

in subject areas and as teaching practices change and evolve, pressures arise to change the test frameworks and tests to keep them current. But, if frameworks, specifications and tests change too frequently, trends may be lost, costs go up, and reporting time may increase.

Recommendations

- Test frameworks and test specifications developed for the National Assessment generally should remain stable for at least ten years;
- To ensure that trend results can be reported, the pool of test questions developed in each subject for the National Assessment should provide a stable measure of student performance for at least ten years;
- In rare circumstances, such as where significant changes in curricula have occurred, the Governing Board may consider making changes to test frameworks and specifications before ten years have elapsed;
- In developing new test frameworks and specifications, or in making major alterations to approved frameworks and specifications, the cost of the resulting assessment should be estimated. The Governing Board will consider the effect of that cost on the ability to test other subjects before approving a proposed test framework and/or specifications.

Use an Appropriate Mix of Multiple-Choice and "Performance" Questions

To provide information about "what students know and can do," the National Assessment uses both multiple-choice questions and questions in which students are asked to provide their own answers, such as writing a response to an essay question or explaining how they solved a math problem. Questions of the latter type are sometimes called "performance items." The two types of questions may require students to demonstrate different kinds of skills and knowledge.

Performance items are desired because they provide direct evidence of what students can do. Individuals confronted with problems in the real world are seldom handed four possible answers, one of which is correct. Although they may be desirable, performance items are more expensive than multiple-choice to develop, administer, and score.

Multiple-choice questions are desired because conclusions are more practical to obtain about the kinds of skills and knowledge assessed by these items, given the time available for testing. However, multiple-choice questions are more subject to guessing than are performance items.

Currently, all students tested by the National Assessment are given both types of questions. Generally, about half the testing time is devoted to each type of question, but the amount of time for each differs based on the skills and knowledge to be assessed, as established in the National Assessment test framework. For example, in a writing assessment, all students are asked to write their responses to specific "prompts." In other subjects, the appropriate mix of multiple-choice and performance items varies.

Recommendations

- Both multiple-choice and performance items should continue to be used in the National Assessment;
- In developing new test frameworks, specifications, and questions, decisions about the appropriate mix of multiple-choice and performance items should take into account the nature of the subject, the range of skills to be assessed, and cost.

Objective 3: To help states and others link their assessments with National Assessment and use National Assessment data to improve education performance.

The primary job of the National Assessment is to report frequently and promptly to the American public on student achievement. The resources of the National Assessment must be focused on this central purpose if it is to be achieved. However, the products of the National Assessment—test questions, test data, frameworks and specifications, are widely regarded as being of high quality. They are developed with public funds and, therefore, should be available for public use as long as such uses do not threaten the integrity of the National Assessment or its ability to report regularly on student achievement.

The National Assessment should be designed in a way that permits its use by others while protecting the privacy of students, teachers, and principals who have participated in the National Assessment. This should include making National Assessment test questions and data easy to assess and use, and providing related technical assistance upon request. Generally, the costs of a project should be borne by the individual or group making the proposal, not by the National Assessment. Examples of areas in which particular interest has been expressed for using the National Assessment include linking state and local tests with the National Assessment and performing in-depth analysis on National Assessment data. States that link their tests to the National

Assessment would have an unbiased external benchmark to help make judgments about their own tests and standards and would also have a means for comparing their tests and standards with those of other states.

Recommendations

- The National Assessment should develop policies, practices and procedures that enable states, school districts and others who want to do so at their own cost, to conduct studies to link their test results to the National Assessment;
- The National Assessment should be designed so that others may access and use National Assessment test questions, test data and background information;
- The National Assessment should employ safeguards to protect the integrity of the National Assessment program, prevent misuse of data, and ensure the privacy of individual test takers.

Dated: May 13, 1996.

Roy Truby,

Executive Director, National Assessment Governing Board.

[FR Doc. 96-12264 Filed 5-15-96; 8:45 am]

BILLING CODE 4000-01-M

National Educational Research Policy and Priorities Board; Meeting

AGENCY: National Educational Research Policy and Priorities Board; Education.

ACTION: Notice of cancellation and rescheduled closed committee meeting.

SUMMARY: This notice amends a notice originally published in Vol. 61, No. 67, April 5, 1996, p. 15232 of a closed meeting of the Search Committee of the National Educational Research Policy and Priorities Board. The meeting has been rescheduled.

DATES: June 5 and 6, 1996.

TIME: June 5, 1 to 6 p.m.; June 6, 8:30 a.m. to 2 p.m.

LOCATION: First Floor Conference Room, 80 F Street NW., Washington, D.C. 20208.

FOR FURTHER INFORMATION CONTACT: Charles E. Hansen, Designated Federal Official, Office of Educational Research and Improvement, 555 New Jersey Avenue NW., Washington, D.C. 20208-7579, Telephone: (202) 219-2050.

Sharon P. Robinson,

Assistant Secretary.

[FR Doc. 96-12337 Filed 5-15-96; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY**Office of Civilian Radioactive Waste Management; Safe Transportation and Emergency Response Training; Technical Assistance and Funding**

AGENCY: Office of Civilian Radioactive Waste Management, Department of Energy.

ACTION: Notice of proposed policy and procedures.

SUMMARY: The Department of Energy (the Department) publishes for public comment a proposed policy statement setting forth its plans for implementing a program of technical and financial assistance to states for training public safety officials of appropriate units of local government and to Indian tribes through whose jurisdiction the Department plans to transport spent nuclear fuel or high-level radioactive waste. The training would cover both safe routine transportation procedures and emergency response procedures.

DATES: Written comments should be sent to the Department and must be received on or before August 15, 1996.

ADDRESSES: Written comments should be directed to: Corinne Macaluso, U.S. Department of Energy, c/o Lois Smith, TRW Environmental Safety Systems, Inc., 600 Maryland Avenue, S.W., Suite 695, Washington, D.C. 20024, Attn.: Section 180(c) Comments.

Persons submitting comments should include their names and addresses. Receipt of comments in response to this Notice will be acknowledged if a stamped, self-addressed postal card or envelope is enclosed.

FOR FURTHER INFORMATION: For further information on the transportation of spent nuclear fuel and high-level radioactive waste under the Nuclear Waste Policy Act, please contact: Ms. Corinne Macaluso, Environmental and Operational Activities, Office of Civilian Radioactive Waste Management, (RW-45), U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Telephone: 202-586-2837.

Information packets are available for interested persons who want background information about the Office of Civilian Radioactive Waste Management transportation program and the Section 180(c) program prior to providing comments. To receive an information packet, please call 1-800-225-NWPA (or call 202-488-6720 in Washington, D.C.) or write to the OCRWM Information Center, Post Office Box 44375, Washington, D.C. 20026 or the Yucca Mountain Science Center,

4101B Meadows Lane, Las Vegas, Nevada 89107.

Copies of comments received will be available for examination and may be photocopied at the Department's Public Reading Room at 1000 Independence Avenue, S.W., Room 1E-190, Washington, D.C.

SUPPLEMENTARY INFORMATION:**I. Purpose and Need for Agency Action**

Under the Nuclear Waste Policy Act of 1982, as amended (42 U.S.C. 10101 et seq.) (NWPA or "the Act"), the Department of Energy (Department) is responsible for the disposal of high-level radioactive waste and civilian spent nuclear fuel in a deep geologic repository. The Department is also responsible for the possible monitored retrievable storage (MRS) of spent nuclear fuel prior to disposal. Additionally, the Department is responsible for transportation of spent nuclear fuel and high-level nuclear waste to the Department's disposal or storage sites. To carry out these responsibilities, the Department is required to implement Section 180(c) of the Act. Section 180(c) of the Act requires the Department to provide technical assistance and funds to 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. Section 180(c) further provides that training cover procedures required for safe routine transportation of these materials, as well as procedures for dealing with emergency response situations. Section 180(c) identifies the Nuclear Waste Fund under the Act as the source of funds for work carried out under this subsection. [42 U.S.C. 10175]

II. Section 180(c) History

The Department issued a Notice of Inquiry in the Federal Register on January 3, 1995, (60 FR 99) which briefly described various options to delineate Section 180(c) of the Nuclear Waste Policy Act policy and procedures. Members of the public were invited to submit comments on the Notice of Inquiry. In the March 14, 1995, Federal Register (60 FR 13715) the Department extended the deadline for comments to May 18, 1995. In response to requests for additional information, the Department issued another, more detailed Notice of Inquiry in the Federal Register on July 18, 1995 (60 FR 36793). Members of the public were again invited to submit comments on the Notice of Inquiry. In a continuing effort

to include stakeholders in predecisional discussions, the Department has developed the proposed Section 180(c) policy and procedures, presented below, that comprise the Department's proposed approach to implementing Section 180(c) of the Nuclear Waste Policy Act. Included in this Notice is a summary of the comments received from the two prior Notices of Inquiry and the Department's response to those comments. The Department welcomes comments in response to this Federal Register notice on the proposed Section 180(c) policy and procedures.

