

The Council of State Governments Midwestern Radioactive Materials Transportation Committee

Proceedings of the Fall 2006 Meeting

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Wednesday November 15

Committee Business Session

Bob Owen (Ohio) called the meeting to order. He welcomed everyone to Carlsbad and said he was looking forward to the discussion over the next couple of days. He acknowledged the state legislators that were in attendance and mentioned that long-standing committee member Rep. Jeff Elgin would be retiring from the Iowa legislature, and therefore this would be his last committee meeting. Mr. Owen also mentioned that Don Flater (Iowa) was also retiring at the end of the month and would be leaving the committee. Finally, Mr. Owen said that Ralph Smith (DOE) was retiring at the end of the year, so this would also be his last Midwest committee meeting. Mr. Owen asked that the presenters be mindful of the new participants in the audience and asked them to refrain from using DOE jargon and acronyms. Mr. Owen encouraged new participants to ask questions throughout the meeting. Mr. Owen then asked the participants to introduce themselves.

Chair's Report: After introductions, Mr. Owen gave his Chair's Report. He said that there have been many activities since the last committee meeting. First, the committee has been working with the NRC on information sharing about transportation cask vulnerability. This effort is the result of a letter the committee sent back in May to Nuclear Regulatory Commission (NRC) Chairman Diaz supporting a National Academies of Science (NAS) recommendation for an independent study on shipment security. The committee letter also asked the NRC to share existing information on cask vulnerability. The letter suggested that the states partner with the NRC on security issues to get the information to the people that need it for planning purposes. The committee received a response letter indicating that the NRC was willing to partner with the states to accomplish this task. Tim Runyon (Illinois) and Frank Moussa (Kansas) will be the committee's representatives on this issue.

Mr. Owen said that at the last meeting the committee agreed to a rule change. Currently there is a chair and a vice-chair, held by Mr. Owen and Mr. Moussa respectively. Under the new rules, the committee will elect a new co-chair at this meeting that will serve one year as the junior co-chair and then one year as the senior co-chair. Mr. Owen said that this coming year he will serve as senior co-chair. He said this new structure will help the committee address the multitude of issues before it. If the senior co-chair can't address a particular issue or attend a meeting on the committee's behalf, the junior co-chair will take over.

Mr. Owen said that another issue that came before the committee since the last meeting is Section 313 of a federal interim storage bill. The Section of the bill allowed for \$10 million to site interim storage sites in states that have nuclear power plants or in regional facilities. In August the Midwest Legislative Conference (MLC) passed a resolution against using Nuclear Waste Fund (NWF) monies for this venture. The Attorney General of Illinois also wrote a letter against the proposal and solicited signatures from other Attorneys General. Mr. Owen said that as of yet the Midwestern Governors' Association has not responded to the issue.

Mr. Owen said another related issue that the committee addressed at the last meeting was legislation that would allow DOE to override states' regulatory rights. The Conference of Radiation Control Program

Directors wrote a resolution against measures of this type and will have a meeting in December to discuss the issue in depth.

Mr. Owen said that there was a Transportation External Coordination Working Group (TEC/WG) meeting in September in Green Bay, WI, that several committee members attended. In Green Bay, Sarah Wochos (CSG) gave a presentation on the Midwest Route Identification project. Also at the meeting, members addressed a lessons learned document that the Midwest then provided comments on. Members also addressed the issue of inspections in the Rail Topic Group, insisting that states have the right to enforce their own inspections and DOE should focus on their own actions. A new Routing Topic Group was also formed to develop a preliminary suite of routes to the repository. The new topic group will begin meeting via conference call in the near future. Finally, Mr. Owen said that DOE provided the states with a Concept of Operations document that describes how the transportation system will work. The committee will need to review the document, probably in an ad hoc working group.

Lisa Janairo (CSG) added that many of the items that Mr. Owen mentioned in his Chair's Report are also in the project update, which is in the briefing materials. Mr. Runyon asked if the committee would be addressing the lessons-learned document in any more detail at the meeting. Jay Jones (DOE) said that he hadn't planned on talking about it but that he would check with Alex Thrower (DOE) to find out the status of the document. Mr. Runyon said that since Jane Beetem (Missouri) was also working on a similar project, there needs to be some coordination of efforts.

Project Update: Mr. Owen then asked Ms. Janairo to give the committee a project update. Ms. Janairo said that much of what she will say is outlined in more detail in the briefing materials, so she will only go over a couple of items. Ms. Janairo said that with the election of new governors in the region, she will have to seek reappointments for some of our state agency members. Additionally, the committee will seek new legislative appointments. Rep. Joann Freeborn (Kansas) and Rep. Jeff Elgin (Iowa) are both retiring from their legislatures. Sen. Marvin Riegsecker (Indiana) is possibly retiring from the committee, though not the Indiana Senate. So the committee will seek new appointments in all of the states. Ms. Janairo said that she will need the assistance of the gubernatorial appointees in identifying potential legislative candidates.

Ms. Janairo said that one thing not in the project update that is worth mentioning was the state security survey the regions conducted last spring. Ms. Janairo said she put together a summary of the results and is waiting for the other regions to provide comments. If the other regions do not provide comments, she'll go ahead and forward the summary to DOE as solely the Midwest's interpretation of the results. Once the summary is finalized she will send copies to all committee members.

Ms. Janairo said that the committee published a revision of the *Planning Guide for Shipments of Radioactive Materials through the Midwestern States* in September. Over 1,800 copies were sent out to interested parties. If committee members want or need more copies, please let Ms. Janairo or Ms. Wochos know.

Ms. Janairo said that Ms. Beetem would be going to the Waste Management Symposium to present a paper on lessons-learned from the Fernald shipping campaign. Ms. Janairo said it is good for someone from the committee to go to this conference every year so that the transportation industry will learn that the states can be valuable partners in shipment planning rather than obstacles to be overcome.

Finally, Ms. Janairo said that the Wisconsin Legislative Council established a special committee to study the future of nuclear power in the state. CSG was approached to see if we would be interested in doing another tour of Yucca Mountain similar to the State Government Officials tour we did last fall. The Wisconsin

committee is looking to see if the state should lift the moratorium on building new nuclear plants. Part of their task is to weigh what will happen to the waste from the current plants and any future plants. CSG is taking about 30 people to Yucca Mountain in December. Ms. Janairo said that she also arranged for speakers from both DOE and Nevada to address the committee, and she and Jay Jones will give presentations on the transportation aspect of the issue on December 14th in Madison. At that same meeting Paul Schmidt (WI) will present about emergency preparedness. She said the activity has been time consuming, but definitely worthwhile.

Topic Group Reports: Mr. Owen then asked Ms. Beetem to give an update on the *Rail Topic Group*. Ms. Beetem said that a fair amount of work has been done in the inspections subgroup. The inspections subgroup is trying to create a system so as to increase the level of confidence that states have in en route inspections, and eventually perhaps get reciprocity across states for inspections. The subgroup surveyed states on practices and are moving towards a standardized inspection form. They received some detailed responses at the last TEC meeting, but have received resistance from the railroads, who believe that they are already doing many of the things in question. In particular, the subgroup is trying to reconcile who does what and when, and what level of detail the system should develop at this time with shipments so far in the future.

Ms. Wochos added that the subgroup developed three different forms, one for motive power and equipment inspections of the locomotive prior to shipment, and one for motive power, equipment, and hazmat inspection of the railcar *prior* to shipment, and one for motive power, equipment, and hazmat inspection of the railcar while en route. Mr. Runyon added that the subgroup did not get positive feedback from the Federal Railroad Administration (FRA), but that the FRA-certified state inspectors in the Eastern states were positive and integral to the development of the forms. He said that while the form looks detailed and cumbersome, it is really quite simple. The basic question being asked is what do we really need to show that a detailed inspection was done. There has to be some sort of documentation to show this. Mr. Runyon said that the inspections subgroup is looking for comments from people who have a vested interest.

Mr. Owen asked what the FRA's opinion was of the project. Mr. Runyon said that the FRA doesn't like forms or checklists. Mr. Owen said he was certain the FRA state people in Ohio had to fill out forms. Mr. Runyon said that the national standard is to only report defects, but that with the OCRWM campaign, inspectors should have to document that the rest of the items were checked. Anne deLain-Clark (New Mexico) said she found it odd that the FRA didn't already have something like this in place. Ms. Janairo said that the inspections subgroup asked the FRA that very question at the beginning of the process. The FRA's answer was that they have a list in their head and they look for specific defects. The states told the FRA that to minimize inspections there needs to be a system of reciprocity. So the subgroup styled the forms and the system after the CVSA program, which has been going on successfully for 10 years. When the rail program develops, the states are more likely to accept other state inspections. If there is no way to document the inspections, how can other states accept previous inspections?

Sen. Carolyn McGinn (Kansas) asked what a standard locomotive inspection consists of and what is over and above a standard inspection. Do the railroads have to inspect every so many miles and how would this program be different? Mr. Runyon said that the items on these forms are not extra-regulatory. All items were taken from FRA regulations. Sen. McGinn asked if all of the items were regulatory for nuclear shipments, but what about for regular shipments. Are the forms asking the inspectors to go over and above for nuclear shipments? Mr. Runyon said he wasn't sure, but all of the items are normal inspection points. Mr. Jones said that the railroads were concerned with multiple stops along the route and how many stops they would have to make. Mr. Flater warned that the FRA needs to understand the political side of this issue. If the process hasn't been accepted by the governors, the shipment will be stopped. He added that he found it hard to

believe that the FRA's general counsel allowed inspectors not to document their inspections. He said it may be a good idea to have the FRA talk to their general counsel about this. He said the states should also talk to their general counsel about it.

Thor Strong (Michigan) asked if the forms represent the standard procedure and compares to the CVSA Level VI program, which is above a regular inspection, what more can be done to make it more comparable to the Level VI so that it is acceptable to the railroads. Mr. Runyon said that he didn't think any more has to be done but unfortunately he doesn't have the background to know what inspections need to be done only yearly and which need to be done on every shipment.

Ms. Janairo asked what the group's next steps would be. She suggested that the committee should get the form blessed by the other regions and maybe proceed outside the TEC group. Mr. Runyon said he thought it was important to have some industry input. Rep. Carl Holmes (Kansas) pointed out that some of the items say "may" and he wondered who decides whether items may be inspected or not. Mr. Runyon said that he believed it was an Association of American Railroads recommendation as to what items get inspected at which time. Ms. Wochos corrected that it was an FRA requirement. Mr. Runyon said that the subgroup discussed this a bit because it is likely that the FRA will extend the en route inspection items to cover 1,500 miles. Ms. Wochos said that currently some items need to be checked every 1,000 miles, but it would likely move to 1,500 in the near future. Kevin Leuer (Minnesota) suggested that the subgroup indicate which items are general freight inspections, which items don't necessarily have to be documented, which items are hazmat items that must be documented, etc. Maybe by taking off those items that aren't as critical, it would be more palatable to the inspectors and the railroads. Mr. Owen suggested that we revisit the issue later in the meeting.

Ms. Beetem went on to discuss the activities of the other Rail Topic Group subgroups. She said the lessons-learned subgroup had developed a document that was presented to the entire Rail Topic Group at the last TEC meeting. It is a compilation of lessons from all the campaigns in the recent past. Right now the subgroup is getting comments and an executive summary for the next TEC meeting. Once we have the executive summary we can look to see which areas we need to focus improvement on. Ms. Beetem mentioned that a lot of the lessons-learned had to do with coordination, which is easily rectified.

