



The Navajo Nation **DR. BUU NYGREN** **PRESIDENT**
Yideeskáądi Nitsáhákees **RICHELLE MONTOYA** **VICE PRESIDENT**

August 29, 2024

Honorable Crystalyne Curley, Speaker
Office of the Speaker
Navajo Nation Council
P.O. Box 3390
Window Rock, AZ 86515

RE: An act relating to an emergency for the Navajo Nation Council; Amending the Radioactive and Related Substances, Equipment, Vehicles, Persons and Materials Transportation Act of 2012, the Navajo Nation Code Title 18, Chapter 12-A, to provide for the Protection, Health and Safety of the Navajo Nation People with regards to the Transportation of Radioactive and related Substances, Equipment, Vehicles, Persons and Materials over and across Navajo Nation Lands.

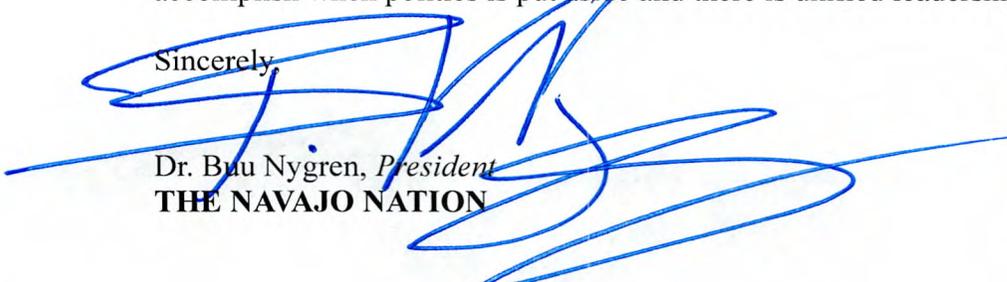
Dear Honorable Delegates of the 25th Navajo Nation Council:

Thank you to the Navajo Nation Council for unanimously approving this emergency legislation to amend and strengthen the Radioactive and Related Substances, Equipment, Vehicles, Persons and Materials Transportation Act of 2012 – I have been eager to sign this resolution into law.

On July 30, 2024, I was informed that Energy Fuels Resource, Inc. – without notifying Navajo officials – transported two semi-loads of uranium ore across the Navajo Nation. On that day, I took swift action to instruct our Navajo Division of Public Safety to intercept the trucks and turn them around. However, our DPS officials did not reach them in time. The next day, I issued an executive order to require an agreement be in place prior to the transportation of radioactive material through the Navajo Nation. With the assistance of Arizona Governor Katie Hobbs and Attorney General Kris Mayes, Energy Fuels agreed to halt transport until an agreement was in place.

I then met with Navajo Attorney General, who gathered industry experts and Navajo attorneys, to craft this legislation – thank you to the Navajo DOJ litigation team for their efforts. My office simultaneously worked with the Speaker and Delegate Casey Allen Johnson to ensure that consideration and passage of this legislation was made a priority. The purpose of this legislation is to provide for the protection, health and safety of the Navajo Nation and its people, and our precious resources such as our water. We know all too well the devastating impacts that uranium mining has caused on our communities and families. This is a great example of what we can accomplish when politics is put aside and there is unified leadership and one vision.

Sincerely,


Dr. Buu Nygren, *President*
THE NAVAJO NATION

RESOLUTION OF THE
NAVAJO NATION COUNCIL
25th NAVAJO NATION COUNCIL - SECOND YEAR, 2024

AN ACT

RELATING TO AN EMERGENCY FOR THE NAVAJO NATION COUNCIL; AMENDING THE RADIOACTIVE AND RELATED SUBSTANCES, EQUIPMENT, VEHICLES, PERSONS AND MATERIALS TRANSPORTATION ACT OF 2012, THE NAVAJO NATION CODE TITLE 18, CHAPTER 12-A, TO PROVIDE FOR THE PROTECTION, HEALTH AND SAFETY OF THE NAVAJO NATION PEOPLE WITH REGARD TO THE TRANSPORTATION OF RADIOACTIVE AND RELATED SUBSTANCES, EQUIPMENT, VEHICLES, PERSONS AND MATERIALS OVER AND ACROSS NAVAJO NATION LAND

BE IT ENACTED:

SECTION ONE. AUTHORITY

- A. The Navajo Nation Council is the governing body of the Navajo Nation. 2 N.N.C. § 102(A). As such, the Council may consider proposed legislation regarding an emergency matter, pursuant to 2 N.N.C. § 164(A)(16).
- B. "[M]atters constituting an emergency shall be limited to the cessation of law enforcement services, and disaster relief services, fire protection services or other direct services required as an entitlement under Navajo Nation or Federal law, or which directly threaten the sovereignty of the Navajo Nation. Such an emergency matter must arise due to the pressing public need for such resolution(s) and must be a matter requiring final action by the Council." 2 N.N.C. § 164(A)(16).

SECTION TWO. FINDINGS

- A. The purpose of this legislation is to provide for the protection, health and safety of the Navajo people, their guests and visitors, and the Navajo Nation environment, including its water resources.
- B. On July 30, 2024, uranium ore was shipped through the Navajo Nation without the prior consent of the Navajo Nation. Uranium ore transportation across the Navajo Nation without prior consent directly threatens the sovereignty of the Navajo Nation because it ignores Navajo Nation laws.
- C. The adverse impacts of radiation and uranium toxicity on the Navajo people and the environment are well known and must be guarded against by strict regulations to prevent exposures due to the transportation of uranium ore across the Navajo Nation.

- D. Renewed transportation of uranium ore across the Navajo Nation is imminent. There is a public need to address this issue immediately. The use of emergency legislative powers is warranted for the expedited protection of the Navajo people and the protection of Navajo Nation sovereignty due to this imminent threat.
- E. To address uranium ore transport across the Navajo Nation, this Act authorized the Navajo Nation Environmental Protection Agency to promulgate regulations implementing this Act. Due to the imminent threat of such transport, this amendment to Title 18, Chapter 12-a would authorize the Navajo Nation Environmental Protection Agency to issue interim regulations, attached as **Exhibit A**, to go into effect immediately to implement this Act. The interim regulations would expire in one year, during which period the Navajo Nation Environmental Protection Agency would engage in public notice and comment on the interim regulations and promulgate final regulations effective upon approval by the Resources and Development Committee.
- F. Until such time as the Navajo Nation Environmental Protection Agency promulgates regulations, any person or entity seeking to transport any uranium ore, yellowcake, radioactive waste or other radioactive products on or across Navajo Nation lands or otherwise within Navajo Indian country would be required to enter into an agreement with the Navajo Nation providing the terms and conditions for such transport, including routes, emergency plans, financial assurances, curfews and other travel restrictions, containment requirements, and fees.
- G. The Navajo Nation finds it to be in the best interest of the Navajo Nation, its citizens, guests and visitors to amend "The Radioactive and Related Substances, Equipment, Vehicles, Persons and Materials Transportation Act of 2012" in Title 18, Chapter 12-a.
- H. The Navajo Utah Commission through resolution NUCAUG-959-24 titled OPPOSING THE TRANSPORT OF URANIUM ORE ACROSS THE NAVAJO NATION TO THE WHITE MESA MILL NEAR BLANDING, UTAH, is attached as **Exhibit B**.

