

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

**Proceedings of the Fall 2009 Meeting
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Tuesday, October 20, 2009

Kevin Leuer, the committee's senior co-chair from Minnesota, convened the meeting at 8 a.m. He welcomed attendees to Minnesota and noted that the weather would be good for the next couple of days. Attendees then introduced themselves. Mr. Leuer stated his appreciation for the legislators who were in attendance and noted that it is good to have legislators as part of the committee. He then welcomed Melissa Bailey to the CSG Midwest staff and said that her expertise will be appreciated. Melanie Rasmusson, the committee's junior co-chair from Iowa, noted that people tend to leave early for meetings and asked that all stay for the entire meeting because participation in all sessions is important.

Mr. Leuer welcomed Kris Eide, Director of Homeland Security and Emergency Management for the state of Minnesota, who has worked in the nuclear preparedness program. Ms. Eide welcomed and thanked the group for coming. One thing she wanted to talk about was the tendency for people to focus narrowly on the program in which they are involved. She knows about the funding changes in DOE's Office of Civilian Radioactive Waste Management (OCRWM) and the Yucca Mountain Project, and she acknowledged the frustration with working with that program. She thought of the overall Homeland Security and Emergency Management field, and thinks that regional radioactive waste transportation planning is actually ahead of the curve. Homeland Security and Emergency Management are just catching up. Ms. Eide has experience working with CSG through the National Emergency Management Association (NEMA) and she believes that it is a top-notch organization. Ms. Eide believes regional planning is important, and believes that the hurricanes in New Orleans in 2005 highlighted that no disaster is local. Hurricanes in New Orleans, for example, caused energy shortage in other regions. Even New York City has mutual aid agreements. Hazardous waste planning has built these relationships and connections for awhile. Ms. Eide urged the committee to remember that positive aspect of the program even when the federal high-level waste project is bogged down. Minnesota has two nuclear power plants that may eventually have to transport their waste, and the state appreciates the work of the committee in planning for those shipments.

The group moved on to the co-chairs' report. Mr. Leuer discussed his vision for the committee. He acknowledged that it is a challenging time due to the constrained funding, and asked where the group should go in the future? He said the partnerships that have been established are key. Relationships must be sustained until waste moves to a repository. He expressed that he wouldn't want to lose what has already been achieved through the committee. He suggested that the group may use web-based technology and teleconferences to stay in touch. A regional group with contacts in each state is a valuable too and the shared experiences help states learn from each other on all kinds of transportation



experiences. Mr. Leuer finds the committee very useful as a non-corridor state. He suggested that there could be a role for the committee in dealing with the transport of low-level waste and other materials.

Mr. Leuer drew a distinction between short- and long-term goals, with planning and preparing for shipments to Yucca Mountain or another repository site being the long-term goal. Maintaining the committee is the short-term goal. He wants to maintain strong working relationships within states and among states. In Minnesota, homeland security and environmental management have a close relationship. Minnesota is in the Emergency Management Assistance Compact (EMAC), and Mr. Leuer is about to become the chair of state-to-state deployment for the compact for the next two years.

He would like to see the committee maintain its integrity in the short term while keeping a focus on the long-term goal. Ongoing transportation activities will continue even though it is not spent nuclear fuel. The path forward may be different than the past, for example with the committee having to adjust to one meeting each year instead of two. The Midwest is a national leader in terms of having shipping routes identified. Ms. Rasmusson added that conference calls for the committee have been important. She emphasized the usefulness of knowing who to contact in other states if she needs them. Mr. Leuer said it is also important to maintain partnerships with federal agencies and legislators.

Lisa Janairo (CSG Midwest) then delivered the project update. She stated that the first partnership the project must sustain is with DOE. The Midwest was lucky among the regions because of carryover that came through at the last minute. It did come through with strings attached because it must be spent on archiving work related to the Office of Civilian Radioactive Waste Management (OCRWM). Now that Ms. Bailey is on the project staff, Ms. Janairo will be able to focus on archiving policy decisions, position statements, and other documents on the Yucca Mountain project to capture all the state-related work that has been done on transportation. Funding from the two DOE Environmental Management (EM) offices – Office of Packaging and Transportation and the Carlsbad Field Office – has kept the project afloat and may continue to do so.

Letters were sent to DOE from governors in the Midwest and West urging DOE to restore funding for the state regional groups. The only response came from EM director Dr. Inés Triay saying that they will keep providing the “current” amount of funding. The Midwest was the only region that received any reply from DOE. The state regional groups are trying to put together a meeting between the regional directors and Dr. Triay.

On the subject of committee appointments, Ms. Janairo noted that Representative James Soletski from Wisconsin, Senator LeRoy Loudon from Nebraska, Representative Carl Holmes from Kansas, and Senator Dennis Kruse from Indiana are new legislative appointees to the committee. Senator Amy Koch of Minnesota, Representative Steven Olson from Iowa, and Senator Steve Buehrer from Ohio were reappointed as legislative members. Ms. Janairo will work with Jane Beetem from Missouri to get a new gubernatorial appointee from that state. Wisconsin and Kansas both have new gubernatorial appointees.

A new committee work group comprised of the states that charge fees was established over the summer. There have been monthly calls to get the group off the ground. Ms. Beetem would provide more information in her report.

DOE is establishing a new stakeholder forum to replace the Transportation External Coordination (TEC) Working Group. The committee would hear more about the forum during Steve O'Connor's update.

Ms. Janairo stated that the Midwestern states still want a more detailed Prospective Shipments Report (PSR). The CSG Midwest staff have been collating and distributing information for the benefit of the states, but would prefer that DOE include more information in the PSR.

The *Planning Guide for Shipments of Radioactive Material through the Midwestern States* will be updated this spring. The print version gets updated every two years. Bill Mackie had requested that an update be made to address weather and road conditions during tornadoes. A committee working group had been convened to make the necessary revisions, which were completed in May. The states would soon be getting a request to update the state-specific information in the *Planning Guide*.

Senator Louden asked whether there were there alternatives for disposing of high-level waste at Yucca Mountain and what the prospects were for spent fuel reprocessing. Ms. Janairo said that the new trend is to refer to spent fuel or used fuel *management* rather than disposal. In practice, however, the federal government is doing essentially nothing. The proposed Blue Ribbon Commission (BRC) to examine federal spent nuclear fuel (SNF) and high-level waste (HLW) is not off the ground yet. Mr. O'Connor said there is funding in fiscal year 2010 for the BRC, and that a former Nuclear Regulatory Commission (NRC) chairman has been potentially identified to lead the BRC. EM is also in a holding pattern for some of their shipments while everyone waits for the BRC to convene. Some interested parties are now putting together papers on SNF/HLW disposal or management options.

Mr. O'Connor pointed out that the nation's current SNF inventory would fill Yucca Mountain, according to the statutory cap on waste, so a second option is already needed. Earl Easton (NRC) said that in the FY 2010 Energy and Water bill there is \$197 million to continue policy discussions and establish the BRC, which may study reprocessing. He urged other attendees to look at who gets appointed to the commission, how it's formed, and what the scope is. Ms. Janairo mentioned that Dr. Max Powers was recommended by the state regional groups, but he has not been contacted. Mr. Easton said NEI is actively lobbying for appointees. Kevin Blackwell (Federal Railroad Administration [FRA]) asked when it should be formed and Mr. Easton stated that is probably in the appropriations bill. Ms. Janairo pointed out that the next day there would be speakers from the Nuclear Energy Institute, Congressional Research Service, and Nuclear Waste Technical Review Board; there would be more opportunity for discussion then.

The next item on the agenda was a report from Paul Schmidt of Wisconsin on the University of Wisconsin spent fuel shipment. Fuel from the research reactor in Madison was shipped to Idaho National Lab in May 2009. Mr. Schmidt stated that the experience planning the shipment illustrated the benefit of participating in the Midwestern Radioactive Materials Transportation Committee. It also

illustrated how much time states must put in to planning for transportation, especially if they are out of practice. There is an effort around the nation to convert research reactors from highly enriched uranium fuel to low enriched uranium. Wisconsin is the last research reactor to convert. Prior to this shipping campaign, the last shipment from the University of Wisconsin was in 1986. No one is left in state government from when those shipments occurred. Wisconsin is not a corridor state for shipments, they don't charge fees for radioactive shipments, and they have no inspection program; they basically had to reinvent the wheel. A planning group was convened and Mr. Schmidt did research for its members. They found that the shipments required a multi-agency effort, and to change state policy you must also involve the counties. The licensee issued a press release about the conversion and the shipments and developed talking points for media interactions. Law enforcement developed a security plan on their own. The state decided to inspect the shipment even though an inspection was not mandated by Wisconsin law. The inspection was coordinated with Illinois. Wisconsin provided an escort and Illinois conducted their inspection in Madison instead of at the state border. One shipment was completed in May 2009 and another will occur in 2010.

Mr. Easton helped recruit an NRC employee to speak to the group on the proper way to handle safeguards information. The shipment attracted little media attention and went off without a hitch, which made the Wisconsin agencies feel like they are in good shape for future shipments. Mr. O'Connor offered help from EM for planning future shipments. Senator Loudon asked whether fire districts were notified and, if so, how much notice was given? Mr. Schmidt replied that six months' notice of the general time frame was given to local responders, and they were notified through the counties. All security was coordinated through the highway patrol, UW campus police, and the licensee. The security plan was not shared with other members of the planning committee. Ms. Beetem mentioned that there is a 15-minute training for how to handle safeguards information and this can be a good refresher for state personnel. Ms. Janairo requested a copy of the press release that Mr. Schmidt had mentioned.

Tim Runyon (Illinois) discussed his paper on reciprocal rail inspections, which he delivered at the Waste Management Symposium in March 2009. He believes that there needs to be a program for rail inspections that is parallel to the Commercial Vehicle Safety Alliance (CVSA) Level VI truck inspections. A TEC working group had worked on this topic for several years, and they had developed proposed inspection forms. Several people from the FRA, including Mel Massaro, have worked on the forms. The initial form that was proposed by the group was reviewed and condensed. The group is having a hard time generating interest in the topic because there are not any rail shipments occurring right now. Mr. Runyon also noted that coming in from outside is hard, and perhaps a reciprocal rail inspection program should be established by the FRA and state rail safety programs. Having a shipment inspected at each state is cumbersome. Illinois used to inspect each truck carrying radioactive material because other states weren't trained in CVSA Level VI. The reciprocal truck inspections program means that Illinois no longer inspects every truck to the full Level VI extent. The same principle needs to be applied to rail shipments so trains do not have to stop in each state.

