



WGA Policy Resolution 04-02

Assessing the Risks of Terrorism and Sabotage Against High-Level Nuclear Waste Shipments to A Geologic Repository or Interim Storage Facility

June 22, 2004
Santa Fe, New Mexico

A. BACKGROUND

1. The Nuclear Waste Policy Act, as amended (NWPA) provides for the siting and construction of a repository for spent nuclear fuel and high-level radioactive wastes (HLW) and for the transportation of spent fuel and HLW from over 100 generator sites around the country to the repository.
2. The U.S. Department of Energy (DOE), working cooperatively with the states and tribes through DOE's Senior Executive Transportation Forum, adopted the Radioactive Material Transportation Practices Manual in September 2002. These practices are based in large measure on WGA's Safe Transportation Protocols for the Waste Isolation Pilot Plant program and define the processes, roles and responsible parties for the planning, emergency response preparation and operation of radioactive material shipments being transported by DOE and its contractors.
3. The NWPA directs the U.S. Department of Energy (DOE) to transport spent fuel and HLW in casks certified by the U.S. Nuclear Regulatory Commission (NRC) and to conduct transportation operations in accordance with NRC regulations.
4. Thousands of shipments of spent nuclear fuel and high-level radioactive waste will affect at least 43 states and hundreds of cities throughout the country over a 25 - 30 year period.
5. In the Draft and Final EIS for Yucca Mountain, DOE acknowledged a low probability that spent fuel shipping casks are potentially vulnerable to terrorist attack and sabotage. Cleanup requirements from a successful sabotage or terrorism incident would likely be similar to a worst-case transportation accident.
6. NRC contractor reports prepared in the late 1970s estimated that sabotage of a spent fuel shipment in an urban area could result in hundreds of early fatalities, thousands of latent cancer fatalities and economic losses in the billions of dollars. In 1979, the NRC promulgated regulations (10 CFR 73) to safeguard shipments from sabotage and terrorism.
7. NRC proposed a reduction in regulatory safeguards in 1984 and solicited public comments, many of which were highly critical of the NRC's technical analysis

and Western Governors' Association rulemaking proposal. The NRC's analysis failed to consider the economic, social and psychological impacts of a successful terrorist attack. With no public explanation, the NRC allowed the proposed rule to lapse in 1987.

8. Events since 1984, especially the increasing lethality of terrorist attacks in the United States such as the World Trade Center and Oklahoma City bombings and the attacks in New York and Washington, DC on September 11, 2001, argue for a new, more comprehensive assessment of the risk of terrorism and sabotage against repository shipments.
9. After September 11, 2001, the NRC revised homeland security and safeguard measures for transportation of spent fuel and other radioactive materials while it conducts additional evaluations. The NRC is in the process of completing a vulnerability study for spent fuel transportation containers.
10. To ensure the adequacy of homeland security and safeguard measures for the transportation of spent fuel and HLW, NRC should complete, and revise as necessary, a meaningful terrorism consequence assessment. Assessment assumptions should be consistent with information about the weapons currently available and likely to become available to potential adversaries and the technical and tactical expertise of potential adversaries.

B. GOVERNORS' POLICY STATEMENT

1. The NRC should reexamine the issue of terrorism and sabotage against spent nuclear fuel and high-level radioactive waste shipments in order to determine the adequacy of the current physical protection regulations under 10 CFR 73, and in order to prepare a legally sufficient environmental impact statement as part of the NRC licensing process for a geologic repository or an interim storage facility.
2. The NRC should conduct a comprehensive assessment of the consequences of attacks that have the potential for radiological sabotage, including attacks against transportation infrastructure used by nuclear waste shipments, attacks involving capture of a nuclear waste shipment and use of high energy explosives against the cask, and direct attacks upon a nuclear waste shipping cask using antitank missiles.
3. The NRC should conduct the comprehensive reassessment of terrorism/sabotage consequences in a forum conducive to meaningful participation by all affected stakeholders, including the creation of a stakeholder advisory group to assist the NRC in this task, and publish a full report on all unclassified findings of its consequence reassessment.
4. DOE should incorporate terrorism/sabotage risk management and countermeasures in all DOE transportation plans, protocols, and practices relating

to operation of a repository, interim storage facility, and/or intermodal transfer facility, including liability for costs and damages resulting from terrorism/sabotage against nuclear waste shipments.

C. GOVERNORS' MANAGEMENT DIRECTIVE

1. This resolution is to be posted on the Western Governors' Association website and it should be referenced and used as appropriate by Governors and staff.
2. The WGA, 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.

This resolution was originally adopted as Policy Resolution 98 - 008.