SECTION THREE. AMENDMENTS TO TITLE 18 OF THE NAVAJO NATION CODE

The Navajo Nation hereby approves amendments to the Navajo Nation Code, Title 18, Chapter 12-A, as follows:

NAVAJO NATION CODE
 TITLE 18. MINES AND MINERALS
 CHAPTER 12-A. THE RADIOACTIVE AND RELATED SUBSTANCES
 EQUIPMENT, VEHICLES, PERSONS AND MATERIALS TRANSPORTATION
 ACT OF 2012

§ 1304. Background, Findings, and Rationale

- A. The Navajo Nation opposes generally the transportation of radioactive and related substances, equipment, vehicles, persons and materials over and across Navajo Nation ~~lands~~Lands or otherwise over and across Navajo Indian Country, except for purposes of transporting uranium ore or product currently left within the Navajo Nation from past uranium mining or milling operations for disposal at an appropriate ~~facility~~long-term facility outside of Navajo Indian country or at an appropriate temporary facility within Navajo Indian country and approved by the Navajo Nation Environmental Protection Agency.
- ~~B. The Navajo Nation has the right to exclude nonmembers and to condition their entry onto Navajo Nation lands, and has the independent sovereign right and duty to protect the health, welfare and safety of the Navajo Nation and its citizens.~~
- ~~C. As a matter of federal law, Congress has plenary authority to regulate commerce with the Navajo Nation. Article III of the treaty between the United States of America and the Navajo Nation ratified on September 9, 1850 provides that the United States shall have the sole and exclusive right of regulating trade and intercourse with the Navajo Nation, and, in exchange, Article XI of the Treaty provides that the United States "shall so legislate and act as to secure the permanent prosperity and happiness of "the Navajo People." "Under that treaty and the second such treaty made and ratified in 1868, see 15 Stat. 667, "Congress has ... left the [Navajos] largely free to run the reservation and its affairs without state control," Warren Trading Post Co. v. Arizona State Tax Comm'n, 380 U.S. 685, 690 (1965), and the Navajo Nation has accepted the responsibility of governing its territory, see Kerr McGee Corp. v. Navajo Tribe of Indians, 471 U.S. 195, 200-201 (1985); Williams v. Lee, 358 U.S. 217, 223 (1959).~~
- ~~D. Under its constitutional authority, Congress defined "Indian Country" broadly in 1948, and applied that term to demarcate generally civil and criminal authority of states on the one hand and of the United States and Indian governments on the other, and rejected jurisdictional determinations based on~~

~~refinements of easement law by including all rights of way running through Indian reservations as "Indian country." See Richard B. Collins, *Implied Limitations on the Territorial Jurisdiction of Indian Tribes*, 54 Wash. L. Rev. 479, 527 & n.286 (1979).~~

~~E. The road system within Navajo Indian country includes Bureau of Indian Affairs roads, Navajo tribal roads, and State and county roads, all such roads and related rights of way being Navajo "Indian country" as defined by Congress for purposes of Navajo Nation civil and criminal jurisdiction.~~

B. ~~F.~~The Navajo People and the Navajo Nation government have been substantially harmed by the exploration for and mining, production, processing, milling and transportation of uranium ore, yellowcake and other radioactive products other than those used for medical purposes and shall hereinafter singly or in any combination be referred to as the "Products" on, near and through Navajo Indian Country~~country~~; such exploration, mining, production, processing, milling, and transportation of the Products to be referred hereinafter as the "Activities." Over 500 uranium mine sites were left abandoned in Navajo Indian country, four very large piles of uranium mill tailings are located on or adjacent to Navajo Nation ~~lands~~Lands or Navajo Indian Country in unlined areas leaching contaminants into surface and ground water supplies; Navajo people bore the brunt of the largest accidental release of radioactivity in the United States, see *UNC Resources, Inc. v. Benally*, 514 F. Supp. 358 (D.C. N.M. 1981); Navajo uranium miners in the Cold War era continue to suffer debilitating and lethal impacts from their service; planned uranium mining threatens scarce Navajo drinking water resources; and hazardous and other wastes contaminate the Navajo environment with no responsible person, corporation, or other governmental entity willing to clean up these wastes.

C. ~~G.~~Many Navajo Nation Chapters have expressed serious concerns about the Activities occurring within Navajo Indian ~~country~~Country.

~~H. The Navajo Nation finds it necessary and desirable to require that appropriate agencies of the Navajo Nation receive no less than four days advance notice by any carrier of any Products (as defined herein) who is intending to transport such Products on Navajo Nation lands or otherwise within Navajo Indian country, and that such notice be given in accordance with federal rules applicable to such notice to a state governor~~

~~and/or to local law enforcement officials in order that proper emergency measures may be taken by the Navajo Nation.~~

- D. ~~F.~~The Navajo Nation finds it necessary and desirable to ensure that any future Activities occurring within, on or over Navajo Nation Lands or Navajo Indian eountryCountry are performed in a manner that protects the Navajo Nation environment and water resources, the health and safety of Navajo citizens and guests and visitors alike, and the welfare of the Navajo Nation, and responsible regulation by Navajo agencies under Navajo law is the most appropriate manner to ensure such protection.
- E. ~~F.~~The Navajo Nation finds that the Navajo Nation Environmental Protection Agency should be authorized, after meaningful consultation with the Navajo Nation Division of Public Safety and subject to the approval of the Resources and Development Committee, to promulgate regulations to implement this Act, for developing and modifying reasonable license fees, bonding requirements, route restrictions, curfews and other terms and conditions for conducting any Activities on or across Navajo Nation ~~Landslands~~ or otherwise within Navajo Indian ~~eountryCountry~~.
- F. Until such time as the Navajo Nation Environmental Protection Agency promulgates regulations to implement this Act, and in order to address imminent threats of transport of Products on or across Navajo Nation Lands or otherwise within Navajo Indian Country, the Navajo Nation finds that the Navajo Nation Environmental Protection Agency should be authorized to issue interim regulations to implement this Act that shall go into effect immediately and expire in one year.
- ~~K.~~ ~~Nothing in this Act is intended, nor shall it be construed, to repeal, in whole or in part, the Diné Natural Resources Protection Act (DNRPA). In the event of any inconsistency between this Act and the DNRPA, the provisions of the DNRPA shall control.~~

§ 1305. Definitions

- A. "Activities" means exploration, mining, production, processing, milling and/or transportation of the Products as defined below.
- B. "Director" means the Executive Director of the Navajo Nation Environmental Protection Agency.

- C. ~~B~~- "Indian Country" shall have the same meaning as that term is defined in 18 U.S.C. § 1151.
- D. ~~C~~- "Navajo Indian Country" shall mean the territory over which the Navajo Nation has criminal, civil and regulatory authority, as defined in 7 N.N.C. § 254(A) ~~(2005) and as otherwise not limited by applicable federal law.~~
- E. ~~D~~- "Navajo Nation Landslands" means land held in trust for the Navajo Nation or any Band of the Navajo Nation by the United States, land owned in fee by the Navajo Nation, and Navajo trust allotments in which the Navajo Nation owns any undivided fractional beneficial interest.
- F. ~~E~~- "Products" means singly or in any combination uranium ore, yellowcake, radioactive waste and other radioactive products other than those used for medical purposes.
- G. "Uniform Regulations" means the Navajo Nation Environmental Protection Agency Uniform Regulations for Permit Review, Administrative Enforcement Orders, Hearings, and Rulemakings under Navajo Nation Environmental Acts.

