

The Council of State Governments
Midwestern Radioactive Materials Transportation Committee
Proceedings of the Fall Meeting
Lombard, Illinois ✧ December 16-17, 2008

December 16

Jane Beetem (Missouri) called the meeting to order at 2:45 p.m. After reviewing the agenda and completing introductions, Ms. Beetem gave a report from the committee co-chairs. She welcomed Laura Dresen as the new gubernatorial appointee from Indiana. Ms. Beetem highlighted recent developments since the committee's last meeting. Among these were the U.S. Nuclear Regulatory Commission (NRC) docketing the Yucca Mountain license application, the first TRANSCOM Users Group conference call, and the U.S. Department of Energy's (DOE) publication of a revised policy for implementing Section 180(c) of the Nuclear Waste Policy Act (NWPA). Ms. Beetem also noted the passing of former committee member and Indiana state senator Marvin Riegsecker.

Lisa Janairo (CSG Midwest) provided an update on the status of CSG's Midwestern Radioactive Materials Transportation Project. The funding provided to the project from DOE's Office of Civilian Radioactive Waste Management (OCRWM) had been cut by 40%, but the CSG project was in relatively good shape financially compared to the other regions due to having just one staff member working on the project and having most of the money already in place. The three DOE programs that fund the transportation projects in the regions had written a letter in October outlining their plan to unilaterally change the nature of the agreement. Ms. Janairo had shared the letter with the committee and had received negative feedback from the members. The West had responded formally to the letter with its own letter expressing the states' concerns. The committee would discuss the topic of DOE's attempt to change the plans for stakeholder interactions later during the meeting.

Ms. Janairo acknowledged the passing of Brady Lester, formerly of DOE's office in Oak Ridge, Tennessee.

Robert Owen (Ohio) asked whether there would only be one meeting of the committee per year. Ms. Beetem said that was the direction from DOE in its letter on stakeholder interactions. She had participated on a conference call earlier in the summer with DOE and the regional staff to discuss the initial proposal to drop to one meeting. Ms. Janairo added that, on the call, the regional consensus was clear that DOE should let each region figure out the best way to absorb the budget cut. She added that, by definition, in a cooperative agreement, one party should not try to make decisions unilaterally.

Tim Runyon (Illinois) asked whether there were other funding mechanisms in place for holding two meetings – such as the funding from DOE's Carlsbad Field Office (CBFO). Ms. Janairo said only three states in the Midwest were affected by shipments conducted by the CBFO, therefore it would not be possible to charge the cost of the full meeting to that program.

Kevin Leuer (Minnesota) said the cooperative agreement was the mechanism for figuring out how many meetings to hold and how to pay for them. He thought, as a committee, the group needed to identify what would work best for the region, operating within the budget that was available.

Julie Offner (DOE-OCRWM) said her program considers funding the regional groups to be a high priority. Ms. Beetem mentioned DOE's plan to hold one meeting per year in Washington, DC, with just

the regional leaders and the staff. She asked Ms. Offner whether that meeting was intended to replace the second regional meeting or supplement it. Ms. Offner said the intent was to supplement the regional meeting. She added that DOE was currently thinking about holding the DC meeting in October.

The committee directed Ms. Janairo to draft a letter to DOE explaining the region's reaction to the plan for stakeholder interaction. Ms. Offner suggested being clear in what the region's expectation was for a response. In response to several questions about the proposed meeting in DC, Ms. Offner took an action item to check to see whether just staff and co-chairs would be invited or whether more committee members could attend, funding permitting.

Ms. Beetem launched the committee into a discussion of what is working, what could improve, how to make needed improvements, and who needed to carry them out (DOE, states, or staff). She began by asking the states how they felt about the existing relationship with the different DOE programs.

Mr. Runyon said he was happy with the shipments coming from Argonne National Laboratory, for which he dealt directly with the shipping site. Ms. Janairo added that her desire is to have the shipping programs attend the meetings to present information rather than always get the information through the general DOE Office of Environmental Management (EM) update. She thought that should be a function of the cooperative agreements – to put the states in touch with the people who are doing the shipping so that, if there are questions or problems, the states will then know who to call.

Mr. Runyon agreed and said he thought DOE does not see the value of recognizing a face. Mr. Owen added that, just as the committee has had turnover in membership, so DOE has had turnover in staff. He thought it was important to have face-to-face interactions so that everyone will know who they are working with and can feel comfortable.

Jim Williams (WIEB) said he had been around long enough to remember when the Waste Isolation Pilot Plant (WIPP) shipping program was in process. There was a fortuitous gap of about six years in which a couple of key people at WIPP were still funding the states. Ralph Smith was one of them, and what he did was full-time negotiation with the states, primarily the Western states. Now the states and DOE were seeing the results of those six years of intensive coordination, communications, etc., with the Western states regarding the WIPP shipments down to Carlsbad. That is what the WIPP program has been "living off of" ever since. The West feels that DOE has sometimes forgotten there was this intense person-to-person discussion that led to the WIPP Program Implementation Guide (PIG), which the states follow. What those discussions and negotiations set up is not being maintained, and there really needs to be a reinvestment or we are going to suffer the consequences.

Mr. Runyon added that a lot of the lessons learned through the WIPP program will translate through to other programs that use the highway mode for transport. The states' most recent experience with rail movements was the West Valley spent fuel shipment in 2003, which Mr. Runyon did not consider to be a tremendous success. Because rail is the preferred mode for shipping to Yucca Mountain, there are a lot of lessons to be learned.

Ms. Beetem asked Paul Schmidt (Wisconsin) to share his experience with DOE and its handling of upcoming research reactor shipments from the state. Mr. Schmidt related a situation that he called "very much avoidable." The state had scheduled a meeting with the counties to discuss, among other things, potential routes for the shipments in order to get the counties' input. Two days before the meeting, the state learned that DOE had already submitted the route to the NRC and had received the commission's

approval. He said this initial experience was not a good one. Ms. Beetem asked if there was anything we could have done differently to have changed that outcome? Mr. Schmidt said there was nothing the CSG staff could have done differently – they did well. He said he did not think it was communicated effectively about the process DOE would follow to select the shipping route. The state needed to have a better understanding from DOE about the time frame. Ms. Janairo agreed but added that, at the initial meeting in January 2008, the Wisconsin representatives made it clear they would be providing input on the route. She said, with that understanding, if there *was* a definite deadline, someone at DOE should have called the Wisconsin contact to ask whether the state still intended to provide input. Mr. Schmidt agreed and concluded that the experience was a bad first impression for a state that is not accustomed to shipments.

Ms. Beetem recapped that improved communications is important. Mr. Leuer added that, for states like Minnesota, the lead time had to be longer to train and otherwise prepare for shipments. He thought DOE lost sight of non-corridor states and the time frame it takes to put the needed infrastructure in place. He noted that the only dialogue these states get with DOE is at the regional meetings. He wanted to try to convey to DOE that it isn't a cookie cutter process – what works in one state may not work in another state. The committee meetings are a forum for sharing best practices and for forging the long-term planning commitment early on. Interactions between the states and DOE helps the states like Wisconsin and Minnesota figure out what shipments actually mean for the state in terms of impact.

Ms. Beetem moved on to the topic of the committee members' satisfaction with their engagement with their CSG principals, namely the Midwestern Legislative Conference (MLC) and the Midwestern Governors Association (MGA). Mr. Owen thought the relationship was a good way to keep the region's legislative cohorts informed and he commended Ms. Janairo for doing a good job on that. He didn't see how the committee could enhance this role other than to increase the amount of information that flows in that direction to make legislators aware of what the states are up against and enlist their support. Other members agreed. Ms. Beetem concluded there was a "pretty high level" of satisfaction with the committee's interaction with the MGA and the MLC.

Ms. Beetem asked about the committee's interactions with the other regions and asked what could we do better. Rep. Steve Olson (Iowa) suggested the committee hold one regular meeting, then hold the second committee meeting jointly with one of the surrounding regions. Ms. Janairo mentioned that the committee had done this in the past and it worked well.

Ms. Beetem mentioned the Transportation External Coordination Working Group (TEC) and said the meetings offer another way to interact with the other regions. She said if DOE really is going to cut back the TEC, maybe the committee can send members to regional meetings instead of having just the staff attend. She noted that the Midwest rarely has representation from the South and perhaps attending the Southern meetings might be useful. Ms. Beetem summed up that there were three ideas related to interacting with the other regions: a joint meeting with one other region; using the TEC as a vehicle; and having committee members attend the regional meetings.

