's role as actually training the staff at the Purchasers' sites and the Federal Facility. The committee suggests deleting the word “support.”

C-25 2.4 OCRWM includes “routing” as part of the Phase C scope of work. The committee requests clarification of a) what routing activities OCRWM envisions taking place during the operational phase of the contract and b) the role of OCRWM, the states, and tribes in those activities. We again stress the importance of developing a detailed route-selection process, complete with a timeline.



		We also note that — along with routing — prenotification, acquisition of permits, communications and outreach activities, transportation operations, and emergency response are all activities that involve state control or input, at a minimum, in order to assure compliance with state requirements.
C-26	2.4.2	This section refers only to dual-purpose canisters, with no mention of transportation-only casks.
C-26	2.4.4	The committee is pleased that OCRWM will, in the case of a preemption action, require RSCs “not [to] ship through the affected jurisdictions until authorized by DOE.”
C App. 1-2	Tables	Since OCRWM changed the payment basis from \$ per MTU to \$ per fuel assembly, the committee suggests that the tables in this appendix include the number of fuel assemblies along with MTUs.
C App. 2-1		As noted previously, OCRWM could avoid a great deal of confusion regarding its requirement for dual-purpose canisters during the first two years of operations if it were to provide information on the TSAR earlier in the RFP.
C App. 2-5		The committee is pleased that OCRWM will require all highway shipments of spent nuclear fuel to conform to the CVSA Enhanced North American Standard Level I Inspection Procedures and Uniform Enhanced Out-of-Service Criteria. We believe OCRWM should indicate, however, that some states (e.g., Illinois) utilize different procedures and that shipments must also conform to specific state standards.
C App. 3-3		<p>The fourth bullet in the section on communications should include “ensure routes conform with State Routing Plans (if applicable).”</p> <p>The section on communications lists the Governor’s designee and State Department of Transportation as two points of contact. For what specific purpose are these POCs listed? Why not include other state agencies — e.g., Department of Health or Emergency Management Agency?</p> <p>Will requiring RSCs to deliver fabricated storage modules to the Federal Facility confer an advantage to certain models?</p>
C App. 7-1		<p>Item #9 would require the tracking system “to be capable of tracking all casks in transit at any time.” Does “all casks” mean just the ones for which the RSC is responsible, or literally “all casks”?</p> <p>Also, if the tracking systems must be compatible with TRANSCOM, will states with access to TRANSCOM be able to track OCRWM shipments? Will the states be able to track <i>all</i> shipments, or only those shipments that cross their borders?</p>
F App. 1-2		The “action required” for both the transportation plan and the communications and outreach plan is “product acceptance” rather than “approval.” The committee believes OCRWM should require approval of these documents.
Verification Plan, p. 13		What type of inspection will OCRWM perform at the Purchaser site

to “ensure that the shipment meets all regulations and is ready for travel”? Does OCRWM intend to conform with CVSA’s enhanced procedures when it conducts this inspection?

J Att. 6-1

The committee believes OCRWM should add “inspections” to the list of activities requiring RSCs to interact with states and tribes.