DEPARTMENT OF ENERGY

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

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

ACTION: Notice of revised proposed policy and procedures.

SUMMARY: The Department of Energy (the Department or DOE) publishes a revised proposed policy statement setting forth its revised 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 jurisdictions the Department plans to transport spent nuclear fuel or high-level radioactive waste to a facility authorized under the Nuclear Waste Policy Act, as amended (Section 180(c) program). The training would cover both safe routine transportation and emergency response procedures. The purpose of this notice is to communicate to stakeholders evolving positions of the Office of Civilian Radioactive Waste Management (OCRWM) within the Department regarding Section 180(c) policy issues and to respond to stakeholder comments on the previous notice. Written comments may be submitted to OCRWM on this document.

DATES: Written comments should be sent to the Department and must be received on or before August 1, 1998. The length of this comment period is to facilitate the submission of comments after the semiannual Transportation External Coordination Working Group Meeting is held on July 14–15, 1998.

ADDRESSES: Written comments should be directed to: Ms. 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, Waste Acceptance and Transportation Division, Office of Civilian Radioactive Waste Management, (RW–44), 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 planning and the Section 180(c) program. 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 National Information Center, 600 Maryland Avenue, S.W., Suite 695, Washington, D.C. 20024. Information packets also can be requested through the OCRWM Home Page at http://www.rw.doe.gov.

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 or at the Nevada Operations Office Public Reading Facility at Building B3, 2621 Losee Road, North Las Vegas, Nevada or at the Yucca Mountain Site Characterization Office Technical Information Center, 1180 Town Center Drive, Las Vegas, NV 89134. They will be available through OCRWM's Home Page.

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 is responsible for the disposal of high-level radioactive waste and spent nuclear fuel in a deep geologic repository. Additionally, the Department is responsible for transportation of spent nuclear fuel and high-level radioactive waste to a NWPA-authorized Federal storage or disposal facility. The Director of the Office of Civilian Radioactive Waste Management is responsible to the Secretary of Energy 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 public safety officials of appropriate units of local government and Indian tribes through whose jurisdictions the Secretary plans to transport spent nuclear fuel or high-level radioactive waste to NWPA-authorized Federal storage and disposal facilities. 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

OCRWM issued a Notice of Inquiry in the **Federal Register** on January 3, 1995 (60 FR 99), which briefly described various options to delineate policies and procedures for implementing Section 180(c) of the Nuclear Waste Policy Act. Members of the public were invited to submit comments on the Notice of Inquiry. In the March 14, 1995, **Federal Register** (60 FR 13715) OCRWM extended the deadline for comments to May 18, 1995 (60 FR 36793). In response to requests for additional information, OCRWM 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. Next, on May 16, 1996, OCRWM published a Notice of Proposed Policy and Procedures (61 FR 24772) describing OCRWM's proposed approach to implementing Section 180(c) of the NWPA and responding to public comments received on the two prior notices. The public was again invited to submit comments on the Proposed Policy and Procedures. In response to these comments, and based on further research conducted by OCRWM staff, OCRWM decided to publish a Notice of Revised Proposed Policy and Procedures on July 17, 1997 (62 FR 38272). The public was again invited to submit comments.

After considering the comments received on the prior notices, input from stakeholders in various forums, and conducting extensive research, the Department is publishing another Notice of Revised Proposed Policy and Procedures. This notice details the policy and procedures by which the Department currently intends to implement Section 180(c) of the NWPA. These policy and procedures will remain in draft form until program progress or legislation provides definitive guidance as to when shipments will commence. At that time, OCRWM may finalize these policy and procedures or will consider promulgating regulations on Section 180(c) implementation.

In addition to the draft notice discussed above, OCRWM's work to date on Section 180(c) policy and implementation procedures has been discussed extensively in Transportation Coordination Group meetings, the Transportation External Coordination (TEC) Working Group meetings, and the cooperative agreement group meetings. The TEC Working Group comprises

organizations representing state, tribal, local, professional, technical, and industry associations that meet semiannually to identify and discuss issues related to the transport of radioactive materials. In addition, OCRWM has nine cooperative agreements with national and regional organizations representing various constituencies to exchange information and solicit input regarding the planned transportation activities of the Civilian Radioactive Waste Management program, including Section 180(c) issues. The cooperative agreement groups are the Southern States Energy Board, the Western Interstate Energy Board, the Council of State Governments Midwestern Office and Eastern Regional Conference, the Commercial Vehicle Safety Alliance, the Conference of Radiation Control Program Directors, the National Conference of State Legislatures, the National Congress of American Indians, and the National Association of Regulatory Utility Commissioners.

OCRWM also has 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.

III. Policy and Procedures

Note: For definitions of terms used in the notice of final policy and procedures, see the appendix at the end of this document.

Policy Statement

It is OCRWM's policy that, for NWPA shipments, each responsible jurisdiction will have the training necessary for safe routine transportation of spent nuclear fuel or high-level waste and to respond to NWPA transportation incidents or accidents. OCRWM will provide funding and technical assistance, subject to annual appropriations, to assist states and tribes to obtain access to the increment of training necessary to prepare for NWPA shipments. This increment of training will include procedures for emergency response and safe routine transportation. The Department will take into consideration the states' and tribes' determinations of their needs when preparing its budget for the Civilian Radioactive Waste Management Program. If Congress does not fully appropriate the funds requested, the funding to eligible jurisdictions will be decreased proportionately.

Safe routine transportation of spent nuclear fuel and high-level waste will be accomplished through strict compliance with the Department of Transportation (DOT) and Nuclear Regulatory Commission (NRC) regulations and applicable state, tribal, and local laws and regulations. These include safety and enforcement inspections of NWPA highway shipments, rail measures that complement DOT's Federal Railroad Administration (FRA) inspection procedures, and continuous satellite tracking of all shipments. DOT regulations include requirements for highway routing; hazardous materials placarding, marking, and documentation; and rail inspections. The NRC has established regulations for radioactive materials shipments for protection of public health and safety. These regulations include requirements for package certification, loading, materials control and accountability, safeguards and security, state notification of shipments, quality assurance, and tracking. The NRC regulations for radioactive materials package certification require maintenance of criticality control and radioactive materials containment under credible accident scenarios. OCRWM recognizes that tribes are not included in NRC's notification regulations and has notified NRC that it intends to provide tribal notification of shipments in addition to the state notifications, and state and tribal access to satellite tracking information.

For safe routine transportation of spent nuclear fuel and high-level waste, it is OCRWM's policy to provide each eligible state and tribe the funding and technical assistance to prepare for safety and enforcement inspections of NWPA highway shipments, for rail measures that complement FRA inspection procedures, and for access to satellite tracking equipment and training on that equipment in cases where the capability does not already exist. Access to satellite tracking equipment and training will be subject to the NRC's verification that this use of satellite tracking technology does not violate NRC's safeguards and security regulations.

For dealing with emergency response situations, it is OCRWM's view that with implementation of the provisions for safe routine transportation, as stated in the previous paragraph, the risk of an accident is very low. Further, if an accident were to occur, the risk of any significant materials release or harmful increase in radiation levels in excess of NRC regulatory standards is extremely low. If an accident should occur, with or without a release, state and tribal governments have primary responsibility to respond and to protect the public health and safety in their jurisdiction. The Federal Government and, in particular, the Department have radiological emergency response resources available to assist when requested. Federal Government assistance is regionally based and can be mobilized and on scene in a few hours, although it may take up to forty-eight hours to be fully functional. The first responder is typically a local police or fire official. This official must be capable of identifying the shipment as a radiological materials shipment and notifying the appropriate radiological emergency response authorities. It is desirable, but not required, for some of the state and tribal responders to have received higher levels of hazardous materials training.

Therefore, for training for dealing with emergency response situations, it is OCRWM's policy to provide funds and technical assistance to states and tribes to obtain and maintain awareness-level training for all local response jurisdictions in the increment specific to NWPA shipments. In addition, to the extent funds are available, the assistance may be used to obtain an enhanced level of emergency response capability. This enhanced level may include operations level training, technician level training, and operations level and technician level refresher training in an increment specific to NWPA shipments.

Objectives

It is OCRWM's objective to provide a one-time only planning grant to every eligible state and tribe to aid in their determination of needs for technical assistance and funds to train public safety officials in procedures required for safe routine transportation and emergency response situations.

It is OCRWM's objective to provide a base grant to every eligible state and tribe to aid in planning and coordination activities for training in a timely manner. The base grant will be available every year of eligibility once the grant application has been approved. Any amount left after completion of the planning and coordination activities may be used for other allowable costs under the Section 180(c) program, at the discretion of the applicant.

It is OCRWM's objective to provide a two-part variable amount of funding and

technical assistance depending on the amount of assistance each applicant needs to obtain the incremental training requirements resulting from the planned NWPA shipments. The first part of the variable funding and technical assistance may be used only to provide training for safety and enforcement inspection training for NWPA truck shipments; rail measures that complement FRA inspection procedures; awareness level training, awareness level refresher training, and awareness level train-the-trainer training for emergency responders.

