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## DEPARTMENT OF ENERGY

### Office of Civilian Radioactive Waste Management: Safe Routine Transportation and Emergency Response Training; Technical Assistance and Funding

**AGENCY:** Department of Energy.

**ACTION:** Notice of revised proposed policy and request for comments.

**SUMMARY:** The Department of Energy (DOE) is publishing this notice of revised proposed policy to set forth its revised plans for implementing Section 180(c) of the Nuclear Waste Policy Act of 1982 (NWPA), as amended. This notice updates the revised proposed policy that DOE published on July 23, 2007 (72 FR 40139) by providing the funding allocation approach for grants to federally recognized Tribes which may be eligible for assistance under Section 180(c) and also includes minor changes for clarification to the policy as it applies to both States and Tribes. Under Section 180(c) of the NWPA, DOE shall provide technical and financial assistance for training of local public safety officials to States and Tribes through whose jurisdictions the DOE plans to transport spent nuclear fuel or high-level radioactive waste to a facility authorized under Subtitle A or C of the NWPA (NWPA-authorized facility). The training is to cover both safe routine transportation and emergency response procedures. The purpose of this notice is to

communicate information to stakeholders about Section 180(c) issues and request comments on this revised proposed policy and the questions specified herein.

Written and electronic comments may be submitted to DOE on this document.

**DATES:** Comments must be received by DOE on or before January 31, 2009.

**ADDRESSES:** Written comments should be directed to Mr. Frank Moussa, U.S. Department of Energy, c/o Patricia Temple, Bechtel SAIC Company, LLC, 955 N. L'Enfant Plaza, SW., Suite 8000, Washington, DC 20024. The revised proposed policy and electronic comment forms are also available at <http://www.ocrwm.doe.gov>. Fill out the form and click "submit" to send your comments in through the Web site. Persons submitting comments should include their name and address. Receipt of written comments in response to this notice will be acknowledged if a stamped, self-addressed postal card or envelope is enclosed. Electronic comments will receive an electronic notice of receipt.

**FOR FURTHER INFORMATION CONTACT:** For further information on the transportation of spent nuclear fuel and high-level radioactive waste under the NWPA, please contact: Mr. Frank Moussa, Office of Logistics Management, Office of Civilian Radioactive Waste Management (RW-10), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC, 20585, Telephone: 202-586-2837.

General program information is available on the Office of Civilian Radioactive Waste Management (OCRWM) Web site located at <http://www.ocrwm.doe.gov>.

Copies of comments received will be posted on the OCRWM Web site. Please allow up to two weeks after DOE receives comments to view them on the Web site.

*Request for Comments:* DOE will consider all comments submitted by the closing date. Comments received after that date will be considered to the extent practicable. DOE requests that commenters pay particular attention to the questions at the end of this revised proposed policy.

#### SUPPLEMENTARY INFORMATION:

##### I. Purpose and Need for Agency Action

Under the NWPA, DOE is responsible for the transportation of spent nuclear fuel and high-level radioactive waste to a NWPA-authorized facility. In particular, under Section 180(c) of the NWPA, DOE is responsible for providing technical and financial

assistance for training of local public safety officials to States and Tribes through whose jurisdiction the Secretary plans to transport spent nuclear fuel or high-level radioactive waste to a NWPA-authorized facility. Section 180(c) further provides that such training cover procedures required for both safe routine transportation of these materials and for dealing with emergency response situations. Section 180(c) identifies the Nuclear Waste Fund as the source of funds for this assistance.

Subject to the availability of appropriated funds, DOE plans to conduct a pilot program for 180(c) grants. DOE will evaluate public comments received on the July 23, 2007, notice of revised proposed policy (the 2007 notice) and this notice prior to implementing the pilot program. After reviewing the comments received on the notices of revised proposed policy and completion of the pilot program, DOE plans to issue a new revised proposed policy for public comment and thereafter to issue a final policy prior to awarding the first 180(c) grants. The first grants are planned to be issued approximately four years prior to the commencement of shipments through a State or Tribe's jurisdiction to support assessing the need for and planning for training.