Ms. Beetem asked the committee about its relationship with industry. She mentioned the Nuclear Energy Institute's (NEI) conference on dry cask storage, which she attended earlier in the year. Mr. Runyon said the committee had always maintained its relationship with industry through the TEC. Thor Strong (Michigan) said interaction with industry has been sporadic, but it is very valuable to have that interaction. Mr. Owen noted that the committee's interaction with industry representatives always seems to derive from fact finding on our part.

Mr. Williams said he had found the NEI meeting to be very useful because it put him in touch with people that he does not normally see. Having the opportunity to “pick their brains” on topics like casks expanded his knowledge. He observed that industry people are usually happy to come to the regional meetings. He added that, unlike government officials, they don’t have problems with their travel budgets. He cautioned that it is important for the industry representatives to understand the level of sophistication of their audience.

Ms. Beetem wrapped up the discussion by saying the committee would discuss more specific project ideas on Wednesday.

Mr. Runyon provided an update on the topic of *rail inspections*. He is expanding on the work done by the TEC Rail Inspections subgroup by putting together a paper for the 2009 Waste Management conference. Patrick Edwards from Pennsylvania is his co-author. The paper describes and makes an argument for using the rail inspection criteria developed by the rail subgroup. The system of inspections recommended in the paper and by the subgroup is consistent with what the Commercial Vehicle Safety Alliance does for highway shipments.

Mr. Strong provided an update on the *implementation of Section 180(c)*. He said, to his surprise, DOE had published a notice in the *Federal Register* on October 31 of a revised proposed policy. He explained the history of the Section 180(c) policy development, and noted that one of the committee’s representatives on the work group had been Frank Moussa, who is now the guy at DOE who is soliciting comments.

DOE had published a *Federal Register* notice in 2007 that incorporated a number of recommendations that the TEC as a whole had made. DOE sent letters to the governors asking for comments. The Midwest did put a series of comments together, and as far as we know DOE has done nothing with them. In the 2008 notice, the policy is in essence the same, but DOE is tacking on provisions for funding Indian tribes, which had not been part of the policy. The comment deadline is January 31.

Mr. Strong said the committee’s work group had put together a draft set of comments that included three parts:

1. Reiterate some comments we made last time. One of the key ones is that Section 180(c), as it’s in the law, funds training. It does not fund actual implementation activities – e.g., escorts. We’re asking DOE to commit funding for the same kind of transportation safety program that’s in place for WIPP.
2. Some general wording to provide clarity and better capture the Midwest’s positions as previously stated.
3. Answering two new questions posed by DOE about tribal funding.
 - i. Regarding a set aside for tribes, the Midwest recommends that a certain percentage of funding be set aside for tribes at the start of the process.
 - ii. Regarding the “double counting” of miles, the Midwest recommends prohibiting the counting of miles that are in tribal land in the state’s award *if* the state does not exercise response authority along that segment.

In response to a question from Ms. Beetem, Mr. Strong said he could see no other impact on the states of this new tribal portion. Mr. Leuer said he would like to add a comment about staff time for planning being an allowable activity. He said it might be necessary to hire permanent staff to implement the program if a large shipping campaign comes through. Mr. Strong agreed that the allowable activities should explicitly include staff time for planning. Ms. Janairo asked Mr. Leuer to provide specific wording to her after the meeting.

Mr. Owen said that, since Ohio doesn't have tribal lands, he wasn't planning to submit comments. He wanted to be consistent with other states, though, and asked whether anyone else was planning to send a response separate from the committee's. No state had plans to do so.

The committee discussed the need to elect a new co-chair to take Ms. Beetem's place in 2009. After nominations and discussion, the committee elected Melanie Rasmusson (Iowa) to be the new co-chair with Mr. Leuer. Ms. Beetem congratulated Ms. Rasmusson, and Mr. Leuer read a resolution of appreciation for Ms. Beetem's service to the committee.

Regarding the next meeting, Ms. Janairo said she would send a calendar to the committee members for dates in late May and all of June. Depending on the timing, the Midwest may be able to coordinate with the Northeast to hold a joint meeting, perhaps with the short line rail field trips being a common issue upon which to focus.

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Ms. Beetem called the meeting to order and turned the floor over to Ms. Janairo for an update on *WIPP routes*. Ms. Janairo explained that she had analyzed some potential truck routes from the WIPP "small-quantity sites" in New York, Pennsylvania, Tennessee, Virginia, and Kentucky. She then held two conference calls with the potentially affected states in the Midwest and their counterparts in the Northeast and the South to discuss the options. After getting feedback from all the Midwestern states, Ms. Janairo had presented the Midwest's preferences in a letter to William Mackie with the CBFO. The ball was now in his court. The time frame for shipping from these sites had not yet been determined, but Ms. Janairo said Mr. Mackie had assured her that the states would have input into route selection.

Ms. Janairo also reported on her attendance at *CSG's national meeting* in Omaha, Nebraska, in early December. She had attended the meeting to present an update on the committee's work to the Midwestern Legislative Conference's Executive Committee on December 5. Ms. Janairo mentioned that Alan Sokolow was retiring as the director of CSG's Eastern Regional Conference and that David Adkins, former state senator from Kansas and former chair of the MLC, would become the executive director of CSG in 2009 following the retirement of long-time director Dan Sprague.

Ms. Janairo reported that she and Ken Niles of Oregon had recruited several papers from regional staff and committee members for presentation at the *2009 Waste Management conference* in Phoenix. She had authored or co-authored three papers, with submissions coming from Mr. Runyon, Mr. Williams, Ms. Offner, Cort Richardson (CSG/ERC), and Earl Easton (NRC). Not all the papers would be presented in the same panel, which was somewhat of a disappointment, but Ms. Janairo hoped that being in different sessions would increase the exposure these stakeholder papers would have.

Ms. Beetem reminded the committee about NEI's offer to consider stakeholder input on agenda topics for the next *NEI dry cask storage meeting*. Mr. Easton wondered whether risk communication would be a

good topic – namely, what is the role of the regulator? What’s the message, who’s going to get the message out? Ms. Beetem asked him to clarify what he meant by “risk communication.” Mr. Easton said, for example, transportation is a system that involves DOT, the NRC, and the states. He wanted to show how all three parts go together so that any one of those parties can address people independently. The question is, who is the best entity to speak to a particular group on a case-by-case basis? Mr. Easton thought it important to develop “the message” so that everyone is prepared at the outset and there is no scrambling at the last minute.

Mr. Richardson said that, with the NRC coming out with its notice about changing the “waste confidence” rule and Yucca Mountain continuing to be in limbo with funding, utilities are going to have to look at long-term storage on site for 50-60 years or even longer. He asked how viable is that and what does it mean to store spent fuel so long on site? He wondered whether NEI would be willing to put this topic on the agenda, because it would certainly be of interest to the states. Mr. Easton thought that was a great topic and said he would bring up this issue in addition to his idea on communication.

Rep. David Niezgodski (Indiana) asked about the difference between casks for transporting high-level radioactive waste and low-level waste. Mr. Easton said the NRC approves not just casks, but casks plus their contents. Spent fuel, for example, requires a lot of shielding, while transuranic waste does not. So both materials use what are called “Type B casks,” but one needs a lot of shielding, the other does not. All Type B casks, however, are analyzed to the same standard.

Recalling earlier discussions of cask testing, Rep. Niezgodski said hitting a cask with a train sounds like a good test. What about taking it out in the desert and shooting a missile at it? Mr. Easton said the federal government had done that and was thinking about doing it again. Money is the problem, though. OCRWM staff were trying to raise money from the Department of Homeland Security (DHS) to do this type of test.

Mr. Richardson asked Mr. Easton to clarify that the NRC doesn’t actually test casks, but uses computer analysis. Mr. Easton said that was true, and added that casks have been around for so long, there was a great deal of data and, correspondingly, a big comfort margin.

Rep. Niezgodski asked, if the NRC were able to conduct a real test, would it use an old cask to see how time has affected it? Mr. Easton said that was a good point, but the NRC was only planning to do the test once. Given that the commission has one shot, the plan is to pick a cask that DOE has requested to use for shipments to Yucca Mountain. The NRC is now waiting to learn what cask design DOE will use.

In wrapping up the discussion of the NEI conference, Ms. Janairo asked Mr. Easton if there would be a registration fee for the meeting. Mr. Easton said last year the states were able to pay half price, and he anticipated that would happen this year, as well. Ms. Janairo noted that the U.S. Transport Council waives its registration fee for states and suggested NEI consider adopting that policy. Mr. Leuer will check his schedule to see if he can attend the conference. If he cannot, Ms. Rasmusson will have the opportunity.

