



October 16, 2012

Rodney C. Ewing, Chairman  
U.S. Nuclear Waste Technical Review Board  
2300 Clarendon Boulevard, Suite 1300  
Arlington, VA 22201

Dear Dr. Ewing:

I deeply regret that my schedule prevented me from being able to speak at the U.S. Nuclear Waste Technical Review Board meeting on October 17. Please accept this written statement into the record as a substitute for my planned presentation on the views of The Council of State Governments' (CSG) Midwestern Radioactive Materials Transportation Committee on the transportation recommendations adopted by the Blue Ribbon Commission on America's Nuclear Future (BRC).

For background, the CSG Midwestern Radioactive Materials Transportation Committee held its first meeting in 1990 with support from a cooperative agreement between CSG's Midwestern Office (CSG Midwest) and the U.S. Department of Energy's (DOE) Office of Civilian Radioactive Waste Management (OCRWM). The governors and the legislatures in the Midwest have tapped the members of the committee to be the voice of the region in an ongoing dialogue and partnership with the federal government to plan and prepare for the safe and uneventful transport of spent fuel, high-level radioactive waste, and other radioactive waste and material through the Midwest. We have gubernatorial and state legislative appointees from the 12 Midwestern states: Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin.

From 1990-2009, the committee worked with OCRWM on the development of the transportation program for planned shipments of spent fuel and high-level radioactive waste to facilities for interim storage and disposal. Since 1997, we have worked with DOE's Office of Environmental Management on radioactive waste shipments stemming from defense site cleanup and also shipments of foreign and domestic research reactor spent fuel. Several of our states have also worked with DOE's Carlsbad Field Office to plan and execute shipments of transuranic waste.

While working with OCRWM, the Midwest was heavily involved in a variety of transportation-related activities, including:

- Crafting the policy and procedures for implementing Section 180(c) of the Nuclear Waste Policy Act (NWPA), which requires the Secretary of Energy to provide funding and technical assistance to states and tribes affected by shipments;

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- Identifying a set of rail and highway routes through the region as a starting point for discussions at the national level;
- Working with DOE and states in other regions to develop a prototype for a reciprocal inspection program for rail shipments of spent fuel;
- Participating in the writing and revision of DOE's Radioactive Material Transportation Practices Manual; and
- Transportation planning to address future activities like notifications, inspections, and escorts, among others.

Our work with OCRWM ended in mid-2009 with the cancellation of the Yucca Mountain repository program. We were fortunate to have several opportunities in 2010 and 2011 to interact with the BRC as it evaluated options for a new national policy for the long-term management of spent fuel and high-level radioactive waste. On November 2, 2010, in Chicago, committee representatives provided testimony to the BRC's Subcommittee on Transportation and Storage (Tim Runyon, Illinois, and Lisa Janairo, CSG Midwest). In June 2011, the committee submitted comments on the Subcommittee's draft report. We co-hosted the BRC's Midwestern regional meeting in Minneapolis on October 28, 2011, and we submitted comments on the draft report a few days afterward on November 1, 2011.

When the BRC's final report was released on January 26 of this year, we were very pleased to see that the Commission had added a new recommendation specifically about transportation: "Prompt efforts to prepare for the eventual large-scale transport of spent nuclear fuel and high-level waste to consolidated storage and disposal facilities when such facilities become available." This recommendation is directly responsive to the input the Midwestern region provided through comments and testimony and at the regional meeting. The Commission further recognized that "substantial lead time is ... needed to ensure that planning and institutional arrangements are in place and tested by the time major shipments comments" (p. 85). We also appreciated the BRC's acknowledgement that a new program should build on "proven approaches" for transportation planning, particularly the regional transportation planning process that involves states through groups like our committee (*ibid.*).

We believe there is merit to the idea of establishing a new organization to lead the waste-management program. It is important for the new organization to have the same level of accountability to Congress, states, other stakeholders, and the general public as the former Office of Civilian Radioactive Waste Management. A new independent organization must also recognize and honor the long-standing collaborative relationships between the states and DOE, as well as state regulatory responsibilities. Our own Midwestern experience suggests that transportation cannot be regulated solely from Washington, D.C.