The *Office of Civilian Radioactive Waste Management, Strategic Plan for the Safe Transportation of Spent Nuclear Fuel and High-Level Radioactive Waste to Yucca Mountain: A Guide to Stakeholder Interactions* calls for DOE to work closely with State Regional Groups and individual impacted States and Tribes as it makes operational decisions regarding shipments to a NWPA-authorized facility. DOE's practice of involving States, Tribes, industry, utilities, and other interested parties in transportation planning has contributed to a decades-long record of safely transporting such material. This revised proposed policy supports DOE's objective to develop and begin implementation of a comprehensive national spent fuel transportation plan that accommodates State, local, and Tribal concerns and input to the greatest extent practicable.

##### II. Background

On January 3, 1995, DOE issued a proposed policy on how it would implement Section 180(c) of the NWPA (60 FR 99). DOE subsequently issued several notices relating to its proposed 180(c) policy in the **Federal Register** on July 18, 1995 (60 FR 36793), May 16, 1996 (61 FR 24772), July 17, 1997 (62 FR 38272), and April 30, 1998 (63 FR

23753). DOE published the 2007 Notice (72 FR 40139) to set forth and communicate to stakeholders the revised policy by which DOE currently intends to implement Section 180(c). DOE previously requested comments on the 1998 notice of revised proposed policy and procedures. Those comments were reviewed and considered during the development of the 2007 notice. In the 2007 notice, DOE stated that it had recently begun meeting with Tribes to discuss the funding allocation options for grants to Tribes and that the proposed funding allocation approach described therein would apply only to States. This notice of revised proposed policy provides the approach by which DOE intends to allocate funds to Tribes based on input received in those discussions.

This policy is intended to be consistent with Homeland Security Presidential Directives Number 5, "Management of Domestic Incidents," issued February 28, 2003, and Number 8, "National Preparedness," issued December 17, 2003; the Department of Homeland Security's National Preparedness Goal, issued December 2005; the National Preparedness Guidance issued April 27, 2005; the National Incident Management System, issued March 1, 2004; and the National Response Plan, issued December 2004.

### III. Summary of Changes From the July 23, 2007, Notice of Revised Proposed Policy

This notice of revised proposed policy updates the 2007 notice by providing the approach by which DOE intends to allocate funds to federally recognized Tribes which may be eligible for assistance under Section 180(c). The section on Basis for Cost Estimate/Grant Funding Allocation to States was edited to accommodate the addition of the allocation method for the Tribes.

There are also some additional differences between this notice and the 2007 notice. In the section on Purpose and Need for Agency Action, the details regarding the anticipated timing of initial shipments to the repository and timing of the the pilot program for 180(c) grants have been removed in acknowledgement of schedule uncertainties resulting from funding shortfalls for OCRWM. In addition, some substantive changes to the policy as it applies to both States and Tribes have been made, including replacing the term "emergency response" with "emergency management" as appropriate, given that the policy allows for a broader variety of activities to be covered by Section 180(c) assistance, such as planning, training, exercises and

related activities. In the second sentence of the fourth paragraph of the Policy Statement section, the language was changed to clarify that assistance provided by DOE under Section 180(c) will "help State, Tribal, and local officials prepare for OCRWM shipments" rather than "ensure that State, Tribal, and local officials are prepared for OCRWM shipments," in order to clarify the proper role of such assistance. In the second sentence of the first paragraph of the section on Eligibility and Timing of the Grants Program, the description of eligibility where a route constitutes a border between two jurisdictions was revised to eliminate use of the term "reservations," in consideration of Tribes that have emergency management responsibility for Tribal lands that do not comprise reservation lands. In the Request for Comments section, some additional questions have been added to those that were included in the 2007 notice. Finally, a number of typographical and editorial corrections were made in the document.

### IV. Policy

#### *Policy Statement*

Section 180(c) of the NWPA states:

The Secretary [of Energy] shall provide technical assistance and funds to States for training for public safety officials of appropriate units of local government and Tribes through whose jurisdiction the Secretary plans to transport spent nuclear fuel or high-level radioactive waste under subtitle A or under subtitle C. Training shall cover procedures required for safe routine transportation of these materials, as well as procedures for dealing with emergency response situations.

