

Regulation 61-83

Transportation of Radioactive Waste Into or Within South Carolina

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SC DEPARTMENT *of*
**ENVIRONMENTAL
SERVICES**

Statutory Authority:

S.C. Code Section 13-7-10 et seq. and 13-7-40

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Table of Contents

1. SCOPE	1
2. DEFINITIONS	1
3. PERMITS.....	2
4. SHIPPER'S REQUIREMENTS	3
5. CARRIER REQUIREMENTS	4
6. DISPOSAL FACILITY OPERATOR	4
7. PENALTIES	5
8. EXEMPTIONS FROM REQUIREMENTS OF THIS REGULATION.....	5
9. SEVERABILITY CLAUSE	5

1. SCOPE

1.1 This regulation applies to any shipper, carrier or other person who transports radioactive waste into or within this State, to any persons involved in the generation of radioactive waste within this State, and to any shipper whose radioactive waste is transported into or within this State or is delivered, stored, or disposed of within this State.

1.2 All persons subject to the provisions of this regulation shall comply with all applicable provisions of the Nuclear Regulatory Commission Title 10 CFR Part 71 as revised February 23, 2018, (with the exception of sections 71.2, 71.6, 71.11, 71.14(b), 71.17, 71.19, 71.21, , 71.31, 71.33, 71.35, 71.37, 71.38, 71.39, 71.41, 71.43, 71.45, 71.51, 71.52, 71.53, 71.55, 71.59, 71.61, 71.63, 71.64, 71.65, 71.70, 71.71, 71.73, 71.74, 71.75, 71.77, 71-85(a)-(c), 71-91(b)-(d), 71.99 and 71.100), 71.101(a), 71.101(b), 71.101(c)(1), 71.101(c)(2), 71.101(d), 71.101(e), 71.103(a), 71.106, 71.107, 71.109, 71.111, 71.113, 71.115, 71.117, 71.119, 71.121, 71.123, 71.125, and 71.135.

2. DEFINITIONS

2.1 “Carrier” means any person transporting radioactive wastes into or within the State for storage, disposal, or delivery.

2.2 “Department” means the Department of Health and Environmental Control, including personnel authorized to act on behalf of the Department.

2.3 “Disposal facility” means any facility located within the State, which accepts radioactive waste for storage or disposal.

2.4 “Generation” means the act or process of producing radioactive waste.

2.5 “Manifest” means the document used for identifying the quantity, composition, origin, and destination of radioactive waste during its transport to a disposal facility.

2.6 “Operator” means every person who drives or is in actual physical control of a vehicle transporting radioactive waste.

2.7 “Persons” means any individual, public or private corporation, political subdivision, government agency, municipality, industry, partnership or any other entity whatsoever.

2.8 “Permit” means an authorization issued by the Department to any person involved in the generation of radioactive waste, to transport such radioactive wastes or offer such waste for transport.

2.9 “Radioactive waste” means any and all equipment or materials, including irradiated nuclear reactor fuel, which are radioactive or have radioactive contamination and which are required pursuant to any governing laws, regulations, or licenses to be disposed of as radioactive waste.

2.10 “Radiological violation” means radioactive contamination or the emission of radiation in excess of applicable limits.

2.11 “Shipper” means any person, whether a resident of South Carolina or a non-resident:

2.11.1 who transfers radioactive waste to a carrier for transportation into or within the State; or

2.11.2 who transports their own radioactive waste into or within the State; or

2.11.3 who transfers radioactive waste to another person if such Waste is transported into or within the State.

2.12 “Transport” means the movement of radioactive wastes into or within South Carolina.

3. PERMITS

3.1 Before any shipper transports or causes to be transported radioactive waste into or within the State of South Carolina, the shipper shall purchase an annual radioactive waste transport permit from the Department. An application for a permit shall be submitted on Department Form SCDHEC-0800 “Application for Radioactive Waste Transport Permit” together with the necessary fee to: S.C. Department of Health and Environmental Control (SCDHEC), Bureau of Land and Waste Management/Radioactive Waste Management Section, 2600 Bull Street, Columbia, South Carolina, 29201. These forms are available on the Department website, or by other means the Department may provide.

3.2 Before a permit shall be issued, the shipper must deposit and maintain with the Department a cash or corporate surety bond in the amount of Five Hundred Thousand Dollars (\$500,000.00); or provide to the Department satisfactory evidence of liability insurance.