The second part of the variable funding, depending on available funds, will support an enhanced level of emergency response capability. As discussed in the Policy Statement section, OCRWM believes that the combination of the Federal radiological emergency response capability and a Section 180(c) program that provides inspection and awareness level training will provide the nation with an adequate basis to respond to any potential transportation emergency that may result from NWPA shipments. Nevertheless, to the extent that funds appropriated for Section 180(c) are sufficient, OCRWM will fund an enhanced level of training. This enhanced level could include operations and/or technician level training, and refresher training.

It is OCRWM's objective to provide funding and technical assistance for training for safety and enforcement inspections specific to NWPA truck shipments such as those described in the Commercial Vehicle Safety Alliance's (CVSA) Enhanced North American Standards.

It is OCRWM's objective to provide funding and technical assistance for states and tribes to obtain an increment of the training needed to conduct rail inspections under the FRA's State Participation Program. Since the FRA covers the training cost to state employees in the State Participation Program, there is no direct role for Section 180(c) to fund training. Instead, OCRWM will consider applicants' requests to fund, in the increment necessary for OCRWM shipments, safe rail transportation measures that complement DOT's FRA inspection procedures. Since currently there is no mechanism for tribes to participate in the State Participation Program, OCRWM will work with tribal governments to identify where funding and technical assistance may best assist a tribe in addressing procedures for rail safe routine transportation.

DOE intends to offer a variety of training delivery options such as a train-the-trainer program, a curriculum to insert into a jurisdiction's existing awareness level training programs, and a video that states and tribes may distribute to emergency response officials along the shipment routes. OCRWM plans to provide funds for the cost of the trainers' travel within the jurisdiction. Grant applicants may choose the combination of these resources that best matches their current training programs. This training should be at least consistent with Occupation Safety and Health Administration (OSHA) regulations at 29 CFR 1910.120(q) or National Fire Protection Association (NFPA) hazardous material training standards.

It is OCRWM's objective that any assistance provided supplements the applicant's existing safe routine and emergency response structure by providing an additional increment of preparedness.

In addition, OCRWM will adopt, to the extent practicable and consistent with the NWPA, any future Department-wide policies adopted to standardize assistance to states and tribes for the Department's radioactive materials shipments. This could include standardization of funding mechanisms, training standards, allowable equipment purchases, and the definitions of technical assistance and safe routine transportation.

Funding Mechanism

The Department will implement Section 180(c) through an OCRWM grants program. Funding will be provided every year (subject to Congressional appropriations) beginning approximately four years prior to the first shipment through state or tribal reservation boundaries. The grants will be specific to OCRWM's Section 180(c) program and, at this time, will not be combined with any other Department-sponsored transportation preparedness or training programs, although coordination by jurisdictions would be encouraged. The grants program may be combined with a Department-wide grants program in the future if one is developed, is practicable, and is consistent with existing law.

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.

Basis for Cost Estimate/Funding Allocation

The total program cost and the allocation of funds among eligible states and tribes will be based on a one-time only planning grant, a predetermined base amount, and a variable amount determined through the application process. The planning grant of $150,000 will cover costs associated with conducting the determination of incremental needs required to complete the application package. This amount is based on an estimate of several states' past experience with planning for shipments to the Department's Waste Isolation Pilot Plant in Carlsbad, New Mexico.

The base grant will cover costs associated with planning for NWPA shipments, and is based on a salary estimate for planning such shipments. In 1994, a Conference of Radiation Control Program Directors' (CRCPD) survey found the average salary of a state health physicist was $35,000. The Department has doubled that figure and adjusted for inflation since 1994 to reach the $75,500 base grant. The figure was doubled on the assumption that states and tribes can, if they so choose, pay the salary of one person each for safe routine transportation and emergency response planning. The base amount will be adjusted annually for inflation.

The variable grant amount will be based on two parts of the application package process. The first part will ask the applicant to determine the amount of financial assistance needed to obtain the appropriate increment of awareness level training and to prepare for safe routine transportation inspections of NWPA shipments. The second part will ask the applicant to determine the amount of financial assistance needed to obtain the appropriate increment of operations and/or technician level training for emergency response for NWPA shipments. This second part of the application will be used to determine any enhanced level of training, depending on available funds.

Definition of Key Terms

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

- Safe routine transportation means the shipment of spent nuclear fuel and high-level radioactive waste to a repository or a Monitored Retrievable Storage facility 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 rail and barge transport is characterized by compliance with rail and barge transportation regulations including Federal Railroad Administration, Coast Guard regulations, and the Hazardous Materials regulations.

The definition of technical assistance for the purposes of determining eligibility or allowable activities under the Section 180(c) program will 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 Monitored Retrievable Storage facility pursuant to the NWPA, including, but not 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, will 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 material about the OCRWM program and shipments, and provision of information to insert into curricula. Recognizing the Federal Government's government-to-government relationship with and Trust responsibility toward tribal nations, and in response to comments about the lack of hazardous materials response capability on some tribal lands, the Department will consider making additional technical assistance available to tribes upon request.

Eligibility and Timing of the Grants Program

OCRWM will provide grants and technical assistance to those states and tribes through whose jurisdiction the Secretary of Energy plans to transport spent nuclear fuel and high-level radioactive waste pursuant to the NWPA. States and tribes having cross-deputization or mutual aid agreements with a jurisdiction that does have shipments, even though no shipments may occur within the borders of the mutual aid state or tribe, may receive funding from the jurisdiction that will receive shipments. Additionally, in cases where a route constitutes the border between two states, a state and a tribal government, or two tribal governments, jurisdictions on both sides of the route will be eligible for Section 180(c) assistance.

OCRWM intends that the application process for grants will begin approximately four years prior to transportation through the applicant's jurisdiction (about one year for the application process, and about three years to implement the program). OCRWM plans to notify the governor or tribal leader of the jurisdiction by letter, and include an information packet and 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. The administering agency or representative would indicate in the application how it intends to use the funds. If funding needs to be provided to other agencies (for example, from the emergency services agency to the highway patrol to pay for inspector training), the transfer of funds would be the responsibility of the recipient state or tribe. DOE plans to require that information be provided in the application regarding the distribution of funds.

OCRWM plans to identify the preliminary routes that DOE anticipates using within state and tribal jurisdictions when it notifies governors and tribal leaders of their eligibility. The Regional Servicing Contractor (RSC) [1] would propose routes in the three years prior to shipment. If the selected routes are different than the preliminary routes, either as a result of the RSC selection process for the proposed routes or state designation of alternative routes, then OCRWM would work with those states and tribes affected by any route changes to facilitate revision of their grant applications and expedite the application review. The Department plans to retain final approval of all transportation routes and the RSC(s) would be responsible for obtaining NRC approval of the routes.

In accordance with the Section 180(c), local governments will not be eligible to apply for Section 180(c) grants directly. However, states, and tribes, if they have subjurisdictions, would be required to coordinate their planning with local jurisdictions, indicating in the application that the needs of local public safety officials have been considered and how the training assistance will be provided to local jurisdictions and their appropriate public safety officials. Because of the emergency response structure in most jurisdictions, OCRWM anticipates that the awareness level training will be made available to local public safety officials. OCRWM also anticipates that the inspection and enforcement training will be provided to state-level and tribal employees since they generally have inspection and enforcement authority. The operations and technician level training, to the extent they are funded, would be provided to the appropriate public safety officials at the grantee's discretion.

OCRWM expects the application to include a five-year plan detailing how the funds would be spent each year. Funding will be disbursed annually based on the applicant's five-year plan. The applicant may request an amendment to the application if conditions change significantly within the five-year period.

For the purposes of this policy, the year shipments commence is defined as ''Transportation Year'' or ''TY.'' During the fourth year prior to shipments; i.e., in Transportation Year minus 4 or TY–4, the eligible jurisdiction would be conducting its determination of needs for the grant application. The $150,000 planning grant would be available during TY–4 to conduct this work.

In the next year of eligibility to receive funding (TY–3), the base grant would be available. The next year, two years prior to shipment, or TY–2, the base grant and a variable amount of financial assistance would be available.

A state or tribe would continue to be eligible for and receive the base and variable amount of funding through TY–1 and TY, and in each year of eligibility thereafter as long as NWPA shipments go through its jurisdiction. Eligible states and tribes would need to reapply for the grant program every five years.

If there is a lapse of NWPA shipments for three or more years, the state or tribe would receive no funds during those years and would regain eligibility three years prior to another NWPA shipment through its jurisdiction. Three years prior to the resumption of shipments through its borders, a state or tribe may again apply for TY–3 grants. If the lapse is two years or less between shipments, the Transportation Year grants would continue as if shipments had been traversing that jurisdiction during the lapse.