The Department plans to publish, in 1997, a Notice of Final Policy and Procedures that the Department intends to follow in implementing the Section 180(c) program. The Section 180(c) program encompasses the shipment of spent nuclear fuel and high-level radioactive waste to a geologic repository or a monitored retrievable storage facility pursuant to the NWPA.

The Department's work to date on the Section 180(c) policy and implementation procedures has been discussed primarily in Transportation Coordination Group meetings and Transportation External Coordination (TEC) Working Group meetings. The Transportation External Working Group will continue to meet periodically to identify and discuss issues related to the transport of radioactive materials. In addition, the Department has ten cooperative agreements with national and regional organizations representing state, local and tribal constituencies to provide information and solicit input regarding the transportation aspects of the Office of Civilian Radioactive Waste Management program.

The Department has also released two documents that discuss Section 180(c) policy and implementation. These two documents are the Strategy for OCRWM to Provide Training Assistance to State, Tribal, and Local Governments (November 1992, DOE/RW-0374P) (the Strategy document), and the Preliminary Draft Options for Providing Technical Assistance and Funding Under Section 180(c) of the Nuclear Waste Policy Act, as Amended (November 1992) (the Options paper). These documents are available by requesting the information packet from the OCRWM National Information Center or the Yucca Mountain Science Center.

III. Proposed Section 180(c) Policy and Procedures*Introduction*

This section is divided into four subject areas. It includes a discussion of the proposed funding mechanism,

definitions of key terms, eligibility and timing of the grants, and allowable activities. This proposal is based on information gained by studying industry regulations, legal requirements, and stakeholder comments. Funding Mechanism describes the method by which funds would be disbursed to states and tribes, hereafter referred to as jurisdictions. Definition of Key Terms describes the definition of safe routine transportation and technical assistance for the purposes of the Section 180(c) program. Eligibility and Timing of the Grants Program describes when jurisdictions are eligible and the timing of the grants process. Allowable Activities describes the types of activities the funding could be used for as well as some activities that would be disallowed. The final policy and procedures may differ based on comments received on this proposal, any new legislation, and any program and policy changes caused by new Congressional direction.

The Appendix to this Notice provides the cost basis for this proposed Section 180(c) program.

Funding Mechanism

The Department intends to implement Section 180(c) through an OCRWM grants program. Funding would be provided every year beginning approximately three years prior to the first shipment through a state or tribal land. The Department would administer the grants but the grants would be specific to the Section 180(c) program and would not be combined with any other Department-sponsored transportation preparedness or training programs, although coordination by jurisdictions would be encouraged.

The grant program would be administered in accordance with the DOE Financial Assistance rules (10 CFR 600), which implement OMB Circular A-87, Cost Principles for Grants, Contracts and Other Agreements with Local Governments, OMB Circular A-102, Grants and Cooperative Agreements with State and Local Governments, and OMB Circular A-128, Audits of State and Local Governments. In order to preserve flexibility, the Department does not presently plan to codify the policy and procedures in this notice as substantive regulations.

Definitions of Key Terms

The definition of safe routine transportation for the purposes of determining eligibility or allowable activities under the Section 180(c) program would be as follows:

- Safe routine transportation means the enforcement of standards and

inspection of shipments of spent nuclear fuel and high-level radioactive waste to a repository or an MRS pursuant to the NWPA through state, tribal, and local jurisdictions in a manner compliant with applicable Federal, state, tribal, and local laws and regulations. Safe routine highway transportation is characterized by adequate vehicle, driver, and package inspection and enforcement of the Federal Motor Carrier Safety Regulations and the Hazardous Materials Regulations. Safe routine transportation is also characterized by compliance with rail and barge transportation regulations including Federal Railroad Administration (FRA) and Coast Guard regulations.

The definition of technical assistance for the purposes of the Section 180(c) program would be as follows:

- Technical assistance means assistance, other than financial assistance, that the Secretary of Energy can provide that is unique to the Department to aid training that will cover procedures for the safe, routine transportation and emergency response situations during the transport of spent nuclear fuel and high-level radioactive waste to a repository or MRS pursuant to the NWPA, including, but not be limited to, the provision of training materials, the provision of public information materials, and access to individuals involved in the shipments.

Technical assistance, as defined, would include access to the Department's regional and headquarters representatives involved in the planning and operation of NWPA transportation or emergency preparedness, provision of information packets that include information about the OCRWM program and shipments, and attendance and support from OCRWM program representatives for public meetings upon request and consistent with the OCRWM budget. It would not include the provision of equipment, although recipients would be able to budget up to ten percent of their allocated funds to purchase equipment if they chose to do so.

Eligibility and Timing of the Grants and Technical Assistance Program

The Department intends to provide grants and technical assistance under the Section 180(c) program for the safe routine transportation of NWPA shipments as these terms are defined above. The Department intends that the application process for grants and technical assistance begin approximately four years prior to transportation (about one year for the application process, about three years to

implement the program) through a jurisdiction. The Department intends to notify the governor or tribal leader of the jurisdiction with a letter and information packet, including an application. The Department intends to calculate the base amount and variable amount available to each jurisdiction and include that information in the application package. The governor or tribal leader would be requested to select one agency or representative within the jurisdiction to apply for and administer the Section 180(c) grant and technical assistance. The administering agency or representative would indicate in the application how it intends to use its budget. If funding needs to be passed on to other agencies (for example, from the emergency services agency to the highway patrol to pay for inspector training) then that would be the responsibility of the recipient state or tribe. That information should be identified in the application.

Eligible jurisdictions would submit an application to the Department beginning approximately four years prior to the first shipment through a jurisdiction. The application would include a three-year plan detailing how the funds would be spent each year. Funding would be disbursed annually based on the applicant's three-year plan. Each jurisdiction would receive a base amount of funding for each year of eligibility. A variable amount of funding, based on route miles, would be available after the first year of eligibility for those jurisdictions that qualify pursuant to the plan discussed in the Appendix.

Local governments would not apply for Section 180(c) grants or technical assistance directly. Local participation would be coordinated through the state or tribe, if they have subjurisdictions. However, the applicant would be required to demonstrate in its plan how the local jurisdictions are benefiting from the program. Each jurisdiction would be requested to submit a description of the coordination procedure as part of its grant application. This approach builds flexibility into the use of the funds and responds to commenters' concerns that assistance may not reach the local level.

The Department anticipates knowing three to four years prior to shipment which states or tribal land the shipments will travel through, even if routes have not been selected. Using this information, the Department would notify these jurisdictions about their potential eligibility for the Section 180(c) program. The Department would include in the information to the jurisdiction the total amount of budget

it would be eligible for as determined by the cost estimates described in the Appendix to this Notice. Two years prior to the shipments going through a jurisdiction, the Department would announce proposed routes.

Within the first year of eligibility to receive funding (Transportation Year [defined as the year that shipments will commence] minus 3 or TY-3), a base grant would be available.

Within the second year of eligibility (Transportation Year minus 2 or TY-2), a base grant and a variable amount of money for those jurisdictions that qualify would be available. Proposed routes would be announced during the second year of eligibility.

Within the third year of eligibility (Transportation Year minus 1 or TY-1), a base grant and a variable amount of money for those jurisdictions that qualify would be available.

A state or tribe would continue to be eligible for and receive Transportation Year grants as long as NWSA shipments go through its jurisdiction each year. If there is a lapse of NWSA shipments for three or more years, the state or tribe would receive no funds for those years and would only regain eligibility three years prior to another NWSA shipment through its jurisdiction. Three years prior to the resumption of shipments through its borders, a state or tribe may again apply for TY-1 grants. If the lapse is of two years or less between shipments, the Transportation Year grants would continue as if shipments had been traversing that jurisdiction during the lapse.

A significant route change made later than two years prior to the expected start of NWSA shipments through a jurisdiction could generate some difficulty in administering Section 180(c). The Section 180(c) program would include contingencies for changes in schedule and route. In general, jurisdictions may receive an additional amount of funding and technical assistance if asked to complete activities in shorter amounts of time, i.e., a state may receive TY-1 and TY-2 funding in the same year. If the route change is made too close to the time of shipment to allow for Section 180(c) preparations, OCRWM may use escorts with more training and equipment than those currently used for the purpose of safeguards until a reasonable time period for training has expired.