In order to implement this idea, there need interest at a higher level, which won't come until shipments commence by rail. Ms. Rasmusson stated that she gave a presentation in Iowa and was asked if that

state escorts rail shipments. She replied that they do not, but there aren't currently any shipments. Mr. Runyon replied that Illinois does escort rail shipments with a person in the caboose. Mr. Blackwell suggested that the state regional groups could send a letter to the FRA to request that it take the lead on implementing reciprocal rail inspections. Mr. Runyon acknowledged that this idea could work, but we still don't know when rail shipments will begin. He requested that the work done so far be well archived in Ms. Janairo's project.

He then pointed out that CVSA Level VI inspections are finally doing what they were intended to do, but that program has been around for almost two decades. Mr. Mackie agreed, and stated that reciprocity was the biggest issue with shipment inspections. Mr. Runyon said that the CVSA program is working because DOT now requires a CVSA inspection at the point of origin. There is not yet a tracking system for rail. TRANSCOM does not meet the security requirements. Mr. Blackwell stated that we don't want to move too quickly with training until shipments actually move. Alex Schroeder (Western Governors' Association [WGA]) asked Mr. O'Connor if there would be rail shipments soon. He answered that shipments out of Oak Ridge and Moab have begun, with funding from the Recovery Act, but this is not HLW. Ms. Janairo mentioned that CVSA inspection procedures were pilot tested on shipments of low-specific activity (LSA) nitric acid. If SNF will eventually be done by rail, pilot testing and training could begin now on another shipping campaign. It may be two decades in advance of shipments, but that's not too early to start, judging from the CVSA experience. Mr. Runyon cautioned that HLW and LLW trucks look similar, but the same may not be true for rail shipments.

Mr. Schroeder asked if WIPP did any work on this when they were considering rail shipments? Ken Niles from Oregon said there was resistance from the railroads on state inspections. Mr. Blackwell acknowledged this was true, because it is harder to stop a train than a truck. Ms. Janairo pointed out that this is why the railroads should support reciprocal rail inspections done at the point of origin. Re-inspection could be done at 1,500 miles, for example, when the brakes are inspected or at rail yards during crew changes. Ms. Beetem said there is precedent for inspecting rail shipments. Several states inspected the SNF shipment from West Valley, New York, in 2003. Missouri personnel travelled out of state to Indiana to do so. The current state budget might not permit this kind of travel. She agrees that it is not too early to begin planning for rail inspections. Mr. Blackwell said inspections should be done at the point of origin, or at a scheduled stop, such as a crew change point. He pointed out that West Valley was just one shipment. Ms. Rasmusson asked about how track ownership affects stopping trains. Mr. Blackwell replied that tracks are privately owned by railroads so stopping trains "is a minor hitch." Keith Stauber with the Brotherhood of Locomotive Engineers and Trainmen said specialized national training for inspections was necessary because railroads were not doing an adequate job. Mr. Leuer concluded the discussion by noting that this issue is a priority for the committee and more work needs to be done.

Mr. Mackie added that Argonne had put out a DVD on radio frequency identification for tracking radioactive waste casks. Ms. Janairo requested a copy.

Next, Bob Owen from Ohio gave a report on the Conference of Radiological Control Program Directors (CRCPD) and their suggestions for state regulations for the transport of radioactive material. The

program directors partner with all 50 states and federal agencies to communicate information about legislation and radioactive waste transportation, with financial assistance from DOE. The CRCPD divides itself into many committees and subcommittees. Mr. Owen chairs the transportation subcommittee of the Suggestion State Regulations committee. His committee drafts model regulations for states to use on transportation. He has a paper on this topic that has been peer reviewed and is being edited this fall for publishing. The CRCPD also develops model legislation for states and reviews proposed legislation. They did this for Ohio before it became an NRC agreement state. Mr. Easton pointed out that the CRCPD is usually reactive to NRC, Department of Transportation (DOT) or International Atomic Energy Agency (IAEA) regulations. He wondered if they had considered taking a more proactive role in shaping policy. The group could take a more “bottom up” approach to developing regulations by providing input to NRC and DOT, who advocate at the meetings of the International Atomic Energy Agency (IAEA). Mr. Owen responded that he is not sure the group’s funder would appreciate this approach. Mr. Easton explained that the IAEA recently proposed a revision to the transportation surface contamination guidelines. NRC and DOT were a party to this. The regulation will next come down to states to implement. Can the dialogue with states occur sooner? NRC would like to brief states earlier in the process and get their input. Mr. Owen replied that he would love to embrace that unique concept.

Ms. Rasmusson then suggested that Ms. Janairo be invited to a CRCPD meeting to tell the group about the Midwest Radioactive Materials Transportation Committee and its work. Mr. Owen said the CRCPD has been doing a good job of outreach, but that it is a good idea to invite Ms. Janairo, and to communicate more with Mr. Easton at NRC. He agreed that it doesn’t make sense for federal and international regulatory agencies to develop rules states can’t implement. He suggested that someone from CRPCD could participate in the IAEA discussions, or NRC could brief CRCPD. Mr. Easton said that DOT and NRC meet every month, but these are closed meetings. They are not always sure what they develop can be implemented by the states. Cort Richardson from the Council of State Governments-Eastern Regional Conference (CSG/ERC) amplified this by stating that, when the *Federal Register* notice on surface contamination limits came out, some of the content was technical, but some was procedural. Stakeholders only had 12 days to respond and some relevant information was not accessible because some links did not work. He stated that this was a terrible process for public comment.

Legislative Updates on Nuclear Topics

Minnesota: Last session there was bill to lift the moratorium on constructing new power plants and one body of the legislature approved the bill. Each year they are getting closer to lifting the ban, and this trend will probably continue until it is lifted.

Missouri: After four years the state passed a fee on radioactive waste shipments, effective August 28th. The Department of Natural Resources is responsible for implementation. Now Ms. Beetem’s office must be notified of low-level waste shipments because the fee applies. Thus far there is no electronic method for paying the fee, but shippers and carriers can pay by credit card over the phone.

The Callaway plant has been in the news because the utility wanted to overturn the law that prevents utilities from charging ratepayers for construction work in progress so they can bill ratepayers for work on a new reactor at the site. The NRC application for the new reactor is on hold because the utility was not successful in its attempt to repeal the law.

Ohio: Ohio is also a fee state now and, as a result, the state is in the throes of developing a rulemaking to implement the new legislation. They are looking at how the payment will occur. The state has drafted rules, and they are now in the concurrence process; then the proposed rule will go out for public comment.

Also, the Senate passed a resolution related to the American Centrifuge Plant in Piketon, Ohio, which requested but did not receive a \$2 billion loan guarantee from DOE. The intent of the Senate resolution was to encourage the project to go forward and for DOE to provide the loan guarantee. In lieu of the loan guarantee, DOE had offered \$45 million to the company to further develop the centrifuge technology for enriching uranium. Mr. Owen reported that the \$45-million offer was not going through after all.

Wisconsin: There is increasing discussion about ending the moratorium on new plants until a disposal facility is available, but it won't go far right now. It is encouraging that the issue is being discussed in the media.

Nebraska: Several years ago, transportation laws were implemented for radioactive waste shipments. After the tour to Yucca Mountain, Senator Loudon saw that shipments wouldn't occur soon. Spent fuel rods are currently stored on site at the plant. Not much will happen in the legislature until shipments are on the horizon. Lawmakers are focusing on wind energy right now. Also, Nebraska currently has enough power generation, so no new plants are needed.

Indiana: Indiana is trying to revise the state statute, but did not succeed this last session. The hope is that something will pass this year. Topics being discussed include inspections by state police. The language is a little ambiguous, especially around what is considered low-level waste. They need to refine the definitions to accomplish what they want.

Next, Ms. Beetem delivered an update on the Midwest's Fee States Caucus. This group came about after Ohio and Missouri passed legislation enacting fees for radioactive waste shipments last spring. Fee states get together to share lessons learned. The first call (July) identified the group's intended activities, which include sharing information on shippers and carriers, exchanging prospective shipment data, sharing lessons learned, and preparing a consolidated report on fees. Iowa shared its language for sharing fee revenue among state agencies. The states also talked about coordinating inspections of shipments.

On the second conference call, the states shared the forms they require from shippers. The CSG Midwest website will be updated to post these forms and also state rules and regulations. Ms. Janairo had provided a mock-up of a flyer with information on Midwestern state fees so the states can

communicate with shippers as a group. One shipper, MDS Nordion, is concerned about state inspections. States discussed the option of basing their fees on the level of inspection required or the distance traveled in a state. Missouri, for example, exempts shipments that are in the state fewer than 30 miles. Indiana talked about having improved communication among agencies, including Homeland Security and the state police. Some shipments were previously occurring without paying fee. Indiana's form does not include safeguards information and can be downloaded and printed or filled in and submitted electronically. Nebraska has increased its fee from \$2,000 to \$3,100 per cask.

Ms. Beetem stated that she had to leave early on the October 5th call. Issue of shipper concerns about fees was raised. To ship through all of the states in the Midwest could cost \$13,000. States are concerned that the shippers' response to state fees may not be consistent with safety. Shippers may choose routes that avoid fee states, which is not consistent with HRCQ routing requirements. MDS Nordion is responsible for the majority of shipping traffic, so there was speculation that the company might go to the Department of Transportation (DOT) for an inconsistency ruling on fees. Ms. Beetem said that no HRQC shipments have come through Missouri since they implemented the fee. Mr. Runyon pointed out that the states' objective is not to make money; the objective is to recover the cost to the state. One possible way to help alleviate shipper and carrier concerns may be to have a standard fee and then adjust it based on miles travelled, type of inspection, and number of trucks.

Mr. O'Connor wanted to know where to find the table on Midwestern state fees. Ms. Janairo said there is information on the fees available on the CSG Midwest website now. The flyer Ms. Beetem had displayed, however, was a new product that would be available on the website by the end of December.

Mr. Runyon returned to the subject of inconsistency, pointing out there is no consistency in fee amount among states. Ms. Janairo countered that states don't all have to run their programs the same way. Shippers can't ask that states do things the same way; they can only ask that states be consistent with federal policy. Mr. Blackwell said that shippers can't arbitrarily avoid routes without being in non-compliance with regulations, and a civil penalty violation would be more expensive than fees. Mr. Runyon said that one impact of shippers avoiding fee states is that good programs like Illinois's will not be sustainable on a reduced number of shipments. The group decided to discuss the issue more during lunch the following day.

