

**The Council of State Governments
Midwest Radioactive Materials Transportation Committee**

Proceedings of the Fall 2004 Meeting

Columbus, OH ✧ November 9-10, 2004

Tuesday, November 9

Committee Business Session

Thor Strong (Michigan) called the meeting to order at 8:30 AM. The participants introduced themselves to the group and Roger Suppes welcomed everyone to Columbus. Mr. Suppes expressed his satisfaction with the choice of Columbus as the meeting location and went over several issues that have dominated Ohio discussions over the past few months. He welcomed Representative Michael Skindell (Ohio) as the newest legislative appointment to the committee, and urged all participants to sit down with state legislators to cover the issues.

Mr. Strong began the committee business session by giving a brief welcome. He explained that he would forego a traditional Chair's report because most of the information he would have included will be covered in committee presentations throughout the day.

Project Update: He turned the floor over to Lisa Sattler (Council of State Governments [CSG]), who gave an update of the project as a whole. Ms. Sattler gave a brief overview of the regional cooperative agreement with DOE and explained the two special projects for which CSG was seeking funding: a legislator's tour of Yucca Mountain, and a local workshop in Minnesota to cover transportation information and public concerns.

She explained that the cooperative agreement covers three basic areas. The first area, the committee, is currently represented by governors' appointees from each state and some state legislators. The recent committee rule change now made it possible to have a legislator representing each of the Midwestern states. Ms. Sattler will seek new legislative appointments in January. Ms. Sattler then covered the work groups within the committee and the various members that sit on those work groups. She briefly covered what meetings various members have attended and any official correspondence the committee has sent. Since the last meeting only one letter to Gary Lanthrum (DOE) has been sent.

The second part of the cooperative agreement is shipment planning. Ms. Sattler explained that there have not been many shipments since the last meeting except for Argonne.

The third part of the cooperative agreement is public information. Since the last meeting the committee has finished and distributed the *Planning Guide*. Another mailing will be done to new legislators in January. The *Planning Guide* will soon be available online as well. The staff will also be revising and publishing the Handbook of Radioactive Waste Transportation (formerly known as *Radioactive Materials Transportation: A Guide for Midwestern Legislators*). The goal for distribution of this document is April.

Ms. Sattler also explained that the staff is working on a project database with information on states, legislators, plants, shipments, tribes, etc. The database will allow the staff to better target public information distribution to legislators and other state officials. The staff will also be revising the

committee brochure that went out in February 2004. Ms. Sattler explained that Representative Jeff Elgin (Iowa) suggested a public policy round table for the Midwestern Legislative Conference in July and that is being considered by the meeting planners.

Other Meetings: Mr. Strong then asked various committee members to report on the **Transportation External Coordination Working Group (TEC/WG)** meeting that took place in Minneapolis on September 21-22. He explained that a detailed account of the 180(c) and Rail/Routing topic groups would be incorporated into committee presentations. Tim Runyon (Illinois) reported that the Security work group focused on the levels of security needed to safeguard transportation information and also the need to incorporate both commercial and DOE security standards into the plan. He reported that a lot of time was spent on the level of security clearance needed to receive transportation information and the level of security clearance needed to participate in the work group.

Don Flater (Iowa) reported that another issue will be reconciling the clearance codes from various departments, especially the Nuclear Regulatory Commission (NRC) and the Department of Homeland Security (DHS). Mr. Strong indicated that the committee was an integral part of the planning committee for the TEC/WG meetings and told Jay Jones (DOE) that he hoped the trend would continue. Mr. Jones said he thought that the process was good and was hopeful that the regional groups would be consulted. Bob Owens (Ohio) volunteered to participate in the planning of the next TEC/WG meeting.

Mr. Strong asked Mr. Runyon to give an update on the recent **TRANSCOM User Group** meeting. Mr. Runyon said the group met in Albuquerque in August. He reported that the group focused on changes to the system and user requests such as more interactive maps, faster loading times, and adjustable display windows. Users would also like to run tests with dummy shipments but are currently not allowed to do so.

Dave Crose (Indiana) and Ms. Sattler gave a brief update on the **Nuclear Waste Technical Review Board (NWTRB)** meeting that they attended on October 13-14. Mr. Crose explained that he and Ms. Sattler were invited to present the Midwestern perspective on 180(c) funds. He said it was interesting to hear the various opinions on funds and routing. He said he and Ms. Sattler explained to the Board that the formula tentatively agreed upon in Minneapolis by the various regional groups was based on the very successful Hazardous Materials Emergency Preparedness (HMEP) program.

Ms. Sattler said that in addition to the allocation formula they also presented the Midwestern perspective on the various issue papers and gave a list of unresolved issues. Ms. Sattler also noted that there was much disagreement about routing from the different regional groups and she hoped that the issue would be revisited at a later NWTRB meeting. She said that the committee would be writing a letter to the Board members covering the issues and giving background about the Midwestern perspective. Mr. Strong asked if Dan Fehring (NWTRB) for comments and he said that a lot of the board members were new, so the level of knowledge is growing.

Sarah Wochos (CSG) gave a brief update on the **Western Interstate Energy Board (WIEB)** meeting held November 4-5 in Portland. She said the group could not approve the Minneapolis allocation formula because they are restricted by a resolution from their governors. WIEB will revisit the issue in March and present a revised resolution to their governors in June. She reported that WIEB's routing process is not that different from the Midwest's routing decision process except that the West would like DOE to propose the initial routes whereas the Midwest is not going to wait for DOE. She reported that the West was concerned about the representation each group has on the Security TEC group because not all of the

West nominated members had been accepted as TEC members. Ms. Wochos suggested that the Midwest resubmit its nominations to make sure everyone is included.

Ms. Wochos said that she was pleased that the West indicated a desire to have more inter-regional conference calls to discuss 180(c) issues. Ms. Sattler asked if that was something the West would take the lead on, and Ms. Wochos thought the Midwest should make it an action item to call Doug Larson at WIEB to set up potential dates. Ms. Wochos also mentioned that the committee should consider sending a state member to the other regional meetings with a staff person so as to present the state perspective. Ms. Sattler seconded the suggestion, saying that it puts the staff in an awkward position to push the Minneapolis proposal because it originated in the Midwest and therefore looks biased, but to have a state member there backing the proposal would make it look more acceptable.

Carlisle Smith (Ohio) gave an overview of the upcoming **Commercial Vehicle Safety Alliance (CVSA) Peer Review**. He explained that CVSA just started a five-year cooperative agreement with RW that will focus on peer review and public outreach. He explained that the peer review team would like to sign up states (along with a member from the radioactive materials subcommittee and a member from the trucking industry) to visit other regions to conduct a review. He asked if anyone present would be willing to volunteer their time to work on this project. The group discussed a few possible candidates. Ms. Sattler will follow-up to coordinate with the interested states and then forward Mr. Smith a list of volunteers.

Next Meeting: Mr. Strong asked Ms. Sattler to go over a list of locations for the next couple of meetings. Ms. Sattler explained that the committee has never had a meeting in Michigan, so Traverse City is the next city on the list. In addition, the next fall meeting is Mr. Strong's last meeting as Chair, and it is traditional custom to go to the Chair's home state for his last meeting. As a result, the committee will be going to Michigan again. Ms. Wochos gave the dates that are open and it was agreed that the staff will try to find an available space for May 24-25th, with May 10-11 as a back-up. Ms. Sattler asked that committee members send her any agenda items and suggested speakers.