Allowable Activities for Funding

This section describes the types of activities that would be allowed under this proposal and some of the specific activities that would be disallowed. This is not meant to be a comprehensive

list, but merely a guide to the types of activities an applicant jurisdiction might consider and some of the activities that would be considered outside the scope of the program and therefore not eligible for Section 180(c) funding.

For the most part, it would be the applicant's decision as to who gets trained, the level of training obtained, and the organization that administers the training. Applicants would be encouraged to describe in their three-year plans how the budget would be integrated with other available training such as that offered through the Hazardous Materials Transportation Act, the Federal Emergency Management Agency, the Conference on Hazardous Materials Enforcement Development, the state, or regional organizations. The application package would request information on how the applicant would use the budget as part of a larger effort to augment their current infrastructure for safe routine transportation procedures and emergency response as well as how the applicant anticipates using technical assistance.

Specifically, an applicant would be able to budget up to ten percent of each year's 180(c) funds to purchase appropriate (i.e., training-related) equipment provided the equipment is identified in its application and approved in the grant.

Funding may be used for refresher training and to train new public safety personnel. During the years NWSA transportation is occurring in a jurisdiction (Transportation Year), two-thirds of the budget provided in TY-1 would help offset the costs of refresher and new personnel training. The two-thirds multiplier is a conservative estimate based on the assumption that after the initial training in TY-1 and TY-2, each jurisdiction would experience a personnel turnover rate of approximately two-thirds of its staff each year. The turnover of personnel, particularly in the emergency response area, means that new people will need training if shipments continue through a jurisdiction over an extended period of time. It would be the jurisdiction's choice, within the limits of their Section 180(c) annual budget, to determine who receives refresher training and with what frequency. It would also be the jurisdiction's choice, within the limits of its annual Section 180(c) budget, which new personnel receive training and the type and location of the training.

Section 180(c) funds would not be available for the conduct of drills and exercises. The Department anticipates

that it will conduct drills and exercises which will be conducted in conjunction with states, tribes and local governments in preparation for NWSA shipments. However, drills and exercises are generally considered a means to measure preparedness, an activity the Department views as beyond the scope of the 180(c) program which is limited by statute to provision of funds and technical assistance for training.

IV. Discussion of Comments Received on the NOIs

The Department received 38 comments in response to the January 3, 1995, Notice of Inquiry and an additional 13 comments in response to the July 18, 1995, Notice of Inquiry: Supplemental Information. Comments were received from the Council of State Governments—Midwestern Office, Council of State Governments/Eastern Regional Conference, Southern States Energy Board, Western Interstate Energy Board, two private citizens, Ohio Division of Emergency Medical Services, State of California Department of Transportation, White Pine County Nuclear Waste Project Office, Commercial Vehicle Safety Alliance, International Association of Fire Fighters, Texas Department of Public Safety, Lander County Commission, Yakima Indian Nation, Nevada Agency for Nuclear Projects, Association of American Railroads, Nye County Nuclear Waste Repository Project Office, Oregon Department of Energy, State of Kansas, Eureka County Yucca Mountain Information Office, New Mexico Energy, Minerals and Natural Resources Department, National Conference of State Legislatures, County of Inyo Planning Department, Nuclear Waste Repository Oversight Program, National Congress of American Indians, Conference of Radiation Control Program Directors, Federal Emergency Management Agency, Lincoln County Nuclear Waste Project, Nuclear Energy Institute, Vermont Department of Public Service, Commonwealth Edison Company, Ohio Emergency Management Agency, Clark County Department of Comprehensive Planning, Public Utilities Commission of Ohio, Northern States Power Company, Ohio Emergency Management Agency, Virginia Power, State of Nebraska Civil Defense Agency and the State of Colorado. The commenters held very diverse opinions; no single theme for implementing Section 180(c) was apparent.

The following section discusses general categories and summarizes

major points of the comments and the Department's response.

Major Issues

A. Section 180(c) Policy

The commenters raised many topics related to defining a Section 180(c) policy. Although the Department recognizes that these topics are closely related and overlap each other, this section divides those topics into the following subsections: general themes for a Section 180(c) program, safe routine transportation, emergency response procedures, eligibility criteria, funding allocation formula, allowable use of funds, technical assistance and equipment, and concerns of rural and tribal governments.

General Themes

A number of commenters offered ideas about the philosophy and general structure of the 180(c) program. These ranged from developing a needs-based type of program to one that offers assistance for an additional incremental level of training in existing hazardous materials transportation training to cover NWSA shipments. An example of comments related to a needs-based program is the Colorado Emergency Planning Commission recommendation to conduct a risk assessment that balances the likelihood of an accident, the response capability of the jurisdiction to react, and the likely affected population, then, from that assessment, identify the preparedness, response, and recovery needs of each jurisdiction. Similarly, the Western Governors' Association (WGA), through the Western Interstate Energy Board, submitted straw man regulations for a program that assesses the current capabilities of jurisdictions, assesses the needed level of readiness for NWSA shipments, and then provides Section 180(c) assistance to make up the difference. WGA suggested that planning grants could be used to fund jurisdictions to complete the capabilities assessment while implementation grants could be used to carry out the identified activities. They recommended the Department fund one national and several regional training advisory committees to help states and tribes coordinate their training activities. Most of the comments supporting a needs-based program either implied or stated the belief that Section 180(c) assistance should cover all costs associated with the Federal government's transportation of spent nuclear fuel.

In contrast, other comments urged the Department to only provide training and

assistance as an increment above what currently exists. These comments urged the Department to take into account the low level of risk presented by spent nuclear fuel and high-level radioactive waste shipments and proportion the assistance and training among recipients accordingly. These commenters maintained that current hazardous materials transportation training for safe routine and emergency response procedures is sufficient to handle any transportation radiological accident that may occur. Creating a Section 180(c) program that goes beyond current hazardous materials transportation training would send a message that the NWSA shipments are more hazardous than they really are. Still other commenters stated that nuclear utilities will, in effect, pay twice for emergency response and safe routine practices through contributions to the Nuclear Waste Fund, the Hazardous Materials Transportation Uniform Safety Act fees for transporters of hazardous material, and through various state and local fee assessments and programs.

Other recurring comments urged the Department to either not ship or to limit the number of shipments until a Section 180(c) program is in place. This comment was frequently presented in conjunction with the belief that the Department has an obligation to accept waste in 1998, and if Congress identifies a storage facility, shipping may well begin in 1998 or shortly thereafter. In addition, these commenters urged the Department to accelerate Section 180(c) implementation and to ask for a Section 180(c) budget allocation in the 1996 budget request to Congress.

Several commenters encouraged the Department to begin as soon as possible the process of route selection, in cooperation with the states, to give jurisdictions sufficient time to assess their training needs. They argued that jurisdictions need to know what routes will be used so that they may begin planning immediately for shipments and be prepared if shipping occurs within the next few years.

Response

It is the Department's position that the purpose of a Section 180(c) program is to provide jurisdictions assistance in an increment above their current level of preparedness rather than to supply complete emergency response or safe routine transportation capabilities along NWSA transportation routes. Other Federal agencies such as FEMA and the Department of Transportation, as part of their respective missions, assist states and tribes in the creation of more comprehensive emergency response and

safe routine transportation capabilities. Therefore, this proposal is designed to provide incremental assistance, above what currently exists, to help jurisdictions prepare for NWSA shipments. This program, in combination with the Department's emergency response capabilities, will help jurisdictions train for these shipments and increase their preparedness level.

While the Department has not adopted the Western Governor's Association straw man regulations specifically, the Department's proposal would allow states and tribes the flexibility to implement many provisions of the straw man regulations as they choose. The Department's proposed technical assistance would help provide the planning and coordination called for in the straw man regulations at a reasonable cost to the program. In addition, the proposed training advisory groups could drain financial assistance away from recipient jurisdictions. Training up to two years prior to shipments will provide inspectors and emergency responders with current information about the NWSA shipments.

Regarding the concern that shipments will occur with less than three years' preparation, this proposed policy includes a contingency plan should the Department have to ship spent fuel through a jurisdiction with less than three years notice. In addition, the Department will work with jurisdictions on a case-by-case basis to meet the intent of Section 180(c) prior to any shipments through a jurisdiction.

