



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20555

MAY 14 1980

Ref:SA/ECA

MEMORANDUM FOR: Donald A. Nussbaumer, NMSS  
Guy Cunningham, ELD

FROM: G. Wayne Kerr, Assistant Director  
for State Agreements Program, SP

SUBJECT: NEW MEXICO RADIATION PROTECTION REGULATION 3-800,  
"SPECIFIC LICENSE - TRANSPORTATION OF NUCLEAR WASTE  
ON THE HIGHWAYS"

Enclosed is the subject regulation. Please review this in regard to NRC responsibility for routing of shipments of nuclear waste including spent fuel and provide us with your comments by c.o.b. May 23, 1980. Also enclosed is the New Mexico Statute which mandated the State's Environmental Improvement Board to promulgate this regulation.

A handwritten signature in cursive script that reads "G. Wayne Kerr".

G. Wayne Kerr  
Assistant Director  
for State Agreements Program  
Office of State Programs

Enclosures:  
As stated

cc: Lee Santman, U.S. DOT

8005290623

State of New Mexico  
Environmental Improvement Board  
Crown Building, P. O. Box 968  
Santa Fe, New Mexico 87503

EIB/Rad Prot. Reg. 3-800.

RADIATION PROTECTION REGULATION 3-800.

3-800. SPECIFIC LICENSE - TRANSPORTATION OF NUCLEAR WASTE ON THE HIGHWAYS.--

A. For the purpose of 3-800:

1. "Nuclear waste" means any equipment or material, except tailings or other wastes resulting from mining or milling processes, resulting from nuclear activities, which emits ionizing radiation and has a concentration of at least one microcurie per gallon or cubic foot and for which there is no further use at the time of transport, and includes, but is not limited to:

a. materials associated with the operation and decommissioning of nuclear reactors and the supporting fuel cycle;

b. spent fuel if it is to be discarded or stored for an extended period of time;

c. fuel reprocessing wastes;

d. radionuclides removed from process streams or effluents;

and

e. materials contaminated with radioisotopes including discrete radium sources;

but does not include weapons grade material which is under the exclusive control of the United States.

2. "Weapons grade material" means reprocessed plutonium and highly enriched uranium suitable for fashioning into atomic bombs.

3. "Carrier" means any person engaged in the transportation of passengers or property, as common, contract, or private carrier, or freight forwarder, as those terms are defined and used in the amended Interstate Commerce Act, or the U.S. Post Office.

4. "Incident" means the release or threatened release to the environs of any nuclear waste during the process of transportation in New Mexico.

B. A specific license is required of the carrier to transport nuclear waste on the highways into, from, within or through the State of New Mexico.

C. The applicant for such a specific license shall provide to the Division an application on a form prescribed by the Division including:

1. A statement that the licensee is in compliance with all applicable laws and regulations of the federal government including, but not limited to, regulations of the Department of Transportation and the Nuclear Regulatory Commission;

2. Evidence that the licensee has and will retain during the license period sufficient financial resources to insure payment for clean up of any nuclear waste released by the licensee during transport in New Mexico to a level as low as is reasonably achievable; and

3. A statement of the origin, destination, proposed routes to be used, expected frequency of shipments, and the nature of nuclear waste, including radioactive isotopes, physical form, specified activity, and maximum quantity per shipment, to be transported through New Mexico.

D. The Director, in approving routes for the transport of nuclear waste in accordance with these regulations, shall consult with affected local political subdivisions and the state transportation department.

E. To promote the objective of travel in the safest possible manner, vehicles carrying nuclear waste shall, to the extent practicable:

1. travel on interstate highways;
2. use routes that minimize travel time;
3. avoid:

a. traveling through or near heavily populated areas where bypasses are available;

b. tunnels, narrow streets, and alleys;

c. areas where large numbers of people would be close to the vehicle;

d. stops in populated areas;

e. hazardous road conditions due to climatic or structural conditions.

F. The Director shall preserve confidentiality of schedules of shipments, and points of origin and destination, if the Director determines that such confidentiality is in the public interest.

G. Incidents as defined in 3-800 A.4. involving nuclear waste shall be reported by the carrier to the Division verbally as soon as practicable after the incident and in writing within 24 hours after the incident.

H. 3-800 shall preempt any local ordinance or resolution which conflicts with this regulation.

I. 3-800 will become effective July 1, 1980.

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NEW MEXICO  
Regular Session

Chapter 377, Laws 1979

House Bill No. 39

AN ACT

1  
2 RELATING TO NUCLEAR WASTE; PROVIDING FOR THE REGULATION OF THE TRANS-  
3 PORTATION OF NUCLEAR WASTE; DECLARING AN EMERGENCY.

4  
5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

6 Section 1. NUCLEAR WASTE TRANSPORT--CONDITIONS--DEFINITION.--

7 A. The environmental improvement board shall have exclusive  
8 authority to promulgate regulations prescribing the conditions for  
9 transport of nuclear waste on the highways. Such conditions shall in-  
10 clude the conditions of transport that the environmental improvement  
11 board finds necessary to protect the health, safety and welfare of  
12 the citizens of the state, including routing criteria. The director  
13 of the environmental improvement division shall prescribe routes in  
14 accordance with the criteria set by the board after consultation with  
15 affected local political subdivisions and the transportation depart-  
16 ment. Such regulations shall preempt any local ordinance or resolu-  
17 tion which conflicts with the regulations of the environmental im-  
18 provement board. The environmental improvement board shall promulgate  
19 such regulations by January 1, 1980.

20 B. For the purposes of this section, "nuclear waste" means  
21 any equipment or material, except tailings or other wastes resulting  
22 from mining or milling processes, resulting from nuclear activities,  
23 which emits ionizing radiation and has a concentration of at least one  
24 microcurie per gallon or cubic foot and for which there is no further  
25 use at the time of transport, and includes, but is not limited to:

1 (1) materials associated with the operation and de-  
2 commissioning of nuclear reactors and the supporting fuel cycle;  
3 (2) spent fuel if it is to be discarded or stored for  
4 an extended period of time;  
5 (3) fuel reprocessing wastes;  
6 (4) radionuclides removed from process streams or ef-  
7 fluents; and  
8 (5) materials contaminated with radioisotopes includ-  
9 ing discrete radium sources;  
10 but does not include weapons grade material which is under the exclu-  
11 sive control of the United States.  
12 C. Nothing in this section shall be construed to alter the  
13 obligation of the state under the April 3, 1974 agreement between the  
14 state and the atomic energy commission for the discontinuance of  
15 certain commission regulatory authority and responsibility. =====

Approved, April 6, 1979