180(c) Work Group Update: Mr. Strong continued the Committee Business Session with a presentation on the progress of 180(c) discussions and activities. He began with an overview of the history of the 180(c) work group. The committee became involved in the mid-90s after the publication of the Draft Policy and Procedures in the *Federal Register*. The committee immediately submitted comments on the federal register notice, and states first got funding in 1999, which shaped and changed Midwestern opinions of 180(c) policy. Mr. Strong explained that discussion of a consolidated grant led to the most recent 180(c) discussion topics.

Mr. Strong continued the history of 180(c) by reviewing the regional work group's progress. He said the group has had several conference calls, has attended Transportation External Coordination (TEC) meetings, and has submitted comments on TEC discussion papers and the 180(c) proposed outline. The work group also submitted a paper on hospital training and a proposed allocation formula. Mr. Strong went over the Midwest's basic philosophy on 180(c), which is "keep it simple." The work group prefers a formula approach as opposed to a needs-based approach, following the basic assumption that if the process is fair, the outcome will be fair.

The work group also believes that states should have as much flexibility as possible in deciding what should be covered by 180(c) funding. Mr. Strong explained that this philosophy and approach came from looking at the HMEP program after a suggestion from Mr. Crose. The HMEP allocation formula uses

simple and quantifiable risk factors, its process includes a simple application and reporting, and its rules allow a lot of state latitude.

After reviewing the HMEP allocation formula, Mr. Strong then explained the Minneapolis allocation proposal. Initially all regions were asked to propose a formula. The Midwest proposed a planning grant, a base grant, and a variable grant that would be based 30% on route miles, 30% on population along the route, 30% on shipments through the state, and 10% on shipping sites within the state. In Minneapolis the four regional groups discussed the regional proposals and agreed to the Midwest's proposed formula, with a planning grant of \$200,000 and an annual base grant of \$100,000. The groups agreed to take this proposal back to their committee meeting and seek approval or comments.

Mr. Strong then reviewed issues within 180(c) that are still unresolved. The first of these issues is the treatment state fees and whether the amount collected by states will be subtracted from their grant amount. Another is the training of hospital employees and EMTs, which the Midwest believes should be a fundable activity. Another unresolved issue is whether 180(c) should be a regulation or policy.

Other unresolved issues are contingency planning for route changes and accidents, what equipment can or can't be purchased and maintained using 180(c) funds, technical assistance for tracking shipments, maintaining funding levels throughout the life of the program, funding for shipment operations (inspections and escorts), barge shipments (the Northeast and the South are looking at barge shipments which might make some of the risk factors non-applicable), and the pass-through of funds to local entities.

Mr. Strong asked for any comments or concerns about the issues he raised in his presentation. Mr. Owen was concerned that if 180(c) funds are limited to training that states would not have sufficient funds for technical assistance. Mr. Flater explained that the DOE counsel interpreted the Nuclear Waste Policy Act (NWPA) language as saying the money applies only to training. Ms. Sattler read the federal NWPA section to the committee and highlighted the line in question: "The Secretary shall provide technical assistance and funds to States for training." Mr. Strong explained that DOE has solicited TEC/WG input on the interpretation of the language by asking the group to comment on several issue papers. Ms. Sattler said the topic group is developing a list of activities that Waste Isolation Pilot Plant (WIPP) and other programs cover but 180(c) does not (i.e. inspections), with the recommendation to DOE that there needs to be another source of funding.

Ms O'Claire asked about the possibility of shipments going to other sites than Yucca Mountain. Mr. Strong explained that shipments going to a private facility are not subject to 180(c) funding. This is an unresolved issue that the TEC/WG will discuss with DOE at the 180(c) meeting in December.

Ms. Sattler asked the committee for comments on the need for stronger language allowing training for hospital personnel in allowable activities section. The committee agreed that hospital personnel's training is essential.

Ms. Sattler asked the committee for comments on whether states should be eligible for another planning grant if they experience a lapse in shipments or because routes or modes change. Mr. Strong explained that he hoped what was fundable under the planning grant would be fundable using the base or variable grants further down the line. The committee agreed that there will be an ongoing need for planning; therefore the "training grants" should cover some planning as an allowable activity.

John Kerr (Minnesota) asked whether equipment would be fundable under current 180(c) language. Mr. Strong explained that there used to be percentage limits on what could be spent on equipment but the Midwest has argued for getting rid of the percentage limits and instead allowing states the flexibility to purchase and maintain whatever is necessary. Ms. Sattler explained that DOE took the work group's suggestion and removed the cap on the equipment.

Mr. Strong then explained that the TEC group will meet again in December in DC to iron out some of these issues. He asked if there were any other questions or concerns that the work group should present to DOE at that meeting.

Ms. O'Claire asked how the money would be distributed to the states. Ms. Sattler explained that one of the issue papers is the funding distribution method. In this paper, the topic group recommends that the grant money go straight to the states, whereas some states prefer to see the grants go to the State Regional Group (SRG) for further distribution. DOE's General Counsel has up to now interpreted that grant money should go directly to states.

Mr. Strong explained that while the Midwest recommended the grant money going directly to the states, the work group has not overly promoted that option. The work group does want to make certain that if the funds go straight to states that the cooperative agreements would continue be funded.

Mr. Flater explained that he has a concern with the money going through the governor's contact because there is the potential that it will be routed to the wrong agency. Currently DOE has plans to announce the grant and any agency in the state can apply. Mr. Flater explained that there is the chance that multiple agencies could apply. Ms. Sattler explained that 180(c) policy currently states that either the policy will specifically name which agency is eligible or the governor will appoint which agency can apply, but all of the SRGs have expressed their dissatisfaction with that arrangement.

Mr. Crose explained the grant distribution process that the HMEP program followed to give reference to the work group's thought process. The committee then discussed whether 'governor's designee' means the person who gets advanced notification or whomever the governor designated should get the money. It was decided that 'governor's designee' should not be interpreted as the same person listed as the NRC emergency contact. Ms. Sattler suggested that the committee ask DOE to invite Charles Rogoff of the HMEP program to join the 180(c) conference calls to offer any advice or insight.

Mr. Runyon expressed concern that many state agencies may see the grant notice and will think the funds fit their scope of work, and will therefore apply, making it a possibility that the agency currently involved in the planning of shipments would be denied the funds. Mr. Crose said he would like the governor's office to designate which agency should apply. Ms. Sattler said that perhaps a letter to the governor explaining the background and the involvement of the appropriate agency might clear up this issue.

Mr. Runyon asked for clarification on who wrote the papers and where they came from, and he suggested that the committee members read the papers tonight so that there can be a discussion tomorrow. Mr. Strong asked that everyone do that and come up with unresolved issues as well as any points of contention. Ms. Sattler said the most important part is the recommendation to management. She also said the work group needs to get feedback on the proposed allocation formula. Mr. Strong explained that DOE wants to publish a draft in spring using these issue papers.

Route Identification Work Group Update: Ms. Sattler then presented the activities of the committee's route identification work group. In November 2003 the work group met with Undersecretary of Energy Card, at which point the work group suggested that the regional groups look at routes as opposed to DOE proposing the routes. In May 2004 the task of proposing a regional suite of routes was added to the committee's scope of work, with the deliverable due 2005.

Ms. Sattler explained that five states are part of the work group: Iowa, Illinois, Ohio, Missouri, and Nebraska. She explained that the work group proposed this task to DOE in part because it is a very political decision and it could be a long process if states wait for DOE to start. In addition, the regional work group can take into consideration factors appropriate to Midwestern states to choose the routes and then match those routes up at the borders of other regions where necessary. Ms. Sattler explained that the Midwest's criteria may be different than others.