Ms. Beetem said the Rail Topic Group originally was going to look at security issues, but because of a lack of clearances among members that issue will not be addressed. Finally, Ms. Beetem said that she will be presenting a paper at the Waste Management Symposium in February about lessons-learned from the Fernald campaign. Many timing factors came into play that should have been addressed early on in that campaign. One shipment was rear-ended and there was damage to the truck, but there was not damage to the shipment itself, so there were no safety concerns. Earl Easton (NRC) said that it is good for the states to present papers at the Waste Management symposium, and he suggested that the committee consider presenting a paper at the PATRAM conference as well. Mr. Easton said that he was putting together a panel of state people, and he wanted the Midwest to consider having someone on the panel. The PATRAM conference is an international radioactive materials packaging and transportation conference that will be held in Miami on October 21-26.

Ms. Janairo added that there was one more Rail Topic Group subgroup that worked on putting together a rail planning timeline. The document isn't done, but it is as done as it can be right now. She anticipates updating the document on a yearly basis or as necessary when other documents, such as the SCOP, are updated. She said a lot of federal and state people were involved in putting this together and the group drew from a lot of documents.

Mr. Owen then went on to report the status of the *Manual Review Topic Group*. He said that the Midwestern states have been active participants in the process. Since the last committee meeting, there have been some phone calls and written comments on the document. DOE has done a good job of trying to factor in the states' comments. One of the overriding themes of our comments was for DOE to stay consistent throughout the document. Mr. Owen said that the states had asked for more specific protocols related to spent nuclear fuel shipments. DOE thought that since more detailed procedures on Yucca Mountain shipments would come in the future, a separate document with those protocols would be more appropriate. Mr. Owen said that a final draft of the manual has been issued to the stakeholders and is winding its way through DOE management for ultimate approval and eventual publication.

Mr. Owen then asked Mr. Moussa to give an update on the *Security Topic Group*. Mr. Moussa said that the purpose of the Topic Group was to look at Department of Homeland Security (DHS) and DOE classifications, requirements, etc., but it became very clear that the issues were very sensitive to DOE. Mr. Moussa said the discussion in the group turned to getting members clearances and what level clearances and would there be reciprocity of clearances throughout departments. There was a frustration that the group couldn't get to the operation level. Mr. Moussa said that because of this frustration, the group decided to sunset until further security issues could be identified on a case-by-case basis. Mr. Moussa said the group also discussed DOE's draft security lessons-learned and are waiting to hear about our comments on this document. Mr. Moussa also said that the group does need to discuss the security logistics for rail escorts and inspections, but now with the sunset of this group, those discussions will have to happen in the Rail Topic Group. Mr. Moussa said that another issue that eventually will need discussion is the definition of safeguards. DOE and other departments have definitions, and we want them to be on the same level. DOE should develop an information sharing protocol based on the classification guide. Mr. Moussa said that we hope to get a classification guide and information sharing protocol in the near future so that we can provide comments. Mr. Moussa said that the states need a certain level of pre-planning and if there are not similar clearances throughout the country, it will be very difficult to get the pre-planning accomplished.

Mr. Flater said that during the Topic Group discussion he had brought up the issue of whether there really was a security issue with these shipments or is this all procedure. Who really wants to steal this stuff? Do we really have a security issue to deal with? Mr. Flater said that he wants the group to look at what the actual threat is and then get back to reality. There are some security issues that are obvious, but a rail cask can't be stolen. Mr. Runyon said that the nomenclature for levels of security between federal departments and commercial are different and the classification guide is supposed to explain this and maybe universalize it. We need to know what level is what level.

Mr. Easton said that one of the difficulties is that there is a ton of information that the NRC has about cask vulnerability that can't be shared because of the security level of the documents. The NRC is trying to get as much information to the states as is required to operate. The states probably don't need to know all of it, but the NRC has looked at just about every credible threat, and they will share what they can. The cask vulnerability studies also look at shipments that are happening now, so there is opportunity to get the states more involved.

Mr. Moussa said that the local responders will have basic questions like what will happen to one of the casks if it is hit by a rocket-propelled grenade? Mr. Easton said that there is a struggle within the agency to get the information out but the security people want to keep it secure. Mr. Jones said that DOE has had the same discussion within its security ranks. He said he agreed with Mr. Flater that these shipments aren't as unsafe as people will think. Mr. Easton said that one of the ironies is that the NRC staff will be able to tell the states

information that they can't tell DOE. Mr. Moussa said that the states are fighting Hollywood right now, with the sensational images of nuclear waste. The public gets the wrong idea from these images.

Sen. Jay Emler (Kansas) said that maybe he could give a legislative perspective. He said there is a constituent of his that takes pictures at rail yards and asks what it is because it has dangerous labels on it, but Sen. Emler can't share with his constituent the information that his own clearance level allows him to receive. The constituent could be a good asset for the state, if Sen. Emler could share the information with him. The security issue really does need to be worked out so we can assure the public that they don't have to worry. Conrad Smith (CSG-ERC) said that we don't want DOE and the NRC to give us classified information, we actually want them to get the information unclassified so it can be shared. Mr. Flater said that educating educators and public officials will also be an issue. Mr. Moussa said that the states don't want tactical information, but strategic information – they don't want to know at what angle and force would the cask fail under RPG attack. Mr. Easton said that the NRC is working on getting this information to the states. Ms. Beetem said that as the states get the information, we need to make sure that the appropriate information is passed down to the locals. If the locals are interviewed by the media, and the locals don't know the correct information, they will not be helping to educate the public.

Mr. Owen then asked Mr. Strong to give an update on the *180(c) Topic Group*. Mr. Strong said that he would be giving the same presentation he did a year ago in Okemos, Michigan. Section 180(c) is of interest to all because it involves money. In essence, this section of the Nuclear Waste Policy Act says that DOE shall provide technical assistance and funds to the states for training in safe routine transportation and emergency response. There are four key issues that the states identified: funding distribution, funding allocation, allowable activities, and timing and eligibility. Some sub-issues that the states identified as important are definitions, pass-through requirements, contingencies, policy versus rulemaking, state fees, and funding of operational activities. Currently as worded 180(c) funds do not cover escorting, manning the TRANSCOM tracking system, etc.

Mr. Strong said that last October, the Topic Group had gotten to the point where we were wrapping up the work and submitting recommendations to DOE. The resolved issues are those that most states and DOE agreed upon. One resolved issue was funding distribution. Originally some thought the money should go through the state regional groups, but we all agreed in the end that the grants should go directly to the states. For allowable activities the state mantra was to provide as much flexibility as possible as to who was trained and to what level. The recommendations that we sent to DOE do allow a great deal of flexibility. One of the issues that came up was whether or not hospital personnel would get training, and after a lot of discussion, hospital personnel were added to the definition of public safety official.

Mr. Strong said that another issue that was resolved was the pass-through of funds. We all agreed that there was not a direct required percentage of money that states had to pass through to the locals. Instead the states will have to demonstrate that the local officials are receiving the benefit of the funds. The group also agreed on contingency planning. The basic issue was what would happen if a route was closed and another, untrained route had to be used. We agreed with the definition of contingency and the plan for how money would be provided to cover these routes. The group also decided that eventually the 180(c) policy should become a rule, but that at the onset it should be a policy. For timing and eligibility, one of the questions was border issues. If there is a route that runs parallel to two states, which state is eligible for funding? We agreed that both should seek separate funds from DOE.

Mr. Strong said that the group agreed on most aspects of the timing and amount of the grants. The framework of the policy is that there is a one time planning grant of \$200K given 4 years before the start of

shipments for states to start training and assess training needs. Then there is a training grant with a base amount of \$100K and a variable amount each year based on a number of issues. Mr. Strong said that the one area that the states did not agree was the variable grant, but he would come to that in a minute.

Mr. Strong said that the unresolved issues are those that the states don't agree on or ones that the states and DOE don't agree on. One of these issues is state fees. The Midwest thinks that DOE should not deduct fees from 180(c) funds and should not have a match requirement. DOE's definition of 180(c) is that the funds are for training only, so there should be no conflict. States with fees use the money to pay for operational expenses like escorts and inspections. States that have a fee structure will work out with DOE how their fees will work with 180(c) money. Another issue where the states and DOE disagree is funding for operational activities. As mentioned, 180(c) doesn't pay for escorting, etc. The WIPP transportation program pays for all state activities relative to overseeing the WIPP shipments. The states are looking for something comparable from DOE, because if it is good enough for the WIPP program then it should be good enough for spent nuclear fuel. This issue is still unresolved.

Mr. Strong said that the most unresolved issue was the funding allocation method. This issue goes back to the variable grant. Years ago the western states had come out with a proposal for how the variable grant money should be allocated. They said the money should be distributed based 75% on shipment miles and save the remaining 25% for discretionary funds. The Midwestern states suggested an alternate proposal based on the Department of Transportation's HMEP program. Many states have been involved with the HMEP program and have been very happy with it. The proposal that came out of the HMEP model was dubbed the "Minneapolis proposal" and was based 30% on route miles, 30% on population along the route, 30% on shipment numbers, and 10% on shipment origin sites. Joseph Bell (IN) asked what constitutes a shipment. Mr. Strong said that one train would be a shipment regardless of how many casks are on it, and one truck. Ms. Clark clarified that the western proposal based on shipment miles was because of the theory that less people along the route means that there is less access if there is an accident. She said that the west has recently withdrawn its formula recommendation and has decided that the money should be distributed based on a needs assessment. Ms. Janairo clarified that the population count in the Minneapolis proposal is meant to signify that with more people there would be more first responders that need training in a densely populated area.

Mr. Strong said that some other activities that the states have been involved were the development of a list of principles of agreement among all the states. These principles of agreement are key issues that should guide 180(c) and the whole program perspective, whether it is Yucca Mountain shipments, Private Fuel Storage (PFS) shipments or any other shipments. Since last October, the group worked on the grant application package and at one point DOE was considering running a pilot program to see if the program works. Mr. Strong said that next steps for the Topic Group are for DOE to issue a *Federal Register* notice to cover both the policy and the application procedure. At that time the states will submit comments. Mr. Jones said that the policy and application procedure were still under internal review in general counsel, but the goal is still to get it out by the end of the year. Mr. Strong asked if there was anything the states could do to encourage the process along. Would it be helpful for us to write a letter? Mr. Jones said that he would check to see if encouragement from the states would help.

Mr. Owen then asked Ms. Janairo to tell the committee about the *Routing Topic Group*. Ms. Janairo said that the Routing Topic Group was announced at the last TEC meeting. Originally the Rail Topic Group was called the Rail/Routing Topic Group, but then the group decided it shouldn't be addressing routing yet, so it was changed to the Rail Topic Group. The Midwest pressed really hard at getting the routing taken out of this group and have the focus remain on rail. Now that the Midwest has finished our Route Identification Project

we feel it is the right time to look at the national route selection process. Ms. Janairo said that we provided DOE with the names of our Midwestern representatives on the group. The first conference call took place on November 9th, and we talked about the draft task plan. We need comments from the committee on the task plan as soon as possible. Ms. Janairo said that she would like to come back to the draft task plan tomorrow. Ms. Janairo said that the two big issues she has identified in the task plan is that it calls to look at rail issues first, even though it would seem that truck shipments may take place before rail routes. We should be considering highway routes at the same time. The second issue is that the subgroup structure is not going to work. Some of the activities may not be able to be done concurrently. We need to decide whether we will lead or co-lead some of these groups. Ms. Janairo said that her inclination is to say no. We should be active but would not direct the subgroups. The proposed format is to have monthly subgroup calls and bimonthly calls of the entire group. There is also a routing process plan that DOE developed that we need to provide comments on.

