



Department of Comprehensive Planning

500 S Grand Central Pky • Ste 3012 • Box 551741 • Las Vegas NV 89155-1741
(702) 455-4314 • Fax (702) 385-8940

Barbara Ginoulas, Director • Rod Allison, Assistant Director

January 30, 2009

Mr. Frank Moussa
U.S. Department of Energy
c/o Patricia Temple
Bechtel SAIC Company, LLC
955 N. L'Enfant Plaza, SW, Suite 8000
Washington, DC 20024

Re: FR E8-26018 10/30/08 – OCRWM: Safe Routine Transportation and
Emergency Response Training; Technical Assistance and Funding
(Section 180(c) of the Nuclear Waste Policy Act)

Dear Mr. Moussa:

This letter is in response to the above-referenced notice on the revised policy document outlining revised plans for implementing Section 180(c) of the Nuclear Waste Policy Act. This letter supplements Clark County's comments submitted in response to previous draft 180(c) policy documents. Our most recent comments were submitted in response to the 2007 draft policy documents, on January 22, 2008. We request that all previous comments be incorporated herein by reference, and that the following additional comments be formally accepted and considered. Since we have never received formal feedback to our comments on this policy, we would appreciate a response to our comments, as well as previous comments submitted, prior to the finalization of this policy document.

Clark County chose not to answer the questions asked about funding, etc., at the conclusion of the policy document, as we have not changed our opinion that the funding formula as outlined in the policy is flawed and inadequate. Clark County supports a needs-based funding policy and process should shipments to Yucca Mountain become necessary, using valid models, data, and assumptions.

It is not clear how the DOE proposes to standardize the methodologies utilized in the needs assessments. This is important, as differing methodologies may have widely disparate results. While developing a standard methodology for needs assessment can be difficult it is not insurmountable. Clark County developed such a model for use by local and tribal governments in Southern Nevada, and has provided DOE with several iterations of its own public safety impact assessments for consideration. We have never received feedback from DOE on these impact assessments, nor has DOE appeared to incorporate them into the 180(c) policy document drafts. In addition, these reports have never been offered by DOE to other local, state, tribal governments, or state regional group as a resource and example of assessment, modeling, or as an analysis tool. We urge the DOE to use data, models, assumptions, and impact assessments already available at the local government level to gain a better understanding of actual public safety costs.

Clark County supports the change in the draft wherein the term "emergency response" in the proposed policy has been replaced with "emergency management," allowing for a broader variety of activities eligible for funding under the program. We are encouraged that this broader view appears to recognize the important and diverse roles of local government in emergency management, which include planning, training, and other emergency response activities. This is especially important considering the broad definition of "first responder" is listed in Homeland Security Presidential Directive 8 as follows:

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The term "first responder" refers to those individuals who in the early stages of an incident are responsible for the protection and preservation of life, property, evidence, and the environment, including emergency response providers as defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101), as well as emergency management, public health, clinical care, public works, and other skilled support personnel (such as equipment operators) that provide immediate support services during prevention, response, and recovery operations.

Clark County does not support the change in the policy statement which has been revised to state that the DOE "will help State, Tribal and local officials prepare for OCRWM shipments," rather than the original policy statement that said that DOE would "provide funding as appropriate to ensure that State, Tribal and local officials are prepared for OCRWM shipments." This change appears to weaken the DOE's commitment to implement the required provisions of this policy. Further, it is important to define what is meant by "local officials" in light of the fact that local governments have primary responsibility for emergency management and public safety. As noted in our General Comments above, the federal government has already defined "first responder" in broad terms, and such definition encompasses functions that are normally the purview of local governments.

The risk-based formula proposed for determining the amount of States' annual training grants is lacking in several respects. First, no examples showing how States might be affected by this formula are provided that would permit local and State governments to determine how they will be impacted. The formula should be reviewed using actual examples to make certain that inequities based on risk or need are adequately covered through the formula. Second, it is not clear how it was determined that using the census population figures would be an accurate surrogate for the actual number of responders (still not defined in the Policy) or number of jurisdictions requiring training. This is important, as the policy does not take into account the many jurisdictions which rely on part-time volunteers for emergency response, especially in rural areas. This is critical, as these rural, volunteer public safety service providers would be the least trained and least prepared segment of the first responder capacity for local jurisdictions. More accurate information exists and is readily available; therefore no surrogate population figures are necessary. While the DOE has traditionally consulted with state regional groups on 180(c) policy, local public safety organizations would more appropriately be included in the DOE's planning efforts to obtain accurate estimates of these groups.

Finally, the most recent update of DOE's Total System Life Cycle Cost (TSLCC) for the Yucca Mountain repository identifies \$460 million dollars to meet its public safety obligation under Section 180(c). The TSLCC states: "It is assumed that institutional funding and Section 180(c) funding will continue throughout the period of transportation operations." If the current formula and \$200,000/\$100,000 distribution forms the basis for this total figure, it is clear that this total cost projection is woefully low compared to actual public safety costs, and will result in a long-term, unfunded mandate to local governments and burden to local taxpayers. Further, the evolving nature of nuclear energy and nuclear waste policy will likely invalidate the funding formula and total cost estimate. For example, the impacts of not building a second repository and storing GNEP-related waste at Yucca Mountain will significantly change the timing, duration, content, and volume of shipments. Future iterations of the draft 180(c) policy should take these developments into account. Since the DOE's January 2009 Project Decision Schedule does not plan to issue a final 180(c) policy document until April of 2015, there is ample opportunity to actively engage in more consultation and information sharing with stakeholders, including appropriate agencies in all levels of government, to ensure the adequacy of assessment, planning and cost estimate activities required to finalize the policy.

Thank you for considering these comments and including them into the formal record.

Sincerely,


Irene Navis, AICP
Planning Manager