§ 1306. Statement of Policy

- A. The Navajo Nation opposes generally the transportation of Products over, on, under and across Navajo Nation Landslands or otherwise over, under or across Navajo Indian Country, except for purposes of transporting Products currently left within the Navajo Nation from past Activities for disposal at a ~~an appropriate long term facility outside of Navajo Indian country or at an appropriate temporary facility within Navajo Indian country and approved by the Navajo Nation Environmental Protection Agency.~~ The Navajo Nation generally opposes the transportation over, on, under or across Navajo Nation Landslands or otherwise within Navajo Indian ~~country~~ Country of any equipment, vehicles, persons and materials to be used in conjunction with such current or future Activities where such Activities are conducted or to be conducted on or under the surface of or adjacent to Navajo Nation Landslands or where such Activities may affect surface or ground waters of the Navajo Nation.
- B. The Navajo Nation may permit and regulate transportation of Products pursuant to its right to protect the health, safety, welfare and environment of the Navajo Nation, its citizens, visitors and guests and pursuant to its right to exclude and

to condition entry of non-members onto Navajo Nation Landslands and other lands within Navajo Indian countryCountry.

§ 1307. Transportation Notice and Other Requirements

- A. No person or entity mayshall transport any Products on or across Navajo Nation Landslands or otherwise within Navajo Indian countryCountry unless such person or entity complies with the requirements of this section and applicable federal law.
- B. Such person or entity shall give at least fourseven days advance notice of its intent to transport any Products on or across Navajo Nation Landslands or otherwise within Navajo Indian countryCountry to the Executive Director of the Navajo Nation Environmental Protection Agency and to the Director of Public Safety.
- ~~C. Such notice shall be given in conformity with the procedures established under federal rules governing such notice to a state, governor and to local law enforcement officials in order that proper preparatory emergency measures may be taken by the Navajo Nation.~~
- C. ~~D.~~ Such notice shall be accompanied by a reasonable license fee; a showing that an emergency response plan and bonding or other insurance is in place adequate to protect the Navajo Nation in the event of a spill, disposal or accident; an adequate description of the route to be taken and the vehicles to be used in such transportation; adequate training requirements; and assurances that any Navajo Nation curfews for such transportation of any Products shall be honored.
- D. ~~E.~~ No person or entity mayshall transport across Navajo Nation Landslands any equipment, vehicles, persons or materials for the purpose of exploring for or mining, producing, processing, or milling any Products on or under the surface of or adjacent to Navajo Nation Landslands, or where such Activities may affect surface or ground waters of the Navajo Nation, without first:
1. Obtaining Navajo Nation consent and a federal grant of easement pursuant to the laws of the United States;
 2. Consenting in writing to the full subject matter and personal jurisdiction of the Navajo Nation; and

3. Agreeing to terms and conditions deemed reasonable and appropriate by the Navajo Nation. Such terms and conditions shall, at a minimum, include the clean-up and remediation in accordance with the more stringent of applicable federal or Navajo law, of any uranium contamination on any parcel of Navajo Nation Landslands that degrades the Navajo environment and/or poses a risk to the health and safety of Navajo citizens provided such person, entity, affiliate, subsidiary, partner, co-venturer, agent, contractor (including all subcontractors) or other related party, and/or proposed user of the right-of-way is, under any applicable Navajo or federal statute, regulation or order wholly or partially responsible for the clean-up of the contamination.

Notwithstanding the foregoing, this subsection (ED) shall not apply to the transport of any such equipment, vehicles, persons or materials over any federal, state, or county highway or road for which a right-of-way has been approved by the Navajo Nation and a grant of easement has been issued by the Secretary of the Interior or his or her authorized delegate.

E. ~~F.~~ The Navajo Nation Environmental Protection Agency shall issue, by posting on its website, interim regulations promulgate, after meaningful consultation with the Navajo Nation Division of Public Safety and subject to the approval of the Resources and Development Committee, regulations necessary or desirable to implement this section, including the establishment of establishing notice requirements, designation of reasonable license fees, emergency plans, bonding or other financial assurance requirements, route restrictions, and curfews, and other requirements for the transportation of any Products on Navajo Nation Landslands or otherwise within Navajo Indian eountry-Country. Due to exigent circumstances, such interim regulations shall be effective immediately upon posting in order to protect the health, safety, welfare, and environment of the Navajo Nation. The Navajo Nation Environmental Protection Agency will provide subsequent public notice and a 30-day comment period on the interim regulations in accordance with the Navajo Nation Environmental Protection Agency's Uniform Regulations. The Navajo Nation Environmental Protection Agency will promulgate the final regulations after such notice and comment, pursuant to Uniform Regulations § 407, and the final regulations will become effective after approval by the Resources and Development Committee, as provided therein. The final regulations will replace the interim regulations, provided, however, that which in any event shall expire automatically

one year after their posting even if final regulations have not yet become effective. Notwithstanding the foregoing, the minimum requirements of subsections (A) through (DE) of this section shall be self-executing and shall not require regulations in order to be effective as of the effective date of these amendments.

- F. Until the Navajo Nation Environmental Protection Agency posts interim regulations authorized under Subsection E of this section, any person or entity seeking to transport any Products on or across Navajo Nation Lands or otherwise within Navajo Indian Country shall enter into an agreement with the Navajo Nation providing the terms and conditions for such transport, including notice requirements, routes, reasonable license fees, emergency plans, bonding or other financial assurances, curfews, and other requirements. The regulations authorized under Subsection E shall not supplant any agreement entered into prior to their issuance.

§ 1308. Enforcement

- A. Administrative Enforcement. Whenever the Director finds that any person or entity has violated this Act or any regulations issued pursuant to this Act, the Director may issue and serve on such person or entity an order to comply, which may in addition impose civil administrative penalties.
1. An order to comply, including a penalty order, shall be issued pursuant to the Uniform Regulations Subpart 3, Part B.
 2. Hearings shall be provided pursuant to Uniform Regulations Subpart C.
 3. The Director may develop a field citation program pursuant to Uniform Regulations Subpart D.
 4. Judicial review of final administrative actions shall be provided pursuant to Uniform Regulations Subpart E.
- B. Judicial Enforcement. The Director may request the Attorney General to file an action for a temporary restraining order, a preliminary or permanent injunction, or any other relief provided by law, including the assessment and recovery of civil penalties of up to \$25,000 per day, whenever a person or entity has violated this Act or any regulations issued pursuant to this Act or is creating an imminent and substantial endangerment to public health or the environment because of a

release of a Product. Any such action shall be brought in the Navajo Nation District Court in Window Rock, and such court shall have jurisdiction to restrain such violation, require compliance, assess civil penalties, collect any fees or noncompliance penalties owed the Navajo Nation under this chapter, and award any other appropriate relief.

