



**MEMORANDUM BETWEEN THE
WESTERN GOVERNORS
AND THE
U.S. DEPARTMENT OF ENERGY**

**REGIONAL PROTOCOL FOR THE SAFE AND UNEVENTFUL
TRANSPORTATION OF TRANSURANIC WASTE**

Purpose

The purposes of this Memorandum of Agreement (MOA) are to enhance the safety and security of the transport of transuranic (TRU) waste shipments to and from the Waste Isolation Pilot Plant (WIPP) and other TRU waste shipments originating in or destined for the West; to facilitate communication between the Secretary of the U.S. Department of Energy (DOE); the Manager of the DOE, Carlsbad Field Office (CBFO); and the Western Governors on TRU waste transportation issues; to implement the provisions of the WIPP Land Withdrawal Act (Public Law 102-579, as amended); and to endorse the planning principles and transportation procedures contained in the Western Governors' Association WIPP Transportation Safety Program Implementation Guide (WIPP Guide) and the Cooperative Agreement between the Western Governors' Association (WGA) and the DOE-CBFO. In addition, the undersigned agree to work cooperatively, through the regional planning process, to develop the planning and operating procedures for TRU waste shipments originating in or destined for the western United States. Finally, the undersigned support the principle that the transportation of all DOE-Environmental Management (EM) shipments of radioactive materials should be safe and uneventful.

Findings

Managing the safe and uneventful transportation of TRU waste from DOE facilities to the WIPP in southeastern New Mexico is the joint responsibility of Federal, state, local and tribal governments. It is also the joint responsibility of these governments to manage the safe and uneventful transportation of TRU waste originating in or destined for the western United States. The potential risks of TRU waste and the complexities of transporting this waste to the WIPP brought 10 western states, the DOE and the U.S. Department of Transportation together to establish a set of principles and procedures for achieving the objective of "safe and uneventful transportation."

In 1989, the Secretary of Energy entered into a Cooperative Agreement with the WGA to prepare procedures for planning and operating the WIPP transportation program. Working as partners, WGA, DOE and the western states developed a model program to plan for WIPP shipments, to prepare the western states and units of local government to support the WIPP shipments, and to cooperatively support and operate the transportation system. The Governors have adopted several policy resolutions that stress that “the objective of the Western Governors’ Association is the safe and uneventful transportation of nuclear waste.”

In 1995, 2003 and again in 2009 the Western Governors and the Secretary of Energy signed an MOA committing to work cooperatively to implement the elements of the WIPP Guide. Both parties agreed to jointly support the regional planning process for the safe and uneventful transportation of TRU waste originating in or destined for the West. These protocols were successfully utilized by DOE and the western states in other DOE campaigns, such as the cesium capsule return program and shipments of nitric acid to Great Britain.

Congress recognized the benefits of a cooperative program among the states, the tribes, and DOE in the WIPP Land Withdrawal Act (Act). The Act requires DOE to provide technical assistance and funds for training public safety officials in the states and tribes through whose jurisdictions TRU waste will be shipped, assist the States through monetary grants or contributions in-kind to acquire equipment to respond to incidents involving TRU waste, and provide in-kind, financial, technical, or other appropriate assistance to states and tribes for WIPP-specific transportations safety programs.

DOE-CBFO, in its Cooperative Agreement with WGA, agreed that the WIPP transportation program would be conducted using the standards and procedures developed through the Western Regional Planning Process. This process recognizes that many of the procedures are above the minimum Federal regulatory requirements, but were employed to achieve a high level of safety and shipment success when WIPP opened in 1999.

These standards and procedures are described in the WIPP Guide and implemented through the DOE-CBFO “TRU Waste Transportation Plan.”

WGA, the western states and DOE-CBFO periodically review the WIPP Guide and the “TRU Waste Transportation Plan” to ensure the objectives of the Western Governors’ policy resolution, the provisions of this MOA, and the TRU waste transportation program are met. The Western Governors, through WGA, and DOE-CBFO negotiate and concur on changes to the WIPP Guide, which are then incorporated into the TRU Waste Transportation Plan. DOE-CBFO and its carrier contractors follow the WIPP Guide and the TRU Waste Transportation Plan in transporting TRU waste to WIPP. DOE-CBFO, as part of DOE-EM, has as one of its primary functions the National TRU Waste Program, which is charged with planning and coordinating the shipment of TRU waste between generator and interim storage sites, and to the WIPP facility. The Assistant Secretary for EM, who sets the policy for the TRU waste program, will work through the

regional process to develop the planning and operating procedures for TRU waste shipments originating in or destined for the western United States.

The WIPP Guide

The WIPP Guide defines the following elements of the safe transportation program:

- ❖ Accident Prevention
 - High-Quality Drivers and Carrier Compliance
 - Independent Inspections
 - Bad Weather and Road Conditions
 - Safe Parking During Abnormal Conditions
 - Advance Notice of Shipments
 - Access to Information on Shipment Status
- ❖ Emergency Preparedness
 - Training and Exercises
 - Medical Preparedness
 - Emergency Response Plans and Procedures
 - Emergency Response Equipment
- ❖ Security Plan
- ❖ Public Information
- ❖ Highway Routing of WIPP Shipments
- ❖ Program Evaluation

DOE-CBFO completed the first shipment to the WIPP Facility on March 26, 1999, and as of the origination date of this MOA, has safely completed more than 12,000 shipments from thirteen DOE sites to the WIPP facility. DOE-CBFO has used the procedures from the WIPP Guide in developing the TRU Waste Transportation Plan and transportation operating procedures. Additionally, DOE-CBFO contractors have incorporated these procedures into their management and operating procedures. In part, it has been these procedures and the planning process which have produced the exemplary safety record of the WIPP program and its extraordinary acceptance by the public and elected officials over the past 19 years.

