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NYE COUNTY
DEPARTMENT OF NATURAL RESOURCES & FEDERAL FACILITIES

NUCLEAR WASTE REPOSITORY PROJECT OFFICE

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July 29, 1998

Ms. Corinne Macaluso
U.S. DOE
c/o Lois Smith, TRW Environmental Safety Systems
600 Maryland Avenue, S.W., Suite 695
Washington, D.C. 20024

Comments in Response to the U.S. Department of Energy's Proposed Policy for Implementation of Section 180(c)

Dear Ms. Macaluso:

Nye County appreciates the opportunity to submit comments in response to the Department of Energy's (DOE) revised proposed policy for implementation of Section 180(c) of the Nuclear Waste Policy Act (NWPA). As you are aware, Nye County is the situs jurisdiction for the Yucca Mountain Project, and, depending on the outcome of proposed legislation, the situs jurisdiction for a centralized interim storage facility. A substantial volume of low-level radioactive waste has been transported for disposal at the Nevada Test Site, and pending decisions by other DOE agencies this could dramatically increase both the numbers of such shipments and their impacts on Nye County communities linked by two-lane public highways. Furthermore, Nye County is a rural jurisdiction with widely separated communities and very limited financial resources, requiring heavy reliance on volunteers for emergency response.

We are concerned that the situs county should be able to develop and maintain its emergency management resources. Residents need to be assured that local first responders and incident commanders are trained and equipped to effectively and reliably perform their appropriate tasks in response to radioactive waste transportation incidents and accidents. We agree with the recent observation of the program director that Section 180 (c) is a special situation for Nye County with special status.

Nye County has previously commented on the Notice of Inquiry (May 10, 1995), and the proposed policy and procedures for implementation of 180 (c) (August 26, 1996). We appreciate the seriousness of these comments and those of other stakeholders in the preparation of the revised proposed policy statement. We hope that the following additional comments (page references are to the 26 page notice retrieved from the DOE website) will also receive your serious consideration.

1. Treat the situs/destination county as states' and tribes' are treated with regard to the eligibility and allowable activities for the 180 (c) grants program.

This step would enable the situs/destination county to receive a one-time only planing grant to determine its incremental needs. A base grant would be used to plan and coordinate training activities and exercises as appropriate. A variable funding amount to provide operations and/or technician level training (and refresher training) is needed to provide an enhanced level of preparedness. Without this step, the increment of training necessary to prepare for NWPA shipments will not be fully assessed or achieved. To go forward on such a basis would be a serious flaw in the DOE Office of Civilian Radioactive Waste Management (OCRWM) program.

Nye County has provided previous comments on this topic. See May 10, 1995 (No. 1 and No. 7), August 26, 1996 (No. 1 and No. 2).

2. The current regulatory structure (e.g. Department of Transportation (DOT) and Nuclear Regulatory Commission (NRC) is not sufficient to provide for a safe and effective campaign for transportation of such a large volume of highly radioactive materials on a long-term basis.

At several points (e.g., pages 3, 12, 14), the notice states OCRWM's view that the current regulatory structure is sufficient to provide for the safety of the shipments. However, the entire objective is not defined by the term "safety" as it may be construed by OCRWM. The objective might be described as the assurance of safety through the application of the best technology and practice over a long-term, large volume, and high visibility shipment campaign. Successfully negotiated DOE campaigns (e.g., Waste Isolation Pilot Plant and FRR) have gone well beyond strict compliance with DOT and NRC regulations.

The tradeoffs with Section 180 (c) and the state-local responsibility to protect public health, safety, and welfare should also be noted. An integrated, coordinated, and effectively communicated shipment campaign is much more efficient in the use of 180 (c) appropriations. We are concerned that it could be very difficult to provide an assurance of safety at the local level if the overall transportation campaign is strictly limited to compliance with DOT and NRC regulations.

Nye County has provided previous comments on this topic. See August 26, 1996 (No. 11 and No. 13).

3. The DOE should consider the states' and tribes' determination of preparedness in scheduling acceptance and shipment.

The notice states (page 3) that the DOE will take into consideration the states' and tribes'

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determination of their needs when preparing its budget for Section 180 (c). Similarly, the DOE should consider the preparedness of its Section 180 (c) grant recipients in scheduling acceptance and shipment, and express its intention not to ship until grant recipients are adequately prepared.

Nye County has provided previous comments on this topic. See May 10, 1995 (No. 5) and August 26, 1996 (No. 6).

4. DOE should consider the legitimate long-term funding required to do Section 180 (c) and other aspects of the high-level nuclear waste program right. The notice alerts stakeholders "If Congress does not fully appropriate the funds requested, the funding to eligible jurisdictions will be decreased proportionately" (pg. 3), and that "The ability of Congress to limit funding to a particular program is simply a reality the OCRWM will have to work with..." (Page 12). We appreciate the intent of these statements, but are concerned that inadequate appropriations for Section 180 (c), in combination with a transportation campaign strictly limited to compliance with current DOT and NRC regulations, would not provide the assurance of safety and preparedness at the local level. We encourage DOE to advocate a level of Section 180 (c) funding and an overall transportation campaign required to do this very complex and sensitive task. We are particularly concerned that the site/destination county have access to the resources required to provide an assurance of safety for its residents.

Nye County has prepared previous comments on this topic. See May 10, 1995 (No. 4) and August 26, 1995 (No. 1 and No. 2).

Nye County looks forward to continuing to work with OCRWM in implementation of Section 180 (c). Please call me at (702) 727-7727 for further clarification of these comments if necessary.

Very truly yours,
NYE COUNTY, NEVADA


Les W. Bradshaw, Manager

Nye County Department of Natural Resources and Federal Facilities

cc: Nye County Board of Commissioners
Steve Bradhurst
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