Tom. Breckenridge (Ohio) referred the group to the routes in the environmental impact statement (EIS), saying that this is a good example of why states don't want DOE to suggest routes. Mr. Jones clarified that the routes in the EIS weren't necessarily the specific routes that would be used, but were representative routes that were analyzed in the EIS. Ms. Sattler thought it was safe to say that DOE's starting point for identifying routes would look very much like the map in the EIS.

Ms. Sattler went over the work group's progress on this task to date. The work group has had several conference calls with good attendance, it produced an update which was distributed to the full committee in September, and it has produced a proposed list of route-comparison factors. In addition to the Midwest work group's activities, the committee has representation on the Rail/Routing TEC group and has submitted comments on the route-comparison factors (only group to do so).

Ms. Sattler explained the work group's concern with the overlap in activities with the TEC group. She explained that in response to the draft task plan for the TEC group, the work group decided to contact Gary Lanthrum with the Midwest's concerns. Besides the overlap, there is concern that the timeline doesn't seem to fit; if the TEC plan were followed it would leave very little time for selecting routes between when the route comparison factors were finalized and when the states have to apply for 180(c) funding.

Ms. Sattler said that the work group talked to Mr. Lanthrum last week and he explained that DOE's strategic plan commits them to working with a broad list of stakeholders, so they must talk about routing issues with the entire TEC working group. Ms. Sattler noted that the Midwest's plan for identifying routes includes coordinating with other stakeholders within the region. Mr. Lanthrum also said that the idea of focusing on route identification came from a survey of TEC members. Ms. Sattler pointed out that there are other issues specific to rail that were not included on the TEC survey. Ms. Sattler said Mr. Lanthrum hoped that since the Midwest was way out ahead in comparison to the other regional groups the committee might be able to influence the TEC group. He also expressed appreciation for the Midwest group moving forward on the various projects.

Ms. Sattler then went over the route identification work group schedule. She explained that after using the route comparison factors to establish an initial suite of routes the work group will solicit the opinion of the utilities and the railroads. The work group will propose a suite of routes to the full committee in June, and then the work group will refine the list as needed. Ms. Sattler explained that the work group is not necessarily seeking endorsement from other stakeholders. The committee's task is to present a suite of

routes that are preferred by the states in the hopes that DOE will accept them. Ms. Sattler then covered the proposed timeline for the Rail/Routing TEC group.

Ms. Sattler presented the work group's list of route comparison factors and the decision process behind them. She explained that because of DOE's 'mostly rail' decision, the work group will look at both rail and highway routes. The work group will focus first on reactors in the Midwest. At present the work group doesn't know the feasibility of barge and whether or not it would be beneficial for the Northeast and South to ship through the Midwest, so the work group will look at possible points of entry (multi-modal) after mapping routes from Midwestern reactors. Ms. Sattler explained that the work group will recommend these points of entry but not necessarily encourage their use. The work group will use TRAGIS to generate routes and will assume that DOE will use dedicated trains.

Ms. Sattler explained that probably the most controversial part of the Midwest's process is that the work group will use the same criteria for highway and rail routes unless there is a strong health or safety consideration not to. The rationale is simple: the DOT routing criteria for highway reduce the risk to the public, and the states are interested in seeing whether those same criteria will work for rail shipments. The work group will look at all possibilities with very few constraints.

She explained that the work group removed route distance and time in transit from the criteria because they were less important than other criteria purely from a regional health and safety standpoint. The work group states agreed that those factors would certainly be important to DOE as a shipper evaluating cross-country routes. The work group will pick the best routes through the Midwest from the states' perspective.

Ms. Sattler explained that the primary factors will be used first to compare routes, and any routes that emerge as equal from the first comparison will be run through the secondary factors. The work group agreed to accept the DOT's three primary factors: radiation exposure during normal transport, public health risk from accidental release, and economic risk from accidental release. Mr. Breckenridge asked whether this process will decide an alternative route. Mr. Smith explained that the work group will choose a best route but the process will produce a second-best route as well.

Ms. Sattler then covered the secondary factors, which the work group decided should be urban centers transited, route-specific accident rate (with significant events as a subset), track/road quality, and route-specific traffic density. The work group decided on a three-tier scheme to measure urban centers transited: three points for every city over one million residents, two points for every city over 500,000 residents, and one point for every city over 100,000 residents. The work group agreed that the accident rate will be measured as total, route-specific accident rate, not just commercial vehicle or HRCQ vehicle accidents.

Mr. Strong asked what a significant event was. Ms. Sattler explained that it was property or personnel damage. The work group also agreed that there will be conflict between urban centers and track class because most of the higher class tracks run through dense urban centers, but hopefully a clear rail route will be apparent with the first set of factors. Finally, the work group agreed that traffic density will be measured as segment-specific average daily traffic.

Ms. Sattler said that during the committee discussion tomorrow the committee should focus on the schedule, the primary and secondary factors, and the weights. The committee needs to define who the other stakeholders are and any other issues or questions. The committee also needs to decide on how the

work group should communicate with the committee as a whole in between meetings and what to do about the possibility of barge shipments.

Office of Civilian Radioactive Waste Management (OCRWM) Updates

Mr. Strong turned the floor over to Mr. Jones for his OCRWM update presentation. Mr. Jones gave an overview of the responsibilities of the Office of National Transportation and the various divisions and departments. He explained that OCRWM signed a cooperative agreement with the four regional groups that was funded through June of 2005. Currently OCRWM's 2005 budget has not been approved by Congress so they are working on a continuing resolution which maintains funding at last year's level. Mr. Jones said the status of funding the regional groups' special projects is on hold until congressional appropriations are settled.

Mr. Jones said that Oak Ridge National Laboratory, Sandia and OCRWM will be running a training session for TRAGIS, RADTRAN and decision models, potentially during the week of January 17th. Mr. Jones said he is waiting for Mr. Lanthrum to approve the session before he can finalize the details.

Representative Joann Freeborn (Kansas) asked why tribes had not yet been engaged in the planning process. Mr. Jones said materials are available to the tribes; however there hasn't yet been significant, direct outreach to them, but this is being addressed through the TEC Tribal Issues Topic Group. DOE is considering hiring someone with experience in this area. Mr. Smith suggested that DOE partner with CVSA on the issue of security because they have a lot of experience in this area.

Ms. Sattler asked when the tribal visits would begin. Mr. Jones said March or April of next year at the earliest. The first TEC Tribal Topic Group conference call is on Monday, November 15th at 11 AM. Mr. Jones will forward the information to Ms. Sattler. Mr. Crose asked how many tribes were involved in the topic group. Mr. Jones said not many, perhaps four or five, but not all are tribes that will be affected. Ms. Sattler wondered when the decision on dedicated trains will be made. Mr. Jones said that DOE is waiting for the FRA report before making a decision.

Mr. Strong then asked Mr. Jones to give the OCRWM security update. Mr. Jones apologized that he did not have handouts and explained that they would not be available until the presentation was approved by management. [Editor's note: handouts have been approved by DOE management and are available on the CSG Midwest website.]