The group turned to the topic of how to continue to function as a committee under the current challenges. Yucca Mountain shipments are not happening any time soon, only some states have EM shipments, and states have imposed travel restrictions to deal with budget shortfalls. The group may not have the ability to meet twice a year. The committee wants to maintain functionality and support from the CSG Midwest staff.

Ms. Janairo reported on the membership survey she had conducted and thanked the members for their responses. Priorities for the committee identified through the survey were to have two meetings each year and to participate in the NTSF. In terms of project publications, committee members want printed and online versions of the *Planning Guide*, and they wanted to continue receiving the E-newsletter.

Attending the Waste Management symposium was ranked lower than these priorities, but still important. Ms. Janairo asked members to think about whether they might want to present a paper at Waste Management. Under the “miscellaneous” section, committee members responded that they do not want a Facebook page for the committee. Ms. Janairo noted that Facebook provides the capability for a members-only website, which is something she has been interested in providing. However there is stigma of Facebook being “fluff,” and some state employees may not be permitted to view Facebook pages. Mr. Schroeder stated that Google is coming out with a program like Facebook, and also similar to Sharepoint. Project staff will continue to look for an acceptable “members only” web option.

Ms. Janairo continued discussion of the survey responses with the specific group responses. Some questions were directed only towards legislators, or only those who have had experience with shipments. She stated that she strives to make committee meetings relevant to legislators because they are essential partners. Legislative updates will continue to be a part of meeting agendas. Members who have had experience with shipments rated shipment-related items based on their importance. The top two were having direct contact with DOE site representatives at committee meetings and detailed information on shipping routes.

New priorities for the states are the NTSF and the Fee States Caucus. Ms. Janairo still hopes to maintain two meetings per year. She noted that it had been 10 months since last meeting, and there was a lot of ground to cover. She hopes for a meeting in the spring timeframe. She would like to see meeting frequency based on activity level. Providing a “refresher course” on what the committee does prior to the meeting was a popular option among survey respondents. Also, a table of acronyms will be included in next briefing packet.

Mr. Leuer next directed the group to reach consensus on goals for the committee. Mr. Runyon asked if the committee could pursue funding through DOT or the Department of Homeland Security (DHS) to have a second meeting each year. Ms. Janairo added that something will replace Yucca Mountain at the national level, and funding should come with it. The Nuclear Waste Technical Review Board was able to keep their funding in spite of the drastic funding cuts to the Yucca Mountain Project.

Ms. Rasmusson said the committee had always looked to DOE for funding related to SNF. She receives support from utilities in her area and thinks that utilities could help fund trips to committee meetings, if that were appropriate. Utilities all come together annually. CSG Midwest could present to them on the importance of the committee.

Mr. Owen said the committee should have a strategizing session. Maybe one of the committee meetings should serve that purpose for the state regional groups in general. This could be done in conjunction with the new NTSF. Committee members would discuss what topics justify meetings. Mr. Owen thinks the committee needs to determine the number of meetings prior to requesting funding.

Ms. Beetem mentioned the scope of the committee’s mission. She asked if the mission is safe, efficient transportation of radioactive material. If so, she suggested the committee talk to DHS. The committee deals with private shipments as well as DOE shipments. Mr. Blackwell asked whether the committee

could tap the DOT Pipeline and Hazardous Material Safety Administration (PHMSA) grants, which are geared to emergency response training. Mr. Runyon stated that he believes those grants are earmarked for states and tribes. Ms. Janairo pointed out that the committee has always dealt with more than DOE transportation, with DOE's blessing. They are able to speak about non-DOE shipments because that would inform how DOE shipments are conducted. It was never a problem to cover a variety of topics at meetings until the Yucca Mountain funding disappeared. Ms. Beetem stated that DHS should have sufficient resources to cover the committee's modest needs. Ms. Janairo added that one meeting each year could be held in conjunction with the NTSF.

Sen. Loudon asked if generators will be on the BRC, and if they would provide funding because they have such a big stake in transportation. Mr. Runyon stated that receiving money from utilities could be a conflict of interest. Ms. Janairo agreed and said she has turned down offers for funding from the nuclear industry because of this potential conflict of interest. But philosophically, she asked, is the industry's pro-nuclear stance any different from DOE's pro-Yucca position? The states have a long record of challenging DOE, which shows that they are not beholden to DOE based on funding. She pondered whether the committee has that opportunity to prove it doesn't favor the nuclear industry. Mr. Leuer said the group could work on how the group received funding, and how the issue was framed. He believed the focus on transportation needs to be maintained, and support from CSG Midwest is essential. He also stated that the committee needs to be positioned to react to new, non-Yucca Mountain direction from the federal government. He asked committee members to think about their priorities prior to lunch the next day.

The committee then began a discussion on rules. Ms. Janairo pointed out that the way the rules are set up, the committee has a senior co-chair and junior co-chair, and an individual would preside over two meetings in each year. This equated to a one-year term as senior co-chair and a one-year term as junior co-chair. She told the committee they would either need to change the by-laws to reflect one committee meeting per year, or elect a new co-chair. She proposed some marked up language on the by-laws that based the term on the number of meetings rather than the calendar year. Under the proposed change, if the committee met just one time each year, someone could be a co-chair for a total of four years.

Mr. Easton asked whether a teleconference would constitute a meeting, or if meetings must be in person. Ms. Janairo thought a meeting should be face to face. Teleconferences can be an important way to stay in touch, but do not replace in-person meetings, mainly because calls would not last 1½ days like a meeting does. Mr. Schmidt expressed concern that basing terms on the number of meetings would make the commitment for a co-chair uncertain. He said a four-year commitment is a long time, and two years is more manageable. He liked the idea of one meeting and one two-four hour teleconference. Ms. Beetem said the number of committee members who will be here in four years is limited. Ms. Janairo pointed out that the flip-side of shorter terms is you could get tapped twice. Ms. Beetem said that shorter terms encourage younger members to take leadership roles. Laura Dresen (Indiana) asked if being tapped twice for two years any worse than being tapped once for a four-year term. Representative Carl Holmes (Kansas) agreed that "meeting" needs to be clarified so there is no

ambiguity. Ms. Beetem wanted to explore video conferencing as a second meeting option. Mr. Mackie said that as a funder, he had envisioned two meetings each year: one traditional committee meeting and one held in conjunction with the NTSF. The next TRANSCOM Users Group meeting will likely be tied in with the NTSF, as well. The members decided to table the rule change until the working lunch on Wednesday so that members could think about their preferences.

Mr. Easton presented an update on the NRC's activities. The NRC is currently working on rulemaking for two separate rules on physical security: Radioactive Materials in Quantities of Concern (RAMQC) and Spent Nuclear Fuel. Both will be put out for public comment in 2010.

RAMQC are sixteen materials that could be useful to a terrorist. Category 1 sources of RAMQC would cause death or severe injury if not properly handled. Mr. Runyon asked if there is a category of SNF outside of category 1. Mr. Easton replied that yes, some SNF does not have self protection. It has a lower radiation level that could allow a terrorist to access it without dying. He noted that a shipper cannot split a shipment to get out of complying with a category requirement.

Mr. Easton described the rulemaking process, which involves issuing an NRC advisory, then a binding order, then a draft rule, and finally a change to 10 CFR 73. The security requirements for RAMQC involve licensee verification, planning and coordination, notification, and communication.

The NRC also has a rulemaking for spent fuel that aims to extend the term limits for storage certificates of compliance from 20 to 40 years. NRC is doing this based on the experience at the Surry plant in Virginia, where fuel has been stored for 20 years already. The new rule would apply to Private Fuel Storage as well as casks at power plants.

NRC continues to review the Yucca Mountain License Application. They are doing a phased review due to limited funding. Hearings on contentions are being held in Nevada.

NRC has proposed changes to two of the five "Waste Confidence" findings. They propose changing finding #2 to say that a geologic repository will be available 50-60 years after the life of nuclear power plants. The previous finding was that a repository would be available by 2025. Finding #5 would be changed to say that spent nuclear fuel can be stored safely on-site at nuclear reactors for 60 years. Public comments were received on the proposed changes, and then two commissioners asked whether it should be put out again for comment given the administration's decision to cancel the Yucca Mountain repository. Commissioner Jaczko said it may be preferable to change finding #2 to "disposal capacity" not "mined geologic repository." Ms. Janairo asked how the NRC could find "confidence" in a repository being available, since the main obstacles to developing a repository appear to be political, not technical.

Mr. Easton said the NRC continues to review license applications for new reactors under the streamlined combined license and operation application process.

He concluded by noting that the changes to surface containment limits proposed by DOT in June 2009 will not be implemented based on the public comments that were received, including comments from the Midwest.

Mr. Leuer introduced Ken Niles from the state of Oregon and the WGA Transportation Technical Advisory Group. WGA has been very active in evaluating the Waste Isolation Pilot Plant (WIPP) program and Mr. Niles presented on the most recent WGA program evaluation. In the late 1980s, DOE felt they would be ready soon to open WIPP. They predicted 33,000 shipments over the life of the project. WIPP and many shipping sites were located in the West and this volume of shipments would put a strain on those states. WGA worked with DOE to develop a transportation safety program with uniform procedures. It took until the late 1990s to finally open WIPP, but the decade between the anticipated opening and actual opening was spent developing the transportation program. Transportation procedures were pilot tested on shipments of cesium to Hanford and shipments of LSA nitric acid from Hanford.

The WIPP transportation program addressed several principles, including high-quality drivers, best routes, rigorous inspections, and bad weather and safe parking protocols. Accident prevention was the focus. The program included procedures on training, tracking, emergency management, and notification. Doing a thorough evaluation is part of the program. Evaluations have been done every other year since 2000, as an attempt to look at what has gone well as well as what has gone wrong. All states on the Western WIPP transportation routes respond to a detailed survey. The overall findings have been that it is a safe program, and DOE is fulfilling its obligations to the states. Mr. Niles focused on what can be done better, and offered some recommendations.

In the area of carrier compliance and choosing high-quality drivers, the evaluation showed that audits were not always conducted as required. Two carriers have been used for the WIPP program, one in the West and one outside the region. The evaluation found that Colorado was unable to audit CAST, one of the carriers, and Tri-State was not audited either. DOE has moved to remedy this situation, and progress has been made since the audit last winter. States were not involved in selection of the new carrier, as DOE had committed. The recommendation is that equitable and consistent audits be carried out regularly, and the results should be widely shared.

