



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



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

**Purpose**

The purposes of this Memorandum of Agreement are to enhance the safety and security of the transport of 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 U.S. Department of Energy, Carlsbad Field Office (DOE-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 shipments of radioactive materials should be safe and uneventful.

**Findings**

Managing the safe and uneventful transportation of TRU waste from U.S. Department of Energy 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 local units of 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 and again in 2003, the Western Governors and the Secretary of Energy signed a Memorandum of Agreement 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 between the States and DOE in the WIPP Land Withdrawal Act. The Act requires the U.S. Department of Energy cooperate with and provide assistance to the States and Tribes in planning and preparing for shipments of TRU waste to WIPP.

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 Memorandum of Agreement, 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-Environmental Management (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 Environmental Management, 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

- Emergency Response Plans and Procedures

- Training and Retraining

- Emergency Response Equipment

- Medical Preparedness

### Security

### Route Designation

### Public Involvement and Information

### Program Evaluation

DOE-CBFO completed the first shipment to the WIPP Facility on March 26, 1999, and as of the origination date of this Memorandum of Agreement, has safely completed more than 7,400 shipments from nine 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 ten 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 Environmental Management and the Western Governors

agreed to work to coordinate security planning, communications and response to threats with DOE TRU waste shipments.

## **Principles**

The Secretary of Energy and the Chairman 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 dialog 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 part 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 Memorandum of Agreement 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 Carlsbad Field Office 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-Environmental Management policy documents and other agreements will be reviewed and revised as appropriate to ensure consistency.

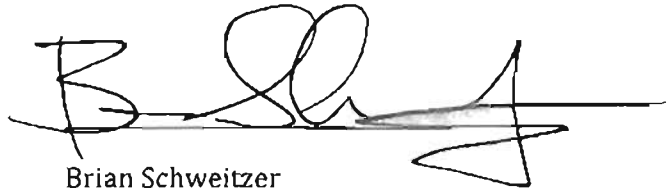
Notwithstanding the above provisions, this Memorandum of Agreement shall not be binding on DOE shipments of nuclear weapons, nuclear weapons components, and special nuclear materials made for purposes of national security as authorized by the Atomic Energy Act or the Nuclear Waste Policy Act.

This Memorandum of Agreement 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.



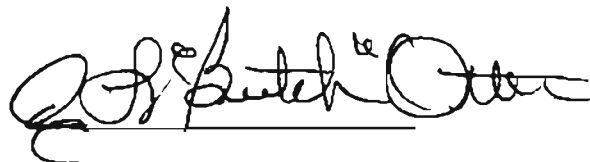
Steven Chu  
Secretary of Energy

Date: \_\_\_\_\_



Brian Schweitzer  
Governor of Montana  
Chair, Western Governors' Association

Date: \_\_\_\_\_



C.L. "Butch" Otter  
Governor of Idaho  
Vice-Chair, Western Governors' Association

Date: 6-15-09