Ms. Beetem began the regional roundtable with *Nebraska*. Mr. Schwarz reported that Nebraska had hosted a radiological transportation accident exercise with help from DOE’s Transportation Emergency Preparedness Program. The people of North Platte, where the exercise was held, got a lot of information out of the training. DOE paid for renting or buying the vehicles (one was set on fire for the exercise). Mr. Schwarz also reported that the Fort Calhoun nuclear plant already had dry storage on site and Cooper,

the other nuclear plant in the state, was building a pad now. The Cooper installation will be bigger than the one at Fort Calhoun.

With regard to legislation, Mr. Schwarz said a technical amendment to the state's radiation protection law would allow the state to charge for the calibration of instruments. The local governments were having trouble paying private vendors for this service, so the state will now be able to step in. The cost is considerably less to have the state do it. Mr. Schwarz said that, as long as the state calibration service doesn't take business away from companies located within the state, there are no objections.

Senator Amy Koch from *Minnesota* recalled that, at the last meeting, she reported on plans for dry storage at the Monticello nuclear plant. She said the storage installation is in place and one cask had been filled already. Legislatively, the state still has a moratorium on building new nuclear plants. One of Sen. Koch's priorities is to lift the ban this year, but the state is facing a multiple billion dollar deficit so it might be difficult. Wind power is big in Minnesota, but people need to recognize that wind isn't going to be enough, so there is a need to start thinking about nuclear as an energy source.

Mr. Leuer added that the state was updating its transportation plans for radiological response, an activity prompted by the possibility of spent fuel shipments coming through. He said 98% of the people who were around the last time there was a spent fuel shipment are gone, so he is trying to get information from the 2% that are left. With that information, he will develop a straw plan and put it on the shelf until needed so the state doesn't lose that information. He will also update the radiological response plans to incorporate whatever new material is needed. Mr. Leuer is trying to assess how long it will take the state to ramp up for a shipping campaign and what the roles will be for state and local personnel. In Minnesota, the state agencies support the local governments in preparing for response rather than being in charge.

Jennifer Clark from *Kansas* said she was trying to increase communication between the state agencies with responsibilities related to radioactive materials transportation. Such communication had been lacking in the past. She is also trying to reach out more to the local governments. In terms of shipments, Kansas has seen about six highway route-controlled quantity (HRCQ) shipments this year. Ms. Clark said she has noticed a lot of "weird routing," presumably the result of shippers avoiding Iowa because of its fee. Ms. Beetem said Missouri is noticing the same thing. Ms. Clark said Wolf Creek's application for license renewal had been accepted.

Rep. Carl Holmes (Kansas) added that the Kansas legislature had passed some legislation putting things in place for new nuclear power plants.

Ms. Rasmusson said Iowa had seen 11 shipments go through, all without any problems. Randy Dahlin with her office watches the shipments on TRANSCOM while they're moving. Ms. Rasmusson noted that there was one shipment that appeared to go off course, but it turned out to be a computer error from the driver's partner who keyed in the position. Ms. Rasmusson is working with Iowa DOT's Capt. Dean House to arrange escorts for shipments. The state provides training and equipment for the escorts.

Rep. Niezgodski said he wants to see *Indiana* be very prepared for shipments and will be working on legislation to help the state agencies get what they need. Ms. Dresen added that making Indiana's permit application an on-line function is one of her priorities because, as the process currently works, by the time she gets a hard copy of the permit, the transport is already through the state.

Ms. Dresen added that the state is doing a needs assessment on the transportation corridors and identifying where equipment is. Right now, there isn't a good inventory of where equipment is located. She is also tracking down use of the MERRTT training modules, trying to make sure all 16 modules have been completed. Ms. Dresen is trying to identify the most likely routes through the state, trying to identify where the equipment and where the training has been, and to document all of this.

Ms. Dresen reported that Chris van Horn with DOE's Radiological Assistance Program had arranged for the state to get assistance with a transportation accident exercise that had a "terrorist twist." She said she had been working with Ms. Janairo to try to arrange a 2013 exercise with DOE's Naval Nuclear Propulsion Program. The state agencies are very excited about the possibility of doing the exercise. Ms. Dresen hopes the exercise will encourage the counties and the districts to get involved and help them understand the need to get ready for shipment emergency response.

Ms. Beetem reported that, for *Missouri*, it is good news to hear Indiana is getting its online permitting under control because fee legislation had been pre-filed in Missouri so the state will definitely be considering a fee in the coming year. The legislation may also require escorts for shipments. The state currently does not escort HRCQ shipments. Last year, Missouri had 33 HRCQ shipments and 30 low-level waste shipments, so Ms. Beetem predicted the state would be very busy establishing escorts and getting them in place for future shipments. She added that an application is being reviewed for a second nuclear plant at the Callaway power plant.

Mr. Strong asked whether Missouri's fee legislation would apply to shipments such as Nordion's shipments from Canada? Ms. Beetem said it would and that escorts would be required. She clarified that Missouri already escorts spent fuel shipments, but not HRCQ, so that would be the big change.

Reporting on activities in *Illinois*, Mr. Runyon mentioned that he had changed positions within the state emergency management agency. He is now back in the Environmental Safety Bureau within the Division of Nuclear Safety, and thrilled to once again be working with Kelly Horn.

Illinois averages about 70 shipments a year, including several transuranic waste shipments from Argonne National Laboratory. Mr. Runyon said he wished a representative from DOE's Office of Environmental Management were in the room because he would like to compliment the Argonne staff for making Illinois's job easier. Mr. Runyon said he realizes shipping schedules change, but noted that Illinois does not rely on the WIPP 8-week rolling schedule as much as other states may. The bulk of movements are HRCQ movements from Nordion and Mr. Runyon expected to escort all of those.

Mr. Runyon said he was trying to fill two open positions for people who either retired or moved on. Staffing issues have been part of the reason, along with fuel prices, for a pilot study called the "Inspection Escort Streamlined Program." Escorts used to consist of two people from radiological health plus someone from the state patrol. The state patrol personnel used to change from district to district. Now the escorts have one nuclear safety person and a trooper who travel together in the same vehicle. The same car goes all the way along the route. Mr. Runyon is proposing a high degree of cross training between the two agencies.

Mr. Runyon said the fee in Illinois is a flat fee, but there is potential interest in being a little more creative for a number of different reasons. The state is trying to set up an interagency agreement to make sure the state patrol receives some of the funding to offset their overtime costs – a cost that is going up because of the streamlined program. He said that, right now, his agency provides a lot of services to the patrol –

such as distributing all their film badges for monitoring, buying most of their radiological equipment and keeping it calibrated. His agency will continue to do that, but it is also important to realign the partnership so the patrol can save a little bit on staffing. Mr. Runyon said the state could probably handle 40-50 more shipments on top of the 70 per year and still function.

Back to the fee change, Mr. Runyon said he would like to see some of the revenue distributed to the state patrol and also the Illinois Commerce Commission for rail shipments. He would also like to have the option of adjusting the fee based on a number of different factors, e.g., mileage on a sliding scale. Another possible adjustment might be for shippers who are very cooperative, e.g. by grouping shipments together. Mr. Runyon said his agency was trying to be fair. The state currently worked these things out through negotiations, but he wanted the regulatory authority to do it and give shippers an incentive. Ms. Rasmusson added that the Iowa patrol does not get any money for escorts, either.

Mr. Horn reported on a change in the state's inspection activities. He said Nordion shipments enter Michigan on their way from Canada, and the state does a full-scale Level VI inspection. The state of Illinois had always done another Level VI inspection, which was a good thing because shippers were not in compliance back in the days when Michigan was not inspecting the shipments. But the situation has improved, with certain shippers really stepping up to the plate and becoming very compliant not only with notification but with commercial vehicle safety. As a result, Illinois is scaling back on en route inspections. The state is still doing them, but they won't be Level VI inspections. Going back to what Mr. Runyon said about the fee structure, that means the shipper is not getting the service for which they paid. So part of the revision of the fee structure will be to charge a lower fee for a lower level of activity. Mr. Horn added that Mr. Mackie and his staff had done a wonderful job for the Argonne shipments, as did Jim Frego at Argonne.

Mr. Owen said Sen. Robert Schuler of *Ohio* had helped pass a senate bill requiring the state to have a renewable energy portfolio, including nuclear. The DOE Portsmouth site in Ohio will soon be embarking on a 30-year cleanup. When that starts, shipments of radioactive waste will commence. There will be a fair amount of low-level waste buried on site, and Mr. Owen was not sure how DOE will decide what moves and what stays. Mr. Owen is working with Ohio EPA to oversee that 30-year cleanup.