Mr. Jones went over the short-term milestones that the Security TEC group has reached. In September there was the first Security TEC group meeting in Minneapolis, in February or March of 2005 the work group hopes to produce a policy document, and by summer 2006 the group hopes to have a concept of operations and a security plan. The five guiding principles of the security plan are partnering, communication, integrating, innovating, and continually improving. This plan involves lots of players and lots of discussion. Mr. Jones then discussed the security outcomes that the TEC working group needs to consider: physical security, security operations, information security, and administration.

Mr. Jones said one particular issue is jurisdiction. How do we harmonize the transportation security roles and responsibilities of everyone? Another issue is communications - who needs to know what and when about security related matters. A third issue is procedures and operations. How are local agency functions best integrated? Finally, Mr. Jones introduced the issue of public information. How do you balance the needs of the public with security? Some other potential questions are: does the plan cover our concerns? Are there other areas in addition to the ones listed above? What other issues should be

considered? Mr. Jones said the next steps for the Security TEC group was to get input from the State Regional Groups, have a call in mid-December to develop task plan, and hold a workshop at the spring TEC meeting to decide which tasks should be pursued in FY2005 for the Topic Group. Nancy Slater-Thompson is the OCRWM contact for security-related issues.

Stephen Helmer (Ohio) asked if DOE had some idea of security that was important to DOE (i.e. would the suite of routes be protected information?) Mr. Jones replied that route information would not be kept secret, but shipment details would be classified.

Mr. Owen asked what control DOE has over rail shipment security seeing as its private property? Mr. Jones did not have enough information to answer that but he said that may not be public information. Mr. Owen said he's concerned that that issue is not part of the plan. Mr. Runyon said just because its private property does not necessarily change the security needs (the Navy escorts their shipments on the railroad). Mr. Jones said Nancy Slater-Thompson will have to provide the official DOE response.

Mr. Crose asked when all the states would be able to have input in on the process. Ms. Sattler said the TEC process is to seek input from the larger group but the work group hasn't seen anything come out of that TEC group. Ms. Sattler also said that the meetings should not be closed. Ms. Wochos said that at the WIEB meeting the Western states expressed concern with this same issue and Judith Holm agreed to leave the meeting open. Mr. Jones said Mr. Lanthrum echoed the same sentiment and that any classified information would be discussed in a different forum. Mr. Jones added that he didn't know if all documents will be available to everyone, nor how wide the distribution will be, but he would check with Nancy Slater-Thompson to see when she would be contacting the Topic Group.

Mr. Kerr asked if the security regulations would include part 71 (packaging and transportation) and 73 (physical protection) of CFR. Mr. Jones said he thought that would be the case. Ms. Sattler clarified that DOE has to follow NRC safeguards regulations for advanced notification, but not necessarily for everything else. Ms. Sattler asked why DOE doesn't just follow NRC regulations for everything. Mr. Jones thought they wanted to exceed the NRC regulations but he will pass the sentiment on to Ms. Slater-Thompson. Mr. Runyon said DOE should follow existing NRC physical security standards.

Earl Easton (NRC) said the NRC's position on physical security has been articulated in two separate letters. He said that if DOE takes title of the shipments at the plants than the NRC does not have regulatory jurisdiction. Mr. Easton said, however, that the NRC has suggested to DOE that they could sign a agreement similar to Foreign Research Reactor Program (FRR) (Note: in this case NRC and DOE signed an agreement where NRC made inspections to see if the DOE was following NRC regulations, but the only penalty for non-compliance was exposure of the non-compliance to the public). Mr. Easton also said it needs to be clarified what following NRC's advanced notification policy means for DOE. NRC is doing a vulnerability study and then afterwards will have to check to make sure that their security is sufficient.

Ms. Sattler said one of the committee's tasks is to review the DOE protocols. She asked Mr. Jones what the status of that task was. Mr. Jones said it is on the back burner right now, but DOE does recognize that the protocols are out of date and need to be addressed. Mr. Jones said the protocol revision is factored in to the overall OCRWM schedule. Ms. Sattler said she thought OCRWM knew how it wanted to revise the protocols and she wanted to know where the states fit in. Ella McNeil (DOE) said the protocols are an Environmental Management (EM) document so they have first crack at it and OCRWM can't revise them without consultation.

Office of Environmental Management Updates

EM Headquarters: Mr. Strong then asked Steven Cuevas to give the committee an update of EM activities. Mr. Cuevas told the committee about recent shipments and developments at the various clean-up sites around the country. He said there is new organization within EM, with an emphasis on integration. Ms. Sattler asked how Battelle would finish clean-up on time if WIPP shipments to Battelle were currently suspended. John Sattler (DOE) said Battelle is looking for alternatives to shipping to WIPP in order to keep with the proposed milestones. He said states would be consulted when these alternatives are developed.

Waste Isolation Pilot Plant (WIPP): After Mr. Cuevas, Ralph Smith (WIPP – Carlsbad Field Office) updated the committee on the WIPP program. Mr. Smith said there have been over 3,000 successful shipments to WIPP to date. He said there have been very few incidents with the shipments. He showed the committee a video of a near truck accident, in which a WIPP shipment safely avoided a pile-up in Wyoming.

Ms. O'Claire asked when Mound's last shipment would be. Mr. Smith said the shipment would take place in November or December 2004. DOE is waiting for officials at Mound to tell them the shipment is ready. Ms. McNeil clarified that it looked likely the shipment would take place in January 2005. She said it will be one train shipment. Ms. Sattler asked that Ms. McNeil forward the information about the Mound shipment to her and she will pass it on to the Ohio agencies.

Ms. Sattler asked Mr. Smith about continued WIPP funding. Mr. Smith said funding would be available if Battelle moved materials. However it depends on where the materials are shipped, and at present it can't go to Hanford, but does need to go to a certified shipping site (perhaps Savannah River or Oak Ridge). Mr. Smith said unless there are shipments on the horizon they will not provide the Midwestern states with any money.

Ms. Sattler wanted to know when the shipments from Tennessee will begin and if that state is getting funding. Mr. Smith said shipments from Tennessee will start in 2006, so Tennessee is getting funding for those shipments. Mr. Smith suggested that the committee take the issue of funding to a higher level because he does not have the decision-making authority anymore. Ms. Sattler asked who would be the contact for information about the transportation planning process. Mr. Sattler said he will be the point of contact for Battelle, but there is not much to say as of now.

Ms. Sattler asked if Battelle would be the first site to ship remote-handled waste to WIPP, after the site is certified to take the waste. Mr. Sattler said officials are revisiting the possibility of repackaging remote-handled waste into contact-handled. Mr. Sattler said Cynthia Anderson is the new director for Federal Disposition within EM-10.

Transportation Emergency Preparedness Program (TEPP): Ms. McNeil said DOE recently completed a major revision of Modular Emergency Response Radiological Transportation Training (MERRTT) training program and distributed it via CD or download. Major changes to MERRTT were adjustments to DOE shipment numbers, regulatory changes, and the removal of some duplication in the models. They also added Federal Emergency Management Agency (FEMA) videos and some practical hands-on elements. DOE will contact MERRTT instructors with changes in the very near future. The next planned update is in 2005, but there will not be another major change for a couple of years.

Ms. McNeil also said there is a new Emergency Response Guide (ERG) out. The major change to the ERG was the reduction of the isolation zone down to 75 feet. She said that there were changes to some of the shipping names and category names in the ERG, and both the old and new names will appear in order to avoid confusion. Ms. McNeill said the TEC Training and Medical Issues topic group has finished its tasks and will no longer meet. They are forming an exercise topic group under TEPP and they will make sure everything they have matches with Homeland Security. Ms. McNeil said that DOE will be doing TEPP exercises in Waco, GA (WIPP), Arkansas (Low-Level), and Navajo Nation in the next year. A master training schedule is available on the website. There will also be a FEMA internet-based MERRTT refresher self-study (IS302) available in the near future. People who complete this training will be awarded a certificate of completion.

