

## Statement of Basis, Specific Statutory Authority and Purpose

On May 23, 1986, Senate Bill No. 19 was signed into law amending Title 40, Colorado Revised statutes, 1984 Repl. Vol., as amended, to add a new Article 2.2, entitled "Transportation of Nuclear Materials" (Sections 40-2.2-101 through 40-2.2-213, C.R.S. 1986).

It was determined and declared therein that nuclear materials create a potential risk to the public health, safety, and welfare of the people of the State of Colorado and that, as an origination point of nuclear waste and a corridor state through which nuclear materials pass, the State has a duty to protect its citizens and environment from all hazards created by the transportation of nuclear materials within its borders. Moreover, it was determined that the State and the public should be involved and participate in the development of a plan to deal with the transportation of nuclear materials. Section 40-2.2-208(1) (C.R.S. 1986) states "the executive director of the state department of highways shall have the authority to adopt rules to designate which state highways shall be used and which shall not be used by motor vehicles transporting nuclear materials in this state."

The purpose of these rules is to designate, based upon considerations of safety and environmental acceptability, which state highways shall be used and which shall not be used by motor vehicles transporting nuclear materials in Colorado.

These designations considered the Interstate Highway System in the rural areas and all viable State Highways in the urbanized areas of Denver, Pueblo, Colorado Springs, Grand Junction, and Fort Collins, which would be a potential segment on a designated route, by evaluating the safety of each segment from point to point. This evaluation considered the length of these segments, population and employment impact, and accident probability to derive a risk factor for each segment. The risk factors for each segment of a particular route were then added together to arrive at the total risk factor for the route. Alternative routes were then compared to determine the safest or most desirable route.

## Section 1 - Definitions

As used in these rules and regulations, unless the context otherwise requires:

- a. Carrier: shall mean any person transporting goods or property on the public roads of this state in, to, from, or through this state, whether or not such transportation is for hire.
- b. Direct Control: shall mean situations in which the motor vehicle equipment being utilized for the transportation of the nuclear material is United States department of defense, or United States department of energy owned or leased equipment and the drivers are employees of the department of defense or the department of energy.
- c. Driver or Operator: shall mean the person who is in physical control of the vehicle.
- d. Motor Vehicle: shall mean any self-propelled vehicle which is designed primarily for travel on the public highways and which is generally and commonly used to transport persons and property over the public highways, but the term does not include a motorized bicycle, defined as a vehicle having two or three wheels with operable pedals which may be propelled by human power or helper motor, or both, with a motor rated no more than two-brake horsepower, a cylinder capacity not exceeding 50 C.C., and an automatic transmission which produces a maximum design speed of not more than thirty miles per hour on a flat surface.
- e. Nuclear Materials:
  - (1) shall mean highway route controlled quantities of radioactive materials as defined in 49 CFR 173.403(1). "Nuclear materials" does not include nuclear materials used for research or

medical purposes within Colorado.

- (2) "Nuclear materials" includes radioactive materials being transported to the waste isolation pilot plant in New Mexico and radioactive materials being transported to any facility provided pursuant to section 135 of the federal "Nuclear Waste Policy Act of 1982", 42 U.S.C. 10101 et seq., or any repository licensed by the United States nuclear regulatory commission that is used for the permanent deep geologic disposal of high-level radioactive waste and spent nuclear fuel.
- (3) Except as provided in the paragraph e(2) above, "nuclear materials" does not include radioactive materials utilized in national security activities under the direct control of the United States department of defense, nor does it include radioactive materials under the direct control of the United States department of energy which are utilized in carrying out atomic energy defense activities, as defined in the federal "Nuclear Waste Policy Act of 1982", 42 U.S.C. 10101 et seq., or wastes from mining, milling, smelting, or similar processing of ores and mineral-bearing material.
- (4) Notwithstanding the provisions of paragraph e (2), "nuclear materials" does not include ores or products from mining, milling, smelting or similar processing of ores, or the transportation thereof.

f. Person: shall mean any individual, firm, partnership, corporation, company, association, joint stock association, and other legal entity.

## **Section 2 - General Applicability of Rules and Regulations**

These Rules and Regulations shall apply to all persons, shippers, carriers, operators, brokers, companies, their drivers, agents, and employees who transport or cause to be transported any nuclear materials over the State highways of the State of Colorado by means of a motor vehicle.

Any entity, as defined in the preceding paragraph, operating a motor vehicle on any route designated under these rules should be aware of Titles 40 and 42, C.R.S., and any rules and regulations adopted by the Department of Highways or another Colorado agency. This includes but is not limited to the rules and regulations entitled:

- a. Traffic Regulations Governing the Use of the Tunnels on the State Highway System, pursuant to Section 42-4-410(7) C.R.S.
- b. Operation of Longer Vehicle Combinations on Selected State Highway Segments, pursuant to Section 42-4-404.5 C.R.S.
- c. Transport Permits for Movement of Overweight and Oversize Vehicles or Loads, pursuant to Sections 42-4-401 to 411, 42-8-106, C.R.S.

Any such entity should also be aware of any local ordinances or regulations which may affect the transportation of nuclear materials on non-State Highways within the local government's jurisdiction.