This proposed policy addresses the provision of technical and financial assistance for training, both for normal transportation operations and for potential incidents that may require emergency response during shipments of spent nuclear fuel or high-level radioactive waste to a NWPA-authorized facility. Technical assistance to support 180(c) activities will consist of non-monetary assistance that the Secretary of Energy can provide from DOE's specific knowledge, expertise, and existing resources to aid training of public safety officials on procedures for safe routine transportation and for emergency response situations during the transport of spent nuclear fuel and high-level radioactive waste to a NWPA-authorized facility. Technical assistance includes, but is not limited to, access to DOE's regional and Headquarters representatives involved in the planning and operation of NWPA transportation or emergency preparedness activities,

provision of information packets that include materials about the OCRWM Program and shipments, and provision of other training materials and information. Financial assistance will consist of assessment and planning grants and annual training grants. The provision of grants will be subject to the criteria described herein, as well as the availability of appropriated funds.

This revised proposed policy is consistent with DOE's longstanding commitment to meet or exceed requirements and standards applicable to the transport of spent nuclear fuel and high-level radioactive waste; to cooperate with States, Tribes, and local governments; and to make use of the existing expertise of States, Tribes, and local governments to the maximum extent practicable.

Section 180(c) funds are intended to be used for training specific to shipments of spent nuclear fuel and high-level radioactive waste to a NWPA-authorized facility. DOE will work with States and Tribes to evaluate current preparedness for safe routine transportation and emergency response capability and will provide funding as appropriate to help State, Tribal, and local officials prepare for OCRWM shipments. Section 180(c) funds and related training are intended to supplement but not duplicate existing training for safe routine transportation and emergency preparedness. DOE will work with States and Tribes to coordinate and integrate Section 180(c) activities with existing training programs designed for State, Tribal, and local public safety officials. Equipment purchased with Section 180(c) funds is intended to be used for training to prepare for the specific hazards presented by shipments to a NWPA-authorized facility. If necessary, such equipment could then be used for inspections and for responding to emergencies. Since State and Tribal governments have primary responsibility to protect the public health and safety in their jurisdictions, they will have flexibility to decide which allowable activities to request Section 180(c) assistance to meet their unique needs within the limits of the NWPA and DOE and other Federal financial assistance regulations and restrictions.

Training with Section 180(c) funds should be to the level of detail and to the degree necessary to prepare for shipments to a NWPA-authorized facility. When necessary or appropriate, training should be consistent with the Occupational Safety and Health Administration (OSHA) awareness or operations levels, as those terms are

defined in 29 CFR 1910.120, and the jurisdiction's emergency response plans. Any deficiency in basic emergency response capability may be addressed through consultation and technical assistance.

#### *Funding Mechanism*

DOE will implement Section 180(c) by funding direct grants to eligible States and Tribes. The grants program will be administered in accordance with the DOE Financial Assistance rules (10 CFR part 600), which implement applicable Office of Management and Budget circulars, and applicable law. The grant application process will require States and Tribes to describe and justify their proposed work in the format of a five-year project with a more detailed two-year work plan.

Applications will only be accepted through the Federal Government's electronic grant application system at <http://www.grants.gov>.

#### *Basis for Cost Estimate/Grant Funding Allocation to States and Tribes*

DOE anticipates providing funds to States and Tribes in accordance with the approach described below. Specifically, DOE expects to make two grants available: An assessment and planning grant and an annual training grant.

The assessment and planning grant to each eligible State and Tribe will support a needs assessment to identify training needs that might be addressed in future training grants to that State or Tribe. The amount of the assessment and planning grant is not expected to exceed \$200,000, adjusted annually for inflation, for each eligible State and Tribe based on appropriated funds available for that purpose in a particular fiscal year. The annual training grant to each eligible State and Tribe will support allowable activities as specified in the grant. The annual training grant for each eligible State and Tribe will consist of a base amount not expected to exceed \$100,000, adjusted annually for inflation, as well as a variable amount. The base amount for each grant depends on Congressional appropriations. DOE selected the amounts of the base grants based on experience with similar training programs and discussions with State, Tribal, and emergency response officials about the scope of work likely for each grant.

The amount of the annual training grants will be based on the appropriated funds available for that purpose in a particular fiscal year. Available funds will be first used to fund the base portion of the grant. Each eligible State will receive the same base amount as

every other eligible State; each eligible Tribe will receive the same base amount as every other eligible Tribe. Remaining available funds will be used to fund the variable portion of the grant for each eligible State and each eligible Tribe on the basis of the allocation methods described below.