The Section 180(c) program would include the following contingency plan for schedule and route changes: in

[1] RSC is defined in the draft *Acquisition of Waste Acceptance and Transportation Services for the Office of Civilian Radioactive Waste Management* as the contractor responsible for all activities and services originating in its Servicing Region(s), including the provision of Transportation Cask Systems and Storage Systems as required to provide the necessary waste acceptance and transportation services.

general, eligible states and tribes may receive an additional amount of financial assistance if asked to complete activities in shorter amounts of time; i.e., a state or tribe may receive TY–1 and TY–2 funding in the same year. If the route for a shipment is selected too close to the start of the shipment to allow for Section 180(c) implementation or for any reason the responsible jurisdictions along a selected route lack adequate training, OCRWM may use escorts with more training and equipment than those normally used for the purpose of security until a reasonable time period for training has expired. The contingency plan could be activated in case of emergencies, or fraudulent actions or non-cooperation by a state or tribe along the route.

Allowable Activities for Funding

This section describes the types of activities that would be allowed under this policy. This is not meant to be a comprehensive list, but merely a guide to the types of activities an applicant jurisdiction might consider to be eligible for Section 180(c) funding.

For the most part, it would be the grantee's decision in consultation with local governments and first responders along the routes to select who gets trained and the organization that administers the training. Grantees would describe in their five-year plan their incremental training needs, where the training would be obtained, any drills and exercises they propose to conduct that are an integral part of the training curricula, whether the training curricula needs any input from OCRWM about NWPA shipments, what equipment and supplies they propose to purchase, and what technical assistance from DOE they anticipate requesting. The grantee would specify how this assistance augments their current infrastructure for safe routine transportation procedures and emergency response.

The initial planning grant may be used to pay for staff, travel, and other costs associated with conducting an assessment of incremental training needs. This may include a risk assessment, and other assessment activities.

The base grant could be used to pay for staff, travel, and other costs associated with preparing to train public safety officials, and the planning and coordination activities associated with interacting with local jurisdictions and neighboring jurisdictions. The base grant could also be used for training, risk assessment, and other assessment activities. The variable amount of funding could be used to pay for travel and tuition costs for those receiving training, including drills and exercises associated with training, and training on the satellite tracking system used for NWPA shipments. Training on the satellite tracking system could be contingent on the NRC's ruling as to whether state and tribal access to satellite tracking for OCRWM shipments is consistent with the safeguards and security regulations.

It would be the state's or tribe's choice, in consultation with the local governments and first responders along the route and within their annual budget, to determine who receives refresher training and with what frequency. It also would be the state's or tribe's choice, in consultation with the local governments and first responders along the route and within their annual budget, to determine which new personnel receive training and the location of that training. The training could apply to state or tribal inspectors, and state, local, or tribal emergency response personnel including medical emergency responders.

Regarding equipment, a grantee would be able to budget, for TY–2 and TY–1, 25 percent of each year's total Section 180(c) funds to purchase appropriate (i.e., training-related) equipment and supplies. Such equipment could also be used for inspections and for responding to emergencies. After TY–1, the applicant would be able to budget up to 10 percent of each year's Section 180(c) funds to purchase appropriate equipment and supplies. The equipment and supplies to be purchased must be identified in the application and the need for the equipment justified. The purchase of equipment related to the satellite tracking system for NWPA shipments would be included in these percentage caps, assuming NRC allows state and tribal access to satellite tracking information for OCRWM shipments. The title to equipment would be vested in the grantee in accordance with the property provisions at 10 CFR 600.232.

A state or tribe would not be authorized to use Section 180(c) funds for purposes not related to NWPA shipments such as development of a broad-based non-NWPA emergency response program. In cases where basic capabilities may be lacking, OCRWM recognizes the need to provide additional technical assistance. This assistance is not meant to build basic capabilities but to provide the jurisdiction with information that may help them prepare for the shipments. For example, DOE could provide information about what additional resources may be available to state, local, and tribal jurisdictions, what safety measures are being taken by the Department to ensure safe shipment despite a lack of local capabilities, or what safety measures other jurisdictions may have taken in a similar situation.

IV. Discussion of Comments Received on the Notice of Revised Proposed Policy and Procedures

The Department received 19 sets of comments in response to the July 17, 1997, Notice of Revised Proposed Policy and Procedures. Comments were received from the Commercial Vehicle Safety Alliance; Council of State Governments-Midwestern Office; International Association of Fire Fighters; International Association of Fire Chiefs; Edlow International Company; the Western Interstate Energy Board; Inyo County, California; National Congress of American Indians; State of Idaho; State of Nevada; Southern States Energy Board; Nuclear Waste Citizens Coalition; State of New Mexico; National Conference of State Legislatures; Prairie Island Indian Community; Nuclear Energy Institute; and the Pueblo of Acoma. Some commenters provided more than one set of comments.

The following section discusses general categories and summarizes major points of the comments and the Department's response.

A. Section 180(c) Policy

Policy Statement and General Themes

Most commenters stated that the needs-based approach described in the Revised Proposed Policy is an improvement over the formula-based approach described in the May 1996 Proposed Policy. There were positive comments on the equal treatment of states and tribes, the broadened definition of eligibility, and the broadened scope of allowable activities. The Nuclear Energy Institute and Edlow International generally endorsed the current proposal. The Nuclear Energy Institute applauded OCRWM's acknowledgment of current regulations within the body of the proposed policy.

However, the large majority of commenters emphasized that they believe that additional change is still needed in key areas, primarily more cooperative route selection and a more cooperative transportation planning process. The Western Interstate Energy Board ''continues to find the Section 180(c) policy * * * unacceptable because it ignores key policy decisions made by the Western Governors * * * and because it fails to ensure that an

effective emergency response mechanism will be in place to handle NWPA transportation accidents.'' The Southern States Energy Board, the Western Interstate Energy Board, the Commercial Vehicle Safety Alliance, and Inyo County, California, all recommended the Waste Isolation Pilot Plant's (WIPP) transportation planning process as a good example of cooperative planning. The comment was also made that OCRWM should take a leadership role within the Department in developing methods to assist state, local, and tribal governments to prepare for the shipments, as OCRWM will conduct the nation's single largest radioactive materials transportation campaign. One commenter asked whether basing the level of assistance on a determination of needs means that a ''well-prepared'' state would not be eligible for assistance beyond the base amount. Or, will ''relatively prepared'' states receive assistance based on the likelihood of a greater number of shipments and, therefore, a significant increase in the demands on, for example, state inspectors?

Several comments requested clarification or greater acknowledgment of the roles and responsibilities of different governmental levels. The Council of State Governments-Midwestern Office requested better definition of the roles of the Federal agencies involved in radioactive materials transportation accidents and how Federal agencies will interface with state and local emergency response officials. They also requested that the phrase ''state and tribal governments have a responsibility to * * * protect the public health and safety * * *'' be changed to ''state and tribal governments have *primary* responsibility to * * * protect public health and safety.'' They stated, ''We again object to OCRWM's apparent intent to substitute Federal radiological emergency response capability for state preparedness. The role of Federal resources is to supplement state response capabilities when necessary. OCRWM should correct any references in the notice that misrepresent the roles of and relationship between state and federal response capabilities.'' They emphasized their view that states will not turn over the responsibility of protecting citizen health and safety to DOE.

Communications was another frequently mentioned topic. Both the Council of State Governments-Midwestern Office and the Western Interstate Energy Board encouraged OCRWM to place more emphasis on early and substantive public outreach, asserting that effective communications will help create the public trust necessary for a successful transportation program. They are concerned that the field of public information will be dominated by an already organized and active opposition. The Council of State Governments-Midwestern Office included a Newsday article (August 6, 1997) about the lack of emergency preparedness for OCRWM shipments as an illustration of the success of these groups. The Western Interstate Energy Board stated that communications and interactions with states and tribes cannot appropriately be placed in the hands of private contractors because the contractors will be seen as acting in their own, profit-driven interests. They stated it is DOE's responsibility to secure the public's confidence by taking clear responsibility for interacting with states and tribes.

With regard to regulatory compliance, Inyo County, California, commented that public tolerance of a campaign of this magnitude will not allow minimum safety measures. The International Association of Fire Fighters (IAFF) felt that the Revised Proposed Policy and Procedures ''mostly sidestepped'' their comments. The IAFF expressed its view that strict compliance with regulations is a flaw that exaggerates a lack of oversight and enforcement. They added that these regulations are being weakened and pointed, as an example, to the U.S. Department of Transportation's Research and Special Programs Administration approval of a change to 62 FR 46214. They stated that this change ''removed Radiation Protection Program regulations and related modal provisions that would have required the development and maintenance of a written radiation protection program for persons who offer, accept for transportation, or transport radioactive materials.'' The IAFF's point was that the lessening of such requirements means that increased oversight above the regulatory minimum is necessary to prevent the politicization of the distributed funds. In contrast, the Nuclear Energy Institute stated that additional requirements should be considered only if they provide a clear benefit commensurate with their cost. The Nuclear Energy Institute stated that radioactive materials transportation has been proven safe under the current regulatory structure.