## **Section 3 - Material Incorporated by Reference**

a. These rules and regulations incorporate by reference:

- (1) 49 C.F.R. 173.403(1) and 177.825, as existing on July 1, 1986, and issued by the United States Department of Transportation;
- (2) 42 U.S.C. 10101 (3), as existing on July 1, 1986, and passed by the United States Congress;

- (3) Section 135 of the federal “Nuclear Waste Policy Act of 1982,” 42 U.S.C. 10101 et seq., as existing on July 1, 1986, to the extent necessary to identify “facility” as used in Section 1(e) of these rules and regulations.
- b. These rules and regulations do not include later amendments to, or editions of, the above incorporated material.
- c. Certified copies of the complete text of the incorporated material are maintained and are available for public inspection during regular business hours at the Colorado Department of Highways at 4201 E. Arkansas, Denver, Colorado 80222. For information regarding how the incorporated material may be obtained or examined, contact the Deputy Director-Division of Highway Safety, 4201 E. Arkansas, Denver, Colorado 80222, or the Branch Manager, Program Support Branch-Division of Transportation Planning, at the same address. Certified copies of the material incorporated shall be provided at cost upon request.
- d. The Statement of Basis, Specific Statutory Authority and Purpose, set forth herein at page ii, is hereby incorporated by reference into these rules and regulations.

#### **Section 4 - Routes to be Used for the Transportation of Nuclear Materials and Routes Prohibited from Use**

- a. In order to ensure safe and environmentally acceptable transportation of nuclear materials within the State of Colorado, motor vehicles transporting nuclear materials shall travel only on those State Highway segments designated as follows:
- 1) For vehicles traveling north on Interstate Highway 25 and then going east on Interstate Highway 70, the following route will be used (Vehicles following the opposite direction will use the same routing in the opposite direction):  
  
On Interstate Highway 25 between the Colorado-New Mexico state line and the junction with Interstate Highway 225. Then on Interstate Highway 225 between the junction with Interstate Highway 25 and the junction with Interstate Highway 70. Then on Interstate Highway 70 between the junction with Interstate Highway 225 and the Colorado-Kansas state line.
  - 2) For vehicles traveling west on Interstate Highway 70 and then going north on Interstate Highway 25, the following route will be used (Vehicles following the opposite direction will use the same routing in the opposite direction):  
  
On Interstate Highway 70 between the Colorado-Kansas state line and the junction with Interstate Highway 270. Then on Interstate Highway 270 between the junction with Interstate Highway 70 and the junction with Interstate Highway 76. Then on Interstate Highway 76 between the junction with Interstate Highway 270 and the junction with Interstate Highway 25. Then on Interstate Highway 25 between the junction with Interstate Highway 76 and the Colorado-Wyoming state line.
  - 3) For vehicles traveling north on Interstate Highway 25 between the Colorado-New Mexico state line and the Colorado-Wyoming state line the following route will be used (Vehicles following the opposite direction will use the same routing in the opposite direction):  
  
On Interstate Highway 25 between the Colorado-New Mexico state line and the Colorado-Wyoming state line.
  - 4) For vehicles traveling north on Interstate Highway 25 and then going north on Interstate Highway 76, the following route will be used (Vehicles following the opposite direction will

use the same routing in the opposite direction):

On Interstate Highway 25 between the Colorado-New Mexico state line and the junction with Interstate Highway 76. Then on Interstate Highway 76 between the junction with Interstate Highway 25 and the junction with the Colorado-Nebraska state line.

- 5) On Interstate Highway 76 between the junction with Interstate Highway 25 and the Colorado-Nebraska state line.
  - 6) On Interstate Highway 225 from the junction with Interstate Highway 25 to the junction with Interstate Highway 70.
  - 7) On Interstate Highway 270 between the junction with Interstate Highway 70 and the junction with Interstate Highway 76.
  - 8) On U.S. Highway 36 between the junction with State Highway 128 and the junction with Interstate Highway 25.
  - 9) On State Highway 93 between the junction with the entrance with the Rocky Flats Plant and the junction with State Highway 128.
  - 10) On State Highway 128 between the junction with State Highway 93 and the junction with U.S. Highway 36.
- b. Motor vehicles transporting nuclear materials shall under no circumstances travel on those State Highway segments designated as follows:
- 1). On Interstate Highway 70 between the Colorado-Utah state line and the junction with U.S. 40, at milepost 261.630.
  - 2) On Interstate Highway 70 between the junction with Interstate Highway 25 at milepost 274.039 and the junction with State Highway 2 at milepost 276.572.
- c. No other state highway shall be utilized for the transportation of nuclear materials by motor vehicle, except as provided in paragraph (d) below.
- d. No carrier shall deviate from the routes designated in this Section 4(a) except in order to make local pickups and deliveries and in cases of emergency conditions which would make continued use of the designated route unsafe, or to refuel, or when the designated route is closed due to road conditions, road construction, or maintenance operations. When making local pickups and deliveries or when refueling, the carrier shall minimize the distance traveled on nondesignated routes. In cases of emergency conditions which would make continued use of the designated route unsafe or when the designated route is closed due to road conditions, road construction, or maintenance operations, the carrier should consult the rules and regulations adopted by the Colorado Public Utilities Commission pursuant to Title 40, Article 2.2 C.R.S. 1986, "Colorado Nuclear Materials Transportation Act of 1986." In all cases the carrier shall also comply with the provisions of 49 C.F.R. 177.825(b)(2).