YUCCA MOUNTAIN NUCLEAR WASTE REPOSITORY PROGRAM

CITIZENS HANDBOOK

RADIOACTIVE WASTE TRANSPORTATION STATE LAWS

Updated March 15, 2007

CLARK COUNTY

Department of Comprehensive Planning

Nuclear Waste Division

www.accessclarkcounty.com

RADIOACTIVE WASTE TRANSPORTATION – STATE LAWS

MARCH 15, 2007

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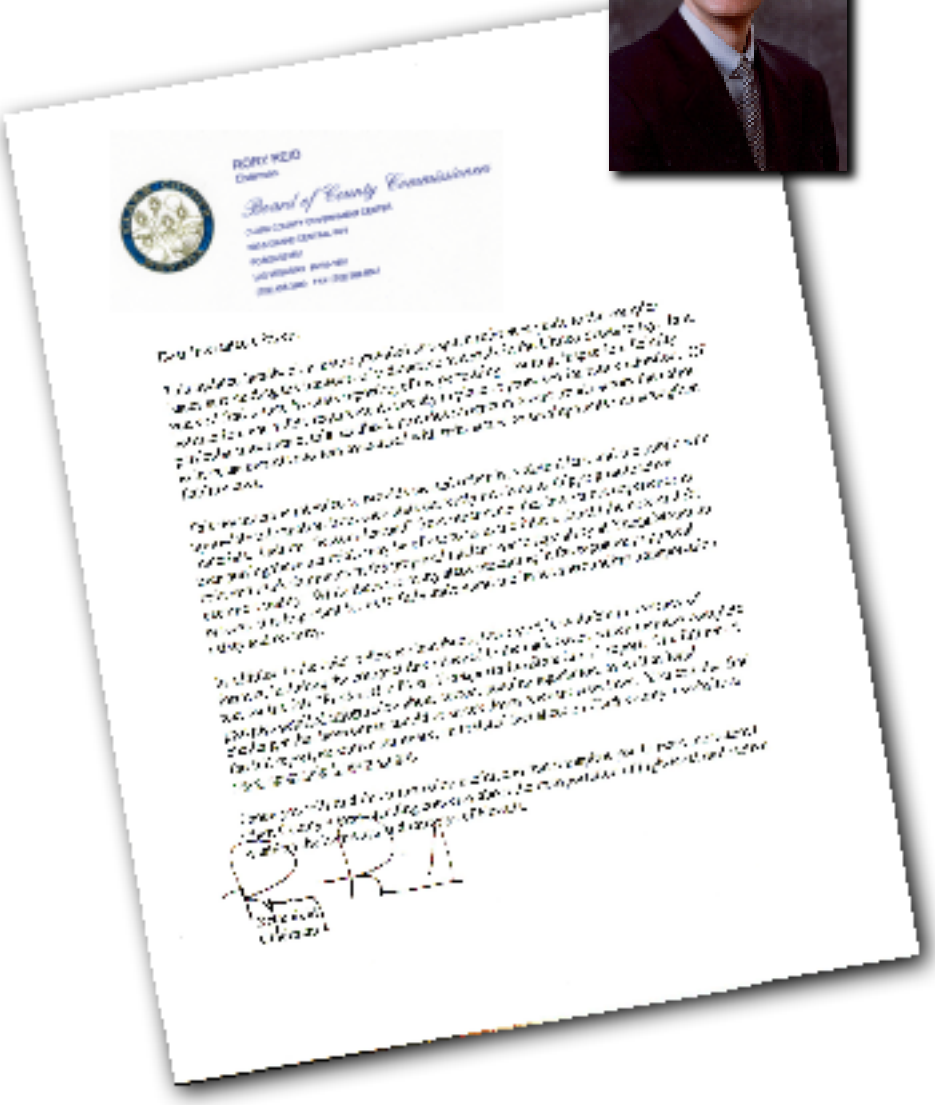
From the desk of
Commissioner Rory Reid, Chairman


RORY REID
Chairman
Board of County Commissioners

1.0 INTRODUCTION

The federal government accepted sole responsibility for the disposition of nuclear waste in the United States with the 1982 enactment of the National Waste Policy Act (NWPA), which ignited the search for two reasonable and safe repository sites by examining nine potential locations. Amendments to the NWPA in 1987 rendered further evaluation of potential sites moot by resigning to just one national repository rather than two.

In 2002 the President streamlined the process of selecting a repository location for high-level nuclear waste in the United States by designating Yucca Mountain, Nevada as the sole site. One unavoidable result has been intense focus by states on transportation of such waste across America. Because the primary means of transportation of the waste across state lines includes railroading and trucking, states have no choice but to engage in safety oversight through legislative means.

States pursuing legislation must be weary of enacting laws that conflict with current federal powers. The primary powers of the federal government to control the forum of hazardous waste transport stem from the Commerce Clause of the United States Constitution and the Hazardous Materials Transportation Act (HMTA) (Art. III, U.S. Const.; *HMTA* (1975)). The former grants exclusive control to Congress to enact laws governing interstate commerce (e.g. highways, rivers, internet). The latter's purpose is ". . . to improve the regulatory and enforcement authority of the Secretary of Transportation to protect the Nation adequately against risks to life and property which are inherent in the transportation of hazardous materials in commerce" (HMTA). Together, the Commerce Clause and the HMTA are significant obstacles around which states must legislate.

A state may not attempt to unduly interfere with interstate commerce in order to avoid a successful legal challenge to a state law. Furthermore, if Congress has wholly occupied a particular forum with federal legislation, a state is preempted from attempting to legislate in that area of law. When federal legislation only partially occupies a particular field, a state may create legislation in the forum so long as it does not conflict with existing federal law. Should the federal government pass laws addressing particular areas previously governed by state law, the federal law

supersedes the state law. Thus, states must tread carefully when creating legislative guidelines regarding the transportation of nuclear materials. Federal courts traditionally apply two tests to determine if a state law in this area is valid: 1) the dual compliance test, and 2) the obstacle test, both of which originate from the HMTA (49 C.F.R. Part 107.221). The dual compliance test questions whether compliance with the law is viable, while the obstacle test evaluates whether the regulation impedes upon the application of federal law.

The National Regulatory Commission (NRC) plays a fundamental role in setting forth federal rules that preempt state and local action. An overview of the NRC responsibilities regarding spent nuclear fuel include the following:

- Advance approval of routes
- Theft/Sabotage shipment procedures
- Visual cargo surveillance during stops
- Communications monitoring
- Written shipment log
- Avoidance of Intermediate Stops
- Two or more armed security escorts in urban areas or one escort in other areas
- Calls by escort every two hours
- Prior arrangements with local officials and Emergency Responders
- Emergency procedures for immobilizing trucks

Many states have existing laws that supervise and control hazardous material transport. A survey of these laws reveals common state themes in regulatory measures and means. Specifically, states legislate within the forum of hazardous material transport using the following categories: permits, fees, routes and transportation, inspection, liability, and safety. Within these categories, states vary in their methods of regulating and how they vest supervisory powers. The following sections summarize existing laws in the categories listed above. A brief discussion of proposed legislation follows. Thereafter, a more thorough state-by-state analysis is provided.

2.0 TYPES OF LEGISLATION

Permits

The range of state activity regarding permit specifications and requirements for the shipment of hazardous material is vast. Some states have bills pending, while

others follow intricate procedural and substantive requirements. The HMTA provides a baseline for permit requirements, and many states adopt all or portions of such default minimums. Other states, however, provide more stringent or comprehensive requirements for those seeking permits to transport nuclear materials. A general survey of many states current provisions is below in Table 1.1.

Although states may not place absolute prohibitions upon the transport of spent nuclear fuel in their territories, regulations aimed at increasing safety are permitted (National Conference of State Legislatures, *Spent Fuel Transportation*, 2004). Permit regulation is hindered using time, as well as substantive and fiscal limitations. Time limitations apply to a required amount of time prior to transport that an applicant must maintain in order receive a permit. In addition, time is used to limit the amount of time a permit may be deemed valid. Permit regulation is a busy legislative area among states. For instance, since 2004, Indiana, Maine, Oregon and Louisiana are a just some of the states that have modified the permit application process.

Table 1.1
Permit Requirements by State

State	Permits
AZ	Only for waste created within state; required to transport
CO	Annual, not required for federal vehicles; annual/single trip permits available + $500 permit fee
CT	Department of Transportation Commissioner authority (discretionary); detailed certification required
FL	Required for any transportation: description of route, material and destination
GA	Commissioner authority; dates, times, routes, contents; annual permits available
ID	Statement of future enactment; pending laws
IL	Required application to Illinois Department of Nuclear Safety (name, address, type of material); issued only to registered generator/broker or treatment facility
IN	Permit application must be sent to Director of Solid Waste Management Board/ Emergency Management
KS	Required license from state agency/ U.S. Nuclear Regulatory Commission; mandatory shipping manifest in vehicle containing: name, address, phone number, description of waste and volume
KY	Required and issued by Cabinet; requirements vary based on type of material
LA	Specific license available; issued by Secretary of Environmental Quality; quarterly payment may be required

Table 1.1 Permit Requirements by State	
State	**Permits**
ME	As of 05/31/05 broad requirement for license from State Nuclear Safety Inspector; incorporates federal regulations by reference
MD	Certificate required with bond or other security
MN	General/Specific licenses (incorporation by reference of federal regulations) – Adopted 01/03/2005
MS	As of 01/13/05, General/Specific; must apply at least 30 days prior to shipment; proof of adequate liability insurance
MO	Required; including proof of guarantees, liability insurance, bond, types and size of equipment; (separate requirements for power unit transporters); Intrastate: General License
NE	General/Specific; must have Specific to receive General
NV	Department of Public Service required registration and permit; Health Division of the Department of Human Resources must issue license to dispose of radioactive waste; manifest required at all times for transport
NH	Department of Safety Commissioner, pursuant to Chapter SAF-C 6600, Part 6605, requires dates of entry, routes, identification of substance and grade of material being transported in order to obtain mandatory permit; amended June 3, 2005
NJ	Incorporated by reference: Title 49 Trans., *Federal Register* (April 1, 1999)
NM	Pending bill
NY	Permit required + fee; discretionary surety/security
ND	Background check, criminal, fraud, misrepresentation within last five years mandatory
OH	General/Specific license distinction based on presence of quality assurance; dependent upon U.S. Nuclear Regulatory Commission; valid for two years; and requisite of 90-day pre-termination notice
OK	Federal regulations + intrastate compact for low-level waste
OR	Issued by State Department of Energy; maximum permit=1 year; application process to be decided by Director of Department of Environmental Quality; additional permit from Oregon Department of Transportation requiring application that includes: name, address, identification of waste and name of carrier; time of destination; record check of all carriers; insurance proof; conditional permit available; levels of license in accordance with type and volume of waste
PA	Manifest system used; records of low-level waste must be maintained and must identify volume and content of the waste
RI	Federal regulations + RI-MA Interstate Low-Level Radioactive Waste Management Compact Governs
SC	Prerequisite of liability coverage and financial assurance in the form of bond or surety
TN	Surety bond in amount required by Department; proposed bill
TX	Specific license required without technical, insurance and financial background check

Table 1.1 Permit Requirements by State	
State	**Permits**
UT	Incorporation by reference U.S. Department of Transportation regulations 49 CFR 170-189 (2002)
VT	Federal regulations
WA	General/Specific license available; low-level radioactive waste governed by regional compact
WI	License required (void of specifications)

States must be cautious when imputing discretion into a single officer or member of an agency without specific criteria to be used during the evaluation process. Federal courts tend to distrust licensing schemes that are overly dependent upon the subjective determination of one person. Note that prior restraints on permits/licenses via individual discretion in the forum of speech will render a law presumptively invalid, but in the forum of commerce, courts may be less stringent (*see Toga Soc., Inc. v. Lee*, 323 F. Supp. 779 (2004)). A common method used by states is to entrust a "commissioner" or "director" of the state agency overseeing permit regulation with broad responsibility, but limiting the breadth of discretion by including a judicial appeal process for permit rejection. Louisiana is unique in that its legislation includes a section devoted entirely to avoiding preemption issues (*see* L.A. R.S. § 30: 2118).

Other states focus upon substantive limits such as identification procedures, personal records of the actual carriers, and proof of insurance. Nearly all states require standard information such as the dates, times, routes and contents of the waste to be transported while Kansas, Nevada and Pennsylvania use a shipping manifest system. The manifest system mandates that the carrier provide and possess at all times official paperwork containing the dates, times, routes and contents as well as predicted arrival dates and insurance and/or surety information.

Fees

Since 2002, fee legislation demonstrates a trend of "per cask" or "per shipment" fees. Specifically, states are charging transport by the cask or load. For example, Indiana charges $1,000 per cask while Minnesota charges the same price per vehicle. North Carolina applies a $600 annual fee with additional cost per ton of waste. Ohio,

however, assigns a $218 biennial fee. These states' fee methods are indicative of the wide range of available fee arrangements for intrastate transport.

Fiscal requirements typically include permit/shipping fees and occasionally stipulate that a carrier must obtain a surety to show proof of financial stability should an accident occur. For example, Tennessee requires a surety and Montana requires that a bond be obtained as a prerequisite for permit issuance. Nearly all states with current legislation addressing transport of nuclear material require fees. These fees tend to vary based on the length of the journey, permit term, and waste to be transported. In addition to generating revenue, the fees and surety requirements provide some guarantee that the state is not undertaking massive liability with each load passing within its boundaries. Greater discussion regarding liability of states is provided below in the "Liability" section. A general survey of the fee methods of various states is included below in Table 1.2.

Table 1.2
Fee Methods by State

State	Fees
CO	$500 per permit + $200 per shipment + $1,000 fine for non-permit transportation
CT	$25
FL	"Reasonable fees"; annual for low-level: $100
GA	$100 annual; single available
ID	Proposed legislation for reasonable fees ($20-$70 for single; $250-$500 annual)
IL	Fee cost according to volume (post Oct. 1985= $3 per cubic foot)
IA	Fee only-$1,750 per highway cask-single cask truck shipments subject to $15 per mile surcharge for every mile over $250; $1,250 first rail cask, $100 for each additional rail cask
IN	"Notice" required, $1,000 per cask
KS	Not discussed
KY	$25 plus full cost of escort across Kentucky
MD	Annual Certificate Fee = $50 or less
MN	"Notice" required, no permit, $1,000 per cask
MS	Fee established by agency and State Board of Health; $2,500
MO	Annual application fee; annual usage fee based on tonnage, mileage; set to generate $600,000
NE	$2,000 per cask of high-level waste shipped in or through state (pending legislation)
NV	All hazardous materials; $500 plus $125 per truck; plus actual cost for

Table 1.2 Fee Methods by State	
State	**Fees**
	additional assessment required of motor carriers of radioactive waste
NH	General definition without specific measures or computation methods
NM	Pending bill
NJ	Undecided, but governed by state
NY	Initial $500 for first shipment; $200 per additional shipment
NC	Annual fee of $600
OH	Health Department stipulated regulations: $218 biennial fee
OR	$70 per shipment; annual of $500 or $70 for well-logging, radiographic and other shipments; may petition for alternative fee if severe impact demonstrated
PA	$1,000 per shipment
RI	No fee
SC	Cash/corporate surety of $500,000
TN	$1,000 per cask for truck; $2,000 per cask for rail
TX	$10 per cubic foot of shipped low-level radioactive waste up to $500,000
UT	$400 per shipment
VA	N/A
VT	Approval to transport and $1,000
WI	$25 annual/$20 one-day permit
WV	$50 registration fee

Routes and Transportation

The U.S. Department of Transportation (USDOT) has promulgated specific highway routing guidelines pertaining to particular radioactive substances (National Conference of State Legislatures, *Spent Fuel Transportation*, 2004). The requirements therein address routes, carrier safety, and scheduling prerequisites. For those states lacking specified preferred routes, the USDOT Research and Special Programs Administration issued *Guidelines for Selecting Preferred Highway Routes for Highway Route Controlled Quantity Shipments of Radioactive Materials* as a “how-to” guide for states creating preferred routes (*Id.*). Routing guidelines by state are documented in Table 1.3.