C. Other Enforcement. If a person or entity transports Products on or across Navajo Nation Lands or otherwise over, under or across Navajo Indian Country in violation of this Act or any regulations or orders issued thereunder, or without an agreement in place with the Navajo Nation, the person or entity may be escorted off the Navajo Nation by the Navajo Nation Department of Public Safety or the Navajo Nation Rangers, to ensure the health and safety of Navajo citizens and guests and visitors alike and the welfare of the Navajo Nation.

SECTION FOUR. EFFECTIVE DATE

The provisions of these amendments shall become effective in accordance with 2 N.N.C. § 221(B).

SECTION FIVE. CODIFICATION

The provisions of this legislation which add or amend sections of the Navajo Nation Code shall be codified by the Office of Legislative Counsel.

SECTION SIX. SAVING CLAUSE

If any provision of this legislation is held invalid by the Navajo Nation Supreme Court, or unappealable order of any court of competent jurisdiction, those portions of this Act which are not determined invalid shall remain in full force and effect.

CERTIFICATION

I, hereby, certify that the foregoing resolution was duly considered by the 25th Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona), at which a quorum was present and that the same was passed by a vote of 15 in Favor, and 00 Opposed, on this 26th day of August 2024.



Honorable Crystalyne Curley, Speaker
25th Navajo Nation Council

8/28/2024

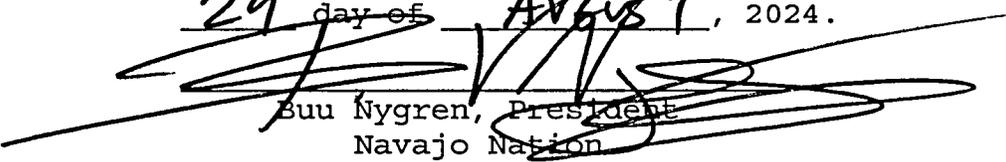
Date

Motion: Honorable George H. Tolth
Second: Honorable Carl R. Slater

Speaker Crystalyne Curley not voting

ACTION BY THE NAVAJO NATION PRESIDENT:

1. I, hereby, sign into law the foregoing legislation, pursuant to 2 N.N.C. § 1005 (C)(10), on this 29 day of AUGUST, 2024.



Buu Nygren, President
Navajo Nation

2. I, hereby, veto the foregoing legislation, pursuant to 2 N.N.C. § 1005 (C)(11), on this _____ day of _____, 2024 for the reason(s) expressed in the attached letter to the Speaker.

Buu Nygren, President
Navajo Nation



**NAVAJO NATION ENVIRONMENTAL PROTECTION AGENCY
REGULATIONS FOR THE TRANSPORTATION OF RADIOACTIVE MATERIALS
INTERIM REGULATIONS**

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Part 1. General Provisions

101. Purpose, Applicability, and Authority.

A. Purpose.

(1) The purpose of these regulations is to minimize or prevent harm to the Navajo people, other residents of and visitors to the Navajo Nation, and the Navajo Nation's natural resources and environment from the transportation of radioactive materials, as that term is defined in Section 102 of these regulations. The Navajo people disproportionately suffered and continue to suffer from the radioactive and non-radioactive health impacts of uranium, including uranium chemical toxicity, resulting in damage to major body organs and other adverse health and cultural impacts. It is a priority of the Navajo Nation to avoid exacerbating issues related to exposure to uranium and other hazardous materials. Licensing, routing, and advance notice of motor vehicles transporting hazardous materials and other related requirements are therefore matters of grave concern to the Navajo people, and these regulations are promulgated to protect the public health, peace, safety, and welfare on the Navajo Nation.

(2) These regulations have been developed in consideration of the Navajo Nation's rural nature, range of elevations, weather conditions, road conditions, capacity of emergency personnel, and jurisdictional issues.

(3) The Navajo Nation intends to regulate the transport of other hazardous materials in the future as resources allow, but regulation of the transport of radioactive materials, including radioactive and related substances that can cause uranium chemical toxicity, presents an imminent threat to the Navajo Nation given nearby uranium mining and other circumstances leading to the transport, now and in the future, of radioactive materials across the Navajo Nation.

B. Applicability. These regulations apply to the transportation of radioactive materials. Transportation of equipment, vehicles, persons and materials used in conjunction with the exploration, mining, production, processing, milling or transporting of uranium or other radioactive materials across the Navajo Nation is subject to the provisions of the Radioactive and Related Substances Equipment, Vehicles, Persons and Materials Transportation Act of 2012 ("RMTA"), CF-18-12, 18 N.N.C. § 1307(E).

C. Authority. The Director of the Navajo Nation Environmental Protection Agency ("NNEPA") has the authority to promulgate these regulations pursuant to the RMTA and the Navajo Nation Comprehensive Environmental Response, Compensation, and Liability Act ("NNCERCLA"), 4 N.N.C. §§ 2101-2805. These regulations are consistent with and do not conflict with the federal Hazardous Materials Transportation Uniform Safety Act of 1990 ("HMTUSA"), as amended, 49 U.S.C. §§ 5101-5128, and its implementing regulations. These regulations will be implemented by the NNEPA Superfund Program.

D. Release from NNCERCLA Registration and Fees. Transporters that comply with the licensing and fee provisions contained in these regulations shall be deemed to have also complied with the registration and fee provisions applicable to transportation of hazardous substances under NNCERCLA, 4 N.N.C. § 2703.

E. Incorporation by Reference: All references in these regulations to federal regulations codified in Titles 10 and 49 of the Code of Federal Regulations are hereby incorporated by reference and include those regulations as they may be revised in the future.

102. Definitions

A. *Consumer Price Index* means, for any calendar year, the average of the Consumer Price Index for all urban consumers, as published by the U.S. Department of Labor.

B. *Director* means the Executive Director of the Navajo Nation Environmental Protection Agency or his or her delegate.

C. *Highway route controlled quantity* means a quantity of radioactive materials within a single package that exceeds:

(1) 3,000 times the A_1 value of the radionuclides as specified in 49 C.F.R. §173.435 for special form Class 7 (radioactive) material;

(2) 3,000 times the A_2 value of the radionuclides as specified in 49 C.F.R. §173.435 for normal form Class 7 (radioactive) material; or

(3) 1,000 TBq (27,000 Ci), whichever is least. [TBq = Terabecquerels; Ci = curies]

D. *Navajo Nation* for purposes of these regulations and when referring to the Navajo Nation's territorial jurisdiction means Navajo Indian Country, according to the definition of "Indian country" in 18 U.S.C. § 1151, and Navajo fee land.

E. *NRC-licensed material* means byproduct, source, or special nuclear material received, possessed, used, or transferred under a general or specific license issued by the U.S. Nuclear Regulatory Commission ("NRC") pursuant to 10 C.F.R. Part 71.

F. *Person* has the same meaning as defined in NNCERCLA, 4 N.N.C. § 2104(Z).

G. *Radioactive material* means uranium ore, yellow cake, radioactive waste, and any material containing radionuclides for which both the activity concentration and the total activity in the consignment exceed the values specified in the table in 49 C.F.R. § 173.436 or values derived according to the instructions in 49 C.F.R. § 173.433, and that are included in the definition of "hazardous substance" under NNCERCLA, 4 N.N.C. § 2104(Q). "Radioactive material" for purposes of these regulations excludes those materials that have the characteristic of radioactivity and are used for medical purposes.