Like Illinois, Ohio is looking at ways to improve efficiency. His bureau will be down four staff members, which underscores the need for states to receive DOE funding for shipments of DOE material across the state. Without that additional funding, it is more difficult to provide needed services.

Mr. Runyon added that there is a lot of funding available through DHS and DOE, but unfortunately what states need in a lot of cases are staff positions but hiring staff is usually precluded by those funding sources. He noted that you can buy all the equipment you want – more than you need, even – but you can't pay for the individual to do something with the equipment. This is a major flaw in the system. Mr. Runyon thought DHS and DOE are terrible about that, and this was a significant weakness in the plans for implementing Section 180(c). Mr. Williams asked how to fix this problem, and Mr. Runyon said he wasn't sure but thought it had to be through policy or legislation.

Mr. Runyon interjected that he had sent someone to attend the Illinois meeting on the Global Nuclear Energy Partnership (GNEP) draft programmatic environmental impact statement (PEIS), but he had not yet read the official report back. Mr. Owen said his office had been tracking that effort, as well. Ms. Janairo provided some background on the GNEP program and asked if the committee would be interested in submitting comments on the transportation aspects of the PEIS. There was interest, but

because the future of the program is so uncertain, the members decided on more limited comments that would advocate for transportation being considered in any decisions related to the program. Ms. Janairo will draft a letter to that effect.

Mr. Richardson suggested that, in addition to commenting on the GNEP PEIS, the Midwest might want to review the decommissioning EIS that DOE published for West Valley. Because the site is in New York, the Northeast would definitely be submitting comments.

Mr. Strong said *Michigan* sees more Nordion shipments than any other state because it is at the top of the funnel. The state is inspecting all those shipments at the border. Michigan continues to be “the bargain” in the Midwest for transportation because it charges no fees – not even for the inspection – and does not escort. Mr. Strong said Michigan was relatively new in the process of inspecting, having done so for about the past two years. The motor carrier division of the state police performs the inspections. Mr. Strong said he has no direct oversight over inspections.

On the topic of Section 180(c), Mr. Strong said that, although the state commented on the 2007 *Federal Register* notice, the state would likely not submit comments on the 2008 notice. On other topics, dry storage continues to be a growing issue in Michigan. The Palisades plant already has it, and at the decommissioned Big Rock Point plant, the storage facility is the only thing left. The facility at Big Rock is protected by a physical barrier and guarded 24/7 by armed security personnel as required by the NRC.

Mr. Strong said Michigan was hard hit by economic trouble, but the good news was that Michigan State University (MSU) had been selected over Argonne to host the Facility for Rare Isotope Needs. The facility is a large linear accelerator, and would bring in half a billion dollars per year to the university for the next several years. MSU has been lobbying for 10 years to receive the facility.

Mr. Strong concluded with an anecdote about a radioactive cheese grater. The portal monitor at a local landfill got tripped in August. The cause turned out to be the metal rim of the grater, which had cobalt 60 in it. The grater was an EKCO product, imported from China, and perhaps because of the connection to China, the incident generated some media coverage. Mr. Strong’s agency handed the grater off to the NRC, who handed it off to EPA. The manufacturer has assured them it was probably brought into the country 7-8 years ago and did not pose a threat.

Mr. Schmidt said that *Wisconsin* has a moratorium in place on building new nuclear power plants, but there was interest within the legislature in lifting the ban. The issue is attracting more media interest, with newspapers saying it’s time to get rid of it. But the state, like others, also has a large budget deficit, so this issue will likely sit on the back burner for awhile.

Mr. Schmidt reminded everyone of the discussions at the committee’s last meeting, during which he was able to get all the states’ feedback for Wisconsin’s planning of spent fuel shipments. The state had no institutional knowledge whatsoever, so everyone was really starting from scratch. Mr. Schmidt said the process has to be very collaborative and involve all the counties. Based upon input he had received at the last meeting, Mr. Schmidt decided the Wisconsin agencies needed some specific meetings and interaction, along with training, and so the state had held a fairly large meeting in October with the counties. He said there is an exercise in the works, possibly involving TEPP. He anticipated press releases about the shipments would be issued by the licensee, which is the University of Wisconsin. He did not know whether the route would be identified in the press releases, but he would see them before they are

released. All involved parties are currently developing a very detailed communication plan for the shipments.

Ms. Janairo brought up the issue of the 10-day hold that the NRC imposes on releasing information related to shipments. The requirement is that information on single shipments not be released until 10 days after the shipment is completed. For shipping campaigns, information cannot be released until 10 days after the last shipment is completed. At the October meeting, it was reported that the two UW shipments – separated in time by one year – would be treated as a campaign and, therefore, information could not be released until 10 days after the second shipment. Mr. Schmidt agreed this issue needed to be cleared up and hoped that would happen very soon.

Mr. Horn added to Illinois's report to say that, at the CVSA RAM subcommittee meeting in March, the subcommittee decided to send a letter to the DOT asking for funding to be added to Motor Carrier Safety Assistance Program awards. The issue was that, when DOT promulgated the requirement that Level VI inspections be performed for HRCQ shipments, it wound up being an unfunded mandate. As a result, Level VI funding comes out of the WIPP program. Carlisle Smith, subcommittee chair, was involved in writing the letter. Ms. Janairo will follow up with Mr. Smith to find out the status of the letter.

Mr. Runyon also added to Illinois's report to say that OCRWM director Ward Sproat had been in Illinois in October for a briefing with the governor's office. Mr. Runyon had briefed the IEMA director and deputy director on the committee's activities prior to the meeting. Ms. Beetem asked what had prompted Mr. Sproat to go to Illinois. Ms. Offner explained that Mr. Sproat had briefed Pennsylvania's Governor Rendel and apparently the two governors had chatted about the experience at the Democratic governors' association meeting, so Governor Blagojevich had asked for a briefing. Ms. Offner added that there had been a sensitivity about the Pennsylvania meeting being unannounced, so she had made a point of calling Ms. Janairo to let her know as soon as she knew about the Illinois meeting.

Mr. Schwarz asked Mr. Runyon whether Illinois had implemented its plan of distributing personal detectors to the state police (reported at the June 2008 committee meeting). Mr. Runyon said they had, and the state did have a plan for responding to false alarms. He said, in January, the state would roll out a pilot study in an area that included Springfield, Peoria, Champaign, and one more city. The pilot will match up with individuals who received training in how to monitor. The concept is that any alarms generated from the first responders can be taken care of by a regional person. A number of staff within Nuclear Safety have been to Los Alamos for training. In June of 2009, Los Alamos is bringing that training to Argonne National Laboratory. There will have some open slots in that for neighboring states. Mr. Runyon said if anyone would like to send people to Illinois for that training, let him know.

Ms. Rasmusson said Iowa had thought about doing this same thing but decided not to because the staff felt there was more normal radioactive stuff out there than threatening stuff. She said it sounds like DHS funding was the driver. Ms. Beetem added that the Missouri highway patrol had also looked at it because funding was available. Mr. Leuer said preparedness for dirty bomb threats has been a recurring theme in the grant guidance – it's one of DHS's top priorities. Mr. Strong observed that this was another example of lots of money being available for equipment, but nothing for the people to actually *do* something with the equipment. The Michigan state patrol bought 300 monitors and they have been sitting in a box for three years. Now Mr. Strong's office is being asked to figure out what to do with them.

Mr. Runyon explained that the Illinois program was not his idea, but it was a priority for a statewide task force as a way to meet their mandate. He said his office is not anxious to put a lot of instruments on the

street until they know how they're going to work, at what levels, and what type of alarms they'll receive. He emphasized that there is a need to have someone in place to respond if there are alarms and the person doesn't know what to do about it. If that person can't adjudicate the alarm, then Mr. Runyon's office will have to respond. So this whole program will take lots of time and lots of money. Ms. Janairo said listening to this discussion and the states' frustration reminded her of the discussions in past years about whether states should provide potassium iodide tablets to residents living near power plants.

Ms. Beetem turned the floor over to Mr. Mackie, who participated via phone, for an update on activities related to *DOE's Waste Isolation Pilot Plant* (WIPP) in Carlsbad, New Mexico. Mr. Mackie started with some statistics about shipments to WIPP. As of December 8, 2008, DOE had made 6,868 shipments of contact-handled (CH) transuranic waste and 195 shipments of remote-handled (RH) waste, for a total of 7,063 shipments. Affecting the Midwest in FY 2009 will be an estimated 30 shipments of RH waste from Argonne National Laboratory near Chicago, 11 of which have already taken place. Mr. Mackie said DOE anticipates restarting those shipments in June 2009.