With regard to bad weather and road conditions, the procedures generally work well. For the most part, trucks are not on the road when they shouldn't be. The West has ice, snow, and bad weather conditions. In a few instances the states have questioned the decision to dispatch shipments. Weather forecasting is fallible, so they don't completely fault DOE. Marginal conditions can be problematic if there is no official weather watch or warning. Two winters ago, many shipments were held up in safe parking en route for several days. Some states were concerned about the number of trucks stopped because states typically want shipments to make it through once they are dispatched. The recommendation was that trucks not be dispatched unless it is likely they will make it to WIPP. Weather monitoring and remote weather surveillance equipment in "problem areas" could help DOE

decide whether to start a shipment. This equipment is costly, but DOE has indicated a willingness to purchase it.

In the area of safe parking, the evaluation found that sometimes communication between DOE and the states or within a state isn't always good. Also, safe parking occurred more often than intended. The recommendation is that communication occur before a truck leaves safe parking.

There were no problems with emergency training and exercises. Mr. Niles pointed out that many lessons have been learned from past experiences.

Routing has been an occasional issue, usually involving one or two states. New Mexico has an unresolved issue with a route along the Texas border. A weight limitation issue in Texas caused a route to be shut down when a truck was en route. The evaluation recommends that DOE work with New Mexico to resolve this. A new route in Nevada may be opened if DOE ships from a California site. DOE needs to support the states' efforts to prepare the routes for shipments.

Overall the evaluation found that the WIPP transportation safety program has strong support from the states. The program generally works well and results in safe shipments. In some cases, DOE is not responsive to state issues. The communication between DOE and the states that has occurred over the past 21 years should continue. The majority of program objectives are being met completely.

Senator Loudon asked for clarification on the New Mexico/Texas route issue. Mr. Mackie explained that culverts on this route were rated for 90,000 lbs, but they were cracking. The state imposed a weight limit of 30,000 lbs., which prohibited the 78,000-lb. WIPP trucks from using the route.

Mr. Niles said that several issues with the transportation program have been resolved. For example, TRANSCOM used to be unreliable, but it has improved greatly. The states felt that scheduling used to be a problem because schedules would change drastically. This is no longer an issue.

Ms. Janairo asked about carrier audits in Colorado. She wondered if there is a formal agreement among the regions about things that would impact other regions, such as the audits. Mr. Schroeder said that there would need to be state buy-in to create such agreements; the state regional groups don't have the authority to impose on states. He said that if states don't do their own audit, the West can participate in DOE's audit. Mr. O'Connor said that DOE has been cooperating with the Federal Motor Carrier Safety Administration (FMCSA) to look at their carrier and equipment ratings, and DOE only uses those in the top 25% of the ratings. The Carlsbad Field Office evaluates its own carriers.

Ms. Janairo asked about how the survey is conducted. Mr. Niles replied that, under the WGA program, each state is co-lead on a task, and there are two to three co-leads per task. Oregon co-leads the evaluation task with two other states. This group develops a 30-page evaluation form that goes out to the states in December every two years, and they get responses by January. Oregon has taken the lead on compiling results.

Next, Mr. Mackie delivered the Waste Isolation Pilot Plant (WIPP) update. WIPP has been shipping transuranic waste since 1999. The Argonne shipping campaign recently wrapped up, with shipments scheduled to resume in December 2010. Mr. Mackie provided information on which sites have shipped to WIPP and how many loaded miles have been travelled. The greatest number of shipments has come from Idaho National Laboratory (INL), with over 5 million loaded miles shipped. WIPP and the states are conducting training on two new routes, and training along a third route will begin soon. Shipments on I-80 out of California are expected to begin in May 2010. Small quantity sites (SQS) are expected to begin their shipments in 2010. Bettis, in Pennsylvania, will begin shipping to WIPP in October 2010. There will be a total of two to four shipments of remote-handled TRU waste from Bettis, and they will travel east on Route 70 to Route 81 South to Route 20 West. Pennsylvania has been briefed on these plans, and WIPP personnel will next be meeting with state officials from West Virginia, Virginia, and Maryland. Other SQS shipments will occur in FY 2010 and 2011, and they will be both contact-handled and remote-handled shipments. Remote-handled shipments are going straight to WIPP, and contact-handled shipments are going to INL for characterization. The routes have already been identified for these shipments.

Ms. Janairo asked about the Argonne shipments scheduled to start in December 2011 because that site loads the trucks outdoor and so usually avoids winter shipments. Mr. Mackie said the plan is to load the trucks prior to the cold weather. Also, if the weather is bad, they won't ship.

Mr. Mackie next spoke about the Recovery and Reinvestment Act Project. Under the Act, \$172 million was been apportioned to WIPP. WIPP contracts have been modified to spend stimulus funds according to schedule. Stimulus funds are being used to support increased shipments to WIPP with four additional carrier teams. These funds will be used to accelerate disposition of TRU waste. NRD is a civilian site in New York that houses TRU waste. DOE will take that waste and then consider NRD a closed site. Work is also being done on the WIPP site; for example, a new evaporation pond has been installed on site, and equipment has been repaired or replaced.

The Congress has approved the FY 2010 budget, but the President had not yet signed the bill. Staff expect to work under a continuing resolution at least through October or longer this year.

The WIPP Transportation Plan is becoming the "TRU Waste Transportation Plan." A draft had been compared to the WGA WIPP Program Implementation Guide (PIG) and DOE Manual 460.2-1A, and should go out this calendar year or early next year for review.

Mr. Mackie presented on incidents and accidents. Reportable incidents and accidents get reported by the EM office. Non-reportable accidents and incidents get reported by Mr. Mackie at state regional group meetings. One carrier has been having turbo failure in their new trucks. There was a TRANSCOM outage in September for three hours, but there is a backup telephone procedure for tracking. On one shipment, a driver took the wrong exit and got a two-week unpaid furlough. If he makes that mistake again, he will lose his job. Mr. Mackie said that, if a driver travels more than a half mile from the designated route, this is considered a "route deviation," which WIPP takes very seriously.

Fabrication of the TRUPACT III cask was completed on October 20th and it is being shipped on October 21st to Sandia National Laboratory for the drop test. The cask will then go back to Seattle for the final testing. A Safety Analysis Report will be submitted to NRC. WIPP expects to receive shipments of TRUPACT III in October 2011.

The TRANSCOM Users Group conference call was held on October 14th. These calls are held twice per year. Super User Training is provided once per quarter in Albuquerque and Carlsbad. They also provide a regional training, which will most likely be in Ohio next year and New York the following year. There is an ongoing discussion on putting the WIPP 8-week schedule onto TRANSCOM. Mr. Mackie has recommended that the next TRANSCOM user meeting should be tied to the NTSF meeting.

Mr. Runyon asked, if the 8-week schedule goes on WIPP, will people have to go there for the info, or will it be available elsewhere? Mr. Mackie said this is being discussed. This is why the change hasn't occurred. Ms. Janairo asked whether the WIPP e-mail messages transmitting the schedule could still be sent if the schedule is posted on TRANSCOM. Mr. Mackie is not certain what is being done. He added that DOE has security concerns about wide dissemination of the shipping schedule.

Ms. Rasmusson asked whether incidents and accidents are posted on the WIPP website and Mr. Mackie said he is willing to send them to people, if requested. Mr. Mackie asked about looking into the logistics of shipping from Argonne. WIPP has been shipping twice a week from Argonne because the site only moves one truck at a time. Mr. Mackie said this is because of a verbal agreement with the West that trucks must be one mile apart, so convoys do not work well. Mr. Leuer asked about the SQS routes. Mr. Mackie would be talking to Ohio and Indiana to identify what services WIPP can provide and to discuss the routes for the SQS shipments. He will also provide funds to the affected states to buy instruments and provide training. Mr. Leuer asked if that is a set amount, or if it is determined on a case-by-case basis. Mr. Mackie said there is a formula to determine the funding for the states. Ms. Janairo stated that the Midwest submitted input on the SQS routes and the chosen route does not match what the state preferences were in Indiana and Ohio. Illinois, however, would be pleased with the route that was selected. Mr. Mackie said the decision was made to travel south because Dr. Triay wants to avoid the Great Lakes region, where the population is high.

State Roundtable

Minnesota: One nuclear plant is going through re-licensing. There is a casino 500 yards from the plant, and the Prairie Island community is concerned about the proximity. Local units of government have had their budgets cut, so local jurisdictions are concerned about their capability to respond to incidents involving the plant. Monticello has recently opened a dry cask storage facility that is being loaded. There is a large push coming from the Federal Emergency Management Agency (FEMA) and NRC on radiological emergency preparedness (REP). Many FEMA requirements for off-site security are concerning to Minnesota because of the impact to state and local jurisdictions. The states feel they have lost their voice with federal rulemaking, so the National Emergency Management Association (NEMA) will reestablish a committee to work with FEMA on rulemaking. Minnesota provided extensive

comments to FEMA and NRC. The Radiological Emergency Preparedness committee for NEMA will be chaired or co-chaired by Mr. Leuer.

Iowa: The state is dealing with budget issues. Ms. Rasmusson reported that Don Flater, formerly with the committee, stopped by the office last week. He is enjoying retirement and is now driving a school bus.

Michigan: The Fermi plant has filed an application for Fermi 3, a new reactor on an existing site. Nordion shipments may be continuing to come through Michigan. The initiative to become an NRC agreement state has not moved as quickly as Mr. Strong had hoped. State government is being reorganized, with the departments of Environmental Quality and Natural Resources being re-combined after being split 14 years ago. Mr. Strong's program is dealing with budget shortfalls and staff vacancies. Michigan filed comments on the proposed REP changes, in concurrence with Minnesota's.

Illinois: The state recently commented on the proposed rules for Part 37 of the NRC regulations. The state's comments were largely the same as they were on previous draft orders, and Mr. Runyon hoped some comments would eventually get incorporated. Illinois's comments are directed towards the sections on rail transport and security. Illinois is trying to streamline its escort program so that the security individual and the CVSA inspector can be in the same place. The logistics are working well, except that making the vehicle compatible for all purposes is very expensive. The drawback of having the inspection staff travel with the security person is that they may end up spending time on police business if they are travelling together. The state is also engaged in the distribution of personal radiation devices. There are 6,000 detectors out in the field and 500 portable spectrometers. There is also a web-based system for reporting.