Table 1.3 Routing Guidelines by State	
State	**Routes**
CO	State Patrol with Department of Public Safety
CT	None as of 2000

Table 1.3 Routing Guidelines by State	
DE	State designated
FL	49 C.F.R. 397.1.1
ID	Stipulated non-radioactive hazardous materials routes
IL	Non-radioactive hazardous materials routes in accordance with *Federal Register* Vol. 65, No. 233, Dec. 4, 2000
KY	Designated routes for radioactive/non-radioactive in accordance with 49 C.F.R. 397.1.1
MD	49 C.F.R. 397.1.1
MS	49 C.F.R. 397.1.1
MO	Department of Transportation examine routes and feasible local alternatives
NE	49 C.F.R. 397.1.1
NH	No designated routes; see *Federal Register* Vol. 65, No. 233, p. 75794 (Dec. 4, 2000); commissioner shall conduct at least one public hearing on each proposed route to the extent not inconsistent with federal law
NJ	Undecided
NM	Other than preempted areas by federal statute, State Transportation Commission has the exclusive authority to designate routes for transportation
NY	49 C.F.R. 397.1.1
OH	49 C.F.R. 397.1.1
OR	Routes decided by Department of Energy, USDOT and U.S. Nuclear Regulatory Commission; must be in compliance with 49 C.F.R. 397.1.1
PA	49 C.F.R. 397.1.15
RI	49 C.F.R. 397.1.15
SC	No routes yet designated for hazardous materials
TN	49 C.F.R. 397.1.1
TX	State designated routes
UT	Utah designated routes in accordance with 49 C.F.R. 397.1.1

As indicated above, the following states have designated routes for transportation of spent nuclear fuel: Alabama; Arkansas; California; Colorado; Delaware; Iowa; Kentucky; Nebraska; New Mexico; Ohio; Tennessee; Texas; Utah and Virginia. Each state must have its proposed routes evaluated by the Federal Highway Administration. USDOT also requires that routing plans, driver training, and NRC security requirements be satisfied for approval (*Id.*).

Inspection

One should note, however, that the creation of preferred or mandated routes for spent fuel transportation may not be wholly sufficient. That is, a state must consider means of ensuring that carriers abide by the stipulated routes well as packaging and permit requirements. Currently, most states have liberal rules for state inspection of

carriers' cargo. However, carriers' Fourth Amendment rights against illegal search and seizure may be a potential obstacle to such rules. Given the current trend of the Supreme Court, as well as heightened national security concerns, inspection rights expect to be protected if not expanded in the coming years. Inspection procedures by state are listed in Table 1.4.

Table 1.4
Inspection Procedures by State

State	Inspection
AZ	Agency representative, public/private property any time (may cooperate with federal government)
CO	Port of Entry; within State – Colorado State Patrol officers
CT	Department of Environmental Protection
FL	At-will of public/private property
GA	Commissioner delegates Department of Motor Vehicle employees
ID	Stipulated conformity to state requirements regarding unreasonable search and seizure
IL	Task force assigned to develop and implement plan for inspecting and escorting all transport of high-level radioactive waste
IA	Inventory, quantity, type and date
KS	At-will by Secretary of Department of Health and Environment
KY	Quarterly inspection; records must be kept for two years
ME	Broad at-will power to inspect at all reasonable times
MD	Controlled substance manifest; notify of contents, source, destination and volume
MO	Annual recorded training; driver files, vehicle inspections; required daily vehicle inspections; Department of Transportation inspection of all packaging and cargo prior to transport
NE	Pending bill
NV	Authorized employee or agent of Commission or the State Department of Conservation and Natural Resources may enter public/private at will where hazardous may exist + periodic inspection of carrier, packaging and inventory
NH	High-level waste subject to inspection at will by delegates of the commissioner; results must conform to federal regulations
NJ	State police may break cargo seal at will during inspection, excluding U.S. Postal Service or Department of Defense seals/locks; pending proposed bill
NM	Limit: must be consistent and equal or less stringent than federal standards
NY	May inspect at any reasonable time; permit approval conditional upon results
ND	At-will inspection
OH	Duty to inspect cargo placed upon licensee; right of director to inspect/test at will at all reasonable times
OR	Director may authorize any employee to inspect at-will at reasonable time and

Table 1.4 Inspection Procedures by State	
State	**Inspection**
	in reasonable manner; sample may be required; state-run inspection process; licensee duty to inspect cargo
RI	Proof of vehicle inspection at time of permit application
SC	Waste certification
TX	Each low-level shipment must receive prior inspection
UT	According to *Interstate Compact* in accordance with host state
VA	Licensee monitoring and examination within three hours of pick-up
WI	Licensee examination of enumerated factors (extensive)

For instance, New Jersey, New York, and Oregon essentially permit at-will inspection. The only condition these states place upon a search of a carrier's cargo is that it is reasonable—clearly a subjective standard when lacking stipulated parameters. In addition, Ohio permits the Director of its relevant agency to inspect at will. Thus, considerable discretionary power is imputed into the serving Director. Note, however, that a carrier's private rights may be infringed upon during such searches (U.S. Const. Amend. IV). Hence, a state should expressly state to whom such search powers are being vested, and include acceptable safeguards to avoid intrastate power struggles or bureaucratic snafus.

A recent method employed by Illinois was to create the Illinois Nuclear Safety Preparedness Program. One of many responsibilities of the program is to create a task force whose aim is to develop and implement a plan for inspection and escort of all transportation of high-level radioactive waste through the state. Ohio and Rhode Island are two examples of states permitting inspection "at all reasonable times." Use of such language is open to interpretation that will most likely be defined by local or federal courts.

Liability

As previously noted, the federal government has only accepted responsibility, and equally important, liability, for the disposition of the waste. Thus, residual consequences arising from the transport of the waste appears to lie with the states.

Despite the existence of safety and investigatory regulations, accidents are still possible. The combination of the nature of the cargo, as well as the density of major cities' populations, makes serious damages to property and person a substantial risk. The materialization of such a risk could result in massive costs. Thus, states may want to consider creating exculpatory laws that limit state governmental liability. States that have legislated in the forum of liability typically place damage liability on to the carrier, and thereby circumvent liability for in-state accidents. Table 1.5 lists some of the current laws used by states to govern liability for the transportation of spent nuclear fuel.

Table 1.5
Liability Laws by State

State	Liability
AZ	Tort; criminal
CO	Criminal; civil; strict liability (will consider mitigating circumstance regarding civil liability)
CT	Civil and $10,000 or less; interstate immunity
GA	Stipulated recovery for all damages/costs from all responsible parties; individual criminal
ID	Up to $10,000 for misrepresentations on application, label, report or other documents; up to $10,000 for any other violation; criminal liability
IL	Civil up to $10,000 per violation; mitigating factors taken into account.
KS	Criminal; civil penalty up to $25,000 per violation; state imposed injunction regardless of proof of irreparable damage
ME	Criminal/Civil: Criminal liability considered Class D felony; Civil: $10,000 per violation; $100,000 per willful violation; public hearing with Attorney General's office present
MS	$5,000 fine or five years in prison
MO	Specific mental states listed; no pecuniary punishment listed or scaled
NE	Pending bill
NH	Universal cost, damages and fee recovery clause; individual criminal liability
NJ	Incorporated pertinent federal regulations; first offense: $5,000; second offense: $10,000; thereafter: $25,000; $500 per 10 lbs. of compressed gases using Route 29 tunnel facility
NM	As of 07/01/05 up to $5,000 civil penalty
NV	Personal liability for low-level radioactive waste
NY	Proposed bill: individual right to tort suit, strict liability
NC	Criminal: Class 1 misdemeanor; civil injunctive relief available; administrative penalties include up to $10,000/day and defendant has a right to judicial hearing to contest
ND	Civil injunctive relief available; civil fines available; criminal liability: maximum of $25,000 per violation and/or one year of prison; if extreme indifference to human life, $50,000 or two years in prison
OH	Injunctive relief available; first reckless offense – $10,000 to $25,000 per day

Table 1.5 Liability Laws by State	
State	**Liability**
	and a Class 4 Felony; second reckless offense – $25,000 to $50,000 and a Class 4 felony (fines are per day)
OR	Oregon Office of Energy may issue order to halt if clear and immediate danger
SC	State immunity; violator civil penalty of $1,000 to $5,000 per violation; permit revocation
TN	$500,000 financial assurance for personal liability; state immunity
UT	Civil: up to $5,000; Criminal: proposed bill stipulating strict liability

States must decide what type of liability to impose upon a carrier. Civil and criminal liability exist in many states, with the level of culpability depending upon the nature of the wrong. States may levy mandated fines for each violation or create a range of potential civil or criminal penalties. Also, the process by which liability is determined varies from state to state. Some states, such as New York, are lobbying for a law that imposes strict liability (mandatory penalty). Other states consider mitigating factors, such as Illinois, which only imposes civil fines up to $10,000 per violation, but considers surrounding circumstances, and refrains from imposing criminal liability. New Jersey elevates fines based on the number of previous offenses, and stipulates specific costs for violations involving compressed gases that take place on a specified route. Hence, the options available to states in imposing civil and criminal liability vary tremendously. In considering the type of penalties to attach to violations pertaining to spent nuclear fuel transportation, states should ensure that due process of the Fifth Amendment and privacy rights of the Fourth Amendment are balanced and protected in order to avoid invalidation of laws.

One way to ensure this balance is by use of civil injunction. Colorado, Mississippi, and North Dakota are three states that attempt to mitigate potential damages by granting *de facto* injunctions to governments attempting to sue carriers. While on the surface injunctions appear to favor state governments, freezing alleged wrongful conduct also potentially saves the defendant significant penalties that could be in either fiscal or penal form. Following injunction, an inspection and judicial evaluation of both parties' arguments are heard via a public hearing; thereby ensuring that due process requirements of the Constitution are satisfied.

Notification

The USDOT Research and Special Programs Administration states that notification requirements created by state and local entities for the transportation of hazardous waste are typically preempted by federal rules (*Index to Preemption, Fee Requirements*, Office of Chief Counsel). Yet, states are permitted to regulate pre-notification involving the transportation of radioactive materials. Table 1.6 lists the various requirements imposed by states with existing legislation governing notification. The requirements may apply prior to transportation of the material or in the event of an accident. NRC mandates that pre-notification of transport be provided to the Governor (or the Governor's designee) prior to the date of departure (10 C.F.R. 71, 73). Depending upon the volume of material being transported, NRC and the state must be notified at least seven days prior to departure.

The NRC regulations addressing notification serve as a baseline for notification laws. That is, states may legislate within the forum, but may not impose standards that are less stringent than those put forth by NRC. The result is a plethora of regulatory methods being employed by state and local entities. Some states, such as Illinois, base notification periods on the concentration of the spent fuel being moved. Others, such as Connecticut, impose at-will required reporting. Another example, New York, focuses on the identification during the transport by requiring the permit number and name of carrier to be on both sides of the vehicle. The most common approach, however, mirrors that of the NRC by requiring: name, address, telephone number, names of the shipper and receiver as well as a description of the waste to be provided by the carrier prior to shipment. Pennsylvania law focuses upon the notification process in the event of an accident by demanding that a designated public agency be contacted at the time of an accident in addition to the NRC requirements mandating Governor notification. For those states that have not directly regulated pre-notification, the NRC standards apply. Approximately 33 states rely upon requirements akin to those stipulated by the NRC (National Conference of State Legislatures, *Spent Fuel Transportation*, 27 (2004)).

Table 1.6 State Notification Requirements	
State	**Notification**
AZ	48 hours + storage posting required (conspicuous);pre-transport notice required +information (destination, address, dates)
CO	Signs placed/maintained on public roads for designated routes
CT	Optional at-will required reporting
FL	No less than 48 hours prior for any transport; U.S. Regulatory Commission inspection of radiation
GA	Prior to transport commissioner notification required (vague)
IL	Detailed requirements for labeling; exempt lists based on concentration
IA	Advance notification: name, address, number carrier description of waste, origin, estimated time of arrival/departure within seven day span
KS	Advance notification including: name, address, number, carrier, receiver; description of waste, origin, estimated arrival date
KY	Must carry shipment papers; notice required in accordance; immediate notification of accident
LA	Advance notice of delivery; destination, description of waste; contact info of licensee; notification of governor of each state: active as of 9/20/2004
ME	Notice law only codified material pertains to minimum of 30 days notice to alleged violator of rules prior to public hearing
MO	Required notification of railroad accidents (specific methods and duties based on type, content etc.); identity of transporter, destination, certification from emergency services division; emergency services division
NE	Description of waste, transporter, destination, contact information
NV	Required notification of problems with accompanying discretionary fees
NH	Seven days notice prior to the transportation within state, must identify: permit, origin, destination, time of arrival
NM	Limit: must be consistent and equal or less stringent than federal standards; accidents of any type must be reported as quickly and as efficiently as possible
NY	Name of transporter on both sides of vehicle; permit number must be displayed
OH	Advance notice of shipment through or across state boundary in writing including name, address, telephone number, shipper and receiver; and description of the waste
OR	Packaging requisites including serial number tracking system; 48-hour advance notice required for certain level of transport containing name, address, and telephone number of shipper, carrier, and receiver; description of waste
PA	If accident or spill, must contact “designated” public agency; prior notification to Governor required
RI	*Id.*
SC	Notification of variance from route
TN	Four-day advance notice provided to Governor and Director or Radiological Health
TX	Notification 72+ hours prior to shipment
VA	Notification prior to shipment; annual reports

Table 1.6 State Notification Requirements	
State	**Notification**
WI	Minimal four-day prior advance

Safety

State and local entities have wide latitude of enforcement within the arena of emergency preparedness and response. Accidents that involve waste shipment are the responsibility of local emergency response personnel. However, when accidents involving radioactive material involve defense-related activities, the federal government is the responsible body. Note, however, that state/local agencies and the federal government may work together in some instances. For example, a local entity may request federal or state funding to assist with emergency response procedures. A state, however, may not prohibit radioactive material shipments based on inadequate emergency response capabilities.

Table 1.7 provides a sample of the state-imposed safety measures promulgated to ensure ample responsiveness in the event of an accident. The methods employed vary greatly. For instance, Kentucky imposes a rule that requires the carrier to notify the Kentucky police within one hour of an accident. Contrasting Kentucky's approach, Oregon organized a radiation response team that is led by the state Department of Energy and also requires immediate reporting of all accidents. Kentucky and Oregon illustrate the wide array of possible means by which to monitor and control safety measures.

Table 1.7 Safety Measures by State	
State	**Safety**
AZ	Response team – N/A
CT	Emergency plan/response evaluation process
FL	Specifications for truck safety; length etc.
GA	State requirements for packaging; USDOT requirements for procedure of travel, marking, accident reporting
IL	Significant measures for monitoring intake of materials; required radiation level labels; mandatory reporting to department; specified quality enforcement procedures
IA	Driver responsible for notifying port authorities and prevention of contamination
KS	Established procedures for opening/closing packages in which radioactive

Table 1.7 Safety Measures by State	
State	**Safety**
	material is transported to provide safety prior to the delivery to a carrier for transport
KY	Required reporting to state police within one hour of accident; must have shipping papers; specified training
MO	Department of Transportation director “shall” develop “Hazardous Substance Emergency Response Plan” including marking requirements; containment methods; prevention and preparedness criteria for transporters
MT	Broad at-will inspection permitted for Department of Public Health and Human Services
NE	Transporter must always possess manifest with description of each container and contents with specificity; must conduct quality assurance program
NV	Department of Transportation and Administrator of Division of Planning coordinate studies of socioeconomic effects and disseminate/collect info on transport of materials; create regulations in conformity with obtained information
NY	Emergency permits for the transport of low-level radioactive waste; duty to report Department of Health immediately
ND	Broad emergency response available as well as detailed list of criteria to pass Department of Health and Safety standards
OH	Packaging requisites including: approval processes and serial number tracking process
OR	Response program including radiation response team; run by State Department of Energy Director; immediate notice required if accident or tampering
SC	Shipment manifest system
TN	Must provide for an escort for all nuclear spent fuel
TX	Required reporting; packaging requirements; Department of Transportation safety regulations
UT	Approval of Department of Transportation required; future issuance of permit approval process
VA	Specific packaging requirements and monitoring methods

3.0 RECENT ENACTMENTS AND GENERAL NEWS OF INTEREST

In January 2005, Ohio began creating regulations pursuant to Health Department regulations per Ohio statute ADC 3701: 1-50-20. The proposed regulations will govern intricate details and specifics of the transportation process. In addition, Utah passed UT ST § 19-3-301 in March 2005. This statute allocates power to pass regulations that govern transportation of radioactive waste, but is restrictive in nature. Connecticut halted all construction of future plants until method of disposal and holding is identified. Connecticut also commissioned a state agency to begin studying ramifications of long

terms storage and/or effects of radiation on surrounding area. (*See* C.G.S.A. §§ 22a-135, 136 (2006)).

Clearly, the role of states is not to be undermined. Stated otherwise, each fiscal year brings new discourse at the state and federal level.

4.0 SUMMARY OF EXISTING STATE REGULATORY REQUIREMENTS

Arizona – Existing State Regulatory Requirements

- Arizona Revised Statutes, §§ 30-651 to 30-696 (2004); *Control of Ionizing Radiation*. Arizona Administrative Code, §§ 12-1-1501 to 12-1-1508 (2003); *Radiation Regulatory Agency, Transportation*.