Regarding the comments that the Department should request Section 180(c) funding in fiscal year 1996 and announce routes as soon as possible, funding requests for Section 180(c) and a determination of routes cannot be completed until a destination and initial shipping date have been identified.

Safe Routine Transportation

Commenters offered several suggestions concerning the definition of safe routine transportation as used in 180(c). Four commenters specifically supported the Transportation External Coordination Working Group definition while other commenters wrote more expansive definitions to include combinations of alternate route analysis, inspection and enforcement training, en route contingency plans, transportation infrastructure improvements, shipment notification and tracking, escorts, public information, and development and distribution of training curricula and course materials. The Western Governor's Association straw man

regulations would add record-keeping audits, operating protocols, and improving confidence in the shipping package to the definition.

A number of viewpoints were expressed on inspections as part of safe routine transportation activities. For example, the Public Utility Commission of Ohio stated that safe routine transportation includes more than inspections and should include detailed carrier and shipper compliance reviews pursuant to 49 CFR 100-177 requirements. The Department was also encouraged to develop inspection standards for rail transport serving the same purpose as the Commercial Vehicle Safety Alliance's enhanced inspection standards for truck shipments.

Regarding the relative emphasis and scope of safe routine transportation activities, the Council of State Governments—Midwestern Office and the Public Utility Commission of Ohio recommended placing equal emphasis on safe routine transportation activities as on emergency response activities. In contrast, the Ohio Emergency Management Agency recommended placing more emphasis on emergency response activities. One commenter said Section 180(c) assistance should fully fund state costs for state inspections and escorts related to NWPAs shipments.

The need for and training of escorts was also a topic. The Conference of Radiation Control Program Directors questioned the need for escorts as an expensive option considering the actual level of risk compared to other hazardous material shipments. Two commenters called for the Department to examine the possibility of either state or Federal response teams traveling with the shipments to reduce the need for local first-responder training.

A global positioning system for shipment tracking was encouraged as a way to build trust in the safety of the shipments and work more closely with the corridor jurisdictions.

Response

The definition of safe routine transportation proposed in this notice combines part of the TEC definition and the Strategy document definition. The complete TEC definition was not used because it is very broad and does not indicate specifically what training for safe routine transportation activities would be covered by Section 180(c) assistance. Many activities suggested in the comments are already required of the shipper or carrier such as developing operating protocols and using escorts. This negates the need to include the activities in the definition of

safe routine transportation for the purposes of providing Section 180(c) assistance. Some other requested activities, such as alternate route analysis and record-keeping audits, are outside the realm of training for safe transport of NWPAs shipments, and therefore not included in the definition.

Regarding the comments that the Department should develop rail inspection standards, the Department representatives will work cooperatively with the railroad companies and the Federal Railroad Administration (FRA) on inspection and enforcement matters. Both the rail companies and the FRA have stringent standards for the transportation of spent nuclear fuel and high-level nuclear waste. The Department has no plans to develop rail inspection criteria.

The proposed policy permits enough flexibility that a recipient jurisdiction may distribute the money between training for emergency response procedures and safe routine transportation procedures as they choose. Again, this proposal is intended to assist jurisdictions to incrementally increase their level of preparedness for NWPAs shipments. However, the Department maintains the position that to pay for all costs associated with state inspections and escorts is beyond the scope of the Section 180(c) program and is not necessary for shipment safety.

These shipments will be made in accordance with NRC safeguards and security requirements. The issue of whether escorts must be used is partially answered by NRC regulations, which require escorts (10 CFR 73.37).

Emergency Response Procedures

The comments on providing assistance for emergency response training procedures were particularly varied. In keeping with the needs-based approach to assistance, a number of commenters recommended funding planning activities to determine the type and amount of training. These suggestions include Departmental delineation of the roles and responsibilities of each jurisdiction in an emergency response situation and assistance to each jurisdiction in carrying out that role; funding to jurisdictions to conduct route and risk assessments prior to deciding whom to train and to what standards; or using the State Emergency Response Commissions and the Local Emergency Planning Committees as points of contact to decide who should receive assistance and to determine the needed level of training.

Various training standards for different levels of responders were also

suggested. These included awareness training for local first-responders and higher-level training for more specialized responders, refresher training for first-responders, maintenance of on-call systems for radiological responders, and periodic exercises for personnel responding to accidents. The Western Governor's Association straw man regulations recommended the above activities plus accident notification, safe parking procedures, equipping personnel responding to NWPAs accidents, development and/or revision of courses and course materials, and assessing opportunities to coordinate training, emergency response, and exercises. One commenter praised the emergency response training at the Department's Nevada Test Site and asked that it be used for Section 180(c) funded training.

A frequent comment supported integration of emergency response training for local public safety officials into existing hazardous materials training because the response requirements for radiological incidents fall within the requirements for other hazardous materials shipments.

The Council of State Governments—Midwestern Office asserted that current capabilities at the state, tribal and local level are inadequate in most jurisdictions to handle the number and frequency of planned OCRWM shipments. In contrast, two other commenters recommended only incremental assistance to first-responders because current Departmental resources can support any incident that may occur during transport.

Comments on training for hospital personnel ranged from the need to provide awareness training to specialized decontamination equipment and training. Two commenters argued that training for hospital personnel was not necessary at all. The Council of State Governments/Eastern Regional Conference said assistance was not necessary for hospitals because the Joint Commission on Accreditation of Health Care Organizations requires hospitals to be able to treat patients exposed to radioactive contamination before receiving their accreditation.

Response

This proposed policy is flexible enough that a recipient jurisdiction could conduct many of the suggested activities. The Department recognizes the need for clear lines of responsibility and communication during a transportation emergency and anticipates working with recipient jurisdictions on these matters through

the provision of technical assistance and, as budget allows, by conducting exercises and drills. While exercises and drills, will be conducted separately from the Section 180(c) program, the assistance may be used to support participation in, or observation of, exercises and drills if the recipient jurisdiction desires. Similarly, reliance on the State Emergency and Response Commissions and Local Emergency Planning Committees infrastructure will be left to the applicant jurisdiction's discretion. This proposal does not allow Section 180(c) assistance to be used to conduct route and risk assessments because these activities are outside the scope of training for emergency response and safe routine transportation activities.

Regarding the specific activities allowed under this proposal, each jurisdiction will be allowed to choose the training they wish and to train the public safety personnel of their choosing. The funding provided is intended to defray the costs of attending advanced courses such as those offered by the Department. In many cases, the applicants will have their own less expensive training programs (FEMA and the Department do not charge tuition, although this proposal uses the cost of tuition as a basis of the estimate for the cost of each trainee) and may use the remaining assistance for other activities related to training for safe routine and emergency response transportation procedures.

The Department will provide awareness training materials for local responders and public information material to the recipient jurisdictions. For more advanced training courses, it is expected the recipient jurisdictions will either use their own training courses, if available, or attend existing hazardous materials or radiological emergency response classes. Equipment will not be provided for directly, but up to ten percent of a recipient's funds may be used to purchase equipment of the recipient's choosing. Again, the basis of estimate in the proposal does not explicitly provide for training hospital personnel, but recipient jurisdictions may use their funds for this purpose if they choose. The Department's awareness materials will include information about Oak Ridge National Laboratory's Radiological Emergency Assistance Center and Training Site and its 24-hour on-call assistance.

Regarding the preparedness level of state and tribal jurisdictions, the Department understands that there are greatly varying levels of preparedness. The financial and technical assistance provided through this proposed

program, in combination with the Department's resources, will assist recipient jurisdictions to incrementally increase their level of preparedness for NWSA shipments. The Department will work with a jurisdiction to provide information about the shipments, the safety precautions taken, and the Department's resources to assist the jurisdiction in case of an accident or incident.

Eligibility Criteria

Comments on eligibility criteria focused on which jurisdictional level should be eligible to apply for funds. Some argued that if local governments were eligible to receive funds directly, then this would reduce administrative costs and give local governments more control over the assistance. Several counties simply requested that they be guaranteed an amount of budget and given some discretion in using the assistance. Other commenters said only state and tribal agencies are eligible to apply for assistance. Some commenters made suggestions regarding how the timing of NWSA shipments through a jurisdiction impacts eligibility. The WGA straw man regulations defined an eligible state or tribe as "a host(s) and corridor states or Indian tribes through which shipments under the NWSA are planned within six years." Others said training should begin from one to three years prior to shipment.

One commenter said that eligibility should not be restricted by waste type or destination, but rather should help local governments prepare for all types of hazardous materials transportation emergencies.