Other Meetings: Mr. Owen then asked people to report on the other meetings they had attended since the last committee meeting. Ms. Wochos reported that at the *U. S. Transport Council* (USTC) meeting in June she presented the states' perspectives on planning for Yucca Mountain. She said her presentation included the need for a comprehensive transportation plan, the states' opposition to S. 2589, and the states' route identification process preferences. The feedback on the presentation was positive and the only two comments received were why the states opposed Section 7 of S. 2589 when preemption rights for the federal government already exist and why the Midwestern states are against barging shipments on the Great Lakes. Ms. Wochos said that she thought it was worthwhile for the committee to send someone to the USTC meeting so that industry gets the states' perspective.

Rep. Elgin then gave an overview of his time at the *National Conference of State Legislatures* (NCSL) meeting in Nashville in August. He said that the NCSL committee is made up of only legislators that have plants in their states. A lot of what is done at the NCSL committee meeting parallels what our committee does. At a policy level it is not as detailed because the legislators don't have the expertise, and the committee is national, not regional, but the issues are the same. Rep. John Heaton of New Mexico is the chair of the NCSL committee and is very good at moving the topics along.

Rep. Elgin said that there is a detailed summary of the meeting in the briefing materials. Rep. Elgin said that the NCSL committee is very concerned with energy policy in the states. If, in fact, energy independence is the goal, nuclear energy has to be part of the mix. If nuclear energy *is* part of the mix, the issue of what will happen to the spent fuel is a big one. Rep. Elgin said that at the NCSL meeting the committee talked about S. 2589 and what the sections and implications of the sections were. There was also a discussion on how to massage the language of the bill so that it would be more palatable. NCSL is trying to work on updating the website, updating the committee's policies, strengthening the relationship between it and the regional groups. Christina Nelson (NCSL) added that the difference between the NCSL group and the regional groups is that the regional groups are populated by state agency people, and the interest and focus can be very different. The details, such as the inspection form, are part of the regional groups while the NCSL committee tries to stick to the bigger picture issues. She said the NCSL website has a legislative database to reference what other states are doing. The NCSL committee members also work to inform their constituents and colleagues in the legislature so they can build better legislation.

Ms. Janairo then gave an update on the *Midwest Legislative Conference*. She said she and Ms. Wochos attended this meeting in Chicago in August. The big outcome of this meeting was from CSG's Energy Task Force. The Task Force addressed the issue of permanent disposal versus interim storage. Ms. Janairo said she shared some information with a colleague in the CSG office and that colleague passed it on to the Task Force

members, who then took up the issue at MLC. There was a representative from Wisconsin who came to the meeting solely to see the MLC pass a resolution against interim storage and in favor of permanent disposal. The full MLC did adopt the resolution and a copy of it is in the briefing packet.

Ms. Wochos then told the committee about the happenings of the *Wisconsin High-Level Waste Transportation Working Group*. She said this group was formed years ago to talk about waste transportation from the Kewaunee and Point Beach power plants, but disbanded when Yucca Mountain was pushed so far in the future. The group recently came back together to discuss the decommissioning of the La Crosse power plant and the eventual shipment of the reactor vessel from La Crosse to Barnwell, SC. Ms. Wochos said that shipment will happen next summer, so right now the state has not done any training or very much public outreach, but they will in the next couple of months. She said that she and Ms. Janairo had each attended the meetings to provide general information and updates on Yucca Mountain and PFS. Joe DiMatteo (DOE-EM) and Kevin Blackwell (FRA) have also participated in meetings to provide information on the TEPP program and the FRA Safety Compliance Oversight Plan (SCOP). Ms. Wochos said that when the plant ships the reactor vessel they will also move the spent fuel that is in the pool into dry cask storage.

Ms. Janairo then gave an update on the *Wisconsin Legislative Council Special Committee on Nuclear Power*. The first meeting of this committee was at the same time as the TEC meeting and their third meeting is coinciding with this meeting. The second meeting was held at the Point Beach nuclear plant. One committee member had given a presentation on the technical side of nuclear power and there were also presentations from University of Wisconsin professors on risk and security. Lake Barrett, who used to run OCRWM, talked about the societal issues related to waste disposal. Ms. Janairo said the most interesting thing she learned during this meeting was from Mr. Barrett in regard to the Global Nuclear Energy Partnership (GNEP). Ms. Janairo said that Mr. Barrett told the Wisconsin committee that theoretically GNEP could reduce the need for 10 Yucca Mountains, but what really matters to the capacity of Yucca Mountain in the NWP is the volume of the waste before reprocessing. So even if the country goes forward with reprocessing, Yucca Mountain will still be limited as to what could be put in there. Mr. Strong asked if that meant that only 70,000 metric tons of pre-processed fuel will go into Yucca Mountain, no matter how much the volume is reduced in the reprocessing. Ms. Janairo said that was the case. Scott Field (WIEB) said that it sounds like the NWP will need a legislative fix. Ms. Janairo agreed. She said that she is going on a tour of Yucca Mountain in December and then giving a presentation on transportation at a meeting in Madison. She said the ultimate goal of this committee is to look at whether the state should repeal the moratorium on building new nuclear plants. The committee must come up with legislation by the next session.

Ms. Wochos then gave an overview of the combined *Western Governor's Association (WGA), Southern States Energy Board (SSEB), and NCSL* meeting in San Diego in October. She said the meeting covered a lot of the same topics that the Midwest committee covers. The difference is that the WGA and SSEB committees do not have legislators, so it was interesting to see the interaction between these groups and the NCSL group. Ms. Wochos said that during her update she corrected the notion that none of the regional groups has legislative representation. The most interesting thing from this meeting was the Nuclear Energy Institute (NEI) representative's explanation of their draft Yucca Mountain legislation. Ms. Wochos said that in response to S. 2589 and the bad feedback that bill received, NEI drafted their own bill. She said she thought it was interesting that despite hearing the states' displeasure of section 7 over and over during the last few months, NEI still included that clause in their draft legislation.

New Business: Mr. Owen then moved the committee into new business. He asked the committee members if they had any issues to discuss. Ms. Janairo said that the inspections checklist needs to be discussed, as well as the NRC-state collaboration on security, but she thought these issues were best left to the afternoon. Also the

committee needs to discuss the possibility of writing a letter to move the 180(c) policy notice forward, and the task plan for the Routing Topic Group. Mr. Owen said that the committee will discuss these issues in the afternoon.

Election of Co-Chair: Mr. Owen discussed the election of the co-chair. He said the officers are reflected under Rule IV. The chairmanship will now consist of co-chairs. Chairs will serve two year terms, one as the junior co-chair and one as the senior co-chair. The co-chairs will attend meetings on the committee's behalf, lead the committee meetings, etc. Mr. Owen said that the committee appreciates Mr. Moussa serving as the last vice chair of the committee. Mr. Owen then opened up the discussion to nominations. Mr. Flater said that it was time for a woman to serve, so he nominated Ms. Beetem. Mr. Moussa seconded the nomination. Mr. Owen asked Ms. Beetem if she would be willing to serve in that capacity and Ms. Beetem said that she would. There were no further nominations so Mr. Owen called for a vote and the nomination passed unanimously.

Mr. Owen then turned the floor over to Ms. Beetem to discuss the site of the next meeting. Ms. Beetem said that the next meeting will be held in Jefferson City, Missouri. She said that unfortunately there aren't flights directly into Jefferson City, but it is easily accessible by highway and rail. She said the meeting itself will be held in the Department of Natural Resources facilities, but she would like feedback on any outside activities that the committee would like to do. Ms. Wochos said that based on the results of the online survey, the best week for committee members is May 14-18th. She said the meeting will be either a Tuesday-Wednesday or Wednesday-Thursday based on hotel availability. Ms. Janairo said that if any members had specific topics that they wanted to discuss at that meeting, please let her know.

State Roundtable: Mr. Owen then asked the members to briefly comment on the happenings in their states, but to keep the discussion to radioactive waste management and transportation activities.

Illinois: Mr. Runyon said that the most significant thing that has happened in Illinois since the last committee meeting is that the state got invited to a meeting with the NRC commissioners on implementing additional security measures for radioactive waste shipments. These measures were implemented after 9/11 for licensees to increase security for shipments. Commissioners were interested in the industry's perspective on these measures, and heard from industry representatives in the morning. In the afternoon, the commissioners heard from the states, DOT, Coast Guard, Customs and Board Patrol, the State Department, etc. Mr. Runyon said that he presented on what the states have done and the impact of these actions. In a nutshell, the industry doesn't like the additional security measures. The other issue was the little known fact that trans-shipments, or those that originate outside the U.S. but continue across the U.S., are not regulated in the same manner as regular domestic shipments. There are some agreements with large source shippers, but technically even they are not tied to the same set of rules. Mr. Runyon said that hopefully in a matter of weeks the states will get some feedback or see a summary and see if the NRC has changed their position on these additional measures.

Mr. Easton added that the NRC is trying to get the state regional groups more involved on the ground floor. New York and California were also asked to give presentations because they are port states, but they were unable to attend. He said the NRC treats Nordion a little differently because it is a Canadian industry. He said that the industry representatives were not allowed to hear the state presentations, but the states were allowed to hear the industry presentations. Mr. Easton said that he is hoping to get groups like this committee recognized as intergovernmental groups, so that we could participate in issues that are normally protected by security and pre-decisional aspects. Mr. Easton pointed out that this whole meeting and the additional security measures are only for commercial shipments.

Mr. Runyon said that during his presentation he did mention the committee's letter to the NRC on information sharing and one commissioner cautioned that the NRC was partnering with the states on information only for spent fuel shipments. He said he thought he was able to provide the commissioners a snapshot on what happens on the ground. Mr. Easton said that he recently emailed Ms. Janairo and Ms. Wochos on state escort and inspection practices as a result of this meeting. The commissioners want to weigh all the information when they potentially turn these orders into regulations. The commissioners did ask Mr. Easton to find out if the states felt that any of the security mandates were unfunded. He asked the states to let him know if they feel any of the NRC's mandates are unfunded. Sen. McGinn asked who is considered industry. Mr. Runyon said that some of the industries at the meeting were Nordion, the Association of American Railroads, and Edlow International.