- Rules regarding the transportation of radioactive material must be in conformity with rules and regulations promulgated by the Unites States Regulatory Commission, the Department of Transportation, the Unites States Treasury Department and the U.S. Postal Service. Arizona Revised Statute § 30-654 (2004).

Permits and Fees

- No license shall be given for disposing radioactive waste that did not originate within the state. Ariz. Rev. Stat. § 30-691 (2004).

- No person may transport or deliver radioactive material without first obtaining a license issued by the agency. Ariz. Admin. Code. § 12-1-1501 (2003).

- When transporting radioactive material, the individual must comply with U.S. Department of Transportation, 49 CFR 171 through 189, 1995 Edition, published October 1, 1995. Ariz. Admin. Code § 12-1-1504(B) (2003).

- In order to transport radioactive materials, the licensee must comply with applicable packaging, monitoring, manifesting, marking, and labeling requirements of the U.S. Department of Transportation, 49 CFR 171 through, 180, 2001 Edition, published October 1, 2001, or 39 CFR 111.1, 2001 Edition, published July 1, 2001. Safety procedures must also be established for the opening and closing of packages containing radioactive materials. Ariz. Admin. Code § 12-1-1506 (2003).

Inspections

- An agency representative may enter any public or private property at any reasonable time for the purpose of determining whether the operation is in compliance with this chapter. Ariz. Rev. Stat. § 30-681 (2004).

- With the approval of the governor, the State may enter into an agreement with the Federal Government whereby the state will perform inspections in cooperation with the Federal Government and other states or state agencies. Ariz. Rev. Stat. § 30-683 (2004).

Notification

- Packages being transported bearing the Department of Transportation Yellow II or Yellow III label may not be stored for a period exceeding 72 hours. Ariz. Admin. Code § 12-1-1505(A) (2003).

- If radioactive material is stored for a period in excess of 48 hours, the storage area must be conspicuously posted and the carrier must notify the local fire department. Ariz. Admin. Code § 12-1-1505(C)-(D) (2003).

- Prior to transporting any nuclear waste, the licensee must give advance notice to the agency including the carriers name, address and telephone number, a description of the nuclear waste, point of origin and a seven-day window in which departure will occur, destination and a seven-day window in which arrival will occur, and a point of contact (Arizona Administrative Code § 12-1-1508(B) [2003]).

- The licensee must notify the Agency of any changes in the shipping schedule (Arizona Administrative Code § 12-1-1508(D) [2003]).

Highway and Rail Routing

Arizona has designated routes for the transportation of radioactive and non-radioactive hazardous materials, as listed below:

- Restricted routes for all hazardous materials:

  - Exit ramp from US 60 (westbound) to State Route 101 (northbound)
  - Exit ramp from US 60 (eastbound) to State Route 101 (southbound)
  - Interstate 10 [Deck Tunnel-Phoenix] from 7th St. exit [Mile Post 144.3] to 7th Ave. exit [Mile Post 146.2] [Interstate 17 is designated truck route which has been posted as the alternative route for hazmat traffic].
  - State 202 from Mile Post 8.33 [McClintock Exit] to Mile Post 11.07 [Dobson Exit].

- Alternate routes are as follows:

  - McClintock to University to Dobson.
  - McClintock to McKellips to SR-101.
  - Note: Freeway ends at SR-101 with temporary lanes to Dobson. Alternative routing may very with continuing construction.]

- 65 Fed. Reg. 75771, 75773-75774 (Dec. 4, 2000).
- Non-Radioactive Hazmat Routes:
- Interstate 17 from Interstate 10 [west of Deck Tunnel] to Interstate 10 [east of Deck Tunnel].
- 65 Fed. Reg. 75771, 75774 (Dec. 4, 2000).

Liability

- It is unlawful for any person to transport radioactive material unless registered and licensed. Ariz. Rev. Stat. § 30-673 (2004).

- Any person in violation of any rule of regulation of this chapter is subject to a civil penalty imposed by the state agency. Ariz. Rev. Stat. § 30-687 (2004).

- Any person in violation of any section of this chapter commits a class 2 misdemeanor. Ariz. Rev. Stat. § 30-689 (2004).

- Arizona Revised Statutes, §§ 30-701 to 30-705 (2004); *Western Interstate Nuclear Compact*:

  - "It is the purpose of this compact to provide the instruments and framework for such a cooperative effort in nuclear and related fields, to enhance the economy of the west and contribute to the individual and community well-being of the region's people." Arizona Revised Statute § 30-701 (2004).

  - The Board is composed of one member from each party state. No action will be deemed binding without a majority vote.

  - Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming are eligible to be a party to this compact.

- Arizona Revised Statutes, §§ 30-721 to 30-723 (2004); *Southwestern Low-Level Radioactive Waste Disposal Compact*.

Colorado – Existing State Regulatory Requirements

- Colorado Revised Statutes §§ 42-20-101 to 42-20-511 (2003): *Transportation of Hazardous and Nuclear Materials*.

Permits and Fees

- Colorado Revised Statutes: Title 42. Vehicles and Traffic, Highway Safety Article 20:Transportation of Hazardous and Nuclear Materials, Part 5: Nuclear Materials Permit System

- Colorado Revised Statute § 42-20-502. Permit-fees:

  - Each permit issued pursuant to section 42-20-501 shall be valid for one year following its issuance and shall be issued after approval of the carrier's permit application and upon payment of a five-hundred-dollar permit fee. In addition to the permit fee, each carrier shall pay a two-hundred-dollar fee for each shipment. The shipment fee shall be paid either by mail, in which case it must be postmarked at least seven days before the shipment is to be made, or at the time the shipment enters the state at the port of entry weigh station nearest the point at which the shipment enters the state. If the shipment originates in this state, payment shall be made at the port of entry weigh station nearest the point of origination of the shipment.

  - Money collected pursuant to this title will be credited to the Nuclear Materials Transportation Fund.

Inspections

- Port of entry personnel shall inspect all vehicles transporting nuclear or hazardous waste. If the point of origin is within the state, then Colorado state patrol officers shall conduct the inspection (Colorado Revised Statute § 4220-404 [2003]).

Notification

- Signs must be placed and maintained on public roads providing notice that such route is designated as a hazardous material transportation route (Colorado Revised Statute § 42-20-303 [2003]).

Highway and Rail Routing

- The Colorado State Patrol within the Department of Public Safety (Patrol), in partnership with local governmental authorities, has the sole responsibility for determining the public roads that will be used for transporting hazardous materials (Colorado Revised Statute § 42-20-301 [2003]).

- This does not include transportation of gasoline, diesel fuel or liquefied petroleum gas.
- The Department of Transportation, a town, city or county may petition the Patrol for a new route designation, or a change in the existing route.

- Colorado has designated routes for transportation of radioactive and non-radioactive hazardous materials. This route can be found in 65 Fed. Reg. 75771, 75780 (Dec. 4, 2000).

  Radioactive Hazmat (RAM) routes are as follows:

  - Interstate 70 from Interstate 25 [at mile post 274.039] to State 2 [at mile post 276.572]
  - Interstate 70 from Utah to US 40 [at mile post 261.63]
  - Interstate 25 from Wyoming to New Mexico
  - Interstate 76 from Interstate 25 to Nebraska
  - Interstate 225 from Interstate 70 to Interstate 25
  - Interstate 270 [near Denver] from Interstate 70 to Interstate 76
  - State 93 from Rocky Flats Plant to State 128
  - State 128 from State 93 to US 36
  - US 36 from State 128 to Interstate 25
  - 65 Fed. Reg. 75771, 75780 (Dec. 4, 2000)

  Non-radioactive hazardous materials (NRHM) routes are as follows:

  - 1st St. [City of Craig] from State 13 [east] to State 394 [Craig City limit]
  - 1st St. [Moffat County Rd.] from State 394 [Craig City limit] to US 40
  - 2nd St. [City of Lamar] from US 50/385 to Maple St.
  - County 7 [Great Divide R.] from City limit [City of Craig (north)] to County 183 [in Moffat County]
  - County 183 [Moffat County] from County 7 [Moffat County] to State 13
  - Great Divide Rd. [City of Craig] from US 40 [north] to City Limit
  - Interstate 25 from Wyoming to New Mexico
  - Interstate 70 from Interstate 270 to Kansas
  - Interstate 70 from US 6 [at Silverthorne (Loveland Pass)]
  - Interstate 70 [business loop] from Interstate 70 [east of Grand Junction] to State 141
  - Interstate 76 from Interstate 25 to Nebraska
  - Interstate 225 from Interstate 70 to Interstate 25
  - Interstate 270 [near Denver] from Interstate 70 to Interstate 76
  - Maple St. [City of Lamar] from 2nd St. to US 50/287
  - State 9 from US 40 [in Kremmling] to Interstate 70 [in Silverthorne]
  - State 10 from Interstate 25 [in Walsenburg] to US 50 [in La Junta]
  - State 13 from US 40 [west of Craig] to US 6 [west of Rifle]

- State 13 from Wyoming to County 183 [North of Craig]
- State 14 from US 40 to State 125
- State 17 from US 285 [near Mineral Hot Springs] to US 160 [near Alamosa]
- State 47 from Interstate 25 to US 50 [State 96]
- State 52 from State 119 to State 79
- State 64 from US 40 [in Dinosaur] to State 13
- State 71 from state 14 to US 24 [in East Limon]
- State 71 from US 24 [in Limon (west junction)] to US 50 [near Rocky Ford]
- State 71 from Nebraska to State 14
- State 79 from State 52 to Interstate 70 [at Bennett]
- State 83 from US 24 to State 115
- State 91 from Interstate 70 to UA 24 [near Leadville]
- State 112 from US 285 to US 160
- State 113 from Nebraska to US 138
- State 115 from State 83 to US 50
- State 119 from State 157 to State 52
- State 125 from Wyoming to US 40 [west of Granby]
- State 127 from Wyoming to State 125
- State 139 from State 64 [in Rangely] to Interstate 70 [near Loma]
- State 141 from Interstate 70 [(Business Loop) near Grand Junction] to US 50
- State 141 from US 50 to US 666
- State 157 from US 36 to State 119
- State 470 from US 285 to Interstate 70
- US 6 from Interstate 25 [in Denver] to Interstate 70
- US 6 [Loveland Pass] from Interstate 70 [just east of the Eisenhower/Johnson Tunnels] to [just west of the Eisenhower/Johnson Tunnels at Silverthorne]
- US 6 from State 13 [west of Rifle] to Interstate 70 [exit 87]
- US 6 from State 14 [(Main St.) in Sterling] to Nebraska
- US 24 [Business Route] from State 71 [east junction in Limon] to State 71 [west junction]
- US 24 [Business Route] from UX 24 [on the west side of Limon] to State 71 [west junction]
- US 24 from State 83 to Interstate 70 [at West Limon (Exit 359)]
- US 24 from State 91 [at Leadville] to Interstate 25 [in Colorado Springs]
- US 34 from Interstate 25 to Interstate 76
- US 34 from State 71 [west junction] to Nebraska
- US 36 from Interstate 25 to State 157
- US 36 from Interstate 70 [in Byers] to State 71 [at Last Chance]
- US 40 from First St. [Moffat County Road CG 2] to Interstate 70 [east of Craig]
- US 40 from Interstate 70 [(Exit 363) in Limon] to Kansas
- US 85 from Wyoming to Interstate 76
- US 138 from State 113 to US 6 [(Chestnut St.) in Sterling]
- US 160 from New Mexico to Interstate 25 [Business Route in Walsenburg South to Exit 49 on I-25]
- US 285 from State 112 to US 160

- US 285 from State 470 to State 112
- US 285 from US 160 [in Alamosa] to New Mexico
- US 287 from US 40 [in Kit Carson] to Oklahoma
- US 385 from Interstate 76 [in Julesburg] to US 40 [in Cheyenne Wells]
- US 550 from US 160 to New Mexico
- US 666 from Utah to New Mexico

- 65 Fed. Reg. 75771, 75780-75782 (Dec. 4, 2000)

Liability

- Any person who violates any rule or regulation pursuant to § 42-20-104 commits a class 3 misdemeanor (Colorado Revised Statute § 42-20-109 [2003]).

- Any person who intentionally or knowingly violates any provision of parts 1, 2 or 3 commits a class 1 misdemeanor (Colorado Revised Statute § 42-20-111 [2003]).

- Any person who transports hazardous materials without a permit is subject to a $250 fine for committing a misdemeanor traffic offense (Colorado Revised Statute § 42-20-204 [2003]).

- Any person to intentionally of knowingly violates any provision of parts 4 or 5 commits a class 2 misdemeanor and shall be subject to a penalty of not more than $10,000 per day for each day the violation occurred (Colorado Revised Statute § 42-20-405 [2003]).

- The following penalties (fines) apply to drivers, shippers, carriers, etc., of hazardous materials for violation of specified rule: Colorado Revised Statute § 42-20-406 (2003); a repeat violator will be assessed double the fines listed below (Colorado Revised Statute § 42-20-407[2003]):

Number of Motor Vehicles	**Permit Fee:**
1 – 5	$10.00
6 – 10	$25.00
11 – 50	$125.00
51 – 100	$200.00
101 – 300	$350.00
300 +	$400.00

Operating a motor vehicle without a driver's log book:	$100
Failing to maintain the driver's log book in current condition:	$100
Entering false information into the log book:	$250

Any person who exceeds maximum driving or on-duty time:	$250
Failing to have a valid medical certificate:	$100
Operating a vehicle without meeting driver's qualifications:	$500
Carrying an unauthorized passenger:	$100
Operating a vehicle declared to be out of service:	$500 – $1000
Operating an unsafe vehicle:	$150
Operating a vehicle that has not made corrections to defects noted on a safety inspection violation report:	$500
Transporting hazardous materials without placarding being visible:	$200
Transporting hazardous materials without placarding:	$500
Displaying placarding without actually transporting hazardous material:	$100
Failing to have conforming shipping papers:	$500
Improperly filling out shipping papers:	$500
Failing to report an incident:	$500
Supplying inaccurate information or failing to comply with route plan:	$500
Transporting nuclear material in violation of radiation level limitations:	$1000
Transporting nuclear materials in excess of the maximum permissible transport index:	$1000

- Colorado Revised Statutes §§ 24-60-2201 to 24-60-2212: *Rocky Mountain Low-Level Radioactive Waste Compact*:

  - Colorado has joined a compact created as a cooperative effort to manage low-level radioactive waste generated within the region. The purpose of this compact is to monitor and manage private facilities producing low-level radioactive waste and to reduce the volume of low-level radioactive waste production. In addition, this compact will assist in the distribution of costs, benefits and obligations attached to the management of low-level radioactive waste and promote the health, safety and welfare the citizens in the region.

  - States that have entered the compact agree to adopt and enforce packaging and transportation procedures for low-level waste shipments.

  - The compact will have a board comprised of one member from each party state.

- Unless authorized by the Rocky Mountain Low-Level Radioactive Waste Board, disposing, exporting, managing low-level waste, or managing radioactive waste in a regional facility is prohibited.

- The state of Wyoming is eligible to become a member of the compact. Other states may become a party to the compact upon unanimous consent of the eligible states.

Connecticut – Existing State Regulatory Requirements

Authority and Duties

- Connecticut General Statute § 16a-107 (2003) (Formerly Sec. 19-409e): Authority of Commissioner of Transportation concerning transport of radioactive material or waste supersedes any municipal ordinance:

  - No municipality shall adopt an ordinance which in any way restricts the authority of the Commissioner of Transportation to designate the dates, routes or time for the transporting of such radioactive material or waste and said commissioner's authority shall supersede the provisions of any existing municipal ordinance to the contrary.

- Connecticut General Statute § 22a-163b (2003): Duties of Connecticut Hazardous Waste Management Service – Low-level Radioactive Waste Management Plan (*portions of text omitted*)

  - The Connecticut Hazardous Waste Management Service, in addition to its responsibilities under chapter 445a, shall assist the state in fulfilling its responsibilities under the Northeast Interstate Low-Level Radioactive Waste Compact to provide for the management of low-level radioactive waste. On or before February 1, 1993, the service shall prepare a new low-level radioactive waste management plan. The new plan shall include, but not be limited to, the following:

    (5) An analysis of transportation routes and transportation costs from low-level radioactive waste generators in the region authorized by the commission to use the regional low-level radioactive waste facility to the various areas of the state; and

- Connecticut General Statute § 16a-106 (2003):

  - (c) The Commissioner of Transportation shall, not later than November 1, 1976, and after consultation with the Commissioners of Environmental Protection and Public Safety and the Secretary of the Office of Policy and Management, the Director of Emergency Management and representatives of the federal Nuclear Regulatory Commission and the United States Department of Transportation, adopt regulations pursuant to chapter 54, to carry out the provisions of this section. The Commissioner of Transportation shall, after consultation with the Commissioner of Public Safety, establish by regulations adopted pursuant to chapter 54 a permit fee schedule commensurate with the cost of administering the provisions of this section.