The point was also raised that tribes and states near, but not on, transportation routes should be eligible for assistance, since their lands and people would be at risk in case of a transportation accident or incident. Another commenter disagreed, saying that only jurisdictions traversed by NWSA shipments should be eligible for assistance.

Response

The Department based its proposed requirements for eligibility on the wording in the NWSA and the Department's prior discussions with stakeholders about beginning assistance three to five years prior to commencement of shipping through a jurisdiction. The statute provides that state governments determine how best to allocate the assistance to local jurisdictions. The Department plans to assist tribal governments directly unless requested otherwise by the tribal government. Recipients will be required

to encourage local government participation in planning and training and to provide awareness training materials and public information supplied by the Department to local public safety officials along the shipment routes.

The Department does not propose to use the Western Governor's Association straw man regulations indicating that eligible jurisdictions should receive assistance six years prior to transportation. Since states and tribes have primary responsibility to plan for hazardous materials transportation through their jurisdictions regardless of Federal shipments, and given the high rate of turnover among emergency response personnel, the Department believes that assistance provided so far in advance of shipments would not be effective.

In response to the request to provide assistance regardless of destination or type of waste, Section 180(c) provides that assistance is only available for those jurisdictions through whom the Secretary [of Energy] plans to ship spent nuclear fuel and high-level nuclear waste to a repository or MRS under the NWSA. Assistance will not be provided to jurisdictions that do not have NWSA shipments through their borders, nor will assistance be provided for other types of wastes.

Funding Allocation Formula

Once eligibility criteria are determined, the total assistance available will have to be allocated among the eligible parties. Commenters were explicit in their views of how funds should be allocated. A frequent comment was that funds should be allocated according to the shipment miles through a jurisdiction. The Western Governor's Association defined shipment miles as the product of the expected number of shipments multiplied by the distance of such shipments. The Western Governor's Association straw man regulations recommended annual implementation grants of 75% of the funds allocated according to shipment miles and 25% allocated to ensure minimum funding levels and program capabilities. The Nuclear Energy Institute countered that the number of shipment miles through a jurisdiction does not automatically result in greater impact to a jurisdiction and therefore should not qualify them for additional assistance.

Other commenters suggested funding be allocated to each eligible jurisdiction based on a formula that includes both the number of route miles in the jurisdiction and the population at risk along the shipment route(s), with

consideration given to existing capabilities, and to the number of shipments. Population was frequently mentioned as a valid determinant of funding allocations. Several commenters stated that there should be a base level of funding for each jurisdiction.

The Council of State Governments—Midwestern Office and Commonwealth Edison Company recommended that the Department consult with recipients to determine their funding level based on the impact of the shipments to that jurisdiction. The Council of State Governments/Eastern Regional Conference said the funds for first-responders should be proportional to the number of responders along a route and the funding available for inspectors should be a function of the number of shipments.

The Texas Department of Public Safety recommended using the Hazardous Materials Transportation Act Training and Planning Grants approach to allocating funds.

Response

The Department agrees with many commenters that a base level of assistance should be available to all jurisdictions to be crossed by NWPA shipments. Number of shipments was not used as a determinant of funding level because training of safety officials is required no matter how many shipments cross their jurisdiction. A jurisdiction may need additional inspectors as the number of shipments increases. Population was not used to determine funding levels because the same level of effort is required in responding to an emergency no matter how many people may be affected.

The Department does not foresee working with each eligible jurisdiction to determine assistance levels because the number of eligible jurisdictions in a given year would make such an interactive process prohibitively costly, lengthy and administratively burdensome. It would require significant resources from both the Department and the applicant with little or no increased level of safety. Jurisdictions will be able to obtain guidance from Department representatives to determine how best to allocate the funds and what type of training to obtain.

The Hazardous Materials Transportation Act model for fund allocation has merit but the Department believes the allocation method proposed in this Notice is more appropriate to a Section 180(c) program. The Hazardous Materials Transportation Act program has virtually the same number of

eligible jurisdictions from year to year whereas the Section 180(c) program may have large annual variations in the number of eligible jurisdictions. The funding allocation method proposed in the appendix of this Notice would allow the Department to prepare its draft annual budget request based on anticipated needs for each year of shipment. Finally, both the Department and some commenters maintain that the reimbursement aspect of the Hazardous Materials Transportation Act is not appropriate for a Section 180(c) program.

Allowable Use of Funds

Elements of this discussion overlap with the discussion of program scope and the definitions of key terms. Several state agencies and organizations said that states and tribes should prioritize their own training needs. They argued that the Department must balance accountability with an applicant's need for latitude in deciding how to spend funds because of the varying levels of preparedness, divisions of responsibility, and other differences. Commenters suggested the Department could help recipient jurisdictions by supplying information and expertise to help beneficiaries determine how best to use the funds.

Many commenters, however, said that the final allocation of funding should guarantee a specific portion of the funding for local governments to use as they see best. Other suggestions were to give local governments explicit standing on any planning, training or advisory groups formed as a result of Section 180(c), to reserve a certain percentage of the funds for distribution to local governments, and to require recipients to notify local governments of the program and to encourage their participation. One commenter objected to exclusively funding training for local governments and excluding training for state personnel and recommended the Department check the intent of Congress in this regard.

Other commenters argued that the Hazardous Materials Transportation Act grant program provides a good model for allowable activities. These regulations require recipient jurisdictions to describe existing programs and explain how the requested funds supply necessary improvements to the existing capabilities. They also provide for monitoring of the program's effectiveness. The Department's Waste Isolation Pilot Plant (WIPP) assistance program was also mentioned as a successful model to help determine allowable activities.

Two states said that Section 180(c) assistance should pay for infrastructure improvements along routes. Another frequently mentioned point was that the Section 180(c) program should not require any matching funds from the jurisdiction in order to receive assistance. The Western Governor's Association straw man regulations provide that the funds be distributed for training along specific shipment routes, unlike FEMA programs that work to enhance overall preparedness. Several comments recommended that exercises and drills be funded by Section 180(c) assistance, either to test the adequacy of the training or to determine the training needed.

Response

The Department's proposal would allow states and tribes to determine their own training needs as long as it is in accordance with their current public safety infrastructure. The Department took this approach because it allows maximum flexibility for applicants to tailor the assistance to their priorities. Because of the need for flexibility, the proposal does not require applicants to provide a guaranteed percentage of funds to local public safety officials. The Department's existing grants process under 10 CFR Part 600 would provide for accountability with 10 CFR Part 600 without being too cumbersome for the Department or the applicants and would allow Department representatives to provide advice and answer questions. We do not intend to request matching funds because most commenters and the Department found no basis for such a requirement and there is no legal requirement for matching funds.

The Hazardous Materials Transportation Act and WIPP examples for allowable use of funds both have merit. If a jurisdiction wishes to follow the Hazardous Materials Transportation Act or WIPP example in prioritizing use of their grant monies, that would be described in the grant application. Similarly, recipients may decide to provide funds only along a route or throughout their jurisdiction as they choose. Recipients would not be prevented from using the assistance to participate in, or observe, exercises and drills but they are not included in the Department's proposed basis for estimating funding levels.

Section 180(c) authorizes assistance only for training. Therefore, the Department does not intend to allow the use of 180(c) funds for infrastructure improvements.

Technical Assistance and Equipment

Almost every comment that addressed the issue of technical assistance identified the need for equipment. Some commenters suggested that the Department use the Transportation External Coordination Working Group definition of technical assistance.

Another suggested using the Department's 1992 Draft Options Paper definition. The Council of State Governments—Midwestern Office offered the following definition, "The term 'technical assistance' as it is used in Section 180(c) of the Nuclear Waste Policy Act means a variety of activities designed to ensure that state, tribal and local governments are trained for safe routine transportation practices as well as responding to transportation emergencies within their jurisdictions, including but not limited to planning guidance, training support, practical support, funding of pre-identified equipment, and expertise." They also believe the Department should supply funding for equipment, its maintenance and calibration, and that states should have funding to purchase computer software and hardware to assist with monitoring and response activities.

New Mexico specifically stated it preferred the TEC definition's greater specificity and clarity over the definition offered by the Council of State Governments—Midwestern Office. "However, [it] recommend[ed] two revisions to the definition: (1) The first sentence should read '* * * to ensure that States and tribal governments are trained for safe routine transportation practices as well as capable of responding safely and effectively to spent nuclear fuel and high-level waste transportation emergencies with their jurisdictions.' (2) The second sentence should read '* * * and for public information, outreach, and participation efforts.' "

Other suggestions were broader in their application, encompassing such things as emergency response equipment, inspection equipment, assistance in route planning, emergency response plan development, course development and exercises, tracking capability, equipment and training for hospital personnel, 24-hour access to Federal radiological safety personnel, carrier qualifications, and funding, among others.