Missouri: The Emergency Management staff and Health and Human Services staff are involved in exercises, but Ms. Beetem is not involved. Missouri appreciates the input received from the new Fee States Caucus. It has helped them decide how to collect fees. Missouri uses the retainer method of prepaying.

Indiana: The state recently increased the number of CVSA inspectors from two to six in an attempt to beef up that program. There is discussion in the departments of Homeland Security and Health on Indiana becoming an NRC agreement state.

Kansas: According to Jennifer Clark (Kansas), the state is seeing fewer shipments since Missouri implemented a fee. The state would host TEPP training in Topeka. They are also planning an emergency response exercise, but this is contingent on the budget.

Wisconsin: Mr. Schmidt said Wisconsin was in the process of planning the UW shipment. When planning was getting underway, he wanted to have a document that could be shared with everyone and what he came up with was the Midwest's *Planning Guide*. He said he found it to be a very useful document.

Ohio: Ohio is finding that the NRC changes in security requirements don't take into account differences in licensees. Mr. Owen thought that hospitals shouldn't be treated the same as industry. Ohio had submitted three or four pages of comments on the rulemaking. Mr. Owen's agency is the lead on H1N1 virus operations, so his radiological staff is depleted but still capable of responding to a radiation incident. Ohio had Nordion come through with 550 curies of Cobalt-6. Also, there was an accident involving a truck carrying radioactive material from the Limerick nuclear plant in Pennsylvania. The driver was injured, but the shipment continued. No notification to Ohio had occurred regarding the incident.

The state recently discovered a radioactive device in a scrap yard and contacted the manufacturer to find out who owned it. It was releasing 200mr/hour because the device was locked in the open position. Ohio solicited help from the Environmental Protection Agency (EPA) to dispose of it; EPA contacted DOE. The source has not yet been removed by either agency, so Ohio State University is storing it temporarily.

Nebraska- Senator Loudon said he had visited with Al Berndt, the director of the Nebraska Emergency Management Agency. Regarding transportation, he said the state was happy with what Illinois is doing in terms of inspections.

Mr. O'Connor delivered the update on the EM Office of Packaging and Transportation. He has been with DOE for one year after 17 years with NRC. He is pleased about being at DOE at this exciting time, when so much is happening with stimulus funds. EM recently went through a reorganization directed by Dr. Triay to "empower the field." The Office of Packaging and Transportation is now under the Deputy Assistant Secretary for Technical and Regulatory Support. EM received American Reinvestment and Recovery Act funds of \$6 billion over two years, which was a 50% increase in their budget. They needed to obligate, manage, and oversee that money fairly quickly. So far they have done well, with \$5.9 million having been obligated. Thousands of jobs have been created to reduce the EM footprint.

EM's cleanup project – cleaning up the legacy of the Manhattan project – is the largest in the world. Even demolition work creates more waste as contaminated buildings come down. Transportation is a crucial component of the cleanup. EM plans to continue moving waste to the Nevada Test Site (NTS) and Energy Solutions in Clive, Utah. The Waste Information Management System (WIMS) allows stakeholders to see where waste comes from and where it is going.

The Mercury Management Project is looking at several sites to store the mercury. Hanford, INL, Savannah River Site (SRS), Grand Junction, Hawthorne, Andrews, and Kansas City are all being considered. A draft EIS will be published in December 2009, with opportunity to comment, and the final EIS is expected in summer 2010. It will address transportation briefly. Mercury is currently stored at roughly a dozen sites, including Oak Ridge. The Record of Decision is expected in the fall of 2010.

The SNF Transfer Project is looking at options, which will probably be given as input to the BRC. The transfer program was going to be a swap between INL and SRS but they are looking at whether the swap makes sense without Yucca Mountain. Mr. O'Connor expects to know more in early 2010. The material from Fernald was sent to Waste Control Specialists in Texas, so the Fernald cleanup is complete. Oak

Ridge has had onsite and offsite shipments. EM is working with Oak Ridge on a paper for the Waste Management Symposium that will detail the success story of Oak Ridge tracking and logistics. There were 13 transportation incidents in FY 2009, but no contamination releases. The incidents were mainly missing placards and missing labels. Still, EM wants 100% compliance.

Ms. Beetem said that some shipping contractors had contacted her about paying the Missouri fee, and that is when she learned they were DOE shipments. She asked if the states can know about DOE's low-level waste (LLW) shipments in advance. She wondered if these are on the PSR. Ms. Janairo said this could be part of enhancing the PSR. Mr. O'Connor said shipments from Oak Ridge could be private or DOE shipments. He added that he would look at how DOE can best meet the need Ms. Beetem had identified.

Senator Louden asked about the origin of the mercury, and whether it is from coal-fired power plants. Mr. O'Connor replied that it comes from a variety of sources, including research. Some could come from coal plants. It is elemental mercury. Ms. Janairo offered to track down the fact sheets on sources. WGA submitted comments on the Mercury Management Project, saying that DOE needs to look at transportation. Mr. Schroeder said that the intent of the legislation was to stop shipping mercury to Asia. He said most of the mercury is from mining. One of the nuances of the bill is that sources aren't required to send it to the site identified by DOE. Right now, the mercury is sitting around in warehouses in drums. Mr. Blackwell mentioned there will be concern about shipments if the quantities are large. There will be high public concern because clean-up from a mercury spill is so complicated. Packaging and safeguarding will be additional issues.

The Greater-than-Class-C (GTCC) LLW environmental impact statement is being revised. EM is now looking at deep geologic disposal at WIPP; subsurface burial at Hanford, INL, NTS, SRS, WIPP, or a generic commercial site; or disposal in a vault at any of those sites except SRS. The public will have an opportunity to comment on the environmental impact statement.

Mark Abkowitz asked about a replacement for the TEC Working Group. Mr. O'Connor said the NTSF would not reinvent the TEC Working Group. It would be EM specific but deal with the entire DOE complex. They will pick up relevant topics, but not deal with Yucca Mountain.

The Transportation Emergency Preparedness Program (TEPP) update was delivered over the phone by Ella McNeil. In FY 2009, there were 17 Modular Emergency Response Radiological Transportation Training (MERRTT) sessions in the Midwest. Radiological Response drills were scheduled for Topeka in October 2009 and Lincoln in January and March 2010. The 2010 version of MERRTT was released on October 15, 2009, and this version incorporated changes based on instructor and student feedback. The TEPP program now includes: a condensed MERRTT training that can be used as a refresher; an online version of the training; the existing 16-hour course; a 40-hour Radiation Specialist Training for advanced hazardous material responders; and a radiological training for hospital personnel. A "Technician MERRTT" training course is currently being developed for technician-level responders. It is expected to

be released in early 2010. Ms. McNeill would soon begin looking for volunteers to work on the Technician MERRTT course.

The update on the Portsmouth and Paducah Conversion Project was given by Tim Huey of Uranium Disposition Services, LLC. Committee members toured the Portsmouth facility in Piketon, Ohio, in 2007. Mr. Huey was the operations and maintenance manager until recently. DOE contracted his group to start the conversion. Construction of the two facilities is complete. Testing at Portsmouth is complete and Paducah will be complete soon. DUF_6 will be introduced into the process in March 2010. There are four nozzles in the conversion process and they will start them up one at a time. They will be taking samples of the uranium oxide as it is produced. Shipments are scheduled to start four months after production begins. Agreements with DOE have been approved and are being implemented. The transportation plan is in its final draft, and it is being reviewed by DOE. They are planning to ship to Clive, UT, but DOE has not issued its final Record of Decision. Most of the shipments will be done by rail. Ten rail cars from Fernald will be modified for use in this campaign. Five or six cars will be filled before they ship. They expect to start shipments in March, and they will provide a schedule to DOE.

Mr. Leuer asked if the transportation plan will be shared with the state regional groups once it is approved. Mr. O'Connor said "sure." They anticipate 3,000 filled cylinders being shipped each year, with 6 cylinders per car, and 5 cars per train. Ms. Janairo's understanding from discussion with Ms. McNeil is that states will have an opportunity to comment on the draft transportation plan. She asked for an updated fact sheet and Mr. Huey said his office could provide one. Mr. Strong asked whether there was a connection between the NRC's review of depleted uranium disposal and the conversion facilities. Ms. Easton said he did not think the NRC's actions would impact the conversion program because uranium oxide disposal is not an issue. However, if the DUF_6 were to go to the EnergySolutions facility, then it would become an NRC issue. He added that the international community is watching NRC.

Mr. Blackwell said the FRA would like to be kept informed about when shipments will begin. Senator Loudon asked what kind of fee or rate is charged by railroads. Mr. Huey said the rates are negotiated with the railroads. There are not many railroads to choose from, so there is not much room to negotiate. Mr. Stauber asked if there are controls about who handles the trains that are shipping the material. Are there protections in the transportation plan, for example, to make sure good personnel are moving the material? Mr. Huey said he does not work on that aspect of the project. Mr. Blackwell said this material is Class 7, which travels on freight transport, so they don't designate crews or routes. It will be moved in conjunction with the existing regulations for Class 7 radioactive materials. Ms. Beetem noted that, for the Fernald shipments, public fact sheets were distributed, with additional details provided to first responders. Mr. Leuer noted that response information should be included in public information packets or fact sheets so that states could use them as handouts in training sessions, too.

The committee moved on to discuss the NTSF. Ms. Janairo reviewed the proposed charter for the group. She and Ms. Rasmusson are the Midwestern representatives for the working group that was

helping to develop the NTSF. Ms. Janairo hoped the charter would be finalized the following day and was therefore looking for committee input. The NTSF charter was based on the TEC Working Group charter. The biggest change is that professional associations, industry, and local governments would not be participants because of DOE's concerns regarding the Federal Advisory Committee Act (FACA). The NTSF will be limited to states, tribes, and DOE, and probably other federal agencies. The goals and objectives for the NTSF are 1) provide DOE with a chance to give information to the states and tribes; 2) give the states and tribes an opportunity to give feedback; and 3) serve as a forum for parties to discuss emerging issues that DOE, states, and tribes identify as worthy of attention. When issues come up, the NTSF Planning Committee will prioritize them and determine which warrant a working group to resolve the issue. Unlike TEC, there will not be standing committees.

