



MEMORANDUM

The Council of  
State Governments  
MIDWESTERN  
OFFICE

**Date:** December 6, 2002

**To:** Members of the CSG Midwestern Radioactive Materials  
Transportation Committee and other meeting participants

**From:** Lisa R. Sattler, Senior Policy Analyst *LRS*

**Re:** Meeting Summary for the October 2002 Committee Meeting

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I am enclosing the final attendance list and meeting summary for the fall meeting of the CSG Midwestern Radioactive Materials Transportation Committee, which took place on October 16-17 in Carlsbad, New Mexico. The final summary incorporates changes to the draft I e-mailed on November 26. If you would like an electronic copy of the summary, you'll find one at [www.csgmidwest.org/MRMTP/MRMTP.html](http://www.csgmidwest.org/MRMTP/MRMTP.html).

As discussed in Carlsbad, the spring committee meeting will be June 17-19, 2003, in Lincoln, Nebraska. The meeting announcement with preliminary agenda will go out via e-mail in early March.

Please feel free to contact me if you have any questions. Thanks.

Enclosures

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

**Carlsbad, New Mexico  
October 16-17, 2002**

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Transportation Committee**

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

**Proceedings of the Fall Meeting**

**October 16-17, 2002 ❖ Carlsbad, New Mexico**

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**October 16, 2002**

Mr. Thor Strong (Michigan) convened the meeting at 2:40 p.m. He announced that, as vice chair, he was filling in for the committee chair, Mr. Tim Runyon with the Illinois Department of Nuclear Safety. Due to health issues, Mr. Runyon was unable to attend the meeting.

**Committee Business Session**

Chair's report: Mr. Strong noted that Mr. Runyon had shared his goals for the committee five months earlier. The first goal was, in the spirit of "truth in advertising," to change the name of the committee to better reflect its scope. That goal had been accomplished, with the group now named the Midwestern Radioactive Materials Transportation Committee.

Second, Mr. Runyon wanted to work cooperatively with the other regions. Mr. Strong said that, through the work of Ms. Lisa Sattler (CSG-MW), the Midwestern region was staying in close contact with the other regions. He said the Midwest was open to the idea of another joint meeting at the appropriate time. Mr. David Crose (Indiana) asked about the frequency of joint meetings. After some discussion, the committee directed Ms. Sattler to contact the other regions regarding their possible interest in a fourth joint meeting. She said the Northeast was in line to host the next meeting, so she would mention the idea to Mr. Phillip Paull (CSG/ERC).

Third, Mr. Runyon had expressed his desire to see a balanced approach to shipment safety and security. Mr. Strong said the U.S. Nuclear Regulatory Commission (NRC) had issued draft interim compensatory measures (ICMs) for physical protection of spent fuel and highway route-controlled quantity (HRCQ) shipments. Mr. Strong had written to the NRC on behalf of the committee to ask that the committee as a group be added to the list of stakeholders, with Ms. Sattler as the point of contact. Ms. Sattler said she would provide copies of the letter to the committee. In response to a question from Mr. Bill Brach (NRC), Mr. Strong said the committee had not received a written reply to the letter. He did have a conversation with Mr. Spiros Drogittis of the NRC regarding the matter. Mr. Drogittis did not anticipate a problem with the request, although he did caution that some of the information was safeguarded. The draft ICMs were now orders for spent fuel. Mr. Brach said the NRC was continuing to meet internally and with other federal agencies on transportation security for HRCQ shipments. No stakeholder meetings were currently scheduled, but at the appropriate time such meetings would be scheduled and the states would be invited. He said he would address this matter later during his presentation.

Fourth, Mr. Strong said the Midwestern region had supported the consolidated grant concept, but it appeared that DOE had shelved the idea. He was disappointed by this decision, but said he hoped DOE would revisit the issue in the not-too-distant future. In lieu of consolidated grants, Mr. Strong said CSG-MW would continue to pursue consolidated funding on its own, thereby reducing the administration burden on both DOE and the states.

Mr. Strong noted that DOE's shipments *did* create unique burdens for the Midwestern states — for instance, in the areas of emergency planning, training, and public communications. The states needed to be informed about and involved in the planning and conduct of specific shipping campaigns. It had been suggested that the regional groups take on a more broad policy focus rather than cover specific shipping campaigns. Mr. Strong observed that many states were uncomfortable with that approach. The problem was not that the committee *could not* be involved in policy discussions. On the contrary, the committee had been and could continue to be party to such discussions. Despite the committee's work on policy, though, it was important not to move away from the oversight of specific shipping campaigns.

To illustrate, Mr. Strong related an incident that came up at a conference the prior week, hosted by the Emergency Management Division of the Michigan State Police. One of the speakers commented on emergency response in the post-9/11 era. He mentioned a survey that had addressed the perception people had of various hazards. A truck was left unlocked with a box marked "flammable" inside. In a very short time, the box had been stolen. The researchers used boxes marked with other hazards, and each time the box was stolen *until* the marking said "radioactive." In that case, the box remained untouched for five days until the researchers finally removed it. The moral of the story was that the public, media, and response community did not regard radioactive materials as just another subset of hazardous materials. Mr. Strong said that, until people could get past that mystique, groups like the Midwestern Radioactive Materials Transportation Committee needed to be involved in planning specific shipping campaigns.

Mr. Strong observed that the Midwestern states could not yet consider radioactive materials shipments to be "routine." He said the states needed more experience with shipments — more time to work through issues cooperatively with DOE — before the region reached the point of shipments being routine. He said it was through the work of the committee that the region and DOE could develop such a cooperative working relationship.

Mr. Strong noted that Mr. Runyon had been an advocate for accountability in funding. His goal was to have the Midwestern states ask for only what they needed — recognizing that the amount would differ — and then demonstrate that the funds were being used effectively, efficiently, and in a responsible manner. Mr. Strong speculated that setting a high standard might increase the likelihood of the corridor states continuing to receive funding.

He said it was important to demonstrate that the regional approach to transportation planning was not only effective but efficient, as well. The states would need to be more forceful in

making this point, particularly to DOE. In follow up to this meeting, Mr. Runyon would write to Assistant Secretary Roberson and Dr. Margaret Chu of DOE's Office of Civilian Radioactive Waste Management (OCRWM) to emphasize the benefits of the regional transportation planning process to both the states and to DOE.

Mr. Strong made one more comment on the committee's policy focus. He said one place where policy development would be very critical in the next year or two was with respect to OCRWM's transportation program. He noted that OCRWM had committed to developing a transportation plan early in 2003. He hoped the OCRWM transportation program would be a "very sizable focus" for the committee in the next year.

Project update: Ms. Sattler provided an update on the CSG Midwestern Radioactive Materials Transportation Project. The cooperative agreement had finally been renewed, after a delay of several months. In addition to the letter Mr. Strong had mentioned, Ms. Sattler said she prepared two other letters to the NRC on behalf of the committee. One was a request to hold a package performance study meeting in the Midwest, and the other was to comment on the NRC's proposal to eliminate the double-containment standard for plutonium packaging.

Ms. Sattler said the new scope of work for the cooperative agreement included a major public information product — namely, a revision to the 1996 booklet, *Radioactive Materials Transportation: A Guide for Midwestern Legislators*. Ms. Sattler would soon begin outlining the new publication and would seek input from the committee on the outline and the draft. Mr. Crose suggested that CSG-MW produce more copies of the most recent publication, *Planning Guide for Shipments of Radioactive Materials through the Midwestern States*. He thought copies of the *Planning Guide* should go to every state agency and legislator in the Midwest. Ms. Sattler said she would try to identify sources of funding for another printing.

NRC meetings on interim compensatory measures: Mr. Strong reported on his attendance at the meetings. He said the ICMs had evolved from the advisories that the NRC issued in the fall of 2001. Those advisories had made the states much more aware of the number of HRCQ shipments coming through the region. Mr. Strong noted that the meeting concerning the HRCQ shipments was much more contentious due to the greater ratcheting up of requirements for shipments. Both the states and the HRCQ shippers expressed concerns over the proposed requirements.

One of the key issues for the states was the cost of escorting. Mr. Strong said it appeared now that the NRC expected the shipper, not the states, to bear the costs. Mr. Strong thought the most valuable provision of the ICMs was a greater focus on a deliberative, cooperative planning process between the shippers and the corridor states.

Mr. Brach clarified that the NRC was involved in two separate actions. First, the orders for spent fuel were issued about two weeks ago, and some of that information was made public. The specific measures, however, were safeguarded. The NRC distributed the order to a fairly

small subset of licensees two weeks ago, including those that recently shipped or would ship in the near future.

The NRC was still working on the second action, which pertained to HRCQ shipments. The order was not imminent. Mr. Brach said the NRC was still engaged in dialogue with shippers as well as other federal and state agencies to be sure that all the bases were covered. He noted that, although HRCQ made people think of highway shipments, other modes would need to be addressed, as well.