H. *Shipment* means one truckful of radioactive materials.

I. *Transporter* means the person responsible for movement of radioactive materials subject to these regulations and for loading, unloading or storage incidental to transportation of radioactive materials.

103. Computation of Time.

In computing any period of time prescribed or allowed under these regulations, except as otherwise provided, the day of the event from which the designated period begins to run shall not be included. Saturdays, Sundays, and federal and Navajo Nation legal holidays shall be included only for periods longer than seven (7) days. When a stated time expires on a Saturday, Sunday or federal or Navajo Nation legal holiday, the stated time period shall be extended to include the next business day.

104. Preemption.

Nothing in these regulations shall be construed to be in conflict with any federal laws or regulations concerning the transportation of radioactive materials.

Part 2. Transportation Requirements

201. General Route Restrictions

A. Restriction to Preferred Routes. Except as otherwise permitted in this subsection and in Subsection B of this section, a transporter operating a motor vehicle carrying a highway route controlled quantity of radioactive materials, as defined in Section 102 of these regulations and 49 C.F.R. § 173.403(l), shall operate the motor vehicle only over preferred routes and only within the preferred route right-of-way.

(1) For purposes of these regulations, a preferred route is:

(a) a route designated by the Director, pursuant to Section 202 of these regulations and 49 C.F.R. § 397.103, for shipment of radioactive materials; and

(b) an Interstate System highway for which an alternative highway has not been designated by the Director pursuant to Section 202 of these regulations.

B. Exceptions. The motor vehicle may not be operated over a route other than a preferred route, nor otherwise leave the right-of-way, except under the following conditions:

(1) The deviation from the preferred route and right-of-way is required for an inspection or is essential to make necessary rest, fuel, or motor vehicle repair stops not available along the preferred route, or because emergency conditions make stopping on the preferred route unsafe or impossible.

(2) If the circumstances described in Paragraph (1) arise, the deviation shall be the shortest distance possible from the preferred route.

C. Transportation Plan. A person may transport irradiated reactor fuel only in compliance with a plan, as required under 49 C.F.R. § 173.22(c), that will ensure the physical security of the material. Variation for security purposes from the requirements of this section is permitted so far as necessary to meet the requirements imposed under such a plan or otherwise imposed by the NRC in 10 C.F.R. Part 73.

D. Preferred Route for Radioactive Materials below Highway Route Controlled Quantities. Except as provided in Subsection B of this section, a transporter operating a motor vehicle carrying radioactive material below highway route controlled quantities shall operate the motor vehicle only over Interstate System highways, unless the Director designates a different preferred route using the same procedures as specified in Section 202.

202. Designation by Director of Preferred Routes

A. Designation of Route.

(1) The Director may designate routes to minimize radiological risk and, in making such designation, shall use the standards and procedures provided in 49 C.F.R. § 397.103, including “Guidelines for Selecting Preferred Highway Routes for Highway Route Controlled Quantity Shipments of Radioactive Materials,” or an equivalent routing analysis that adequately considers overall risk to the public.

(2) In order to effect a route designation, the Director must promulgate the route designation as a regulation, pursuant to Subpart 4 (Uniform Procedures for Rulemaking) of the Navajo Nation Environmental Protection Agency Uniform Regulations for Permit Review, Administrative Enforcement Orders, Hearings, and Rulemaking under Navajo Nation Environmental Acts (“Uniform Rules”).

B. Consultation Requirements. Route designations shall be preceded by consultation with the Navajo Nation Division of Public Safety and, subsequently, with affected local jurisdictions, States, and Tribes to ensure consideration of all impacts and continuity of designated routes. The Director shall consult with the Navajo Nation Division of Public Safety prior to issuing the public notice of the proposed route designation that is required by Section 402 of the Uniform Rules. The Director may perform the subsequent consultations either prior to or during the public comment period provided for in Uniform Rules Subpart 4.

C. Alternative Routes. The Director may designate preferred routes as an alternative to, or in addition to, one or more Interstate System highways, including Interstate System bypasses and Interstate System beltways.

D. Listing of Preferred Routes. After concluding the consultation required by Subsection B of this section and finalizing a preferred route, and subject to approval by the Resources and Development Committee, the Director shall give written notice by certified mail, return receipt requested, to the Federal Motor Carrier Safety Administration, requesting that the preferred route be added to the National Hazardous Materials Route Registry.

203. Curfew and Other Travel Restrictions.

Transportation of radioactive materials may not occur during the Annual Navajo Nation Fair nor during any other Navajo fair in the vicinity of the preferred route and must occur between the hours of 9:00 a.m. and 3:00 p.m. Monday through Friday. Such transportation may not commence when travel is hazardous, such as due to heavy rain, ice, sleet, snow, fog, wind gusts over 50 mph, or other conditions adversely impacting traction or when visibility is less than 1,000 feet, or when there is highway maintenance or construction work. If such conditions arise during travel, travel shall be discontinued and shall not resume until the vehicle can be safely operated.

204. License and Fees.

A. Requirement for License; Fees. No transportation of radioactive materials shall take place in, to, from, or through the Navajo Nation without a license issued by the Director. Each license shall be valid for one year following its issuance and payment of a fee of four hundred fifty dollars (\$450). A copy of a license application is included as an attachment to these regulations. In addition to the license fee, each transporter of radioactive materials in, to, from, or through the Navajo Nation shall pay a two hundred dollar (\$200) fee for each shipment of radioactive materials. All fees shall be paid by mail in the form of a money order or certified check payable to NNEPA and submitted to the NNEPA Superfund Program at the address on the license application. Shipment fees shall be paid in advance for the upcoming year, after approval of the license and based on the information provided in the license application. Such fees shall be received prior to the first shipment of the year and are subject to adjustment by refund or additional invoicing after each year of operations based on the actual number of shipments for that year, provided, however, that if the transporter continually underestimates the number of shipments on the license application the Director may require more frequent payment of the shipment fee.

B. License Application. A license application must be submitted at least sixty (60) calendar days prior to the date a transporter seeks to begin shipments through the Navajo Nation. The Director will approve a license application if it is complete, the fee is paid, and it is timely submitted. The permit issuance provisions of Uniform Rules §§ 205-213 do not apply to licenses issued pursuant to this section. The NNEPA Superfund Program will maintain on its website a list of all licenses issued.

C. Modification or Termination. Licenses may be modified or terminated by the Director at the request of the transporter, for good cause shown, or pursuant to Section 302 of these regulations if the transporter has violated the provisions of these regulations.

D. Indexing. The fees described in this section shall increase automatically at the beginning of each calendar year following the effective date of these regulations to reflect any percentage increase by which the Consumer Price Index for the most recent year exceeds the Consumer Price Index for the year 2024.

E. Use of Fees. All fees received pursuant to this section shall be used for purposes related to the transportation of radioactive material, including enforcement activities and planning, developing, and maintaining capability for emergency response.

