

November 19, 2018

Ms. Anne Marie White
Assistant Secretary for Environmental Management
U.S. Department of Energy
1000 Independence Avenue, SW
Washington, DC 20585

Dear Ms. White,

On October 10, 2018, the Department of Energy (DOE) issued a notice for public comment regarding the Department's reinterpretation of the definition of high-level radioactive waste.¹ The notice limited the public comment period to 60 days; a period that also encompasses the Thanksgiving Holiday. The DOE's Hanford Reservation, on the banks of the Columbia River, currently contains the largest share of DOE's inventory of high-level radioactive waste; approximately 56 million gallons stored in 177 underground storage tanks, some dating back to the Manhattan Project.² As such, DOE's proposal to reinterpret longstanding definitions of this material is of great concern to the citizens of Oregon. You recently received a request by more than six dozen organizations from across the country requesting that you extend the comment period in this proceeding. I am writing to similarly request that DOE extend the comment period 120 days.

DOE proposes to reinterpret not just its own definition of high-level waste, but it proposes to reinterpret the statutory definition of high-level waste. Under current law, high-level radioactive waste means "the highly radioactive material resulting from the reprocessing of spent nuclear fuel, including liquid waste produced directly in reprocessing and any solid material derived from such liquid waste that contains fission products in sufficient concentrations."³ The statutory definition also includes any other highly radioactive materials that the U.S. Nuclear Regulatory Commission (NRC) may define as high-level waste.⁴ DOE proposes to narrow the scope of what it considers high-level waste to the two specific "included" examples that Congress cited – liquid waste and solid material derived from liquid waste, rather than abide by the central definition that high-level radioactive waste is "the highly radioactive material resulting from reprocessing" that is set out in the statute. As such, the Department is departing from longstanding policies and legal interpretations that high-level waste is principally defined by its origin, not its composition, with the exception of any additional waste materials that the NRC may add.

As I noted in my comments regarding DOE's proposal to redefine the high-level waste remaining in the C-Tank Farm at Hanford so that it does not need to be retrieved for permanent disposal, no one disputes the difficulty of retrieving and treating high-level waste from Hanford's aging storage tanks, or the

¹ DOE, "Request for Public Comment on the U.S. Department of Energy Interpretation of High-Level Radioactive Waste," 83 Fed. Reg. 509009, October 10, 2018.

² Draft Analysis of Supplemental Treatment Approaches for Low-Activity Waste at the Hanford Reservation; 2018; <https://www.nap.edu/read/25236/chapter/1>

³ 42 USC 10101 (12)(A)

⁴ 42 USC 10101 (12)(B)

difficulty of remediating the soil and groundwater contaminated where waste has leaked from those tanks. However, lowering the bar for level of protection of future generations and the environment by changing the definition of what has always been considered high-level waste requiring permanent disposal is a significant change and could lead to dramatically different clean-up practices and outcomes.

I urge the Department to extend the comment period in this matter so that the public can more fully address these proposed changes.

Sincerely,



Ron Wyden
United States Senator