



Nye County

Nuclear Waste Repository Project Office

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08-014-DL (L)

January 18, 2008

Ms. Corinne Macaluso
Office of Civilian Radioactive Waste Management (OCRWM)
U. S. Department of Energy (DOE)
C/O Patricia Temple
Bechtel/SAIC Company, LLC
955 N L'Enfant Plaza, SW, Suite 8000
Washington, DC 20024

RE: Revised Proposed Policy Section 180(c)

Dear Ms. Macaluso:

The Nye County Nuclear Waste Repository Project Office (NWRPO), on behalf of the Board of County Commissioners appreciates the opportunity to provide input on the notice of revised proposed policy implementing Section 180(c) of the Nuclear Waste Policy Act (NWPA) of 1982, as amended. Nye County is the site county for the repository and one of the ten counties designated as affected units of local government (AULG) that participate in the oversight of the Yucca Mountain Project.

We have considered the DOE revised policy for implementation of Section 180(c), reviewed and generally endorse comments posted on the OCRWM website from other agencies, and provide the following general comments with regard to the proposed policy.

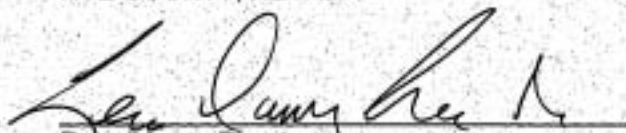
1-A | Our major concern is that the whole transportation issue, especially the requirement for the Secretary to "...provide technical assistance and funds to the States..." requires an immense amount of work by OCRWM to establish an appropriately prioritized process that will contribute to the overall success and safe transportation of spent nuclear fuel and/or high-level radioactive waste. Specifically:

- 2-D |
- The revised proposed policy does not suggest adequate levels or guidelines for allocation of funding for either planning or training grants. The policy does not define what core capabilities first responders have to have to deal with even reasonable potential safety issues associated with radioactive waste shipments. There have to be appropriate guidelines on the distribution of funds to ensure that states allocate funding for planning and training of the minimum required capabilities in jurisdictions that will be most affected by shipments of radioactive waste.
- 3-A |
- The revised proposed policy dilutes the original intent of Section 180(c) by diverting the focus of technical and financial assistance away from AULGs and Indian Tribes. The DOE's responsibility with respect to implementation of Section 180(c) extends well beyond the distribution of funds. It is vital that DOE remain fully engaged in establishing an appropriately funded and prioritized emergency response training and preparation process for units of local government and Indian Tribes who are likely to be the first responders in the event of a transportation emergency.

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Nye County encourages DOE to give serious consideration to the following specific comments in the final implementation of Section 180(c) of the Nuclear Waste Policy Act, as amended. Should you have any questions concerning these comments, please feel free to contact us.

Respectfully,
NYE COUNTY, NEVADA

A handwritten signature in black ink, appearing to read "Darrell Lacy", is written over a horizontal line.

Darrell Lacy, Director
Nuclear Waste Repository Office

DL/zc

Attachments: Nye County Policy Statement Comments
Notice Specific "Request for Comments"

cc: Nye County Board of County Commissioners
Ron Williams
Brent Jones
AULGs

**Nye County's Comments to the
Notice of Revised Proposed Policy for Implementation of Section 180(c)**

4-B

1. **The policy statement comment (I. Purpose and Need), first paragraph, states "...DOE is responsible for providing technical and financial assistance for training of local public safety officials to State and Indian Tribes..."** This sentence should be revised to read "to aid training of public safety officials of appropriate units of local government and Indian Tribes."

5-B

Comments – The emphasis of the revised proposed 180(c) notice currently lies with the distribution of funds to states. This emphasis is consistent with the intent of the law which requires training and technical assistance for affected entities. Any distribution of funds should be built around capabilities of appropriate local governments and Indian Tribes along proposed routes as they will likely be the first responders in the event of a transportation emergency.