In other comments, the Council of State Governments-Midwestern Office and Inyo County, California, commented that OCRWM should commit to funding the Section 180(c) program regardless of congressional appropriations. Inyo County stated that the wording in the proposal ''if Congress does not fully appropriate the funds'' suggests that the funding may be congressionally controlled and invites Congress to micromanage the program. The Western Interstate Energy Board reiterated its position that the Nuclear Waste Fund should pay for all costs associated with implementing Section 180(c) and transportation preparation; if not, the program will be viewed as an unfunded mandate in violation of Executive Orders 12866 and 12875. The Commercial Vehicle Safety Alliance requested that the wording requiring a jurisdiction to coordinate with local jurisdictions to conduct the needs assessment also include a reference to coordinate with ''national safety organizations'' to ensure that safety inspections are efficient and uniform along all the routes.

The Nuclear Waste Citizens Coalition reiterated its previous comments that DOE should update NUREG/CR–2225 (1981), *An Unconstrained Overview of the Critical Elements in a Model State System for Emergency Response to Radiological Transportation Incidents.* The International Association of Fire Fighters requested that OCRWM address indemnification under the Price-Anderson Act, particularly as it relates to the potential financial impact that an incident involving radioactive materials may have on local governments. Specifically, IAFF asked whether DOE has an obligation to indemnify the contractor if its negligence is the proximate cause of an accident; whether DOE will reimburse local officials for the costs it might expend should such an accident occur; who precisely is responsible for clean-up; and who will pay clean-up costs.

Response. OCRWM has considered all the comments received in response to the Section 180(c) policy development. OCRWM has chosen not to incorporate comments when to do so would not increase shipment safety or the effectiveness of the grants program, or for other reasons is incompatible with OCRWM's mission to implement the Section 180(c) program according to the NWPA.

OCRWM intends that states or tribes be eligible to receive the variable amount of the grant regardless of their preparedness level. However, a more well-prepared jurisdiction could expect to receive less variable funding than a less well-prepared jurisdiction. The number of shipments through a jurisdiction would not be a measure of funding levels since once staff are trained, the training applies without regard to the number of shipments.

OCRWM recognizes the primary role of states and tribes in protecting the health and safety of their citizens. The language regarding the Department's radiological emergency response assets is a statement that the Federal capability exists to respond to a radiological materials shipment accident even in those areas of the country without basic emergency response capabilities. The roles and responsibilities of different government levels in preparing for and responding to a radiological emergency are defined in the Federal Radiological Emergency Response Plan. These roles and responsibilities will be further defined as OCRWM's transportation planning process continues.

OCRWM recognizes the crucial role of communications and public acceptance in developing a workable transportation program. To this end, OCRWM will retain primary responsibility for interactions with stakeholders. This will include providing public information to jurisdictions along the routes and making Departmental representatives, whether Federal or contract employees, available to communities as budgets permit. The regional servicing contractors will be required to have a Communications and Outreach Plan which will describe how they will communicate and interact with stakeholders.

With regard to regulatory compliance, it is OCRWM's view that the current regulatory structure is sufficient to provide for the safety of the shipments. In addition to Federal regulations, OCRWM shipments will be subject to applicable state, local, and tribal regulations. OCRWM also views the current procurement regulations as sufficient to ensure that the disbursement of funds will not become politicized within a recipient jurisdiction.

OCRWM disagrees that the phrasing ''if Congress does not fully appropriate the funds'' invites Congress to micromanage the grants program. The ability of Congress to limit funding to a particular program is simply a reality that OCRWM will have to work with to fund the grant recipients. Funds from the Nuclear Waste Fund are only available to the Department when appropriated to the Department by Congress. It is OCRWM's position that the Section 180(c) program should provide the increment of assistance needed to respond to an OCRWM radiological materials shipment, and should not provide basic emergency response capability to jurisdictions along the routes that have always been the responsibility of the state, local, and tribal governments. These governments are aided by other Federal agencies that have as part of their mission the assistance of state, local, and tribal governments in attaining more comprehensive emergency response and safe routine transportation capabilities. OCRWM does not believe that preparations for these shipments would constitute an unfunded mandate if not fully funded by the Section 180(c) program because there is no requirement under NWPA mandating states to take any particular action with regard to these shipments. The Commercial Vehicle Safety Alliance's request to add coordination with ''national safety organizations'' to the requirement on coordination by the grant applicant has not been incorporated because OCRWM believes the applicants should decide whether or not to coordinate with non-governmental entities.

Regarding the request to update NUREG/CR–2225, this is a Nuclear Regulatory Commission document that the Department does not have the authority to update. In addition, the NUREG/CR–2225 document is useful for planning in a model scenario, the text states that the study is an unconstrained view of the critical elements in a state program for radiological emergency response, presuming no bounds of manpower, funding, development time, or other real-world constraints. In addition, the model does not specify the type of radioactive material; therefore, it does not take into account the packaging used for NWPA shipments and the low risk of these shipments.

Liability for accidents that occur while the spent fuel and the high-level radioactive waste is in transit from the nuclear power plants to the proposed repository at Yucca Mountain, at a storage facility, or at the repository would be determined in accordance with applicable state tort law. In applying state tort law, a court normally would attribute liability to the person responsible for causing damage. If a DOE contractor is liable for nuclear damage or a precautionary evacuation resulting from its contractual activities, the contractor normally would be indemnified by DOE pursuant to the provisions of the Price-Anderson Act.

DOE's tort liability would be determined in accordance with State tort law and the Federal Tort Claims Act. However, under current plans, DOE will use contractors to transport the spent fuel and high-level waste and to construct and operate the repository and a storage facility, if one is constructed. Therefore, Price-Anderson indemnification would apply to liability claims arising from these activities.

Although there are certain limitations to the compensation available under the Price-Anderson system, it provides very broad financial protection to compensate for damage and injury, including loss of profits caused by a nuclear incident; costs of a precautionary evacuation ordered by an authorized state or local official, if such incident or evacuation arose in the course of transportation to a DOE storage or disposal site, or while at a DOE storage or disposal facility; and all reasonable additional costs incurred by a state or political subdivision of a state in the course of responding to a nuclear incident or a precautionary evacuation. Price-Anderson coverage is available to compensate persons for such losses whether or not negligence was the proximate cause of the nuclear incident or precautionary evacuation.

Routing Issues

Many of the comments on routing were alike. Commenters were concerned that the role of private contractors in route selection was not fully defined. It was a common opinion that routing decisions should not be delegated to the four potential regional servicing contractors partly because confusion could result from contractors in each region of the country selecting routes and modes that do not match at state borders. They asked that the policy clearly define this role.

Another frequently expressed comment was that the critical nature of routing decisions means that DOE should make routing decisions early to allow plenty of time for planning, and that DOE should commit to a cooperative effort to determine the routes. Commenters also encouraged DOE to commit to adopting a DOE-standardized policy on early and cooperative route selection, and suggested that the cooperative effort is needed because strict reliance on regulations will result in too many viable routes to focus scarce training and planning resources. The Western Interstate Energy Board restated that OCRWM should commit to meeting the demands of the Western Governors Association (WGA) for DOE to develop responsible routing criteria; to develop a sound methodology for evaluating optional mixes of routes and transportation modes; and to fix the shipping origins and destination points as early as possible [WGA resolution 93–003, Modified and Readopted June 24, 1996]. Other commenters stated that the current discussion on routing is inadequate to assure local governments that their concerns will be addressed in the route selection process.

Timing and routing announcements were also an area of concern. Several commenters said route identification must be done three to five years prior to shipments to enable affected states and tribes to designate alternative routes and assess their training and planning needs. They felt two years was not sufficient time to prepare for a shipping campaign of any magnitude. The Council of State Governments-Midwestern Office commented that the requirement to consult local governments in development of the application's three-year plan cannot be met unless routes have been announced. They also asked how states will assess state and local training needs in TY–3 if they don't know what routes to train along until TY–2. The State of Nevada suggested solving this dilemma by providing initial base grants for planning in TY–3 and delaying the requirement for submission of a multi-year plan until routes are known in TY–2.

Response. The draft Request for Proposal for the Acquisition of Waste Acceptance and Transportation Services for the Office of Civilian Radioactive Waste Management issued November 24, 1997, clarifies many of the issues raised in comments regarding routing. The RSC(s) must abide by DOT and NRC routing regulations. The RSCs are also required to cooperate with other RSCs, as appropriate, in developing operating protocols and other operating procedures that will aid in integrating the operating environment throughout all four Servicing Regions. The Western Governors Association resolution was considered but not incorporated because OCRWM believes the current NRC and DOT routing regulations are sufficient to ensure shipment safety.

The eligible governors and tribal chairmen will be notified of the preliminary routes and modes in TY–4 so that they may conduct the determination of needs and consult with jurisdictions along the routes. The Department is currently considering the development and adoption of Department-wide standardized route selection critera through the Senior Executive Transportation Forum, established within DOE to coordinate the efforts of Departmental elements involved in the transportation of radioactive materials.

