



**Western Governors' Association
Policy Resolution 05-15**

June 14, 2005
Breckenridge, Colorado

***Transportation of Spent Nuclear Fuel and High-Level
Radioactive Waste***

A. BACKGROUND

1. This nation must dispose of significant amounts of spent nuclear fuel and high-level radioactive waste (HLW).
2. The federal government is responsible for the disposal of these wastes under the Nuclear Waste Policy Act (NWPA).
3. Plans of the federal government place a disproportionate share of the national burden of nuclear waste transportation on Western states, since all of the planned spent nuclear fuel and HLW storage and disposal sites are located in the West.
4. The Governors recognize that a transportation program developed and implemented cooperatively with Western states, such as that used for cesium shipments and shipments to the Waste Isolation Pilot Plant (WIPP), can be developed with proper planning and commitment by the federal government.
5. Litigation and proposed federal legislation have increased pressure on the federal government to accept private reactor spent nuclear fuel under the NWPA, before the Department of Energy's (DOE) plans to accept waste in 2012.
6. The analysis by and experience of Western states show that adequate preparations to accommodate large scale shipments require at least three years following the designation of routes and shipping modes.
7. For many years, the Western Governors have consistently urged the federal government to develop a comprehensive transportation plan, including the preparation of contingency plans for events such as the early shipment of waste.
8. DOE has not prepared a comprehensive transportation plan and has no effective contingency plans to accommodate shipments.
9. The Secretary of Energy has entered into an agreement with at least one utility company whereby DOE would provide for temporary storage of spent fuel at commercial nuclear power plant sites until such a time as a permanent repository is available for disposal of the spent fuel. This plan, if applied to other utility companies, would compensate them for the cost of storing the waste on-site, address DOE's failure to meet its deadlines under the Nuclear Waste Policy Act of 1982, as amended, and provide much needed flexibility

within the federal high-level waste program for carrying out scientific activities and conducting required transportation planning.

B. GOVERNORS' POLICY STATEMENT

Storage and Disposal

1. The Western Governors' Association supports permanent, safe geologic disposal as the long-term national policy for managing and finally disposing of spent nuclear fuel and HLW.
2. The Governors strongly encourage the U.S. Department of Energy to work cooperatively with the states in implementing this policy to ensure the safe storage, transportation and disposal of spent nuclear fuel and HLW and to comply with agreements which have been negotiated and entered into by a state's Governor regarding the management, transportation and storage of spent nuclear fuel and high-level radioactive waste. Moreover, the federal government should not site such waste in a state for interim storage without written agreement from the affected states' Governors.
3. The Governors support efforts by the federal government to examine alternative waste acceptance options, including but not limited to, providing funds to utilities for expanded on-site storage and taking title to spent nuclear fuel at individual reactor sites. The search for alternatives must not be construed as lessening the need to develop a permanent solution to the management of spent nuclear fuel.

Transportation

4. The Governors' objective is the safe and uneventful transport of nuclear waste which must be paramount in all federal policies regarding nuclear waste transportation.
5. The Governors find that as a result of federal government inaction and delays, and inadequate strategic planning involving stakeholders, a national transportation system for commercial spent nuclear fuel is not presently available and would, at the earliest, be available no sooner than three years after routes have been identified and technical assistance and funds have been provided to states.
6. Early coordination and effective communications with state, tribal, and local governments is essential to the ultimate success of any nuclear waste transportation safety program.
7. In order to develop a safe and effective system for accepting commercial spent nuclear fuel and HLW at a repository or any other central storage facility, the federal government must expand its focus beyond siting, and develop, in coordination with the states and tribes, a logical and timely transportation program. This requires policy commitments from DOE and other federal agencies to:

Develop a transportation program

- a. Fix the shipping origins and destination points as early as possible;
- b. Ensure the availability of rail and truck shipping casks;
- c. Conduct full-scale testing of casks to be used to transport spent nuclear fuel and HLW;
- d. Prepare a comprehensive transportation plan that includes the analysis of all needed transport-safety activities in a single document;
- e. Develop responsible criteria for selecting shipping routes;
- f. Develop a sound methodology for evaluating optional mixes of routes and transportation modes; and
- g. In light of the events of September 11th, conduct a thorough review of the risks of terrorism and sabotage against spent fuel and HLW shipments and work with state governments to assure that adequate safeguards are in place prior to shipments occurring.