#### *Allocation Method for Variable Portion of States' Annual Training Grants*

The variable portion of the training grant for States will be determined through a risk-based formula using the factors of population along routes, route miles, number of shipments, and shipping sites. The population figure, calculated from U.S. Census Bureau data, acts as a surrogate for either the number of responders requiring training or the number of jurisdictions requiring training. Total route miles (for all shipping modes) act as a surrogate for the accident risk. The number of shipments addresses the additional burden placed on States that are heavily impacted by shipments. Finally, the number of shipping sites will factor in the additional training burden placed on States that must prepare for point-of-origin inspections of both the package and the vehicle. Shipping sites will include commercial nuclear power plants, DOE sites, and any other entity shipping spent nuclear fuel or high-level radioactive waste to a NWPAA-authorized facility.

The steps are as follows:

Step 1: Collect raw data with respect to the factors of population along routes, route miles, number of shipments, and shipping sites for each State.

Step 2: Divide the raw State data for each factor by the national total for each factor. The result is each State's percentage of the national total for each factor.

Step 3: Multiply each State's percentage of each factor by the correspondent weighting for each factor as specified below; the result would be summed to reach a total for each State, as follows:

$$\begin{aligned} &0.3 \times \text{Percentage of Population Along} \\ &\quad \text{Route Corridors} \\ &+ 0.3 \times \text{Percentage of Route Miles} \\ &+ 0.3 \times \text{Percentage of Number of} \\ &\quad \text{Shipments} \\ &+ 0.1 \times \text{Percentage of Shipping Sites} \\ &= \text{Total for Each State} \end{aligned}$$

Step 4: Sum the total for each State to obtain a national total.

Step 5: Divide each State's total by the national total to reach each State's percentage of available funds for the year.

DOE will work with applicants to ensure consistent sources are used to

estimate the raw data for each factor of the formula. All factors are specific to the shipping year. The specific sources DOE will use for the raw data are as follows:

- The population factor will be calculated using the population within 2,500 meters of the route as calculated by the Transportation Routing Analysis Geographic Information System (TRAGIS), DOE's routing model. TRAGIS uses U.S. Census Bureau data as its source for population.

- For route miles, DOE will calculate the national total using TRAGIS to estimate the route miles for each year's projected shipments.

- The number of shipments annually through a State will be estimated based on DOE's projected shipments for each year.

- The number of shipping sites will be based on the number of defense and civilian sites originating a shipment within the State for the year for which an applicant is applying for funding.

#### *Allocation Method for Variable Portion of Tribes' Annual Training Grants*

The variable portion of the Training Grant for Tribes will be determined on the basis of the results from each Tribe's needs assessment conducted under the assessment and planning grant, as described below.

The steps are as follows:

Step 1: DOE will notify Tribes along the planned shipment routes of their eligibility.

Step 2: Each Tribe will have 90 days from the date of notification to complete its assessment and planning grant application. This application will require the Tribe to describe how it intends to conduct its needs assessment once it receives the funding. If requested, DOE will provide technical assistance to Tribal officials to complete the application. DOE has Transportation Emergency Preparedness Program coordinators and Tribal Points of Contact in each DOE region of the country that could help Tribal officials design their needs assessment and complete their grant proposal. In addition, OCRWM officials will be available to provide assistance and advice.

Step 3: The Tribe will submit its application for the assessment and planning grant.

Step 4: DOE will evaluate the application and award the grant based on the merits of the application.

Step 5: The Tribe will receive its assessment and planning grant award and initiate its needs assessment. DOE personnel will be available to provide

technical assistance, if requested, during the needs assessment phase.

Step 6: The Tribe will complete its needs assessment, the results of which will form the basis for the Tribe's request for the variable portion of the training grant.

Step 7: The Tribe will submit its application for the training grant.

Step 8: DOE will evaluate the training grant application and award a grant based on the merits of the application.

#### *Eligibility and Timing of the Grants Program*

DOE will provide grants and technical assistance to those States and Tribes through whose jurisdictions the Secretary of Energy plans to transport spent nuclear fuel and high-level radioactive waste to a NAWPA-authorized facility. Where a route constitutes a border between two such jurisdictions, every jurisdiction with emergency management responsibility and inspection authority over the route will be eligible for Section 180(c) assistance. If a State or Tribe will not have shipments but has cross-deputization or mutual aid agreements with a jurisdiction that will have shipments, the non-shipment jurisdiction may work with DOE to receive funding.