Permits and Fees

- Connecticut General Statute § 16a-104 (2003): License or permit for certain activity:

  - No person shall manufacture, construct, produce, transfer, acquire or possess any special nuclear material, by-product material, production facility utilization facility, or act as an operator of a production or utilization facility wholly within this state, unless he has first obtained a license or permit for the activity in which he proposes to engage from the United States Atomic Energy Commission if, pursuant to the Atomic Energy Act of 1954, (42 U.S.C.A. § 2011 et seq.) the commission requires a license or permit to be obtained by persons proposing to engage in activities of the same type over which it has jurisdiction.

- Connecticut General Statute § 16a-106 (2003) (Formerly Sec. 19-409d): Transporting of radioactive materials in the state; permit required:

  - (a) No person shall transport into or through the state any of the following materials: (1) Any quantity of radioactive material specified as a “large quantity” by the Nuclear Regulatory Commission in 10 CFR, Part 71, entitled “Packaging of Radioactive Material for Transport”, (2) any quantity of radioactive waste which has been produced as part of the nuclear fuel cycle and which is being shipped from or through the state to a waste disposal site or facility, or (3) any shipment of radioactive material or waste which is carried by commercial carrier and which is required in 10 CFR or 49 CFR to have a placard unless such person has been granted a permit to transport such materials from the Commissioner of Transportation.

  - (b) Prior to the transporting of such materials, such person shall apply to the Commissioner of Transportation for a permit and provide said commissioner with the following information: (1) Name of shipper, (2) name of carrier, (3) type and quantity of radioactive material or waste, (4) proposed date and time of shipment, (5) starting point, scheduled route, and destination and (6) any other information required by the commissioner. Said commissioner shall grant such permit upon a finding that the transporting of such material shall be accomplished in a manner necessary to protect public health and safety of the citizens of the state. Such permit shall be granted or denied not later than three days, Saturdays and Sundays excluded, after such person has applied for such permit, except that if the commissioner determines that additional time is required to evaluate such application, the commissioner shall notify such person not later than such three-day period that such additional time is required. Said commissioner may require changes in dates, routes or time for the transporting of such material or the use of escorts in the transporting of such material or waste if necessary to protect the public health and safety. The commissioner may consult with the Commissioner of Environmental Protection and the Commissioner of Public Safety prior to the granting of such permit and shall immediately notify the Commissioner of Public Safety of the

granting of any permit and of the terms and conditions of such permit. The Commissioner of Public Safety shall establish an inspection procedure along scheduled routes to ensure compliance with permit conditions and with regulations adopted by the Commissioner of Transportation pursuant to subsection (c).

- Connecticut General Statute § 19-409d-54 (2004): Application for permit to transport radioactive material:

  - No person shall transport radioactive material over Connecticut highways until a permit has been issued by the Commissioner of Transportation**.**

  - All applications for a permit to transport radioactive material shall be made to the Connecticut Department of Transportation**.** Application may be made to the Commissioner of Transportation during normal working hours, Monday thru Friday; Holidays, Saturdays and Sundays excluded.

  - No applications will be processed without a two hour advance notice nor will an application be accepted more than one working day in advance of the scheduled move except that the Commissioner reserves the right to waive the advance notice requirement when it is in the best interest of public health and safety.

  - No application will be considered until the applicant has submitted the following certificates to the Commissioner of Transportation.

  - A written statement from the Shipper certifying that the articles described in the shipping papers are properly classified, described, packaged, marked and labeled, and that the articles are in proper condition for transportation, according to the applicable regulations of the Nuclear Regulatory Commission and the Federal Department of Transportation**.**

  - A written statement from the carrier certifying that the packaged radioactive material has been loaded, blocked and properly secured onto the transport vehicle. The certification shall also state that the vehicle and load are in compliance with the applicable motor carrier safety regulations of the Federal Department of Transportation.

  - In addition to the required certifications from the shipper and the carrier, each applicant shall provide the following information:

    1. Name of the shipper.
    2. Name and mail address of the carrier.
    3. Type of major isotopes, quantity (in curies) and type of label.
    4. Date and time of shipment.

5. Origin, scheduled route and destination. (All routing will be via limited access highways and the shortest practicable route to and from them.)
6. Year, make, color, State of registration and plate number of both the tractor and trailer.
7. Driver(s) and name(s).
8. Any additional information as required.

- This permit or a confirmation of such permit shall be retained in the possession of the operator of the vehicle while transporting the radioactive material over Connecticut highways.

Fees

- LEXSEE 2003 Ct. HB 6806 – see Section 121 (see Connecticut Proposed State Regulatory Requirements in Section 5.0):

  - The commissioner shall charge each of the four nuclear powered commercial electric power generating plants an annual fee of forty thousand dollars for monitoring radiation released from such plants. Nuclear fuels radiation facilities shall pay an annual fee of ten thousand dollars for monitoring such plants.

- Connecticut General Statute § 22a-135 (2003):

  - The commissioner may adopt regulations, in accordance with the provisions of chapter 54, to prescribe the amount of the fees required pursuant to this section. Upon the adoption of such regulations, the fees required by this section shall be as prescribed in such regulations.

Inspection

- Connecticut General Statute § 22a-135 (2003) (Formerly Sec. 19-408a): Duties of Department of Environmental Protection re-inspection (*portions of text omitted – STATUS: Consult slip laws cited below for recent changes to this document*):

  - (a) The Department of Environmental Protection shall: (8) conduct periodic on-site evaluations of the effectiveness and enforcement of federal regulations for the packaging and transportation of radioactive material

- LEXSEE 2003 Ct. HB 6806 – see Section 121 (see Connecticut Proposed State Regulatory Requirements in Section 5.0):

Emergency Preparedness

- Connecticut General Statute § 22a-163c (2003): Selection of potential sites. (*portions of text omitted*):

  - Upon completion of the management plan required under section 22a-163b, the service shall evaluate and select one or more potential sites for a regional low-level radioactive waste facility. In making its evaluation, the service shall consider, but not be limited to the following factors:

    (3) the risk a waste facility at the site would pose to the local public health, safety and welfare, including the risk from an accidental release of low-level radioactive wastes during transportation to the facility or while at the facility.

Routing

- (See Federal Register Vol. 65, No. 233, December 4, 2000)

- No routes designated as of 11/14/00

- Contacts:

  - Connecticut Department of Environmental Protection; Dave Sattler (860) 424-3289

  - Federal Motor Carrier Safety Administration – Connecticut Field Office; Connecticut Motor Carrier State Director (860) 659-6700 x3020

Other

- Connecticut General Statute § 16a-106 (2003) (Exemptions):

  - (d) This section shall not apply to radioactive materials shipped by or for the United States government for military or national security purposes or which are related to national defense. Nothing herein shall be construed as requiring the disclosure of any defense information or restricted data as defined in the Atomic Energy Act of 1954 and the Energy Reorganization Act of 1974, as amended.

- Connecticut General Statute § 16a-106 (2003)

  - (e) Notwithstanding the provisions of the Freedom of Information Act, as defined in section 1-200, the Commissioner of Transportation shall not disclose to any person other than the Commissioner of Environmental Protection or the Commissioner of Public Safety any information provided the Commissioner of Transportation pursuant to subsection (b) of this

section prior to the completion of such shipment to which such information relates.

- Connecticut General Statute § 16a-106 (2003) (Penalty):

  - (f) Any person who violates any provision of this section shall be fined not more than ten thousand dollars for each violation.

- Connecticut General Statute § 22a-135 (2003) (Reporting):

  - (b) In addition to the reporting required of a licensee pursuant to the provisions of subdivision (3) of subsection (a), the department may require the reporting immediately or within such time period as the department may designate of any additional occurrence, incident or other abnormal circumstance which is not required to be reported within twenty-four hours or sooner to the Nuclear Regulatory Commission. The department shall adopt regulations, in accordance with chapter 54, to carry out the provisions of this subsection.

- Connecticut General Statute § 22a-159 (2003) (Formerly Sec. 19-25j): New England Compact on Radiological Health Protection:

  - Article I. Enactment:

    This compact shall become effective when enacted into law by any two or more of the states of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont. Thereafter it shall become effective with respect to any other aforementioned state upon its enacting this compact into law. Any state not mentioned in this article which is contiguous to any party state may become a party to this compact by enacting the same.

  - Article II. Duties of States:

    (a) It shall be the duty of each party state to formulate and put into effect an intrastate radiation incident plan which is compatible with the interstate radiation incident plan formulated pursuant to this compact**.**

    (b) Whenever the compact administrator of a party state requests aid from the compact administrator of any other party state pursuant to this compact**,** it shall be the duty of the requested state to render all possible aid to the requesting state which is consonant with the maintenance of protection of its own people. The compact administrator of a party state may delegate any or all of his authority to request aid or respond to requests for aid pursuant to this compact to one or more subordinates, in order that requests for aid and responses thereto shall not be impeded by reason of the absence or unavailability of the compact administrator. Any compact administrator

making such a delegation shall inform all the other compact administrators thereof, and also shall inform them of the identity of the subordinate or subordinates to whom the delegation has been made.

(c) Each party state shall maintain adequate radiation protection personnel and equipment to meet normal demands for radiation protection within its borders.

- Article III. Liability:

(a) Whenever the officers or employees of any party state are rendering outside aid pursuant to the request of another party state under this compact**,** the officers or employees of such state shall, under the direction of the authorities of the state to which they are rendering aid, have the same powers, duties, rights, privileges and immunities as comparable officers and employees of the state to which they are rendering aid.
(b) No party state or its officers or employees rendering outside aid pursuant to this compact shall be liable on account of any act or omission on their part while so engaged, or on account of the maintenance or use of any equipment or supplies in connection therewith.

(c) All liability that may arise either under the laws of the requesting state or under the laws of the aiding state or under the laws of a third state, on account of or in connection with a request for aid, shall be assumed and borne by the requesting state.

(d) Any party state rendering outside aid to cope with a radiation incident shall be reimbursed by the party state receiving such aid for any loss or damage to, or expense incurred in the operation of any equipment answering a request for aid, and for the cost of all materials, transportation and maintenance of officers, employees and equipment incurred in connection with such request: provided that nothing herein contained shall prevent any assisting party state from assuming such loss, damage, expense or other cost or from loaning such equipment or from donating such services to the receiving party state without charge or cost.

(e) Each party state shall provide for the payment of compensation and death benefits to injured officers and employees and the representatives of deceased officers and employees in case officers or employees sustain injuries or are killed while rendering outside aid pursuant to this compact**,** in the same manner and on the same terms as if the injury or death were sustained within the state for or in which the officer or employee was regularly employed.

- Article IV. Facilities, Equipment and Personnel:

(a) Whenever a department, agency or officer of a party state responsible for and having control of facilities or equipment designed for or useful in radiation control, radiation research, or any other phase of a radiological health program or programs determines that such a facility or item of equipment is not being used to its full capacity by such party state, or that temporarily it is not needed for current use by such state, a department, agency or officer may, upon request of an appropriate department, agency or officer of another party state, make such facility or item of equipment available for use by such requesting department, agency or officer. Unless otherwise required by law, the availability and use resulting there from may be with or without charge, at the discretion of the lending department, agency or officer. Any personal property made available pursuant to this paragraph may be removed to the requesting state, but no such property shall be made available, except for a specified period and pursuant to written agreement. Except when necessary to meet an emergency, no supplies or materials intended to be consumed prior to return shall be made available pursuant to this paragraph.

(b) In recognition of the mutual benefits, in addition to those resulting from article IV, accruing to the party states from the existence and flexible use of professional or technical personnel having special skills or training related to radiation protection, such personnel may be made available to a party state by appropriate departments, agencies and officers of other party states: Provided that the borrower reimburses such party state regularly employing the personnel in question for any cost of making such personnel available, including a prorated share of the salary or other compensation of the personnel involved.

(c) Nothing in this article shall be construed to limit or to modify in any way the provisions of article IV of this compact**.**

- Article V. Compact Administrators:

Each party state shall have a compact administrator who shall be the head of the state agency having principal responsibility for radiation protection, and who:

1 Shall coordinate activities pursuant to this compact in and on behalf of his state.

2 Serving jointly with the compact administrators of the other party states, shall develop and keep current an interstate radiation incident plan; consider such other matters as may be appropriate in connection with programs of cooperation in the field of radiation protection and allied areas of common interest; and formulate procedures for claims and reimbursement under the provisions of article IV.

- Article VI. Other Responsibilities and Activities:

  Nothing in this compact shall be construed to:

  1 Authorize or permit any party state to curtail or diminish its radiation protection program, equipment, services or facilities.

  2 Limit or restrict the powers of any state ratifying the same to provide for the radiological health protection of the public and individuals, or to prohibit the enactment or enforcement of state laws, rules or regulations intended to provide for such radiological health protection.

  3 Affect any existing or future cooperative relationship or arrangement between federal, state or local governments and a party state or states.

- Article VII. Withdrawal:

  Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the governor of the withdrawing state has given notice in writing of the withdrawal to the governors of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

- Article VIII. Construction and Severability:

  It is the legislative intent that the provisions of this compact be reasonably and liberally construed. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be unconstitutional or the applicability thereof, to any state, agency, person or circumstances is held invalid, the constitutionality of the remainder of this compact and the applicability thereof, to any other state, agency, person or circumstance shall not be affected thereby.

▪ Connecticut General Statute § 22a-161 (2003): Northeast Interstate Low-Level Radioactive Waste Management Compact. (*portions of text omitted*)

- Article I. Policy and Purpose:

  Sec. 1.1. There is hereby created the Northeast Interstate Low-Level Radioactive Waste Management Compact. The party states recognize that the Congress has declared that each state is responsible for providing for the availability of capacity, either within or outside its borders, for disposal of low-level radioactive waste generated within its borders, except for waste generated as a result of atomic energy defense activities of the federal

government, as defined in the Low-Level Radioactive Waste Policy Act (P.L. 96-573, “The Act”), or federal research and development activities. They recognize that the management of low-level radioactive waste is handled most efficiently on a regional basis. The party states further recognize that the Congress of the United States, by enacting the Act has provided for and encouraged the development of regional low-level radioactive waste compacts to manage such waste**.** The party states further recognize that the long-term, safe and efficient management of low-level radioactive waste generated within the region requires that sufficient capacity to manage such waste be properly provided.

In order to promote the health and safety of the region, it is the policy of the party states to: Enter into a regional low-level radioactive waste management compact as a means of facilitating an interstate cooperative effort; provide for proper transportation of low-level waste generated in the region; minimize the number of facilities required to effectively and efficiently manage low-level radioactive waste generated in the region; encourage the reduction of the amounts of low-level waste generated in the region, distribute the costs, benefits and obligations of proper low-level radioactive waste management equitably among the party states and ensure the environmentally sound and economical management of low-level radioactive waste.

- Article III. Rights and Obligations

Sec. 3.1. There shall be provided within the region one or more regional facilities which, together with such other facilities as may be made available to the region, will provide sufficient capacity to manage all wastes generated within the region. Regional facilities shall be entitled to waste generated within the region, unless otherwise provided by the commission. To the extent regional facilities are available, no waste generated within a party state shall be exported to facilities outside the region unless such exportation is approved by the commission and the affected host state or states. After January 1, 1986, no person shall deposit at a regional facility waste generated outside the region, and further, no regional facility shall accept waste generated outside the region, unless approved by the commission and the affected host state or states.

Sec. 3.2. The rights, responsibilities and obligations of each party state to this compact are as follows:

(a) Each party state shall have the right to have all wastes generated within its borders managed at regional facilities, and shall have the right of access to facilities made available to the region through agreements entered into by the commission pursuant to subsection (c) of section 4.3 of

Article IV. The right of access by a generator within a party state to any regional facility is limited by the generator's adherence to applicable state and federal laws and regulations and the provisions of this compact;

(b) To the extent not prohibited by federal law, each party state shall institute procedures which will require shipments of low-level waste generated within or passing through its borders to be consistent with applicable federal packaging and transportation regulations and applicable host state packaging and transportation regulations for management of low-level waste; provided that these practices shall not impose unreasonable or burdensome impediments to the management of low-level waste in the region. Upon notification by a host state that a generator, shipper or carrier within the party state is in violation of applicable packaging or transportation regulations, the party state shall take appropriate action to ensure that such violations do not recur;

(c) Each party state may impose reasonable fees upon generators, shippers or carriers to recover the cost of inspections and other practices under this compact;

(d) Each party state shall encourage generators within its borders to minimize the volumes of waste requiring disposal;

(e) Each party state has the right to rely on the good faith performance by every other party state of acts which ensure the provision of facilities for regional availability and their use in a manner consistent with this compact;

(f) Each party state shall provide to the commission any data and information necessary for the implementation of the commission's responsibilities, and shall establish the capability to obtain any data and information necessary to meet its obligation as herein defined;

(g) Each party state shall have the capability to host a regional facility in a timely manner and to ensure the post-closure observation and maintenance and institutional control of any regional facility within its borders; and

(h) No party state that is not a host state shall be liable for any injury to persons or property resulting from the operation of a regional facility or the transportation of waste to a regional facility. If the host state itself is the operator of the regional facility, its liability shall be that of any private operator.