DOE will chair the NTSF. Membership on the planning committee hasn't been decided yet, but it was possible the current working group would be planning the first NTSF meeting. NTSF participants will be expected to serve on committees and respond to requests for information.

Dr. Abkowitz stated that scaling back of membership is a good idea, but there should be room for others to participate. There are too many other entities that interact with DOE on transportation issues. He said he would hate to have the only forum that addresses transportation exclude some key parties. Ms. Janairo thinks the concern is with the FACA. Mr. O'Connor explained that EM is working with states and tribes to establish policy, but if industry is invited then there could be favoritism. FACA would require that such a group become an advisory committee. Mr. O'Connor is fine with opening up the meetings to other agencies. Ms. Janairo pointed out that meetings will be open to the public, but under the charter, only DOE, states, and tribes could participate on the ad hoc working groups.

Mr. Runyon said he valued having industry participate in TEC because of their experience with shipments; this would be lost if industry were excluded. Mr. O'Connor said that industry can participate in the informational exchange. When you start talking policy, it needs to be just states, tribes, and DOE. Mr. Runyon did not see industry influencing policy in the TEC, but Mr. O'Connor said that it was more of a perception rather than any inappropriate influence. Ms. Beetem suggested that there should be a distinction between informational sessions and the policy working sessions. Mr. O'Connor said that all of these points would be considered in the NTSF conference call the following day. Ms. Janairo noted that TEC working groups lacked timelines, and this new forum will require working groups to set a timeline for completion. Mr. Schroeder asked for the DOE General Counsel's FACA ruling and Mr. O'Connor said he would provide that. Mr. Schroeder thought it would be useful to know where to draw the line and make a clear distinction between "influence" and "participation." Dr. Abkowitz reiterated that the synergy of having so many parties engage on transportation was valuable, and to lose that for more of a silo approach would be a shame.

The group then heard updates from the other state regional groups. Mr. Schroeder delivered the WGA update. The WGA Transportation Technical Advisory Group had just held its meeting in Sacramento. At the WGA annual meeting, the governors had signed a memorandum of understanding with the Secretary of Energy, cementing the relationship between the Western governors and DOE on WIPP

shipments. WGA also passed a resolution on the successes of the WIPP program. The Western governors submitted comments on DOE's plans for the Mercury Management Project, stating that transportation was not adequately addressed. They also commented on the RAMQC regulations, because shipments that begin and end outside of the U.S. but travel through this country aren't regulated. WGA is working with Mr. Mackie on planning for WIPP SQS shipments. Mr. Schroeder is working with the other state regional groups to schedule a meeting with Dr. Triay to discuss the importance of the regional groups. He has also been active in planning the NTSF.

Chris Wells from the Southern States Energy Board (SSEB) said he was working on similar items. A memorandum of agreement was signed by Secretary Chu in September and the chair of the SSEB committee, Governor Manchin of West Virginia, signed it on October 13th. There had been a concern that recent flooding in Georgia might impact WIPP shipments, but it did not. There was a TRANSCOM training going on in Oak Ridge, with participants from Kentucky, Tennessee, and South Carolina. The Southern states are up to speed on SQS shipments and agreements with those states are in place. The Southern Emergency Response Committee just met. A mutual aid agreement among the states will come out this year. SSEB's High-Level Waste Transportation Committee will meet on December 2nd in Savannah, Georgia. Next year is SSEB's 50th anniversary, so SSEB will do their own meeting rather than doing it in conjunction with the Southern Governors' Association meeting. The SSEB transportation committees will hold their joint meeting at that annual meeting next September. Mr. Wells is not sure if his group would do a spring meeting.

Mr. Richardson gave the update on the Northeast High-Level Radioactive Waste Transportation Project. The Northeast Task Force will have its next meeting in the late winter or early spring. The meeting will be in New York, but the dates are not set. Mr. Richardson said his major focus right now is the SQS shipments that will be coming out of Pennsylvania and New York. This is the first set of shipments from the Northeast going to WIPP. Last year some reactor components were shipped from Brookhaven National Lab. This enabled the Northeast to have experience planning a high visibility shipment. Mr. Richardson is looking at arranging some training sessions on TRANSCOM and also the TEPP Radiation Specialist course. He will be presenting information on the Northeast Task Force to the Tri-state Directors and Northeast Radiological Health Compact next month.

Wednesday, October 21, 2009

Mr. Leuer welcomed the group to the second day of the conference. The first presentation of the day was on the intergovernmental collaboration on radiological emergency preparedness planning to support the 2008 Republican National Convention (RNC). It was delivered by Christine Van Horn, who manages the Radiological Assistance Program out of Chicago, and George Johns from the state of Minnesota. The 2008 RNC was the largest planned event in the state's history. It involved 4,000 responders and representatives from over 100 agencies. They set up a temporary multi-agency coordination center at the airport. The infrastructure that was put into place is still of benefit to the state. Mr. Johns said that there were some hiccups in the process, but overall it worked well, especially with regard to the relationship with DOE. The Secret Service was the lead agency at the convention site,

and the Federal Bureau of Investigation was the lead agency for everything off site. The convention was held at the Xcel Energy Center in Saint Paul. Planning for the event began well over a year in advance.

The event was held in an urban area, close to the state capitol and there were many high profile attendees. The Mississippi river adjoins the complex. Officials had to plan to prevent terrorism and the police were concerned about riots and protests. Also, the Xcel Center is located in a major medical district surrounded by four hospitals. This means that there is a lot of radioactive material in the area. Radiological shipments were coming and going, so Mr. Johns kept track of what was coming into the zone and shared that information with other parties.

The radiological planning process was convened by the Secret Service and FBI, and committees were designated to deal with certain aspects. Ms. van Horn and Mr. Johns were on the Fire, Life Safety, and Hazmat Committee. The All Hazards Monitoring Working Group was a subcommittee chaired by the Minnesota Department of Health. The state had to get used to the idea of supporting the federal agencies rather than taking the lead.

The Minnesota Department of Health state lab arranged for the deployment of samples, storage of radiological supplies, and sample analysis. Mr. Johns was the primary contact between the state and local agencies and DOE. The Domestic Nuclear Detection Office (DNDO) Mobile Unit was requested by the state. The FBI coordinated training by DOE and DNDO covering basic radiation safety and equipment-specific training. Technical and hands-on training was provided for the Department of Health, the county emergency management agency, fire departments, law enforcement, HazMat teams, and the Mall of America security staff. Mr. Johns kept track of who needed training and who received it. Mobile Detection Equipment is owned by DNDO and managed by DOE, which brought additional radiation detection equipment for use during the event.

Mr. Johns and Ms. Van Horn said that this event proves that planning with state, locals, and federal agencies can work well with enough effort and advance planning.

Mr. Schmidt asked about the content of training that was delivered and Mr. Johns said they started from scratch, with no radiation background assumed of trainees.

Next, Mr. Leuer introduced Mark Holt, who covers nuclear issues for the Congressional Research Service (CRS), a support agency for Congress. The CRS is impartial and does not advocate policy positions. Mr. Holt recently authored a report entitled "Nuclear Waste Policy: Alternatives to Yucca Mountain." The report was written to give Congress the pros and cons of Yucca Mountain and its alternatives. The Obama administration has indicated a major change in federal policy, but Congress has to weigh in. Mr. Holt has been following the Yucca Mountain Project since its inception. The CRS helps provide an "institutional memory" for Congress, which has rapid turnover.

Congress most recently debated nuclear waste policy during the 2010 budget debate. The FY 2010 budget allocated \$5 million to the BRC, but is ambiguous on whether Yucca Mountain is among the alternatives to be considered by the commission. The House had mandated that Yucca Mountain be

included, and the Senate said DOE had to stop collecting the Nuclear Waste Fee. The final bill language says “all alternatives” will be considered. It remains unclear, therefore, whether Yucca Mountain will be included *as an alternative* or whether the BRC will look at *alternatives to Yucca Mountain*.

Mr. Holt noted that, as of now, current law has not changed. The baseline program projections before Mr. Obama took office called for high-level waste shipments to commence by 2020 and continue for roughly 50 years. Current law provides no alternatives to Yucca Mountain.

Mr. Holt described the options for policy change at the federal level and explained the implications of each. To kill the project immediately, DOE could withdraw the license application. This would indicate that the Yucca Mountain site is unsuitable, but Congress found the site suitable in 2002 when they overrode the veto from the state of Nevada on the selection of Yucca Mountain for a federal repository. Congress can continue to reduce the funding for the Yucca Mountain Project, as it has done in recent years. In another policymaking move, there is no director being appointed to lead the Office of Civilian Radioactive Waste Management (OCRWM).

There are several major consequences to halting the Yucca Mountain Project. Obviously, DOE’s schedule for receiving waste will likely be delayed. Legislation has been introduced in Congress to force DOE to repay the Nuclear Waste Fund fees charged to utility ratepayers. Terminating the project could have implications for new power plants, because under current law a new reactor needs a disposal contract with DOE to get an operating license from the NRC. Will these contracts be signed if DOE does not have a viable disposal program? In addition, several states have laws banning the construction of new reactors until waste has a disposal location. DOE may also face cleanup penalties in the near future. For example, DOE has a contract with the state of Idaho to remove the high-level waste from INL by a certain date; DOE may find itself in violation of this contract.

Most likely the change in federal policy will lead to long-term on-site storage. This issue is being looked at by the Nuclear Waste Technical Review Board. Consensus seems to be building that SNF can be safely stored at the plants for 100 years, but there are transportation concerns once the fuel has been in casks for that long. Also, on-site storage relies on institutional controls and monitoring. How far into the future do we decide we can’t be confident that government and utilities will have control?

Another major consequence of abandoning the Yucca Mountain Project is that DOE will continue to accrue financial liability for failing to take title to the spent fuel stored at commercial reactors. These settlement payments to the utilities are paid out of the nation’s Judgment Fund at a direct cost to taxpayers, creating what could be an open-ended financial drain.

Under current law, on-site or private storage are the only legal alternatives to Yucca Mountain. The Nuclear Waste Policy Act (NWPA) names Yucca Mountain as the sole candidate site for a federal repository. In addition, the federal government is not allowed to open an interim storage site until a repository is in operation. New legislation would need to be passed to allow for a major redirection.

Several proposals for institutional change have been suggested, including handing over responsibility for nuclear waste disposal to a private entity, a government corporation, or an independent agency. Provisions would need to be made to fund any of these options.