DOE will send a letter to the Governor or Tribal leader's office notifying them of their State or Tribe's eligibility to apply for Section 180(c) grants approximately five years before shipments are scheduled through that State or Tribe's jurisdiction. Each State or Tribe shall designate which agency or staff member of the State or Tribe will administer its Section 180(c) grants. Subsequently, DOE will communicate with the State or Tribe's designated agency or staff person regarding Section 180(c) grants.

Subject to the availability of appropriated funds, DOE expects to begin making assessment and planning grants available to a State or Tribe approximately four years prior to the first shipment to a NAWPA-authorized facility through that State or Tribe's jurisdiction.

DOE intends to issue training grants in each of the three years prior to a scheduled shipment through a State or Tribe's jurisdiction and every year that shipments are scheduled.

#### *Allowable Activities*

DOE intends to allow a broad array of eligible planning and training activities, thus providing the recipients flexibility to direct funds toward their individual needs. DOE will require applicants to describe and justify the need for proposed activities, training, and

purchases in the application package for review and approval by DOE.

Under Section 180(c) of the NAWPA, DOE shall provide technical and financial assistance to States and Tribes through whose jurisdictions DOE plans to transport spent nuclear fuel or high-level radioactive waste to a NAWPA-authorized facility. States and Tribes should describe in their grant applications how the grants will be used to provide training to local public safety officials. States and Tribes are expected to coordinate with local public safety officials during the assessment and planning phase and in developing their applications for the annual training grants. DOE recognizes that, depending on the State or Tribe, the role of local public safety officials in responding to incidents involving radioactive materials varies from a minimal role of crowd and traffic control to the primary role of incident command. Therefore, the benefit to local public safety officials should be consistent with established State, Tribal, and local roles in dealing with routine transportation and in responding to an incident involving NAWPA shipments.

Potential activities for the Assessment and Planning Grant include:

- Assessment of the jurisdiction's needs for training on procedures related to safe routine transportation and emergency management situations.
- Development of mutual aid agreements among neighboring jurisdictions and with Federal agencies.
- Planning for how to provide needed training for public safety officials.
- Participation in DOE, regional, and national transportation planning meetings.
- Intra- and interstate and Tribal planning and coordination.
- Support for exercises to test plans and training.
- Review of DOE transportation, emergency management, communications, and security plans, including threat assessments and civil disobedience/law enforcement planning.
- Obtaining access to DOE data and systems, such as the Transportation Tracking and Communications system (TRANSCOM) for information and shipment tracking.
- Evaluation and identification of alternative routes for DOE non-classified radioactive materials shipments according to 49 CFR 397, *Transportation of Hazardous Materials' Driving and Parking Rules* (referred to as HM-164).
- Risk assessments.

- Participation in DOE's Transportation Emergency Preparedness Program (TEPP).<sup>1</sup>

- Coordination with DOE's Radiological Assistance Program (RAP) training, exercises, and planning activities.<sup>2</sup>

- Planning activities using TRAGIS or other DOE route or risk assessment models.

- Participation in carrier evaluation programs that may be implemented through other agencies or organizations.

- Staff costs related to planning and needs assessments.

The Training Grant has two categories of allowable activities: Activities related to safe routine transportation and activities related to emergency management.

Activities for the safe routine transportation aspects of the Training Grant may include:

- Continuation of the activities initiated under the Assessment and Planning Grant, such as coordination with agencies within the State or Tribe, assessment of training needs, and assessment of technical assistance needs.
- Training and staff costs associated with the Department of Transportation's State Rail Safety Participation Program.<sup>3</sup>
- Training for public safety officials in safety and enforcement inspections of highway shipments (drivers, vehicles, and shipping containers).
- Training related to accident prevention (e.g., for safe parking, bad weather, and road conditions).
- Training for appropriate local, State, and Tribal officials on the proper handling of information and documents, including secure and confidential shipments.
- Training for radiological inspections, both rail and truck.