Sec. 3.3. The rights, responsibilities and obligations of a host state are as follows:

(a) To the extent not prohibited by federal law, a host state shall ensure the timely development and the safe operation, closure, post-closure observation and maintenance and institutional control of any regional facility within its borders;

(b) The host state shall provide for the establishment of a reasonable structure of fees sufficient to cover all costs related to the development, operation, closure, post-closure observation and maintenance and institutional control of a regional facility in accordance with the procedures established in Articles V and IX. It may also establish surcharges to cover the regulatory costs, incentives and compensation associated with a regional facility; provided that without the express approval of the commission, no distinction in fees or surcharges shall be made between persons of the several states party to this compact;

(c) A host state may establish to the extent not prohibited by federal law requirements and regulations pertaining to the management of waste at a regional facility, provided that such requirements shall not impose unreasonable impediments to the management of low-level waste within the region. A host state or subdivision thereof shall not impose restrictive requirements on the siting or operation of a regional facility that, alone or as a whole, would serve as unreasonable barriers or prohibitions to the siting or operation of such a facility;

(d) Each host state shall submit to the commission annually a report concerning each operating regional facility within its borders. The report shall contain projections of the anticipated future capacity and availability of the regional facility, a financial audit of its operation, and other information as may be required by the commission; and in the case of regional facilities in institutional control or otherwise no longer operating, the host states shall furnish such information as may be required on the facilities still subject to their jurisdiction; and

(e) A host state shall notify the commission immediately if any exigency arises which requires the permanent, temporary or possible closure of any regional facility located therein at a time earlier than projected in its most recent annual report to the commission. The commission may conduct studies, hold hearings or take such other measures to ensure that the actions taken are necessary and compatible with the obligations of the host state under this compact.

- Article IV. The Commission

Sec. 4.1. There is hereby created the Northeast Interstate Low-Level Radioactive Waste Commission. The commission shall consist of one

member from each party state to be appointed by the governor according to procedures of each party state, except that a host state shall have two members during the period that it has an operating regional facility. The governor shall notify the commission in writing of the identity of the member and one alternate, who may act on behalf of the member only in the member's absence. Each commission member shall be entitled to one vote. No action of the commission shall be binding unless a majority of the total membership cast their vote in the affirmative. The commission shall elect annually from among its members a presiding officer and such other officers as it deems appropriate. The commission shall adopt and publish, in convenient form, such rules and regulations as are necessary for due process in the performance of its duties and powers under this compact. The commission shall meet at least once a year and shall also meet upon the call of the presiding officer, or upon the call of a party state member. All meetings of the commission shall be open to the public with reasonable prior public notice. The commission may, by majority vote, close a meeting to the public for the purpose of considering sensitive personnel or legal matters. All commission actions and decisions shall be made in open meetings and appropriately recorded. A roll call vote may be required upon request of any party state or the presiding officer. The commission may establish such committees as it deems necessary. The commission may appoint, contract for and compensate such limited staff as it determines necessary to carry out its duties and functions. The staff shall serve at the commission's pleasure notwithstanding the provisions of the civil service, personnel or other merit laws of any of the party states or the federal government and shall be compensated from funds of the commission. The commission shall adopt an annual budget for its operations.

Sec. 4.2. The commission shall have the following duties and powers:

(a) To receive and act on the application of a nonparty state to become an eligible state in accordance with the provisions of section 7.3 of Article VII;

(b) To receive and act on the application of an eligible state to become a party state in accordance with section 7.2 of Article VII;

(c) To submit an annual report to and otherwise communicate with the governors and the presiding officer of each body of the legislature of the party states regarding the activities of the commission;

(d) To mediate disputes arising between the party states regarding this compact upon request of party states;

(e) To develop, adopt and maintain a regional management plan to ensure safe and effective management of waste within the region, pursuant to Article V;

(f) To conduct such legislative or adjudicatory hearings and require such reports, studies, evidence and testimony as it deems necessary to perform its duties and functions;

(g) To establish by regulation, after public notice and opportunity for comment, such procedures as it deems necessary to ensure efficient operation, the orderly gathering of information and the protection of the rights of due process of affected persons;

(h) To accept a host state's proposed facility as a regional facility in accordance with the procedures and criteria set forth in Article V;

(i) To designate, by a two-thirds vote, host states for the establishment of needed regional facilities in accordance with the procedures and criteria set forth in Article V. The commission shall not exercise this authority unless the party states have failed to voluntarily pursue the development of such facilities;

(j) To require of and obtain from party states, eligible states seeking to become eligible states and nonparty states seeking to become eligible states, data and information necessary for the implementation of commission responsibilities;

(k) To enter into agreements with any person, state, regional body or group of states for the importation of waste into the region and for the right of access to facilities outside the region for wastes generated within the region. Such authorization to import shall require a two-thirds majority vote of the commission, including an affirmative vote of the representatives of the host state in which any affected regional facility is located. The authorization shall be after the commission and the host state have made an assessment of the affected facilities' capability to handle such wastes and an assessment of relevant environmental, economic and public health factors, as defined by the appropriate regulatory authorities;

(l) To grant upon petition an individual generator or group of generators in the region the right to export wastes to a facility located outside the region. Such grant of right shall be for a period of time and amount of waste and on such other terms and conditions as determined by the commission and approved by the affected host states;

(m) To appear as an intervenor or party in interest before any court of law, federal, state or local agency, board or commission that has jurisdiction over the management of wastes**.** Such authority to intervene or otherwise appear shall be exercised only after a two-thirds majority vote of the commission. In order to represent its views, the commission may arrange

for any expert testimony, reports, evidence or other participation as it deems necessary;

(n) To impose sanctions, including but not limited to fines, suspension of privileges or revocation of the membership of a party state in accordance with Article VII. The commission shall have the authority to revoke, in accordance with section 7.2 of Article VII, the membership of a party state that creates unreasonable barriers to the siting of a needed regional facility or refuses to accept host state responsibilities upon designation by the commission;

(o) To establish by regulation criteria for fee and surcharge systems and the review of such systems in accordance with Articles V and IX;

(p) To review the capability of party states to ensure the siting, operation, post-closure observation and maintenance and institutional control of any facility within its borders;

(q) To review the compact legislation every five years prior to federal congressional review provided for in the act and to recommend legislative action; and

(r) To develop and provide to party states such rules, regulations and guidelines as it deems appropriate for the efficient, consistent, fair and reasonable implementation of the compact.

Sec. 4.3. There is established a commission operating account. The commission may expend moneys from such account for the expenses of any staff and consultants designated under the provisions of subsection (g) of section 4.2 of this article and for official commission business. Financial support for the commission account shall be provided as follows: Each eligible state, upon becoming a party state, shall pay seventy thousand dollars to the commission, which shall be used for administrative costs of the commission. The commission shall impose a “commission surcharge” per unit of waste received at any regional facility as provided in Article V. Until such time as at least one regional facility is in operation and accepting waste for management, or to the extent that revenues under this section are unavailable or insufficient to cover the approved annual budget of the commission, each party state shall pay an apportioned amount of the difference between the funds available and the total budget in accordance with the following formula:

(a) Twenty percent in equal shares;

(b) Thirty percent in the proportion that the population of the party state bears to the total population of all party states, according to the most recent United States census; and

(c) Fifty percent in the proportion that the waste generated for management in the region for the most recent calendar year in which reliable data are available, as determined by the commission.

Sec. 4.4. The commission shall keep accurate accounts of all receipts and disbursements. An independent certified public accountant shall annually audit all receipts and disbursements of commission accounts and funds and submit an audit report to the commission. Such audit report shall be made a part of the annual report of the commission required by section 4.2 of Article IV.

Sec. 4.5. The commission, for any of its purposes and functions, may accept, receive, utilize and dispose for any of its purposes and functions any and all donations, loans, grants of money, equipment, supplies, materials and services, conditional or otherwise, from any state or the United States or any subdivision or agency thereof, or interstate agency, or from any institution, person, firm or corporation. The nature, amount and condition, if any, attendant upon any donation, loan or grant accepted pursuant to this section, together with the identity of the donor, grantor, or lender, shall be detailed in the annual report of the commission. The commission shall by rule establish guidelines for the acceptance of donations, loans, grants of money, equipment, supplies, materials and services which shall provide that no donor, grantor or lender may derive unfair or unreasonable advantage in any proceeding before the commission.

Sec. 4.6. The commission herein established in a body corporate and politic, separate and distinct from the party states and shall be so liable for its own actions. Liabilities of the commission shall not be deemed to be liabilities of the party states, nor shall members of the commission be personally liable for action taken by them in their official capacity. The commission shall not be responsible for any costs or expenses associated with the creation, operation, closure, post-closure observation and maintenance and institutional control of any regional facility or any associated regulatory activities of the party states. Except as otherwise provided herein, this compact shall not be construed to alter the incidence of liability of any kind for any act, omission or course of conduct. Generators, shippers and carriers of wastes and owners and operators of sites shall be liable for their acts, omissions, conduct or relationships in accordance with all laws relating thereto.

Sec. 4.7. The United States district courts in the District of Columbia shall have original jurisdiction of all actions brought by or against the commission. Any such action initiated in a state court shall be removed to the designated

United States district court in the manner provided by act on June 25, 1948, as amended (28 USC 1446). This section shall not alter the jurisdiction of the United States Court of Appeals for the District of Columbia Circuit to review the final administrative decisions of the commission as set forth in the paragraph below.

Sec. 4.8. The United States Court of Appeals for the District of Columbia Circuit shall have jurisdiction to review the final administrative decisions of the commission. Any person aggrieved by a final administrative decision may obtain review of the decision by filing a petition for review within sixty days after the commission's final decision. In the event that review is sought of the commission's decision relative to the designation of a host state, the Court of Appeals shall accord the matter an expedited review, and, if the court does not rule within ninety days after a petition for review has been filed, the commission's decision shall be deemed to be affirmed. The court shall not substitute its judgment for that of the commission as to the decisions of policy or weight of the evidence on questions of fact. The court may affirm the decision of the commission or remand the case for further proceedings if it finds that the petitioner has been aggrieved because the finding, inferences, conclusions or decisions of the commission are: (1) In violation of the Constitution of the United States; (2) in excess of the authority granted to the commission by this compact; (3) made upon unlawful procedure to the detriment of any person; or (4) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

Sec. 4.9. The commission shall be deemed to be acting in a legislative capacity except in those instances where it decides, pursuant to its rules and regulations, that its determinations are adjudicatory in nature.

- Article V. Host State Selection And Development And Operation Of Regional Facilities (*text omitted*)

- Article VI. Other Laws And Regulations (*portions of text omitted*):

  Sec. 6.1. Nothing in this compact shall be construed to abrogate or limit the regulatory responsibility or authority of the U.S. Nuclear Regulatory Commission or of an agreement state under Section 274 of the Atomic Energy Act of 1954, as amended. The generation, treatment, storage, transportation or disposal of waste generated by the atomic energy defense activities of the federal government, as defined in P.L. 96-573, or federal research and development activities are not affected by this compact.

- Article VII. Eligible Parties, Withdrawal, Revocation, Entry Into Force, Termination (*portions of text omitted*)

Sec. 7.1. The initially eligible party states to this compact shall be Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island and Vermont. Initial eligibility shall expire June 30, 1984.

- Article VIII. Penalties

  Sec. 8.1. Each party state, consistent with federal and host state regulations and laws, shall enforce penalties against any person not acting as an official of a party state for violation of this compact in the party state. Each party state acknowledges that the shipment to a host state of waste packaged or transported in violation of applicable laws and regulations can result in the imposition of sanctions by the host state. These sanctions may include, but are not limited to, suspension or revocation of the violator's right of access to the facility in the host state.

  Sec. 8.2. Without the express approval of the commission, it shall be unlawful for any person to dispose of any low-level waste within the region except at a regional facility; provided that this restriction shall not apply to waste which is permitted by applicable federal or state regulations to be discarded without regard to its radioactivity.

  Sec. 8.3. Unless specifically approved by the commission and any affected host state or states pursuant to Article IV, it shall be a violation of this compact for any person to deposit at a regional facility waste not generated within the region, for any regional facility to accept waste not generated within the region and for any person to export from the region waste generated within the region. Primary responsibility for enforcing provisions of the law shall rest with the affected state or states. The commission, upon a two-thirds vote of its members, may bring action to seek enforcement or appropriate remedies against violators of the provisions and regulations for this compact as provided for in Article IV.

- Article IX. Compensation Provisions

  Sec. 9.1. The responsibility for ensuring compensation and cleanup during the operational and post-closure periods of a regional facility rests with the host state, as set forth herein. The host state shall ensure the availability of funds and procedures for compensation of injured persons, including facility employees, and property damage, except any claims for diminution of property values, due to the existence and operation of a regional facility, and for cleanup and restoration of the facility and surrounding areas. The host state may satisfy this obligation by requiring bonds, insurance, compensation funds, or any other means or combination of means, imposed either on the facility operator or assumed by the state itself, or both. Nothing in this Article

shall alter the liability of any person or governmental entity under applicable state and federal laws.

Sec. 9.2. The commission shall provide a means of compensation for persons injured or property damaged during the institutional control period due to the radioactive and waste management nature of the regional facility. This responsibility may be met by a special fund, insurance or other means. The commission is authorized, at its discretion, to impose a waste management surcharge, to be collected by the operator or owner of the regional facility; to establish a separate insurance entity, formed by but separate from the commission itself, but under such terms and conditions as it decides, and exempt from state insurance regulation; to contract with this company or other entity for coverage or to take any other measures, or combination of measures, and to implement the goals of this section. The existence of this fund or other means of compensation shall not imply any liability by the commission, the non-host party states or any of their officials and staff, which are exempt from liability by other provisions of this compact. Claims or suits for compensation shall be directed against the fund, the insurance company or other entity, unless the commission, by regulation, directs otherwise. Notwithstanding any other provisions, the commission fund, insurance or other means of compensation shall also be available for third party relief during the operational and post-closure period, as the commission may direct, but only to the extent that no other funds, insurance, tort compensation or other means are available from the host state or other entities, under section 9.1 of this Article or otherwise; provided, that this commission contribution shall not apply to cleanup or restoration of the regional facility and its environs during the operational and post-closure period. The liability of the commission's fund, insurance entity or any other means of compensation shall be limited to the amount currently contained therein; provided that the commission may set some lower limit to ensure the integrity and availability of the fund or other entity for liability.

- Article X. Severability and Construction

  Sec. 10.1. The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision of this compact is declared by a federal court of competent jurisdiction to be contrary to the Constitution of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any other government, agency, person or circumstance shall not be affected thereby. The provisions of this section shall be liberally construed to give effect to the purposes thereof.

- Title 19 Health and Safety – Connecticut Department of Transportation – Transport of Radioactive Material

- Connecticut General Statute § 19-409d-51 (2004)

  Sec. 19-409d-51. Purpose

  To prescribe the Connecticut Department of Transportation regulations relating to the transport of large quantities of radioactive material or any quantity of radioactive waste produced as a part of the nuclear fuel cycle and being shipped from or through the State of Connecticut to a waste disposal site or facility. These regulations are to assure the degree of control necessary to protect the public health and safety of the traveling public and the citizens of Connecticut and are promulgated in accordance with the provisions of Section 19-409d of the General Statutes of Connecticut as revised (PA 76-321).

- Connecticut General Statute § 19-409d-52 (2004)

  Sec. 19-409d-52. Applicability

  The provisions of these regulations pertain to any person transporting or causing the transportation of, by motor vehicle, certain specified radioactive material referred to in Section 19-409d of the General Statutes of Connecticut as revised (PA 76-321).

  Persons transporting radioactive material by any other mode of transportation shall be deemed in compliance with these regulations provided they conform to all other applicable Federal and State regulations.

  This regulation shall not apply to radioactive materials shipped by or for the United States Government for Military or National security purposes or which are related to National Defense. Nothing herein shall be construed as requiring the disclosure of any defense information or restricted data as defined in the Atomic Energy Act of 1954 and the Energy Reorganization Act of 1974, as amended.