F. Denial of License. A license may be denied for (a) failure to satisfy safe driving requirements, including having no accidents for which the driver had some degree of responsibility within the past ten years; (b) failure to have at least five years' experience transporting hazardous materials, and (c) driving within the Navajo Nation without properly securing shipments of radioactive materials, including failure to transport radioactive materials in a manner that complies with federal requirements and that, under routine conditions of transport, ensures there will be no escape of the radioactive materials, including dust from such materials, from the conveyance nor any loss of shielding.

205. Financial Assurance.

All transporters must secure financial assurance in the form of a surety bond that meets the requirements of 49 C.F.R. Part 387. The surety bond must be issued by a surety company that is among those listed as acceptable sureties on federal bonds as set forth in Circular 570 of the U.S. Department of the Treasury. The minimum level of financial assurance required is five million dollars (\$5,000,000.00). A license will not be issued absent a surety bond meeting the requirements of this section.

206. Advance Notification of Shipment.

A. NRC-Licensed Materials. A transporter of NRC-licensed radioactive materials shall provide advance written notice of shipment to the Director and any other designated tribal official, consistent with NRC requirements.

(1) A notification delivered by mail must be postmarked at least seven (7) days before the beginning of the seven (7)-day period during which departure of the shipment is estimated to occur.

(2) A notification delivered by any other means than mail must reach the office of the Director at least four (4) days before the beginning of the seven (7)-day period during which departure of the shipment is estimated to occur.

B. DOE-Managed Materials. A transporter of radioactive materials managed by DOE or DOE contractors shall provide notice pursuant to DOE requirements or the terms of an agreement between DOE and the Navajo Nation.

C. Other Radioactive Materials. A transporter of radioactive materials that are not licensed by the NRC or managed by DOE shall provide advance notice of shipment to the Director and any other designated tribal official. Notice shall be received at least seven (7) days prior to the estimated date of the shipment.

207. Information to Be Furnished in Advance Notification of Shipment.

A. Contents of Notice. Each advance notification of shipment shall contain the following information:

(1) The name, address, and telephone number of the shipper, carrier, and receiver of the radioactive materials shipment;

(2) A description, including the quantity, of the radioactive materials contained in the shipment, as specified in the regulations of the United States Department of Transportation in 49 C.F.R. §§ 172.202 and 172.203(d), as applicable;

(3) The point of origin of the shipment and the seven (7)-day period during which departure of the shipment is estimated to occur;

(4) The seven (7)-day period during which arrival of the shipment at Navajo Nation boundaries is estimated to occur;

(5) A description of the route to be taken and the vehicles to be used;

(5) The destination of the shipment, and the seven (7)-day period during which arrival of the shipment is estimated to occur; and

(6) A point of contact, with a telephone number, for current shipment information.

B. Changes to Notice.

(1) A transporter who finds that schedule information previously furnished under § 206 and this section will not be met shall telephone the Director and provide information on the extent of the delay beyond the schedule originally provided.

(2) A transporter who cancels a radioactive materials shipment for which advance notification has been provided shall telephone the Director and send a cancellation notice to the Director and any other designated tribal official. The transporter shall state in the notice that it is a cancellation and identify the advance notification that is being canceled. The transporter shall retain a copy of the notice as a record for three (3) years.

208. Emergency Response Activities.

A. In the event of an emergency, hazard, unanticipated unsafe weather conditions, or other circumstances that may require a response by public safety personnel, the transporter shall immediately notify the Navajo Nation Police Department.

B. In the event of a release of radioactive material, transporters shall comply with all directions from emergency response personnel, including from the Navajo Nation Department of Public Safety, NNEPA, and other emergency personnel, and shall comply with all applicable federal and Navajo laws to address the release.

C. All transporters shall have an emergency response plan on file with the Director. Transporters also shall provide copies to the Director of all transportation safety and security plans required by federal regulation.

209. Containment Requirements.

Transporters of radioactive materials within the Navajo Nation shall properly secure shipments of radioactive materials in a manner that complies with federal requirements and that, under routine conditions of transport, ensures there will be no escape of the radioactive materials, including dust from such materials, from the conveyance nor any loss of shielding.

210. Exemptions.

These regulations do not apply to transporters who are moving radioactive material to a regional repository or between sites subject to a combined response or remedial action pursuant to the federal Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”) § 104(d)(4), 42 U.S.C. § 9604(d)(4), as those terms are defined by NNCERCLA or CERCLA, except for the following provisions: Sections 206-207 (notice); 208 (emergency response); 209 (containment); 301 (administrative penalties); and 305 (judicial enforcement).

Part 3. Enforcement

301. Orders to Comply.

A. Whenever the Director finds that any person has violated or is violating the RMTA, these regulations, or a license issued under the Act or these regulations, the Director may issue and serve on such person an order that requires the Respondent to comply with the requirement or to cease and desist from the activity that allegedly violates the requirement. Consistent with the RMTA, 18 N.N.C. § 1308(A), the order will be issued pursuant to Uniform Rules Subpart 3, Part B. The order may include an assessment of administrative penalties pursuant to Section 302 of these regulations. An administrative hearing will be provided pursuant to Uniform Rules Subpart 3, Part C. Judicial review of administrative orders will be provided, pursuant to Uniform Rules Subpart 3, Part E, in the Navajo Nation District Court in Window Rock.

302. Administrative Penalties.

A. The Director may assess an administrative penalty for violations of these regulations, including but not limited to licenses issued under these regulations, as provided in the RMTA and Uniform Rules § 304(a)(3). In determining the amount of the administrative penalty assessed under this section, the Director shall take into account the factors enumerated in Uniform Rules § 304(a)(3)(C).

B. Pursuant to Uniform Rules § 304(b)-(c), proposed fines, fees or other penalties shall be issued in writing by the Director, shall state the specific violation, shall explain the basis for the penalty amount, and shall state that the alleged violator is entitled to a hearing.

C. Failure to pay fines, fees or penalties in a timely manner shall result in the imposition of interest on the penalty amount, which shall be equal to the United States Internal Revenue Service interest rate on underpayments for corporations and shall begin to accrue one (1) month after the fines, fees or penalties are assessed. In addition to such penalty and interest, the Director's enforcement expenses, including but not limited to attorney's fees and costs of collection proceedings, shall be imposed, provided that such expenses shall be reasonable, justified, and subject to approval by the Navajo Nation courts.

D. Failure to pay fines, fees, or penalties may result in assessment of a nonpayment penalty, not to exceed ten percent (10%) of the aggregate amount of the outstanding fines and nonpayment penalties (but not interest) accrued as of the beginning of each quarter of non-payment.

E. Fines, fees, or other penalties imposed under this section shall be subject to the NNEPA hearing and appeal procedures afforded by Subpart 3 of the Uniform Rules and the judicial review provisions in Uniform Rules § 332, subject to Subsection F of this section.

F. Failure to request a hearing on penalties imposed under this section within thirty (30) days, in accordance with the Uniform Rules, shall result in a final decision. Final decisions that have not been appealed through NNEPA are not subject to judicial review. If a timely request for a hearing is made, the penalty shall become final upon the decision of the Director.

303. Modification, Revocation and Reissuance, or Termination of License

A. Violations of these regulations or other applicable laws and regulations, including but not limited to failure to pay fees or penalties or failure to meet financial assurance requirements, may result in modification, revocation and reissuance, or termination of a license.