There are no regulations addressing the role of local governments in the route selection process. The most appropriate place for local concerns about routing is during states' selection of alternative routes. The DOT Guidelines for Selecting Preferred Highway Routes for Highway Route Controlled Quantity Shipments of Radioactive Materials indicate that States are required to coordinate and solicit input from local governments and other jurisdictions likely to be impacted by a routing decision.

Questions regarding timing of the route announcement have also been addressed in this proposed policy and the Draft Acquisition of Waste Acceptance and Transportation Services for the Office of Civilian Radioactive Waste Management. The current schedule for route announcements should provide grant recipients with sufficient time to assess their needs and prepare for NWPA shipments. As stated in the Eligibility and Timing section, if there are route changes after an application has been submitted, OCRWM will work with those states and tribes affected by any route changes to facilitate revision of their grant applications and expedite the application review.

Allowable Use of Funds

The comments on allowable activities generally approved of the expansion of allowable activities in the Revised Proposed Policy. There were some specific comments and requests for clarification. Regarding the use of funds to purchase equipment, three commenters said the ten percent and twenty-five percent caps were arbitrary and unnecessary. The amount of funding should be negotiated in the grant application, allowing each eligible jurisdiction to determine its own equipment needs. Another stated that the ten percent cap should be increased to twenty percent while another stated that the twenty-five percent maximum cap should apply to each grantee's annual budget since few entities will have the foresight to accurately determine their full equipment needs up front for a program that will operate for decades. The National Congress of American Indians said the caps will not be sufficient for tribes that lack even basic equipment and trained personnel. The Commercial Vehicle Safety Alliance and the State of Nevada asked that the policy clarify that equipment for inspections is allowable as well as equipment for emergency response situations. One commenter asked whether the twenty-five percent cap would apply if, due to a lapse in shipments, a state loses eligibility and then reapplies for assistance. Another commenter asked whether the phrase ''train or otherwise prepare for'' in the objectives section of the notice meant that grant recipients could procure radiation detection/measurement instrumentation for use by vehicle inspectors and health physicists.

Regarding drills and exercises, commenters were pleased that drills and exercises will be an allowable expense. Two commenters asked DOE to clarify that all costs associated with drills and exercises will be covered—not just travel and tuition costs. There was also a question as to whether the drills and exercises would be those planned and conducted by the states, or whether DOE would plan and conduct the drills and exercises. Another commenter requested that drills and exercises be funded separately from the base grant as the commenter viewed drills and exercises as the most crucial aspect of any emergency response training.

Regarding risk assessment, the National Conference of State Legislatures stated that allowing eligible states and tribes to include risk assessment costs in their grant application adequately addressed this issue. However, the International Association of Fire Fighters felt the Revised Proposed Policy had not gone far enough and referred to the congressional endorsement of risk assessment ''when it required the Secretary of Transportation to conduct such an assessment during a study of routes and modes that would enhance overall public safety (49 U.S.C. Section 5105).'' They stated that, at a minimum, DOE should provide technical assistance for grant recipients to conduct risk assessments. The Council of State Governments-Midwestern Office stated any risk assessment must include alternative route analysis. They also asked OCRWM to clarify its position on risk assessments since the notice states in one place that route and risk assessments will be allowed, but the definition of safe routine transportation states that alternate route analysis will not be allowed.

Regarding safe routine transportation, a few commenters requested that attendance at the Federal Railroad Administration-certified railroad inspection classes be an allowable cost. These commenters explained that the Federal Railroad Administration will not be prepared to handle inspections for the number of shipments required under an NWPA shipping campaign due to staff shortages.

There were a variety of other comments. Two commenters stated that travel costs offset by the grants program should cover out-of-state travel, not just travel within the jurisdiction as stated in the Revised Proposed Policy and Procedures. Another commenter stated that grant recipients should be able to use the base grant for training as well as

for planning and coordination activities. The Council of State Governments-Midwestern Office said that DOE must allow funding for the enhanced training level in the overall needs assessment, and not just as funds are appropriated. Several commenters continued to request that funds be allowed to pay for infrastructure improvements, arguing that certain improvements are necessary for safe routine transportation. The Western Interstate Energy Board and the State of New Mexico both reiterated their position that the grants program must cover costs associated with equipment maintenance, record-keeping, and related costs. Other comments said that completing the needs assessment of the application package must be an allowable cost because its preparation will be burdensome for some jurisdictions.

Response. The Department has chosen not to lift the percentage cap on equipment in order to ensure that the majority of the funding is used for training as directed by the NWPA. If there is a lapse in shipments where a state or tribe loses eligibility and then regains eligibility because shipments resume through their jurisdiction, the same twenty-five percent and ten percent caps will apply to their applications. Whether these caps are sufficient to cover grant recipients' needs is related to the total amount of the grant awarded and that amount has not been determined. It will be a grant recipient's choice whether to allocate the money to equipment for training for safety inspections or emergency response situations. Both types of equipment will be considered an allowable expense. The Department recognizes that some tribes lack basic capabilities and will work with tribal governments on how best to address this issue.

Regarding drills and exercises, the Department intends for grant applicants to propose in their applications any drills and/or exercises, that are an integral part of the training curricula, and that they would conduct as part of the variable grant. These drills and exercises will be conducted by the states and tribes, not by DOE.

As indicated previously, risk assessment and alternative route analysis is an allowable expense.

As stated in the Objectives section of the policy, Section 180(c) funding may be used for rail safe routine transportation measures that complement DOT's FRA inspection procedures. Applicants will be expected to specify how these funds will be used in their five-year plan.

Regarding other comments, the base grant may be used to offset the cost of out-of-state travel, or for training after TY–3, as the grant recipient wishes. The base grant may also be used to offset the costs of equipment maintenance and recordkeeping. Recognizing that jurisdictions may wish to train beyond the awareness level, OCRWM intends to fund the operations and technician level training as funds allow. OCRWM reiterates its position that infrastructure improvements such as rail and road improvements are beyond the scope of the Section 180(c) mandate.

Training Standards

Comments differed regarding the most appropriate training standards for the Section 180(c) program. The most frequent comments encouraged OCRWM to offer training courses similar to those offered by WIPP, such as incident command training and emergency medical training. Many commenters strongly stated that training to the awareness level is insufficient and will leave local emergency responders unable to handle a radioactive materials accident. Commenters were in general agreement that local emergency responders must have at least the equivalent of OSHA's operations level training. The International Association of Fire Fighters said they believe that ''firefighters, at a minimum, must be trained to the operations level'' because of the National Fire Protection Association (NFPA) standards which state that ''operational-level competency is to be attained by those persons such as fire fighters and rescue personnel whose duties and functions include responding to hazardous materials incidents to mitigate the effects of a release without actually trying to stop the release.'' The International Association of Fire Chiefs said that OCRWM should provide 40 hours of training each for the technician and operations level responders that are trained under the enhanced level training outlined in the Revised Policy. They and other commenters stated that the OSHA and NFPA-based training is too generalized for the specific information needed for a radiological response since they encompass all hazardous materials. The International Association of Fire Chiefs also stated its belief that a 4-hour video-based course would be sufficient to train to the awareness level. The Council of State Governments-Midwestern Office asked OCRWM to clarify that *all* emergency responders along a route must be trained to the awareness level because references in the notice to ''the appropriate increment of awareness level training'' does not sufficiently convey the sense of providing training to all affected local officials.

Other comments focused more on the delivery of training. The Council of State Governments-Midwestern Office requested that OCRWM not restrict states to a train-the-trainer approach. The Western Governors' Association reiterated its request that OCRWM establish Regional Training Advisory Teams and a National Training Advisory Committee for radiological shipments to help coordinate training across jurisdictions. Inyo County, California, stated that OCRWM should restrict funds to local use only and not fund any state personnel because of the wording in Section 180(c) that says ''technical assistance and funds * * * for training public safety officials of appropriate units of local governments. * * *'' Another commenter said OCRWM should add program-specific instructions to existing training programs, not create new programs to train already overburdened emergency response officials. The State of Nevada and the International Association of Fire Chiefs recommended that OCRWM develop a national approach to training for responding to radiological incidents, in essence a Federal floor of adequacy for emergency response to these shipments. The Commercial Vehicle Safety Alliance requested this policy to state that safety and enforcement training must be given to the law enforcement agency having the proper training and authority to conduct safety inspections, including roadside inspections.

The International Association of Fire Fighters stated that it is DOE's sole responsibility to have trained emergency response personnel with each shipment if local jurisdictions choose not to prepare or respond to a radiological accident because they have received insufficient training. One commenter asked if the pilot test of a DOE Transportation Emergency Preparedness Program module ''Radiation Materials Emergency Response: Awareness Level'' is the correct title.

The National Congress of American Indians, the Pueblo of Acoma, and the Prairie Island Indian Community all requested that OCRWM reinstate funding to the National Congress of American Indians for the Tribal Radiological Emergency Preparedness Workshops. They stated that funding the workshops will help DOE meet its Trust responsibilities and assist tribes in attaining the proper readiness for NWPA shipments.