DOE is making plans to ship transuranic waste from several "small quantity sites" around the country. All small quantity site shipments will go to Idaho and eventually to WIPP. Right now, DOE is only planning shipments from GE Vallecitos in California and the Nevada Test Site. DOE has already made four shipments from the Nevada Test Site and plans to resume shipments after the first of the year. There are currently no discussions at CBFO to move anything from the small quantity sites in the East or South. Mr. Mackie said when those shipments are on the schedule, DOE will heavily consider the recommendations the Midwest made regarding potential routes through the region.

Mr. Mackie explained the changes CBFO would be making to the format and distribution of the 8-week schedule for shipments. The new schedule would be implemented shortly after the first of the year to coincide with the restart of operations at WIPP. The schedules will be tailored to the geographic regions, and the level of detail will depend upon the end user's needs. There will be a summary schedule for policy-related contacts and a detailed schedule, similar to what all recipients currently get, for law enforcement, inspectors, or others with a need to know.

Mr. Mackie noted that the CBFO's plan to use shielded containers for shipping RH waste was moving along. The NRC had requested additional information on November 25. DOE is expecting the NRC to issue a certificate for the package in February or March. It is possible, however, that DOE will not be able to use the package until 2010 because the EPA needs to approve its use at WIPP and the agency might choose to hold off on that review until DOE submits its Compliance Recertification Application in 2010.

Mr. Mackie mentioned that WIPP had shut down for maintenance on November 23 and would remain shutdown until January 17th. The purpose of the shutdown is to complete projects underground that have durations longer than the typical three-week period from past shutdowns.

Mr. Mackie also briefed the committee on developments with regard to TRANSCOM. Super User training would take place on February 10 and August 18 in Albuquerque, as well as May 19 and November 17 in Carlsbad. Training at the Carlsbad location would also include a tour of WIPP. The TRANSCOM User Group will hold a meeting on March 10, 2009, likely in Dallas right by Love Field. The last update to the system took place in February 2008 with the upgrade to System 10g.

DOE had completed Draft "A" of Revision 2 of the WIPP Transportation Plan, which was currently under review by the CBFO and its contractors. Mr. Mackie said the CBFO would seek comments from the regions and other stakeholders prior to the plan being issued in final form.

Mr. Mackie said WIPP would soon be able to provide hospital training again. A request for proposals would be going out in January for a 30-day bidding period. In February, the current contract with RMC officially expires and a new contract will be issued shortly after that (e.g., late February/early March). Under the new contract, hospital personnel would be able to get continuing education units for the training. In the meantime, Westinghouse TRU Solutions will offer a beta version of the FEMA G-326 Hazardous Materials Course for Hospitals. This course is virtually the same as the old RMC course, but no continuing education credits are available. Anyone interested in receiving the training should schedule it through Lynn Eaton at the CBFO.

WIPP is up for some permit renewals in the near future. First up is the second EPA recertification, which is required every five years. DOE will submit this application on or before March 26, 2009. WIPP's RCRA permit follows a 10-year re-permitting process. The application must be submitted 180 days prior to expiration of the current permit, so Mr. Mackie said DOE anticipates submitting that application in May 2009 to the New Mexico Environment Department.

Mr. Mackie concluded with some remarks about the WIPP state agreements. He said he would like to bring a contracting officer to the next meeting of the committee to work with the states on the agreement process. There will be lots of changes to the process, affecting the West and the South more than the Midwest so far. He reminded the states that the cooperative agreements are between DOE and the regional groups. The key to ensuring states get what they need is to provide a complete explanation with a justification of why the expense is needed. Mr. Mackie cautioned that the money the CBFO has been getting, especially this year, is less than what it has received in past years. Things are only going to get more tight, so the CBFO is taking a more critical look at what the states are requesting.

Mr. Owen asked about the shielded containers and why EPA would second guess the NRC's approval of the package. Mr. Easton clarified that the NRC will certify the container for transportation, but it is EPA's responsibility to certify its use for disposal at WIPP.

Ms. Beetem thanked Mr. Mackie and then turned the floor over to Ella McNeil (DOE-EM), who also participated via telephone, for an update on *EM activities*. Ms. McNeil began by announcing that her office had a new director – Stephen O'Connor, formerly of the NRC. Ms. McNeil said the EM mission is to complete "the safe cleanup of the environmental legacy brought about from five decades of nuclear weapons development, productions, and Government-sponsored nuclear energy research." She said EM runs the largest environmental cleanup project in the world and operates in the world's most complex regulatory environment, with continuous participation from stakeholders. EM's work on cleanup supports other continuing DOE missions.

EM's priorities are the essential activities to maintain a safe and secure posture in the EM complex. Stabilizing highly radioactive tank waste is at the top of the list of projects, as is the consolidation, processing, and disposition of special nuclear materials. Past accomplishments include completing cleanup at 86 of 108 sites including two large ones (Rocky Flats in Colorado and Fernald in Ohio). EM has stabilized millions of gallons of radioactive tank waste and 100% of nuclear weapons material. EM has also cleaned up over 100 contaminated groundwater plumes at its sites, including Portsmouth in Ohio.

Ms. McNeil noted other accomplishments at DOE's largest sites. Within Ohio, EM is still working on facilities to convert depleted uranium hexafluoride to a more stable form. These facilities will be located at Portsmouth in Ohio and Paducah in Kentucky. Shipments from the sites will likely not begin until 2011 even though both sites will be completed by early 2009. She said one of the issues causing a delay is the disposal path for the uranium oxide coming from the conversion facilities. EM is working to resolve these issues with the state of Nevada.

Ms. McNeil reviewed the shipment numbers for EM in FY06, FY07, and FY08, showing a significant drop from the first year to the others.

Ms. Beetem asked Christopher Wells to give an update on the activities of the *Southern States Energy Board* (SSEB). Mr. Wells said the SSEB radioactive waste transportation committees had met the previous week in Dallas. The next meeting will be in Carlsbad, New Mexico. Mr. Wells added that he had been interviewed by the Government Accountability Office (GAO) in connection with an upcoming report on alternatives to Yucca Mountain.

There will be a WIPPTREX exercise in Georgia on March 19. SSEB will be recording the exercise and will make a DVD available if anyone is interested. Mr. Wells recalled Mr. Mackie's slide on the small-quantity site shipments and expressed his appreciation for Ms. Janairo's efforts on route identification for those shipments. At this time, the SSEB states were pretty much neutral on the subject of routes, recognizing that the options are either to stick with the existing route, which is longer, or set up something new. Either way, the states were willing to negotiate over the routes ultimately selected.

Mr. Wells said EM had conducted a commodity flow survey in Georgia in the counties close to the border with Alabama. Mr. Wells also highlighted the nature of changes in security. In the past, the railroad people would call him to ask about the foreign research reactor shipments, but now he is in the dark. He cited as an example his attempt to schedule a speaker to come to his meeting on December 9, precisely when a shipment of foreign research reactor spent fuel was set to move.

Mr. Wells mentioned his work on a corridor study being conducted by the Domestic Nuclear Detection Office within the Department of Homeland Security. He did not know whether DHS would issue a final report on its findings because the reason for doing the study was to identify where training should be provided.

Ms. Beetem asked Joe DiMatteo (DOE) to say a few words about the DOE Transportation Emergency Preparedness Program (TEPP). Mr. DiMatteo said he appreciates the opportunity to partner with the states. He noted that the training modules, MERRTT, had been updated again. With the start of the new fiscal year, TEPP has the ability to make TEPP resources available to the states. He said DOE can do the training or assist, put on an exercise or assist. His office, Region 5, is looking to do another exercise or two this year similar to ones held in Indiana and Nebraska recently. Mr. DiMatteo said any states interesting in hosting a TEPP exercise should contact him as soon as possible because he has the funding available now and it will be first come, first served.

Ms. Beetem asked the states for their feedback on the presentations via telephone. Ms. Rasmusson said the presentations went well. Mr. Leuer added that the prepared Power Point presentations helped, but said having speakers participate over the phone might not work as well with a session emphasizing dialogue. Mr. Runyon said the phone presentations were better than nothing, but not as good as a face-to-face meeting. He suggested looking into the use of a webcam for future remote presentations. Mr.

Leuer added that the speakers who do not attend but just call in miss the informal communication that takes place during sidebars or breaks. Ms. Janairo added that the speakers also miss the rest of the sessions, where a great deal of the communication takes place. Mr. Runyon agreed and said attending the other sessions could jog the speakers' memories if they hear the states talking about various topics – perhaps they will remember something they forgot to put in their slides. Ms. Beetem said, given the budget situation, the committee could probably look forward to this type of presentation, at least for the EM speakers.