B. If the Director determines that a license should be modified, revoked and reissued, or terminated, the Director will follow the procedures in Uniform Rules §§ 204-213, as applicable. Judicial review of the Director's final action is available, pursuant to Uniform Rules § 214, in the Navajo Nation District Court in Window Rock.

C. Any disputes related to licenses issued under these regulations, conduct authorized by a license issued under these regulations, or violations of any such license shall be brought, if at all, in the Navajo Nation courts.

D. The grounds for denial of a license described in Section 204(F) of these regulations are also grounds for modification, revocation and reissuance, or termination of a license pursuant to this section.

304. Inspections

A. Any officer, employee or representative designated by the Director including, with the agreement of the Director of the Navajo Nation Division of Transportation, any officer, employee or representative of that Division, is authorized to inspect the transporters and their motor vehicles subject to these regulations within the Navajo Nation. Transporters' motor vehicles may be inspected even if declared to be empty to ensure they are clean and that any remaining radioactive material is properly contained. Inspections will be conducted in a manner that does not create an obstacle nor cause unnecessary delay to transportation, such as inspections upon entry into the Navajo Nation or spot inspections along the transportation route.

B. If consent is not granted for an inspection requested pursuant to this section, the Director may issue an order directing compliance with the request. The order may be issued after such notice and opportunity for a hearing as is reasonably appropriate under the circumstances. The Director may ask the Navajo Nation Attorney General to commence a civil action to compel compliance with any such request or order.

305. Escorts and Blessings

Escorts for NRC-licensed and DOE-managed materials shall be provided consistent with federal requirements. Escorts for highway route controlled quantities shall be provided consistent with transportation security plan risk assessments required by 49 C.F.R. § 172.802, which must address unauthorized access and en route security. Additionally, to protect the health, peace, safety, and welfare of the Navajo Nation or the safety of the transporter, due to special circumstances that might affect the transport, the Director may require in writing (including email) a shipment of radioactive materials to be accompanied by an escort. Additionally, an opportunity must be provided for each shipment to be blessed by a medicine person at an inspection location. These requirements will be implemented so as to cause minimal if any delay and no obstacle to the transport.

306. Judicial Enforcement

Violations of these regulations, including failure to pay penalties assessed pursuant to these regulations, may be subject to judicial enforcement pursuant to the RMTA.

307. Severability

If any part of these regulations, or application of these regulations to certain situations or persons, is held to be invalid, the remainder of these regulations or their application to other situations or persons shall not be affected.

Reason for Filing (select only one):

- New Application Annual Update or Changes Out of Business Notification Reapplication
(after revocation or termination)

1. Legal Business Name: _____

2. Doing Business as Name (if different from Legal Business Name): _____

3-7. Principal Place of Business:

3. STREET ADDRESS/ROUTE NUMBER 4. CITY 5. STATE/PROVINCE 6. ZIP CODE 7. COLONIA (Mexico only)

8-12. Mailing Address:

Same as Principal Address

3. STREET ADDRESS/ROUTE NUMBER 4. CITY 5. STATE/PROVINCE 6. ZIP CODE 7. COLONIA (Mexico only)

13-15. Contact Numbers:

13. PRINCIPAL BUSINESS PHONE NUMBER 14. PRINCIPAL CONTACT CELL PHONE NUMBER 15. BACK-UP CONTACT PHONE NUMBER

16-19. Identification Numbers (as applicable):

16. USDOT NUMBER 17. MC OR MX NUMBER 18. DUN & BRADSTREET NUMBER 19. IRS/TAX ID NUMBER
(if no USDOT number)

20. E-Mail Address: _____

21. Carrier Mileage: Enter the total mileage of all transport vehicles in the company's operation to the nearest 10,000 miles for the previous 12 months. If the company has been in operation fewer than 12 months, enter mileage operated to date. If the company has not operated within the last 12 months, enter 0: _____

22. Company Operations (check all that apply):

- Interstate Carrier Radioactive materials Intrastate Carrier Radioactive materials Interstate Shipper Radioactive materials Intrastate Shipper Radioactive material

23. Description of and Duration of Operations: Describe your operations and the nature and quantity of radioactive materials you anticipate transporting in, to, from, or through the Navajo Nation (attach additional pages if necessary). Please make sure to list the months or years you intend to conduct this transport.

24. Number of Vehicles that Will Be Operated in the Navajo Nation:

	Straight Trucks	Truck Tractors	Trailers	Hazmat Cargo Tank Trucks	Hazmat Cargo Tank Trailers
Owned					
Leased for Term					
Leased by Trip					

25. Total number of drivers transporting radioactive materials in, to, from, or through the Navajo Nation during the operations described in Paragraph 23:

26. If your company does not have a USDOT number, how many accidents as defined in 49 C.F.R. § 390.5 or resulting in exposure of the public or environment to radioactive materials has your company, including its employees, contractors, and agents, had in the past 365 days?

27. How many accidents as defined in Paragraph 26 has your company had in the past 10 years?

28. Was your company partially or totally at fault for any such accident?

29. How many years has your company transported radioactive materials? If fewer than 5 years, your application may be denied.

30. Is your company required by any state(s) to have a permit or license for transporting radioactive materials? (please check one):

Yes No

31. If your answer to question 30 is yes, list the state(s) in which your company has the permit or license and provide your permit/license number or identifying information, as applicable (attach additional pages if necessary):

32. Name and title of Sole Proprietor or Officer(s) in charge of radioactive materials transportation (e.g., president, treasurer, general partner, limited partner):

1. _____
 First Name Middle Initial Last Name Title
 (please print)

2. _____
 First Name Middle Initial Last Name Title
 (please print)

33. Certification statement (to be completed by authorized company official):

#

I certify that I am familiar with the Navajo Nation Regulations for the Transportation of Radioactive Materials and the Federal Hazardous Materials Regulations addressing the transportation of radioactive materials. I certify that the motor carrier I represent will comply with those regulations and consents to Navajo jurisdiction over all matters covered by the Navajo Nation Regulations for the Transportation of Radioactive Materials, and that I have the authority to so bind the motor carrier I represent. Under penalties of perjury, I declare that the information entered on this license application is, to the best of my knowledge and belief, true, correct, and complete.

Printed Name: _____

Signature: _____

Title: _____ Date: _____

#

License Application Fee

Any transporter responsible for the movement of radioactive materials in, to, from, or through the Navajo Nation must obtain an annual license and pay a \$450 annual license fee. This fee is valid for calendar year 2024 and will be updated annually to reflect inflation. The current license fee and the shipment fee described below are published on the NNEPA website: <https://navajoepa.org/>.

License applications must be submitted at least 60 calendar days before the date a transporter seeks to begin shipments in the Navajo Nation. An approved license is valid for one year and may be renewed annually. License fees are not refundable and shall be submitted together with the license application, including applications for renewal. For more information, please consult the Navajo Nation Regulations for the Transportation of Radioactive Materials or contact the Navajo Nation EPA Superfund Program at (928) 871-6859.