DOE is also producing a Specialist Training Program, which would train those people above technician level, such as federal and state radiation responders. Ms. McNeil hoped to have a draft of the program in July 2005. Ms. McNeill said the American National Standards Institute (ANSI) Homeland Security Committee is in the process of developing a nationally accepted standard for curricula and course development. She also said there will be a new process for federal agencies to get course approval and once approval is obtained, Homeland Security grant money can be used to fund training. Finally, Ms. McNeil said that TEPP staff would be involved in the revisions of the National Fire Protection Association (NFPA) handbook, sections 471-473.

Mr. Strong asked what changes are in NFPA 471-473. Ms. McNeil said there were little edits, more clarification than anything technical. Ms. Sattler asked whether the exercise working group would be a topic group of the TEC/WG or some other type of work group. Ms. McNeil said it was being organized separate from the TEC working groups. Frank Moussa (Kansas) will be a member of the group.

Fernald Silo Waste Update: Mr. Sattler said the plan encompasses four silos. Silos 1 and 2 are one project; silo 3 is its own project. Silos 1 and 2 have almost 9,000 cubic yards of waste, which is almost all the product of uranium processing from the late 1950s. In this project they will slurry the material and place it in large cylinders. Mr. Sattler projects 3,500 waste containers to be shipped as a result of this project. Silo 3 has 5,000 cubic yards of waste which will not be treated, but instead will be kept in a harder form, loaded into containers, and shipped offsite. Mr. Sattler projects 3500 shipments from Silos 1 and 2, and 239-273 truck shipments from Silo 3.

Shipments haven't started, and currently Silo 3 is in standby mode because of Nevada's objections to moving the material to the Nevada Test Site (NTS). Silos 1 and 2 are nearly ready to process. Mr. Sattler said he hopes to maintain the schedule for Fernald closure (12/06), however they don't want to start processing or sending shipments until the NTS issue is resolved or an alternate site is found. He said that, because Fernald does not have the facilities to store containers on-site, it would be worse to start processing and then have to stop than to delay the start of processing. He said they are in the process of exploring alternatives for disposal and off-site interim storage while the NTS situation is resolved; however EPA agreements currently prohibit interim storage. DOE is now working with EPA to amend the agreements by limiting interim storage to two years. If interim storage were approved, awards for interim storage bids would be given out in January and shipments would begin in spring. Silo 3 would ship by truck or rail, Silos 1 and 2 only by truck. DOE has already awarded a contract for the flatbed trailer and would also have to design containers for rail shipment.

Mr. Strong asked what kind of entities will respond to the request for proposal (RFP) for off-site storage. Mr. Sattler said that he expects WCS in Texas and perhaps EnviroCare and Durotek to respond. Mr.

Flater said he assumed the routes would change if the vendor changes. Mr. Sattler said since DOE don't know the vendors they can't draw the maps. By definition it is level 11e.(2) material.

Mr. Crose said he has had excellent cooperation from Fernald with regard to its low-level waste shipments. Ms. O'Claire asked for an update on Battelle. Mr. Sattler said the clean-up at the West Jefferson site is being done by Closure Services. It is progressing well and they are getting ready to knock down two facilities (out of three). Shipments have been going to Envirocare and a site in Tennessee, with some LLW material to NTS (which had previously been earmarked to go to Hanford).

Mr. Flater asked how many shipments had been made and by what mode. Mr. Sattler said the shipments have been intermodal. He also said there is TRU waste onsite and it is mostly remote-handled, with some contact-handled that needs to be repackaged. This waste was earmarked to be shipped to Hanford, repackaged and then shipped to WIPP. Now with Hanford not accepting any shipments, the closure schedule is in question and they are now looking at alternatives (including temporary commercial storage).

Wednesday, November 10

Nuclear Regulatory Commission Update

Mr. Easton explained to the committee that physical testing, risk studies, security and sabotage have been going on for 30 years. The NRC cask approval standards are very rigorous. There are four tests for Type B packages that take into account the worst possible situation (determined by the International Atomic Energy Agency [IAEA]). These tests are standardized for the entire world.

Mr. Easton explained that there have been a series of studies throughout the 70s, 80s, and 90s to show cask strength. He showed the committee a series of tests done throughout the years, including recent drop tests in Germany. In a full-scale impact test on an unyielding surface, all the energy would be absorbed by the cask. In the examples shown, the impact limiters on the ends of the cask absorbed most of the shock. The impact limiters also provide thermal protection for the lid. It cannot come off during impact. Mr. Easton explained that Type B packages go through rigorous standards that the NRC continues to reassess and reevaluate. He said there is no need to do a full-scale test on every package. Mr. Easton said the NRC is currently conducting a vulnerability assessment for the transport of spent fuel and non-spent fuel packages (response of packages to threats).

Mr. Strong asked about the possibility of the Germans certifying a cask for use in the United States. Mr. Easton said the Germans could submit an application and would be treated like any other vendor. Mr. Easton believes the Germans would need more tests, specifically an angled test, before any casks would be approved. Representative Freeborn asked if, when considering foreign applications, the NRC would make sure the casks would work with U.S. plant loading and packaging capabilities. Mr. Easton said the license would cover the loading and unloading of the cask, and there would definitely be regulation and standardization.

Private Fuel Storage (PFS) Update

Mr. Parkyn provided an update on the status of the Private Fuel Storage facility. He said the idea of a private fuel storage facility began in 1995, not as competition to DOE, but as a temporary facility until a permanent facility could be built. The major benefits of private storage are that it's less expensive than on-site storage by an individual utility and it enhances security of spent fuel.

Since 1995, PFS has met with railroads to discuss their needs and has developed a rail car to carry any vendor's cask. Mr. Parkyn said route selection has not yet begun, but when they get license approval, the company will determine the best route from each customer, consult with railroads on the initial round of review, and then review and modify with federal agencies and stake-holders. Mr. Parkyn said the route selection will be reexamined over the life of the project.

Mr. Parkyn also said that PFS will provide incidence response training along the proposed routes for local responders (for assessment and isolation, not clean-up). This training will be live presentations with experienced personnel, as well as CD training for those who are not available for training, and contact numbers for those with questions. He said the total concept is the safest equipment operating on an optimized route.

Mr. Parkyn said whether or not PFS will get license approval will probably be determined by January 2005. After licensing they'll start railcar and rail construction, with operations scheduled for 2007. Shipping capabilities are expected to be 200 canisters per year, with a total capacity of 40,000 MTU (4,000 canisters) at the facility. It will be open to all canister vendors (non-military and non-foreign).

Terry Gilmore (Federal Railroad Association [FRA]) asked how many railcars PFS plans to build. Mr. Parkyn said six initially, and 12-16 in total. PFS will own all the rolling stock. Jon Schwarz (Nebraska) asked about severe weather and what PFS would do to avoid it. Mr. Parkyn said that PFS does not currently have any criteria for what to do, but they have the ability to time shipments so as to foresee any severe weather. Mr. Schwarz stressed that it would be a problem if first responders couldn't get to an accident during severe weather. He also asked if PFS will share their training curricula with states to see if it'll conflict with any current practices. Mr. Parkyn assured the committee that states will be involved with the training process, but PFS will do the training.