3.2.1 For purposes of this regulation, liability insurance shall mean coverage of Five Hundred Thousand Dollars (\$500,000.00) per occurrence and One Million Dollars (\$1,000,000.00) aggregate, or as otherwise provided by State law.

3.2.2 Any insurance carried pursuant to Section 2210 of Title 42 of the United States Code and Part 140 of Title 10 of the Code of Federal Regulations shall be sufficient to meet the requirements of this section.

3.2.3 Liability insurance shall be specific to the packaging, transportation, disposal, storage, and delivery of radioactive waste.

3.2.4 Shippers maintaining liability insurance for the purpose of this regulation may provide to the Department a certificate of insurance from their insurer indicating the policy number, limits of liability, policy date, and specific coverage for packaging, transportation, disposal, storage, and delivery of radioactive materials.

3.2.5 A cash or corporate surety bond previously posted will be returned to the shipper upon notification to the Department in writing of his or her intention to cease shipments of radioactive waste into or within the State. Such bond will be returned after the last such shipment is accepted safely at its destination.

3.3 Each permit application shall include a certification to the Department that the shipper will comply fully with all applicable State or Federal laws, administrative rules and regulations, licenses, or license conditions and waste acceptance criteria of the disposal facility regarding the packaging, transportation, storage, disposal, and delivery of radioactive wastes.

3.4 Each permit application shall include a certification that the shipper will hold the State of South Carolina harmless for all claims, actions, or proceedings in law or equity arising out of radiological injury or damage to persons or property occurring during the transportation of its radioactive waste into or within the State including all costs of defending the same; provided, however, that nothing contained herein shall be construed as a waiver of the State's sovereign immunity; and, further provided, that agencies of the State of South Carolina shall not be subject to the requirements of this provision.

3.5 Permit fees will be annually determined and assessed by the Department based on the following classifications:

3.5.1 Class X—more than an annual total of seventy-five cubic feet (75 ft.³) or more than one hundred curies (100 Ci) of radioactive waste for disposal within the State.

3.5.2 Class Y—an annual total of seventy-five cubic feet (75 ft.³) or less of radioactive waste consisting of one hundred curies (100 Ci) or less total activity for disposal within the State.

3.5.3 Class Z—any shipment of radioactive waste, which is not consigned for storage or disposal within the State, but which is transported into or within the State.

3.6 Permits will be valid from the date of issuance through December 31 of each calendar year. Permit fees are not refundable. Permits may be renewed by filing a new application with the Department.

4. SHIPPER'S REQUIREMENTS

4.1 Before any shipment of radioactive waste may be transported into or within the State, the shipper shall give written notice to the Department not less than seventy-two (72) hours nor more than thirty (30) calendar days before the expected date of arrival of the shipment or departure from the shipper's facility within the State as the case may be, except as provided in paragraph 4.1.3.

4.1.1 All prior notifications shall be filed on a Department form designated as SCDHEC-0802 "Radioactive Waste Shipment Prior Notification and Manifest Form."

4.1.2 The shipper shall immediately notify the Department of any cancellations or significant changes in the prior notification or manifest summary which may occur prior to the shipment departing the facility. For example, such changes include changes in date of arrival, carrier, route, waste description, curie content, volume, or waste classification.

4.1.3 For shipments consisting of seventy-five cubic feet (75 ft.³) or less containing one curie (1 Ci) of radioactive material or less which may be consigned as non-exclusive use shipments according to applicable U.S. Department of Transportation regulations, the requirement for prior notification contained in paragraph 4.1 is waived. Such shipments must otherwise comply with all other applicable requirements regarding the packaging, transportation, storage, disposal, and delivery of radioactive wastes.

4.2 The shipper shall provide to the carrier with each separate shipment a copy of the SCDHEC-0802 "Radioactive Waste Shipment Prior Notification and Manifest Form" required by paragraph 4.1. Such copy shall show any changes made pursuant to paragraph 4.1.2 above. Each shipper shall instruct the carrier to comply with the route and schedule contained therein.

4.3 The manifest accompanying each shipment of radioactive waste shall include a copy of the shipper's certification prepared on Department form SCDHEC-0803, Part I, "Radioactive Waste Shipment

Certification Form,” which shall include certification that the shipment has been inspected and complies with all applicable State and Federal laws and administrative rules and regulations, license or license conditions of the disposal facility regarding the packaging, transportation, storage, disposal, and delivery of radioactive wastes.