Federal interim storage is frequently raised as a near-term option, although it would require a change in the NWPA. It may be difficult to find a host state, especially because, without Yucca Mountain, the state would fear becoming a de facto permanent disposal site. Oak Ridge successfully opposed site selection in 1987. Voluntary site selection with the U.S. Nuclear Waste Negotiator was cut short in 1993. Storage at Yucca Mountain was vetoed by President Clinton in the 1990s, although the veto was almost overridden. Storage at federal sites has been proposed in Congress through H.R. 2300. Still, it is likely that there will be strong opposition to storing high-level waste at any site.

Private central storage is permitted under current law. The proposed Private Fuel Storage facility in Utah took nine years to receive an NRC license, but the state stepped in and blocked it by administrative action. A private facility would be limited by its NRC license in the volume of waste that could be stored and the time period for storage. A private facility would also raise the issue of who owns the stored waste.

There has also been much discussion of waste treatment technology that would reduce the volume of waste requiring disposal. The concept under the Global Nuclear Energy Partnership (GNEP) program was to store the “hottest” components of spent fuel at reprocessing sites. In 1992, Congress rejected a proposal to ship nuclear waste to the Thorpe plant in England for reprocessing. The major obstacles to reprocessing are cost and concerns about weapons proliferation. It would also take decades to implement, and the current administration has backed off of facilities development envisioned for the GNEP program.

Non-repository options that have been examined and generally dismissed as unfeasible include disposal in the sub-seabed, outer space, ice sheets, volcanoes, and deep boreholes below the biosphere. All of these options are non-retrievable.

Mr. Holt asserted that a new repository site search will be needed eventually, regardless of what options for storage are pursued. Every site is in play, which will allow regional concerns to emerge. He pointed out that, through the NWPA, Congress had decided to establish a fair, technically based process so that the site would *have to* accept its selection. To move quickly, they decided to look at previously identified sites. The search for a second repository site, which was mandated to address regional equity, could move more slowly. Granite sites were identified in the Midwest and Northeast. These areas are heavily populated and highly represented in Congress, so they were able to fight being seriously considered. Oak Ridge was initially chosen as the site for second repository, but Tennessee objected. In 1986, President Reagan cancelled the 2nd repository search, saying that it wouldn't be needed because there wouldn't be as much waste as initially thought. This enraged the West and placated the East and Midwest.

Meanwhile, the process for selecting a site in the West did not follow the initial methodology, so that process came under attack. Congress was disappointed with how DOE had carried out the repository siting process, and this led to the 1987 amendments to NWSA. The amendments named Yucca Mountain as the sole repository site, and Nevada felt it was given the short end of the stick because it lacked political clout. The 1987 amendments also provided for a benefit package for host states, appointed a Nuclear Waste Negotiator to find voluntary sites, and established the Nuclear Waste Technical Review Board to oversee DOE to give people confidence in the repository program.

Mr. Holt added that WIPP, which is often cited as a successful repository program, was initially considered as a high-level waste repository but discussion with the state of New Mexico resulted in making it a repository for TRU waste instead.

In his closing comments, Mr. Holt stated that the long timeframe required to site and build a repository means that objections will always arise. Interested parties should watch whether the FY 2011 budget request will have any repository funding. This could force a political crisis that leads to a concrete decision or new direction. The Senate greenhouse gas bill might also provide a forum for discussing nuclear waste policy.

Representative Holmes said that some states are considering withholding NWF payments. Michigan and Minnesota have thought of holding the fee money in an escrow account rather than turning it over to the federal government. He asked what the Congressional attitude to this sort of state action might be. Mr. Holt said that may not be constitutional, and it would likely go to the courts. Sen. Loudon asked about the legal status of state bans on new plants. Mr. Holt mentioned that these laws have never been tested in court. They are based on economic justification, but may not pass legal muster. The federal concerns in licensing new plants are "waste confidence" and the NWSA-mandated contract requirement for disposal. Sen. Loudon asked if these concerns about nuclear plants will push the development of new coal plants and Mr. Holt replied that he believes it favors development of natural gas.

Next the group heard a presentation from Dr. Abkowitz from the NWTRB on the evolving role of the Board. He said that Mr. Holt did a good job of covering the waste management landscape.

Dr. Abkowitz first provided some background information on the NWTRB. The 11-person Board was created by Congress through the Nuclear Waste Policy Amendments Act (NWPAA) of 1987. In order to establish objectivity, the National Academy of Sciences starts the nomination process, and the President formally appoints members to serve four-year terms. They serve in a part-time capacity, so most members also have day jobs. The NWTRB has a full-time staff of 10 in Washington, DC. Board members typically have a skill set commensurate with the topics currently being addressed. In recent years the expertise has been centered on issues around Yucca Mountain, which include systems analysis, transportation, and engineering. The NWTRB meets three or four times per year, and these meetings are public. They also have panel meetings on topics such as transportation. The language in the NWPAA states that the NWTRB will stay in existence until repository shipments begin.

The NWTRB is technically a federal agency, so they have independence. It reports to Congress and advises the Secretary of Energy. The focus is limited to technical issues, but Dr. Abkowitz pointed out it is sometimes hard to identify the line between technical and institutional. The NWTRB must be aware of the institutional landscape, even though they don't want to go into institutional or political territory. Board members look at how the entire waste management system operates. Early on they were able to point out the disconnect between the Transportation Aging and Disposal (TAD) canister design, which is rail-based, and the lack of rail lines in Nevada.

Over the past 20 years, the NWTRB's oversight function has been reactive to what DOE was planning; now the Board is becoming more proactive. Dr. Abkowitz anticipated that members of the BRC may be appointed before the end of the calendar year. The NWTRB wants to stay involved and evaluate the technical validity of the waste management options. They are currently creating a toolbox for interested stakeholders.

The NWTRB is re-focusing its activities and widening its scope. The Board is not just looking at the back end of the fuel cycle; it has begun to look at the whole fuel cycle, including demand for uranium. He described a schematic of the nuclear fuel cycle from mining to disposition. Looking at a map of SNF storage sites, Dr. Abkowitz emphasized how important transportation is to all disposal options, except for indefinite on-site storage. He believes that even without a permanent disposal facility, there will be an effort to consolidate waste.

It will take a change to the NWPA to alleviate the current gridlock. The NWTRB is creating a systems-analysis tool based on their fuel cycle flow chart. This tool runs different scenarios such as how much fuel could be reprocessed if a facility comes online, and what the effects would be. The NWTRB plans to share the results of its model in the next quarter; Dr. Abkowitz hoped to share the results with the BRC.

The NWTRB is also drafting a report on international experiences with managing high-level waste and spent nuclear fuel and lessons learned from thirteen countries, including the U.S. Sweden has recently selected a repository site and France is in the process. Others have had credibility issues like the U.S. Some knowledge is transferable among countries and some is not due to cultural differences.

Dr. Abkowitz said that feedback from groups like the Midwestern Committee is important, and he wanted to remain engaged with this group.

Mr. Easton said that in the case of long-term storage, people want to know about transportability in advance. This depends on conditions of cask and fuel. The NRC is thinking about this now and wonders if they should be doing testing. He asked if the NWTRB can give assurance to people that transportation can occur even after fuel has been stored in casks for decades? Dr. Abkowitz said the criticality people on the NWTRB should be talking to the NRC because this issue is a linchpin. If they the federal government can't establish confidence in long-term storage and eventual transportation of spent fuel, then there isn't time to find a new option. The utilities are all about generating power, and they are building big storage facilities for spent fuel. They don't want to re-handle assemblies that have been put in casks.

Mr. Schroeder asked about whether the NWTRB solicits stakeholder input. Dr. Abkowitz replied that the meetings are open and the work is public information. He added that the meetings are transcribed. There is a public comment period during the meetings, and comments are part of public record. Individuals can communicate with NWTRB staff on issues. Some work originates with stakeholders who indicate interest.

Mr. Wells asked how the administration impacts Board membership. Dr. Abkowitz said that Board members can be re-appointed, but this is not likely if the administration has changed. It is the hope that the vetting process through the NAS guarantees credible and objective appointees. Dr. Abkowitz observed, however, that if someone is knowledgeable enough to contribute to the NWTRB, that person has probably gotten that knowledge through deep experience in one industry or sector, which raises the question of whether there is then a bias.

Ms. Janairo asked where meetings occur because many states are facing travel restrictions. Dr. Abkowitz said that, in recent years, the meetings have been in Las Vegas. The Board now has more latitude in choosing locations since Yucca Mountain is off the table. Dr. Abkowitz may push for regional meetings. The next public meeting might be near DOE's Savannah River Site.

Next, the group heard a report from Rod McCullum of the Nuclear Energy Institute (NEI). Mr. McCullum said that nuclear power has a strong role to play in electricity generation. There are currently 25 proposed plants going through the licensing process. The Yucca Mountain situation has not affected new license applications. The slowdown that has occurred has been due to the financial situation and the regulatory environment. NEI believes that the regulatory process has been slowed by the NRC, and Wall Street notices that. Further complicating things is the fact that President Obama has said he is supportive of nuclear power, but he has not given a real public push. NEI would like to see President Obama break ground on a new plant to show his public support for the industry.

There are currently more than 1,000 casks of spent fuel in dry storage. Mr. McCullum described dry storage as "recession proof." The utilities are moving to bigger casks to store more fuel at less cost. These cask are being licensed for storage and transportation. Mr. McCullum said that it is questionable whether the TADs will ever be deployed now that Yucca Mountain is terminated. Dry storage systems are all rail casks. Utilities would prefer the mostly rail scenario to reloading spent fuel into truck casks. Projections for spent fuel show that we will reach the statutory capacity of Yucca Mountain by 2050. Mr. McCullum said that states with closed sites would be the drivers for removing waste.

NEI promotes a three-pronged integrated strategy on used fuel management. This group advocates having a privately-owned interim storage facility with DOE as a customer. There are communities that are seriously exploring hosting an interim storage facility, and they are building support at the community level. Mr. McCullum believes that a facility could be open by 2020, which was the most recent estimate for opening Yucca Mountain before the project was cancelled. Volunteerism is the key principle to finding a host community, so Mr. McCullum did not think it was appropriate to share the names of the communities. Voluntary siting is the approach that worked in Finland and Sweden. His

thoughts are that two principles are important: there need to be incentives to the host state and the state should have a role in forming regulations. With Yucca Mountain, Nevada fought every DOE regulation proposed, and Mr. McCullum believes this was because that state was not involved early enough in the process.