In response to some comments from Mr. Donald Flater (Iowa), Mr. Brach said the NRC's goal was to protect public health and safety, common defense and security, and the environment. The commission regarded the new orders as being part of the common defense and security mission. Agreement States were organized under the branch of the NRC that addressed public health and safety. Mr. Brach commented that a number of states had written to the NRC to request that the ICMs be issued as regulations rather than advisories.

Mr. Robert Owen (Ohio) brought up the question of enforcement. He noted that even though the Agreement States had regulatory authority over licensees, they could not enforce the NRC's new order. Mr. Brach acknowledged this point, and said the NRC was still looking for answers to the enforcement question. Mr. Flater said the states would need funding for enforcement. Mr. Crose agreed, and said providing escorts would create a huge financial burden for the states. Mr. Brach said his understanding was the same as Mr. Strong's — namely, that the orders would be issued to licensees who would have the responsibility for implementing the requirements and the associated implementation costs.

Ms. Barb Englehart (MDS Nordion) said the states that escorted generally billed Nordion for the cost, which was then passed on to the customer. Nordion could not provide its own escorts, since they would have to come into the country from Canada.

TEPP workshops: Mr. Strong said DOE's Transportation Emergency Preparedness Program (TEPP) assisted the states in becoming prepared for and overseeing radioactive materials shipments. The TEPP had conducted workshops in two states, Indiana and Iowa. In addition, at a recent Michigan conference, the TEPP presented information to attendees.

Mr. Crose said the workshop in South Bend, Indiana, went very well and was well attended. The workshop consisted of a "town hall" meeting on July 23 followed by the MERRTT train-the-trainer course on July 24. Around 50-60 people attended each session. Mr. Crose said DOE had issued many invitations, but he did not think elected officials had been invited. Most of the attendees were fire chiefs and emergency responders. Officials from Ohio and Michigan also attended. Mr. Joseph Bell with the State Emergency Management Agency had given a brief presentation at the town hall meeting regarding the state's use of the MERRTT modules in conjunction with the WIPP training. Mr. Crose said the workshop participants had many positive comments.

Mr. Flater reported that the September workshop in Des Moines also went well. A total of 160 invitations were sent out. Rep. Jeff Elgin (Iowa) had received an invitation, but it was possible that his name was on the list because of his affiliation with the committee. In all, 75-80 people attended the first day — with participants including fire chiefs, first responders, hazmat teams, and other emergency response teams. Training took place the second day, with about 30 people in attendance. The workshop and training were well received.

Mr. Frank Moussa (Kansas) mentioned that Kansas hosted a similar workshop on May 16. Mr. Stan Anderson was the TEPP coordinator in Region IV. The workshop was well attended.

Mr. Strong said the plan for the Michigan conference had originally included a “three-person tag-team” including himself, a member of the state radiological protection program, and a TEPP spokesperson. The TEPP speaker had to cancel, however. A TEPP representative did bring an informational booth and distributed student versions of the MERRTT training modules. Mr. Strong wove a brief discussion and overview of the TEPP modules into his presentation. He hoped eventually to see Michigan host a workshop similar to those in Indiana and Iowa.

Mr. Flater said Ms. Marsha Keister had given a presentation on shipments. He said the shipment numbers she reported were very large and did not seem accurate. As an example, he said 4,000 shipments were projected through Iowa, however only 188 had taken place since July 1. Mr. Crose chimed in that the numbers reported in Indiana also seemed unrealistic. Ms. Sattler noted a similar problem had come up in New Orleans at the Transportation External Coordination Working Group (TEC/WG) meeting in January. Mr. Gary Lanthrum (DOE-AL) had reported a possible 9,000 shipments through Iowa. Mr. Flater and Ms. Sattler had asked for documentation to support this number, but had not received any. Ms. Judith Holm (DOE-AL) said Ms. Keister’s numbers were probably drawn from a database that addressed integrated planning and budgeting. Ms. Holm said her program no longer used the numbers in this database.

Mr. Flater asked Ms. Holm if she would provide the Midwestern states with more accurate numbers to help them plan and budget accordingly. She said that historical information was available and could be broken out by route. Ms. Holm said she would forward this information to Ms. Sattler for distribution to the committee.

Committee appointments: Mr. Strong said nine of the 12 Midwestern states would elect governors in November. Because of term limits and retirements, at least five states would have new governors. In accordance with the committee rules, CSG-MW would seek new appointments from the incoming or reelected governors in January. Ms. Sattler said she would send the current committee members a draft appointment letter for their review. She would also send a copy of the final letter to the current committee member from each affected state. Ms. Sattler would also seek appointments to the vacant legislative seats.

Next meeting: The date and location for the spring committee meeting would be June 17-19, 2003, in Lincoln, Nebraska. Nebraska was one of two participating states that had not had the opportunity to host a committee meeting. Ms. Sattler said she would send the preliminary meeting information to the committee and other parties in February.

### **Roundtable Discussion**

Iowa: Mr. Flater reported that the nuclear utility was increasing its outreach to the state on transportation and other matters.

Iowa would continue to receive funding from DOE through the CSG-MW cooperative agreement. There were no hazmat teams between Council Bluffs and Des Moines, which is a distance of about 125 miles. As a result, the coverage west of Des Moines was of concern. The state was well covered from Des Moines east. Mr. Flater hoped to have all teams trained by July 1, 2003. He said he would provide the total training numbers to Ms. Sattler for reporting to DOE. Regarding shipments, Mr. Flater said not much had crossed the state recently.

Rep. Jeff Elgin said the Iowa Legislature was still grappling with the issue of homeland security. Individual departments within the executive branch worked with different committees within the Legislature — there did not seem to be a coordinated, comprehensive effort to address homeland security. Because of open records laws, there was a concern that, under the Freedom of Information Act (FOIA), the state might have to turn over information that was now considered "sensitive." Rep. Elgin said the Legislature would look at protecting certain types of information.

Indiana: Mr. Crose reported that the state had been spending a great deal of time cleaning up after several tornados had struck.

The Vx nerve agent was now stored in bunkers in the state. Ohio and Kentucky had sent National Guard troops to defend the nerve agent, which the federal government would begin to destroy in July 2003. It would take one year to complete the process.

On October 10, Indiana had hosted TRANSCOM training for staff from several agencies. Staff from the Illinois Department of Nuclear Safety and DOE's Albuquerque office had conducted the training, which went very well. Nine people in the state were trained to operate TRANSCOM.

Mr. Bell with SEMA had trained over 500 people in connection with the WIPP and West Valley shipments. The training included both refresher and new training. SEMA had targeted the hazmat teams along the shipping corridors for training.

Mr. Crose said Fernald was doing a good job letting Indiana know about the unit trains that were carrying low-level waste to Envirocare. Mr. Crose also noted that the 8-week rolling schedule for WIPP shipments was arriving without any problems.

With regard to equipment for responding to incidents of terrorism, Mr. Crose said that, if the local governments could justify the need, the state would purchase the equipment for them using federal funding. Mr. Crose also noted that Indiana's policy was not to escort shipments beyond the regulatory requirements. Proposed legislation in the state would require a uniform communications system, to be obtained using a special fund.

Kansas: Mr. Moussa said his office had been responding on nearly a daily basis to anthrax scares and hoaxes. Since 9/11, his office had received 2,700 calls regarding anthrax threats. The Emergency Management Division treated each one seriously. In addition, there had been a water contamination scare.

Prior to 9/11, Kansas had been replacing its old equipment with digital instrumentation. However, as a result of an increase in requests for equipment coupled with a lack of funding, the state was now distributing the old FEMA civil defense equipment to first responders.

Kansas recently completed a 98-county exercise called Prairie Plague. The scenario involved an outbreak of smallpox. The exercise provided a linkage between federal, state, and local governments. Several areas for improvement were now being addressed. Mr. Moussa said the one-day exercise had cost \$100,000 but was well worth the price. He recommended to the states that, if their governor had tapped the department of health to house the National Pharmaceutical Stockpile, the emergency management agencies should make sure they were in the loop. He also said it was important for the local governments to have information on how to access the stockpile.

Mr. Moussa said he had fielded many questions regarding dirty bombs. The state had asked DOE how the department could help to identify the locations of dirty bombs in buildings. He said he could not discuss the complete answer to the question. Mr. Moussa advised the Kansas Adjutant General that, in the event of a dirty bomb being detonated, there would not be an isopleth or contamination issue such as what might result from an accident at a nuclear power plant.

Mr. Moussa said state trooper cadets in Kansas took a radiological monitoring course as their final course. They received a CDV 718 after the course and were expected to return for refresher training. The state could not afford a new calibrator, so the old FEMA CDV 718s were a good choice.

Rep. Joann Freeborn (Kansas) asked if there was a final report from the Prairie Plague exercise. Mr. Moussa said it would not be made public, but he would provide Ms. Sattler with a copy for distribution to the committee. Rep. Freeborn also asked if county health officers were involved

in the exercise. Mr. Moussa said he learned with the National Pharmaceutical Stockpile that health officers were supposed to be M.D.s. The requirement was not being met in every case. Rep. Freeborn commented that she did not think the legislature should fund the costs of state escorts without some documented justification for doing so. Mr. Moussa agreed.

