



January 9, 2019

Anne White, Assistant Secretary  
Office of Environmental Management  
U.S. Department of Energy  
1000 Independence Ave. SW  
Washington D.C. 20585

Re: U.S. Department of Energy Interpretation of High-Level Waste Definition  
Federal Register Document Number: 2018-22002

Dear Assistant Secretary White:

The National Governors Association (NGA) and the Environmental Council of the States (ECOS) thank you for the opportunity to provide input to the Department of Energy (DOE) Office of Environmental Management on the revised interpretation of the definition of “high-level radioactive waste” (HLW) as set forth in the Atomic Energy Act of 1954 and the Nuclear Waste Policy Act of 1982. Our organizations work with the 12 states that partner with the DOE in the clean-up of the nuclear weapons waste complex. We seek to ensure that states are informed and consulted regarding what would be a fundamental change in the clean-up process. Our tradition of productive collaboration has achieved many successes over the past decade.

As you are aware, the new interpretation, described in the October 10, 2018 Federal Register (83 FR 50909), would change the method of classifying high-level waste from basing its designation on the origin of the waste to basing it on the radiological characteristics of the waste and the risks to human health and the environment.

As this important change directly affects several sites across the complex, and indirectly affects others, we urge your office to have a dialogue with affected states on potential disposal pathways under this new interpretation before taking final action. To ensure the dialogue is fully informed, the states request that the Office of Environmental Management:

- provide information on how the change in interpretation of high-level waste would affect waste cleanup around the entire complex and at each site;
- provide estimates of the quantity of waste currently considered high-level that would be reclassified to a lower level, and clarify how this will impact on-site and off-site disposal;
- identify the process that will be used to evaluate the disposal of specific waste streams as possible non-HLW at specific facilities;
- identify the process for evaluating potential environmental impacts to states that might be receiving waste for disposal under this interpretation, including transportation impacts;
- share the information used to estimate cost reductions that could result from this change in waste classification, which will give states a better picture of how the interpretation could alter disposal plans contained in state-DOE clean-up agreements, and how complex-wide cleanup could be impacted.

In addition to our comments here, many states are submitting their own comments. As states are key partners in the cleanup of the nuclear weapons complex, we urge you to take their suggestions and concerns into consideration and to formally and comprehensively respond to them.

Our members play critical roles in the national effort to clean up sites associated with the production and testing of nuclear weapons during World War II and the Cold War and we are supportive of efforts to make cleanup more efficient and effective. However, as this action will potentially have significant implications at certain sites, as

well as implications across the nuclear weapons complex in regard to waste cleanup, we urge the Office of Environmental Management to provide the requested information and to fully explore states' suggestions and concerns before any policy changes are developed.

NGA and ECOS offer their services to help disseminate this information to the state entities that oversee and regulate the cleanup in the affected states.

We look forward to working with you to continue advancing the mission of the Department of Energy's Office of Environmental Management.

Sincerely,



Scott D. Pattison, Executive Director and CEO  
National Governors Association



Carolyn Hanson, Acting Executive Director  
Environmental Council of the States

Cc: Mark Gilbertson, Principal Deputy Assistant Secretary, Office of Environmental Management, U.S. DOE  
Mark Senderling, Deputy Assistant Secretary for Waste and Materials Management, Office of Environmental Management, U.S. DOE  
Elizabeth Lisann, Senior Advisor, Office of Environmental Management, U.S. DOE