Department of Comprehensive Planning

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Barbara Ginoulias, Director • Rod Allison, Assistant Director

January 22, 2008

Ms. Corinne Macaluso
Office of Civilian Radioactive Waste Management
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: Clark County Comments on DOE's Notice of Revised Proposed Policy and Request for Comments on the OCRWM Plan for the Implementation of Section 180(c) of the Nuclear Waste Policy Act (Federal Register/Vol. 72 No. 140/ Monday, July 23, 2007/Notices)

Dear Ms. Macaluso:

Clark County appreciates the opportunity to provide input on the notice of revised proposed policy implementing Section 180(c) of the Nuclear Waste Policy Act of 1982, as amended (NWPA). Clark County officials have reviewed and considered the revised policy for implementation of Section 180(c). We concur with the comments submitted by the State of Nevada, and generally agree with the comments provided by Nye County. The following comments are offered on behalf of Clark County with regard to the proposed policy.

Background

Clark County is one of the ten counties designated as an affected unit of local government (AULG) that participate in the oversight of the Yucca Mountain Project. Clark County plays an important role in public safety and emergency management for the Southern Nevada region. Clark County provides all-hazards, first-responder support to cities within Clark County, surrounding counties, and surrounding states through mutual aid and/or interlocal agreements. While Clark County's population now exceeds 2 million, more than 90% of Clark County's geographic area is rural in nature, and all rural/outlying areas of Clark County rely on mostly volunteer public safety and emergency

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management support. In addition to a population growth of 5,000 residents each month, on any given day, 250,000 people visit Clark County's jurisdiction, and rely on local first responders for protection and assistance. Clark County owns and operates University Medical Center, which includes Nevada's only Trauma 1 unit, burn unit, and decontamination capability. Clark County public safety personnel, including emergency medical personnel and health district personnel, are not sufficiently prepared to accommodate the additional burden of potential Yucca Mountain shipments. Clark County has recently been ranked ninth highest in risk in the country by the Rand Corporation (2007) for terrorist or sabotage events.

Comments

The 180(c) policy document as currently written includes several critical shortcomings. These include:

- Insufficient coordination and integration with local public safety agencies "all hazards" planning and response functions as mandated under the National Incident Management System (NIMS);
- Inappropriately narrow interpretation of public safety needs;
- Insufficient funding to appropriately prepare and train local public safety personnel, combined with inadequate determination of local needs and capacity.

Insufficient coordination and integration with local public safety agencies "all hazards" planning and response functions as mandated under the National Incident Management System (NIMS)

DOE's proposed 180(c) policy lacks both a basis and a methodology for determining the amount of funding and nature of technical assistance that will be needed to adequately train and equip state and local emergency response and public safety personnel across the United States so that they can manage spent nuclear fuel and high-level radioactive waste shipments to Yucca Mountain. Instead of basing the program on a nationwide, bottoms-up needs assessment, as required by the U.S. Department of Homeland Security (DHS) as part of the all hazards preparedness approach under NIMS, DOE proposes to establish arbitrary amounts for annual planning and training grants.

The emphasis of the revised proposed 180(c) notice currently focuses on the distribution of funds to states. This emphasis is inconsistent with the intent of the law which requires training and technical assistance for affected entities. The proposed 180(c) policy document does not appear to be linked or have been coordinated with homeland security policies, funding methodologies, or mechanisms under the jurisdiction of DHS. Policies developed under NIMS provide the overarching guidance on how all levels of government should coordinate responses to emergency events. In order to appropriately prepare and plan for high-level nuclear waste (HLNW) and spent fuel shipments, the DOE

should focus on local public safety agencies in their planning process in a tiered fashion as outlined in NIMS.

DOE does not appear to have taken into account any public safety impact analysis conducted at the State or local level. Such studies have been available for over a decade. Clark County as an AULG under the NWPA has conducted numerous studies with all emergency management and public safety personnel within Clark County utilizing NIMS guidance to assess the direct impacts to local emergency management and public safety agencies from spent nuclear fuel and high-level radioactive waste shipments. This type of bottoms-up planning and preparedness approach is critical to effectively coordinating the local governments' ability to prepare for shipments and to respond in case of a shipment incident. In addition, deploying this type of needs assessment allows local governments to leverage other available federal, state, and local resources to optimize preparedness and planning capabilities.