Mr. Flater added that \$750 of Iowa's \$1,750 fee on spent fuel and high-level waste shipments covered the cost of the escort. Mr. Moussa said Kansas might revisit the fee issue once the new governor was in office.

Mr. Moussa said DOE's Naval Nuclear Propulsion Program had agreed to work with Kansas to hold an exercise related to the program's shipments of naval spent fuel. The exercise, which would use a mock-up of the actual cask, would take place in the summer of 2004. DOE and the state agreed not to publicize the event until after the fact. Other corridor states would be invited to observe the exercise.

Minnesota: Mr. John Kerr reported that the state was facing a deficit of \$3 billion. He said the Private Fuel Storage (PFS) project in Utah was moving along. The project timeline included licensing in early 2003, with construction to begin later during the year. Shipments could start as early as 2005.

Mr. Kerr had drafted legislation to provide for planning, training, and funding, but he did not have much hope of the legislation moving forward because of the enormous budget shortfall. Mr. Strong commented that he had heard a few of the PFS utilities agreed to pull out of the project in exchange for Utah's support for the Yucca Mountain site recommendation. He asked Mr. Kerr about the rumor. Mr. Kerr said he had spoken with Mr. Max DeLong about this issue. (Mr. DeLong replaced Mr. Scott Northard as the Xcel point of contact on PFS for Minnesota.) From what Mr. Kerr had learned, it did not appear that any such deal — if, indeed, there was one — would have an impact on the project moving forward.

Missouri: Mr. Bryan Fawks reported that the Missouri Department of Natural Resources had lost 40% of its general revenue funding. It was possible the department would lose the rest of the funding, too. All program directors were interested in increasing the fees they charged for services. Term limits would take effect in 2003. Mr. Kevin Blackwell (FRA) asked if Missouri would return to the FRA State Safety Participation Program. Mr. Fawks said he thought it would.

Nebraska: With regard to homeland security, Mr. John Erickson said the state was taking a coordinated, all-hazards approach. The Lt. Governor was in charge of homeland security in Nebraska. The state had not yet decided whether to participate in the Citizens Corps. Mr. Erickson noted that only one year of funding had been committed, therefore the state was somewhat leery.

Communications was an issue for the state. The Legislature had put together a group to develop a proposal for a state wireless system. One company proposed a hybrid mix of analogue and digital. This matter was still being evaluated.

In January, Mr. Erickson expected to see the reintroduction of fee legislation. He was looking for good information on the number of shipments that pass through the state. The fee would apply to shipments of spent fuel, transuranic waste, high-level waste, and other HRCQ waste and materials. Low-level waste would not be covered. Mr. Erickson said it was possible the legislation would include a fee waiver for agencies or companies that provided financial assistance through some other means.

Mr. Erickson said the state was interested in providing escorts for shipments, but he noted that it would be difficult for the state to bear the financial burden of doing so. Charging a fee would generate revenue that the state could use to defray the costs of escorting.

Mr. Jon Schwarz reported that training had been completed in the eastern and western parts of the state, but not in the middle. One course was scheduled for central Nebraska. The state had conducted an exercise with the Centers for Disease Control. The exercise, which went very well, took place at the airport and included low-level waste in the scenario.

Last week, the state had participated in a tabletop exercise for contagious animal diseases. Funding from the Department of Justice anti-terrorism efforts was working its way through the Lt. Governor's office.

Mr. Crose interjected that a huge bioterrorism exercise was coming up in Chicago, funded by the Department of Justice. Mr. Moussa added that Kansas was conducting checks at chemical manufacturing plants.

Ohio: Mr. Owen began by asking the states to forward information on fee legislation to him, since Ohio might consider fees in the near future. The states agreed to provide this information to Ms. Sattler, who would then share it with the entire committee.

Mr. Owen said the state was planning to commence distributing potassium iodide (KI) the following week in the vicinity of the two nuclear power plants. The state had been engaged in repackaging the KI in doses suitable for children.

Other activities included a review of radiological equipment that had been distributed to hospitals. The hospitals were not well equipped to detect loose contamination. The problem was that the hospitals needed equipment, the CDVs were free, and so the county emergency management agencies were requesting CDVs from the state Emergency Management Agency. The Department of Health was in the process of issuing guidance to the hospitals regarding more appropriate equipment for detecting loose contamination (pancake probes).

Mr. Owen noted that Ohio recently passed legislation to protect sensitive information from being released in response to a FOIA request. The state had received several requests for the Ohio State University study of highway routes for shipping radioactive materials. The state, which commissioned the study, had decided not to release the report to the general public.

Mr. Owen said the state was closely monitoring DOE's project to convert depleted uranium hexafluoride to a more stable form. Congress had decided on two conversion facilities to be located in Portsmouth, Ohio, and Paducah, Kentucky. The second meeting of the tri-state planning group was taking place on October 16. Kentucky and Ohio both were pursuing regulatory oversight of the facilities, and had corresponded with DOE on the subject. So far, the issue had not been resolved satisfactorily.

Mr. Owen reported that the second Mound shipment took place on September 24. The next shipment would be in December, with one shipment per month expected through May. Because Ohio had some issues regarding the functioning of TRANSCOM during the September shipment, the state had met with representatives of Mound and TRANSCOM on Friday, October 11. Mound had agreed to revise its transportation plan to address Ohio's concerns. Battelle, however, could not modify the plan for tracking its transuranic waste shipments, since that site would ship under the much larger WIPP transportation plan.

Rep. Elgin asked Mr. Owen to share the FOIA-related information with the other committee members. Mr. Owen said he would send a copy to Ms. Sattler for distribution to the committee.

Mr. Moussa commented on KI. He said the product had a shelf life of five years, however the NRC's offer to provide the pills at no charge was a one-time deal. He wondered how the states were going to track the pills, and how the states were addressing possible liability issues.

Mr. Crose said his agency was looking at Eberlines as possible equipment for hospitals.

Michigan: Mr. Strong reported that the University of Michigan was planning a shipment in the next 3-9 months. The shipment should have taken place earlier this year, but did not. Mr. Strong speculated that the delay might have been related to the alternative route in Ohio having been temporarily approved by the Public Utilities Commission. Mr. Owen was not sure how far along the commission was in the process of making that alternative route a permanent designation.

Big Rock Point in the northern part of the state was gearing up to ship its reactor vessel in October 2003. Mr. Strong passed around a picture of the tractor/trailer combination moving the canister that would eventually hold the reactor vessel. The truck was approximately 200 feet long. The plan was to move the vessel by heavy haul truck about 30 miles, where it would be transferred to rail for the shipment to Barnwell in South Carolina.

Mr. Strong expected legislation to be introduced at some point. The legislation would not propose a fee. Given Michigan's unique geography, the majority of shipments that would affect the state would originate in the state. Drafts of the bill were limited to spent fuel, although Mr. Strong recommended broadening the scope to include HRCQ shipments. The bill would also assign explicit authority to designate alternative routes and develop a transportation plan. To his knowledge, the bill would not contain additional requirements for shippers or carriers.

Mr. Strong also reported that Michigan's ad hoc committee on radioactive materials transportation had met recently to talk about the NRC interim compensatory measures and the Nordion shipments. The group would meet again next week, and Ms. Englehart would be teleconferenced in to the meeting.

The report from Michigan marked the end of the committee business session.

### **HRCQ Shipments: A Private Shipper's Experience**

Mr. Strong introduced Ms. Englehart, who presented information on MDS Nordion. The company was part of MDS, Inc., Canada's largest health and life sciences company. The focus of the company was to prevent, diagnose, and treat diseases. The head office for MDS Nordion is in Ottawa, Ontario. The company exports medical isotopes and equipment to over 80 countries, and supplies over two-thirds of the medical isotopes used throughout the world. Nordion is the leading supplier of cobalt-60 and irradiators.

Ms. Englehart said Nordion has implemented the recommendations provided by the U.S. Nuclear Regulatory Commission in the safeguard advisory entitled, "Recommendations for Shipment of Radioactive Materials Exceeding Highway Route Controlled Quantity." For many years, MDS Nordion has used just two carriers for the transport of HRCQ material. Ms. Englehart described some of the security measures MDS Nordion implements. She also provided information on the emergency response procedures the company follows.

Carriers must meet several qualifying criteria, such as having knowledgeable and responsive employees, covering a broad geographic range, and offering competitive rates. All MDS Nordion employees involved in handling, offering for transport, or transporting dangerous goods receive training every two years, including training in radiation safety protection. The carriers also receive training.

The usual notification procedure begins with the carrier receiving a list of shipments one month in advance. Fifteen days prior to a scheduled shipment, MDS Nordion notifies the U.S. Department of Transportation. As shipment details become known, MDS Nordion provides this information to DOT, the NRC, and state authorities. Ms. Englehart said such notifications would go out at least two days in advance of the shipment. In addition to truck shipments, MDS Nordion conducts some shipments via rail.

Ms. Sattler asked if the notifications to the states included a shipment tracking number to assist the states. Ms. Englehart said they did. After looking at the sample notification in Ms. Englehart's presentation, it was suggested that the tracking number be labeled as such and moved to a more prominent place in the letter. Ms. Englehart said she would consider making such a change.