<sup>1</sup> DOE's TEPP integrates transportation emergency preparedness activities for DOE non-classified shipments of radioactive materials to address the emergency response concerns of State, Tribal, and local officials affected by such shipments. TEPP is implemented on a regional basis, with a TEPP Coordinator for each region. TEPP ensures responders have access to the model plans and procedures, training, and technical assistance necessary to respond safely, efficiently, and effectively to transportation incidents.

<sup>2</sup> DOE's RAP is a team of DOE and DOE contractor personnel specifically trained to perform radiological emergency response activities. The RAP teams may deploy at the request of DOE sites; other Federal agencies; State, Tribal or local governments; or from any private organization or individual. Teams are located at eight sites around the Nation.

<sup>3</sup> The Federal Railroad Administration will provide informal outreach and training opportunities to Tribes, since there is no statutory authority for participation by Tribes in the State Safety Participation Program as outlined in 49 CFR 212.

- Training on a satellite tracking system.
  - Equipment purchases, calibration, and maintenance for training purposes.<sup>4</sup>
  - Staff costs related to training.
- Activities for the emergency management aspects of the Training Grant may include:
- Continuation of planning activities begun under the Assessment and Planning Grant.
  - Training in implementation of mutual aid agreements among neighboring jurisdictions and agreements with Federal agencies.
  - Training for public safety officials in hazardous materials emergency response procedures. When necessary or appropriate, training should be consistent with OSHA awareness or operations levels, as those terms are defined in 29 CFR 1910.120, and the jurisdiction's emergency response plans.

- Participation in DOE's TEPP.
- Equipment purchases, calibration, and maintenance for training purposes.
- Training for emergency medical personnel, including hospital emergency medical personnel.
- Designing, conducting, and evaluating drills and exercises, including the implementation of mutual aid agreements and emergency response plans and procedures.
- Staff costs related to training.

**V. Merit Review Criteria**

States and Tribes will have flexibility to decide for which allowable activities to request Section 180(c) assistance to meet their unique needs within the limits of the NWPA and DOE and other Federal financial assistance regulations and restrictions. Grant applications will be reviewed in accordance with 10 CFR 600.13, *Merit Review*.

The merit review process consists of a board of technically qualified reviewers who evaluate each grant application on pre-established criteria. The merit review board advises DOE's selection officials as to the merits of each proposed activity and the overall quality of the application. DOE's selection officials will make final funding determinations and notify successful applicants of their award in accordance with standard grant procedures.

The proposed criteria, which the merit review board will use for its review, are described below in Table 1, Assessment and Planning Grant, and Table 2, Training Grant. The applicant's narrative should address each of these criteria in accordance with the instructions provided.

**TABLE 1—ASSESSMENT AND PLANNING GRANT**

Criteria	Instructions
Conduct a needs assessment and develop a training plan to prepare for NWPA shipments through the applicant's jurisdiction.	In the grant application narrative, make sure the scope of the assessment and plan development is clear and thorough: <ol style="list-style-type: none"> <li>a. Describe how the State or Tribe will assess needs, including how the State or Tribe will determine what additional planning, training, equipment, and exercises may be needed.</li> <li>b. Describe the technical assistance that will be requested from DOE or other Federal agencies in order to conduct the needs assessment.</li> <li>c. Describe the cost and timeframe of each proposed assessment and planning activity.</li> <li>d. Describe what planning will occur within the State or Tribe and with local jurisdictions.</li> <li>e. Identify all mutual aid agencies that will be contacted to complete the needs assessment and training plan.</li> <li>f. Describe how the proposed grant funding does not supplant or duplicate existing funding from Federal or State sources.</li> </ol>
Prepare public safety officials of appropriate units of local government	The narrative should completely and accurately describe: <ol style="list-style-type: none"> <li>a. How local public safety officials were involved in developing the grant application.</li> <li>b. How local public safety officials will be involved in the needs assessment consistent with their role in radioactive/hazardous materials transportation as defined by the State or Tribe.</li> </ol>
Prepare sufficiently to reassure the public of adequate preparedness ...	The narrative should accurately and completely describe: <ol style="list-style-type: none"> <li>a. How the applicant will assess what is needed to respond to inquiries from the public and the media.</li> <li>b. What activities and measures, if any, are needed to reassure the public of adequate preparedness.</li> </ol>
Train for the increment of need specific to NWPA shipments .....	The narrative should accurately and completely describe: <ol style="list-style-type: none"> <li>a. What the applicant is already doing to prepare for radioactive materials shipments.</li> <li>b. How each proposed needs assessment activity is specific to the NWPA shipments.</li> </ol>