Indiana: Mr. Bell said that transportation is going to be a big issue in the near future and that Indiana is trying to do more training with the money they have received from DOE through agreements and fees. The state is doing a lot with initiatives with the universities in the state regarding remote sensors. The universities have developed and are using a cell-phone type device. As for the state's fee program, the state has had some problems getting people to pay. Mr. Bell said there was a West Valley package that had an incident in Indiana and the state didn't even know that the shipment was going across the state until the incident occurred. The RAP team had to come and check it out and then people from West Valley had to come and clear the shipment to continue. Ms. Wochos asked what universities were involved in the initiatives. Mr. Bell said Purdue and University of Indiana. Ms. Janairo asked if Indiana had ever received a response to the letter sent to DOE about back payment for shipments over the last 3 years. Mr. Bell said that the state sent seven letters to DOE regarding shipments that had gone through the state without paying the fees, based on information from the prospective shipment module that Ms. Janairo had provided them. To date, Indiana has not heard back from DOE. They have only heard from West Valley, who is not eager to pay.

Iowa: Mr. Flater said that the state's fee law was changed to include other radioactive sources. The permits are the same as waste: \$1,800 per cask plus \$20 a mile for every mile over 200 for truck shipments and \$1,300 plus \$100 for every additional cask for rail shipments. Mr. Flater said that the money was used to replace equipment for hazmat teams that could not be repaired. The state spent \$60,000 on new equipment for the 17 hazmat teams and also training. He cautioned other states that, to avoid preemption of state fees, the money received must be spent on training and equipment. He said Iowa's fees do include escorting costs that his department passes on to the state DOT. There is a radiation detection device on either side of the highway, and if those go off, then the shipment is checked and if the shipper doesn't have a permit, the shipment is sequestered.

Mr. Flater said that with Rep. Elgin's help the state legislature passed new legislation that all fees will go into a rotation fee fund, so these activities will be fully funded by fees. Mr. Flater said that the program no longer receives any general fund money, so the legislature can't cut the funding, so this helps the department to retain staff. The department functions like a small business within state government. Mr. Bell asked how much the state collects. Mr. Flater said that this year the low-level waste permits will net \$110,000 and the high-level waste permits will add a bit more to that. In addition, the state received some money from the WIPP program for a total of \$150,000-\$200,000. Ralph Smith (DOE-CBFO) asked if Mr. Flater's replacement was cognizant of the agreement WIPP and Iowa had worked out on fees. Mr. Flater said that yes, his replacement would know the situation and that it is actually a rule in the state code, so there is something to stand by. Rep. Elgin said that in terms of the revolving fund, it was easier to get the small department in a revolving fund than the whole health department. He added that the fees legislation has been changed based on what has happened in the state and hopefully it will serve as a model for other states and other state legislative endeavors.

Kansas: Mr. Moussa said that Kansas' nuclear program is paid for by fees from Wolf Creek and Cooper power plants. Even though Cooper is in Nebraska, part of the evacuation zone is in Kansas. The fund is a dedicated fund and it supports the nuclear division, but also health, environment, highway patrol, etc. The state collects about \$1,000,000 but if the money isn't used, then credit goes back to the plants. Kansas does not have a transportation fee program, but Mr. Moussa said that he would like to look at that again in the next session. Mr. Moussa said that the state recently had an exercise with DOE with Type A packages. DOE was nice enough to purchase the vehicles that they set on fire, and the exercise included recognition, assessment, evacuation, etc. November 6-7 was the Wolf Creek graded exercise. Mr. Moussa said that what they found out with the exercise is that the responders are using high-level dosimetry that does not work great in a Type A package accident. They also learned that with turnover, the state needs to maintain a sharper level of training.

Sen. McGinn said that she is looking forward to working with Mr. Moussa on fee legislation. She said she had an opportunity to go through Wolf Creek when it was shut down and found it very interesting. That plant is now looking at getting a 20-year operating license extension. She said she learned that when you factor in the costs of building a new plant, it may be beneficial just to extend the licenses of current plants. Sen. Emler said that he also went on the Wolf Creek tour. He added that on that tour they were able to see the amount of low-level waste that the plant produces. Rep. Holmes asked whether it was true that Barnwell was closing its doors to non-compact states. Mr. Owen confirmed that Barnwell would not accept any more waste from non-compact states after July 2008. Rep. Holmes said he felt there needed to be some discussion on developing another compact group because of the Barnwell development. Envirocare only takes part of the waste.

Mr. Bell said that Indiana was planning a transportation exercise for January and Mr. Moussa said that he felt it was well worth the effort. He thanked DOE for their effort in planning the Kansas event, and he suggested to other states that if they do similar exercises they should arrange for the state emergency operations center to be open because it would be valuable training for those people as well. Mr. DiMatteo said that Wisconsin will probably do an exercise in the next six months to a year. Nebraska is also looking to do one in the spring through Jon Schwarz. Mr. DiMatteo said that exercises seem to be something many states are interested in, and DOE is assisting through the TEPP program as much as possible. He also mentioned that there are not unlimited funds, so adding a terrorism aspect into the exercise could help access money from DHS. Mr. Smith noted that West Virginia just did a navy exercise and another one was conducted in Pennsylvania recently. There will also be another exercise at West Valley in the near future.

Michigan: Mr. Strong said the decommissioning of Big Rock Point nuclear plant is complete. The reactor vessel was shipped down to Barnwell a few years ago. The decommissioning was completed this summer after several hundred thousand feet of low-level waste was shipped to Duratek or Envirocare. Big Rock Point is the first nuclear plant that has gone through the decommissioning process to green field status. The spent fuel is still there, but the rest of the land may be turned into a state park. Mr. Strong said that DC Cook plant is a dual reactor that will be shipping a reactor vessel sometime in the near future. Two of the plants in Michigan have recently gone through relicensing, but the Fermi plant will not need relicensing for quite a while.

Mr. Strong said that another issue that is affecting Michigan is the Canadian proposal for a deep geologic repository for low-level and mixed low-level waste in Ontario. They are proposing to build a facility similar to WIPP, except that it would be in a limestone bed about two miles from the shore of Lake Huron. So far it has not become an issue, but it may. Mr. Strong said that his outlook is that Canada is going above and

beyond what the U.S. has ever done for that type of waste. Mr. Strong said that this topic might be a good one for the next MLC meeting, which will be held in Michigan.

Minnesota: Mr. Leuer said that the Monticello plant just received a license extension to 2030. That plant is also moving forward with dry cask storage and will likely be done moving the fuel into the casks this spring. The Prairie Island plant already has dry cask storage. Mr. Leuer said there was a recent NEI bulletin for security exercises that includes exercises around the dry cask and pool storage. The NRC has recommended that states run these exercises, so Minnesota will do so in July. Mr. Leuer said that one thing they have noticed is there is a disconnect with security and emergency planning within the plants. The NEI exercises will hopefully pull those together. Mr. Leuer said that he felt it is an unfunded mandate from the NRC. He said that the state just purchased a disaster local area network and will be fully implementing it by next fall. One of the features of the network is that it offers offsite users secure access. Mr. Leuer said that the state is also rolling out potassium iodine tablet distribution within the 10 mile EPZ in February. The locals have been supportive and the media has been supportive in implementation.

Missouri: Ms. Beetem said that state had a chance to think about Yucca Mountain because of the recent FRR shipment. The planning of that shipment was a learning experience. She said she and Mr. Runyon had to agree to disagree because both Missouri and Illinois did not want the shipment to sit in their states if the shipment hit St. Louis during rush hour. It is an issue that will have to be dealt with in the future. Ms. Beetem said that one thing she noticed is the time the shipment actually took to get across the state. She said the state received the first call at 4 a.m. and then the shipment actually left the state at 10 p.m. There was a lot of staff time involved. Ms. Beetem said that the other issue in Missouri is fee legislation. The legislative package did not pass last year, but it will be revised and reintroduced this year.

Nebraska: Lieut. Ken Dahlke said he had nothing to report.

Ohio: Mr. Owen reported that Ohio was not interested in signing on to the letter against interim storage bill written by the governors of Connecticut and New Jersey. Mr. Owen said that Perry Nuclear Plant will host a security event for DHS, local officials, etc., to see what everyone would do in the case of an event. The DOE Radiological Assistance Program (RAP) team did a presentation to the Ohio agencies in October to demonstrate what they do. Mr. Owen said that there were two legislative initiatives by Rep. Skindell. One bill established a study commission to see what the state needs to do for safe transportation. That bill had three hearings but no further action was taken. The companion bill to that one would have established transportation fees. That bill had one hearing but did not go any further.

U.S. Department of Energy, Office of Civilian Radioactive Waste Management Update

Mr. Owen asked Mr. Jones to give the Office of Civilian Radioactive Waste Management update. Mr. Jones said that he geared his presentation for the new people, so he will be covering a lot, but not necessarily all the specific details. He first wanted to update the group on the questions asked this morning. He said he spoke to Alex Thrower and Mr. Thrower had indicated that he had sent a response to the lessons learned comments back in August. Mr. Thrower thought the issue was resolved, but if the Midwest thought otherwise, we should contact him. Ms. Janairo said that because there are three different lessons learned documents out there, it's possible the Midwest was mixing them up. In addition, given past experience, it was a set bet that the states would not be satisfied with DOE's response to the region's comments. She said she would look for the documents to which Mr. Thrower referred and follow up with him.

Mr. Jones said that as for the practices manual, Ella McNeil had received all the states' comments and incorporated them into the draft that is now going through management. Next month it will go through the

formal "rev-com" process. Hopefully the new version will be issued sometime in February or March. States should talk to Ms. McNeil if there are questions. Finally, Mr. Jones said Mr. Thrower told him the classification guide was going through an interagency review with DOT, NRC, and DHS. DOE is working on getting the information sharing protocol done too, though that is in the early stages. Mr. Thrower also indicated that he was working on a bibliography of publicly available security documents.

Mr. Jones then went on to the OCRWM update. He said that many of the slides in his presentation were basic slides on the program, so it would be a refresher for the veterans and an overview for the new people. The background is that 25 years ago Congress passed the NWPA establishing OCRWM and putting together a plan for disposal of nuclear waste. Congress looked at different sites to host the repository and narrowed it down to three choices. In 1987 they narrowed the scientific research down to only Yucca Mountain. Congress officially designated Yucca Mountain as the site of the repository in 2002. In the near-term future, OCRWM has committed to getting a license application to the NRC by 2008 and opening the repository in 2017.

Mr. Jones showed several slides of the current state of pool and dry cask storage at power plants around the country. He showed the projections for the amount of spent fuel that is currently in storage and the amount that will be present when Yucca Mountain opens in 2017. He said the Environmental Impact Statement (EIS) that DOE did for Yucca Mountain analyzed transportation impact from all 77 fuel storage sites in the country. Mr. Jones showed a map of all the sites with spent fuel, including some naval and university sites. He said in addition to commercial spent fuel, there is some fuel from defense sites, some foreign research reactor fuel, and some naval spent fuel.

Mr. Jones showed the group the location of Yucca Mountain on a map of Nevada. He also showed the affected counties, which are integrally involved in the planning for Yucca Mountain. Mr. Moussa asked what the capacity of Yucca Mountain would be. Mr. Jones said that the cap is 70,000 metric tons, and currently there is 53,000 metric tons sitting at sites throughout the country. In 20 years that number will be up to 120,000 metric tons. Mr. Moussa asked what Yucca Mountain could actually hold, if not for the legislative cap. Mr. Jones said that he has heard that it is anywhere from 5 to 10 times the cap amount, depending on how you place the waste. Mr. Smith said that the EIS looked at capacities of 70,000 and 120,000 metric tons. Mr. Jones said that was correct.

