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September 27, 1996

Corinne Macaluso  
U.S. Department of Energy  
c/o Lois Smith  
TRW Environmental Safety Systems  
600 Maryland Ave. SW, Suite 695  
Washington DC 20024  
Attn: 180(c) Comments

RE: Section 180(c) Comments

Dear Ms. Macaluso:

Eureka County has the following comments in response to the U.S. Department of Energy's (DOE) Federal Register Notice of May 16, 1996 on "Safe Transportation and Emergency Response Training: Technical Assistance and Funding".

Eureka County is one of ten counties which have been designated by the Secretary of Energy as "affected" pursuant to the Nuclear Waste Policy Act of 1982 as amended (NWPA). The DOE has identified a potential rail corridor (the "Carlin route") for shipping nuclear waste to Yucca Mountain. The proposed route would bisect Eureka County. In addition, Eureka County could be affected by alternate routing for highway transportation of nuclear waste.

**Summary Comments**

Eureka County believes that local jurisdictions - city and county governments - should be eligible to receive technical assistance funding directly from the DOE. We are on the front line, we are the first responders, we need direct assistance. As a rural county served by volunteers who are first responders - fire fighters and medical personnel - we believe DOE should implement Section 180(c) so that training is available in the communities where first responders reside and so that local jurisdictions - the first responders - are the centerpiece of the training, not an afterthought.

Among the alternatives outlined in the NOI, Eureka County favors an OCRWM grant program. However, the eligibility should be expanded to include local governments, cities and counties. DOE has used such a program for disbursement of funds to the "affected units of local government" (AULGs). The direct funding of local governments through DOE's current program with AULGs could serve as a model for 180(c) funding of local governments. *Any implementation program must include a mechanism for local governments to receive direct funding without matching fund requirements.*

Eureka County believes that assistance for training for emergency response and for safe routine transportation of spent nuclear fuel (SNF) and high-level radioactive waste (HLW) must begin 3 to 5 years before shipments through jurisdiction can begin. We support grants directly to local governments in addition to grants to states and tribes. Grants should be made directly to each eligible jurisdiction, and planning grants and assistance must be part of the Section 180(c) implementation program. Local governments, states and tribes must have discretion in planning and implementing training activities appropriate to their individual needs and circumstances. Funds provided by 180(c) must be adequate to cover all training costs incurred by local jurisdictions, states and tribes as a result of NWPA shipments. No shipments can be made through a jurisdiction unless *adequate* training assistance has been provided.

## **Comments on Proposed Policies and Procedures**

### **Funding Mechanism**

The proposal to make direct grants should be expanded to include local jurisdictions using the model of direct funding to the "affected units of local government" (AULGs) in Section 116 of the NWPA. *Any implementation program must include a mechanism for local governments to receive direct funding without matching fund requirements.* It is essential that jurisdictions be permitted to determine what training is needed and how best to implement the training because of the differences in training needs and capabilities among the jurisdictions affected by this massive shipping campaign.

### **Eligibility and Timing of the Grants and Technical Assistance Program**

The timing proposed is adequate, but should be changed to include the flexibility to permit DOE to begin the grant program more than four years in advance and the training more than three years in advance if circumstances warrant it. The policy should not preclude DOE from making funds and assistance available earlier than three years. Flexibility which favors the individual needs of local governments and states is essential.

*The policy and procedures should mandate that no shipment can be made through any jurisdiction unless Section 180(c) assistance has been provided.* The proposed procedure for funding is unacceptable to this local government. As we read it, a state could receive funds from DOE, and as long as the state is a recipient, the shipments could be made, even though an affected local jurisdiction- a first responder - has not received adequate or even any training. This is why grants to local jurisdictions are essential.

The notice states, "Each jurisdiction would be requested to submit a description of the coordination procedure as part of its grant application. This approach builds flexibility into the use of the funds and responds to commenters' concerns that assistance may not reach the local level." A description of a coordination procedure is no guarantee that assistance is reaching the local level, and does not respond adequately to our concerns about this funding mechanism.

### **Allowable Activities for Funding**

**Planning:** Jurisdictions need maximum flexibility and discretion. Activities related to planning and targeting of training should be allowable.

**Equipment:** The 10% limitation on equipment is inappropriate, and again reflects the overall tone of the notice that all jurisdictions must fit one mold. Some areas may have far more equipment on hand to deal with these kinds of potential accidents than others. The notice states that the equipment must be "training related". This is confusing. Does this mean that the equipment can be used for training but not for the real life emergency? Who will check up on this?

**Exclusion of Funds For Exercises and Drills:** Without adequate exercises and drills, the jurisdictions and first responders are not adequately prepared. To exclude exercises from a training program for emergency response is to do incomplete training. Exercises are also essential for identifying training needs. *How can DOE competently provide technical assistance for training if their own procedures prevent them from funding the very activity that will identify training needs?*

### **Basis for Cost of Program**

The formula proposed by DOE appears to shift the financial burden for preparedness and training to individual states, thereby creating potentially major unfunded mandates for local governments and states. The financial burden would fall heaviest on states that are least prepared and most likely to experience major impacts as a result of the

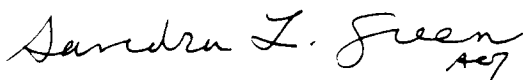
commencement of spent fuel/HLW shipments. In the response section of this Notice, DOE states that Section 180(c) assistance should be designed only "to provide jurisdictions assistance in an increment above their current level of preparedness rather than to supply complete emergency response or safe routine transportation capabilities along NWPA transportation routes." The NWPA requires that waste generators pay for the costs of waste disposal, including states', tribes', and local governments' emergency response and safe routine transportation-related costs. Costs for individual jurisdictions' programs must be based on needs assessments undertaken as part of the grant application, not as proposed. The jurisdiction should determine training needs and develop the budget and program to meet the needs. The Notice should address a minimal standard of need. What is the level of preparedness that is needed? How would this cost basis be applied to a jurisdiction that is very unprepared? The "incremental" approach is devastating, especially for those least prepared.

### **Conclusion**

*The proposal does not address the needs of volunteer responders of rural jurisdictions. It is imperative that these special needs be addressed in the scope of the grant. More freedom is needed to allow these special needs to be addressed by grant recipients. The site of transfer station(s) and the interim storage site states will have special needs both in training and equipment that are not addressed in this proposal. In the proposal, all states are treated the same regardless of differing needs. The scope of the grant should be changed to allow for these individual needs.*

Transportation is a key element of the nuclear waste management system, and it is essential that DOE ensure that local communities will receive adequate resources to protect their safety. This Notice does not provide that assurance.

Sincerely,

Handwritten signature of Sandra L. Green in cursive script, with the initials "AEG" written below the name.

Sandy Green  
Project Coordinator

cc: Leonard Fiorenzi  
Abby Johnson  
Steve Campbell, PIC  
Joe Strolin, NWPO