Ms. Beetem turned the floor over to Mr. Easton for an update on the NRC's review of the Yucca Mountain license application. Mr. Easton explained the process the NRC would follow in conducting its review. He noted that, in the Nuclear Waste Policy Act, Congress had instructed the NRC to adopt DOE's environmental impact statement to the extent practicable, which the NRC had done. The NRC had identified a need to supplement DOE's work with additional information on the impact on groundwater resources. Mr. Easton said the entire review will take 3-4 years and will keep 60 people working full time. The review will follow two tracks: the formal safety process and the impacts of the decision (i.e., the environmental impact statement). Hearings will be held in conjunction with both tracks. Mr. Easton said transportation enters into the process as part of the second track because it is an impact.

The NRC will issue its safety evaluation report in the summer of 2010. The Atomic Safety and Licensing Board, which has responsibility for making a recommendation to the NRC, is independent of the NRC itself. For each track, a panel of the board will be free to rule however they want to rule. They are technically employees of the commission, but they are independent.

Ms. Offner asked if the board members can ask for more information from DOE. Mr. Easton said they can, and they can also cross-examine the witnesses during hearings. Usually the three-person panel consists of someone with judicial qualifications and two technical members with doctorates in their fields. When there is a two-to-one decision, the dissenter can prepare a dissenting position, just like other court cases.

Hearings on both tracks will begin in 2011 and the commission's initial decision will come in the fall of 2011. The commission will make its final decision in the spring of 2012. Mr. Easton cautioned that this schedule was subject to the availability of resources, like everything else. He noted that the funding for reviewing the application comes out of the Nuclear Waste Fund, just like OCRWM's funding. When OCRWM took a 20% cut, so did the NRC's review effort.

Mr. Easton said the EPA had issued its final standard for the repository and the NRC is now in the process of adopting it. The NRC will hold quarterly status meetings, which will be open to the public. He was not sure whether the public meetings would be webcasted or whether people could sign up to get e-mail updates for hearings and meetings. He advised checking the NRC's web site. Ms. Beetem asked if comment letters and other documents are available on the web. Mr. Easton said everything was scanned in and put into the NRC's online document system (ADAMs). Unless someone is actually a party to the hearing, that person would not receive automatic notification.

Ms. Beetem turned the floor over to Ms. Offner, who provided the *OCRWM update*. She said Angela Kordyak (DOE-GC) would have to cover some of the topics. It was Mr. Sproat's intent to sign out the National Transportation Plan before he left office on January 16. Ms. Offner said OCRWM was planning on a 120-day comment period.

Regarding the states' concerns about DOE's letter on "plans for future interactions," she encouraged the Midwestern states to send a letter to DOE and reiterated the importance of being clear about whether a response was expected.

On the subject of the TEC redirection, Ms. Offner recalled that, during the breakout sessions on ways to improve TEC, DOE heard a lot of feedback from participants. The DOE staff developed recommendations for management, and management came back with the idea that one potential path forward would be to charter the TEC as an advisory committee under FACA. DOE was now looking at ways to make the transition to a FACA group, which could take several years. In the meantime, DOE would change the format of the TEC meetings to have plenary sessions only and to eliminate the topic groups. The next meeting is tentatively planned for April 14-16 in Charlotte, North Carolina.

Ms. Beetem asked how TEC would change if DOE made it an advisory committee. Ms. Offner said we would have to go through a pretty rigorous selection process to appoint members, complete with people submitting resumes, ensuring there is balance, and then the members would be appointed by the Secretary of Energy. Meetings would have to be "noticed," minutes kept, and there would be a cycling of membership. It would more than likely be a smaller group. The upside is that it would have a lot more influence in terms of the program and DOE having to consider the recommendations.

Ms. Kordyak said she was by no means an expert on FACA, but with a FACA committee – e.g., DOE's site-specific advisory boards – the purpose is to be able to provide DOE with advice and recommendations. TEC was formed to promote information sharing. Transitioning it to a FACA group would make the group more capable of giving actual advice and recommendations.

Mr. Runyon asked if the TEC members would get any formal notification about DOE's plans to change the TEC. Ms. Offner said a blast e-mail would go out to TEC members and "friends." Mr. Runyon said he has seen how FACA committees get formed and he would be very concerned that an advisory group drawing from TEC might be totally worthless to the Midwestern states. Ms. Offner said that was his prerogative. Mr. Runyon added that, if that is the way DOE proceeds with TEC, then the department can no longer use it as a "check off" for its publication participation box.

Mr. Strong asked in what way TEC had run afoul of FACA. That is, was TEC preparing advice and recommendations, which we presumed DOE would take into consideration? Ms. Kordyak clarified that DOE was just responding to the comments received at the last TEC meeting. The goal is to have a group of people with interest and experience to work in more detail. The group's advice would carry more weight. She emphasized that turning TEC into a FACA group was just one option – it had not been decided yet.

Mr. Owen asked whether the new advisory committee would be the one providing recommendations to DOE and would there be any process for states having input into this committee. Ms. Offner said DOE can always get comments and advice from the states. The issue is having industry and non-governmental organizations participating in TEC. The purpose of FACA is really so that some do not have undue influence, but an advisory committee would not change DOE's relationship with the states and tribes. Mr. Schroeder asked if TEC as a FACA committee would advise the Secretary of Energy or just the OCRWM program? Ms. Offner said DOE was exploring the concept of a joint FACA committee. Certainly, one option would be to have the group advise OCRWM only.

Ms. Janairo said she thought DOE had misinterpreted the stakeholder feedback from the last TEC meeting. She said, in her breakout session, it was clear that people were calling for a return to the old ways. She cited the development of the DOE protocols and the draft policy on Section 180(c) as examples of the type of work TEC can accomplish given the right direction and support. She said it sounded like it would take DOE a great deal of time and effort to turn TEC into a FACA group. She asked what would be in it for DOE, and what would be in it for the states?

Ms. Offner deferred to Ms. Kordyak. Ms. Kordyak said TEC seems to have grown to an unwieldy size, and as a result, a lot of time seems to be spent trying to keep the conversation going in a productive manor. A smaller FACA group might make it more productive. Ms. Beetem said maybe the states weren't as direct in our comments as we might have been. She said we have, for example, been suggesting DOE use facilitators to keep everything focused during topic group discussions. Ms. Beetem predicted that changing the structure of TEC won't fix the problem if we still don't identify an agenda or a timeline or a goal.

Mr. Richardson said the irony is that the last TEC meeting was heavily influenced by the states' input, including the return of the breakout sessions, having more discipline in the topic group meetings to seat members at the table, etc. That was our idea going into the meeting, so a lot of these issues had been addressed to varying degrees of success. And at the breakout sessions themselves, we came up with additional ideas. So that was the direction TEC was going: it had made progress, we had identified problems, and were coming up with ways to move forward to make further progress addressing those issues. The DOE and contractor staff came out with notes right away, which showed more signs of progress. And now this proposal is a 180-degree turnaround. Mr. Richardson said it was his understanding that the TEC was really in conflict with FACA and we had a potential problem, and he could not argue with that. But if it's really the case that DOE is just trying to improve TEC and be responsive to the issues stakeholders raised, then he thought DOE was missing the point and misinterpreting the feedback, as Ms. Janairo had suggested. He asked which is it – a legal issue or DOE just trying to be responsive?

Ms. Kordyak said she thought it was both. The more work TEC does in terms of digging in, the closer it gets to falling under FACA. She said she did not know whether anything TEC has done thus far has been a problem. But when management started looking at it, there was concern that we might be getting close. Since management was already looking at ways to redirect TEC, it seemed like a good idea to look at the FACA idea, too.

Mr. Richardson said, to get back to Mr. Strong's point, perhaps the aspect of the traditional TEC model that is most potentially at odds with FACA was the topic groups – the working group aspect of TEC. He observed that the topic groups are really the instrument that has driven the work at TEC. Under a FACA model, could you have that type of topic group discussion? Ms. Kordyak said it is possible to have subcommittees within a FACA committee, and those subcommittee members do not have to be members of the committee.

Getting back to the TEC meeting itself, Ms. Beetem asked whether the plan was to have plenary sessions only. Ms. Offner said it was, but there would be time for separate interaction for the states. The first day would be set aside for state and tribal "caucuses." The idea is to have these groups meet separately, with DOE coming into the room at some point to answer questions or to exchange ideas/feedback. Ms. Kordyak wrapped up the discussion of TEC by saying that the department was trying to be as productive

as possible in the next few weeks, so she was hopeful that the TEC letter would be approved and released soon.