Mr. Strong asked who was the point of contact for locating a shipment. Ms. Englehart said the states should call Nordion's 24-hour number listed in the shipment notification.

Following Ms. Englehart's presentation, Mr. Crose asked if the committee was going to address the travel policy. In the interest of time, Ms. Sattler briefly reviewed the issue. CSG was evaluating its travel policies throughout the organization in light of several recent developments in the travel industry. Ms. Sattler said she would like the states' feedback, particularly with regard to airline tickets that were purchased but wound up *not* being used for travel. CSG's policy in the past was not to reimburse such costs, since CSG could not seek reimbursement from DOE. Mr. Crose and Mr. Owen said the airlines' new policies on nonrefundable tickets could create major problems for future trips to meetings. Several other participants agreed. Ms. Sattler agreed, but said CSG-MW would not be able to reimburse costs that DOE would not cover. She had asked DOE's Chicago Operations Office for guidance, but had not received a response to her inquiry.

On the subject of security, Ms. Jennifer Salisbury (WGA) mentioned that the Western Governors' Association (WGA) had organized a group to develop a specific protocol on security. The group would hold a conference call in the next week. Ms. Salisbury said she would share a draft copy of the protocol with Ms. Sattler and Mr. Christopher Wells (SSEB).

#### October 17, 2002

For the benefit of several new participants, Mr. Strong recapped some of the messages from the previous day. First, he noted the need for the states to continue to be involved in planning specific shipping campaigns. Second, he said the Midwestern Radioactive Materials Transportation Committee was comfortable addressing broader policy issues, as demonstrated by its involvement in crafting the DOE transportation protocols and working on the consolidated grant concept. One key policy issue was the resurrection of OCRWM's transportation program and the development of a transportation plan for getting spent fuel to Yucca Mountain. In addition, the regional approach was the most effective and efficient one for working out issues related to the department's shipments of radioactive waste and materials.

Mr. Strong noted that the states were closely following the NRC's actions with regard to physical protection of spent fuel and other shipments. The states had given very good reviews to the TEPP workshops that took place over the summer. Lastly, during the state roundtable, one of the common themes was that state employees were being stretched thinner and thinner as a result of homeland security issues and extreme budget shortfalls.

## Transuranic Waste Shipment Planning

Waste Isolation Pilot Plant (WIPP) Update: Dr. Inés Triay, Manager of the DOE Carlsbad Field Office (CBFO), provided the WIPP update. Dr. Triay expressed her great appreciation to the states for the partnership they have had with the WIPP program over the years. She commended the states for their work, which she said was something of which all the states should be proud.

Five sites were shipping: Idaho National Engineering and Environmental Laboratory (INEEL), Rocky Flats, the Savannah River Site, Los Alamos National Laboratory, and Hanford. As of the October 17, WIPP had received 1,304 shipments, with a total volume of over 8,000 cubic meters. Dr. Triay expected Panel 1 to be filled by mid-January, with panel closure to begin within 30 days after final emplacement of waste.

In terms of packaging, Dr. Triay said WIPP currently had 67 TRUPACT IIs, with another 18 on order. The program had two HalfPACTs, with another 13 on order. The 72B cask was the preferred choice for remote-handled (RH) shipments. The vendor was in the process of fabricating these containers. DOE had received four of the casks and another eight were expected. In addition, the WIPP site had modified its receiving facility to accommodate the 10-160B cask, which the department anticipated using for some shipments.

The shipping schedule would go into configuration management next week. The purpose of the review was to make sure the shipping sites could justify their need to ship and that they had the resources. The goal was to bring some regularity to the schedule — such as shipping on the same day of the week, at the same time. Dr. Triay said WIPP was committed to making this happen by the end of 2002. She said if the states had any thoughts or ideas, they should relay them to Mr. Ralph Smith of the CBFO.

Dr. Triay said the CBFO would submit its application for recertification of WIPP to the U.S. Environmental Protection Agency in November 2003. The dates she included on her slide were placeholders to show the timeframe, not the actual target dates. Some of the modifications being requested included a change in the panel closure design, which was a Class 3 change that could be open indefinitely while the regulatory authority decided the matter. Accepting RH waste would be another Class 3 change. Dr. Triay hoped WIPP would be able to accept RH waste in 2005.

Dr. Triay reported on an accident and an incident involving WIPP trucks. The first — an accident on August 25 — involved a drunk driver rear-ending a WIPP truck at between 75-95 mph. This happened on the Hobbs highway (62/180) not far from the WIPP site. DOE did not find any contamination on the outer surface of the impacted TRUPACT, the inner surface, or the outer surface of the inner containment vessel. An air sample, however, revealed some contamination on the inside of the inner containment vessel. As a result, DOE sent the loaded

TRUPACT II (#157) back to INEEL for analysis. INEEL did not have a plan for recovery, therefore the site was now developing such a plan.

Dr. Triay noted that the safety analysis report for the TRUPACT II took no credit for the condition of the drums. That is, it was assumed that the drums would be breached in the event of an accident. She said INEEL would open the inner containment vessel soon to see what was inside. She hoped the process would help DOE prevent similar problems in the future.

The second incident occurred in Wyoming on September 7. A driver became ill, then blacked out while attempting to pull over to the shoulder of the interstate. The truck crossed both lanes of traffic, the median, and both of the oncoming lanes before coming to rest off the shoulder. The truck suffered some minor damage, but no one was hurt and no other vehicles were involved. The truck was towed and taken to Rock Springs by the State Highway Patrol.

A shipment of empty TRUPACTs, on its way to Idaho, was diverted to switch tractors and driver teams. The loaded TRUPACTs were returned to INEEL, as were the empties. The loaded TRUPACTs were checked, sent to WIPP, and moved underground on September 16. The driver passed sobriety and drug tests. No cause was identified for the driver blacking out. The driver was now in good condition, however he would not be allowed to drive WIPP trucks anymore.

Dr. Triay said Undersecretary Card and Assistant Secretary Jessie Roberson were working on accelerating the cleanup of DOE's sites. The Secretary of Energy supported their efforts. Under the accelerated plan, it would take 15 years to finish dealing with DOE's "legacy waste." Dr. Triay noted there were many peaks and valleys in the shipping schedules as a result of individual site closure plans not being coordinated.

She had proposed the idea of a central confirmation facility as one cost-effective means of leveling out the peaks and valleys. Establishing such a facility at WIPP would entail a change in the regulatory framework. DOE had submitted the request to the New Mexico Environment Department, which had some issues with the plan. Dr. Triay said the fall-back plan would not require any regulatory changes. Under this alternative — the "hub" concept — DOE would consolidate transuranic waste from smaller sites at three major sites: one in the East, one in the West, and one in New Mexico. Oak Ridge, INEEL, and Rocky Flats would continue to prepare their own transuranic waste for shipment.

DOE was also looking into the possibility of shipping transuranic waste via rail as early as 2005. Dr. Triay said DOE would soon issue its request for proposal for rail services. The department was expecting to receive from WGA and the Southern States Energy Board a protocol document for rail shipments.

In June 2003, DOE would submit an application to the NRC for a TRUPACT III. The Transnuclear Gemini cask used in Europe was the standard design for the TRUPACT III. This

new Type B container would hold standard waste boxes. Dr. Triay noted that the schedule for procuring the TRUPACT III might run one or two years longer than planned, depending on whether full-scale testing or double containment would be required. The current plan was to design the cask with single containment and require only half-scale testing with thermal analysis.

Rep. Freeborn asked if DOE had a process for decontaminating the inner containment vessel once INEEL managed to open the affected TRUPACT II. Dr. Triay said the inner vessel cost \$120,000 to replace. Decontaminating the vessel could be very involved and very costly. The end result might not be cost effective — it might be less costly just to replace the vessel. Rep. Freeborn asked why DOE did not just dispose of the inner vessel if it were cheaper to replace it. Dr. Triay said she had made the same suggestion, but DOE headquarters wanted to conduct a lessons-learned review to figure out where the contamination had come from and to identify ways to avoid similar problems in the future. In response to another question, Dr. Triay said the incident was the first time DOE had found contamination on an inner containment vessel.

Rep. Elgin asked if the emergency response to the accident worked as planned. Mr. Smith reported that communications went very well — dozens of phone calls were made. Mr. Blackwell asked if the shipping sites routinely sampled the gas in the inner containment. Dr. Triay said the sites did not — the container must be sealed under the terms of the NRC Certificate of Compliance, therefore gas could not be sampled. Mr. Blackwell asked when the analysis would be complete. Dr. Triay reiterated that INEEL did not have a plan for opening the TRUPACT II. The whole TRUPACT II would have to go inside a hot cell for opening. Someone asked why no one had anticipated the need for a recovery plan. Dr. Triay said that was a good question. She said the CBFO was thinking of setting up a transuranic waste dock inside a hot cell.