Evaluate terrorist attack risks

8. The Governors believe that DOE or any other operator of a central interim storage facility must look to the WIPP transportation and cesium capsule return programs for guidance in conducting any SNF and HLW shipping campaign to a repository or any central storage facility:

- a. A safety and public information program similar to that developed with Western states for shipments of transuranic waste to WIPP and cesium capsules to Hanford should be utilized for all highway route-controlled quantity (HRCQ) DOE shipping campaigns. Safety programs should be evaluated and improved as needed.
- b. The WIPP Transportation Safety Program Implementation Guide is an excellent framework for transportation planning, and a similar document should be used as a base document for DOE's or any other central interim storage facility operator's various transportation programs.
- c. DOE or any other central interim storage facility operator should follow the WIPP example of working through its regional cooperative-agreement groups to propose a set of shipping routes to affected states and tribes for their review and comment. This process should result in the identification of a set of primary and secondary routes from each site of origin to each destination. DOE should require the use of these routes through mandatory contract provisions with any private contractors.
- d. DOE should work to identify flexible funding resources and cooperative agreements between their civilian, power and defense agencies as a means for supporting WGA and DOE application of lessons learned through the WIPP safety program to other DOE shipping campaigns.

Identify routes & require their use

9. DOE or any other central interim storage facility operator should operate a tracking system capable of monitoring the location and status of the vehicle and cask and provide access to this system to the states. The system should have a communications capability for notifying the vehicle operator, DOE, and states and tribes of the location, potential bad weather and road conditions, and occurrence of incidents.

Financial and Technical Assistance Responsibilities

10. The Governors believe it is the responsibility of the generators of spent nuclear fuel and HLW and the federal government, not the states and tribes, to pay for all costs associated with assuring safe transportation, responding effectively to accidents and emergencies that will inevitably occur, and otherwise assuring public health and safety. This includes costs associated with route evaluations and inspecting and escorting shipments.
11. The Governors insist that no shipments of spent nuclear fuel and HLW be made to storage facilities or a repository, until shipping routes have been cooperatively identified and funds and assistance have been made available to states at least three years prior to the start of shipments, notwithstanding whether such facilities are publicly or privately owned or whether there are any sudden changes in DOE's shipping schedule.
12. Critical steps need to be taken to prepare states and tribes for shipments, including but not limited to:
 - a. Appropriate funds for technical assistance and training programs for states and tribes through whose jurisdictions spent nuclear fuel and HLW are to be transported;
 - b. Implement policies and procedures to assure that states are fully compensated for all training, preparedness, and response costs associated with spent nuclear fuel and HLW shipments. Assistance to states must not be based on arbitrarily established criteria, but closely linked to state-specific assessments of need;
 - c. Adopt regulations to implement a mutually acceptable program of technical assistance and training funds. Such regulations should:
 - i. Provide for the development and funding of state and tribal plans that identify the minimum elements necessary to ensure safe routine transportation and procedures for dealing with emergency response situations, the current capabilities along each corridor, the activities needed to achieve minimum elements, and performance measures to evaluate programs implemented under the plan.
 - ii. Provide annual implementation grants to states and tribes. to ensure adequate funding levels and program capabilities among impacted states and tribes.
 - iii. Provide flexibility in the expenditure of funds by states and tribes pursuant to the provisions of the state or tribal plan.
 - iv. Prior versions of this resolution included a formula for the annual implementation grants, with 75 percent of grant funds allocated according to the number of projected shipment miles in the jurisdiction and 25 percent allocated to ensure minimum funding levels and program capabilities among impacted states and tribes. Because of the current uncertainties in the transportation system (e.g., routing, mode, intermodal transfers, schedules, security measures), it is premature for DOE to finalize 180(c) and other funding allocations for annual implementation grants. Once states and tribes have assessed their needs through planning

grants provided by DOE, DOE should then consult with states and tribes to determine how to best allocate funds to states and tribes effectively, efficiently and equitably.

Privatization

13. In any Nuclear Waste Policy Act shipping campaign, the Department of Energy cannot privatize or delegate to a contractor key transportation responsibilities, including but not limited to:
 - a. Interaction with states and tribes;
 - b. Selection of transportation modes and routes;
 - c. Preparation of environmental impact statements addressing transportation concerns;
 - d. Selection of transportation casks;
 - e. Working with states and tribes to develop acceptable transportation communication, training and security plans; and
 - f. Decisions regarding the provision of adequate technical assistance and funding to states and tribes to prepare for shipments.

C. GOVERNORS' MANAGEMENT DIRECTIVE

1. The Western Governors' Association (WGA) shall post this resolution to its Web site to be referred to and transmitted as necessary.
2. This policy resolution shall be specifically conveyed to the President of the United States, the Secretaries of Energy and Transportation, the chairman of the Nuclear Regulatory Commission, the Chairman of the Board and the Chief Executive Officer of Private Fuels Storage, LLC, and the appropriate members and committees of Congress.
3. The WGA staff, in cooperation with the Western Interstate Energy Board, shall monitor implementation of this resolution and inform the Governors of progress towards meeting the Governors' objectives. WIEB is directed to evaluate and report on actions necessary for the safe and uneventful transportation of spent fuel to any proposed interim storage site. WGA and WIEB are to provide the federal government and nuclear utility industry with assistance in the development and implementation of transportation, communications and security plans for spent nuclear fuel and high-level radioactive waste.

This resolution was originally adopted in 1999 as WGA Policy Resolution 99-014 and readopted in 2002 as WGA Policy Resolution 02-05.