Mr. Owen asked what the timeline for route selection would be and how PFS will engage the states. Mr. Parkyn said that once PFS obtained a license, they will engage utilities that want to use the site and move rapidly. During 2005 he hopes to know where the shipments would come from and from that route selection would follow. Mr. Owen asked if the routes would be funneled through the state regional groups. Mr. Parkyn said that if the committee is taking an independent look, PFS would welcome any input, and no matter the initial process, the states will always have a say in the final selection.

Mr. Owen asked how the training would take place and how the state would be involved. Mr. Parkyn said he envisioned multiple training sessions in each area with the state involved in each one. Mr. Owen said he would like the training to be coordinated through the states, and Mr. Parkyn said that would not be a problem as long as PFS is a part of the training.

Mr. Flater said that Iowa has a serious problem with turnover and there is also fee, escorting, and radio issues. He suggested talking to some of the states to see if there is duplication of efforts. Mr. Parkyn said he is aware of the fees and will contact the appropriate people after PFS obtains its license. Mr. Parkyn also said that PFS will stay compliant with security regulations coming from the federal government (they will have armed security with the shipments at all times).

Mr. Flater said he would like the states to be heavily involved in route selection because state officials know factors that even the railroads don't know, such as populations. Mr. Parkyn reiterated that the states would be involved at all levels. Carlisle Smith added that the WIPP program has trained 23,000

people already and that there is now one standard – the MERRTT training – which is approved by Occupation Safety and Health Administration (OSHA) and is available to the public. He would like training to be done on a unified basis so PFS doesn't have to reinvent the wheel. Mr. Parkyn said he will look into it.

Someone asked if the new governor in Utah would help or hinder the process. Mr. Parkyn said that, officially, every governor of a host state would be against the project, but priorities have switched in Utah so that there is less opposition.

Nuclear Energy Institute (NEI) Update on Yucca Mountain

Chandler van Orman (NEI) reported that the difference between DOE's budget request and the amount appropriated by Congress has been at least \$10 million over the last 10 years. The 2004 budget was only \$14 million below what was requested. Currently Congress has not approved the 2005 budget and DOE is working under a continuing resolution that provides funds at the 2004 level. If continued, that 2004 level would be over \$300 million below what is requested and what is required to meet program timelines. The first projects to suffer cuts are always the transportation projects. Mr. van Orman said there is supposed to be money available in the Nuclear Waste Fund, but Congress is unlikely to release the money. He reported that there are several possible outcomes to the budget crisis: DOE could continue to be funded at the 2004 level, Congress could pass an omnibus bill, or Congress could pass a separate appropriations bill.

On the subject of the Yucca Mountain license application, Mr. van Orman explained that the application is 90% completed, but it was unlikely it would be submitted by the end of the year, due to the need for License Support Network (LSN) re-certification of the storage space. NRC will not docket for six months following re-certification, but Mr. van Orman believes re-certification could be finished by the end of the year. Mr. van Orman said that due to all of these considerations, it was more likely that the application would be filed in June of 2005.

In addition to re-certification, DOE needs to address a court of appeals ruling that mandated the repository be proven stable and radioactively secure for longer than the original 10,000 standard. This court of appeals ruling (on a lawsuit by the State of Nevada) was in response to a National Academy of Sciences study that found peak dose of spent fuel would come out between 380,000-500,000 years from initial deposit in Yucca Mountain. DOE can seek a Supreme Court review of the ruling. The EPA has also announced that it is planning a revised standard (of the 10,000 years) that would affect Yucca Mountain construction.

Mr. van Orman told the committee that the State of Nevada has also questioned DOE's choice of the Caliente corridor for shipments. There is currently no hearing set for that issue, and any findings or rulings may inhibit the construction of the rail line, which could further inhibit shipments. Mr. van Orman concluded his presentation by telling the committee that the NEI believes the Nuclear Waste Fund needs a serious overhaul.

Mr. Schwarz asked Mr. van Orman when he thought Yucca Mountain would open. Mr. van Orman said that, assuming adequate funding, it could be operational in 2012. Representative Freeborn asked if "operational" meant receiving on the pad. Mr. van Orman said that "operational" meant the first canister moving in. Temporary storage could begin six months from now because all that is necessary is a place to unload trucks. If the construction of the railroad is delayed, the department can meet its goal of moving

waste by using truck. Mr. Schwarz asked what sort any newly commissioned plants would be. Mr. van Orman said there are currently three pre-approved reactor designs: two PWR, one BWR. Once there is confidence that Yucca Mountain will open, then 2-3 reactors will be ordered by a consortium of vendors. Mr. Schwarz asked if any of the new reactors considered pebble-bed technology. Mr. van Orman said no, but that South Africa is committed to building the first one. Rep. Freeborn asked if there is private property along the corridor of Yucca Mountain. Mr. van Orman said the Caliente route was chosen because it crosses the least amount of private property. He also said that condemnation is a tool available to the government if need be, but only 3% of the Caliente route is private, so the government would probably rather buy or lease that land.

Federal Agency Updates

Federal Railroad Administration: Mel Massaro (FRA) said there wasn't much to report on except that the dedicated train study had been handed off for clearance by the DOT Office of Secretary of Transportation (OST) and the Office of Management and Budget (OMB). He also recommended that all of the Midwestern states train an inspector to be FRA-certified. Currently only five of the 12 states have an FRA-certified inspector.

Ms. Sattler asked how expeditious Mr. Massaro thought DOT would be in reviewing and clearing the FRA study. Mr. Massaro said he hopes OST and OMB will be done reviewing by the end of the year, with the next step as sending it to Congress. Ms. Sattler asked how others could get on the distribution list. Mr. Massaro said he would talk with Kevin Blackwell about adding names to the distribution list.

Federal Motor Carrier Safety Administration (FMCSA): Mr. Strong asked for an update from Ted Turner of the Federal Motor Carrier Safety Administration. Mr. Turner said there has not been a lot of rule-making lately. There is new permitting for transporters, new incident reporting, and new loading and unloading requirements. Most companies have been complying, but about 30% had a minimal plan (no risk assessment). Mr. Turner also said that the administration will be conducting compliance reviews for the new hazmat permitting rule, which is available at www.fmcsa.dot.gov.

Mr. Fehringer asked what the other requirements there were for a carrier to get a permit besides the safety rating. Mr. Turner said the requirements are a satisfactory safety rating, crash and other rates can't be in the bottom 30% of safety ratings throughout the country, the company must maintain registration, the company must maintain security and training, the company must have a comprehensive communications system (twice a day contact and records available on request), and the company must do pre-trip inspections.

U.S. Transport Council (USTC): David Blee (USTC) said that, in the opinion of the USTC, expertise at the state level is critical to the success of a transportation program. There is still a long way to go for stakeholder involvement. There are currently two-dozen companies in the council with extensive expertise in hazmat shipping. They have not turned over the group to federal inclusion, so no federal agency employees are official members of the council. The council has focused on transportation and waste acceptance.

Originally the USTC was formed as a coalition because the transportation aspect of the Yucca Mountain project was a primary target for opponents. Then the group decided to become a council and has lately focused on education and factual information, including a package performance study and other quality control issues. Mr. Blee believes that the more people that know about transportation the better off the

process will be. He is optimistic, with reclassification of money, and with Nevada's acceptance, that the project will run smoothly and efficiently. He has great concern with DOE's use of consultants to manage transportation affairs instead of stakeholders and companies with expertise. He said that the USTC is sponsoring a fact-finding mission to Caliente (11/29-12-2) to meet with local officials and to see Yucca Mountain, and he welcomes representatives from the committee.