The Conference of Radiation Control Program Directors questioned the need for equipment, especially for local responders. They argued that the low risk of these shipments does not justify a response capability beyond what currently exists. FEMA, on the other

hand, offered its assistance to the Department in providing technical assistance and equipment to responders through its role as provider of emergency and disaster preparedness for state, tribal, and local governments.

Response

The definition of technical assistance proposed in this Notice combines parts of the Strategy definition and the Transportation External Coordination Working Group definition. The bulk of the Transportation External Coordination Working Group definition was not included because many of the activities listed, such as assistance in route planning, maintaining equipment, providing on-site emergency response assistance, and remediation assistance are outside the scope of training and therefore not covered by Section 180(c). The Department has resources already available, upon request of the state or tribe, to provide monitoring and recovery advice if there has been an accident or incident. In addition, the shipper and carrier can provide shipment-specific assistance.

The definition in this proposal allows for Department representatives to provide technical support on training needs and response strategies as budget constraints allow. As explained in the proposal, conduct of drills and exercises are not included under the definition of technical assistance although it is anticipated that the NWPA transportation staff, or DOE representatives, may, as budget allows, conduct exercises and drills with state, local, and tribal jurisdictions along the transportation routes.

Concerns of Rural and Tribal Governments

Few additional comments that dealt specifically with the concerns of rural and tribal governments were received in response to the July 18, Notice of Inquiry. Both New Mexico and the Council of State Governments—Midwestern Office reiterated the Department's responsibility to work with tribes on a government-to-government basis. Other comments stressed the Department's Trust responsibility towards tribal governments. One comment encouraged the Department to begin direct communications with tribal governments near reactor locations to address their particular concerns. The Department was also encouraged to contact tribal governments who may not know they could have NWPA shipments crossing their lands.

Commenters encouraged the Department to take extra steps to

address the lack of infrastructure and resources on many of the tribal lands that will be crossed by NWPA shipments. Recommendations included providing resources to allow tribes to participate in the OCRWM program and beginning early to build an emergency response infrastructure for those tribes lacking basic infrastructure. One comment urged expansion of the cooperative agreement with the National Congress of American Indians to help facilitate communication with tribal governments.

Other commenters suggested how a Section 180(c) program could address the concerns specific to rural areas. Rural jurisdictions often rely heavily on volunteer public safety personnel with high turnover rates, serve large areas with few staff, have few resources for training, with little or no ability to travel to obtain training. The commenters encouraged the Department to offer training in the communities where the local responders reside and to guarantee that certain levels of training and equipment would be supplied.

Response

The Department recognizes that there is a lack of infrastructure and trained personnel on many tribal lands and in many rural counties across the nation. Typically, these areas may rely more heavily on technical assistance than other recipient jurisdictions. As stated earlier, the Department believes that a jurisdiction's lack of emergency response infrastructure does not compromise shipment safety when a jurisdiction is aware of the steps taken to ensure safety and the Department's readiness to provide on-site assistance. The basic awareness training modules will be provided to jurisdictions to distribute to responders along each shipping route and will not require public safety officials to travel outside their jurisdiction. These training modules will inform local public safety officials of what steps to take in case of a transportation emergency in their jurisdiction and what staff will be traveling with the shipments that can be a source of information and assistance.

The Department has agreed to work directly with tribal governments unless requested otherwise by the applicant. As far as working with tribes located near reactors sites, the Department will continue to work through the mechanism of its cooperative agreement with the National Congress of American Indians to reach out to tribes across the nation and encourage their participation in the program.

B. Section 180(c) Procedures

The comments received from both Notices showed a preference among the commenters for an OCRWM grants program. While twelve commenters recommended a Department or OCRWM grants program, eight commenters supported the next most popular option, the use of existing Federal programs. Of these, four recommended using FEMA, two recommended the Department of Transportation's Hazardous Materials Transportation Act program, and two recommended other Federal programs. At the same time, eight commenters specifically criticized the use of existing Federal programs. Three commenters either requested a combination of options or expressed moderate support for a combination of options; one commenter said this was not viable. Three commenters were opposed to disbursing the funds through cooperative agreements, whereas eight commenters said cooperative agreements were either a very good idea or gave conditional support for the idea. Several commenters identified a preferred option but also listed other options as acceptable.

The most common theme among the comments on procedural options was the importance of minimizing the administrative burden on all parties. Another common theme was to limit the layers of bureaucracy and administration through which funding must pass.

The following describes more detailed comments provided about each option.

Use Established Federal Agency Programs Other Than the Department's

The Council of State Governments/Eastern Regional Conference, the Ohio Emergency Management Agency, the Texas Department of Public Safety, Division of Emergency Management and FEMA all commented that receiving additional assistance through FEMA's Comprehensive Cooperative Agreement program (to be replaced with the Performance Partnership Agreements beginning in FY96) would be the least administratively burdensome since they already participate in this FEMA program. The Council of State Governments—Midwestern Office commented that FEMA should be a vehicle for assistance only after the Department and the recipient have agreed to use FEMA for that recipient. The Hazardous Materials Transportation Act grant program was mentioned by the Nuclear Energy Institute and Northern States Power Company as a desirable option to reduce multiple Federal programs and the chance that

utilities would pay twice for emergency response through hazardous materials transportation fees and the Nuclear Waste Fund.

FEMA provided descriptions of their current regulatory authority to monitor and assess emergency management plans and preparedness, and a proposal for how they could administer the Section 180(c) program. FEMA discussed its current training programs and expertise in the emergency management field and stressed its all-hazards approach to preparedness that includes radioactive materials shipments within the larger scope of emergency preparedness.

The most common concern from the state and county perspective was that other Federal programs would add administrative layers and reduce the funds available for the recipients. The Western Interstate Energy Board, in particular, felt that FEMA was not an appropriate avenue because "FEMA's Comprehensive Cooperative Agreement program has been the subject of substantial disagreement with several western states and is viewed by experts in our region as ineffective and inappropriate for dealing with spent nuclear fuel or high-level radioactive waste." In fact, one commenter criticized FEMA for placing emphasis on preparations for nuclear attacks rather than transportation incidents. The Hazardous Materials Transportation Act and FRA programs were seen as too narrowly focused to work well as a vehicle to implement a Section 180(c) program.

From the tribal perspective, the most common critique of other Federal programs was that none of the options discussed in the Notices has an effective mechanism in place to work with tribes. Commenters advocated exploration of other funding mechanisms that tribes use more frequently, such as the Department of Housing and Urban Development Community Development and Block Grant Program, and suggested establishing a separate funding mechanism for tribal governments.

Other commenters were concerned that using other Federal programs would diminish focus on NHPA shipment safety and increase impacts from government downsizing. The Commercial Vehicle Safety Association also pointed out that it may put expertise and training further away from the intended delivery point.

Establish Agreements With State, Local, Tribal, and Other Organizations

This option prompted a variety of interpretations. Agreements or Memoranda of Understanding among

recipients, agreements between the Department and recipients, or agreements between the Department and regional or national coordinating organizations were all discussed. Some identified the potential improvements in regional cooperation and efficiency as the biggest benefit to establishing agreements with regional or national organizations. One commenter suggested cooperative agreements would allow negotiations each year between recipients and the Department that would permit adjustment among recipients' with dissimilar training goals. The Colorado Emergency Planning Commission said consideration should be given to working through the WGA or a similar organization to promote coordination. The Commission suggested that WIPP's cooperative agreement with WGA could be a useful mechanism to mimic.

Expanding the cooperative agreement with the National Congress of American Indians was recommended as a possible way to ensure up front consultation with tribal recipients. Such expansion of cooperative agreements with tribes could balance the differences between tribes and other recipients governments.

Many commenters, however, saw the development of cooperative agreements as a lengthy, involved process that could take too long to implement effectively. Two commenters specifically noted the WIPP cooperative agreements worked well because there was a smaller group of participants and it was developed over several years. NHPA requirements may not be compatible with this experience. This option was criticized for creating an unnecessary administrative layer that would take away from total funding to be spent on training.

Other comments encouraged cooperative agreements with organizations that could, in turn, train state, local and tribal public safety officials. The Association of American Railroads' Technical Training Center in Pueblo, Colorado and the Commercial Vehicle Safety Alliance were both identified as organizations with the capability to train recipients for emergency response for rail incidents and for truck inspections, respectively.

