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CABINET DECISION

NO. 876

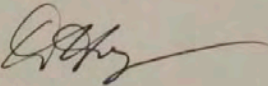
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Submission No.: 756

Title: PROPOSED LEGISLATION - PACKAGING AND  
TRANSPORT (RADIOACTIVE ORES AND CONCENTRATES)  
ACT.

Cabinet approved:-

- a) the drafting of legislation relating to the transport of radioactive ores and concentrates;
- b) that the Bill be introduced at the November Sittings; and
- c) the making of the draft press statement.



D. HOGAN,  
~~(XXXXXXXXXXXX)~~,  
Actg. Secretary to Cabinet.

21 September, 1979.

THE NORTHERN TERRITORY OF AUSTRALIA

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Copy No. 1

FOR CABINET

SUBMISSION No. 756

Title:	PROPOSED LEGISLATION - PACKAGING AND TRANSPORT (RADIOACTIVE ORES AND CONCENTRATES) ACT
Cabinet Member	I. L. TUXWORTH, Minister for Mines and Energy
Purpose:	To provide comprehensive law for the safeguard of persons and the environment from the hazards related to the packaging and transport of radioactive ores and concentrates.
Relation to existing policy:	Consistent with existing policy. The Territory has Executive responsibility for matters relating to the environmental aspects of uranium operations.
Timing/ legislative priority:	Urgent. Transportation of yellowcake scheduled to commence from Nabarlek approximately April 1980.
Announcement of decision, tabling, etc.:	Press release following Cabinet approval. Recommend introduction 'November sittings'.
Action required before announcement:	N/A
Staffing implications, numbers and costs, etc.:	N/A
Total cost:	N/A

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Department/Authority ..... DEPARTMENT OF LAW .....

COMMENT ON CABINET SUBMISSION No.


TITLE: ...PROPOSED LEGISLATION - PACKAGING AND TRANSPORT (RADIOACTIVE  
...ORES AND CONCENTRATES) ACT.....

COMMENTS:

The Submission correctly states that there is no Territory legislation currently relating to the handling of Uranium ores or uranium oxide after the mining stages have been completed. Providing the legislation does not deal with the "mining" of such substances, there appear to be no constitutional barriers to the proposal. It is to be noted that Northern Territory Ministers already have executive authority for matters such as "Surface transport regulation", "Industrial safety" and "Environment protection and conservation", but not for "the mining of uranium or the prescribed substances within the meaning of the Atomic Energy Act 1953" (Northern Territory (Self Government) Regulations) except pursuant to any agreement with the Commonwealth. The current agreement with the Commonwealth relates to the mining of prescribed substances under the Mining Act but does not extend to activities beyond the mining stage.

Subject to these comments, there appear to be no constitutional or legal barriers to the proposal.

The draft press statement refers to the introduction of a Bill into the Legislative Assembly in the November sittings. It is understood that such public statements should not, at the direction of the Chief Minister, be made, except in accordance with the legislation priority list agreed from time to time by Cabinet.

SIGNED: 

DESIGNATION: CROWN SOLICITOR

DATE: 12/9/79

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THE ISSUES

1. In order to exercise the Territory Government's responsibility in relation to the safety and environmental aspects of uranium mining operations, it is necessary to introduce legislation designed to ensure safeguards to persons and the environment from the hazards of the packaging and transport of radioactive ores and concentrates.

BACKGROUND

2. An important element of the Commonwealth Government's decision on Uranium development was the intention to establish uniform Codes of Practice, to apply to all Uranium mining activities in Australia, and to any future Nuclear activities. A set of Codes is being developed by a Commonwealth/State Consultative Committee on which the Territory is represented by the Departments of Law, Mines and Energy, Health and Chief Minister.
3. The Committee is making slow progress and it is likely that a Transport Code would take about two years to formulate. The transportation of uranium concentrates in the Northern Territory is due to commence next year and there is therefore no alternative but to develop our own legislation.

CONSIDERATION OF THE ISSUES

4. A 'Code of Practice on Radiation Protection in the Mining and Milling of Radioactive Ores 1975' is already in force as regulations under the Mines Regulation Act and is presently being restructured by the expert group of the Consultative Committee. This however does not cover the packaging, handling, transport and storage of uranium ores and concentrates in a comprehensive manner.
5. Present legislation on the transport of radioactive substances is embodied in the Radiation (Safety Control) Act 1978 administered by the Department of Health. This Act, amongst other things, deals with the transport of radioactive material, but specifically excludes the mining, production, possession, transport, handling, sale, use or disposal of uranium ores or uranium oxide ( $U_3O_8$ )
6. The Northern Territory and Commonwealth Governments have agreed that regulatory services for uranium mining operations in the Northern Territory will be done via the Territory Government's regular inspection activities consistent with the relevant Territory legislation. However, there is no provision in Northern Territory legislation for the safe transport of radioactive ores and concentrates. In this regard the Commonwealth/State

Consultative Committee on Nuclear Codes of Practice has agreed that the International Atomic Energy Agency Regulations for the Safe Transport of Radioactive Materials 1973 form the basis of an acceptable Code. The National Health and Medical Research Council has recommended that appropriate authorities in Australia observe the 1973 I.A.E.A. Transport Regulations, and the First Report of the Ranger Environmental Inquiry concluded that the I.A.E.A. Transport Regulations ensure adequate safety for the driver and for members of the public for transport of yellowcake ( $U_3O_8$ ).

7. Queensland Mines Limited has indicated that their Nabarlek mining venture will be wanting to transport uranium concentrates (yellowcake) by about March or April 1980, and there is no legislation in the Territory to ensure the proper protection of the general public and environment in the handling of this yellowcake.