Mr. Jones showed the group a schematic of the inside of the mountain. The actual repository horizon is 1,000 feet below the summit and 1,000 feet above the water table. The site was picked because of the isolated environment above the water table and other beneficial geologic factors. It is essentially an underground mine. Mr. Jones showed an aerial view of the site and explained how a tunnel boring machine carved out a 5 mile long U-shaped tunnel in the mountain. Mr. Jones said that one of the challenges of the program is keeping all of the different departments, oversight groups, and cooperative groups happy.

Mr. Jones showed the steps needed to get the repository open and showed a history of where the program has been and what needs to be done after the license application is filed. The NRC will have three years to review the construction application and then DOE will file a separate application to operate the repository.

The program objectives, as outlined by new director Ward Sproat, are to submit a quality license application, build a nuclear culture, address DOE's liability issues, and develop a comprehensive transportation plan. OCRWM is in the early stages of working on all these things. Mr. Jones said that his office is having a meeting with Mr. Sproat in December to talk about activities and get insights and feedback.

The schedule for near-term activities is to get the license application submitted by 2008. Lots of things have to go into the license application. The Caliente corridor EIS has to be completed. It was completed in 2003, but it needs to be updated to include the Mina corridor. Three months after the license application is submitted the NRC will docket it. Mr. Easton said that actually the rule is that six months after the NRC verifies that DOE has everything in the license support network, they will be able to docket the application.

Mr. Jones said the long term schedule is to start rail construction in 2009 and facility construction in 2011. Mr. Jones warned that this is the best achievable schedule and does not count on some things that are out of DOE's control. Funding and the new Congress could make the process more challenging. Mr. Jones said some obstacles in the way of operation are the legislative requirement for the land, funding, the State of Nevada's objections, the long licensing process, the extended litigation from the utilities, and rail line delays. The tight time schedule is also an obstacle. Mr. Jones said these are just some of the ways that the program timeline could stretch out.

Mr. Jones then showed the group the budget request for 2007 and the current funding levels for 2006. He said the request for 2007 is to meet the best achievable 2017 date. DOE asked for \$67.7 million for its transportation program, with money coming from both the Nuclear Waste Fund and defense sources. Mr. Jones said that he is not sure which way Congress will go with the budget, but there could be an omnibus budget bill in December or we could wait until March. He warned that DOE may have to provide funds to the regional groups in increments until the final budget is established. Regardless of how much money the transportation program receives, Mr. Jones said that DOE understands that the cooperative agreements are very important.

Mr. Jones said the Yucca Mountain EIS was written 3-4 years ago, and DOE is currently updating it to reflect the new "canistered" approach to storage. Other design specific features of Yucca Mountain are changing, so these aspects also need to be updated. Mr. Jones said the rail line EIS is also being updated to include the Mina route. DOE is two-thirds of the way through the scoping meetings for this document. The department extended the deadline for public comment on the notice of intent to December 12. Some of the impacts the EIS has to look at is the impact of accidents, a radiological release, worker safety and health, and sabotage.

Mr. Jones then gave some background information on the transportation of radiological waste. He said the WIPP program has shipped over 5,000 shipments. DOE has committed to following all applicable DOT and NRC transportation rules, and will provide funds for the training of emergency responders along the routes. Mr. Jones said that 70,000 metric tons have already been safely shipped worldwide. Current estimates say that there will be approximately 175 shipments per year. Most of these will be rail shipments, but there will be some truck shipments.

The concept of operations for transportation was released in draft form earlier this year. The regional groups have received this document and DOE is anticipating comments. Mr. Jones said that Mr. Thrower is also working on a benchmarking document that is going through internal review right now. Once this is finished it will be shared with outside groups next year.

Mr. Jones said that near term priorities for DOE are to finish the draft rail EIS, publish the 180(c) policy and work with the tribes to tailor a 180(c) approach to their needs. He said that the tribal project will be an intensive project over the next year and he will be using the experience of the NNPP program. Angela Kordyak (DOE) said that there is no conspiracy in the General Counsel's office to keep the 180(c) policy from being published – the office is just understaffed. Mr. Flater said that it took some time for DOE to figure out that the states and tribes were different. Mr. Jones said that some in DOE still do not see the distinction. The

tribes have a particularly high turnover rate, so part of the challenge is getting new people to work with in each tribe.

Mr. Jones explained that the Walker River Piute Indians recently reversed their long-standing opposition to shipments of spent fuel through their reservation. This reversal opened up another possible rail route, called the Mina route, that will now need to be examined and added into the rail alignment EIS. Ms. Janairo asked how seriously DOE will consider the route if the tribe could reinstate their original decision at any time and thus take away the Mina route as an option. Mr. Jones said that DOE needs to consider it as a serious option and study it while they can. Mr. Jones then explained that the Mina route may be a better alternative because there is already an established rail line for much of the route and the part that would need construction is less difficult to build than the Caliente route. Mr. Jones said a Notice of Intent to included the Mina route in the rail alignment EIS was recently published in the *Federal Register*. DOE has to examine the Mina route to the same level as the Caliente route. Mr. Field asked whether DOE had agreed to California's request for some public meetings in the state. Mr. Jones said he believed the only additional meeting added to the original scoping meetings schedule would be in Reno.

Mr. Jones said the OCRWM priorities for 2007 are to establish the routing criteria for the national suite of routes, finish the benchmarking project, publish revised public information brochures, publish the 180(c) *Federal Register* notice, initiate the 180(c) pilot program, and acquire a cask for CVSA training purposes. Mr. Jones said that DOE may also try to get a railcar for mock inspection. One idea is to take people to the Transportation Technology Center in Pueblo, Colorado, to see the railcars and the tests DOE is performing on the railcars.

As for the routing process, Mr. Jones said that DOE has developed a routing process plan and task plan. He said the tribes are a little different, so DOE will likely meet with them individually. The approach for the routing process is to look at the available criteria, have regular conference calls, and talk at the TEC meetings and other industry meetings. Mr. Jones said that the next TEC meeting was tentatively scheduled for January 31-February 1st in Atlanta, Georgia. This TEC meeting will focus on the topic groups. Mr. Jones said that in addition to the TEC meetings he'd like to set up a tabletop exercise for interested parties to analyze the available routes. Mr. Smith asked if the Mina route will be added to TRAGIS. Mr. Jones said that it is already part of TRAGIS, you just need to select the route to end at Thorne, Nevada. He said that from a NEPA perspective, DOE can look at Mina; Caliente was the route chosen in the transportation ROD for further study in the rail alignment EIS, but since the Walker River Paiute Tribe has withdrawn its objections and Mina is now also going to be included for further study, it makes sense for planning purposes to look at Mina, too. Mr. Field said that he felt the Routing Topic Group should address both options. Mr. Jones said he will talk to DOE management about that possibility.

Mr. Jones said that the routing process and timeline is very ambitious. The goal is to finish the process by the end of next year. DOE is relying on Topic Group members for their participation and help, however the final decision on route selection does rest on DOE. Security will be an important issue when considering routes.

Mr. Jones then briefly reviewed the department's legislative proposals from this year. He said that the administration's bill introduced by Sen. Domenici as S. 2589 and by Rep Barton as H.R. 5360 was meant as a Yucca Mountain fix. The purpose was not to override states' rights but to jump-start the repository program. Mr. Jones said he did not know what would become of that bill in the future. Another bill out there is Sen. Domenici's own proposal for interim storage and Sen. Reid's "take-title" proposal.

Mr. Strong asked if there was any consideration being given to the 180(c) pilot program. Mr. Jones said that it is still in the plan for the year, but it depends on the budget. Ms. Janairo observed that it likely also depended on DOE publishing the *Federal Register* notice, given that the purpose of the pilot would be to test what is in the draft policy and procedures.

U.S. Department of Energy, Office of Environmental Management Update

Mr. Owen then asked Dennis Ashworth (DOE-EM) to give an update on the activities of DOE's Office of Environmental Management (EM). Mr. Ashworth said that the EM program is the largest cleanup project in the world, involving 144 sites in 31 states. One of the projects that was completed this year was Rocky Flats, outside of Denver. Another was the Fernald site, which achieved actual physical completion on 10/29/06. The Mound facility near Cincinnati, Ohio, was completed in July and the Battelle-Columbus site was finished in June. Mr. Ashworth showed pictures of these sites in their pre- and post-cleanup states.

Mr. Ashworth said that the shipments of depleted uranium hexafluoride (DUF₆) from Oak Ridge to Paducah Gaseous Diffusion Plant and Portsmouth Gaseous Diffusion Plant will be completed in December or January. Once these shipments are completed, the project will start to convert the material into less volatile uranium oxide and ship it to a final low-level waste disposition site.

Mr. Ashworth said that there were other sites around the country that are shipping, though those campaigns don't necessarily affect the Midwest. Oak Ridge completed a haul road near its site to reduce the amount of time shipments spend on public roads. West Valley has newly begun shipments of low-level waste that will affect the Midwest. Brookhaven will begin making shipments of low-level radioactive scrap material in 2007 or 2008.

Mr. Ashworth then explained the Waste Information Management System (WIMS) to the group. It is a website that has public access data about the various sites and waste streams from those sites. Users can select a site and see what waste has gone where from that site or see a map of the disposition paths. Mr. Ashworth warned that the system is still quite new and some activities have yet to be populated. In addition, the information is not historical, but focuses on 2006 looking forward. Ms. Clark asked if this system was meant to replace the WIPP program's Waste Information System (WIS). Mr. Ashworth said no, the WIMS system will cover all EM shipments. Mr. Runyon asked if it would serve as the prospective shipment module (PSM). Mr. Ashworth said that the WIMS would not have the detailed information that the PSM has. Ms. Janairo said that Ella McNeil had mentioned the WIMS site at the last TEC meeting and that she had sent a link to the committee.

Mr. Ashworth then went on to explain EM's performance measurements. He said that the program measures safety on the basis of incidents per 10,000 shipments. Mr. Ashworth said there has been a lot of discussion about what constitutes an incident. DOE feels anything should be included, such as accidents, shipping paper mistakes, route deviation, any damage, though some are considered "events" and some are considered "incidents." In 2006, DOE's event rate was higher than 2005. Mr. Ashworth went through a couple of the incidents that affected the Midwestern states. He said that the reduction in incidents in 2005 was excellent and that is what DOE is striving for in FY07. Two areas of focus are human error and collision avoidance.

Mr. Ashworth briefly went through the DOE risk management process. The type of shipment, length of route, and volume are factored in with other information to establish a priority shipping schedule. The sites make up their own shipping schedules based on this risk ranking. Mr. Ashworth said that DOE is currently working with sites to improve procedures for communication, loading and pre-loading, material

characterization, driver awareness, and other factors in order to improve safety and reduce risk. As part of the process of risk reduction, DOE has partnered with UNLV to do a truck tracking study to see if there can be improvements in incident management, emergency response, and driver awareness. Hopefully the study will lead to recommended best practices for truck shipments.