Establish a Department-Wide Grant Program

Response to this option was mixed. Some called a Department-wide program inappropriate, citing the difficulty of co-mingling Nuclear Waste Fund money with other Department transportation activities. Commenters expressed concern over coordinating the diverse shipping campaigns of the

Department in a timely manner. Supporting this option, one commenter noted that the fewer points-of-contact between the Department and stakeholders would be beneficial.

Establish an OCRWM Grant Program

Many commenters saw this as the best option, listing such benefits as minimizing bureaucracy and administration and increasing flexibility. Some commented on the benefit of distributing Section 180(c) assistance without involving other programs as would happen through a Department-wide grant program. Others noted that an OCRWM grant program would more easily adjust to the diversity and number of recipient jurisdictions and thus, Department control and accountability would be easier.

The Western Interstate Energy Board commented on this option favorably, provided that such a grant program incorporates flexibility to allow states to coordinate the training and funding. The Southern States Energy Board and the National Conference of State Legislatures both identified this option as favorable if additional national or regional coordination efforts were also supported.

Many county commenters interpreted this option as similar to the direct payments made to local governments through Yucca Mountain oversight programs. They were generally in favor of options that assist local governments as directly as possible.

Use Elements From the Previous Four Groups

Three commenters agreed that a combination of options would be best because it could provide the proper degree of direct contact between the Department and recipient governments while encouraging national or regional planning, coordination, and uniformity. The Council of State Governments—Midwestern Office said the Department should negotiate with the recipients to provide assistance through a variety of mechanisms “to accommodate the needs of as many states and tribes as possible.” Commonwealth Edison Company concurred with the Council of State Government’s opinion. The Southern States Energy Board recommended using a combination of direct grants to states and tribes with cooperative agreements to regional organizations to provide coordination and consultation.

Response

This proposal recommends distributing funds through an OCRWM

grants program because the Department believes this is the most flexible, least administratively burdensome and least costly method of all the procedural options investigated. This mechanism will allow the greatest amount of appropriated funds to be distributed directly to the recipients rather than diverted to cover administrative costs. Distributing the funds through a grant program rather than a cooperative agreement program lowers the cost of administration for both recipients and the Department, and gives the recipients more discretion in use of the funds. Under the proposed policy, recipients would have a great deal of flexibility in use of the grants and could account for varying levels of preparedness.

The Department did not choose to implement Section 180(c) through another Federal program for many of the same reasons commenters were critical of this option. While the FEMA option may have been flexible enough to meet the requirements of a Section 180(c) program, the time and effort to set up a program at another agency would have increased administrative cost, decreased the program’s flexibility and reduced the funds available for recipients. Since the Department can perform the same function, there is no reason to involve another agency. The Department of Transportation programs were not similar enough to the requirements for a Section 180(c) program and would have required significant effort to meld the programs together.

A Department-wide grants program would require overcoming difficult legal and logistical problems. The logistical problems of creating one Department-wide emergency response and safe routine transportation grants program for all eligible recipients would require extensive administrative work. It would also likely create legal and procedural paperwork tangles to keep from mingling the appropriations for various programs within the Department. As long as the various Department offices cooperate on an informal basis, there appears to be little benefit to formally combining programs.

Combining elements of each option was not selected because it would create logistic difficulties and would not be very efficient or cost effective. For example, if the Department sent some recipients’ assistance through the Hazardous Materials Transportation Act program, some through FEMA, and some directly from the Department, it would significantly increase the administrative costs, increase oversight and accountability problems and create a very confusing and disjointed program

for both the Department and the recipients.

C. Applicability of Section 180(c) to Private Shipments

Many states, counties, and regional groups urged that the Section 180(c) program should apply to all commercial spent nuclear fuel or defense high-level radioactive waste shipments ultimately destined for an NWPA facility, whether or not those shipments are transported to and stored on an interim basis at a private facility. Commenters cited that any large-scale shipping campaign of such materials will have virtually the same impact on states and tribes as that envisioned in the NWPA.

Response

The Department is currently authorized to implement the Section 180(c) program of financial and technical assistance only for shipments to a repository or MRS constructed under the NWPA. However, the many comments on this issue have been noted.

D. Policy Development Process

A few commenters questioned the Department’s plans to issue a Notice of Policy and Procedures rather than establish the program in regulations. They voiced concern that implementation of Section 180(c) through regulations is necessary to ensure stability through changes of leadership within the Department and that an interpretation of policy and procedures is “less robust.” An expedited rulemaking process was suggested to accommodate time constraints.

Response

The Department is developing the Policy and Procedures after receipt and consideration of extensive public comments. At some future date, the Department may decide to promulgate regulations. At this time, however, it is the Department’s intent to remain flexible in order to work through unforeseen problems without committing to binding regulations.

V. Conclusion and Request for Submission

This paper has presented the Department’s proposal for a policy and procedures for the Section 180(c) program. It has also presented the Department’s summarization of and response to comments received on prior Notices of Inquiry about Section 180(c) policy and procedures. Comments on this proposal will be included in the Notice of Final Policy and Procedures,

which the Department intends to publish in 1997. The purpose of this document has been to share with stakeholders the progress to date on developing Section 180(c) policy and procedures and to request additional comments from interested parties. The final policy and procedures may reflect changes as a result of comments, new Congressional direction, and any policy changes caused by the new Congressional direction.

The Department solicits comments from the public on this proposal to issue Section 180(c) policy and procedures.

Issued in Washington, D.C., on May 10, 1996.

Daniel A. Dreyfus,

Director, Office of Civilian Radioactive Waste Management.

Appendix—Basis for Cost of Program

To determine the cost of the program and a feasible approach to allocate funding among eligible participants, the Department intends to estimate reasonable activities that could be achieved each year to use, not as prescribed activities for the applicants, but to determine the dollar amount of the grant each recipient should receive. Since the Department has found no industry or regulatory standards on what constitutes a sufficient emergency response to a spent fuel transportation accident, it expects to rely on training standards and regulations (discussed below) to reach conclusions about what type of training would be reasonable. To reach conclusions with regard to which and how many people should be trained and to what levels, the Department intends to look at industry regulations, the Department's own capabilities to support state and tribal governments, and the comments provided by stakeholders. Based on the information from these sources, the Department intends to determine the activities on which it would base its grant allocations and then estimate the costs for these activities.

The training standards the Department intends to use for emergency response are consistent with the level of training recommended by the International Atomic Energy Agency (IAEA) (Safety Series No. 87, 1988), the Occupational Safety and Health Administration (OSHA) (29 CFR 1910.120) and the National Fire Protection Association (NFPA) (NFPA 471 and 472). The training standards we intend to use for safe routine transportation are consistent with current practices and the regulatory limitations placed on states and tribes for safe routine transportation activities. Recognizing that not everyone will agree with this application of the standards to the training goals, there would be few limitations on how the recipient actually spends its budget, as long as they are used for training related to safe routine transportation of spent nuclear fuel and high-level radioactive waste and emergency response procedures.

The training goals for both safe routine transportation and emergency response procedures that the Department intends to

use as a basis for determining a grant allocation are as follows:

Emergency Response

- **First-on-scene and first responder personnel:** Self-directed awareness training material would be supplied by the Department. The Department-provided awareness material would include information for medical personnel. Up to two people from each state or tribe would be funded to attend train-the-trainer classes of the jurisdiction's choice to teach the classroom awareness training to first-responders. Section 180(c) funding would partially offset the cost of in-state training.

- **State/tribal hazardous materials or radiological response:** Up to three people would receive funding to attend more specialized training, selected by the jurisdiction. Additional personnel may be trained, depending on route miles.

- **Transportation Public Information:** Another one person from each state or tribe would be funded to attend public information training (such as that offered at the Nevada Test Site [NTS]).

Safe Routine Transportation

- **State/tribal inspectors for highway and rail:** In addition to the funding for emergency response activities, up to three inspectors from each state or tribe may be funded to attend training of their choice in either rail or highway inspection procedures. Jurisdictions without an inspection program may use the funds to coordinate observation of another jurisdiction's inspection. Rail inspections may be limited because of legal restrictions on inspecting rail shipments for both states and tribes. Funding may be used to coordinate observation of other agencies' inspection of the shipments, including the Department of Transportation's Federal Railroad Administration's (FRA), the Nuclear Regulatory Commission's (NRC), the Department of Energy's or the state of origin's inspections of both highway and rail shipments and to coordinate with rail and trucking companies on safety and inspection issues.