Mr. Strong asked if representatives from the committee could attend the USTC meetings. Mr. Blee said the USTC meets every six to eight weeks and he would love to have someone from the committee come. The next meeting will be sometime in January and he will provide Ms. Sattler with the logistics. Information is also available on their website, at www.ustransportcouncil.org.

Someone asked how the USTC is funded and Mr. Blee said the council is funded by its corporate members. Mr. Strong asked if the USTC was involved with PFS. Mr. Blee said they are not currently involved but they have a planned update on the agenda of the January meeting. Mr. Runyon asked if the USTC is represented on TEC as individuals and as the council. Mr. Blee said USTC is represented as the council and would like to get more involved.

Mr. Runyon asked Ms. Sattler if the USTC was one of the stakeholder groups the committee would work with when planning shipments and selecting routes. Ms. Sattler said yes. Ms. Sattler asked if the USTC had proposed any agenda items for the TEC meeting in Minneapolis. She had noticed that the agenda had not included any items regarding vendor interests, whereas at the previous TEC meeting a lot of vendor opinions were expressed. Mr. Blee said they had suggested agenda items to DOE but they were not incorporated, and that he wants to make sure that stakeholders (including the utilities) are a primary part of the TEC planning process.

Committee Discussion

180(c) Discussion: Mr. Strong asked the committee members if they had any questions or comments on the funding allocation method. He explained that the formula tried to balance the various risks (mileage, population) and not focus too heavily on one or the other. Mr. Runyon said he thought the formula looked reasonable, but he'd like to plug some numbers into the model to see if it works out fairly. Mr. Flater said he thought it looked reasonable. Mr. Moussa said the formula looked reasonable and that it was in alignment with what they would do in the state of Kansas. Mr. Owen said the formula looks reasonable and that conceptually it looks like a good approach.

Ms. Sattler asked the committee to consider two aspects of the formula. First, she noted that the work group adjusted the planning grant and base grant amount for inflation, and one western state thought \$100,000 was a lot. Did the committee believe that was too much money for the base grant? Second, is it necessary for the money to start four years before shipments began? Mr. Owen said that since states don't know when four years out will be, it is hard to consider whether or not four years is sufficient. Ms. O'Claire said a lot depends on where the routes are. Ms. Sattler asked if, once the routes were certain, three years would be sufficient. Mr. Moussa thought it would not be enough because, if a state wanted to hire a new person to manage the program, three years would not be sufficient. Ms. Sattler reminded the committee that the committee always had a position of a minimum of three years. Mr. Schwarz said Nebraska has the same problem as Kansas and that four years is necessary. Mr. Moussa said he could work with three years lead time if he contracted out the work, but he'd rather hire a new state person to manage the program, and in that situation he'd need four years.

Ms. Sattler asked the committee if there needs to be a separate planning grant and training grant. Should there be a division? Mr. Owen said it depends on what the grant covers. Does it cover technical assistance? Mr. Flater explained that the 180c program would cover technical assistance as it relates to training. Mr. Strong added that allowable activities include planning for training as well. The initial presumption is that the planning grant would go to program development (i.e., a state strategy for training, etc.) Mr. Runyon suggested that the committee maintain the planning grant as a planning grant. If it is maintained as a planning grant it has a better chance of going to the correct agency. A training grant could be applicable to several state agencies. Ms. Sattler reminded the group that it is the committee's responsibility to keep Midwestern governors informed.

Mr. Cash (Alabama) asked if the money could go to regional group as a way to avoid the wrong agency getting the money. He maintained that the regional group already knows the department or agency involved. Mr. Strong clarified that DOE's General Council said the money has to go to states. DOE also said they can revisit the issue if necessary but they haven't found it necessary. Mr. Kerr asked if adding another layer in between the states and the federal government would help because states would have to bear the administrative burden. Mr. Owen thought that if funding goes direct it's more of an administrative burden. Mr. Crose countered that the HMEP program works well because the money goes straight to the states.

Ms. O'Claire asked what requirements there are on the states to get this money. Ms. Sattler explained that the committee doesn't know yet but DOE will address that issue. Mr. Strong explained that the 180(c) work group has maintained that the process should be similar to the HMEP program with a work plan and reporting requirements. Ms. Sattler assured the committee that the work group would have input in the grant application process.

There was a long discussion on whether the formula should be based on shipment miles or route miles. There was some discussion on seeing potential numbers for the two situations, and Rep. Elgin said that seeing the numbers isn't necessary, but instead the committee should trust that if the formula is fair, the outcome will be fair. The committee reached consensus on endorsing the formula.

The committee then moved back to the subject of which agency within the state would receive the grant. Someone asked if the committee could write to the governors and suggest the agency to apply for the grant. Ms. Sattler said the committee can't recommend but could tell governors who has been working on the process in the past. Mr. Smith suggested that the committee give the governors the history of the planning so far so they know who has been involved.

Back to the subject of filtering money through the state regional groups, Rep. Elgin wondered if the state regional groups would cease to exist if money went directly to the states. Ms. Sattler clarified that DOE has always made it clear that the state regional groups will always have a function, but they don't have to be involved in passing 180(c) money to the states.

Mr. Strong asked Tammy Ottmer (Colorado) if she would update the committee on the opinions and activities of the West. Ms. Ottmer said the West is struggling with some of the same problems as the Midwest. The West wants DOE to look at the bigger picture. DOE's transportation campaign so far has only asked for state input on funding, routing, and security. The bigger issue is that they are not getting state feedback on other issues. She wondered if the committee shouldn't be talking about 180(c) being a regulation as opposed to a policy. She asked the committee if this issue was something the states and the regions can talk about without DOE.

Ms. Ottmer maintained that the activities the states have been involved in are nice but aren't sufficient. She said 180(c) needs to be looked in context to the whole range of options. She also said that the committee needs to look at truck shipments because it is a real probability that initial shipments will be by truck.

As for the West's stance on the allocation formula, Ms. Ottmer said the West has a resolution that is due to be revised in June 2005. In the resolution is the Western states' expectation that regardless of shipper, the states need to have a comprehensive training program. So even if shipments go to private storage, there needs to be a training program. She said the West believes there needs to be a whole transportation system put in place, including coordination with the states, flexible funding, and cooperative agreements. The West also believes that states should have the right to decide the program that they need (i.e. outside of training). She maintained that the states need to meet the needs of their communities and that they have the right to do that.

Ms. Ottmer thought that Environmental Management has done a lot to prepare communities and routes (especially through the WIPP program) and she suggested that the committee develop a plan similar to that. The final decision from the West on the allocation formula cannot come until they get the go ahead from their governors. She said a member of their committee is running numbers and the Western committee will revisit the issue at their next meeting with the hopeful outcome that they would propose a new resolution to their governors in June. She said they do endorse the \$100K base grant.

Mr. Strong asked Mr. Cash if he had anything to add from the Southern perspective. Mr. Cash said that the states that were in attendance in Minneapolis mostly agreed on the formula because it looked fair. He thought that the formula would probably look acceptable to most of his committee members.

Ms. Sattler then addressed the unresolved issues under 180(c). She said that she and Mr. Crose presented the list of unresolved issues to the NWTRB in October. One unresolved issue is whether 180(c) should be a regulation or a policy. In keeping with HMEP as the model, it flows that regulation would be the preference.