We like the idea of the new organization having responsibility for transporting commercial spent fuel once it has been accepted from utilities because this arrangement will make it possible for states to work cooperatively with a single shipper instead of multiple ones, thereby

reducing the burden placed on us. We think it would be a good idea to require the new organization to be a licensee of the U.S. Nuclear Regulatory Commission (NRC). If that will not be the case, it would be advisable to expand the NRC's role in the NWPA so that shipments of spent fuel must follow the same requirements as shipments conducted by NRC licensees.

We believe it would be beneficial to finalize the Section 180(c) policy and procedures and conduct a pilot of the program with shutdown reactors as the points of origin. In addition to testing things like the application procedures and reporting requirements, a pilot program could have the added benefit of enhancing emergency preparedness along transportation routes currently being used for shipments of radioactive waste. We also greatly appreciate the BRC's recommendation that Section 180(c) be amended so that the new waste management organization will have "broad authority and direction to provide in-kind, financial, technical, and other appropriate assistance ... to states and tribes whose jurisdictions would be traversed by shipments of spent fuel to interim storage or to a repository, for the purpose of transportation safety programs related to such shipments that are not otherwise addressed in the law" (p. 87). Such a change is necessary to move Section 180(c) beyond DOE's current interpretation of the program being solely "for training," and instead make it possible for states to undertake the same preparedness activities for spent fuel shipments that they do for shipments of transuranic waste heading to DOE's Waste Isolation Pilot Plant in New Mexico.

In our comments and testimony, the Midwestern states raised one concern that did not make it into the BRC's final report, namely the lack of a reciprocal rail inspection program analogous to the highly successful CVSA Level VI inspection program for shipments by truck. This is a significant concern for our states because most of the spent fuel will ultimately travel by rail – including spent fuel stored at shutdown plants, which would be "first in line for transfer" to consolidated storage. People rightly credit the CVSA Level VI inspection program for contributing to the high level of safety demonstrated by shipments of highway route-controlled quantities of radioactive material and waste. The Midwestern states believe a similarly stringent, reciprocal inspection program should be put in place for rail shipments prior to the commencement of shipments.

The Commission did not address this situation in its final report. The members of CSG's Midwestern Radioactive Materials Transportation Committee believe DOE should work with the U.S. Department of Transportation and the NRC to establish a rail inspection program that enhances shipment safety and promotes information sharing among state and federal agencies without compromising security. Under the old OCRWM program, the states and DOE were well on their way to developing procedures for a reciprocal rail inspection program when the Yucca Mountain program was cancelled. DOE, DOT, and the NRC are the appropriate organizations to lead a new effort to build on that early work and establish an acceptable program by regulation.

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In closing, because transportation is the activity that links all other program activities, a single accident involving a shipment could have significant repercussions for the whole program. For this reason, any new waste-management program must place a high priority on transportation. I cannot emphasize enough that state government officials need to be involved throughout the process of developing the new program, particularly the transportation system. State officials have the responsibility to protect the health and safety of the public in our jurisdictions. We are the experts on our jurisdictions – on, among other things, the transportation infrastructure, emergency response assets, laws and regulations, seasonal weather conditions, road construction projects, and local time restrictions. A successful shipping campaign has to take into account all these factors and more for multiple states. To prepare for any new large-scale shipping campaigns, the states must be involved in planning and we must have sufficient resources, including information, financial assistance, and ample lead time.

I greatly appreciate the invitation to speak at the October 17 meeting and am sorry I could not attend the meeting in person. I look forward to the opportunity for a representative of the Midwestern Radioactive Materials Transportation Committee to participate in a future Board meeting. In the meantime, I hope this written statement will help the Board members to understand the states' involvement in transportation planning and the Midwestern region's views on the BRC's recommendations.

Best wishes for a successful meeting.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Lance Evans". The signature is fluid and cursive, with a large initial "D" and "E".

Major D. Lance Evans

Iowa Department of Transportation, Motor Vehicle Enforcement Office, and  
Co-Chair, CSG Midwestern Radioactive Materials Transportation Committee