**TABLE 2—TRAINING GRANT**

Criteria	Instructions
Conduct training on procedures for safe routine transportation to help prevent accidents and respond in a timely and appropriate fashion to incidents involving NWPA shipments.	The narrative should accurately and completely describe: <ol style="list-style-type: none"> <li>a. How many public safety officials will be trained and what training they will receive, based on the needs assessment conducted under the Assessment and Planning Grant.</li> </ol>

<sup>4</sup> Grant funds can be used to purchase equipment for training purposes. They can also be used to

calibrate and maintain equipment as long as the

equipment is training-related and specific to the needs created by the NWPA shipments.

TABLE 2—TRAINING GRANT—Continued

Criteria	Instructions
Help prepare public safety officials of appropriate units of local government.	b. List the equipment the applicant proposes to purchase, describe why this equipment is necessary for training for these shipments, and how it is consistent with the training level to which the responders will be trained. c. How the proposed grant funding does not supplant or duplicate existing funding from Federal or State sources. d. How the actions listed in this section help the applicant increase its capability to prevent accidents and respond appropriately to accidents. e. The technical assistance that will be requested from DOE, either from OCRWM, RAP teams, TEPP coordinators, or other Federal agencies. f. How the training and technical assistance will be integrated with assistance received from other Federal Government sources. The narrative should accurately and completely describe: a. How local public safety officials will benefit from the proposed activities. b. Whether those local public safety officials support the activities proposed in this application and how their level of support is determined.
Prepare sufficiently to reassure the public of adequate preparedness ...	The narrative should accurately and completely describe: a. How the applicant will train to respond to inquiries from the public and the media. b. What activities and measures, if any, will be taken to reassure the public of adequate preparedness.
Train in the increment of need specific to NWSA shipments .....	The narrative should accurately and completely describe: a. How each proposed activity is specific to the NWSA shipments. b. How the training will be integrated with assistance received from other DOE programs or Federal agencies for radioactive materials transportation preparedness.
Assess level of preparedness after training, exercises, and technical assistance.	The narrative should accurately and completely describe: a. How the applicant will assess their level of preparedness after conducting the proposed activities. The proposed assessment should measure readiness against the objectives described in the applicant's project narrative. b. How the applicant will assess how well it utilized the technical assistance requested.

**VI. Request for Comments**

Questions 3 through 8 below are repeated from the 2007 notice. If you provided comments on any of these questions in response to the 2007 notice, there is no need to repeat those comments in response to this notice. DOE is considering the comments received in response to the 2007 notice.

DOE requests that interested parties comment on this notice, including the specific questions identified below:

*Question 1*

(a) Should a certain percentage of the funding received from Congress for the entire Section 180(c) program be set aside for Tribal applicants? This would ensure a set percentage of the total funds would be available for Tribal applicants.

(b) In the alternative, should State and Tribal applicants' funding come from a single allocation of funds? This would make the percentage of funds that Tribes receive from the total Section 180(c) funding variable from year to year.

*Question 2*

(a) Should the formula described in the revised proposed policy for allocating the variable portion of States' training grants be clarified to prohibit the counting of mileage along a route through Tribal jurisdictions in the calculation of route miles unless the state retains emergency response authority along that stretch of route?

*Question 3*

(a) Would \$200,000 be an appropriate amount for the assessment and planning grant to conduct a needs assessment?

(b) Should the amount be the same for each eligible State and Tribe?

(c) Would there be a need to update the needs assessment and, if so, at what intervals and should funding be made available for this purpose and in what amount?

*Question 4*

(a) Would \$100,000 be an appropriate amount for the annual training grant?

(b) Recognizing that, after commencement of shipments through an eligible State or Tribe, training to

maintain capability may become less costly with increased expertise and efficiency, should the base amount of subsequent annual training grants be adjusted downward to reflect the number of years that annual training grants have been received?

(c) What should be the allocation of available appropriated funds for a fiscal year between the base amount and the variable amount of the annual training grants?

(d) Should the entire training grant be variable based on the funding allocation methods described herein?