Mr. Ashworth then briefly went over the PSM, which shows the projected shipments for the next year. The PSM is updated every six months. Mr. Ashworth said that Eric Huang was working on the next one, which would be sent out in the new year. It does not show shipment specifics, like dates or routes, but it does contain contact information and potentially affected states. When asked whether all DOE programs report their shipments to the PSM, Mr. Ashworth said they are not required to do so. Ms. Janairo questioned his response, and said her recollection was that preparing a transportation plan triggered the requirement to report shipments to the PSM. She asked Mr. Ashworth what triggered the preparation of a transportation plan, but Mr. Ashworth did not know. With regard to routes, Mr. Ashworth said DOE does not require shippers to take specific routes for low-level waste shipments. Ms. Janairo disagreed and cited the Fernald shipments as an example. Those shipments followed specific routes that were documented in transportation plans.

There ensued a discussion of the requirements of DOE's orders and transportation practices manual. Mr. Ashworth said the manual, being an EM document, only applied to EM shipments. Ms. Janairo disagreed and noted that DOE orders spelled out the exclusions. According to Ms. Janairo, OCRWM shipments are only exempt to the extent that the NRC regulates the activity under the NWPA. Returning to the issue of route selection, the states asked how the "pass-through" states were determined for the PSM. Mr. Ashworth said he did not know but that Eric Huang would know. He said he would follow up with Mr. Huang.

When asked whether DOE was going to respond to Indiana's letters regarding back payments for low-level waste fees, Mr. Ashworth said Ella McNeil had the response. He added that the letters had been passed around the department quite a bit. He said DOE felt that it did not need to pay the state fees because of a national security exemption. Several states disagreed with Mr. Ashworth's reasoning and pointed out that, even if the department felt it was exempt, simply ignoring the state laws was unacceptable. A better approach would be either to notify the states formally in writing or to sit down with the states and discuss the matter. The states urged Mr. Ashworth to pursue one of these better approaches.

Returning to the discussion of incident rate calculation, Mr. Ashworth said there have been discussions with some of the regional groups and other federal departments. Commercial shippers calculate incidents per million miles traveled. If we look at the number of incidents per million EM shipment miles traveled, the rate for 2006 is still bigger than 2005, but is still quite low. Mr. Ashworth said EM would convene a meeting of department staff, industry, other federal agencies, and state representatives on January 30-31 in Washington, DC, for the purpose of evaluating EM's incident tracking. Several people pointed out the conflict with the previously announced dates of the winter meeting of the TEC, of which EM is a co-chair. Mr. Ashworth said he was not aware the TEC meeting had been scheduled.

Mr. Ashworth then reviewed the activities of the Transportation Emergency Preparedness Program (TEPP). In 2006, over 1,400 responders were trained in the program. In addition to the module training, two live exercises were conducted this fall, one in West Valley and one in Kansas City, and another is scheduled for Indiana in February. Mr. Ashworth said EM also does public outreach through the TransCAER program and commodity flow studies. The TransCAER is a mobile public information program about radioactive material transportation. The commodity flow studies have been done to give communities an idea of what type of hazardous materials are traveling through their jurisdictions during any given time. Mr. Ashworth said that

three commodity flow studies have been done in Arizona, Texas, and Tennessee. DOE works with the state and local enforcement to stop all placarded shipments during a 24-hour period. He showed the group some of the information that was collected during these studies, including the type of material, quantity, and volume. Mr. Ashworth said EM also does a customer satisfaction survey, which always shows that the program is doing a good job. EM also has a transportation outreach newsletter that Bill Spurgeon puts together for distribution via email. Mr. Ashworth said that anyone interested in getting on the distribution list for that newsletter should contact Mr. Spurgeon.

Mr. Ashworth said that the process for incident management is that it should be reported to DOE within 24 hours, reviewed by an internal EM review group within one week, and corrective action taken within three months. Mr. Ashworth said that this process should be followed for every incident.

Other activities that EM is involved with is the greater-than-Class-C (GTCC) waste disposition. As required by the Energy Policy Act, DOE delivered a report on the status of GTCC waste to Congress. They will issue a notice of intent for disposition in early 2007 and will conduct an EIS of the program shortly thereafter. Mr. Ashworth said he expects a decision from Congress in late 2008 or 2009. Additionally, EM is the owner of the Radioactive Material Transportation Practices Manual. Mr. Ashworth said that, as mentioned before, the practices manual has been revised with the input of the states and is awaiting the formal rev-com process before being reissued in spring.

Mr. Ashworth then spent some time reviewing the upcoming uranium oxide shipment program from Portsmouth and Paducah. He said that uranium hexafluoride containers that were shipped to these sites from Oak Ridge will be converted into the more stable uranium oxide and byproducts for disposition and commercial use. Uranium oxide is similar, though even less radioactive than naturally occurring uranium and does not react with water or air. Environmental analyses were done for both of the sites and construction permits were granted. The facilities are expected to be operational in 2008.

Over 58,000 containers will be converted. The uranium oxide will go back into the original containers. There will be about 3,000 containers converted each year, which will result in the shipment of 11 railcars per week. A transportation plan for these shipments will be developed and the states will be consulted. The program will use the leftover gondola cars from the Fernald closure project. A final disposition site has not been chosen yet, but EnergySolutions and the Nevada Test Site are possibilities. Shipments to the Nevada Test Site would require a transload facility to transfer the cylinders to trucks. Mr. Ashworth said that based on the possible disposition sites, the Midwestern states that could be affected are Ohio, Indiana, Illinois, Missouri, Kansas, and Nebraska.

U.S. Department of Energy, Waste Isolation Pilot Plant Update

Mr. Owen asked Mr. Mackie and Mr. Smith to provide an update on the activities at the Waste Isolation Pilot Plant (WIPP) and at the TRANSCOM Communication Center (TCC). Mr. Mackie quickly went through the differences between the TRANSCOM Communication Center and the WIPP Central Monitoring Room (CMR). He said the TCC has responsibility for real-time tracking of all shipments, provides customer service for the TRANSCOM system, provides TRANSCOM training, and troubleshoots problems users are experiencing with the system. The CMR manages all WIPP shipments, maintains direct communication about WIPP shipments with sites, states, and drivers, and coordinates all activities for shipments from departure to arrival at the WIPP site. Mr. Mackie said that if states have a problem with the TRANSCOM system, they should call the TCC. If states have a problem with a WIPP shipment, they should contact the CMR.

Mr. Mackie said that the TRANSCOM Users' Group had a meeting in Carlsbad in September to go over improvements to the system and identify additional improvements. He said all of the improvements identified by the Users' Group at previous meetings have been implemented, although several are awaiting implementation until the annual system outage. Mr. Mackie then went over the TCC's preferences for messaging on TRANSCOM. He said that messages should be limited to those that are pertinent to shipments only. Nuisance messaging should be eliminated, and messages should be concise because the TCC is charged by the character. The messaging system should be used only to communicate critical information to other states, the CMR, TCC and ports-of-entry. Other non-critical information can be transmitted via phone.

Mr. Runyon said that at the last two TRANSCOM Users' Group meetings, the group tried to get some changes into the system. One of these changes was to get faster mapping abilities. He asked Mr. Mackie if this change was made. Mr. Mackie said that the TCC is thinking about changing from Java to SQL, which would correct the slow mapping problem. The change hasn't been made yet, but he said he would update the group when it is completed.

Mr. Mackie then went through the recent TRUPACT III drop test. He said that the package went through two weeks of drop testing in Albuquerque. The package weighs 42,000 pounds empty. The one dropped in Albuquerque weighed 55,400 pounds. It was dropped seven times at various angles and heights. Mr. Mackie said that the drops did dent the side of the package, but the integrity of the package was not affected. He showed the group pictures of the various drop tests and a video of one of the drops. Rep. Elgin asked if the results were similar between the real drop test and the computer-simulated drop tests. Mr. Easton said that the original application for the TRUPACT III was based on half-scale testing. The NRC then did full-scale computer modeling. The NRC will now take the forces from these drop tests and plug them into the computer modeling to see if the package passes the computer modeling tests as well. The computer modeling tests are usually much stricter than the actual drops.

Mr. Smith then updated the group on WIPP shipments. He said that he is retiring in January and Mr. Mackie would be taking over his position. Mr. Smith said the CBFO also has a new planning specialist, Steve Casey, who will be involved in state relations. Mr. Smith said that WIPP received its 5,000th shipment on 9/11/06. He said he was glad to have been around to see this milestone.

Mr. Smith said that WIPP received the permit to accept remote-handled (RH) waste in October. Remote-handled waste is the same as the contact-handled waste that WIPP is currently accepted in that it is defense related transuranic waste of more than 100 nanocuries. However the radiation level is more serious with RH waste, so workers cannot touch it, thus it is remote-handled. While the shipments are different, there is no additional training that responders need for these shipments. The packaging is different, so Mr. Mackie will take the trailer and package on a road show to Illinois and Iowa in spring so responders can see it and train on it. Currently there is only one trailer, so shipments will be slow to start.

Mr. Smith added that WIPP will again be doing carrier audits. Part of the cooperative agreements with the regional groups is to do audits of the carriers. Missouri didn't want to do an audit of the carrier in that state, however, so DOE ended up hiring an outside transportation firm to do the audit. This year the audits found one recommendation and two observations, but nothing serious.

Mr. Smith said that shipment rates slowed down this year with the closure of Rocky Flats. Idaho National Labs (INL) picked up the slack in shipments that Rocky Flats left, but WIPP will likely never again see the volume of shipments it saw in 2005. The major shipping sites are INL, Savannah River Site, and Los Alamos. Mr. Smith said that there were some small generator sites that will eventually make shipments through the

Midwest. Argonne has some remote-handled waste that will begin shipping in spring 2007. There are only 11 transportation casks and one trailer for the RH waste. One more trailer will be available after Thanksgiving, but it will still only result in about one RH shipment per week in the beginning. Conrad Smith asked when and where RH shipments would begin. Mr. Smith said that INL will likely be the first site to ship in February. Argonne may not begin shipping until mid-summer.

Mr. Smith said that he will be adding names to the 8-week rolling schedule distribution list. After 9/11, DOE scrubbed the distribution list because of security issues, but now names are creeping back on. The Midwestern states are not currently on the distribution because there are no shipments that affect those states, but as soon as shipments are within that window, those states will be put back on. If anyone has additional people they would like on the distribution, Mr. Smith said to contact Steve Casey, Casey Gadbury, Bill Mackie, and Mike Brown. He said that states need to use their own judgment as to who they pass the schedule on to in their own jurisdictions. Mr. Flater asked if we should put 'not for general distribution' on the bottom so that state personnel know not to share the information. Mr. Smith said that he would suggest that to the schedule managers. Mr. Owen thanked Mr. Smith for his service on the WIPP program and for his constant dedication to keeping the states as partners in the WIPP transportation program.

U.S. Nuclear Regulatory Commission Update

Mr. Owen asked Mr. Easton to give an update on the Nuclear Regulatory Commission (NRC) activities. Mr. Easton explained that the NRC is an independent regulatory commission. The NRC does not take a position on issues, but rather regulates activities to make sure things are safe. The goals of the NRC are safety, security, openness, and effectiveness. The big exception to the openness goal is security. The NRC regulates the whole fuel cycle. Everything involved in nuclear energy is domestic except for energy needed for transportation. Mr. Easton said that some people are proposing that cars use hydrogen for energy so that the nuclear program is completely self-sufficient. Mr. Easton showed the difference between CO₂ output between various energy sources. He said that due to climate and economic concerns, the political outlook is changing to allow new plant permits.

