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August 20, 2007

Ms. Connie Macaluso
U.S. Department of Energy
c/o Patricia Temple
Bechtel SAIC Company, LLC
955 N. L'Enfant Plaza, S.W.
Suite 800
Washington, D.C. 20024

RE: Comments to Revised Proposed Policy for Implementation of Section 180 (c) of the Nuclear Waste Policy Act

Dear Ms. Macaluso:

The Board of **Lincoln** Commissioners has reviewed the Department of Energy's (DOE) revised policy for implementation of Section 180 (c) of the Nuclear Waste Policy Act (NWPA) and offers the following comments thereto. In general, DOE is commended for revising their proposed Section 180 (c) policy to better reflect the critical role that local governments will play in providing emergency first response capabilities along transportation routes for spent nuclear fuel and high-level waste. DOE is encouraged to continue to seek appropriate mechanisms to work **directly** with local governments in training and equipping emergency first responders.

Specific Comments

1. Federal Register Page 40141, Section III, 3rd paragraph – The text here indicates that DOE is committed to meet or exceed requirements and standards applicable to the transport of SNF. The specific applicable standards and requirements should be referenced in the policy. DOE should describe how it intends to measure whether it has met or exceeded

applicable transportation requirements. A commitment by DOE to monitor the effectiveness of implementation of its Section 180 (c) policy should be described.

2. Page 40141, Section III, 4th paragraph – Training alone will not prepare emergency first responders for OCRWM shipments. Training without equipment may lead to attenuated risk as trained but ill-equipped persons seek to respond to SNF incidents/accidents. Section 180 (c) funding for equipment to be used for training must be adequate to allow responder teams to be trained together as a fully equipped unit, which is the manner in which they would respond to an incident/accident.
3. Page 40141, Section III, *Basis for Cost Estimate/Grant Funding Allocation to States*, 2nd paragraph – If only one planning and assessment grant will be given to each state, why does the amount of the grant need to be adjusted annually for inflation? Does this mean that the base grant is \$200,000 in 2007 dollars and would be adjusted by inflation if the planning grant is not made until 2009 or later? Will all states receive planning grants in the same year or will said grants be provided in a phased approach? If phasing is used, how will DOE determine to which states planning grants would be made in the first year? The \$200,000 and \$100,000 base amounts have been suggested by DOE for several years, and as a result the base amounts warrant an inflationary adjustment within the proposed Section 180 (c) policy.
4. Page 40141, Section III, *Basis for Cost Estimate/Grant Funding Allocation to States*, 2nd paragraph – DOE should provide a need-based allocation as they are considering for tribes, rather than formula-based.
5. Page 40141, Section III, *Basis for Cost Estimate/Grant Funding Allocation to States*, 2nd paragraph – DOE should establish a process for the States and tribes to submit requests for the full funding they will need and guarantee that DOE will include the full amount in the budget request.
6. Page 40141, Section III, *Basis for Cost Estimate/Grant Funding Allocation to States*, 2nd paragraph – DOE should specify how they will determine the amount of money for the States versus the amount of money for tribes since the processes will be different.
7. Page 40142, 1st partial paragraph – Training for point-of-origin inspections is not an emergency first response function and should not be an allowable use of Section 180 (c) funding. State inspection/permit fees can be legally imposed and the proceeds used for training point-of-origin inspectors.
8. Page 40142, 3rd paragraph – Because training for point-of-origin inspections is not an emergency first response function and should not be an allowable

use of Section 180 (c) funding, the utilization of percentage of number of shipping sites should not be included as a component of the formula for determining the amount of annual training grants.

9. Page 40142, first bullet – The use of Census Bureau population data, particularly as said data becomes more outdated, will tend to result in over-funding states with lower rates of population growth while under-funding states (like Nevada) with high rates of population growth. States should be authorized to provide DOE with more **current state-prepared** official population data. The reliance of the formula on population as a key factor does not appear to recognize the costs associated with training less-populated rural volunteer emergency first responders. It is likely that urban population centers with full-time fire departments have a higher degree of relevant training than do rural volunteer departments. Favorable weighting needs to be given to the unique training needs and related costs for rural fire departments.
10. Page 40142, fourth bullet – If the criteria to include the percentage of shipping sites is to remain, the **definition** of a shipping site should be revised. Nevada, as the host state for Yucca Mountain, should receive the highest number of points possible in this (and every) category. Under this definition, Yucca Mountain itself is not considered a shipping site.
11. Page 40142, 6th full paragraph – Provision of planning grants four years prior to the first shipment as stated here is inconsistent with the DOE Draft National Transportation Plan which indicates such grants will be made five years prior to the first shipment.
12. Page 40142, *Allowable Activities* – The **fifteen** suggested allowable activities for planning grants are an excellent suite of components which would **appropriately be included** in each state's planning and assessment program. Unfortunately, the maximum **\$200,000** allocated by DOE per state for completion of such activities is entirely inadequate, allowing for an average expenditure of just **\$13,333** per activity. Realistically, DOE should be budgeting at least **\$25,000 to \$30,000** for each of the fifteen activities or a base planning grant amount estimated at approximately **\$450,000** per state. The **17** suggested allowable activities for training grants appear very adequate. Again however, the **\$100,000** base amount budgeted per state for training is entirely inadequate. If all **17** training activities were appropriately undertaken, just **\$5,882.00** would be available on average per activity. In reality, **\$10,000-\$15,000** is likely required to complete each of the training activities. Given that training must be **provided** in multiple locations across each state, training requirements per state might easily exceed **\$2.5 million** (assuming training in ten locations in each state). Periodic retraining would **require on-going funding** throughout the **period of** transportation of SNF/HLW to the Yucca Mountain site.

I trust these comments will assist DOE in developing an implementing a final Section 180 (c) implementation policy which is truly effective.

Sincerely,



Ronda Hornbeck
Chairman