*Question 5*

(a) Should the amount of funding be adjusted where a route forms a border between two States, a State and a Tribal reservation, or two Tribal reservations?

(b) Should States or Tribes with mutual aid responsibilities along a route outside their borders be eligible for 180(c) grants on the basis of the mutual aid agreement?

(c) If so, how should the amount of funding be calculated, and should the calculation take into account whether or

not the State or Tribe would otherwise be eligible for a grant?

(d) Should the State or Tribe that received notification of eligibility from DOE indicate in their grant application that a neighboring State or Tribe has a mutual aid agreement along a particular route, whereupon DOE would then notify the neighboring State or Tribe of its eligibility?

#### Question 6

(a) Do assessment and planning grants need to be provided four years prior to an initial scheduled shipment through a State or Tribe's jurisdiction?

(b) Do training grants need to commence three years prior to a scheduled shipment through a State or Tribe's jurisdiction?

(c) Do training grants need to be provided every year that shipments are scheduled?

#### Question 7

(a) Should the Section 180(c) grants be adjusted to account for fees levied by States or Tribes on the transportation of spent nuclear fuel or high-level radioactive waste through their jurisdiction?

(b) How should DOE determine if a fee covers all or part of the cost of activities allowed under Section 180(c) grants?

(c) Is the language in this policy, requiring States and Tribes to explain in their grant application how the fees and Section 180(c) grant awards are separate and distinct, sufficient to prevent DOE from paying twice for the same activity?

#### Question 8

(a) How should Section 180(c) grants be adjusted to reflect other funding or technical assistance from DOE or other Federal agencies for training for safe routine transportation and emergency response procedures?

(b) In particular, how should DOE account for TEPP and other similar programs that provide funding and/or technical assistance related to transportation of radioactive materials?

(c) To what extent is Section 180(c) funding necessary where funding and/or technical assistance are being or have been provided for other DOE shipping campaigns such as to DOE's Waste Isolation Pilot Plant?

Issued in Washington, DC, on October 28, 2008.

**Edward F. Sproat III,**

*Director, Office of Civilian Radioactive Waste Management.*

[FR Doc. E8-26018 Filed 10-30-08; 8:45 am]

BILLING CODE 6450-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### Combined Notice of Filings #1

October 27, 2008.

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER03-428-007.

*Applicants:* ConocoPhillips Company.

*Description:* ConocoPhillips Co submits a supplement to the 6/27/08 market power and tariff revisions filing.

*Filed Date:* 10/23/2008.

*Accession Number:* 20081027-0134.

*Comment Date:* 5 pm Eastern Time on Thursday, November 13, 2008.

*Docket Numbers:* ER08-1417-001.

*Applicants:* Kentucky Utilities Company.

*Description:* Kentucky Utilities Co submits First Revised Sheet No. 43 *et al.* to First Revised Rate Schedule FERC No. 184, effective October 15, 2008.

*Filed Date:* 10/23/2008.

*Accession Number:* 20081024-0162.

*Comment Date:* 5 pm Eastern Time on Thursday, November 13, 2008.

*Docket Numbers:* ER09-119-000.

*Applicants:* PJM Interconnection, L.L.C.

*Description:* PJM Interconnection, LLC submits an executed interconnection service agreement with PPL Renewable Energy, LLC *et al.*

*Filed Date:* 10/23/2008.

*Accession Number:* 20081024-0163.

*Comment Date:* 5 pm Eastern Time on Thursday, November 13, 2008.

Take notice that the Commission received the following open access transmission tariff filings:

*Docket Numbers:* OA08-4-002.

*Applicants:* Midwest ISO Transmission Owners.

*Description:* Midwest ISO Transmission Owners submits revised tariff sheets that are identical to the tariff sheets included in the 8/13/08 filing, except that the attached are designated & paginated etc.

*Filed Date:* 10/24/2008.

*Accession Number:* 20081027-0181.

*Comment Date:* 5 pm Eastern Time on Friday, October 31, 2008.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously

intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call (866) 208-3676 (toll-free). For TTY, call (202) 502-8659.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. E8-26024 Filed 10-30-08; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### Combined Notice of Filings

October 28, 2008.

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

*Docket Numbers:* RP99-176-170.

*Applicants:* Natural Gas Pipeline Company of America.