Mr. Easton showed a graphic of the nuclear fuel cycle, including all of the transportation involved in the process. He then showed a map of fabrication plants, mining facilities, enrichment facilities, etc. He also showed a map of licensed reactors and spent fuel storage centers. Mr. Easton then showed a map of new plant applications, all but one of which are in southern states. Rep. Elgin asked if these plants were replacing old plants or are new freestanding plants. Mr. Easton said that most of the applications were to replace decommissioned reactors at current plants. Mr. Runyon asked how many plants had applied for a license extension. Mr. Easton said that the streamlined process for license extension has made it easier, so most plants either have applied or will apply. Mr. Easton said he didn't know off the top of his head how many already had received a license extension. He said that for plants, the cost of the project is currently in the spent fuel, so utilities have to consider spent fuel storage before applying for license extension.

Rep. McGinn asked if applicants have looked at how much a new plant will cost. She said it would seem that the sheer cost of a new plant as opposed to another reactor at a current plant would push companies into the latter. Mr. Easton said that the utilities are in the business of making money, so they are quite aware of the costs of building any entirely new plant. Mr. Strong asked if the NRC was in the process of approving new reactor designs that may assist in the site-specific costs. Mr. Easton said that the standard reactor designs are already approved. The NRC is only involved in early site permits right now. Mr. Runyon asked how long it would be until the NRC receives and approves an application. Mr. Easton said three to four years was a good estimation.

Mr. Easton then showed some graphics and statistics about the amount and location of spent fuel in storage. There are already dry cask storage facilities (ISFSIs) in 26 states. There are approximately 6,200 metric tons of spent fuel in dry cask storage and 49,000 in spent fuel pools. The amount in dry cask storage will increase in the coming years.

Mr. Easton said that the NRC is currently awaiting the license application for Yucca Mountain. The National Academies study on spent fuel transportation found that the existing regulatory scheme makes transportation safe. It also found that there were no fundamental technical barriers and a relatively low radiological risk to spent fuel transportation. The NRC did recommend, however, based on the NAS study and the Baltimore Tunnel Fire Study, that the Association of American Railroads (AAR) issue a no-pass rule for flammable tank cars and spent fuel casks in tunnels. If this rule goes into effect, that and the use of dedicated trains will make rail transport very safe.

Mr. Easton then showed the group pictures of the various tests that go into a package performance study. He said the NRC hopes to do a package performance study with the cask that will be used in the Yucca Mountain campaign. But first the cask has to be designed and developed.

Mr. Easton said that the NAS study recommended an independent security assessment of spent fuel transportation because the members of the study group did not have the necessary clearance to review all the security information. There was no identified problem, just a lack of security clearances on the group to do a full review. The commission has been looking at security since the 1970s and the bottom line is that a robust cask design ensures safe transportation.

Sen. Hershmann said that a lot of the discussion on security has focused on penetrating the cask. He wondered how hard it would be to unbolt the lid of the cask. Mr. Easton said that the cask can weigh 180 tons. The lid has 48 bolts that are two inches in diameter and nine inches long. The lid itself weighs a ton, so it would be very difficult to remove.

Committee Business Session, resumed

Mr. Owen said that Mr. Easton's presentation segues nicely into the committee discussion on security. The committee had to discuss what information the states need from the NRC, who needs it, and why. Mr. Runyon said that he felt we are finally to the point where we can move forward, but it will require Mr. Easton's help. Some of the guidance that came out of the NRC after 9/11 about security gave the states uneasiness because it asked for additional security. Physical security requirements for spent fuel have been in place since the 1970s and require escorts. After the NAS study came out, the states looked at the recommendation for an independent review and the difficulties they have getting information out of the NRC. Mr. Runyon said he figured a lot of work had already been done on package vulnerability that may sufficiently inform the states. So the intent of the letter the committee sent to the NRC was to focus on getting that existing information out to the states to help them understand the requirements. The basic questions are how do the packages react, what is the potential risk, and how far should the distribution be. Mr. Runyon said that he hoped to look to Mr. Easton for what information is available so we can pick and choose what is important to us. The states need access to the general list of work that has been done, either in an insecure or secure arena. Mr. Runyon warned that the committee should not ask for anything beyond what is useful.

Mr. Easton said that after 9/11 the NRC came out with interim compensatory measures (ICMs) as to what actions should be taken immediately to be prudent. Those ICMs were turned into additional security measures (ASMs) after the NRC analyzed the impact they would have on states. The NRC then did studies

with the general idea of turning the ASMs into rules and regulations. In other words, after 9/11 the NRC imposed the measures by order because they did not have time to make a rule, but now they are looking at making these measures into rules.

Mr. Runyon said that there are three issues that we need to focus on getting information about: 1) the package and what security is provided by the package, 2) the additional physical security requirements, and 3) the true threat environment. Mr. Runyon said that he was aware the states may never get the information on the true threat environment. Ms. Janairo said that the committee hasn't had time to talk about exactly what information each of these issues requires. Mr. Easton said that an example would be that if emergency responders want to know if the procedures in the "yellow book" are appropriate to handle all responses or if there are situations where they may have to do more, then that might be something the NRC could provide. A legitimate request would be consequences for first responders. Ms. Janairo said that perhaps the Midwest's security work group can fill out the matrix Mr. Easton distributed and then get the other regional groups together to see if we all agree. Perhaps it would help to have continuity throughout the regions. Mr. Smith said that the Northeast is going to ask the NRC to release as much information on cask testing and consequences that they can put into public form. Mr. Moussa said that the point of the whole project is to have something to validate to the public that the transportation program is safe.

Mr. Owen then adjourned the meeting for the day.

Thursday November 16

Committee Business Session, continued

After the WIPP and TCC tour, Mr. Owen asked participants to give feedback on the two tours. He asked participants to relay what they got out of the tour, whether it was worthwhile or not, and whether CSG should put together other tours. Mr. Owen also asked if we should extend tour invitations to other legislators. He said he felt going on the tour was worthwhile, but he was unsure if other legislators would find it so.

Sen. McGinn said the tour was interesting for her. She said she started with NCSL a little over a year ago knowing a little about nuclear power. But nothing compares to being out on the disposal site. Sen. McGinn said having information from both NCSL and CSG has expanded her view and perception. She will have a totally different perspective on any future legislative initiatives. She said she thought if CSG has the opportunity to educate legislators, we should because otherwise legislators get information from television and lobbyists. Rep. Holmes said he appreciated the opportunity to go on the tour. Seeing the disposal site in person makes it real. He felt there should be more legislators at this meeting and on the tour. He felt that unfortunately most legislators can only consider issues that are prominent during their term.

Mr. Flater said that another point is that these tours bring people together so you get to know the people in your own state. Mr. Runyon said that one thing the legislators did not see at this meeting is the Midwestern states' use of this forum to coordinate with other neighboring states – not for future shipments but for active shipping campaigns. He said the real-time interaction that happens during these meetings saves time that otherwise would have been spent on the phone. Mr. Moussa said that, in all fairness, he has worked with Rep. Holmes for 20 years. He said he has always known who the committee appointee was ahead of time so that he could call and say hello. Sen. McGinn said that she knew Mr. Moussa by name because of the CSG *Planning Guide*, but she wondered if it was a barrier for legislators to talk directly to people in charge of safe transportation in the states because those people are executive employees. Mr. Moussa said that is a problem, but it can be worked around. Ms. Beetem added that it is probably similar in many states that unless the state official actually testifies in front of the legislative committees, state staff is not encouraged to meet with

legislators. Sen. Emler said that it would be Mr. Moussa's superior that actually testifies in front of the Kansas legislature, but it is good to know that there are other people that know more about the issue. Mr. Moussa added that the staff can provide factual, detailed information if necessary.

Mr. Leuer added that if a picture is worth a thousand words, a tour is worth a billion. He said he found it very valuable as a newer member of the committee because now he understands the logistics and the process. He said he got a sense of the whole picture. Rep. Elgin added that hopefully the new legislators got the sense that there are a lot of unresolved issues that need to be worked on through the years, so legislative participation on the committee is crucial. He gave the example of the TRANSCOM system, which seems to be an excellent system, but it may not be there in the future. So there are a lot of unknowns and new things come up all the time. Mr. Moussa added that even for someone who has been on the committee for a long time, when there is an actual shipment, it is good to know that the people he meets with on this committee are the people that he would be dealing with. It is very helpful to have a personal relationship with people in neighboring states.

Mr. Jones said that from a DOE perspective, it is very helpful to have both state officials and legislators involved. The Yucca Mountain program is where the WIPP program was 10-15 years ago. Yucca Mountain probably has more obstacles to overcome, but half the job is educating the public, which is a big function of state legislators. Ms. Janairo said that the idea of coming to WIPP came out of the tour of Yucca Mountain the committee sponsored last year. At first there was some reluctance from OCRWM to fund a tour to an EM site, but they finally saw the importance of getting people to see an operating site. She suggested that the committee do a tour in the odd-numbered years to avoid elections. Sen. Emler said if legislators take the issue seriously, then it shouldn't matter which year the tour is. There are always excuses, the questions is do they want to be here or not.

Mr. Owen said that that was a good segue into the membership discussion. Rep. Elgin said one of the things that the committee has continued to wrestle with is how to get legislative members to be active on the committee. What do we need to do to attract legislators? What approaches do we need to try? He said that he felt Ms. Janairo and Ms. Wochos had done a good job of identifying legislators who could potentially be on the committee. Those identified are either those who have a plant in their district or whose district is on a transportation route. We've taken those lists and sent a letter to legislator saying they have a reason to come on tours like this. However the problem is that legislators get lots of letters asking if they would like to participate on a particular committee.

Sen. Emler said that the gubernatorial people probably have a good idea of which legislators that either should or shouldn't be on the committee. One suggestion would be that when CSG does their annual state capitol visits to put pressure on people to be on the committee. He said that in the few minutes that CSG staff get to spend with house and senate leadership, it may be helpful to impress upon them the importance of getting a committed legislator for this committee. Sen. McGinn asked if there was trouble getting participation in all the states. Ms. Janairo said that it is hit or miss in the states. The rules say that members have to attend two committee meetings in a row otherwise they can be excused from service. The staff has tried several methods in the various states to identify the best candidates and unfortunately one formula doesn't predict success.

Mr. Moussa said that it would probably be helpful to know who was appointed as soon as possible so that he could go meet with the legislator and explain the issue and the committee. Sen. Emler said that as a legislator he would find it helpful if the gubernatorial appointee visited, if possible. The gubernatorial appointee could lay out the commitment the committee requires and ask that if the legislator can't make the commitment, then

they should not accept the appointment. Rep. Holmes said he felt many committees have this problem. Many legislatures are part time, so legislators have other professions, and may not be willing to take time out of their personal schedule to attend meetings. Ms. Janairo said that, for its other committees, CSG has had the idea of sending a letter setting forth the expectations and asking if the legislator is willing to take it on.

Mr. Owen said that an outreach from the gubernatorial appointee is needed and each state should have a protocol for that. In addition, perhaps CSG could help by preparing a prospectus of duties and send it to the legislators before they meet with the gubernatorial appointee. To hear from CSG and then meet with the gubernatorial appointee is a good idea. Sen. Emler added that another thing that might help is to put some pictures and a tour write-up in *Stateline Midwest*. That might reel legislators in. Ms. Janairo said that Rep. Elgin had had that idea as well.