Response. As previously stated, OCRWM does not believe the enhanced level of training as defined in the policy is necessary for shipment safety. However, recognizing that jurisdictions may wish to train beyond the awareness level, OCRWM intends to fund the operations and technician level training as appropriations allow. The type of training provided would be left to the discretion of the grant recipient. OCRWM would fund train-the-trainer training, will work with the Department's existing training programs to include OCRWM-specific shipment information in other training programs that states and tribes may receive from the Department, and will provide shipment-specific information that states, local governments, and tribes can include in their training materials. All of this would be at the awareness level.

The issue of whether DOE is responsible to have trained emergency responders to handle an accident if a local fire department chooses not to respond because of lack of training is outside the scope of the Section 180(c) program. Section 180(c) mandates the provision of technical assistance and funds to states and tribes for training public safety officials in procedures required for safe routine transportation of spent nuclear fuel and high-level radioactive waste and emergency response situations.

The request that OCRWM specify that all emergency responders along a route will be trained to the awareness level is better left to the discretion of the state or tribe conducting the training. It will be their choice as to how many staff are trained within each jurisdiction along the route. With the high turnover rates among emergency responders, it seems unlikely that every emergency responder can be trained along every single route. However, OCRWM does anticipate that every jurisdiction along a route would have people trained to the awareness level for hazardous materials. OCRWM does not find it necessary to fund the creation of Regional Training Advisory Teams or a National Training Advisory Committee as requested. The eligible jurisdictions may use their Section 180(c) funds to coordinate with other jurisdictions. The policy does not incorporate CVSA's request that funds be directed to law enforcement agencies having the authority to conduct safety inspections, including roadside inspections, because OCRWM believes the grantee should decide the best distribution of funds.

The language of Section 180(c) does not prevent the program from training state-level officials, if appropriate. The correct name of the training video referred to in the July 17, 1997, notice is ''Radiation Materials Emergency Response: Awareness Level.'' If grantees choose to do so, they may use Section 180(c) funds to attend Tribal Emergency Preparedness Workshops.

Basis for Cost Estimate

Most commenters view the needs-based approach to determining grant awards as an improvement over the formula-based approach. Otherwise, comments primarily dealt with how the money should be allocated to the recipients or how the recipients should allocate the funds they receive. One commenter said 75 percent of the funds should be spent on emergency response personnel, limiting the money spent on administrative and other activities. The Commercial Vehicle Safety Alliance requested that funding be available for grant recipients to hire two people—one for emergency response training activities and one for safe routine transportation activities—since it would be difficult in most state government structures for one person to administer both types of training. The Western Interstate Energy Board stated its view that 25 percent of all available funds should be allocated to all corridor jurisdictions and the remaining 75 percent of combined grant applications should be allocated according to projected shipment miles in each jurisdiction as compared to the total number of shipment miles. The Nuclear Energy Institute encouraged OCRWM to return to basing the grant amount on route miles through each jurisdiction.

The States of Nevada and New Mexico, the Western Interstate Energy Board, and the Southern States Energy Board all objected to the methodology used to determine the base amount of funding and said the funding level of about $75,000 is insufficient. The Western Interstate Energy Board suggested that a $150,000 planning grant be used. The Council of State Governments-Midwestern Office stated that the structure of the base and two variable grants is too restrictive and decreases flexibility in how grant recipients use their funds. They also requested OCRWM to clarify what a typical grant award might be, how often OCRWM intends to adjust the base amount for inflation, and what the eligibility criteria would be for the variable funding levels.

Response. OCRWM has put few requirements on how a jurisdiction allocates its funding other than that the determination of needs must indicate cooperation with local governments, as stated in the Eligibility and Timing section of the policy. OCRWM has not allocated total funds according to shipment miles because once emergency responders are trained, they are trained without regard to the number of shipments. In addition, shipment miles as an allocation method will skew funding towards those places with longer routes, but not necessarily more population along the routes. This Section 180(c) policy will allow the grant recipient to allocate funds to those parts of its jurisdiction most in need.

OCRWM has decided to propose an initial planning grant of $150,000 to help offset the costs of the determination of needs. Otherwise, the structure of the base and variable grants being proposed has remained the same. The structure of the grant should not unduly restrict a recipient's flexibility in using the funds. OCRWM also plans to work to make the grant application as user-friendly as possible. A typical grant award cannot be determined without a sample of grant applications upon which to base an estimate. The base grant amount would be adjusted annually for inflation. OCRWM would consider developing for the application package a set of criteria by which to determine eligibility for the variable funding level. All grant applicants would apply for variable funding levels although the more a jurisdiction has already met the policy's training objectives, the less their variable grant award would be. This is in keeping with the policy to provide that increment of training needed for NWPA transportation preparedness.

Safe Routine Transportation

The primary comments about the definition of safe routine transportation and related policy statements were that they are too restrictive. The State of New Mexico stated that ''common sense dictates that safety precautions for NWPA shipments should at least be on par with those being applied to the WIPP campaign.'' A majority of the commenters encouraged OCRWM to use Section 180(c) funding to develop protocols similar to those negotiated with WIPP, such as carrier record-keeping audits, bad weather protocols, and identification of safe parking areas. Another commenter said the definition must include activities required for states to escort shipments and to plan and prepare for inspections, including paying for personnel, equipment, and planning.

Another frequently mentioned comment was that the policy statement regarding rail inspections does not provide sufficient oversight. OCRWM was encouraged to allow grant recipients to use funding to attend the

Federal Railroad Administration's State Participation Program for training in rail inspections. This request was based on the fact that the Federal Railroad Administration has stated (1) that it has neither the budget nor the staff to handle the anticipated volume of NWPA shipments and (2) that the State Participation Program could enable states to pick up some of the slack if there was sufficient funding to train inspectors. The State of Nevada asked how the Federal Railroad Administration will interact with states to ensure that rail inspections have been conducted and whether it should be assumed that the Federal Railroad Administration will ensure that the roadbed for the entire route of travel will be inspected and maintained.

The Council of State Governments-Midwestern Office cautioned OCRWM against requiring states to abide by the Commercial Vehicle Safety Alliance enhanced inspection standards. They pointed out that Illinois conducts its own inspections on every radiological materials shipment through its jurisdiction, wherever the shipment originates. The Nuclear Energy Institute cautioned OCRWM against adopting the enhanced North American inspection standards since they have not yet been ratified by the CVSA membership.

Other comments were provided on an array of subjects. The International Association of Fire Chiefs urged OCRWM to use escorts highly trained in emergency response procedures throughout the first year of shipment. Another commenter requested that the policy statement put equal emphasis on safe routine transportation and emergency response procedures. The Nuclear Energy Institute and Edlow International both wrote that the broad use of TRANSCOM is a security concern. They are concerned that if states and tribes have wide access to TRANSCOM tracking information, this will violate Nuclear Regulatory Commission safeguards and security regulations. Another commenter requested clarification on wording regarding TRANSCOM, asking whether OCRWM intends to provide states with ''access to satellite tracking information,'' or simply to help states ''to prepare'' for the access. The Commercial Vehicle Safety Alliance requested that three definitions be added to the appendix in the proposed policy. They are: ''(1) Responsible jurisdictions for safety and enforcement inspections means a government entity at any level of government, whether state, tribal, or any of their subjurisdictions that has the jurisdictional authority to conduct safety inspections and initiate law enforcement using the appropriate federal and or jurisdiction's laws and regulations; (2) Awareness level training also means training for individuals or jurisdictions who will accept and grant reciprocity to another jurisdiction's inspections; (3) Train-the-trainer also means training for certified instructors/individuals so that they may conduct refresher inspection courses for their respective jurisdiction's safety and enforcement inspectors.''

Response. OCRWM believes that the current definition of safe routine transportation, in combination with the policy statement on safe routine transportation, provides a sufficient measure of safety for the shipments that will be, at least, on par with the WIPP campaign. The requested additional activities would not appreciably increase shipment safety. Regarding rail inspections, the Objectives section has been changed to state that OCRWM intends to consider applicants' requests to fund, in the increment necessary for OCRWM shipments, rail safe transportation measures that complement DOT's FRA inspection procedures. Since currently there is no mechanism for tribes to participate in the State Participation Program, OCRWM plans to work with tribal governments to identify where funding and technical assistance may best assist a tribe in addressing rail inspections.

This policy does not require states to abide by the enhanced inspection standards developed by the Commercial Vehicle Safety Alliance largely because the reciprocal inspection standards are voluntary by the states who participate. Illinois is a member of the Commercial Vehicle Safety Alliance and its Department of Nuclear Safety staff received training in the enhanced standards during November 1997. It is OCRWM's understanding that the radiation inspection conducted by Illinois's Department of Nuclear Safety is separate from and is conducted simultaneously with the Illinois State Police safety inspection. The two types of inspections are not mutually exclusive. It is worth noting that the full membership of the Commercial Vehicle Safety Alliance adopted the enhanced inspections standards on October 1, 1997.