- Connecticut General Statute § 19-409d-53 (2004)

  Sec. 19-409d-53. Definitions

  Application - Any written or verbal request to the Commissioner for a permit.

  Carrier - See motor carrier.

  Commissioner - Means the Commissioner of the Department of Transportation appointed pursuant to title 13b of the Connecticut General Statutes as amended.

Confirmation of Permit -. A permit shall be deemed valid when the operator of the vehicle, upon request, can produce the permit, any reproduction of the permit, or an authorized telegram, telex, or twx sent by the Commissioner.

Large Quantity - When used in this section refers to the Nuclear Regulatory Commission definition contained in Title 10 of the Code of Federal Regulations, Part 71, entitled “Packaging of Radioactive Material for Transport,” a copy of which is on file with the Commissioner of Transportation.

Motor Carrier - The term “Motor Carrier” or “Carrier” includes a common carrier by motor vehicle, a contract carrier by motor vehicle and a private carrier of property by motor vehicle.

Nuclear Fuel Cycle - The series of steps involved in supplying fuel for nuclear power reactors. It includes mining, refining, the original fabrication of fuel elements, their use in a reactor, chemical processing to recover the fissionable material remaining in the spent fuel or other disposition of spent fuel, or re-enrichment or reuse of the fuel material and re-fabrication into new fuel elements.

Permit - A written document allowing the use of certain specified Connecticut highways for the transport of radioactive material issued by the Commissioner to a permittee.

Permittee - Any person who has applied for and has been issued a permit to transport radioactive material over certain Connecticut highways.

Person - Any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, any other state or political subdivision or agency thereof, and any legal successor, representative, agent or agency of the foregoing.

Radiation - Ionizing radiation which includes any or all of the following: alpha rays, beta rays, gamma rays, X-rays, neutrons and other atomic particles but not sound or radio waves or visible, infrared or ultraviolet light.

Radioactive Material - “Any object, material or combination thereof which spontaneously emits ionizing radiation and either (1) is considered a “Large Quantity,” as defined in this Section 13(b)-17-53 or (2) consists of radioactive waste which has been produced as part of the nuclear fuel cycle.”

Radioactive Waste - Any radioactive material that has served its primary purpose.

Shipper - Any person, with a federal license, authorized to possess, use or transfer radioactive material.

Waste Disposal Site or Facility - Any site or facility to which radioactive waste is transported for permanent disposal or reprocessing.

Florida – Existing State Regulatory Requirements

- Florida Statutes §§ 404.071 to 404.20 (2004); *Florida Radiation Protection Act*.

- Florida Administrative Code Annotated §§ 64E-5.1501 to 5.1513 (2003); *Transportatio*n *of Radioactive Material*.

- The department will promulgate rules and regulations of the transportation of radioactive materials that will promote the public health, safety and welfare (Florida Statute § 404-20 [2004]). These rules must be compatible with regulations promulgated by the United States Nuclear Regulatory Commission, the United States Federal Aviation Agency, the United States Department of Transportation, the United States Coast Guard, and the United States Postal Service (Florida Statute § 404-20(1)(b) [2004]).

Permits and Fees:

- Any person desiring to transport radioactive materials in and through the state must obtain a permit. The permit application must include a description of the radioactive materials, the route, and when the radioactive material will leave the state, if appropriate (Florida Statute § 404.20(6) [2004]).

- The department is authorized to charge reasonable fees from department licensees and nuclear power plant licensees of the United States Nuclear Regulatory Commission who ship low-level radioactive waste to commercial low-level radioactive waste management facilities (Florida Statute § 404-131(3)(a) [2004]). All monies collected will be deposited in the Radiation Protection Trust Fund (Florida Statute § 404-131(3)(b) [2004]).

- The department is authorized to charge a reasonable fee, not to exceed regulatory costs, for transporting low-level radioactive waste into or through the state (Florida Statute § 404-131(4)(a) [2004]).

- Florida has incorporated 49 CFR Parts 171-173, 177, 383, and 390-397, dated 10-1-97, into its regulatory scheme (Florida Administrative Code Ann. r. 64-5.1502(a) [2003]).

- The annual permit fee for transporting low-level radioactive waste is $100.

***Inspections*:**

- An authorized representative may enter any public or private property at any reasonable hour for the purpose of determining whether the organization is in violation or compliance with this Act (Florida Statute § 404.071 [2004]).

Notification:

- Any licensed person transporting radioactive materials must notify the department no less than 48 hours prior to shipment (Florida Statute § 404-20(3)(a) [2004], *see also* Florida Administrative Code r. 64E-5.1502 [2003]).

- Upon notification of such shipment, the United States Regulatory Commission shall send a representative to inspect the cargo to verify external radiation levels, package bracing, placarding, and compliance with 49 C.F.R. part 172. Florida Statute § 404.20(3)(b) (2004).

Emergency Preparedness and Response*:*

Proposed Bill: March 3, 2003 – Died in Committee. Relates to truck safety; revises provisions for exemption from specified notification requirements for commercial motor vehicles carrying hazardous materials; updates regulations and rules applicable to certain commercial motor vehicle owners and drivers; revises truck length limitations for certain semi trailers, provides that certain penalties shall be a lien, permits inspectors to detain certain vehicles and notify law enforcement.

Highway and Rail Routing:

- The department may designate routes for transportation for radioactive materials requiring notification under 65E-5.1506. Florida Administrative Code r. 65$-5.1507 (2003). This route can be found in 65 Federal Register 75771, 75783-75784 (Dec. 4, 2000).

- Restricted routes for all Florida hazardous materials are as follows:

  - Florida Ave. (Tampa) from Crosstown Expressway to Scott Street (use Crosstown Expressway to 22nd St. North, thence north along 22nd Street to Interstate 4 to either Interstate 275 or points east).

  - Kennedy Blvd. (Tampa) from Crosstown Expressway to Hillsborough River (use Crosstown Expressway to Hyde Park Ave. and Davis Island Exit No. 5 to all points west).

  - Tampa central business area (bounded on the east by Ybor Channel, on the west by the Hillsborough River, and on the north by a line running along Scott Street east to Orange Ave., south to Cass St., east to the Seaboard Cost Line Railroad, northeast to Adamo Drive, and on the south by Garrison Channel. State maintained highways other than Florida Ave., and Kennedy Blvd., are exceptions to this restriction).

- Florida Statutes § 404.30 (2004); Southeast Interstate Low-Level Radioactive Waste Management Compact:

  - Florida joined a compact created as a cooperative effort to manage low-level radioactive waste generated within the region. The purpose of this compact is to provide for availability for disposal of low-level radioactive waste generated within the borders of party states. In addition, this compact will assist in the distribution of costs, benefits and obligations attached to the management of low-level radioactive waste and promote the health, safety and welfare the citizens in the region. Florida Statute § 404.30(1) (2004).

  - The compact will have a compact commission comprised of two members from each party state.

  - Unless authorized by the Rocky Mountain low-level radioactive waste board (in Florida?), disposing, exporting, managing low-level waste, or managing radioactive waste in a regional facility is prohibited.

  - Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia are eligible to become members of the compact. Other states may become a party to the compact upon two-thirds vote of the party states.

Georgia – Existing State Regulatory Requirements

- Georgia Code Annotated, §§ 46-11-1 to 46-11-6 (2002); *Transportation of Hazardous Materials Act*.

- Georgia Compilation of the Rules and Regulations, §§ 391-3-17-.06 (2003); *Transportation of Radioactive Material*.

Permits and Fees:

- No person shall transport, deliver or accept hazardous materials without first complying with the packaging, marking, labeling, handling, loading, unloaded, storing, detaining, transporting, placarding, and monitoring rules and regulations pursuant to this chapter and consistent with federal laws (Georgia Code Ann. § 46-11-4(b) [2002]).

- Hazardous materials includes radioactive materials (Georgia Code Ann. § 46-11-3(3) [2002]).

- Prior to the transportation of any hazardous materials, the shipper must obtain a permit from the Commissioner which describes proposed dates, times, routes, detention, holding, or storage of such materials during transport (Georgia Code Ann. § 46-11-4(e) [2002]).

- This permit must be carried in the vehicle transporting the hazardous materials and is subject to inspection by an officer or employee of the Department of Motor Vehicle Safety (Georgia Code Ann. § 46-11-4(f) [2002]).

- An annual permit may be issued (Georgia Code Ann. § 46-11-4(h)(1) [2002]).

- The fee for an annual trip permit is $100; the fee for a single-trip will be established by the Commissioner (Georgia Code Ann. § 46-11-4(i) [2002]).

- Each licensee who transports hazardous material outside the site of usage, as specified in a Department license, or where transport is on public highway, or public access road, or who delivers licensed material to a carrier for transport, shall:

  1. Comply with the applicable requirements, appropriate to the mode of transport, of the regulations of the U.S. Department of Transportation (DOT).

     (i) The licensee shall particularly note DOT regulations in the following areas:

     (I) Packaging--49 CFR Part 173, Subparts A and B and I.

(II) Marking and Labeling--49 CFR Part 172: Subpart D, and §§ 49 CFR 172.400 through 172.407, §§ 172.436 through 172.440 of Subpart E.

(III) 172.500 through 172.519, 172.556 and Appendices B and C.

(IV) Accident Reporting--49 CFR Part 171: §§ 171.15 and 171.16.
]
(V) Shipping Papers and Emergency Information--49 CFR Part 172, Subpart C and Subpart G.

(VI) Hazardous material employee training--49 CFR Part 172: Subpart H.

(VII) Hazardous material shipper/carrier registration--49 CFR Part 107: Subpart G.

(ii) The licensee shall also note DOT regulations pertaining to the following modes of transportation:

(I) Rail--49 CFR Part 174, Subparts A through D and K.

(II) Air--49 CFR Part 175.

(III) Vessel--49 CFR Part 176, Subparts A through F and M.

(IV) Public Highway--49 CFR Part 177 and Parts 390 through 397.

- Ga. Comp. R. & Regs. r. 391-3-17-.06(5)(a)(1) (2003).

Inspections:

- The Commissioner is vested with police powers and has the authority to delegate employees of the Department of Motor Vehicles to inspect motor vehicles for the purpose of determining compliance with this act (Georgia Code Ann. § 46-11-6(b) [2002]).

Notification:

- Prior to the transportation of any hazardous materials in or through the state, the Commissioner must first be notified. Transporting hazardous materials through the state subjects the transporter to Georgia's jurisdiction (Georgia Code Ann. § 46-11-4(c),(d) [2002]).

Highway and Rail Routing:

- Georgia has designated routes for transportation of radioactive and non-radioactive hazardous materials. This route can be found in 65 Fed. Reg. 75771, 75784 (Dec. 4, 2000).

- Restricted routes for all Georgia hazardous materials are as follows:

  - State 400 [Atlanta area] [Noted by Georgia Public Service Commission: "A ban on a portion of 400 due to a tunnel," but does not include specific sections and routes of ban.]

Liability:

- In the event of any hazardous release, the state may recover damages of all costs and prevention, abatement, remediation and attorney's fees from the shipper, or anyone responsible for the release (Georgia Code Ann. § 46-11-4(n) [2002]).

- In addition to any other liability imposed, an individual in violation of this chapter is guilty of a misdemeanor (Georgia Code Ann. § 46-11-4(p) [2002]).

- Georgia Code Ann. §§ 12-8-120 to 12-8-122 (2002): Southeast Interstate Low-Level Radioactive Waste Management Compact.

- Georgia has joined a compact created as a cooperative effort to manage and dispose of low-level radioactive waste generated within the region.

- Each state shall regulate, license, and ensure the maintenance and extended care of any hazardous waste facility within its borders.

- Each state will establish and enforce applicable federal or state laws or regulations pertaining to the packaging and transportation of waste generated within or passing through its borders.

- Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia are eligible to be parties to this compact.

Idaho – Existing State Regulatory Requirements

Idaho has joined three interstate compacts, cited below:

- Idaho Code § 39.3020 (2004): *Western Interstate Nuclear Compact:*
  - Purpose: to encourage and guide scientific advances and discoveries in nuclear technology for the purpose of industrial growth in the region.
  - Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming are eligible to be a party to this compact.
- Idaho Code § 39.3025 (2004): *Northwest Interstate Compact on Low-Level Radioactive Waste Management:*
  - Purpose: to manage low-level radioactive waste in the most economical manner to ensure the health, safety and welfare of the citizens of the party states.
  - Party states agree to adopt and enforce packaging and transportation procedures for low-level waste shipments.
  - Alaska, Hawaii, Idaho, Montana, Oregon, Utah, Washington, and Wyoming are eligible to be a party to this compact.
- Idaho Code § 39.3029 (2004): *Pacific states agreement on radioactive materials transportation management*:
  - Purpose: to eliminate duplicative rules and regulations regarding transportation of radioactive material among the party states and promote health and safety of its citizens by cooperating and coordinating transportation of radioactive materials in the most economical manner through the party states.
  - Arizona, California, Colorado, Idaho, Montana, New Mexico, Nevada, Oregon, Utah, Washington and Wyoming are eligible to be a party to this compact.
- Idaho Code §§ 39.4401 to 39.4415 (2004): *Hazardous Waste Management Act of 1983*
- Idaho Administrative Code. r. 11.13.01.018 (2003): *Transportation of Hazardous Substances, Materials and Wastes*.

***Permits and Fees**:*

- The legislature intends to enact rules and regulations regarding the management of hazardous waste that enables the state of Idaho to assume supremacy over the federal government (Idaho Code § 39.4404 [2004]).

- Idaho adopts by reference 49 CFR Parts 107, 171, 172, 173, 177, 178 and 180. Idaho Administrative Code r. 11.13.01.018(1) (2003).

Proposed Bills:

- 2004 ID H.B. 676: Amends existing law to increase fees applicable to the transportation of hazardous waste. February 13, 2004.

- 2004 ID S.B. 1275: Requires motor vehicle drivers applying for a hazardous material endorsement to have a security background records check and to receive clearance from the Federal Transportation Security Administration before the endorsement can be issued, renewed or transferred; requires either proof of United States citizenship or proof of lawful, permanent United States residence; provides that failure to comply will result in loss of federal highway funds. March 24, 2004.

- 2004 ID H.B. 676: An act relating to hazardous waste and radioactive materials; amending section 49-2202, Idaho Code, to provide references to radioactive materials, to set forth permit requirements for persons who transport certain nuclear wastes, to provide for permit fees and to make technical corrections.

  This bill increases the fees from $ 20 to $ 70 for a single trip permit, and increases the fees from $ 250 to $ 500 for an annual permit for the transportation of hazardous wastes. February 20, 2004.

***Inspections**:*

- Inspections shall be in conformity with the restrictions against unreasonable search and seizures (Idaho Code § 39.4412 [2004]).

- For the purpose of enforcing these rules, an authorized representative may enter at a reasonable time for the purpose of inspecting samples of waste, containers, and labeling (Idaho Code § 39.4412(2)(a) [2004]).

***Highway and Rail Routing**:*

- Idaho has designated routes for transportation of non-radioactive hazardous materials. These routes can be found in 65 Federal Register 75771, 75784-75785 (Dec. 4, 2000). Non-Radioactive hazardous materials routes are as follows:

  - Interstate 84 from Exit 99 to Missile base Rd. (Envirosafe site). Transporters are to exit at Exit 99 onto I-84 Business Loop to its intersection with old US 330. Follow US 30 approximately ¾ mile to Hamilton Rd. Follow Hamilton for 3 miles and turn sough onto S51 until its junction with State 78. Exit State 78 onto Missile Base Road (location of Envirosafe waste site).

  - US 95 (northbound) from Oregon to Missile Base Road (location of Envirosafe waste site). Northbound hazardous waste transporters are directed to exit US 95 onto Sommercamp Rd. (STC-3710) to its junction with State 78. Follow State 78 to its junction to Missile Base Rd. that leads to the Envirosafe waste site. 65 Federal Register 75771, 75784 (Dec. 4, 2000).

  - Interstate 15 (within the Fort Hall Indian Reservation). Designation by Shoshone-Bannock tribe. Only valid within Fort Hall Reservation.

  - Interstate 86 (within the Fort Hall Indian Reservation). Designation by Shoshone-Bannock tribe. Only valid within Fort Hall Reservation.

Liability:

- Any person making a false statement on an application, label, manifest, record, report, permit or other document may be fined up to $10,000 (plus costs) for each violation for each day (Idaho Code § 39.4414(1)(a) [2004]).

- Any person violating any part of this chapter is subject to a fine up to $10,000 (plus costs) per violation for each day (Idaho Code § 39.4414(1)(b) [2004]).

