



High Level Radioactive Waste Committee Position Paper

Funding for State and Local Development and Implementation of a Transportation System Number 2018-4

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In General

This Position Paper represents the views of the Western Interstate Energy Board as developed by its High-Level Radioactive Waste Committee (HLRWC). WIEB was created under the Western Interstate Nuclear Compact in 1970, and the WIEB Board members are appointed by the governors of the Compact states. The [HLRWC is composed of nuclear waste transportation experts](#) who collaborate on this topic with the U.S. Department of Energy as well as many others. The HLRWC, in existence for over thirty years, has drawn from its members' extensive experience in order to create [Position Papers](#). Once approved by the WIEB Board, this and the other Position Papers represent WIEB's view of how to create and maintain an ideal nuclear waste transportation campaign. Although the HLRWC only speaks on behalf of the Western WIEB member states in these Position Papers, it acknowledges the essential involvement of many partners in assuring this ideal campaign: one that is safe, uneventful, and publicly acceptable.

Statement of Policy

Western states expect that all costs associated with preparation for and responding to the transportation of commercial and U.S. Department of Energy (DOE)-owned spent nuclear fuel and high-level radioactive waste (SNF/HLW) to an interim retrievable storage facility or repository will be paid for by DOE (or any new management entity), whether through the Nuclear Waste Fund or other means of funding.

Background and Context

1. Current federal law provides for limited assistance to states and tribes.

Under Section 180(c) of the Nuclear Waste Policy Act of 1982 (NWPAA), as amended, DOE is responsible for providing technical and financial assistance for training of state, tribal, and local public safety officials through whose jurisdictions the Secretary of Energy plans to transport spent nuclear fuel or high-level radioactive waste to a NWPAA-authorized facility. The financial assistance would be provided by DOE from the Nuclear Waste Fund.

2. DOE's initial interpretations of 180(c) were literal and, therefore, very narrow.

In discussions with states in the 1990s, DOE indicated that the language in the law prohibited expenditures beyond training. DOE indicated that it could not even provide funds to offset response to an accident.

3. Some Western states' policies regarding matters of transportation, storage, disposal, and cleanup of nuclear materials, nuclear waste, and high-level radioactive waste have been in place since the late 1980s.

These policies have been formalized in a number of ways such as through resolutions, publication in the Federal Register, in Memorandums of Agreement, in contractual agreements, and in policy manuals. Western states have consistently stated that it is the responsibility of the generators of SNF and HLW and the federal government (or any new management entity), not the states, to pay for all costs associated with assuring safe transportation, responding effectively to accidents and emergencies that may occur, and otherwise assuring public health and safety.

4. DOE worked with states and tribes to develop a broader proposed 180(c) implementation policy.

In the 2000s, state and tribal representatives worked with DOE to develop a proposed policy to implement Section 180(c). Policy concepts included system components such as eligibility, timing, and allowable activities, as well as merit review criteria. Unfortunately, the expressed stance of the West, which was that funding should be based on need, was ignored in favor of development of risk-based formula-oriented funding. Further, DOE's preferred allocation method failed to demonstrate how providing population-focused funding would ensure adequate training of public safety officials in every state, including in high population urban centers versus rural areas in Western states.

5. Section 180(c) funds may not cover many planning costs.

Costs associated with route evaluations, developing and updating emergency response plans, and exercises to test the adequacy of plans and training may not be covered.

6. 180(c) funding for Western states will be inadequate.

A funding allocation formula was included by DOE in the 2008 Federal Register Notice.¹ The

¹ 73 Fed. Reg. 64933, Oct. 31, 2008.

formula was weighted in favor of population density. Given the distance first responders must travel in much of the West, that formula was inadequate to ensure effective response to a severe accident. An additional concern was that operational activities would not be covered, which are required by federal and state laws.

7. Rural areas of the West will likely take more effort to prepare for shipments.

Many western states rely extensively on volunteer rather than paid professional responders. These first response agencies typically have limited equipment and personnel.

8. Section 180(c) funds would not be available for shipments to a non-NWPA storage facility.

As discussed in the NWPA, Section 180(c) funds are available only for shipments to an NWPA-authorized facility. Since the 2000s, there has been, and continues to be, some interest expressed by private industry, in concert with local authorities/governments, in potentially hosting an interim retrievable storage facility. Prior to any shipments to such a facility, it will be necessary to ensure funds are available for development and implementation of state and tribal specific planning to fulfill their responsibilities for public health and safety regardless of the funding source, destination, owner of the spent nuclear fuel, shipper of record, or carrier organization.

9. Previous attempts by Congress to create new legislation to take the place of the NWPA of 1982 have sometimes included additional provisions or clarifications related to transportation.

The Nuclear Waste Administration Act of 2013, as one example, included some clarifications as to the types of training to be provided and the provision of necessary equipment. The Nuclear Waste Policy Amendments Act of 2018, passed by the U.S. House of Representatives in May 2018, broadens Section 180(c) by directing DOE to provide “in-kind, financial, technical, and other appropriate assistance, for safety activities related to the transportation” of SNF/HLW.²

Policy Recommendations

1. The federal government (or any new management entity) should provide funding to the states and tribes for the development and maintenance of a comprehensive SNF/HLW transportation emergency preparedness program, regardless of funding source, and regardless of the destination’s location or ownership.

Any shipment program must contain provisions to ensure that funding is provided, at minimum, to meet the needs of the states and tribes, including but not limited to: preparedness including planning, training, inspections, public information, shipment monitoring, equipment acquisition, routing, security, and so forth.

² Nuclear Waste Policy Amendments Act of 2018, H.R. 3053, 115th Congress 2d Session, 2018, pg. 48.

2. Funding allocation methods for Section 180(c) funds should be based on need.

Rather than have funding allocations to states be determined on the basis of a population-based or other arbitrarily designated formula, funding should be provided based on state-specific assessments of need. Need-based funding more effectively ensures the safety of communities at all stages of transportation.