4.4 Following acceptance of each separate shipment at a disposal facility or at the consignee’s facility, it shall be the responsibility of each shipper to provide to the Department for such shipment a copy of the Department form SCDHEC-0802 “Radioactive Waste Shipment Prior Notification and Manifest Form” with the Consignee Acknowledgement properly executed and to provide the Department with the “Radioactive Waste Shipment Certification Form,” Department form SCDHEC-0803 which accompanied that shipment.

5. CARRIER REQUIREMENTS

5.1 For each shipment of radioactive waste materials shipped into or within the State, a carrier shall complete Part II: Carrier’s Certification on the form SCDHEC-0803 provided by the generator. The certificate shall be signed by a principal, officer, partner, responsible employee, or other authorized agent of the carrier.

5.1.1 The carrier shall certify that the shipment is properly placarded for transport and that all shipping papers required by law and administrative rules and regulations have been properly executed; and

5.1.2 that the transport vehicle has been inspected and meets the applicable requirements of the Federal government and the State of South Carolina, and that all safety and operational components are in good operative condition; and

5.1.3 that the carrier has received a copy of the shipper’s “Radioactive Waste Shipment Prior Notification and Manifest Form,” form SCDHEC-0802 specified in paragraph 4.2 and the “Radioactive Waste Shipment Certification Form,” form SCDHEC-0803 specified in paragraph 4.3; and

5.1.4 that the carrier shall comply fully with all applicable laws and administrative rules and regulations, both State and Federal, regarding the transportation of such waste.

5.2 A carrier shall immediately notify the Department of any variance, occurring after departure, from the primary route and estimated date of arrival of shipment as provided by the shipper on Form SCDHEC-0802.

5.3 The copies of Forms SCDHEC-0803 and SCDHEC-0802 shall accompany the shipment to the destination and shall be presented together with the manifest and other shipping papers.

6. DISPOSAL FACILITY OPERATOR

6.1 Owners and operators of disposal facilities shall permanently record, and report to the Department within twenty-four (24) hours after discovery, all conditions in violation of the requirements of this regulation discovered as a result of inspections required by any license under which the facility is operated.

6.2 Prior to the receipt of radioactive wastes at a disposal facility in this State, the owners and operators of such facility shall notify each shipper of any special requirements, if any, in effect regarding the packaging, transportation, storage, disposal, or delivery of such wastes at that facility.

6.3 No owner or operator of a disposal facility located within this State shall accept radioactive waste for storage or disposal unless the shipper of such waste has a valid, unsuspended permit issued pursuant to this regulation.

7. PENALTIES

7.1 Any person who commits a radiological violation shall:

7.1.1 be fined not less than One Thousand Dollars (\$1,000.00) nor more than Five Thousand Dollars (\$5,000.00); and

7.1.2 if such person is a shipper, have his or her permit suspended for a period of not less than thirty (30) calendar days and until such time as he or she demonstrates to the Department's satisfaction that adequate measures have been taken to prevent reoccurrence of the violation.

7.2 Any person who commits a second radiological violation within twelve (12) months of the first such violation shall:

7.2.1 be fined not less than Five Thousand (\$5,000.00) nor more than Twenty-five Thousand Dollars (\$25,000.00); and

7.2.2 if such person is a shipper, have his or her permit suspended for a period of not more than one (1) year and until such time as he or she demonstrates to the satisfaction of the Department that adequate measures have been taken to prevent reoccurrence of the violations.

7.3 Any person who commits a non-radiological violation of the provisions of this regulation shall be fined not more than One Thousand Dollars (\$1,000.00) for each violation; *provided*, that should the Department determine that a series of such violations has occurred, the Department shall suspend or revoke that person's permit for a period of not more than twelve (12) months.

7.4 Any person to whom an order, injunction, suspension, or fine issued under this article is directed shall comply therewith immediately, but on application to the Department, within twenty (20) calendar days after the date of the order, shall be afforded a hearing within thirty (30) calendar days of such application.

8. EXEMPTIONS FROM REQUIREMENTS OF THIS REGULATION

The Department may, upon application thereof or upon its own initiative, grant such exemptions or exceptions from the requirements of this regulation as it determines are authorized by law and will not result in undue hazard to public health and safety or property.

9. SEVERABILITY CLAUSE

It is hereby declared that each of the sections and provisions of this regulation are severable, if that any one or more of such sections are declared unconstitutional or invalid, the remaining sections and provisions of this regulation shall remain in effect.