Continuing her presentation, Ms. Offner said OCRWM had issued the Record of Decision on the rail alignment, choosing to go with the “shared use” option for the rail line. She added that the total life cycle cost estimate for the entire program had gone up significantly. Two fairly new reports to come out of OCRWM were the report on interim storage and the second repository report, both available on the OCRWM web site.

Ms. Offner handed out ideas for the TEC meeting and suggested the states get feedback to her as soon as possible. The agenda had brief descriptions for the cooperative agreement group caucus and tribal caucus, but the intent was to let the groups put together their own agenda. DOE would want some time on the agenda to interchange with the states.

Mr. Williams asked about the timing of the National Transportation Plan (NTP) and the end of the comment period. Would it be useful in TEC or some other place to discuss the transportation plan before comments are due? Ms. Janairo said that sounded like a good idea for a webinar. Mr. Williams observed that DOE had a bunch of hearings on the GNEP proposal, but they were all at the sites that were signed up to host future GNEP facilities. Very few people had an opportunity to comment on what the real choice was – namely, the selection of a technology. He thought the states needed a good forum for discussions of the NTP. He thought TEC presented the opportunity for a good two-hour discussion of the document.

Ms. Offner said DOE was proposing to have speakers give the perspective of their groups. So, in other words, TEC will be the forum Mr. Williams described. Ms. Offner added that’s not to say DOE can’t host a webinar. Ms. Beetem said a webinar would give people who can’t attend TEC an opportunity to learn more about the plan. Mr. Richardson advised having the webinar early on in the 120-day comment period.

Ms. Beetem turned the floor over to Adam Levin (Exelon), who gave a presentation on Exelon’s plans for *decommissioning the shutdown Zion nuclear power plant* in Illinois. Mr. Levin explained that Zion station has two essentially identical pressurized water reactors and supporting facilities. The plant is located about 50 miles northeast of Lombard on the shore of Lake Michigan. Zion began operating in 1973 but shut down in 1998. Exelon has 60 years during which to complete the decommissioning.

The question has come up about extending the life of the plant. Mr. Levin said the plant is no longer authorized to operate, therefore Exelon would have to go back to the NRC to get permission to operate.

On February 14, 2000, Exelon submitted to the NRC its Post-Shutdown Decommissioning Activities Report (PSDAR), which explains how the company is going to conduct the decommissioning. The project was divided into five periods. The first period was SAFSTOR preparations, which lasted from 1998 to 2000. During this period, the plant staff was downsized while maintaining a safe configuration. The second period is SAFSTOR dormancy, which is the current state. The spent fuel pool is being isolated, with small systems installed specifically to keep it cool and keep the water clean. The PSDAR said Exelon would prepare for active decommissioning activities beginning in 2013, but the current plan is to begin in 2015.

Mr. Levin noted that the decommissioning was estimated to cost \$1.091 billion. This cost could be broken down into \$111 million for site restoration, \$255 million for spent fuel management, and \$762 million to terminate the license with the NRC. The decommissioning fund balance as of the end of 2007 was \$870 million, and Exelon had planned to let that money grow to meet the company's decommissioning obligation. According to that plan, by 2013, the fund would have grown sufficiently to complete the project.

With this plan for the fund, Exelon and EnergySolutions opened discussions regarding the "early decommissioning" of the site. The plan was to complete the decommissioning using the existing trust funds, within a reasonable time frame, and with an ongoing management strategy for the spent nuclear fuel that would be left. Exelon found the approach appealing because EnergySolutions could consolidate all the services, which would shorten the time and reduce the costs. EnergySolutions could also provide a place to take the low-level radioactive waste, which is a significant part of the decommissioning. In return for all these services, Exelon would pay a set fee.

Mr. Levin said that, with large-scale projects, companies have to figure out how much risk they have going into the project and how best to manage that risk. Contracting itself introduces risk. Mr. Levin said the biggest expense to many projects is just sitting there and doing nothing. What Exelon thought might work well was to give EnergySolutions the legal responsibility to do the work, specifically by turning the NRC license over to the company. That way, if anything turned up like additional radiation in the soil, the contractor would jump on top of it instead of arguing or forcing negotiations over costs, which could stall the project. Another benefit of the early decommissioning would be to demonstrate Exelon's commitment to environmental stewardship, not to mention returning the land to the community much sooner than originally anticipated.

Normally, during decommissioning, one goal is to limit the amount of low-level waste produced so as to reduce the cost of disposing of it. But EnergySolutions owns the disposal site, so generating low-level waste was not as big an issue. The proposed "Rip and Ship" approach would generate 6 million cubic feet of low-level waste rather than 500,000 cubic feet by the more traditional approach. "Rip and Ship" would reduce the duration of the cleanup, minimize the risk of inadvertent release of radiologically contaminated materials, reduce the costs of decontamination, and reduce the cost of an extensive free release program for equipment and debris. Schedule and cost savings would therefore be realized for transportation and disposal.

The disadvantage of the "Rip and Ship" approach is the large number of rail cars required to ship low-level waste from the site. The approach increases the number of rail cars from 50 to 600. Ninety percent of the waste is going to be Class A waste.

With this new approach to contracting, the cost of decommissioning could be brought down to \$978 million, which is \$120 million less than the original estimate. So Exelon thought there was enough money to start the project with the fund at \$870 million because that would presumably grow to the \$978 million needed very soon. The approach, therefore, seemed like it would work.

The negotiated scope of work called for decommissioning to be completed within 10 years. EnergySolutions would be in full control of all aspects of the project after Exelon transferred its license to the company. Both companies thought they were establishing a new paradigm for decommissioning.

The scope also required EnergySolutions to complete certain work milestones before receiving the decommissioning trust funds from Exelon. Other financial assurance provisions included a \$200 million letter of credit and EnergySolutions guaranteeing the performance of all subcontractors. Exelon also required an assured disposal capacity asset in the form of a bankruptcy-remote easement at EnergySolutions' disposal facility in Clive, Utah. In other words, if bankruptcy occurred, Exelon would still have a place to dispose of the waste.

Unfortunately, the \$870 million balance in the fund dropped down to \$727 million at the end of November 2008, so the company is no longer in a position to proceed with this project. Exelon had agreed with EnergySolutions to close on the project by the end of 2009. Now Exelon is asking the NRC to continue with the license transfer, but the company has informed the NRC that they will not close on the project, which is inactive right now pending decent recovery in the stock market. The funds are relatively conservatively invested – 50/50 fixed income versus equity. If the funds grow by about \$100 million, then the project will be able to proceed.

Mr. Levin provided some details about the Zion facility. There are 2,227 spent fuel assemblies on site, each one 8.5 square inches by 15 feet. Exelon will retain title to all the spent fuel, giving up physical possession for EnergySolutions to do its work. Possession will be returned to Exelon when decommissioning is completed. The proposal is to put a dry storage pad at the south end of the facility.

Mr. Levin explained the wet-to-dry spent fuel storage transfer process and showed a model of the Holtec cask. A thin canister with no shielding is put into a transfer cask, which is placed into the spent fuel pool. After the fuel is loaded inside, a lid goes on the canister, another one on top of the concrete storage overpack, and then the canister is placed inside the transfer cask. The transfer cask, in turn, goes into a concrete overpack with a lid, then it is moved out to the storage pad. All of the loading occurs in the reactor building.

Mr. Levin showed pictures of a similar facility and process from Exelon's Quad Cities plant. The pictures showed the double fence and lights protecting the site, as well as towers where guards can have a good view of the whole facility. Mr. Levin also showed photos of some major decommissioning activities, many of which took place at the Connective Yankee and Trojan plants.

Mr. Levin discussed the plans for the containment structure. He said normally the structure is decontaminated because no one wants to have to dispose of all that material. The reactor vessel at Zion will be cut up into chunks because there was no interest in putting the entire thing on a barge on Lake Michigan. Most of the resulting chunks will be Class A material.

Mr. Strong asked about Class C waste. Mr. Levin said that, under the contract, EnergySolutions is responsible for Class B and C waste, and the company does have a place where they can store it. Mr. Strong noted that EnergySolutions also owns the Barnwell site in South Carolina. He asked whether there is any hope they can talk the Atlantic compact into letting material in? Mr. Levin said it was actually the state of South Carolina preventing the import of waste, not the compact itself. The facility didn't generate a tremendous amount of revenue, so it isn't a high priority item for the state.