In response to a question from Mr. James Simmons (FMCSA), Dr. Triay said the CBFO expected to receive 50 shipments from five small quantity sites in 2003: Battelle in Columbus, Argonne-East (ANL-E) in Illinois, the Missouri University Research Reactor (MURR), the Nevada Test Site, and Lawrence Livermore National Laboratory.

Transportation Program: Mr. Smith reported on the transportation program. He said ANL-E expected to start shipping sometime between March and May. The transportation plan was in draft form, having undergone review by the states. Mr. Smith reviewed the route change for the single MURR shipment to ANL-E. Ms. Sattler noted that the route from Battelle had included an error in the original plan. She asked when the states could expect to see a final version of the plan. Mr. Smith clarified that, prior to the Battelle shipments, the CBFO would produce a plan for the purpose of that campaign. By the time the ANL-E shipments would take place, the final plan incorporating comments from all four regions should be available.

Mr. Smith said he would arrange for the states to get copies of the revised plan, which incorporated the comments received from the Midwestern Committee. Ms. Sattler said it would

be important for the states to receive the transportation plan at least two weeks prior to the shipments commencing. She suggested enclosing copies of the transportation plan with the 14-day notices.

In response to a question, Mr. Smith clarified that ANL-E would make 12-15 shipments between February and May. Shipments would be completed by June 30. One shipment from MURR to ANL-E would take place in the March/April timeframe — certainly before June 30. Mr. Smith said some of the waste at ANL-E would have to go to Argonne-West in Idaho for characterization. Shipments from Rock Island (Illinois) were on hold. It appeared the site had only a few cubic meters of transuranic waste. DOE was not planning to address this material just yet. Mr. Flater expressed some concern about the possibility that DOE might not consider the waste at Rock Island to be defense-related.

Battelle Shipment Planning: Mr. Thomas Baillieul (DOE-Columbus) reported on the Battelle shipments. He reminded the committee that Battelle had a mandate to close by 2006. A critical step in completing the decontamination and decommissioning of the site was to get the transuranic waste out of the hot cell and off site. DOE had received approval to send the material to the Hanford site for temporary storage. The national programmatic environmental impact statement for all DOE's waste management activities did not specifically include intersite shipments of transuranic waste, therefore DOE had amended the Record of Decision.

DOE had completed the packaging of the transuranic waste at Battelle. A total of 113-115 drums were on-site. A small additional volume of transuranic waste would be produced once the cleanup of the hot cell was complete. Hanford had approved the waste profiles of approximately 90 drums, with another 30 waste profiles in review. DOE-Columbus reached an agreement with the department's Oak Ridge Reservation to transfer 15 excess concrete storage vaults to Hanford, where they were emplaced at the burial grounds in preparation for the receipt of the Battelle transuranic waste.

DOE owned a 10-160B container (which it bought from the Navy), another cask was on loan from the Navy, and a third cask had been leased from GTS Duratek. Battelle currently had three 10-160B casks and trailers on site waiting to be loaded. The Navy needed its cask back at the end of January. As a result, the shipments in spring would involve just two trucks in convoy, not three.

Mr. Baillieul reported that there was a small issue over three drums of mixed remote-handled transuranic waste. Fluor Hanford wanted the barrels to be repackaged to contact-handled levels, but that would generate possibly dozens of barrels of contact-handled waste. Mr. Baillieul thought it would be possible to work out an arrangement with Hanford to store the three barrels on a pad in a special container located within Hanford's RCRA-permitted facility.

Mr. Baillieul related some of the regulatory and security-related ramifications of continuing to store the transuranic waste at Battelle. He ran through the list of activities that needed to be coordinated:

Writing task orders for Duratek to load the cask; arranging for NRC Region V, Norfolk Naval Shipyard, and the Ohio Department of Health to observe the loading; scheduling vehicle inspections with the Public Utilities Commission of Ohio (within 24 hours of shipment); issuing the 8-week, 14-day, and other notifications; coordinating departure times, inspection, and escorts with the corridor states; avoiding the upcoming holidays; working around the union schedule at Hanford, with every-other Friday off; and coordinating shipment preparation with the ongoing D&D activities at Battelle.

Mr. Smith chimed in that DOE had an agreement with Oregon not to ship from Battelle after November 30. In addition, shipments from ETEC had to be completed by December 15. He said the original shipping date of October 28 had raised some "internal issues," so it had changed to November 4. The new shipping date would likely be November 12. He noted that it had taken one week to unload a single cask of low-level waste, so turnaround time was tight.

Mr. Crose was highly critical of DOE for not being able to settle on a shipping date. He said the situation was creating problems for the corridor states. He asked who had the responsibility for making the decision, and when that decision would be made. Ms. Victoria Soberinsky (DOE-EM) said the Assistant Secretary for Environmental Management (EM) would make the decision as to when the first shipment would leave Battelle.

Mr. Strong asked about impediments at the receiving site. Mr. Baillieul noted that Hanford could not unload the casks on high-wind days. The vagaries of weather, therefore, could extend the expected turnaround time.

After much discussion about the shipping date, Mr. Moussa asked why the dates for shipments were being decided at such a high level. Ms. Soberinsky said there were obviously political issues that needed to be worked. Mr. Crose asked for confirmation that November 12 would be the earliest possible shipping date. He said he had already briefed Governor O'Bannon, as well as the staff for Sen. Lugar and Sen. Bayh. The change would force him to do another briefing.

Mr. Strong asked about Oregon's restriction on shipments after November 30. Mr. Smith said the CBFO had never agreed not to ship in the winter. DOE did agree to this request because the material was remote-handled. Ms. Sattler noted that, if the first shipment were to leave on November 12 and DOE could not ship after November 30, then at most two shipments would take place this year.

Mr. Flater said November 4 would not be a good date, given the election on November 5. Ms. Soberinsky agreed. Mr. Flater then said shipments should not take place in winter. The policy

in Iowa was not to make even one exception to the "no winter shipments" policy, for fear that giving an inch would lead to shippers taking a mile.

### **DOE's Office of Environmental Management**

Ms. Soberinsky said she was filling in for Ms. Patty Bubar, who had originally planned to attend but had been called away on another assignment. Ms. Soberinsky said she was formerly the Deputy Chief of Staff for Governor Guinn of Nevada. She currently served as Senior Policy Advisor to Assistant Secretary Jessie Roberson.

Ms. Soberinsky said she viewed her presentation as an opportunity to discuss with the states what was on their minds, with the goal of generating feedback she could take back to Ms. Roberson.

Ms. Soberinsky summarized the findings of the EM program's "top-to-bottom" review. The review had concluded that EM was not being driven as a project with a completion mindset and appropriate sense of urgency. The program was focused on process, rather than on cleanup results. DOE's goal was to quickly and markedly improve program performance, eliminate significant health and safety risks as soon as possible, and review the remaining risks on a case-by-case basis. Ms. Soberinsky said the program intended to continue to work with the states on transportation because EM could not implement some of the things it had planned without the states' support. She emphasized that safety was EM's number-one priority.

DOE was entering into Performance Management Plans with the sites. The Office of Management and Budget requested that DOE obtain a signed letter of intent with each host state in order to tap the \$800 million accelerated cleanup account. Local stakeholders had input into these plans, most of which could be found on the web pages of the individual sites.

She noted that the only budget approved by Congress was the defense budget. DOE was working on a continuing resolution at FY02 levels, which were insufficient given the fact that the cleanup program had been revamped.

Ms. Soberinsky said that, with regard to transportation, DOE was looking to "transition from event planning." She noted that high-profile advanced planning had worked in the past, but now presented security issues. EM had no intention of doing anything at a policy level in a vacuum, but would instead reach out to groups such as the committee and state regulators.

Ms. Soberinsky said state fees on radioactive materials shipments gave DOE great concern. Because some states had large fees whereas others had none, there could be an incentive to ship around "costly" states. EM had collected information on fees and was working with the Office of General Counsel to review the situation.

Mr. Flater said the establishment of Iowa's fee had been done "purely in self defense." The Iowa fee included a waiver provision for programs such as WIPP, which eventually provided an alternative source of funding to the state. Ms. Soberinsky said she understood the states' issues regarding financial assistance, but she cautioned that shrinking budgets were causing DOE to re-evaluate the way it operated. EM's mission was cleanup and closure. She reiterated that fees gave DOE great concern, and EM wanted to keep the dialogue open with the states.

Ms. Soberinsky also reported on the NRC interagency agreement, which was signed in September 2002. Under the agreement, EM would transition its current DOE certification program for Type B packages to the NRC over a two-three year time frame. A meeting on October 22 would address planning and scoping activities for the transition.

Transportation security was a continuing concern for DOE. The Assistant Secretary's office continued to approve all EM shipments of radioactive material on a weekly basis. DOE had reviewed and commented on not only the DOT's revised regulations on security, but also on the NRC's interim compensatory measures.

Ms. Soberinsky said EM believed it was on the right track with the accelerated cleanup plan. She showed a map depicting the program's target accomplishments by the end of FY08. In reaching these goals, EM wanted to continue to have back-and-forth dialogue with the states on issues related to transportation.

Via speaker phone, Mr. Runyon commented on state fees. He said that, when a state had the responsibility to respond to an accident, that responsibility must be funded in some manner. The states were addressing this lack of funding by enacting fees.