#### OPTIONS

8. (a) Pending the adoption of a standard Code throughout the Commonwealth, the I.A.E.A. Regulations could be adopted informally, but in view of the timing and scale of uranium mining operations in the Territory and the

nature of the uranium public issue and that the standards would not be legally enforceable, this is not considered to be a real option to the implementation of specific legislation.

(b) Rather than a separate piece of legislation, the matter could be dealt with :

(i) in the proposed Dangerous Goods Act (problems of timing and presentation for public relations effect);

(ii) in the Radiation (Safety Control) Act (not appropriate as does not cover all aspects as outlined in paragraph 5);

(iii) in the Mines (Radiation Protection) Regulations.

9. This present proposal of a separate Act has the advantage of flexibility in adopting sections of the Code to be developed by the Commonwealth/State Consultative Committee, clarity of presentation for public relations purposes, and clarity in relation to the claim for financial compensation from the Commonwealth as a regulatory service. As opposed to option (b) (ii) the present proposal places administration of uranium mining activities predominantly under one Territory

Department (Mines and Energy) which already possesses the staff structure and expertise to deal with the activities.

PUBLIC IMPACT

10. Greatest public impact would be achieved by the implementation of a separate Act. It is considered that the Act would clearly demonstrate that the Government is meeting its responsibilities in the areas of implementing safeguards and the regulation of the uranium mining industry, and that little valid criticism could be made of the Act as it embodies internationally accepted standards.

FINANCIAL AND EMPLOYMENT CONSIDERATIONS

11. The Department of Mines and Energy has an existing staff structure and expertise relevant to the proposal. It is not anticipated that extra staffing would be necessary.
12. In any case, the cost of implementation and administration of this legislation should be borne by the Commonwealth Government as this legislation is specifically related to mining of uranium and should be considered as a regulatory service.



CO-ORDINATION

13. Meetings have been held with representatives of the following and agreement reached on the proposal put forward :

Department of the Chief Minister

Department of Health

Department of Law

Department of Transport and Works

14. In addition, a draft of this Cabinet Submission was discussed with representatives of the Departments of Health and Law.

LEGISLATION

15. It is proposed that the Act will :
- (a) make provisions relating to the possession, transport, handling and packaging of radioactive ores and concentrates;
  - (b) include the I.A.E.A. 'Regulation for the Safe Transport of Radioactive Materials 1973 Revised Edition' which is an internationally accepted standard dealing with the transport (and associated activities) of radioactive ores and concentrates (Australian uranium exports will be in the form of concentrates and as consignments will need to meet requirements acceptable to overseas countries, it is highly desirable that Australian

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requirements precisely match international requirements, as specified in the I.A.E.A. Regulations, which are acceptable to I.A.T.A. (International Air Transport Association) and I.M.C.O. (International Maritime Consultative Organisation);

- (c) be administered by the Department of Mines and Energy with the responsible Minister having all the necessary powers to set standards, appoint inspectors, grant licences, consider appeals against decisions of inspectors, and initiate legal proceedings, with approval for packaging undertaken independently by the Department of Health;
- (d) make provision for the appointment of a Chief Inspector with powers of delegation in relation to the setting of standards, the issuing of licences;
- (e) vest appointed inspectors with the powers to enter premises and search for and examine licences, registers, records, equipment, necessary devices, packaging, etc. for radioactive ores and concentrates, or install equipment or measuring devices for sampling, measuring or analysing any substances, etc.;

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- (f) make provisions for dealing with accidents and emergencies, with responsibilities for the Departments of Mines and Energy and Health and other relevant organisations; and
- (g) be drafted in consultation with the Departments of Health and Law.


PUBLICITY

- 16. Following Cabinet approval, a press statement is recommended and a draft is at Attachment 'A'.

RECOMMENDATION

- 17. In view of Queensland Mines Limited's intention to export concentrates by March or April 1980, an Act for the safe Transport of Radioactive Ores and Concentrates is a matter of some urgency. It is therefore recommended that Cabinet approve :

- (a) the drafting of legislation relating to the Transport of Radioactive Ores and Concentrates;
- (b) that the Bill be introduced at the November Sittings; and
- (c) the Press Statement at Attachment 'A' be made after Cabinet approval.

  
13/9/79

PRESS STATEMENT

The Minister for Mines and Energy, Mr Ian Tuxworth, announced today that Cabinet had approved the drafting of legislation relating to the possession, transport, packaging and handling of radioactive ores and concentrates. It is planned to introduce the Bill into the Assembly in the November sittings.

Mr Tuxworth said that the legislation would be based on the International Atomic Energy Agency's "Regulations for the Safe Transport of Radioactive Materials 1973" which are internationally accepted. In addition the National Health and Medical Research Council has recommended that appropriate Australian authorities observe the 1973 I.A.E.A. Regulations, and the Ranger Uranium Environmental Inquiry concluded that they were adequate to ensure safety for the drivers and for members of the public for the transport of yellowcake.

The main provisions of the Bill will relate to -

- (1) the setting of standards and regulatory procedures for possession, handling, packaging and transport of radioactive ores and concentrates; and

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- (2) the protection of the environment and the safety of persons involved in these activities.

Mr Tuxworth said that the consistent and rigorous application of the new legislation would ensure safety of those employed in the packaging, handling and transport of radioactive ores and concentrates, as well as of the general public working or living in the vicinity of such operations. He added that it was another example of the Government exercising its responsibilities with respect to the uranium industry.

Although responsibility for administering the new legislation rests with the Northern Territory Department of Mines and Energy, Mr Tuxworth stressed that there would be distinct and independent responsibilities for the Department of Health including the approval of the packaging of radioactive ores and concentrates.

Copies of the Bill will be available after its introduction to the Legislative Assembly and may be obtained by writing to the Senior Executive Officer, Department of Mines and Energy, P.O. Box 2901, Darwin.

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