Another unresolved issue is funding for shipment operations. She said the states need to be compensated for activities beyond just training. She thought that to resolve some of these issues, the committee could work in groups with the other regions but without DOE and then present recommendations to DOE. The committee agreed that was a good approach. Mr. Flater added that making 180(c) a regulation could be difficult because states would have to convince DOE to go through the rule-making process. Ms. Ottmer said that WIEB already has a proposed regulation, so some of the background work is already done. Ms. Sattler thought that states wouldn't write the regulation, but just recommend that DOE make 180(c) a regulation. Mr. Strong added that states don't really know how DOE stands, so there is the possibility that DOE may be supportive of a regulation.

Ms. Sattler then asked the committee about another unresolved issue, which is the treatment of state fees in relation to 180(c) money. She said this issue will be a topic of great importance for the Midwest. Ms. Sattler explained that if DOE sticks to a narrow interpretation of the NWPA, then fees shouldn't be deducted from the 180(c) money. She asked if perhaps the West and the Midwest can start discussion on it.

Ms. Sattler asked the committee how they thought barge shipments might affect 180(c) money. She asked if states are responsible for a barge shipment. Mr. Crose said that state officials would most likely be the first responders. Someone else thought that if you're shipping on a barge you operate under a unified command under the federal government, the state government and the barge owner, and the coast guard would have the lead on any accident because it's interstate transport. Mr. Strong contended that the barge issue is something that the Northeast and the South are looking at, and at this point, it isn't affecting the Midwest. Mr. Easton reminded the committee that there have been barge shipments so there are precedents on which to build the model.

Ms. Sattler turned the discussion to the allowable activities under 180(c). She said that, as for the level of training, the 180(c) work group has maintained that the policy should reflect that the states have a lot of flexibility. Training recipients should also be left up to the states' discretion (i.e. hospital training). Finally, she said that equipment shouldn't have a cap. She asked the committee's opinion on these issues. Mr. Runyon said that planning could take place after a training grant has been approved (i.e. if a mode or route changes) and he wondered if a state would be eligible for another planning grant. Ms. Sattler said she thought the base grant could cover some of that, but it may not be entirely covered.

Mr. Breckenridge agreed that the cap on equipment should be removed. Mr. Crose added that will there be a continuation grant application each year to justify your expenses, so DOE could monitor equipment expenses that way. Mr. Moussa reminded the committee that response equipment is prohibited under HMEP. You can buy it for training but you cannot then use it for response, and he wondered if this limitation would be applicable under 180(c). No one knew the answer to this question.

Mr. Crose said that the issue of hospital personnel is very important and it is currently prohibited by DOE. Ms. Ottmer thought that the issue of hospital personnel training was a good example of why OCRWM needs to partner with EM. Hospital personnel training is currently covered by EM and if DOE could integrate EM's policies it would be an allowable activity. After some discussion it was agreed that the committee is on the right direction for allowable activities.

Ms. Sattler asked if there were any other issues related to 180(c) that the committee wanted to discuss. Rep. Elgin reminded the committee that there needs to be a discussion on what to do if there are shipments to a private storage facility. He said states still need to do training even if its PFS shipments. Mr. Strong said that the committee has in the past adopted a resolution. Mr. Flater reminded the group that the fuel doesn't belong to DOE if it's going to PFS, so they have no responsibility to provide money or training.

There was much discussion on whether the Midwest committee should pass a resolution saying that funding needs to be provided even if shipments go to a private storage facility. It was agreed that the committee should draft a resolution for discussion at the next meeting. Ms. Ottmer said she would send Ms. Sattler the WIEB resolution for context. Ms. O'Claire said she would send Ms. Sattler the Ohio Utility Radiological Safety Board resolution.

Route Identification Discussion: Ms. Sattler then asked the committee members to turn their attention to the route identification comparison factors. Mr. Runyon explained that the route identification work group came up with these factors over the course of several conference calls. He said the work group is not looking at route distance and time. Mr. Runyon then discussed the history of the work group and the reasons behind the factors.

Rep. Freeborn asked who determines the road rating. Carlisle Smith said the DOT of each state. Ms. Sattler added that American Association of State Highway and Transportation Officials (AASHTO) also rates the major highways.

Mr. Strong asked if route length and time are incorporated into the primary factors. Mr. Runyon said that yes, they are inherently a part of these factors, but they are not considered as distinct factors. Mr. Runyon added that all of the secondary factors are overlapping.

The committee agreed that the factors were acceptable and they asked that the committee run a couple of comparisons to see how the factors will work out. Ms. Sattler said that the route identification group will send an update to the entire committee by the end of January

State Roundtable: Mr. Strong asked each state and other organization to update the committee on transportation happenings.

Iowa: Mr. Flater said the Iowa legislature amended the state rule to create a revolving account for fee deposits. He said officials are proposing rules to increase low-level waste fees to \$125.00 per load and high-level waste fees to \$1800.00 per truck shipment and \$20 per mile over 250. If accepted the fee increase would go into effect in six months. Mr. Flater said that Iowa is also now considering escorting everything across the state instead of training responders because of the number of responders and the high turnover of responders. Finally, Mr. Flater asked that the 2006 committee meeting that is slated to be held in Iowa be planned in Cedar Rapids.

Minnesota: Mr. Kerr reported that Xcel Energy notified the NRC in September that they plan to apply for an extension to the operating license for the Monticello plant. He said the application would probably be completed within the first quarter of next year.

Ohio: Mr. Owen said that the Government Accountability Office recently interviewed Ohio officials as to the storage of low-level waste in order to give a comprehensive report of Congress on the program. He said Ohio is now seeing regular shipments of depleted uranium hexafluoride (DUF₆) through the state. He said there have been approximately 80-100 inspections and officials haven't found anything peculiar except that one driver was found to have an expired commercial driver's license. Mr. Owen also said that special shipments of high-level waste will now require a special permit (by FMCSA) as of the new year. A CVSA point-of-origin inspection will be required. In addition border states will have to do inspections for foreign shipments.

Illinois: Mr. Runyon said the University of Illinois has closed its reactor facility, which resulted in three shipments to Idaho National Laboratory and Texas A&M University. In addition, there have been a large number (at least 65) shipments of Cobalt 60 across the state.

National Conference of State Legislatures (NCSL): Jim Reed told the committee that NCSL had a guide for legislators regarding spent fuel shipments. He also said that the next meeting of NCSL's High-Level Waste Work Group would be in April or May. Linda Sikkema is the point of contact for more information.

Nebraska: Mr. Schwarz said that some Rocky Flats Environmental Technology Site shipments have been temporarily re-routed through Nebraska due to weather and other issues. He also said that Kaiser Hill

(the company contracted to do the Rocky Flats clean-up) has been less than honorable in its processes and procedures.

Kansas: Mr. Moussa said not much was going on in Kansas except for a Wolf Creek exercise that went very well.

Indiana: Mr. Crose said that he was invited to go to the NCSL meeting to share how Indiana prepares for shipments. Mr. Crose also said the Indiana governor's race was interesting and that Mitch Daniels beat the incumbent Joe Kernan. State Senators Marvin Riegsecker and Beverly Gard were re-elected.

WIEB: Ms. Ottmer told the group that the Spring WIEB meeting will be held in Idaho Falls, ID.

Ms. Wochos and Ms. Sattler reviewed the action items. Mr. Strong called the meeting adjourned at 2 p.m.

Report prepared by Sarah Wochos, Council of State Governments-Midwestern Office.