- Any person who knowingly makes a false statement on a application, label, manifest, record, report, permit or other document is guilty of a misdemeanor and subject to imprisonment not to exceed one year or a fine up to $10,000 (Idaho Code § 39.4415(1) [2004]).

- Any person who knowingly violates any part of this chapter is guilty of a misdemeanor and subject to imprisonment not to exceed one year or a fine up to $10,000 (Idaho Code § 39.4415(1) [2004]).

Illinois – Existing State Regulatory Requirements

Authority

- Illinois Department of Nuclear Safety

  - Duties:

    20 ILCS 2005/2005-70 (2004): Nuclear and radioactive materials transportation plan:

    > Sec. 2005-70. Nuclear and radioactive materials transportation plan. The Department shall formulate a comprehensive plan regarding the transportation of nuclear and radioactive materials in Illinois. The Department shall have primary responsibility for all State governmental regulation of the transportation of nuclear and radioactive materials, insofar as the regulation pertains to the public health and safety. This responsibility shall include but not be limited to the authority to oversee and coordinate regulatory functions performed by the Department of Transportation, the Department of State Police, and the Illinois Commerce Commission.

    20 ILCS 2005/2005-50 (2004): Regulation of nuclear safety:

    > Sec. 2005-50. Regulation of nuclear safety. The Department shall have primary responsibility for the coordination and oversight of all State governmental functions concerning the regulation of nuclear power, including low level waste management, environmental monitoring, and transportation of nuclear waste. Functions performed on December 3, 1980 (the effective date of Public Act 81-1516) by the Department of State Police, the Department of Transportation, and the Illinois Emergency Management Agency in the area of nuclear safety may continue to be performed by these agencies but under the direction of the Department of Nuclear Safety. All other governmental functions regulating nuclear safety shall be coordinated by Department of Nuclear Safety.

    2 Illinois Administrative Code 1075.220 (2004) (*portions of text omitted*):

    > § 1075.220 Functional Organizational Description:
    >
    > a) It is the mission of the Illinois Department of Nuclear Safety to protect the citizens of this state from any and all health hazards which they might encounter from the various uses of radioactive materials and radiation-producing devices--whether industrial, medical or otherwise. To accomplish this mission, the Department shall:

1) Supervise and regulate low level radioactive waste generated within the state and serve as the cognizant state agency in regard to the management and disposal of high level radioactive waste produced in Illinois, including commercial spent nuclear fuel.

2) Plan and coordinate appropriate responses to emergencies at nuclear power stations and other nuclear fuel cycle facilities. Plan and coordinate appropriate responses to accidents elsewhere which involve radioactive materials or radiation-producing devices.

3) Establish and implement a remote monitoring system capable of identifying and quantifying the radioactive components of all effluents from nuclear power stations.

6) Oversee and coordinate the transportation of radioactive materials within the state.

8) Study the impact and cost of nuclear power compared with alternative sources of energy, the potential effects of all radioactive emissions on the public health and safety, and all other factors which bear on the safe use of nuclear power. Formulate a general state nuclear policy based on these findings.

b) It is the policy of the Department of Nuclear Safety to fulfill these duties with the highest degree of technical, legal and social responsibility and expertise in order to accomplish this mission. The department's mandate is to deal effectively with the entire spectrum of nuclear and radiological issues, working with federal, local and other state agencies to keep the public informed and protected. In that respect, the Department shall work within the governmental system to assure effective performance and coordination of efforts on an ongoing basis throughout the nuclear and radiological safety field.

c) The Director and his deputy provide the leadership necessary to meet the goals and objectives of Illinois' nuclear safety program. Questions of agency policy and final decisions on all radiological issues are determined by the Director.

d) The Deputy Director advises the Director on all departmental matters, and is primarily responsible for the day-to-day operations of the agency.

e) Elements working immediately under the Director and his deputy include legal counsel, policy analysis, public and governmental relations, internal audits and administrative assistance.

h) The Office of Waste and Transportation Management is responsible for the inspection of the handling and disposing of low level radioactive waste and the transporting of all radioactive waste within Illinois. It also is responsible for enforcement of state regulations regarding these activities. Two divisions comprise the office.

1) Division of Waste Management: This division assists in formulating policy for the safe handling and disposing of low level radioactive waste by providing technical input and expertise (handling and disposing of spent fuel and high level waste is the responsibility of the U.S. Nuclear Regulatory Commission). The division also gathers and collects the latest information concerning radioactive waste from technical and governmental sources for use by other state agencies and interest groups. The division is responsible for developing, monitoring and decommissioning low level radioactive waste sites within Illinois.

2) Division of Transportation Coordination: This division is responsible for formulating a comprehensive plan regarding the transportation of nuclear and radioactive materials within Illinois. The division also is charged with the “primary responsibility” for all state regulation of such materials which relate to public health and safety. That responsibility includes overseeing and coordinating the regulatory functions performed by the Illinois Department of Transportation, the Illinois Department of Law Enforcement, and the Illinois Commerce Commission.

i) The Office of Technical Support consists of three diversified sections providing the broad base of technical expertise necessary to support all departmental programs. Those sections and their functions are as follows:

1) Emergency Planning: This section is responsible for developing, implementing and maintaining the Illinois Plan for Radiological Accidents, a statewide program designed to protect the health and safety of Illinois citizens in the event of a nuclear accident. The section also supplies tactical support. That support includes obtaining, operating and maintaining sophisticated nuclear radiation detection equipment, a statewide multi-frequency radio-telecommunications network, specialized emergency response vehicles, the agency’s automotive fleet and equipment inventory and other logistical support for agency activities.

2) Management Information Services: This section is responsible for developing, obtaining, installing, operating and maintaining those EDP resources necessary to support agency programs.

3) Radiochemistry Laboratory Services: This section is charged with formulating, obtaining, installing, operating and maintaining the nuclear analytical resources needed to support agency activities. This section interprets all data produced by the laboratory and advises other technical staff members.

j) The Office of Administrative Support handles problems related to the agency's financial requirements and responsibilities and other daily administrative functions. Staffing of the department is a major job of this office. The office also must contend with routine recordkeeping and clerical chores necessary to keep the agency operating smoothly.

Permitting/Fees

- Illinois Low-level Radioactive Waste Management Act

  - 420 ILCS 20/9 Requirements for waste transporters:

    (a) No person shall transport any low-level radioactive waste to a storage, treatment or disposal facility in Illinois licensed under Section 8 without a permit granted by the Department.

    (b) No person shall transport any low-level radioactive waste to a storage, treatment or disposal facility licensed under Section 8 without a manifest document. The Department shall develop the form for such manifests and shall promulgate rules and regulations establishing a system of tracking wastes from their point of generation to storage, treatment, and ultimate disposal.

    (c) Each application for a permit under this Section shall contain any information as may be required under regulations promulgated by the Department, including, but not limited to, information respecting:

    (1) The estimated quantities and types of wastes to be transported to a facility located in Illinois;

    (2) The procedures and methods used to monitor and inspect the shipments to ensure that leakage or spills do not occur;

    (3) The timetables according to which the wastes are to be shipped.

    (4) The qualifications and training of personnel handling low-level radioactive waste; and

    (5) The use of interim storage and transshipment facilities.

(d) The Director may issue a permit to any applicant who has met and whom he believes will comply with the requirements of the Illinois Hazardous Materials Transportation Act (430 ILCS 30/1) and any other applicable State or federal laws or regulations. In the event that an applicant or permittee proposes modifications of a permit, or in the event that the Director determines that modifications are necessary to conform to the requirements of the Act, the Director may issue any permit modifications necessary to protect human health and the environment and may specify the time allowed to complete the modifications.

- Radioactive Waste Tracking and Permitting Act 420 ILCS 37/1 - 37/25

  - Permit requirements for the storage, treatment, and disposal of waste at a disposal facility. 420 ILCS 37/15:

    (a) Upon adoption of regulations under subsection (c) of this Section, no person shall deposit any low-level radioactive waste at a storage, treatment, or disposal facility in Illinois licensed under Section 8 of the Illinois Low- Level Radioactive Waste Management Act 420 ILCS 20/8 without a permit granted by the Department of Nuclear Safety.

    (b) Upon adoption of regulations under subsection (c) of this Section, no person shall operate a storage, treatment, or disposal facility licensed under Section 8 of the Illinois Low-Level Radioactive Waste Management Act without a permit granted by the Department of Nuclear Safety.

    (c) The Department of Nuclear Safety shall adopt regulations providing for the issuance, suspension, and revocation of permits required under subsections (a) and (b) of this Section. The regulations may provide a system for tracking low-level radioactive waste to ensure that waste that other states are responsible for disposing of under federal law does not become the responsibility of the State of Illinois. The regulations shall be consistent with the Federal Hazardous Materials Transportation Act. 49 U.S.C.A. App. § 1801 et. seq.

- 32 Illinois Administrative Code 609.40 (2004)

  - § 609.40 Permit Requirements and Application Procedures:

    Each person who ships Waste into, out of or within the State of Illinois or accepts Waste shall apply to the Department for a Permit.

    a) A person applying for a Permit shall submit the application to the Illinois Department of Nuclear Safety, 1035 Outer Park Drive, Springfield, Illinois 62704. The person shall provide to the Department at the time of the

application the following information in writing, on paper bearing the name, current address and current telephone number of the person making the application and signed in ink by a person authorized to make the application:

1) The name of a contact person for the applicant and the current address and phone number of that contact person if different from that of the applicant.

2) The radioactive materials license number currently issued to the applicant and the name of the entity issuing the license.
3) The name and location of the applicant's Facility which would be recorded under any assigned Permit.

b) A person shall be eligible to receive a Permit only if the person is:

1) A generator or broker registered by the Department under Section 4 of the Low-Level Radioactive Waste Management Act [420 ILCS 20/4];

2) A Facility licensed by the Department under Section 8 of the Low-Level Radioactive Waste Management Act [420 ILCS 20/8];

3) A generator, broker, treatment Facility or other person located outside of the State of Illinois. The out-of-state entity must be a party to an agreement with the Compact which is in effect on the date of the Permit application, or as otherwise authorized by the Commission. The agreement with the Compact must provide that Waste from the unaffiliated state or regional compact is currently permitted to be treated, stored or disposed of at a Facility in the Region and that the Commission has not revoked the permission granted to such person, state or regional compact allowing these shipments;

4) A generator, broker, treatment Facility or other person located outside of the State of Illinois that is allowed to send Waste for treatment or storage in Illinois, pursuant to an agreement entered into by the Commission;

5) A generator, broker, treatment Facility or other person located outside of the State of Illinois that is allowed to send Waste for disposal in Illinois, pursuant to an agreement entered into by the Commission and approved by law in Illinois;

6) A generator, broker, treatment Facility or other person located in the Commonwealth of Kentucky; or

7) A generator that is an agency of the United States government that is located in the Region.

c) A generator applying for a Permit must certify to the Department in the written application for the Permit that it will make lawful and suitable arrangements for the final disposition of the Waste, or that it will retrieve and reclaim physical possession of such Waste in the event final disposition or storage has not been arranged.

d) Within 14 calendar days from the receipt by the Department of the application, the Department will issue, in writing, a Permit to an eligible applicant whose application complies with all of the relevant requirements of this Section. Denial by the Department of any application within this same time period shall also be in writing, citing the reason for such action.

- 32 Illinois Administrative Code 620.50 (2004)

  - § 620.50 Payment of Fees for Waste Shipped. (*portions of text omitted*):

    a) Generators which have shipped any quantity waste for storage, disposal or treatment shall pay a fee to the Department in accordance with the following: 5) For waste shipped on or after January 1, 1986, a fee shall be paid to the Department annually by no later than February 1 of the subsequent calendar year. The fee shall be in the amount of $ 1 per cubic foot for waste which had been stored prior to September 7, 1984. The fee shall be in the amount of $ 2 per cubic foot for waste which had been stored between September 7, 1984, and October 1, 1985. The fee shall be in the amount of $ 3 per cubic foot for waste which had been stored on or after October 1, 1985, except that no fee shall be assessed if a fee has already been paid to the Department for storage of that waste in accordance with Section 620.40.

    b) The fee shall be accompanied by a completed form prescribed by the Department which identifies the types and amount of waste shipped during that period. Generators shall be responsible for reporting and paying all fees due and owing in accordance with this Section, except as provided in Sections 620.60 and 620.70.

Inspection

- (e) The Department shall inspect each shipment of low-level radioactive wastes received at the regional disposal facility for compliance with the packaging, placarding and other requirements established by rules and regulations promulgated by the Illinois Department of Transportation under the Illinois Hazardous Materials Transportation Act and any other applicable State or federal regulations. The Department shall notify the Attorney General of any apparent violations for possible prosecution under Sections 11 and 12 of that Act. 430 ILCS 30/11 and 30/12

Notice

- 32 Illinois Administrative Code 341.190 (2004)

  - § 341.190 Advance Notification of Transport of Nuclear Waste:

    a) Licensees who transport radioactive waste or deliver radioactive waste to a carrier for transport outside of the confines of the licensee's facility or other place of use or storage shall provide advance notification of such transport to the Governor or Governor's designee in accordance with subsection (b) below. Such notification shall include the Governor or Governor's designee of each state through which the radioactive waste is to be transported.

    AGENCY NOTE: A list of the mailing addresses of the Governors and Governors' designees is available upon request from the Director, Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.
    b) Advance notification is required only when:

    1) The nuclear waste is required to be in Type B packaging for transportation;

    2) The nuclear waste is being transported to, through, or across state boundaries to a disposal site or to a collection point for transport to a disposal site;

    3) The quantity of licensed material in a single package exceeds certain levels (See §341.190(A)-(E)

    c) Each advance notification required by subsection (a) above shall contain the following information:

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

    2) A description of the nuclear waste contained in the shipment as required by the regulations of the U.S. DOT, 49 CFR 172.202 and 172.203(d), published October 1, 1992;
    Agency Note: Requirements contained in subsequent amendments or editions of 49 CFR 172 are not incorporated into this rule.

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

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

5) The destination of the shipment and the 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.

d) The notification required by subsection (a) above shall be made in writing to the Office of the Governor or Governor's designee and to the Department. A notification delivered by mail shall be postmarked at least 7 days before the beginning of the 7-day period during which departure of the shipment is estimated to occur. A notification delivered by messenger shall reach the Office of the Governor or Governor's designee, at least 4 days before the beginning of the 7-day period during which departure of the shipment is estimated to occur. A copy of the notification shall be retained by the licensee for 1 year.

e) The licensee shall notify the Governor, or Governor's designee and the Department of any changes to schedule information provided pursuant to subsection (a) above. Such notification shall be by telephone to a responsible individual in the Office of the Governor or Governor's designee and in the Department. The licensee shall maintain for 1 year a record of the name of the individual contacted.

f) Each licensee who cancels a nuclear waste shipment, for which advance notification has been sent, shall send a cancellation notice to the Governor or Governor's designee and to the Department. A copy of the notice shall be retained by the licensee for 1 year.

Emergency Preparedness

- 20 ILCS 2005/2005-65 (2004)

  - § 20 ILCS 2005/2005-65. Nuclear accident plan:

    The Department shall have primary responsibility to formulate a comprehensive emergency preparedness and response plan for any nuclear accident and shall develop such a plan in cooperation with the Illinois Emergency Management Agency. The Department shall also train and maintain an emergency response team.

Routing

- Illinois' non-radioactive hazardous material routes are listed in the Federal Register, Vol. 65, No. 233, Dec 4, 2000.

- Contacts:

  - Larry Wort (Illinois Department of Transportation): (217) 782-497
  - Illinois Motor Carrier State Director (IL FMCSA Field Office): (217) 492-4608

Sanctions

- (e) A person who violates this Section or any regulation promulgated under this Section shall be subject to a civil penalty, not to exceed $10,000, for each violation. Each day a violation continues shall constitute a separate offense. A person who fails to pay a civil penalty imposed by a regulation adopted under this Section, or any portion of the penalty, is liable in a civil action in an amount not to exceed 4 times the amount imposed and not paid. At the request of the Department, the Attorney General shall, on behalf of the State, bring an action for the recovery of any civil penalty provided for by this Section. Any civil penalties so recovered shall be deposited in the Low- Level Radioactive Waste Facility Closure, Post-Closure Care and Compensation Fund.

- 32 Illinois Administrative Code 609.80 (2004)

  - § 609.80 Penalties:
    a) The Department may impose a civil penalty on any person who sends, receives or accepts Waste in violation of any provision of this Part or the Radioactive Waste Compact Enforcement Act.

    b) Civil penalties imposed under this Part shall not exceed $ 100,000 per occurrence. For a continuing violation, the Department may consider each day in which the violation continues as a separate occurrence.

    c) In determining the amount of a civil penalty imposed under this Part, the Department will consider the following:

      1) Whether the violation was the result of willful, reckless or negligent conduct.

