



U.S. DEPARTMENT OF  
**ENERGY**

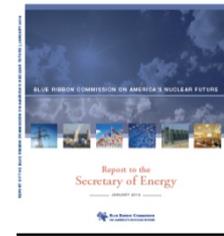
**Nuclear Energy**

## **Implementation of Section 180(c) of the Nuclear Waste Policy Act, as amended**

**National Transportation Stakeholder's Forum  
Buffalo, NY  
May 15, 2013**



## Section 180(c) Mandate



**“The Secretary shall provide technical assistance and funds to States for training for public safety officials of appropriate units of local government and Indian tribes through whose jurisdiction the Secretary plans to transport spent nuclear fuel or high-level radioactive waste [to an NWPA-authorized facility].**

- The training shall cover procedures for safe routine transportation of these materials and procedures for dealing with emergency response situations.
- Covers all modes of transport

- **DOE nearly implemented Section 180(c) in the mid-2000's**
  - **TEC Topic Group developed 11 issue papers**
  - **DOE published 2007 and 2008 *Federal Register* Notices with Merit Review Criteria**
  - **Topic Group worked with DOE to develop other backup material**
  
- **In 2009, the nuclear waste management program was halted and a Blue Ribbon Commission (BRC) formed**

# Why Discuss Section 180(c) Again?

- **One of BRC’s recommendations was the following:**
  - “... finalize procedures and regulations for providing technical assistance and funds for training to local governments and tribes pursuant to Section 180(c) of the NWPA and (2) begin to provide such funding, independent from progress on facility siting.”
- **The DOE’s Office of Nuclear Energy has begun to plan for and implement the BRC’s recommendations including Section 180(c)**
  - **The Section 180(c) Working Group under NTSF’s auspices has been working to define and implement Section 180(c)**

- **Working Group formed December, 2012**
  
- **NTSF webinar on Section 180(c) held January, 2013**
  
- **Working Group holds regular webinars**
  - 6 resolved issues
  - 3 partially resolved issues
  - 2 issues under discussion
  - 5 issues remain to be discussed



## Work Plan for the Section 180(c) Working Group

- **Purpose:** The NTSF Working Group on Section 180(c) will collaborate with the U.S. Department of Energy (DOE) to develop draft documents to implement Section 180(c) of the Nuclear Waste Policy Act, as amended. Specifically, the Working Group will provide pertinent background material, issue papers and recommendations to present to DOE management to develop a Revised Policy Statement and a description of the scope and schedule of the pilot/evaluation project for Section 180(c), a draft Implementation Plan, a draft Grant Guidance document, a draft Grant Guidance document and a draft Technical Assistance Plan.
- The goal of the working group is to help DOE address issues of importance to state, tribal, and local governmental entities to effectively conduct planning and training for emergency response and inspection activities for the transportation of used nuclear fuel and high-level radioactive waste.

## Schedule for Section 180(c) Implementation

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- **September 2013, Submit to DOE management:**
  - Revised Policy and Issue Papers
  - Additional material if ready
  
- **FY2014**
  - DOE Publishes Revised Draft FRN for public comment
  - FY14, DOE announces evaluation project for Section 180(c)



# Summary Status of Issues

## Nuclear Energy

Resolved Issues	Partially Resolved Issues	Under Discussion
<ul style="list-style-type: none"> <li>✓ Pass-through of Funds</li> <li>✓ Matching Funds</li> <li>✓ State Fees</li> <li>✓ Funding Operational Activities</li> <li>✓ Contingency Re-routing</li> <li>✓ Definitions (2)</li> </ul>	<ul style="list-style-type: none"> <li>✓ Funding Distribution</li> <li>✓ Definitions</li> <li>✓ Allowable Activities</li> <li>✓ Definition of Technical Assistance</li> </ul>	<ul style="list-style-type: none"> <li>✓ Timing &amp; Eligibility</li> <li>✓ Distribution of Funds</li> </ul>

Upcoming Issues	
<ul style="list-style-type: none"> <li>✓ Funding Allocation</li> <li>✓ Evaluation Project</li> <li>✓ Grant Guidance Document</li> </ul>	<ul style="list-style-type: none"> <li>✓ Technical Assistance Manual</li> <li>✓ Merit Review Criteria</li> </ul>

### Pass-Through of Funds

- **Definition:** Should DOE require state recipients of Section 180(c) funds to pass-through a percentage of those funds to local governments?
  