Inappropriately narrow interpretation of public safety needs

Clark County believes that Section 180(c) of the Nuclear Waste Policy Act does not adequately provide for the full array of emergency management and public safety needs that are necessary for the protection of the public health and safety, because it limits public safety support to planning and training. The DOE in the proposed revised 180(c) plan further narrows allowable activities in such a way that local public safety agencies will be left with an enormous unfunded mandate to meet their obligation to protect the public health and safety of their residents.

Section 180(c) of the Nuclear Waste Policy Act states: "The Secretary (of DOE) shall provide technical assistance and funds the States for training for public safety officials of appropriate units of local government and Indian tribes through whose jurisdiction the Secretary plans to transport spent nuclear fuel or high-level radioactive waste under subtitle A or subtitle C. Training shall cover procedures required for safe routing of these materials as well as procedures for dealing with emergency response situations."

Even under DOE's current plans to build a rail line along the Caliente corridor, significant rail and highway shipments will still be routed through Clark County requiring local public safety agencies to plan and prepare for a maximum reasonably foreseeable accident.

The proposed revised 180(c) plan fails to identify who would receive training and what level of training would be provided. To be consistent with NIMS and the Occupational Safety and Health Administration guidance, the plan should be revised to explicitly require that all tier-one emergency responders, at a minimum, be trained at the "operations" level. Currently, many communities across the United States, particularly in the rural areas have received only "awareness" level training. This level of training is inadequate for preparing first

"awareness" level training. This level of training is inadequate for preparing first responders to respond to an incident involving spent nuclear fuel and/or high-level nuclear waste. Operations' training is specifically designed for the initial emergency response which occurs within minutes of the incident being reported. These emergency responders stabilize the situation and prepare the emergency scene for the hazmat specialists who will undertake direct mitigation. The mission of responders who are trained at the operations level is to "protect nearby persons, property, and the environment from the effects of the release." They are trained to contain the release from a safe distance, keep it from spreading and prevent exposures.

In addition to first responders, comprehensive emergency management programs recognize that a broad array of other stakeholders that include private corporations, utility companies, volunteer organizations, and other governmental entities are frequently part of a community's overall preparedness and response plan. These second tier responders will require "awareness" training. DOE should explicitly acknowledge its responsibility to provide this level of training for these stakeholder groups as well.

Further, as noted by the International Association of Fire Fighters, "hazardous materials response training is not a one-time event. It is essential that all first responders undergo refresher training to ensure continued proficiency." OSHA's Hazardous Waste Operations and Emergency Response Standard require emergency responders to receive annual refresher training "of sufficient content and duration to maintain their competencies." In addition to providing responders an opportunity to brush up on perhaps seldom-used knowledge and skills, refresher training is vital to familiarize responders with new technology which may be used or encountered during a response. This is especially crucial when considering a response to an incident involving nuclear waste.

DOE's proposed revised plan also fails to acknowledge that Clark County and all its jurisdictions, including all jurisdictions along the nationwide transportation corridor, will need to develop specific procedures to accommodate accidents both within their own jurisdiction and with neighboring jurisdictions where interlocal agreements may or may not exist. As part of the planning process, DOE should acknowledge and provide funding for all jurisdictions along the transportation corridor to identify and amend as needed interlocal agreements to ensure a seamless, comprehensive nationwide response capability along the transportation corridor. All of these agreements would require legal review and approval by elected and or private officials, as appropriate.

Clark County along with the surrounding counties will also need to develop an inventory list of required assets versus assets on hand. These assets would be those required if an accident were to occur. These assets go well beyond training and include personnel, equipment, and even capital facilities. DOE should acknowledge its responsibility to local public safety agencies to ensure that they have the full array of resources necessary to protect the public health and safety

if shipments of spent nuclear fuel and high-level radioactive waste are to commence.