Mr. Runyon observed that emergency response, physical security, and transportation safety were more important now than ever. The states would not be able to meet those responsibilities without some form of fee. In Illinois, as well as other states, the Congressional delegation voted for the Yucca Mountain site recommendation based on their understanding that transportation safety and security would be paramount. OCRWM was responsible for making that happen. For their part, the states would need either a fee or some other kind of support to cover the costs. In addition, closure of DOE sites would require transport, so EM needed to continue to work with the states on transportation.

Ms. Soberinsky explained that "excessive fees" gave DOE concern. If enough states enacted fees, EM would not be able to achieve its cleanup mission. She said DOE hoped to find a middle ground with the states. Mr. Runyon said the fees in the Midwest were reasonable. He also noted that the issue of fees might bring the right people to the table to discuss whether a mechanism was in place to fund the infrastructure to deal with DOE's shipments. In response to a question from Ms. Sattler, Ms. Soberinsky cited the Utah ballot initiative as an example of the type of fee that concerned DOE. The initiative would charge a fee of \$25 per cubic foot of low-level waste brought into the state.

Mr. Runyon asked if DOE intended to follow the NRC's interim compensatory measures. Ms. Holm said that DOE was in the interesting position of being a hybrid. For some shipments, DOE was not the shipper but it did run the program (e.g., the university reactor program). That program was funded by DOE's Office of Nuclear Energy. DOE paid for and managed the contractor that did the shipping to the DOE sites; the universities, however, were NRC licensees. Nuclear Energy had told the research reactors that, if they chose to follow the advisories, DOE would reimburse them for their costs.

Mr. Runyon observed that the research reactor shipments were a very small piece of the puzzle. He asked if DOE would follow the orders for other DOE shipments of spent fuel. Ms. Holm said she could not provide a final answer on this matter. Ms. Soberinsky said Secretary Abraham and Undersecretary Card had a close working relationship with Chairman Meserve of the NRC. Mr. Brach confirmed that there was significant ongoing interaction between the NRC and DOE on this matter. He emphasized that, in the aftermath of 9/11, the goal was to develop a national, coordinated approach to ensuring shipment safety and security. Mr. Runyon added that the states would also be looking for consistency.

Mr. Crose made two comments. First, transportation planning did not jeopardize security. On the contrary, involving states in shipment planning enhanced security. Second, he predicted that more and more states would charge fees because of the uncertainty in the funding available under Section 180(c) of the Nuclear Waste Policy Act. He said Indiana would be willing to consider including a waiver provision in its fee law if funding were available elsewhere.

Ms. Soberinsky said EM had no intention of not making the states and local law enforcement an obvious partner in its shipping campaigns. She said EM was looking through a different lens, however, post 9/11. She said things DOE did in the past might not be the way to operate in the future. Ms. Soberinsky said DOE did not intend to make these decisions "in a vacuum." Rather, the department was seeking input from groups such as the committee to identify new ways to do things.

Mr. Strong noted that EM appeared to want to "transition from event planning," but it was not clear what that meant or to *what* the program was transitioning. Ms. Soberinsky said that was a bigger policy question. She said there was a policy discussion going on within the department to address a more comprehensive approach to planning rather than the current process of working shipment by shipment.

Mr. Flater concurred with Mr. Crose's comment regarding Section 180(c). He noted that, if the Private Fuel Storage facility were to open, the states would have to deal with shipments to Utah a few years before any Section 180(c) assistance would become available. The fees would help the states prepare the infrastructure for those private shipments.

Mr. Schwarz asked Ms. Soberinsky about her statement regarding not doing anything "in a vacuum." He asked if EM intended to fully support and fund the regional cooperative

agreement groups. Ms. Soberinsky said DOE was currently in the process of reviewing its memoranda of agreement with the groups in the West and the South. From an EM perspective, she said DOE intended to continue the working relationships with these groups as it had in the past. She noted that, as OCRWM's transportation program developed, EM would certainly transition some of the things it does with the groups to OCRWM. How OCRWM would choose to work with the groups was a matter for that program's management to decide.

Ms. Sattler made two comments. First, she expressed the hope that EM had not overlooked the regional groups as a source of information on state fees. She displayed a copy of the *CSG-MW Planning Guide for Shipments of Radioactive Materials through the Midwestern States*, which was available in hard copy as well as online. She noted that the *Planning Guide* included current information on state fees in the Midwest, with the online version having links to the legislation or rules themselves.

Second, she asked about a statement in one of Ms. Soberinsky's slides — namely, that 59% of the transuranic waste at West Valley (New York) would be shipped to WIPP by FY08. She asked when the decision had been made to ship this waste to WIPP. Mr. Smith said West Valley was seeking a determination that the 479 cubic meters of remote-handled transuranic waste at the sites was, indeed, defense related. With such a determination, the waste could be accepted at WIPP. Ms. Soberinsky said she did not think West Valley had submitted its request yet — the program was still in the process of writing the request. Mr. Smith said he had no intention of shipping the West Valley transuranic waste through the Midwest. Instead, the route would hook up with the route from Oak Ridge. Once the Battelle, MURR, and ANL-E shipments were complete, Mr. Smith hoped to shut down the Midwestern corridor for WIPP shipments.

### **Packaging and Transportation Services**

Ms. Holm presented information on some of the ongoing initiatives that had resulted from the top-to-bottom review. DOE had challenged the program to focus more on operational services and providing support to sites. Priority transportation functions included de-inventorying nuclear materials from sites such as Rocky Flats. TRANSCOM was considered one of DOE's "critical operational services," as was the Motor Carrier Evaluation Program.

In addition, Ms. Holm continued to work on DOE-wide packaging and transportation services, including stakeholder activities. She noted that WIPP had a much bigger pot of money to use for stakeholder outreach. EM was able to partner with these institutional activities to bring all the programs to the table at one time to accomplish broader planning. In terms of public information activities, EM still maintained its series of fact sheets and other products. Ms. Holm said these materials were conveniently available on CD-ROM, an idea she attributed to Ms. Sattler.

The radioactive materials transportation practices manual had been issued through policy at DOE headquarters. The manual covered most DOE shipments, and had undergone extensive review both in and outside of DOE. Ms. Holm said the purpose of the manual was to help DOE be consistent in its transportation practices or, if not, explain the inconsistencies. She said the protocols were attached to a document that was still going through internal review. As a result, the protocols were not part of the contractor requirements documents yet. The manual was available at <http://www.directives.doe.gov>.

Ms. Holm decided not to dwell on the rulemakings of interest to transportation, since both DOT and the NRC had representatives at the meeting who would speak to these issues. She did note the elimination of the two-hour tire check. She said DOE supported this change, because every time a shipment stopped there was an opportunity for mischief to occur.

Ms. Holm was hoping to get some policy direction on the TEC/WG from the regions as well as DOE programs. She reviewed some of the products developed by the topic groups of the TEC/WG. Ms. Holm said she needed to get approval from EM headquarters for any meeting that would have more than a certain number of people in attendance. Some of the issues that had come up addressed the salient points from a policy perspective, and ways for DOE to streamline interactions with stakeholders.

Mr. Owen said the TEC/WG topic group meetings were very effective. Ms. Sattler observed that most of the active participants on the TEC/WG seemed to be the states and staff affiliated with the regional groups. Mr. Crose recalled that, at the last TEC/WG meeting, the members had expressed support for having one general meeting each year. This meeting would allow participants such as the International Association of Firefighters to be involved, since they did not participate in any of the regional group meetings. Mr. Dave Zabransky (OCRWM) said, given current budget realities, DOE was evaluating whether the TEC/WG meetings were the best means of reaching out to such groups. Mr. Crose suggested polling all TEC/WG member organizations.

Ms. Sattler asked about the distinction between the TEC/WG and the State and Tribal Government Working Group (STG/WG). Ms. Holm said STG/WG included states and tribes that hosted or were contiguous to a state that hosted a DOE facility. STG/WG addressed, among other things, tribal issues, stewardship, and transportation.

Mr. Owen observed that the joint meetings of the regional groups included a wide array of participants. He proposed that DOE consider hosting bi-annual joint meetings of these groups. The groups held these meetings on their own; perhaps there was a way for DOE to have a larger role in putting together the meetings so that the department could address the issues it might have covered at the TEC/WG meetings. Ms. Holm and Mr. Zabransky said DOE would talk internally about such suggestions.

Ms. Holm asked if there were any key items the regional groups thought they or DOE should be addressing in the coming year. She had suggested looking at rail training — e.g., what training had taken place, what resources were available, and what were the states' needs?

### **Federal Emergency Management Agency**

Mr. Charles Barnes with FEMA presented information on the strategic priorities of the FEMA Office of National Preparedness. The goals of the program were to achieve a national incident management system and strengthen state and local preparedness and response capabilities.

Achieving a national disaster response system involved, among other things, establishing a national planning format, implementing a universal incident command system, and bridging gaps in personnel, equipment, and training. The state governments were eligible to receive supplemental grants to ensure all-hazards emergency operations planning, with special emphasis on weapons of mass destruction and terrorism preparedness. A total of \$100 million would be available to the supplemental grants program. States must provide 75% of the funding to local governments.