- **Recommendation:** No pass-through is required. Recipients must demonstrate in the application package and reporting requirements how Section 180(c) assistance will be used to meet the goals of the program.

## Matching Funds

- ***Definition:*** Should state and tribal recipients be required to match a percentage of the funds provided by DOE?
- ***Recommendation:*** No match should be required.

## State Fees

- **Definition:** Should DOE deduct a state or tribe's Section 180(c) financial award to off-set the cost of DOE paying fees on UNF?
- **Recommendation:** DOE should not deduct the cost of state fees from a state's Section 180(c) award unless separately negotiated with the state.

## Definition of Public Safety Official

- **Issue:** Should “public safety official” be defined? Discussion concerned whether medical personnel should be allowed, that a definition provides guidance for applicants about who can or should be involved. Some concern that a definition will limit state and tribal control.

## Definition of Public Safety Official (cont'd)

- **Recommendation:** Public Safety Officials are state, tribal, and local personnel who are responsible for safe routine transport of nuclear materials as well as emergency situations that may arise during the transport of nuclear material, including persons who are involved with matters such as emergency public safety, inspection and enforcement, emergency response, emergency medicine (including hospital emergency services), and related personnel, agencies, and authorities.

## Definition of Safe Routine Transportation

- **Issue:** What do we mean by the phrase “safe routine transportation” in the NWPA?
- **Recommendation:** Safe routine transportation means the shipment of spent nuclear fuel and high-level radioactive waste pursuant to the NWPA through state, tribal, and local jurisdictions in accordance with applicable Federal, state, tribal, and local laws, regulations, and other requirements.

### Contingency Re-routing

■ ***Definition:*** In the event of a long-term route closure due to unforeseen circumstances, shipments may have to be rerouted to a less prepared or unprepared route.

■ ***Recommendation:*** In the event of unforeseen circumstances, DOE will make funds available, if necessary, and consult with the affected state, local and tribal governments as necessary to reach a mutually acceptable solution.

## Funding Operational Activities

- **Definition:** The States and Tribes believe that the NWPA creates an obligation on the Department of Energy to cover all costs related to UNF/HLW transportation, whether the funds flow through Section 180(c) or another funding mechanism.
- **Recommendation:** That DOE commit to funding the same kind of transportation safety program that they support for WIPP and FRR (in some states) shipments, which includes paying for operational activities.

## Definition of Technical Assistance

- Office of General Counsel put forth a definition
- Working Group vote was split
- Discussions are on-going in attempt to reach mutually agreeable solution

## Rulemaking

- **Definition:** Should DOE conduct a rulemaking to codify all or part of Section 180(c) policy to ensure it cannot be changed easily?
- **Status:** The Working Group is taking no position on rulemaking until after the evaluation project is conducted.

### Allowable Activities

- **Definition:** Which activities should be paid for by Section 180(c) financial assistance?
  
- **Status:** The Working Group is considering whether to vote on the:
  - 2005 Section 180(c) recommendation
  - The 2008 Federal Register list
  - The 2011 NTSF ad hoc Working Group on Financial Assistance list

### Distribution of Funding

- **Definition:** Should funds be distributed through:
  - Direct grants to states and tribes?
  - Cooperative agreements with states and tribes?
  - Cooperative agreements with state regional group and tribal group?
  
- **Status:** DOE management is discussing which option works best for:
  - States and tribes
  - Oversight and accountability
  - Administrative and operational efficiency

### Timing & Eligibility

- **Definition:** How many years prior to a shipment does a state or tribe become eligible to receive Section 180(c) assistance? Should a jurisdiction which might respond to an emergency on a route outside its jurisdiction should be eligible for funds?
- **Status:** The Working Group is still discussing this issue.

### ■ Funding Allocation Method

- How to assess needs and allocate funds to help close the gap?

### ■ Evaluation Project

- What should be the scope and schedule of a project to test the policy and procedures?

### ■ Merit Review Criteria

- What criteria will be applied to evaluate the application for funds and technical assistance?

### ■ Grant Guidance Document

- Assemble the application package and write a guidance document to assist applicants

### ■ Technical Assistance Plan

- Is a such a plan still necessary since TEPP offers technical assistance?
- What should be included?