Rep. Holmes asked what the legislative attendance has been for the last couple of years. Ms. Janairo said that Iowa, Kansas, and Indiana legislators have been active. The other states have been sporadic. Rep. Elgin said that he does not see a lot of Midwestern attendance at the NCSL meetings. Ms. Nelson said that there are several Midwestern members on the NCSL committee. She also mentioned that in attending the regional meetings she has been trying to bring local legislators along so they get a better sense of the issue and the committees.

Rep. Elgin said that if there was a disaster with one of these shipments there would be tons of legislative interest. But we need to get the interest before anything happens to help assure nothing will happen. Ms. Beetem said that perhaps the national route selection process will entice legislators because of the possibility of their districts being affected. Ms. Janairo asked how to accomplish that. Ms. Beetem said perhaps through an update article in *Stateline Midwest*. Mr. Leuer said that we could add statistics about shipments for context. Ms. Beetem suggested adding a chart of shipments per state.

Ms. Janairo suggested highlighting the route selection project in the project brochure, which every state legislator receives in January. Sen. Emler said that he receives a ton of information in the mail in January. Ms. Janairo said one of the reasons the brochure is sent in January is that is when the CSG staff starts to go on the annual state capitol fieldtrips, so we want to make sure legislators have the brochure before the state visit. She asked the legislators if they would prefer it in electronic format. Sen. Emler said he would, but he knew of many legislators who would not prefer it that way. Sen. McGinn suggested a follow-up phone call or a visit to select individuals. Rep. Holmes suggested that the brochure be short and concise so that legislators get the information they need without be bogged down. Rep. Elgin said that perhaps the industry could help us because they have lobbyists at the capitol at all time. Mr. Bell suggested that perhaps a current legislative appointee from another state could call an enthusiastic legislator to convince them to participate. Sen. Emler thought that was a good idea. Ms. Janairo noted that Mr. Moussa will be attending the MLC Executive Committee Meeting in Phoenix on the committee's behalf, so he can make a pitch to the group regarding the recruitment of new legislative members in 2007.

Mr. Moussa said that he has to remind his superiors that he does not attend these meetings solely to discuss Yucca Mountain. He said he oftentimes has to remind himself of that fact too. Interest from the upper echelon lapsed when the Yucca Mountain date was moved out, but there are still many things to discuss. Ms. Janairo thanked the committee members for their ideas. She said she would work on putting together a prospectus and that she and Ms. Wochos would develop lists of potential legislators for the gubernatorial appointees to review.

New business items: Mr. Owen then asked participants to turn their attention back to the *rail inspection form*. He asked what is it that we want to see happen with this form. Ms. Janairo asked if the states were comfortable with OCRWM pushing it through or would they rather get the other regions involved to finish it so that it is acceptable to all states. Mr. Runyon said that only the Midwest seems interested at this point. His personal opinion is that we need to get industry buy-in. If we don't get success through TEC or the industry, then we move forward on our own. Ms. Janairo asked if we should go to the rail safety officers in the Midwest for endorsement. Mr. Runyon said that the first step is to get the FRA state participation states to buy into the form. Then we gain additional support from other members and go back to the TEC and show how broadly supported the form is. Mr. Jones cautioned that he doesn't know who the final arbiter is, either FRA, DOE, or AAR. Ms. Janairo asked for clarification – is the form for the FRA to use or the states? Mr. Runyon said the form is for FRA-certified state inspectors to use. The whole point is to build reciprocity so that the frequency of stops is reduced. Ms. Janairo said she wondered if it would be better to go through an FRA-certified person directly to the states. Mr. Runyon said that we have to keep the FRA involved as a technical resource. Ms. Wochos said that Pat Edwards presented the form at the FRA state participation meeting last July. It may be advisable to try to get on the agenda again. Mr. Runyon said that breaking it out as Mr. Leuer had suggested yesterday is a good first step to making it more palatable. Mr. Leuer added that the form serves two purposes: to build reciprocity and to have something to show the public. If you can't articulate the safety, the public won't buy it.

Mr. Runyon said that there are a couple of facts of life. One is that equipment fails. But if that equipment fails because it is old, not because it was inspected incorrectly, it is a totally different thing. He said a good amount of the form are items that are pre-acceptance requirements, not pre-shipment. The bulk of it is also motive power and equipment (MP&E) requirements, so the state participation programs need to certify MP&E inspectors. Mr. Owen asked again whether we should have the Midwestern state participation programs agree on the form before moving forward. Mr. Runyon thought that maybe that should be done in tandem with the whole nation. Ms. Janairo said that if the Midwestern states don't accept it, it is not worth our time to get other regions involved. Mr. Runyon thought that presenting the issue at the FRA state participation meeting was a good start. Mr. Owen asked if this could be a Midwestern internal document until the states agree and then present it to the FRA. Ms. Janairo said she would like to see this concept be made into a final product to satisfy the task of the Inspection subgroup. Ms. Wochos suggested that she and Mr. Runyon consult with Pat Edwards and Mel Massaro to make Mr. Leuer's suggested changes. Then the inspections subgroup should have a call and see if they can reach agreement. If not, then we'll proceed with going to the FRA state participation states.

Ms. Beetem suggested that there be an introductory paragraph to each form and a date line so you know when the items are supposed to be done. She suggested that the form be color-coded to show things that are done initially, annually, and things that are done right before a shipment. Mr. Leuer added that it would be helpful to know which items don't have to be redone so that it doesn't look like as much work for the inspectors. Mr. Runyon agreed that he and Ms. Wochos should revise the form for review by the inspection subgroup. He thanked the committee for their input.

Mr. Owen then asked Ms. Janairo to discuss the *local workshop*. Ms. Janairo said that the local workshop was one of our original special projects that was sidelined because of funding issues. It is in the project scope for this year, and we have the money to do it. Originally Minnesota and Nebraska volunteered. She asked the committee if it is timely to do this project, or should we wait until the dust settles in the new Congress to see what new developments arise. Ms. Wochos suggested that it might be timely to do it in Wisconsin for the La Crosse reactor vessel shipment. Ms. Janairo suggested it might be worthwhile to turn the project into a WIPP

activity and hold the workshop in either Iowa or Illinois for the RH WIPP shipments. Mr. Runyon and Mr. Flater agreed to help Ms. Janairo and Ms. Wochos on the project.

Mr. Owen then asked the committee if they wanted to write a letter regarding the *180(c) Federal Register notice*. Mr. Leuer asked if we were clear what activities were allowed under 180(c) since it is only for training. Mr. Strong said that there are provisions in the draft policy to what is allowable. Mr. Owen asked if DOE agreed to the states' preferences for allowable activities. Mr. Strong said that DOE thought the activities list in the draft policy was fine. Whether or not that will change in the *Federal Register* notice is unknown. He said he suggested the committee write a letter because we don't want people to lose interest. Mr. Jones said that he can ask Corinne Macaluso where DOE was in the process of publishing the draft policy. Ms. Wochos explained that the states and DOE had agreed on the draft policy, but the upper management of DOE was not part of the writing process, so they may have other ideas. What comes out in the *Federal Register* could be exactly what the states recommended or it could be totally different. Ms. Janairo added that the states have had a whole year to think about it, so even though they agreed last year when the recommendations were presented to DOE, they may have different comments now. Mr. Jones said that he will tell Ms. Macaluso that the Midwest is thinking about writing a letter.

Mr. Owen then asked Ms. Janairo to discuss the *route selection process draft task plan*. He asked if this item should be left to the representatives on the Routing Topic Group. Ms. Janairo said yes, however since it directly affects all states, everyone should read the summary approach for the national suite of routes and the draft task plan and get comments back to her. She asked that committee members look over the documents and get back to her by December 15th. She said she also wanted feedback on the subgroup idea. Ms. Wochos said that the data and tools tasks should be done by a separate subgroup because not everyone will want to participate in those tasks or has the experience to participate. Ms. Janairo asked if those tasks could be combined into one group. Ms. Wochos said she thought they could be. Everyone will want to be a part of the criteria development and review of the suites of routes. Ms. Janairo said that two overarching comments are what is the distinction between the different routes once analyzed and who is going to be identifying those sets of routes. Is it OCRWM that will use the criteria or will it be the Topic Group that will then pass it on to OCRWM? Mr. Jones said that that issue will need to be clarified. Ms. Janairo suggested a flowchart of the various steps and the parties responsible. Mr. Jones said that we can discuss the subgroup format on the next Routing Topic Group conference call.

Mr. Owen said that another issue the committee needs to discuss is getting the *Midwestern Governors' Association* involved in the legislative initiatives DOE and others have proposed. In regard to H.B. 5427, Connecticut and New Jersey sent a letter, but the Midwestern states did not get involved in the issue as a group. Mr. Strong asked if the current bills will have any standing in the new Congress. Mr. Moussa said that many will not see the light of day. Mr. Strong said that we don't want to see them reintroduced, so maybe we should take action to that effect. Ms. Beetem said the Missouri was waiting to see what happened with the bills before sending a letter. Ms. Janairo said that appointment letters will be going out to the governors, so maybe we can add a reference in the letters to this issue. The committee thought that was a good first step.

Mr. Owen then asked the committee if they wanted to provide comments on DOE's *concept of operations document*. He suggested forming an ad hoc working group. Ms. Janairo said she felt that it is important for us to provide comments, but that the document is long and it will take a while to read. She asked for volunteers to review the document. Mr. Moussa volunteered to be on the ad hoc group. Ms. Janairo asked if the region's comments would be welcomed by DOE. Mr. Jones said that the comments are probably considered unsolicited, so he was not sure what would be done with them. Ms. Janairo said that the states have been pushing for this document for months, so she assumed comments would be welcome. The committee agreed

to wait until Mr. Jones could determine what would happen to the region's comments before investing time in preparing them. It would still be worthwhile to read the report, though. Mr. Moussa volunteered to read the report and provide comments, if necessary.

Mr. Owen asked if there were any other issues. Mr. Flater asked whether the committee wanted to do anything about Mr. Ashworth's comments regarding state fees. He said that something would happen if EM shipments continue to go through the states without permits. Mr. Leuer asked if this was something that the committee needs to write a letter about. Mr. Owen asked Mr. Flater what the committee should do. Mr. Flater said he wasn't quite sure. First he had to check if shipments were going through without permits. Rep. Elgin said he felt Mr. Ashworth had not given an adequate answer to Mr. Bell's question about shipment fees. Sen. Emler said that it may be advisable to go to higher levels in DOE-EM.

Ms. Janairo said that the committee has several options. First, she would like to research the DOE order to see who should be notified about shipments, and whether the notifications are route specific, and also whether DOE's carriers know that they need to apply for permits in the states. She suggested getting someone from West Valley to come to the next meeting or we could send people to West Valley to discuss the problem. Mr. Bell asked that if the committee pursued a letter or any other action to not include Indiana because Indiana is already pursuing the matter through other avenues. Mr. Flater said that if the carriers are violating Iowa laws, the state will send a letter to the contractor. Ms. Janairo said she will share the results of her research with the committee and then we can decide our next steps.

Mr. Owen asked the committee if they had any final items to discuss. Ms. Janairo and Ms. Wochos then read through the action items. Mr. Owen adjourned the meeting at 5:30.

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