Mr. Runyon asked whether Exelon considered moving the spent fuel to another site instead of building a dry storage facility. Mr. Levin said part of the contract was for Exelon to retain \$25 million to maintain the spent fuel site. He said moving the waste is not a technical issue, but political, and Exelon could not take a political stand. If someone wants the company to move the waste to another site, it will.

Mr. DiMatteo said the “Rip and Ship” approach Mr. Levin had described was very innovative, but how much of the capacity at EnergySolutions would be taken up by this type of approach? Mr. Levin said EnergySolutions had lots of space, so the company could do many decommissioning projects like this and still have room.

Mr. Schroeder provided an update on *WGA activities*. He said the region, working with DOE, had finalized the WIPP Program Implementation Guide. He was currently working with the other WGA staff to put together transition papers for the Obama administration covering a variety of Western topics, including radioactive waste transportation. In mid-January these reports will be done, and WGA would follow up with the Secretary of Energy in the spring. Mr. Schroeder was also working with the states to do some training and outreach related to the small quantity site shipments. Hanford was supposed to start shipping early, but there were some labor issues so the date was pushed back indefinitely.

Mr. Williams reported on *WIEB activities*. The new cooperative agreement was supposed to be installed in July, but delays had brought the West into sync with the other regions in terms of the schedule. WIEB’s cooperative agreement covered several activities: management; communication, coordination, consultation; substantive review, assessment, and response; develop and maintain knowledge of spent fuel and high-level waste transportation issues; initiatives for best practice transportation; and requests from the WIEB Board.

Mr. Williams said he had also been doing other things, like tracking down funding from DOE to continue the cooperative agreement activities. WIEB had been advancing money to keep Mr. Williams working, so it was his strong desire to get this issue resolved. He observed that it is a big load of work to make needed “internal adjustments” when funding streams are interrupted, and it takes time from other things.

Mr. Williams said he considers the Midwest’s meetings to be very valuable. WIEB’s next meeting would be March 24-26 in Denver, in conjunction with WGA.

Mr. Williams said, regarding the “substantive review” function, WIEB is planning to look at GNEP, the NRC’s waste confidence rulemaking, Section 180(c), and the national transportation plan. WIEB would not be commenting on the Nevada rail decision, nor were comments needed on either the second repository report or the interim storage report. He said he often thinks DOE believes the regions should respond to the Section 180(c) notice but should not take an interest in the other topics. The West considers all the other pieces to be part of the same big picture. To help him develop and maintain knowledge of the program, Mr. Williams planned to attend several meetings, including the one DOE was planning for the fall. Other assorted meetings were important for helping him and the states keep abreast of the general scope of the program, not necessarily just transportation.

Mr. Williams outlined three initiatives for best practice transportation. First, he was examining the “question of queue” – that is, the different scenarios for accepting spent fuel from the utilities and the implications of those different scenarios for the system as a whole. He will present a paper on this topic at the Waste Management conference.

Second, Mr. Williams had been working with Black Mountain Research and GeoDecisions on a project involving the IRRIS system, which had been demonstrated at the TEC meeting in Green Bay a few years earlier. The project team had come up with a system concept in July and, lately, to develop the concept, had held a series of webinars with representatives of the other regions. He is scheduled to present an

update on his progress at the April TEC meeting, and would be presenting to the OCRWM staff before that. Finally, Mr. Williams had been asked by the WIEB board to look at the future of nuclear power in the West in the context of the region's renewable energy initiative.

Mr. Richardson gave a report on the activities of the *Northeast High-Level Radioactive Waste Transportation Task Force*. He said the group was actively involved in a number of the very same issues that the others had reported on. The Northeast's particular focus this fall had been on routing, falling into two related areas. First, the region is working to finalize the routing report that was previewed at the Green Bay TEC meeting. Mr. Richardson's goal is to finish the report by the end of the first year. Second, the region has been working steadily with the Federal Railroad Administration's (FRA) Mel Massaro on a study of short line railroad infrastructure near the nuclear power plants in the Northeast. So far, the Northeast staff and states had visited several sites, developed an initial inquiry instrument to send to the power plants along with another one to log a physical inspection of the infrastructure. Mr. Richardson said he will present a paper at Waste Management on the field work the FRA and the Northeast have done. He also said he would send the region's final routing report to the regional staff.

The Northeast Task Force will hold its next meeting in March or April, scheduling around the WIEB/WGA meeting and the TEC meeting. Mr. Richardson also noted that Melissa Bailey would be returning to the project in January after having been on maternity leave following the birth of her son in October.

Ms. Beetem launched the committee into its final discussion session. First, Ms. Janairo asked for feedback from the committee members on the e-newsletter she distributes every three weeks. The purpose of the newsletter is to keep everyone informed about recent developments with regard to the world of nuclear energy, waste, and waste transportation. All members in attendance reported that they were receiving the newsletters and wanted to continue receiving them. Mr. Runyon commented on the great headlines, and Ms. Rasmusson said she liked the newsletter because it was "personable and fun." Ms. Janairo expressed her appreciation for the positive feedback.

The committee briefly discussed ideas for new projects. Mr. Leuer asked, if one assumes the committee will only be able to have one meeting per year, if we had funding available, would there be benefit in some of our committee members going to the other groups' meetings on a rotating basis?

Ms. Janairo brought up the earlier suggestion that the Midwest try to hold a meeting jointly with the Northeast to talk about topics in common, like the short line study that would soon be coming to the Midwest. Mr. Leuer asked about the vision Mr. Easton had shared about bringing the regional groups to NRC headquarters to have a special meeting featuring a secured briefing on the transport casks. Mr. Easton had said the only way to do that is to be within the walls of the NRC's facility. Mr. Leuer said it might be ideal to bring all the regional groups together for that briefing. Another idea is to piggy back the security briefing on to the meeting DOE is planning to host for the staff and regional co-chairs. A question came up as to whether the DOE meeting was intended for committee co-chairs and staff only, or whether other committee members could attend. Ms. Offner said she would check on the intent of the meeting. The committee agreed that, before getting too far into planning a joint meeting in the DC area with any other regions, it would be best to wait for Mr. Easton to confirm he will be able to arrange the security briefing for the states. Mr. Owen asked whether the briefing itself would be limited to committee members only. Ms. Janairo said she would check with Mr. Easton regarding any such limitation.

Ms. Rasmusson said that, once a year, the Organization of Agreement States and the Conference of Radiation Control Program Directors go before the NRC commissioners and report on their activities. She thought the NRC would be very pleased to hear all the updates on what the committee does. She suggested Ms. Janairo could give that presentation. The committee members liked the suggestion, so Ms. Janairo said she would check with Mr. Easton to see what his reaction would be.

The committee briefly discussed whether to revise the committee rules to extend terms for co-chairs. It was agreed that this issue should be considered at the spring committee meeting, after the committee gets a response from DOE to its letter on stakeholder interactions. Ms. Beetem suggested the letter cite this as one reason the Midwest needs clarification of the plans for interaction – the committee needs the clarification to help it revise the bylaws.

After discussing the process and presumed timeline for establishing the new cooperative agreement, it was agreed that the regional staff should work together to develop a new “menu” of activities under the new agreement. The regions would then each choose a slate of activities to undertake, which traditionally has been written up in the regional group’s work plan.

The committee discussed the transportation project brochure that CSG Midwest produces. Ms. Janairo explained that the brochure is intended to inform Midwestern state and federal legislators as well as other government officials about the transportation project. Figuring prominently in the brochure is the committee and its activities and priorities for the region. Ms. Janairo added that the brochure is always mailed directly from the CSG Midwest office, so there is no expectation that committee members would distribute it within their states. After some discussion, the committee agreed it would be a good idea to prepare another brochure in 2009, funding permitting. The preference was to go back to the old tri-fold format, with a letter accompanying the brochure and identifying who the members were from the state. It was also suggested that the brochure incorporate the committee’s key transportation issues related to the OCRWM program, which were finalized after the June committee meeting.

The committee then discussed the proposed topics for the April TEC meeting. Ms. Janairo suggested that, for the caucus sessions, it might not make sense to have all the state-related cooperative agreement groups caucus together because, of the groups, only the four regional groups had the same scope of work. She suggested just having the four regional groups caucus, and having the state and tribal caucuses run concurrently. Ms. Offner agreed to provide the regional staff with an electronic copy of the draft agenda. She asked for feedback from the regions as soon as possible.

Ms. Janairo read through the action items for the meeting. Ms. Beetem thanked everyone for their participation in the meeting and their support for her as co-chair during the past year. She praised the committee and staff as a great group with which to work. She adjourned the meeting at 5:20 p.m.