The policy statement does not intend to put more emphasis on safe routine transportation than on emergency response procedures. The emphasis each receives will be at the grant recipient's discretion. With regard to TRANSCOM, it is OCRWM's intent to allow grant recipients to include the purchase of tracking equipment in their equipment purchases. However, OCRWM recognizes the possible conflict with the NRC's regulations and has requested that the NRC clarify its position with regard to OCRWM's provision of a satellite tracking system to states and tribes that may wish to use it and agree to safeguard the information. If the NRC denies state and tribal access to satellite tracking information about NWPA shipments, this provision of the safe routine transportation procedures will have to be dropped.

The definitions requested by the Commercial Vehicle Safety Alliance have been adopted into the appendix of this notice, although not in their entirety. The reference to ''subjurisdictions'' was dropped from the definition of ''responsible jurisdiction'' because highway safety and enforcement inspections are always carried out under the authority of the state government, not local governments.

Technical Assistance

There were few comments on the definition of technical assistance. One commenter said that equipment should be included as part of the definition and that it is within the Department's discretion to make this change. Another commenter requested that OCRWM delete ''unique to the Department'' from the definition so as not to restrict DOE from either having under contract at some time in the future individuals that could provide the type of assistance sought by states and tribes, or establishing an agreement with another Federal agency to provide the requested assistance. Another commenter asked what scope of technical assistance will be available under the grants program.

Response. The phrase ''unique to the Department'' was not dropped from the definition because, as the shipper of record of NWPA shipments, DOE will provide technical assistance whether or not the Department contracts with other individuals or Federal agencies to provide services or technical assistance. Equipment is not included in the definition of Technical Assistance because 10 CFR 600 defines Financial Assistance to include the provision of equipment, thereby precluding it from the definition of Technical Assistance.

Eligibility and Timing

The comments on eligibility were rather limited while comments on timing were more extensive. OCRWM was commended for broadening the eligibility requirements where mutual aid and bordering jurisdictions are involved. However, two commenters

pointed out that OCRWM will not be able to notify eligible jurisdictions four years in advance of shipments unless routes are determined indicating when a route constitutes a border between two jurisdictions. Other commenters said that the transfer of funds from an eligible jurisdiction to a mutual aid jurisdiction is unlikely. The International Association of Fire Fighters viewed OCRWM's position on the pass-through of funds to mutual aid jurisdictions as ''patronizing and . . . urge[d] DOE to revisit this issue.'' The Pueblo of Acoma asked how DOE will ensure that the funds are transferred to mutual aid jurisdictions if the recipient jurisdiction does not willingly transfer the funds. The National Congress of American Indians stated its position that assistance should be provided to states and tribes that are near, but not on, transportation routes because their people and lands would also be at risk in the event of an accident. This commenter added that this is especially true for tribes that have culturally significant lands along a route that are not part of tribal lands.

Regarding issues on timing, three commenters requested clarification in the lapse in eligibility when shipments do not pass through a jurisdiction for three years or more. The Council of State Governments-Midwestern Office stated that two years of full funding prior to shipments is not sufficient time to accomplish all that is needed, such as considering alternative routes, officially designating them, assessing training needs along the route, applying for funding, and training the emergency responders along the route. They also asked how far in advance of shipments OCRWM will plan to notify governors about their individual state's eligibility. Similarly, the Southern States Energy Board said that the states and tribes cannot determine what training and equipment are necessary until OCRWM establishes more specifics on transportation planning, particularly routing. The Western Interstate Energy Board reiterated its position taken in prior comments and in WGA resolution 97–015 that OCRWM should specify that no shipments will occur unless funding has been provided three years prior to shipments. According to WGA, the three years is necessary because of the amount of time preparations for these shipments will take. The State of New Mexico stated its belief that three years of full program funding prior to shipments is probably sufficient for most jurisdictions if they have already conducted their needs assessments and are poised for program implementation.

The State of New Mexico continued to urge OCRWM to establish an administratively simple and efficient grant application process, and to develop a user-friendly ''format and content guide'' to assist applicants. The state voiced its concern about lack of information on the mechanics of the grants program, asking if a three-year budget will be negotiated and then funded in one-year increments; what is DOE's proposal with respect to re-application after the first three years; and what criteria will be used in determining the variable amounts of funding to be provided to states and tribes? A commenter asked if there is a difference among TY–2, TY–1, and TY grants other than the grant applicant's assessment of its needs.

Response. The wording of Section 180(c) of the NWPA does not allow for the funding of jurisdictions that are near, but not on, transportation routes. The extensive safety measures taken for these shipments make them very low risk and even if an accident or incident occurs, any impact on nearby jurisdictions is an even lower risk considering the packaging and other precautions taken to ensure shipment safety. If a nearby jurisdiction has the potential to respond to an NWPA transportation accident under a mutual aid request, then the state or tribe whose local jurisdiction may be requested to provide mutual aid will be eligible for funding from the state or tribe through whose jurisdiction the radioactive waste is transported. The state or tribe that has the route through its jurisdiction and that could request the mutual aid assistance would also be eligible for funding as described in the Eligibility and Timing section.

With regard to the grant application, OCRWM will consider developing a format and content guide to make the grant application as user-friendly as possible. In addition, the grant application will be written in as straightforward a manner as possible. The intent is that, after the initial planning grant, a five-year budget request will be established. OCRWM will consider developing qualifying criteria for the variable grant requests at a later time. OCRWM intends to include the application budget requests in its budget request to Congress and fund the applications to the extent Congress makes funds available on an annual basis. There are no differences among TY–2, TY–1, and TY grants other than the grant applicant's determination of its needs.

OCRWM believes the current time frame is sufficient to prepare for these shipments as outlined in the Policy and Objectives sections of this notice. Regarding eligibility after a lapse of shipments, the lapse would have to be three or more years for a jurisdiction to become ineligible for funding. If the lapse is two years or less, the jurisdiction would not lose eligibility. OCRWM plans to notify governors in the fourth year prior to shipments through their jurisdiction that they will regain eligibility for Section 180(c) funding and will receive the base grant.

Contingency Plan

The Nuclear Energy Institute supports the contingency plan outlined in the revised notice and requested that OCRWM add ''emergencies, fraudulent actions, or non-cooperation'' as cases where contingency shipment plans could be implemented. The Council of State Governments-Midwestern Office agreed with OCRWM's statement that planning with states and tribes along contingency routes should be handled on a case-by-case basis. The Southern States Energy Board argued that the contingency plan continues to address only emergency response procedures and not safe routine transportation procedures. The State of New Mexico stated that the ''current plan is skeletal and cursory in nature at best'' and may not offer adequate protection to public health and safety. The Western Interstate Energy Board again asked that OCRWM offer assurances that no shipments will occur, even on a contingency basis, unless funding has occurred at least three years in advance.

Response. The contingency plan has not changed significantly in this notice except to include cases such as emergencies, fraudulent actions, or non-cooperation as examples where contingency shipment plans could be implemented. If contingency shipments are made, OCRWM may use escorts with more training and equipment than those currently used for the purpose of safety until a reasonable time period for training has expired. These measures, combined with OCRWM's willingness to work with states and tribes on a case-by-case basis to plan for any contingency shipments, will ensure that the shipments are made as uneventfully as possible. Regarding equal emphasis on safe routine and emergency response procedures, OCRWM sees no reason why the current contingency plan should focus more on one set of procedures than the other. Arrangements for inspections and inspector training are expected to be part of the discussion if contingency shipments are necessary.

Trust Responsibility

The National Congress of American Indians, the Prairie Island Indian Community and the Pueblo of Acoma all stated their position that DOE should cite the requirements of DOE's Trust responsibility in the policy. They reiterated that the Trust responsibility stems from tribes' treaties with the United States government, tribes' status as sovereign nations, and the U.S. Constitution. The DOE's fiduciary duties to tribal governments have been reinforced by President Clinton's Memorandum of April 29, 1994, Government-to-Government Relations with Native American Tribal Governments, and the DOE's own American Indian Policy. They reiterated their view that the language of Section 180(c) does not limit tribal assistance and funding exclusively to training as it does to state governments. It is their position that nothing in Section 180(c) prevents DOE from funding basic emergency response capabilities and that it is part of the DOE's Trust responsibility to fund basic capabilities on those reservations which lack them.

Comments were favorable regarding OCRWM's equal treatment of states and tribes throughout the policy, with several commenters noting that the policy does incorporate many interests of tribal governments.

Response. OCRWM recognizes that there is a lack of infrastructure and trained personnel on many tribal lands. Typically, these areas may rely more heavily on technical assistance than other grant recipients. Since needs will be so varied and the determination of needs allows consideration of an individual jurisdiction's current preparedness level, OCRWM sees no purpose in defining further the specific activities that may be taken with regard to tribal preparedness. OCRWM is aware of its Trust responsibilities to tribes and will take it into account in all of OCRWM's decisions that may affect Indian tribes.

