

**U. S. Department of Energy (DOE)  
Transportation External Coordination Working Group (TEC)  
Security Topic Group  
Conference Call  
February 21, 2006**

**Group Chair:** Alex Thrower, DOE/OCRWM

**Participants:** Larry Stern, Commercial Vehicle Safety Alliance; Aubrey Godwin, Arizona Radiation Regulatory Agency; Bill Reese, Idaho State Police; Steve Schnoebelen and James McNeill, California Highway Patrol; Bob Fronczak, Association of American Railroads; Lisa Janairo, Don Flater, and Tim Runyon, Council of State Governments (CSG)-Midwest; Jim Baranski and Ed Wilds, CSG-Northeast; Harry Hopes, CSX; Scott Field, Western Interstate Energy Board; Christian Einberg, DOE/OCRWM; Conrad Smith, CSG – Eastern Regional Office; Bob Halstead, Nevada Agency for Nuclear Projects; and Helena Zyblikewycz, AFL-CIO.

DOE Support contractors also participated on the call.

**Action Items:**

Responsible Party

Action to be Taken

Alex Thrower

Provide a preliminary agenda for the Security Topic Group (STG) at the upcoming TEC meeting. The agenda will be included as part of the meeting minutes for the 2/21/06 conference call.

Prepare a written statement confirming DOE's position that because TEC is an open forum, discussions of Official Use Only, Safeguards Information or other sensitive information will not be discussed within the STG.

**Summary:**

Alex Thrower began with a discussion of the minutes from the last STG conference call (1/24/06). He noted that there were two issues raised therein that he wanted to address before proceeding to other issues. These included: 1) whether there was a need for members of the STG to obtain security clearances to enable them to discuss certain classified subjects, and 2) the use of the term consistent vs. equivalent within the context of DOE's security protocol for shipments. After extensive discussions with DOE Security personnel, as well as other participants, he wanted to confirm that DOE's position was that the TEC Working Group was fundamentally an open forum. The idea certain subjects would be restricted (i.e., open only to members of the STG that had appropriate security clearances) was inconsistent with the TEC charter. Alex proposed the STG drop this as an issue and focus on the substantial work to be done that can be discussed openly.

He suggested that, when the time came for law enforcement review and/or participation in things like security planning, it should not be difficult to find appropriate cleared officials in affected States. Other participants strongly disagreed.

Conrad Smith asked whether it was DOE's intent to use NRC safeguards or was the Department going to develop their own separate standard. Alex indicated that DOE had not taken an official decision on this issue, although he noted that the Department's general intent has been to follow an equivalent standard or set of standards. Chris Einberg, who serves on the joint committee responsible for developing the Transportation Classification Guide, observed that NRC is also on the committee, and that the intent of their participation was to ensure consistency where appropriate. Several participants noted that the DOE representatives on the call had just used both terms – consistent and equivalent – to describe the standard. They asked, “which is it going to be?” Aubrey Godwin observed that if DOE elected to use its own standard, there could be confusion at the state level. He noted that a Governor's Office may have different organizational points of contact for NRC issues and DOE issues. Therefore, someone who wished to obtain information relating to safeguards might be put in touch with different personnel if DOE adopted a separate standard. Don Flater agreed that DOE should use the exact same standard as NRC. He also stressed that it was important for the STG to make its recommendations with respect to the standard as early as possible so as to avoid confusion.

Bob Halstead returned to the issue of security clearances. He wanted to confirm with Alex that it was DOE's official position that it would not be necessary for members of the STG to obtain security clearances. Alex stated that it was. Bob stated that this represented “a profound policy decision” on DOE's part and that it should be documented. Alex agreed to prepare a written statement and distribute it to the members of the STG.

Aubrey Godwin indicated that he did not disagree with DOE's position; however, he also said that it is important for DOE to consider convening an ad hoc panel or subgroup -- most likely outside of the context of TEC, although many of the members could probably be drawn from the STG – that would discuss classified issues and make appropriate recommendations to DOE. Alex acknowledged that, in deciding not to use the STG to discuss classified issues, DOE was changing its earlier position. He noted that Aubrey's idea of a group not affiliated with TEC, possessing appropriate clearances, might be a “cleaner” way of going about discussions and a more productive way to discuss things like detailed security procedures.

Tim Runyon disagreed because of what NRC defined as safeguards. He questioned whether the STG could do much good if it was restricted from discussing classified issues. Jim Baranski asked whether Alex had looked at the NRC safeguard information guide. Chris Einberg stated that the information therein was being incorporated into the classification guide. Scott Field observed that asking the STG to write a security protocol without evaluating the underlying conditions would be difficult. He asked whether it would be possible to assemble a list of classified issues that the STG believes need to be examined and then decide who should look at them. At least that way the members of the

STG will know that these issues haven't been somehow dropped. Participants acknowledged that the "public forum" aspect of TEC could be a constraint on security discussions, and that a separate group might address this issue; however, the STG needs to identify an appropriate forum for these discussions.

Conrad Smith agreed with the concept of preparing a list of security topics for special consideration. He also pointed out that the recently published National Academy of Sciences (NAS) study proposed that an independent group be charged with evaluating security for shipments to Yucca Mountain. He asked whether DOE management was considering establishing a group independent of TEC. Alex responded DOE is in the process of reviewing the report and has not yet taken any decisions based on its findings. Conrad also said he would like to have the STG consider the NAS's recommendation and possibly recommend to DOE that the department follow it.

Bob Halstead mentioned that within the last 10 days he was made aware of the possibility that new language might be incorporated into potential legislation that would specifically exempt Yucca Mountain shipments from DOT safety requirements. He asked whether DOE was looking to pursue a policy of more self-regulation. Alex responded there have been all kinds of rumors about proposed legislation; when the bills get introduced then everyone will see what their provisions are, and he preferred not to speculate.