Along with the training activities described above, the Department intends to provide funding to cover some planning and coordination costs, as estimated below.

If an eligible jurisdiction takes the training activities described above and the method of estimating the costs for these activities (the Department did not actually attach dollar figures to these activities in this proposal), it could estimate how much assistance it would be eligible for each year. However, the Department is proposing some time restrictions on the funding. These would be as follows:

Within the first year of eligibility to receive funding (Transportation Year [defined as the year that shipments will commence] minus 3 or TY-3): A base grant would be available to help offset planning and coordination costs.

Within the second year of eligibility (Transportation Year minus 2 or TY-2): A base grant would be available to help offset estimated travel and tuition costs to send personnel to train-the-trainer training, emergency response training, and planning

and coordination activities. A variable amount of budget would be available, for those jurisdictions that qualify, to train additional emergency response personnel. Proposed routes would be announced during the second year of eligibility.

Within the third year of eligibility (Transportation Year minus 1 or TY-1): The base grant would be available to offset estimated travel and tuition costs to train transportation public information staff, inspectors, three trips for the awareness trainers to train local responders, and planning and coordination activities. A variable amount of money, if a jurisdiction qualifies, would be available to help offset estimated travel and tuition costs to train additional emergency response personnel, if necessary. The Department would send out self-taught awareness packages to states and tribes to distribute to first-on-scene and first responder personnel.

Within the Transportation Year (TY): Two-thirds of the budget provided in TY-1 would help offset refresher and new personnel training. The two-thirds multiplier is derived from a conservative estimate that after the initial training in TY-1 and TY-2, each jurisdiction would experience a personnel turnover rate of approximately two-thirds of their staff each year.

The information below describes the assumptions that the Department intends to use to form cost estimates for the Department's annual allocations to recipients.

The Base Amount

Planning and Coordination Costs—The Department intends to make these estimates by taking the estimated salary of a health physicist employed full-time by a state government and providing a percentage of that salary. The salary estimate can be made either by using a Conference of Radiation Control Program Directors' salary quote or by sampling health physicist salaries in various states and taking the average of the sample. One planning and coordination trip would also be estimated in this cost (see travel costs for the cost estimate of this trip).

Travel Costs—Planning and coordination trips would be estimated to last three days. Travel for hazardous materials responder, inspector, train-the-trainer, and public communications training would be estimated to last five days. In-state awareness training would be estimated to last five days and include planning and coordination costs. Air travel cost would be estimated by calculating the average airfare from several locations around the country to the NTS and Federal Emergency Management Agency (FEMA) training centers. Per diem costs would be estimated by using the Federal government's per diem costs for the NTS and FEMA training locations.

Tuition Costs—Tuition costs would be estimated by taking the estimated cost to the DOE of an NTS Radiological Emergency Operations course and dividing it by 25 students per class. This tuition cost would be applied to each trainee in a hazardous materials emergency response, inspector and train-the-trainer class.

The base amount of money would be determined from these cost estimates of the training activities described above.

The Variable Amount

To determine the variable amount of money, each eligible jurisdiction would receive funds to train three additional hazardous materials personnel for every 160 miles along a route. If routes through a jurisdiction intersect, or are less than 80 miles apart, the route miles could not be double-counted if they fall within an 80 mile radius of another route.

The Department intends to provide a variable amount of funding based on route miles because it believes that it is the best measure to capture any variation in impact on a jurisdiction's ability to prepare for NWSA shipments. The 160 mile estimate was used because other emergency response organizations have used a two-hour response time as the limit to how frequently hazardous materials response teams should be placed. From the two-hour measure, one can conservatively say it would take an emergency response vehicle an hour to travel 80 miles in either direction.

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Alaska Power Administration

Proposed Rate Adjustment for Eklutna Project

AGENCY: Alaska Power Administration, DOE.

ACTION: Notice of public forum, review and comment.

SUMMARY: Alaska Power Administration (APA) is proposing to adjust the rates for the Eklutna Project. Rates of 18.7 mills per kilowatt-hour for firm energy, 10 mills per kilowatt-hour for non-firm energy and .3 mills per kilowatt-hour for wheeling expire September 30, 1999. Due to a decrease in combined projected overhead and O&M costs, APA proposes to lower the rate for firm and non-firm energy to 8.8 mills per kilowatt-hour beginning September 1, 1996 for a period of up to five years. The rate for wheeling would remain the same. APA will finalize the proposal giving full consideration to comments received. The final proposal may differ from the present. The proposed rates will be submitted to the Deputy Secretary of Energy for interim approval and to the Federal Energy Regulatory Commission for review and final approval.

DATES: Written comments will be considered until August 14, 1996.

ADDRESSES: Written comments should be submitted to Mr. Nicki J. French, Alaska Power Administration, 2770 Sherwood Lane, Suite 2B, Juneau, Alaska 99801.

FOR FURTHER INFORMATION CONTACT:

Mr. Nicki J. French, Assistant Administrator, Alaska Power Administration, 2770 Sherwood Lane, Suite 2B, Juneau, AK 99801, (907) 586-7405.

SUPPLEMENTARY INFORMATION: The proposed rates apply for power sold from the Eklutna Hydroelectric Project to three electric utilities serving the Anchorage and Matanuska Valley areas of Alaska. Details of the proposed rates, including supporting studies, are available for inspection at Alaska Power Administration, 2770 Sherwood Lane, Suite 2B, Juneau, Alaska; and the Eklutna Project Office, Mile 4.0, Old Glenn Highway, Palmer, Alaska. A public information and comment forum is scheduled to be held June 24, 1996, at 6:00 PM, in the public conference room of the Loussac Library, 3600 Denali, Anchorage, Alaska. APA is requesting that the parties interested in attending the public information and comment forum notify APA of this intent in writing by June 17, 1996. If APA has not received any written notices of intent to attend the forum the APA Administrator will cancel the forum, as allowed in 10 CFR 903.15(c) and 10 CFR 903.16(c). Authorities for the proposed rate action are the Eklutna Project Act of July 31, 1950 (64 Stat. 382, as amended) and the Department of Energy Organization Act (Public Law 95-91). Alaska Power Administration is developing these rates in accordance with DOE financial reporting policies, procedures and methodology (DOE Policy RA 6120.2 [September 20, 1979]), and the procedures for public participation in rate adjustments found in 10 CFR Part 903 (1987) as amended.

The present rates went into effect in October, 1994. APA has repaid over 82% of the project investment. The proposed rate results in an 53% rate decrease. APA has notified its customers that a new rate would be developed based on decreased overhead costs and elimination of Eklutna O&M costs. APA will continue its rate evaluation based on projected staffing and include the results in the final rate proposal. Alaska Power Administration Asset Sale and Termination Act was signed by the President on November, 1995. As part of the transition to new ownership, APA is entering an O&M agreement with the purchasing utilities. With the new O&M agreement between APA and the purchasing utilities, APA expects the utilities to incur all O&M and replacement costs throughout the term of the agreement. The reduction in costs to APA have been included in the repayment study supporting the

proposed rates. APA will continue formulating and executing transition plans based on the existing purchase agreements and signed legislation for the sale of the Eklutna project to the Anchorage utilities. This proposed rate action continues present rate policies under existing law.

ENVIRONMENTAL IMPACT: The proposed rate action will have no significant environmental impact within the meaning of the National Environmental Policy Act of 1969. The proposed action meets the requirements of a categorical exclusion as defined in 40 CFR 1508.4 and is listed as a categorical exclusion for DOE in 10 CFR 1021, Appendix B4.3. An Environmental Assessment and an Environmental Impact Statement is not required.

Issued at Juneau, Alaska, May 6, 1996.

Lloyd A. Linke,

Administrator.

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Federal Energy Regulatory Commission

[Docket No. RP96-235-000]

Algonquin Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

May 10, 1996.

Take notice that on May 8, 1996, Algonquin Gas Transmission Company (Algonquin) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, Ninth Revised Sheet No. 1100. The proposed effective date of the tariff sheet is June 8, 1996.

Algonquin states that the purpose of this filing is to indicate the removal of the Index of Customers from Algonquin's FERC Gas Tariff, Fourth Revised Volume No. 1.

Algonquin states that the removal of the removal of the Index of Customer's from the Tariff is in compliance with the Commission's revised regulations in Sections 284.106 and 284.223.

Algonquin requests that the Commission grant any waiver that may be necessary to place this tariff sheet into effect on the date requested.

Algonquin states that copies of this filing were mailed to all customers of Algonquin and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and