Another \$25 million was available through the Citizen Corps initiative, with an additional \$56 million earmarked for upgrading or establishing Emergency Operations Centers. Phase 2 funding for the Emergency Operations Centers assessment would require cost sharing of 50% by the states. Otherwise, all this funding would be available without cost sharing.

Mr. Moussa asked why FEMA continued to use the "incident command system" instead of "incident management system," which was favored by the National Fire Protection Association. Mr. Barnes described the incident management system as being top-down, whereas the command system was bottom-up. He said FEMA was focusing its efforts on ensuring local preparedness, which fit the bottom-up approach.

Mr. Barnes noted that the Bush administration's FY03 budget request for the First Responder Initiative was \$3.5 billion.

### **TRANSCOM Status and Update**

Mr. Bobby Sanchez (DOE-AL) reported on the status of TRANSCOM. He noted that TRANSCOM had transitioned from Oak Ridge, Tennessee, out to DOE-Albuquerque. In addition, TRANSCOM 2000 was deployed just over one year ago. Mr. Sanchez introduced Mr. Bill Bryson, who was the operations manager for TRANSCOM. TRANSCOM users with questions about the system should call Mr. Bryson at 505-845-4942.

DOE had trained 528 users in the past year, which was a five-fold increase in the number of users compared to the old system. DOE had also trained 118 "Super Users," who were now certified as trainers in the system. In FY03, Mr. Sanchez had already sponsored training in

Albuquerque, Indianapolis, and Columbus. On October 11, Ohio had met with personnel from TRANSCOM and Mound. In addition, the Illinois Department of Nuclear Safety had assisted in providing training on the system to the Indiana agencies. On October 30, DOE would conduct training in Pennsylvania for DOE's Nuclear Energy program.

Mr. Sanchez said DOE had tracked 1,034 shipments using TRANSCOM 2000. With the latest Mound shipment, however, some users had experienced difficulties. Some contractor technicians had decided to modify some of the equipment the night before the shipment. He reviewed some of the other issues that had come up with the Mound shipment, all of which DOE and the state of Ohio had resolved.

TRANSCOM 2000 had proven successful to date. The number of shipments tracked represented a seven-fold increase from the old system. Over 880 shipments to WIPP had been tracked. So far, there had been no significant system or information security issues. In addition, user system login and password issues had become a rarity. The kinds of user issues being logged involved system and firewall issues, including password administration. Map configuration and set-up was also occasionally a problem for some users.

Mr. Sanchez reviewed some of the system improvements underway. He noted that many of the improvements were suggested by the TRANSCOM User Group. Mr. Runyon from Illinois represented the Midwestern committee on the user group. Mr. Sanchez also described some of the new tracking technologies. A battery-powered unit would be necessary for railcar and barge shipments. The OrbComm unit was presently deployed on the Mound shipments. To achieve 15-30 minute positional updates with this system would require the development of a new interface with TRANSCOM 2000.

Mr. Sanchez reminded the committee that, at its May 2000 meeting in Minneapolis, the committee had discussed the lack of an NRC-approval process for systems such as TRANSCOM. Since that time, DOE had discussed this issue extensively with the NRC, which had become a TRANSCOM user. Mr. Sanchez had forwarded all the pertinent background materials, correspondence, and other information to Ms. Bubar's office, which had the lead on discussing the approval process for TRANSCOM with the NRC. Mr. Sanchez noted the address for the new TRANSCOM fact sheet: <http://ntp.doe.gov/transcom1101.pdf>. Mr. Sanchez also said the TRANSCOM Customer Survey would be coming out in November 2002.

### **U.S. Nuclear Regulatory Commission**

Mr. Brach reported on the status of spent fuel storage facility licensing, the Part 71 rulemaking, the NRC's Package Performance Study, matters related to transportation security, and the status of the PFS facility license application.

Mr. Brach noted that, when he had last met with the committee in May 2000, approximately 16 interim storage facilities were operating. This year, 23-24 facilities were in operation. With the

exception of the GE Morris facility in Illinois, all of the existing interim storage facilities used dry storage systems.

Both the NRC and the DOT had proposed rules to bring federal regulations into conformance with the International Atomic Energy Agency (IAEA) transportation standards. The Midwestern committee had commented on the NRC's proposal to eliminate the double-containment standard for plutonium packages. This proposal was separate from the IAEA conformance issue, but the NRC had sought public comment in conjunction with the larger transportation rulemaking. The NRC and DOT were reviewing the comments received on the rulemaking.

Mr. Brach said the NRC had received many comments on the double-containment standard. Not unexpectedly, the comments were divided. Mr. Brach noted that the standard was unique to the U.S., and that plutonium was the only element for which the NRC required double containment for packages. Mr. Brach expected the staff to recommend to the commission a final rule in the summer of 2003.

The purpose of the Package Performance Study was to confirm the ability to predict cask behavior in severe accidents through analysis and testing. The study had commenced in 1999 and was expected to continue through 2004. The effort was a follow-on to the NRC's NUREG-6672, released in March 2000, which was a reexamination of spent fuel packages under severe accident conditions. The content of the packages had changed significantly since the NRC's initial studies on package performance. In addition, the tools available to analyze cask performance had also advanced markedly. As a result, the NRC undertook the reexamination. The follow-on to the study itself would be physical testing to validate and benchmark the computer model simulation.

The plan to conduct full-scale testing was attracting a great deal of attention. Mr. Brach said the NRC was planning to conduct a drop test and fire test. Originally, the NRC had planned to test just a rail cask, but the commission had directed the staff to test both a rail cask and a truck cask. The NRC was revising the test plan for the study, with the goal of releasing the plan for a 90-day comment period in December. The NRC hoped to hold a series of meetings in the late January-early February timeframe. One meeting would be in the DC area, one in the Chicago area, and two in Nevada. The purpose of the meetings would be for the NRC to present its draft plans to the public and seek comments.

Mr. Brach noted that the meetings would be the third in a series of public workshops related to the Package Performance Study. He also noted that Ms. Sattler had offered to assist in identifying participants to attend the Midwestern meeting. In terms of public involvement activities, the NRC planned to produce a video. There might also be some limited public observation of the test. The NRC hoped to have a great deal of public involvement in developing the testing protocol.

On the subject of security, Mr. Brach said the NRC had issued advisories post-9/11. The transportation advisories formed the basis for the NRC's development of interim compensatory measures. The NRC had recently issued an actual order on spent fuel transportation, with an order on non-spent fuel transportation currently in the works.

Mr. Brach reported that the Atomic Safety and Licensing Board (ASLB) was expected to issue a decision on the Private Fuel Storage (PFS) license application in December 2002. The commission would make its decision on the license after any appeals of the licensing board's decision. The commission was not under any deadline, however, to make a decision on licensing. Mr. Brach noted that the licensing process in this case consisted of a single step, so PFS could start construction right after it received the license. He added that PFS was still going through other negotiations, however, including with the Bureau of Land Management over the construction of a rail spur. Mr. Strong asked to what degree transportation issues were part of the safety evaluation report. Mr. Brach said transportation was considered in the environmental impact statement for the PFS facility.

Rep. Freeborn asked who was on the Atomic Safety Licensing Board. Mr. Brach said there were three judges. In response to another question, Mr. Brach said the NRC would discuss the orders on HRCQ shipments with the Department of Transportation.

#### **Federal Railroad Administration**

Mr. Blackwell reported on the activities of the Federal Railroad Administration (FRA). He said he would soon start working on the revisions to the Safety Compliance Oversight Plan. He would not rule out the possibility of the oversight plan applying to rail shipments to WIPP, but there were no plans at this time to do so.

Mr. Blackwell said the FRA's dedicated train study would be out by the end of the year. He said he would notify everyone via e-mail when the study was available. He speculated that a rulemaking *might* result from the study. He noted that the focus of the report was *safety only*.

Mr. Blackwell called the committee's attention to recent and ongoing rulemakings. The comment period for the HM-232 rulemaking closed in July. The rulemaking addressed security requirements for offerers and carriers. A proposed requirement would add a new section I to 49 CFR 172, requiring all offerers and carriers who met the registration requirements in Part 107 to prepare a security plan for shipments. This requirement would extend to shipments in bulk packaging — which could include gondola cars of low-level waste.

Mr. Blackwell also mentioned the ongoing General Accounting Office audit of DOT's radioactive materials transportation programs. In response to a question, Mr. Blackwell mentioned that the Reid Study was available. Ms. Sattler said she had an electronic copy of the Reid Study. She would distribute it to the attendees after the meeting.

### **Federal Motor Carrier Safety Administration**

Mr. Simmons said DOT had 20 hazmat inspectors to oversee 50,000 hazmat-carrying interstate companies. The FMCSA had conducted 42,000 security-sensitive visits by the end of March 2002.