On September 11, 2001, the United States was attacked by foreign terrorists, which changed the perception of threats to radioactive material shipments in this Nation. In order to address these threats and facilitate communication between the western states and the DOE, the Assistant Secretary for EM and the Western Governors agreed to work to coordinate security planning, communications and response to threats regarding DOE TRU waste shipments.

Principles

The Secretary of Energy and the Chair of the Western Governors' Association, on behalf of their respective organizations, pledge to each other the following:

1. The undersigned reaffirm the objective of the U. S. Department of Energy and the Western Governors to be the safe and uneventful transportation of TRU waste within the United States.
2. The undersigned hereby endorse the collaborative Regional Planning Process as embodied in a Cooperative Agreement between the DOE-CBFO and WGA and used in the development and identification of principles and protocols for the WIPP Guide as the most appropriate mechanism for addressing the safe and uneventful transportation of TRU waste shipments originating in or destined for the West.
3. The undersigned endorse the standards, principles and procedures contained in the “WIPP Guide” and “TRU Waste Transportation Plan” for conducting TRU waste shipments, originating in or destined for the West, not including shipments within the same DOE site or other TRU waste shipments as agreed to between DOE and the states. The WIPP Guide and the TRU Waste Transportation Plan are considered to be living documents reflecting the continuing agreements and actions taken by the WGA, the western states and the DOE-CBFO as part of the regional planning process.
4. The undersigned commit to work cooperatively to identify and develop appropriate security procedures for the safe and uneventful transportation of TRU waste shipments. The DOE-CBFO, WGA and the western states agree to work to coordinate the planning, preparedness and response to security related activities involving the shipment of TRU waste.
5. The undersigned agree to continue a dialogue and implement the regional planning process on other anticipated DOE radioactive material shipments (e.g., low level waste, Foreign Research Reactor Fuel, etc.) originating in or destined for the West and on lessons learned from past shipments that may have value for future shipments and campaigns. This would include the provisions of advanced notification of spent fuel shipments, Highway Route Controlled Quantity shipments, high volume shipping campaigns, or other high visible shipments as agreed to by the parties.

Implementation of Principles

To implement these principles, each Western Governor will:

1. Reaffirm his or her continued support for the safe transportation of TRU waste and operations of WIPP as being paramount to the expeditious cleanup and disposal of TRU waste from DOE facilities in the West and other parts of the country;

2. Agree to negotiate in good faith with DOE-CBFO the continued use of standards and procedures in the WIPP Guide for the safe and uneventful transportation of TRU waste originating in or destined for the West;
3. Corridor states shall appoint to the WGA WIPP Transportation Technical Advisory Group a Governor's representative who shall be responsible for representing the Governor and state in identifying, developing and implementing principles, procedures and agreements between the western states and the DOE-CBFO as they address the safe and uneventful transportation of shipments of TRU waste;
4. Coordinate security related activities with the DOE-CBFO for the transportation and protection of TRU waste shipments originating in or destined for the West; and
5. Provide copies of this MOA to western state agencies with instructions to coordinate their planning, programming and procedural development processes for shipment of TRU waste with the designated state representative.

To implement these principles, the Secretary of Energy will:

1. Conduct TRU waste shipments through the western states in accordance with the protocols contained in the WIPP Transportation Program Implementation Guide and TRU Waste Transportation Plan, not including shipments within the same DOE site or other TRU waste shipments as agreed to between DOE and the states;
2. Participate in and support the WGA regional planning process through the Cooperative Agreement;
3. Agree to provide to the Western Governors, through the WGA, early notification of planned shipments of TRU waste originating in or destined for the West;
4. Designate the Manager of the DOE-CBFO as the Secretary's representative to the WGA WIPP Transportation Technical Advisory Group; and
5. Appoint a Security Representative to the WGA WIPP Transportation Technical Advisory Group to coordinate activities between the DOE-CBFO and the western states for the protection of TRU waste shipments originating in or destined for the West.

Review and Affirmation

To ensure that the WIPP Guide and the TRU Waste Transportation Plan reflect a current, living document, the DOE-CBFO and WGA will use a mutually agreed upon process for

making revisions to these documents. These documents and their procedural components will be reviewed by WGA, the western states, and the DOE-CBFO periodically to ensure both documents continue to meet the objective that all TRU waste shipments are "safe and uneventful." The Manager of the DOE-CBFO and the Executive Director of the WGA will periodically provide assurances to the Western Governors and the Secretary of Energy that the documents "represent the standards, principles and procedures for conducting TRU waste shipments." When changes are made to the WIPP Guide or TRU Waste Transportation Plan, all relevant DOE-EM policy documents and other agreements will be reviewed and revised as appropriate to ensure consistency.

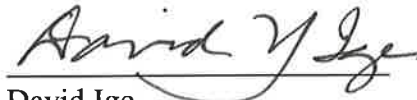
Notwithstanding the above provisions, this MOA shall not be binding on DOE shipments of nuclear weapons, nuclear weapons components, and special nuclear materials made for purposes of national security as authorized by the Atomic Energy Act or the Nuclear Waste Policy Act.

This MOA is to be reviewed and reaffirmed by the Secretary of Energy and the Western Governors within one year following the election of a new President of the United States.



Rick Perry
Secretary of Energy

Date: MAR 0 4 2019



David Ige
Governor of Hawaii
Chair, Western Governors' Association

Date: NOV 0 9 2018



Doug Burgum
Governor of North Dakota
Vice-Chair, Western Governors' Association

Date: 11/20/18