The next component of NEI's strategy is fuel recycling using present-day reprocessing technologies. Mr. McCullum agreed with the previous speakers that there is no such thing as a closed fuel cycle, and there will always be a certain amount of waste. Thus, the third element in NEI's used fuel management strategy is a permanent disposal facility. NEI prefers to see Dual Purpose Canisters (DPCs) disposed of with the fuel in them rather than unloaded and reused. They would like to see the Yucca Mountain licensing proceeding continue.

For the most part, the nuclear industry position is aligned with the Obama administration's position. They accept that Yucca Mountain is not an option, although cancelling the project is not their preference. NEI endorses the BRC proposed by the administration and expects to see the membership of the commission announced this fall. Mr. McCullum added that NEI had not had input into membership because the administration was shutting out lobbyists as promised. NEI believes that collection of the Nuclear Waste Fee should be suspended, which is not something endorsed by the President.

NEI's position is that interim storage should be pursued immediately, even before the BRC issues its findings. NEI plans to provide input to the BRC on alternatives to Yucca Mountain. They will also continue to participate in the Yucca Mountain licensing activities as long as they continue. Mr. McCullum said that the NRC review of the license application is continuing efficiently. He sees this as a great example of professionalism under duress, as employees are doing their jobs well in spite of a difficult situation. The nuclear industry is intervening in the licensing process in favor of the Yucca Mountain Project. There are two parts to the license review: the staff review and the hearing process. The NRC may be able to rule on post-closure safety of a Yucca Mountain repository right before Senator Reid's reelection campaign, which would make for interesting timing. This is a unique NRC proceeding, and for now the process is going forward. Senator Reid may zero out funding in FY 2011 for Yucca Mountain. DOE may not pull the license application, but rather just abandon it.

NEI does not believe in escrowing Nuclear Waste Fund fees because DOE has not abandoned its obligation to accept spent fuel from the owners. Contracts exist although DOE is in arrears. While this situation is not ideal, the fuel is being safely stored, and could continue to be for more than 100 years. If the utilities have to unload and re-load spent fuel casks, they will. The NRC Waste Confidence rule has re-stated that 100-year storage is a reality, not a "what-if." New plant licenses have been challenged based on waste confidence, but that has been denied because the rulemaking continues, with the final rule expected in early 2010.

In terms of new legislation, the Climate Bill will need a “nuclear title” to get Republican support. NEI is interested in securing loan guarantees for new plants, making improvements to the NRC process, offering manufacturing incentives, and providing financial incentives for interim storage.

The industry is very interested in a federal-corporate replacement to the DOE repository program. This would provide more stability, which would address turnover in the position of OCRWM director. NEI does not expect this will occur during this session. Mr. McCullum concluded his presentation by saying that he expects the group will see the transportation of used fuel in our lifetimes.

Brian O’Connell with the National Association of Regulatory Commissioners (NARUC) spoke next. NARUC was founded in the 1880s to regulate the railroads. The organization is comprised of utility commissioners, some of whom are elected and some of whom are appointed by governors. It is a politically astute group. NARUC meets three times each year. Nuclear waste is not typically high on the group’s agenda because they feel powerless to influence federal policy. Mr. O’Connell is the Washington representative for NARUC, which has a cooperative agreement with DOE.

Public utility commissions focus on the financial ramifications for utilities, and the overall ramifications for nuclear power. NARUC supports the principles that were laid out in the NWPA. Mr. O’Connell described the current program as “the federal government has our money and we have their waste,” which is a quote from a Florida public utility commissioner in 1991. NARUC believes the Nuclear Waste Fund fees are adequate to accomplish waste disposal. Nuclear Waste Fund fees money can’t be spent until Congress appropriates it. The Fund balance has been spent on other things, so the Fund is made up of a series of IOUs. NARUC feels that Nuclear Waste Fund reform is badly needed. Spent fuel inventories are mounting all over the country and the government’s liability for not having accepted the fuel is growing. However not much is being done to remedy the situation.

Mr. O’Connell pointed out that the spent fuel transportation record is excellent, but this is not the public perception. The BRC may have to address this perception if transportation is going to occur on a large scale. He hopes that money for transportation planning with the states will be included in the budget for the successor program to OCRWM, because these committees do tangible work.

Mr. O’Connell then spoke briefly about reprocessing. He pointed out that if there is no market demand for reprocessed fuel, the scenario will not work. The reprocessed fuel must be cheap enough and effective enough for utilities to use it. The utilities will make a rational economic choice. Academics suggest this may take a long time to become economically attractive. Mr. O’Connell doubts that the BRC will give a definitive recommendation on reprocessing. He thinks they will probably recommend further study.

He pointed out that many utilities are proceeding with building new plants without a storage solution. They are signing an amended Standard Contract for waste collection that puts DOE’s obligation to accept spent fuel way out in the future. DOE will not become liable for a long time.

Mr. O'Connell stated that there is still a lot of unknowns around the proposed BRC, which Secretary Chu first mentioned in his nomination hearings earlier in the year. At that time, Secretary Chu thought the recommendations would be delivered by the end of 2009. There is still uncertainty regarding membership, the timeline, the charter, the scope, and stakeholder participation in the BRC. The language of bill establishing the BRC was changed from "disposal" to "management and disposal."

Mr. Blackwell addressed the group next. He reported that the FRA has a new administrator who comes from a labor background. Mr. Blackwell said the HM-232E final rule came out at the end of 2008. Development of this rule was motivated by the 9/11 attacks. States and cities were concerned about transporting poison inhalation hazards (PIH) and toxic inhalation hazards (TIH) more than radioactive material, but the rule will apply to both classes. It applies to security sensitive materials as defined by the Department of Homeland Security.

The rule requires shippers to perform route analyses to select the safest, most secure route. There are 27 risk factors that must be analyzed. The railroads have the ability to prioritize or weight the factors. Dr. Abkowitz pointed out that, with so many factors, it would be possible to pick a route and then justify it by manipulating the factors and their weights.

The FRA and DHS hired a consultant to develop a tool called the Rail Corridor Risk Management System (RCRMS) to help railroads select routes. The tool was released on June 1st 2009. It includes proprietary information that railroads do not want made public. The railroads are required to consult with states, tribes, and local entities on routing, and this can be done at any of the 48 fusion centers in the country.

The railroads were supposed to complete an analysis by September 1, 2009, or ask in writing for an extension until March 31, 2010. The FRA has not yet developed an enforcement mechanism. They are discussing how they will ensure the appropriate process is being applied.

Mr. Blackwell said the Safety Compliance Oversight Plan (SCOP) is still being worked on, and may come out in the next year. The FRA is also developing a final rule based on the dedicated train study for SNF/HLW.

Attendees then had the opportunity to ask questions of the three previous speakers. Mr. Runyon asked if the FRA would comment on the NRC's Part 37 rulemaking. Mr. Blackwell is not involved in that, but he thinks that the legal department may be. There is not currently a lot of RAMQC being transported by rail.

Mr. Strong asked about Nuclear Waste Fund money being used for states and how states can participate in NWF reform. Mr. O'Connell said that the utilities would comply with a state order to escrow the money. NARUC is in support of suspending the Nuclear Waste Fee because the DOE secretary can't determine if fee is adequate to cover disposal costs – which he is supposed to do annually – if he doesn't know what the disposal program is.

Mr. Schroeder asked what the major impediment for nuclear energy is, and what the implications are for licenses in progress. Mr. McCullum answered that the impediments are financial and regulatory. However, 26 new applications are currently under NRC review. The ones in the southeast are moving forward.

The committee continued its discussion on by-law changes. Ms. Beetem supported defining “meeting” as a face-to-face meeting, and letting the term for co-chairs be four years. Mr. Owen asked to clarify that all members should be present at a meeting. If a meeting was held in conjunction with the NTSF, for example, all of the states would need to be present. Mr. Leuer asked about funding for a second meeting this fiscal year and Ms. Janairo said this year the project has the money for two meetings.

Mr. Leuer asked for other opinions on the subject. Mr. Schmidt is still concerned about indefinite term limits based on the number of meetings rather than a set amount of time. Some members must get permission from their state to become co-chair, and they would want to know the time commitment. He said that basing co-chair terms on a set period of time rather than the number of meetings avoids the issue of defining “meeting.” Mr. Strong pointed out that being a chair involves more than chairing meetings. Mr. Owen moved to change the by-law language to state that co-chairs serve for “two-year terms, which will be staggered” and the motion was seconded. Ms. Janairo read the language, the committee voted, and the motion carried. Ms. Beetem then nominated Ms. Dresen to be the new junior co-chair and she accepted. Ms. Rasmusson nominated Mr. Schmidt, who accepted the nomination as well. The committee voted by closed ballot and elected Mr. Schmidt as the new junior co-chair.

Melissa Bailey (CSG Midwest) led the discussion on the next meeting. The dates being considered were the weeks of June 21st and May 17th. Several members indicated a preference for the June dates. The meeting will most likely be held in conjunction with the NTSF meeting, so the staff would coordinate with DOE and other regions to solidify a date and location. Chicago and St. Louis were mentioned as possible locations for the meeting.

Next, Ms. Janairo listed the committee work groups that will be convened in the next months, and committee members volunteered to participate in these groups.

The committee then spent a few minutes discussing upcoming DOE shipments and state needs. Ms. Janairo asked Mr. O’Connor if EM has plans to update the Prospective Shipments Report. He replied that EM has an issue with including low-level waste shipments. They prefer to only make the effort of including shipments on the PSR with shipments of higher concern. He will look into how states can receive information on low-level waste shipments. He asked Mr. Mackie about how WIPP communicates with states about shipments. Mr. Mackie replied that they use pre-defined routes, and know what sites will be shipping well in advance. WIPP e-mails states an 8-week rolling schedule every week.

Mr. Leuer asked if there was any other business. Mr. Mackie informed the states that WIPP offers a two-hour “WIPP 101” presentation, which he can deliver upon request.

Ms. Bailey reviewed the meeting action items and Mr. Leuer thanked the group for their hard work and attendance at the meeting. He said the committee has a strong root system and will persevere regardless of the fate of Yucca Mountain. High-level waste will eventually move, so the states do not want to lose the progress that has been made in shipment planning.

Ms. Janairo thanked Mr. Leuer for his work as co-chair, and the meeting was adjourned.

Prepared by Melissa Bailey, November 23, 2009.