Mr. Simmons commented on several rulemakings. HM 232 closed July 3, 2002. The proposed final rule should be out soon. HM 232A had closed earlier in the week. The final rule under HM 232B was expected on November 4, 2002. HM 230, which closed July 29, was the rulemaking intended to harmonize U.S. requirements with IAEA requirements. Mr. Simmons did not know the timeframe for issuing a final rule.

Under the USA PATRIOT Act, FMCSA was coordinating hazardous materials enforcement with Canada to ensure reciprocity. In describing the process, Mr. Simmons said the FBI would provide information to the FMCSA, who would then contact the state departments of motor vehicles. Mr. Simmons also noted that Mexico and Canada would check their drivers' backgrounds, which would be subject to verification by officials in the U.S. Sen. Marvin Riegsecker (Indiana) asked about the process and the time frame for getting information from the FBI to the states. Mr. Simmons said he would look into this matter and get the information to Sen. Riegsecker after the meeting.

Mr. Smith asked the states how they felt about a proposed change in the load check for WIPP shipments. WIPP shipments stopped every two hours or 100 miles for drivers to check the load and make sure it was secure. In addition, within the first 25 miles of travel, the drivers stopped to check the tie-downs. The CBFO proposed a change to a three-hour/150-mile check. The states did not express a strong opinion one way or another.

### **Office of Civilian Radioactive Waste Management**

Mr. Zabransky reviewed the OCRWM program schedule, noting that all dates were contingent upon DOE receiving its full budget request in FY03 and beyond. He observed that OCRWM had fallen short in its funding requests by almost \$600 million from 1995 through 2002. In FY03, OCRWM requested \$17.1 million to support waste acceptance and transportation. Mr. Zabransky said that, when Yucca Mountain was approved, there was euphoria within the administration, and the president submitted an amendment to OCRWM's budget request of \$66 million more than originally requested — approximately \$20 million of which was earmarked for transportation. The request for transportation included rail transport within Nevada, not just the national transportation program. The Senate and the House disagreed with regard to the level of funding to appropriate for the program. Mr. Zabransky said that, if OCRWM did not receive its full funding request, the program would concentrate its efforts on the license application.

Mr. Zabransky reported that OCRWM was looking at selecting preliminary routes in the 2005 timeframe. He noted that OCRWM would be shipping from 77 facilities, including five federal sites. OCRWM had a commercial relationship for scheduling shipments from commercial sites. He added that the terms of the standard disposal contract were under litigation right now. He described the situation as completely different from the way other shipping campaigns had worked, given the restrictions imposed by the commercial contracts.

Mr. Zabransky said OCRWM was committed to working with the states and tribes and would consult with them in the selection of final routes. The campaign for shipping to Yucca Mountain would last 24 years. Under a "mostly rail" scenario, the frequency would be approximately 130 rail shipments per year (with three casks per train) and 45 truck cask shipments per year. Mr. Zabransky said the statutory limit on the capacity of the site was 70,000 metric tons of heavy metal. DOE had identified a preference for rail in the environmental impact statement.

OCRWM had decided not to reissue its policy and procedures on Section 180(c) at this time. The program decided it needed to evaluate the post-9/11 preparedness activities prior to reissuing Section 180(c) for comment. Mr. Zabransky said OCRWM had included funding in its proposed budget to reestablish the regional cooperative agreements. As long as the program had to operate under the continuing resolution, it would not be possible to resume the cooperative agreements.

The Yucca Mountain site activities were without water, because the state of Nevada had denied DOE's request for a water permit to support the license application process. DOE was using water it had stored on an as-needed basis. The program was involved in six separate lawsuits related to the Yucca Mountain site recommendation. All lawsuits were moving forward on their merits.

Regarding the TEC/WG, Mr. Zabransky noted that DOE had limited resources. EM had shown a desire to "get out of this business" and focus on site closure. OCRWM was looking to pick up some institutional activities, such as the TEC/WG. Ongoing budget constraints, however, would limit OCRWM's ability to do so in the near term.

Mr. Zabransky said OCRWM would prepare a transportation plan for publication in 2003. The first draft of the plan (Rev. 0) would look like other DOE transportation plans, but there would not be much similarity in the content of this plan compared to others. The topics to be addressed would include the acquisition of a transportation integration contractor; plans to involve states, tribes, and the public; and plans to proceed with the implementation of Section 180(c). Mr. Zabransky said Rev. 0 would be available for review and comment by the states.

If DOE were to make the decision to use mostly rail as the transport mode, OCRWM would issue a Record of Decision. Following the issuance of the Record of Decision, OCRWM would consult with affected stakeholders regarding the preferred corridor within Nevada. Another

Record of Decision would be required to select the corridor. More than likely, DOE would need to prepare an environmental impact statement to support the construction of a rail line in Nevada.

Mr. Zabransky said the states might want to look at the new acquisition strategy. Until the mid-1990s, DOE had been planning to develop the transport casks. In 1998, DOE came out with a revised approach that would have turned all activities over to the private sector. The program developed a request of proposal (RFP) with input from stakeholders. That RFP had sat on the shelf since 1998.

OCRWM interpreted the comments it had received on the RFP as indicating a general dislike of the acquisition strategy. As a result, OCRWM had developed a new acquisition strategy, described in the draft Statement of Work for a Transportation Integration Contractor. This document had been released for comment on September 30, and comments were due by October 31. Mr. Zabransky said OCRWM intended to issue an RFP for the transportation integration contractor in time to bring the contractor on board by the end of FY03. Mr. Zabransky said the biggest change in the new acquisition approach would be a return to a more traditional contracting process. This approach recognized the difficulty in scoping all the activities that would be necessary under the contract. Instead, DOE would retain authority for deciding on what would need to be done, with assistance from the contractor. DOE would be the primary contact for the states, tribes, and the utilities.

The meeting participants discussed some of the terms of the standard disposal contracts, as well as the many challenges facing OCRWM as it develops the transportation system.

#### **Committee Discussion: Keeping the Public Informed**

Mr. Strong segued from Mr. Zabransky's presentation into a larger discussion of state issues related to public information. He observed that the states were often caught in the middle between the federal government and the public. He mentioned the on-line reports by the Environmental Working Group (EWG), which predicted massive latent cancer fatalities resulting from a hypothetical release of cesium gas as the result of a transportation accident involving a shipment to Yucca Mountain. He asked Mr. John Vincent (NEI), Mr. Brach, and Mr. Zabransky if they would explain where the cesium gas would come from.

Mr. Zabransky said there was always the potential for release of cesium gas from a spent fuel rod. Mr. Vincent agreed, but noted that the EWG study had not followed DOE's methodology in preparing the environmental impact statement, as the group had claimed. The Nuclear Energy Institute (NEI) had prepared a refutation of the EWG study, which Mr. Vincent distributed to the participants. He noted that the EWG used a release fraction of 100,000 to 1 million times higher than the findings of the recent NRC study (NUREG/CR-6672). In addition, the EWG overstated the possibility of a cask failure.

Mr. Zabransky said DOE (Sandia) had also looked at the EWG studies and determined the predictions to be unsubstantiated. Mr. Brach said the NRC had reached the same conclusion. Ms. Sattler asked, if NEI, the NRC, and DOE had all examined the study and determined the claims to be exaggerated, why did none of these organizations make the information available to the states that might have fielded inquiries from the public? Mr. Zabransky said DOE had started to prepare a response to the EWG reports. Given the highly political nature of the site recommendation, however, the program had decided not to distribute anything. Mr. Vincent said NEI would always take on claims such as those made in the EWG reports. He said the information he had presented to the group could be found in one or more fact sheets on the NEI website. Mr. Brach noted that, as the regulator, the NRC did not feel it was appropriate to join the public debate over the EWG's predictions.

Mr. Strong said the states were often on the "front line" regarding issues such as transport to Yucca Mountain. He related a story about a train derailment in Potterville, Michigan. A few tank cars of propane and sulfuric acid derailed on Memorial Day. As a result, 2,200 people were evacuated for five days. Shortly thereafter, the newspaper in Lansing came out with an editorial urging the Senate to vote down the Yucca Mountain site recommendation because of concerns over transportation. Mr. Strong read from the editorial: "Imagine a Potterville-type accident, in which a recent train derailment forced an entire town's evacuation. Instead of coping with flammable liquids, though, Lansing would be ground zero in a localized but nonetheless devastating nuclear nightmare."

Mr. Vincent commented that one thing which could obviate the entire discussion over train accidents would be to ship via dedicated train. In that case, no flammable liquids would travel with the spent fuel. Mr. Zabransky said OCRWM had not made a decision regarding dedicated trains.

Mr. Strong asked the committee to call or e-mail Ms. Sattler with suggestions for the June agenda. Ms. Sattler reminded the committee that the dates of the meeting would be June 17-19, 2003. She recapped some of the key action items, and said she would send a complete list of action items to all participants. With regard to the action item of EM "providing better shipment numbers," Mr. Zabransky reminded the states that Ms. Holm had said she could provide historical information, not projections. He also noted Ms. Soberinsky's caveat that historical information might not translate into meaningful projections of future shipments, given the evolving nature of the EM program.

Mr. Strong adjourned the meeting at 5:20 p.m.