6-B

DOE's responsibility lies with the training of appropriate units of local government and Indian tribes. The emphasis of this notice appears to be on administrative functions tied to the allocation of funds. Instead DOE should devise a system whereby appropriate local governments and Indian tribes along transportation routes receive technical assistance and funding for emergency response. Such a responsibility is not met by allocating funds to states.

7-B

DOE should establish performance measures for local emergency preparedness along transportation routes. Without them, DOE will have no way to gauge the level of preparedness for shipments to Yucca Mountain.

8-B

DOE needs to determine the basic minimum standards for evaluating the preparedness of appropriate local governments and Indian Tribes. The revised policy should describe the minimum standards for appropriate local governments and Indian Tribes and begin to focus resources on those areas needing the most assistance.

9-A

2. **The Policy Statement (III. Policy), fourth paragraph states "DOE will work with States and Tribes to evaluate current preparedness for safe and routine transportation and emergency response capability and will provide funding as appropriate to ensure that State, Tribal, and local officials are prepared for OCRWM shipments."** **Comment** - DOE's responsibility should be to provide funds to states for training appropriate "first responders" from units of local government. The purpose of 180(c) is not to provide funds to ensure that States are adequately prepared for OCRWM shipments. The law does not include such language. The policy statement should be revised.

10-A

3. **The Policy Statement (III. Policy), last paragraph states "Any deficiency in basic emergency response capability may be addressed through consultation and technical assistance." Comment** -The term "may" should be replaced with "shall". The policy statement should be revised to include funding as a means to address deficiencies, and those deficiencies will largely be found with local emergency response capabilities, particularly in rural areas. The policy should consider financial assistance as another means to address deficiencies in basic emergency response other than consultation and technical assistance.

11-D

4. **Basis for Cost Estimates/Grant Funding Allocation to States, third paragraph: "The variable amount of the training grant will be determined through a risk based formula using the factors of population along routes, route miles, number of shipments, and shipping sites". Comment** - Population along routes should not be a factor because existing response capabilities generally reflect population. Areas with greater concentrations of population often have significant emergency management capabilities with professional staff. DOE should not justify allocating funds to large urban areas where public safety officials are already trained to handle hazardous material shipments versus the rural, smaller, less populated areas that have minimal or no existing capabilities. Favorable consideration should be given to the particular training needs and related costs for rural fire departments, especially volunteer fire departments.

12-H

5. **Allowable Activities, second paragraph: "Under Section 180(c) of the NWPA, DOE shall provide technical and financial assistance to States and Indian Tribes..." Comment** - This sentence should read "The Secretary shall provide technical assistance and funds to states for training for public safety officials of appropriate units of local governments and Indian Tribes..."

13-H

The fifteen typical planning activities and the seventeen suggested allowable training grants are a good representation of needed emergency first responder preparation. However, the \$200,000 maximum and the \$100,000 base amount budgeted by DOE per state for training is entirely inadequate. In Nevada, it is possible that rail/highway transportation routes could cross through six or more local jurisdictions, each with individual first response responsibilities. If the \$100,000 was divided amongst the seventeen Nevada Counties, only \$5880 would be available for training in each county. DOE needs to plan on much larger funding amounts for planning and training grants. Instead of the \$200,000 maximum and the \$100,000 base amount, the funding should be more like \$1,000,000 maximum and \$500,000 base per state.

Notice Specific "Request for Comments"

Question 1.

14-J

a. No.

15-J

b. No.

c. Needs assessment should be updated every 3-5 years at a minimum.

16-J

Question 2.

17-J

a. No.

18-J

b. Base funding is required to maintain training staff and operate the training program, and should remain relatively constant throughout the life of the shipment campaign.

19-J

c. No opinion

d. No. See 2.b. above.

20-J

Question 3. No opinion

Question 4.

21-J

a. Yes

22-J

b. No

23-J

c. Yes

Question 5.

24-J

a. Yes

25-J

b. No opinion

26-J

c. No opinion

Question 6.

27-J

a. No opinion

28-J

b. TEPP provides no direct funding. TEPP activities are supplementary to state training activities.

29-J

c. This needs to be determined by the survey/assessment of "core capabilities required" addressed in our first major concerns comment.