Insufficient funding to appropriately prepare and train local public safety personnel, combined with inadequate determination of local needs and capacity

The DOE's proposed revised 180(c) plan states that the total amount of funding available nationally for Section 180(c) assistance would be determined by "congressional appropriations." This is unacceptable. DOE as the implementing agency for the Yucca Mountain repository should be responsible for informing Congress as to the actual amount of funds needed to implement an adequate Section180(c) program. DOE must provide funding to jurisdictions along the entire transportation corridor to conduct a bottoms up needs assessment in conjunction with their all hazard planning activities to identify the direct public safety needs associated with spent nuclear fuel and high-level radioactive waste shipments, so that local resources and assets can be most effectively leveraged to protect the public health and safety, and to ensure that planning and preparedness for these shipments are integrated into the communities overall emergency management plan. NIMS guidance provides the appropriate structure for implementing this type of planning process. DOE should utilize this structure and provide sufficient funds to all AULGs as well as other affected communities across the transportation corridor to conduct these needs assessments in conjunction with their all hazards planning and assessments under NIMS. It is unacceptable for DOE to merely specify an arbitrary total amount in an annual budget request. Section 180(c) funding should be a specific line item in DOE's budget, based on a locally based needs assessment of the cost of an adequate national program for each year.

Under the proposed revised 180(c) plan, a $200,000 planning and assessment grant is to be made available to each eligible state and tribe. Clark County believes that this amount of funding is totally insufficient to adequately provide training and other activities necessary for safe transportation and emergency response within its own public safety agencies, no less for the entire State of Nevada. Under the proposed funding scheme, DOE will be imposing an enormous underfunded mandate on local governments, not only in Clark County but across the entire transportation corridor.

Clark County also disagrees with the proposal for determining annual training grant amounts for individual states and tribes. As with the base grants, there is no foundation for arriving at the proposed $100,000 base amount for the grant. Training for public safety agencies has historically been conducted at the local level and DOE should focus its 180(c) training funds towards these agencies. Further, DOE should determine the amount of funds needed for training and other planning through a locally based needs assessment process, similar to what Clark County has conducted.

Clark County's Department of Comprehensive Planning Nuclear Waste Division (NWD) in coordination with the Clark County Local Emergency Planning Committee (LEPC) has conducted a number of needs assessment studies for all local public safety entities within Clark County (UER 2001, UER 2005). These studies indicate that Clark County public safety agencies will require $23,397,120 just to provide for training needed to prepare for shipments under DOE's narrow interpretation of its responsibilities under the provisions of section 180(c) of the NWPA. In addition, the NWD in coordination with the Clark County LEPC has determined that the actual financial burden to local governments to ensure public health and safety within Clark County, if DOE proceeds with its plan to ship HLNW and spent fuel to Yucca Mountain will likely reach $367,485,153 to adequately prepare for shipments. It should be noted that Clark County has only identified the gap between public safety needs for non-Yucca related purposes and the level of funding needs for additional preparedness for Yucca shipments. It should be further noted that DOE has informed the AULGs that it will only fund the "gap" between a jurisdiction's need and DHS funds the jurisdiction receives for preparedness for radiological incidents. Since DHS has not historically provided funding for technical assistance, etc. for this purpose, it is clear that the funding formula anticipated under the 180(c) policy will be insufficient to fill this gap for purposes of supporting Yucca Mountain shipments.

In summary, Clark County believes the proposed 180(c) policy to be significantly flawed, and does not meet the requirements of State, tribal, and local governments for first responder training and technical assistance as required under the Nuclear Waste Policy Act. The woefully inadequate funding levels proposed in the policy document places an unfair burden, and will likely result in an unfunded mandate, on the local taxpayer. The policy document does not seem to have been coordinated or linked with the DOE's draft and supplemental Environmental Impact Statements, the National Transportation Plan for Yucca Mountain shipments, or the operational components of the DOE's proposed shipment campaign for the repository. The policy does not take into account the true requirements of first responders for preparedness and response, and therefore fails to adequately protect public health and safety. The uncertainties related to mode, route, number, and frequency of shipments, combined with the disjointed policy approach to such a critical component of DOE's program, does nothing to increase public confidence in DOE's efforts.

Sincerely,

Irene Navis

Irene Navis, AICP
Planning Manager