Mail the original completed application and license fee to:

Navajo Nation Environmental Protection Agency
Superfund Program
P.O. Box 339
Window Rock, AZ 86515

Your application will not be processed without all of the following:

- Complete and accurate entries
- License application fee (make money order or certified check payable to the Navajo Nation Environmental Protection Agency)
- Original authorized signature on the Certification Statement (Paragraph 33 above)
- Proof of Financial Responsibility

Financial responsibility

All transporters must secure financial assurance in the form of a surety bond that meets the requirements of 49 C.F.R. Part 387. The minimum level of financial assurance required is \$5,000,000. A license will not be issued absent a surety bond meeting the requirements of this section. Proof of this bond must be submitted with this application.

Shipment Fee

In addition to the annual license fee, each transporter is required to pay a \$200 fee (as of calendar year 2024) for each shipment of radioactive materials. A "shipment" means one truckful of radioactive materials. The fee may be updated annually to reflect inflation and is published on the NNEPA website, <https://navajoepa.org/>. Shipment fees shall be paid in advance for the upcoming year, after approval of the license and based on the information provided in Paragraphs 23-24. Such fees are subject to adjustment by refund or additional invoicing after each year of operations based on the actual number of shipments for that year. Mail fees to the NNEPA Superfund Program address above, postmarked no later than 14 days before the shipment. Make certified checks or money orders payable to the Navajo Nation Environmental Protection Agency.

Advance Notification of Shipment

Anyone transporting radioactive materials must provide NNEPA with advance written notice of shipment, as required by Section 206 of the Navajo Nation Regulations for the Transportation of Radioactive Materials.

Curfew

Transportation of radioactive materials must occur between the hours of 9:00 a.m. and 3:00 p.m., Monday – Friday, and may not commence or must be discontinued when travel is hazardous or during the Annual Navajo Nation Fair, as provided in the Navajo Nation Regulations for the Transportation of Radioactive Materials.

Containment Requirements

Transporters of radioactive materials within the Navajo Nation must properly secure shipments of radioactive materials in a manner that complies with federal requirements and that, under routine conditions of transport, ensures there will be no escape of the radioactive materials, including dust from such materials, from the conveyance nor any loss of shielding.

Questions

If you have questions about this application, please contact the NNEPA Superfund Program at:

Phone: (928) 871-6859

Fax: (928) 871-7333

For NNEPA Use Only:

Based on the information in this license application, receipt of the license application fee, and the requirements in the Navajo Nation Regulations for the Transportation of Radioactive Materials, I hereby:

_____approve _____disapprove

this license application.

Printed Name: _____

Signature: _____



**RESOLUTION OF THE
NAVAJO UTAH COMMISSION
OF THE NAVAJO NATION COUNCIL**

NUCAUG-959-24

**OPPOSING THE TRANSPORT OF URANIUM ORE ACROSS THE NAVAJO NATION
TO THE WHITE MESA MILL NEAR BLANDING, UTAH.**

Whereas:

1. The Navajo Utah Commission is a governmental subdivision of the Navajo Nation and is subject to oversight of the Navajo Nation Council's Naabik'iyá'ti' Committee pursuant to no. NABIAP-21-15; and
2. The Navajo Nation has a government-to-government relations with the United States of America, as per the Treat of 1868, Jun 1, 1868, 15 Stat. 667, in its political status as a federally recognized Tribe; and
3. The Navajo Utah Commission recognizes the importance of the protection of the health and safety of our citizens, as well as the protection of our homes and our lands and the Navajo Utah Commission is committed to protecting the health and safety of our members and their homelands; and
4. Utah Navajos have a very long and horrendous historic relationship with uranium mining, milling and transportation on the Utah portion of the Navajo Nation in San Juan County, Utah; and
5. The uranium boom left behind hundreds of abandoned uranium mines, vast swaths of contaminated soil, contaminated surface water and irreparably contaminated ground water, and worst of all, mine and mill workers with cancers and other illnesses; and
6. The atrocities of the uranium boom were not confined to the mining era, as the contaminated soils and water continue to exist today, contaminations that currently endanger the health and well-being of Utah Navajo families, their livestock and their homes; and
7. Community members have expressed concerns about the transport of uranium ore across the Navajo Nation, and especially across the Utah portion of the Navajo Nation, and specifically about the oversight, safety and continued contamination from uranium ore that has plagued Navajo families for generations; and

8. The Navajo Utah Commission is extremely and personally aware of the significant negative long-term and generational health impacts to our People from the mining, milling and transporting of uranium ore, and the extensive environmental impacts to our lands and water that the Dine` have suffered from these hazardous activities near our homes and communities; and
9. The Dine` Natural Resources Protection Act of 2005, was enacted by the Navajo Nation Council pursuant to Resolution No. CAP-18-05 prohibiting uranium mining and processing on Navajo lands, reflecting the Navajo Nation's commitment to safeguarding its people, land, water, and culture from additional harms posed by the mining of uranium; and
10. The Radioactive and Related substance Equipment, Vehicles, Persons, and Materials Transportation Act of 2012 at 18 N.N.C. § 1304 (A) states: "The Navajo Nation opposes generally the transportation of radioactive and related substances, equipment, vehicles, persons and materials over and across Navajo Nation lands, except for purposes of transporting uranium ore or product currently left within the Navajo Nation from past uranium mining or milling operations for disposal at appropriate long-term facility outside of Navajo Indian country or at an appropriate temporary facility within Navajo Indian country and approved by the Navajo Nation Environmental Protection Agency."; and
11. Pursuant to Resolution No. CAP-23-24, enacted on April 16, 2024, the Navajo Nation Council urge President Joseph R. Biden, the White House, members of Congress, and relevant federal agencies to publicly support legislative measures that reinforce tribal sovereignty and enable the Navajo Nation to enforce its laws and protect its people from the risks associated with uranium transport; and
12. Navajo Nation President Buu Nygren issued Executive Order No. 05-2024 on July 31, 2024 with the order indicating the Navajo Nation has the inherent authority to regulate transportation of radioactive materials to protect the health, safety, welfare and environment of the Navajo Nation and its citizens, visitors, and guests.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Navajo Utah Commission hereby opposes any transport of uranium ore across the Navajo Nation and specifically across the Utah portion of the Nation.

CERTIFICATION

We, hereby certify that the foregoing resolution was duly considered by Navajo Utah Commission at a duly called meeting in Tse Bonito, New Mexico at which a quorum was present and the same was passed by a vote of 6 in favor, 0 opposed, and 0 abstention, this 06th day of August, 2024.



Curtis Yanito, Chair
NAVAJO UTAH COMMISSION

MOTION: Patricia Blackhorn
SECOND: Brenda Brown

Chair not voting

NAVAJO NATION

438

8/26/2024

Navajo Nation Council Special Session

01:38:00 PM

Amd# to Amd#

New Business: Item B.

PASSED

MOT Tolth, G
SEC Slater, C

Legislation #0198-24

Yeas : 15

Nays : 0

Excused : 4

Not Voting : 4

Yea : 15

Arviso, S
Begay, H
Begay, N
Claw, S

Daniels, H
Nez, A
Nez, R
Parrish, S

Simonson, G
Simpson, D
Slater, C
Tolth, G

Tso, O
Yanito, C
Yazzie, L

Nay : 0

Excused : 4

Charles-Newton, E

Johnson, C

Notah, N

Crotty, A

Not Voting : 4

Yazzie, C

James, V

Jesus, B

Aseret, L

Presiding Speaker: Curley, C