Bob Halstead asked if there were any meaningful issues that the STG could discuss without crossing into sensitive topics. He pointed out that even a fairly mundane example -- a map outlining potential transportation routes -- might not be discussed within the "open forum" of the STG because such a map potentially contains information that could be used to compromise national security. Alex Thrower then indicated that the Information Sharing Protocol currently under development will help to address these sorts of issues. He also indicated that the upcoming survey of states that would be conducted at the request of the STG will provide additional data that could help inform the STG on these issues. Lisa Janairo said that she hoped to have draft questions to be included in the survey completed and distributed for comment by the end of the week.

Lisa asked Alex for his reaction to Conrad's suggestion that the STG support the NAS's recommendation regarding an independent review of shipment security. Alex Thrower observed that DOE had not yet completed its review of the report. Participants suggested that Alex include the NAS report on the agenda because even if DOE has not developed a formal response to the report in time for TEC, the STG can at least discuss the report and potentially receive an update from DOE, if one is available. Alex agreed to discuss the NAS report at the STG meeting, but acknowledged that it was not likely the TEC Working Group would take a position on the report's recommendations.

The next topic discussed was the Security Practice from the DOE Manual. Alex Thrower indicated that he had received some comments (e.g., consistency vs. equivalency, federal escorts for shipments, technical corrections) on the latest draft, but he indicated there still was time for the STG to provide additional comments before he prepared a revised second draft. Conrad Smith asked if there was a membership roster for the Manual

Review Topic Group. Alex indicated that there was and that the first meeting of this Topic Group would be at the upcoming TEC meeting.

Bob Halstead asked if it ever occurred to DOE to subject Yucca Mountain shipments to NRC requirements as though they were commercial regulated facilities. Alex Thrower noted that other DOE programs had done so but did not believe a position had been taken for OCRWM shipments. Several participants suggested that they were most comfortable operating under NRC requirements. They observed that DOE had done so under the Foreign Research Reactor SNF program. Why not do the same for Yucca Mountain shipments?

Bob Halstead commented on the adequacy of conference call minutes. He stated that the 1/24/06 conference call included a substantial discussion of federalization, but that it was not reflected in the minutes. Alex stated that in the future, draft minutes for the calls would provide greater detail, and participants could edit them accordingly. He also promised to distribute the minutes sooner to allow adequate time for review and comment prior to the next call.

The STG then discussed the latest version of the work plan. The following elements will be included in the table at the end of the workplan:

- Monthly calls will take place;
- The March 14-15, 2006 TEC meeting will replace the next conference call;
- STG will be briefed on status of the classification guide;
- STG will discuss the State/Tribal survey on security training and processes; and
- An Information Sharing Protocol will be developed.

Alex agreed to prepare a draft agenda for discussion at the upcoming TEC meeting and include the agenda with the minutes for the 2/21/06 conference call.

Participants asked whether DOE might consider having a contractor assemble a security lessons-learned summary based on experiences from previous shipping campaigns. Alex responded Marsha Keister had been doing some research for OCRWM in this area and he would contact her. With respect to other shipping campaigns, another participant expressed his opinion that DOE would need to remain vigilant so as to avoid the “relaxed” attitude towards safety that he believed developed over time as the number of Low-Level Waste shipments increased. Bob Halstead suggested DOE could review NRC files of previous shipments as a means of compiling a list of “stories” or lessons-learned (e.g., Monticello shipment incident, the “train-jumping” incident in North Carolina, and tactics of opposition groups such as billboards indicating shipping routes). Other participants suggested that the soon-to-be-conducted survey of States and Tribes could provide similar valuable input.

Bob Halstead reiterated his request for a written statement relating to DOE's decision with respect to what can and cannot be discussed within the STG. Alex agreed. Lisa Janairo asked if DOE was receptive to ever forming a cleared group of individuals to discuss security topics. Alex Throver indicated that DOE would certainly consider the idea, especially as the start of shipments approached. Lisa noted that within the proposed STG workplan that she and Bill Mackie had written in July 2005, there was a discussion of an ad hoc group composed of individuals that already had clearances. She noted that, at the time, Nancy Slater-Thompson had planned to have the topic group discuss sensitive information. Alex agreed DOE was now changing its position.

Aubrey Godwin noted that security-related information can be divided into sensitive and classified. He noted that forming a group to discuss sensitive issues was not difficult. Law enforcement officials generally have the required clearances; however, assembling a group to discuss classified issues was more problematic. Alex indicated that part of the problem was timing. He stated that it would be difficult to justify expending the time and resources necessary to obtain clearances for members of the STG until such a time as the issues to be discussed became clearer as planning progressed. Shipments are still some years away, he said.

Bob Halstead stated that arranging for clearances at a later date would still take a lot of time. He suggested that DOE develop a "Plan B." Lisa Janairo again suggested the group revisit the workplan she and Bill Mackie had developed. Alex Throver said that he would review the language in the old workplan and make copies available for discussion at the upcoming TEC meeting. After the call, Alex said that he would compile a list of action items and deadlines. He also said that a draft agenda for the meeting would go into the notes and be distributed in one week.

Lisa Janairo asked who specifically within DOE was resisting the approach laid out for the STG. Alex Throver replied that there is no active resistance, but there are questions and concerns about why sensitive discussions and security clearances are needed at this time. He mentioned this is a longstanding issue—the NAS study itself observed that it can be difficult to balance the need for openness and accountability with the need to keep shipments secure.

**The call was adjourned at 12:10 PM.**