B. Section 180(c) Procedures

Funding Mechanism

While two commenters supported the OCRWM grants approach, the State of Idaho reiterated its position that OCRWM should coordinate its funding and training program with a Department-wide funding and training program. Idaho said that while it recognized the difficulties in developing a unified program, it was worth the increased effectiveness and efficiency of training emergency responders along a route one time for all DOE shipments, rather than training repeatedly every time a DOE program ships radioactive materials. The Commercial Vehicle Safety Alliance requested that OCRWM allow the possible combining of grants programs to train inspectors to allow for cross-training of inspectors. Similar to Idaho's comment, this would allow inspectors to become trained on the enhanced inspection standards once rather than attend a separate class every time another DOE program ships radioactive materials. The International Association of Fire Fighters registered the strongest complaint against the funding mechanism, saying the knowledge and expertise necessary to complete the needs assessment of the application package will place a tremendous administrative burden on the grant applicants.

Response. While this Revised Proposed Policy and Procedures does not combine the grants program with any other Department training or funding program, we plan for the grant application to state that OCRWM encourages recipients to use their funds in conjunction with other programs where the training aims to achieve the same or similar goals. For example, if a state were training its inspectors to the enhanced inspection standards, it could use the Section 180(c) funding in conjunction with funding it may receive from another DOE program to send additional inspectors to the same training. OCRWM has stated that it may combine the grants program with a Department-wide grant program in the future if one is developed and is practicable, and consistent with existing law.

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

Many states and state organizations urged that Section 180(c) assistance apply to all 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 stated that transportation to a private facility would only be necessary if the Department fails to site an interim or permanent storage facility according to statutory obligations.

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 Monitored Retrievable Storage facility constructed under the NWPA. However, the many comments on this issue have been noted.

D. Policy Development Process

A few commenters again questioned the Department's plans to issue a Notice of Policy and Procedures rather than promulgate 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 more easily changed.

Response. OCRWM is developing the Revised Policy and Procedures after receipt and consideration of extensive public comments. At some future date, OCRWM may decide to promulgate regulations. However, since the program's current planning basis is to begin shipping in 2010, it is premature to codify the policy in regulations this far in advance of shipments. OCRWM will continue to monitor other Departmental transportation programs and may consider updating this Revised Policy as either a Final Policy or as regulations at a later date.

V. Conclusion

This notice has presented OCRWM's Revised Proposed Policy and Procedures for the Section 180(c) program. It also has presented OCRWM's summary of and response to comments received in the prior Notice of Revised Proposed Policy and Procedures issued July 17, 1997. These comments were given careful consideration in developing these policy and procedures. The purpose of this notice has been to communicate to stakeholders OCRWM's interim preliminary positions regarding Section 180(c) policy issues and to respond to stakeholder comments on the July notice. These policy and procedures will remain in draft form until programmatic decisions or legislation provides guidance as to when shipments will commence. At that time, OCRWM may finalize these policy and procedures or will consider promulgating regulations on Section 180(c) implementation.

OCRWM will accept comments from the public on this Notice of Revised Proposed Policy and Procedures.

Issued in Washington, D.C. on April 17, 1998.

Lake Barrett,

Acting Director, Office of Civilian Radioactive Waste Management.

Appendix—Definition of Terms Used in the Notice of Final Policy and Procedures

1. Responsible jurisdiction, for emergency response procedures, means a governmental entity at any level of government, whether state or tribal, that has the authority to conduct part or all of an emergency response

to a radiological materials transportation accident or incident. Responsible jurisdiction for safety and enforcement inspections means a governmental entity, whether state or tribal that has the authority to conduct safety inspections and initiate law enforcement using the appropriate federal and or jurisdiction's laws and regulations.

2. First responders are generally those emergency response personnel who (1) assess the risk level of the emergency, (2) take defensive action to secure an accident scene, and (3) notify additional authorities if needed.

3. Awareness level training means training for individuals who are likely to witness or discover a hazardous materials substance release and who have been trained to initiate an emergency response sequence by notifying the authorities of the release. First responder awareness level training shall provide sufficient training to ensure that first responders objectively demonstrate competency in the following areas:

(A) Understand what hazardous substances are, and the risks associated with them in an incident.

(B) Understand the potential outcomes associated with an emergency created when hazardous substances are present.

(C) Recognize the presence of hazardous substances in an emergency.

(D) Identify the hazardous substance, if possible.

(E) Understand the role of the first responder awareness individual in the employer's emergency response plan including site security and control and the U.S. Department of Transportation's Emergency Response Guidebook.

(F) Realize the need for additional resources, and make appropriate notifications to the communications center.

(29 CFR1910.120(q)(6)(I)(A–F))

Awareness level training also means training for jurisdictions or individuals who will accept and grant reciprocity to another jurisdiction's inspections.

4. First responder operations level hazardous materials training means training that provides for individuals who respond to releases or potential releases of hazardous substances as part of the initial response to the site for the purpose of protecting nearby persons, property, or the environment from the effects of the release and to be able to respond in a defensive fashion without actually trying to stop the release. Their function is to contain the release from a safe distance, keep it from spreading, and prevent exposures. First responders at the operations level shall have received at least eight hours of training and have had sufficient experience to objectively demonstrate competency in the following areas in addition to those listed for awareness level, and the employer shall so certify:

(A) Know the basic hazard and risk assessment techniques.

(B) Know how to select and use proper personal protective equipment provided to the first responder operational level.

(C) Understand basic hazardous materials terms.

(D) Know how to perform basic control, containment and/or confinement operations within the capabilities of the resources and personal protective equipment available with their unit.

(E) Know how to implement basic decontamination procedures.

(F) Understand the relevant standard operating procedures and termination procedures.

(29 CFR1910.120(q)(6)(ii)(A-F))

5. Hazardous materials technician level training is training for individuals who respond to releases or potential releases for the purpose of stopping the release. They assume a more aggressive role than a first responder at the operations level in that they will approach the point of release in order to plug, patch or otherwise stop the release of a hazardous substance. Hazardous materials technicians shall receive at least 24 hours of training equal to the first responder operations level and in addition have competency in the following areas, and the employer shall so certify:

(A) Know how to implement the employer's emergency response plan.

(B) Know the classification, identification and verification of known and unknown materials by using field survey instruments and equipment.

(C) Be able to function within an assigned role in the Incident Command System.

(D) Know how to select and use proper specialized chemical personal protective equipment provided to the hazardous materials technician.

(E) Understand hazard and risk assessment techniques.

(F) Be able to perform advance control, containment, and/or confinement operations within the capabilities of the resources and personal protective equipment available with the unit.

(G) Understand and implement decontamination procedures.

(H) Understand termination procedures.

(I) Understand basic chemical and toxicological terminology and behavior.

(29 CFR1910.120(q)(6)(iii)(A–F))

6. Train-the-trainer training, for emergency response procedures, means training for individuals so that they can teach other emergency responders to respond to a particular level of competency. Train-the-trainer training, for safe routine transportation procedures, means training for certified instructors/individuals so that they may conduct refresher inspection courses for their respective jurisdiction's safety and enforcement inspectors.

[FR Doc. 98–11520 Filed 4–29–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. SA98–24–001]

Cabot Oil & Gas Corporation; Notice of Amendment of Petition for Adjustment

April 24, 1998.

Take notice that on April 20, 1998, Cabot Oil & Gas Corporation (Cabot) amended its March 9, 1998 petition for adjustment under section 502(c) of the Natural Gas Policy Act of 1978 (NGPA) [15 U.S.C. § 3142(c) (1982)], by filing a copy of Cabot's Escrow Agreement with the Chase Bank of Texas, N.A. (Chase), for incorporation into the record in that proceeding. Cabot's April 20 amendment is on file with the Commission and open to public inspection.

In its March 9 petition, Cabot requested an extension of the Commission's March 9, 1998 refund deadline for first sellers to make Kansas ad valorem tax refunds to their respective pipeline purchasers, otherwise required by the Commission's September 10, 1997 order in Docket No. RP97–369–000 *et al.*[1] Cabot's March 9 petition also indicated that Cabot intended to place refund amounts claimed by Williams Gas Pipelines Central, Inc., formerly: Williams Natural Gas Company, (Williams) and Panhandle Eastern Pipe Line Company (Panhandle) into an escrow account.

Cabot's April 20 amendment states that Cabot placed $1,187,513 into its escrow account with Chase on April 9, 1998 ($492,285 of principal and $695,228 in interest), under the aforementioned Escrow Agreement.

Any person desiring to answer Cabot's April 20 amendment should file such answer with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, on or before 15 days after the date of publication of this notice in the **Federal Register**, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 385.213, 385.215, 385.1101, and 385.1106).

Linwood A. Watson, Jr.

Acting Secretary.

[FR Doc. 98–11463 Filed 4–29–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. SA98–82–000]

Helmerich & Payne, Inc.; Notice of Petition for Adjustment

April 24, 1998.

Take notice that on April 21, 1998, Helmerich & Payne, Inc. (H&P), filed a petition, pursuant to section 502(c) of the Natural Gas Policy Act of 1978, on behalf of Ivy League, Inc. (Ivy), one of

[1] See 80 FERC ¶ 61,264 (1997); order denying reh'g issued January 28, 1998, 82 FERC ¶ 61,058 (1998).