      2) The previous history of compliance with the provisions of the Radioactive Waste Compact Enforcement Act and this Part.

3) Whether the violation was voluntarily reported to the Department.

4) The amount and type of the radioactive material involved.

5) Whether mitigative actions were taken.

6) The recommendations, if any, of the Commission.

d) The Department will notify the Commission when it initiates a civil penalty action and request the Commission's recommendations, if any, as to the civil penalty the Department seeks to impose. The Department shall also notify the Commission of any imposition of a civil penalty by the Department.

e) Imposition of a civil penalty shall be by written order, specifying the reasons for and amount of the penalty. The order shall include a notice of the right to an administrative appeal and hearing, in accordance with the provisions of Section 609.100 of this Part. The order shall be served either personally or by registered or certified mail. Notice of the order shall be effective as of the date of such personal service or receipt of the mailed notice.

f) Unless the right of administrative appeal and hearing, provided in Section 609.100 of this Part, is exercised, any civil penalty imposed shall be payable within 60 days after the effective date of notice of imposition of such penalty.
g) The Department will inform the Attorney General and the Commission of any failure to pay any civil penalty imposed under this Part. Any person who refuses to pay a civil penalty assessed under this Part shall be liable in an amount not to exceed 4 times the amount of the penalty not paid.

h) Section 30(d) of the Radioactive Waste Compact Enforcement Act [45 ILCS 141/30(d)] provides a criminal penalty for any person who intentionally violates Section 20(a)(1), (a)(2), (a)(3), (a)(4) or (a)(6) of that Act. If the Department becomes aware of a possible intentional violation of those Sections of the Act, the Department shall make a report to the Attorney General or State's Attorney for criminal prosecution of the offender.

Labeling

- 32 Illinois Administrative Code 340.950 (2004)
  - § 340.950 Exemptions to Labeling Requirements:

A licensee is not required to label:

a) Containers holding licensed material in quantities less than the quantities listed in Appendix C to 10 CFR 20.1001 - 20.2401, effective January 1, 1994, exclusive of subsequent amendments or editions; or

b) Containers holding licensed material in concentrations less than those specified in Table 3 of Appendix B to 10 CFR 20.1001 -20.2401, effective January 1, 1994, exclusive of subsequent amendments or editions; or c) Containers attended by an individual who takes the precautions (e.g., controlling access) necessary to prevent the exposure of individuals in excess of the limits established by this Part; or

d) Containers when they are in transport, provided the containers are packaged and labeled in accordance with the regulations of the U.S. Department of Transportation**;** or

AGENCY NOTE: Labeling of packages containing radioactive materials is required by the U.S. Department of Transportation if the amount and type of radioactive material exceeds the limits for an excepted quantity or article as defined and limited by 49 CFR 173.403(m) and (w) and 173.421 through 173.424, current as October 1, 1991, exclusive of subsequent amendments or editions.

e) Containers that are accessible only to individuals authorized to handle or use them, or to work in the vicinity of the containers, if the contents are identified to these individuals by a readily available written record (examples of containers of this type are containers in locations such as water-filled canals, storage vaults or hot cells). The record shall be retained as long as the containers are in use for the purpose indicated on the record; or

f) Installed manufacturing or process equipment, such as piping and tanks.

Procedures

- 29 Illinois Administrative Code 320.380 (2004)

  - § 320.380 Procedures for Handling Radioactive Training Source Sets During Transportation and Storage:

    a) Source sets that are being transferred shall be handled and transported by either an authorized user, custodian or an Illinois Commerce Commission licensed carrier.

    b) Whenever the radioactive training source set is being transported or stored, the radioactive capsules shall be enclosed in the CD V-79l small lead

container which shall be enclosed inside the CD V-792 large lead container. The CD V-792 large lead container shall be secured by two padlocks.

c) The two standard radioactive yellow II labels that are on the CD V-792 large lead container shall be visible at all times.

d) No vehicle placards are necessary when transporting radioactive training source sets.

e) The shipper's certification for restricted articles "RP Form 106" shall be with the radioactive training source set whenever it is being transported from one location to another.

f) Permanent storage areas in which the radioactive training source sets are stored shall be posted with a standard size 81/2 inch x 11 inch "Caution...Radioactive Material" signs. Below this sign shall be a 3 inch x 5 inch card showing the name, address and telephone number of the person to contact in case of an emergency. All radioactive training source sets shall be secured against unauthorized removal. The radioactive training source set shall be secured in a locked cabinet, vault or room at all times when not in use.

g) The radioactive training source set shall also be supplied with six 6 inch x 8 inch "Danger Radiation Area" signs which shall be used to post the training area.
h) Remote handling tongs, 18 inches long, shall be used should the sealed capsules need to be removed from the sealed container during storage or while being transported. Radioactive needles shall not, under any circumstances, be removed from the sealed capsules.

- 32 Illinois Administrative Code 340.960 (2004)

  - § 340.960 Procedures for Receiving and Opening Packages:

    a) Each licensee who is authorized to receive a package containing quantities of radioactive material in excess of a Type A quantity, as defined in 32 Illinois Administrative Code 341.20, as listed in 49 CFR 173.435 published October 1, 1993, or as derived from 49 CFR 173.433 published October 1, 1993 shall:

1) Make arrangements to receive the package when the carrier offers it for delivery; or

2) Make arrangements to receive the notification of the arrival of the package at the carrier's terminal and to take possession of the package expeditiously.

b) Each licensee shall:

1) Monitor the external surfaces of a labeled package for radioactive contamination unless the package contains only radioactive material in the form of a gas or in special form radioactive material as defined in 32 Illinois Administrative Code 310.20;

AGENCY NOTE: Labeled means labeled with a Radioactive White I, Radioactive Yellow II or Radioactive Yellow III label as specified in U.S. Department of Transportation regulations, 49 CFR 172.403 and 172.436-440, published October 1, 1993.

2) Monitor the external surfaces of a labeled package for radiation levels unless the package contains quantities of radioactive material that are less than or equal to the Type A quantity, as defined in 32 Illinois Administrative Code 341.20, as listed in 49 CFR 173.435 published October 1, 1993, or as derived from 49 CFR 173.433 published October 1, 1993; and

3) Monitor all packages known to contain radioactive material for radioactive contamination and radiation levels if there is evidence of degradation of package integrity, such as packages that are crushed, wet or damaged.

c) The licensee shall perform the monitoring required by subsection (b) above as soon as practicable after receipt of the package, but not later than 3 hours after the package is received at the licensee's facility if it is received during the licensee's normal working hours or if there is evidence of degradation of package integrity, such as a package that is crushed, wet or damaged. If a package is received after working hours, and has no evidence of degradation of package integrity, the package shall be monitored no later than 3 hours from the beginning of the next working day.
d) The licensee shall immediately notify the final delivery carrier and the Department by telephone, and shall confirm the initial contact within 24 hours by overnight letter or telefacsimile to the Department, when:

1) Removable radioactive surface contamination exceeds the limits of 32 Illinois Administrative Code 341.150(h); or

2) External radiation levels exceed the limits of 32 Illinois Administrative Code 341.150(i) and (j).

e) Each licensee shall:

1) Establish, maintain and retain written procedures for safely opening packages in which radioactive material is received; and

2) Ensure that the procedures are followed and that special instructions for the type of package being opened are adhered to.

- 32 Illinois Administrative Code 341.140 (2004)

  - § 341.140 Preliminary Determinations:

    Prior to the first use of any packaging for the shipment of radioactive material:

    a) The licensee shall ascertain that there are no defects in the packaging which could impact on compliance with the standards specified in 10 CFR 71, Subparts E and F, published January 1, 1992, exclusive of subsequent amendments or editions.

    b) Where the maximum normal operating pressure will exceed 34.3 kilopascal (5 psi) gauge, the licensee shall test the containment system at an internal pressure at least 50 percent higher than the maximum normal operating pressure to verify the capability of that system to maintain its structural integrity at that pressure.

    c) The licensee shall conspicuously and durably mark the packaging with its model number, gross weight and a package identification number assigned by the U.S. Nuclear Regulatory Commission. Prior to applying the model number, the licensee shall determine that the packaging has been fabricated in accordance with the design approved in the certificate of compliance issued by the U.S. Nuclear Regulatory Commission.

- 32 Illinois Administrative Code 341.150 (2004)

  - § 341.150 Routine Determinations:

Prior to each shipment of licensed material, the licensee shall ensure that the package with its contents satisfies the requirements of this Part and of the license. The licensee shall determine that:

a) The package is proper for the contents to be shipped in accordance with 49 CFR 173.401-435;

b) The package is in unimpaired physical condition except for superficial defects such as marks or dents;

c) Each closure device of the packaging, including any required gasket, is properly installed and secured and free of defects;

d) Any system for containing liquid is sealed and has space or other specified provision for expansion of the liquid in accordance with 10 CFR 71, Subpart F, published January 1, 1992, exclusive of subsequent amendments or editions;

e) Any pressure relief device is operable and set in accordance with the certificate of compliance;

f) The package has been loaded and closed in accordance with written procedures;

g) Any structural part of the package which could be used to lift or tie down the package during transport is rendered inoperable for that purpose unless it satisfies design requirements specified in accordance with 10 CFR 71.45, published January 1, 1992, exclusive of subsequent amendments or editions;

h) The package meets the certain requirements for removable contamination (See §341.150 (h)(1) – (2)

i) External radiation levels around the package and around the vehicle, if applicable, will not exceed 2 mSv (200 mrem) per hour at any point on the external surface of the package at any time during transportation. The transport index shall not exceed 10.

j) For a package transported as exclusive use by rail, highway, or water, radiation levels external to the package may exceed the limits specified in subsection (i) above but shall not exceed certain limits (See § 341.150(j)(1)-(4)

k) A package shall be prepared for transport so that in still air at 38 degrees C (100 degrees F) and in the shade, no accessible surface of a package would have a temperature exceeding 50 degrees C (122 degrees F) in a nonexclusive use shipment or 82 degrees C (180 degrees F) in an exclusive

use shipment. Accessible package surface temperatures shall not exceed these limits at any time during transportation.

- 32 Illinois Administrative Code 341.200 (2004)

  - § 341.200 Quality Assurance Requirements:

    a) Each person licensed pursuant to this Part shall establish, maintain, and execute a quality assurance program to verify, by procedures such as checking, auditing and inspection, that deficiencies, deviations and defective material and equipment relating to the shipment of packages containing radioactive materials are promptly identified and corrected.

    Prior to the use of any package for the shipment of radioactive material, each licensee shall obtain Departmental approval of its quality assurance program. Such approval shall be in accordance with the U.S. Nuclear Regulatory Commission standards contained in Revision 1 of NRC Regulatory Guide #7.10, Establishing Quality Assurance Programs for Packaging Used in the Transport of Radioactive Material, published June 1986, exclusive of subsequent amendments or editions.

    b) Each person licensed pursuant to this Part shall document the quality assurance program by written procedures or instructions and shall carry out the program in accordance with those procedures throughout the period during which packaging is used. The licensee shall identify the material and components to be covered by the quality assurance program.

    c) A person licensed pursuant to this Part shall maintain sufficient written records to demonstrate compliance with the quality assurance program. Records pertaining to the use of a package for shipment of radioactive material shall be retained for a period of 2 years after shipment.

Licensing

- 32 Illinois Administrative Code 341.30 (2004)

  - § 341.30 Requirement for License:

    No person shall transport radioactive material or deliver radioactive material to a carrier for transport except as authorized in a general or specific license issued by the Department or as exempted in Section 341.40.

- 32 Illinois Administrative Code 341.40 (2004)

  - § 341.40 Exemptions:

    a) Common and contract carriers, freight forwarders and warehousemen who are subject to the requirements of the U.S. DOT in 49 CFR 170-189 or the U.S. Postal Service in the Postal Service Manual (Domestic Mail Manual), Section 124.3 incorporated by reference, 39 CFR 111.1 (1974), are exempt from this Part and 32 Illinois Administrative Code 310, 320, 330, 340, 350 and 400 to the extent that they receive, transport or store radioactive material in the regular course of their carriage for another or storage incident thereto. Common and contract carriers who are not subject to the requirements of the U.S. DOT or U.S. Postal Service are subject to Section 341.30 and other applicable Sections of this Part.

    b) Any licensee is exempt from the requirements of this Part to the extent that the licensee delivers to a carrier for transport a package containing radioactive material having a specific activity not greater than 74 Bq (2 nCi) per gram.

    c) A licensee is exempt from all requirements of this Part, other than Sections 341.50 and 341.160 with respect to shipment or carriage of the following:

      1) Packages containing no more than Type A quantities of radioactive material if the package contains no fissile material; or

      2) Packages, transported between locations within the United States, which contain only americium or plutonium in special form with an aggregate radioactivity not to exceed 740 GBq (20 Ci).

- 32 Illinois Administrative Code 341.50 (2004)

  - § 341.50 Transportation of Licensed Material:

    a) No licensee may transport licensed material outside the confines of his plant or other place of use or deliver licensed material to a carrier for transport unless:

      1) Such transport and delivery is in compliance with the regulations of the U.S. DOT, 49 CFR 170-189, published October 1, 1992, exclusive of subsequent amendments or editions; and

      2) Any special instructions needed to safely open the package have been made available to the consignee.

b) If, for any reason, the regulations of the U.S. DOT are not applicable to a shipment of licensed material, the licensee shall conform to the standards and requirements of those regulations to the same extent as if the shipment were subject to the regulations.

- 32 Illinois Administrative Code 341.60 (2004)

  - § 341.60 General Licenses for Carriers:

    a) A general license is hereby issued to any common or contract carrier not exempt under Section 341.40. The general license issued under this subsection only authorizes the licensee to receive, transport and store radioactive material in the regular course of its carriage for another or storage incident thereto, provided the transportation and storage is in accordance with U.S. DOT regulations (49 CFR 171-178, published October 1, 1992, exclusive of subsequent amendments or editions), insofar as such requirements relate to the loading and storage of packages, placarding of the transporting vehicle and incident reporting. Any reports of incidents required by 49 CFR 171-178 shall be filed with, or made to, the Department.

    b) A general license is hereby issued to any private carrier to transport radioactive material, provided the transportation is in accordance with U.S. DOT regulations (49 CFR 171-178, published October 1, 1992, exclusive of subsequent amendments or editions), insofar as such requirements relate to the loading and storage of packages, placarding of the transporting vehicle and incident reporting. Any reports of incidents required by 49 CFR 171-178 shall be filed with, or made to, the Department.

    c) Persons who transport radioactive material pursuant to the general licenses in subsection (a) or (b) above are exempt from the requirements of 32 Illinois Administrative Code 340 and 400 to the extent that they transport radioactive material.

- 32 Illinois Administrative Code 341.70 (2004)

  - § 341.70 General License: Approved Packages.

    a) A general license is hereby issued to any licensee of the Department to transport, or to deliver to a carrier for transport, licensed material in a package for which a license, certificate of compliance or other approval has been issued by the U.S. Nuclear Regulatory Commission.

    b) This general license applies only to a licensee who:

1) Has a copy of the specific license, certificate of compliance, or other approval of the package and has the drawings and other documents referenced in the approval relating to the use and maintenance of the packaging and to the actions to be taken prior to shipment;
2) Complies with the terms and conditions of the license, certificate or other approval, as applicable, and the applicable requirements of this Section and Sections 341.50, 341.140,
341.150 and 341.170 through 341.200;

3) Prior to the licensee's first use of the package, has registered with the U.S. Nuclear Regulatory Commission; and

4) Has a quality assurance program as required by Section 341.200 approved by the Department.

c) The general license in subsection (a) above applies only when the package approval authorizes use of the package under this general license.

d) For previously approved Type B packages which are not designated as either B(U) or B(M) in the NRC Certificate of Compliance, this general license is subject to additional restrictions of Section 341.80.

- 32 Illinois Administrative Code 341.80 (2004)

  - § 341.80 Previously Approved Type B Packages:

    A Type B package previously approved by the NRC, but not designated as B(U) or B(M) in the NRC Certificate of Compliance, may be used under the general license of Section 341.70 with the following additional limitations:

    a) Fabrication of the packaging was satisfactorily completed before August 31, 1986, as demonstrated by application of its mode1 number in accordance with U.S. NRC regulations 10 CFR 71, Subparts E, F, G and H, published January 1, 1992, exclusive of subsequent amendments or editions.

    b) The package may not be used for a shipment to a location outside the United States after August 31, 1986, except under special arrangement approved by the U.S. DOT in accordance with 49 CFR 173.471, published October 1, 1992, exclusive of subsequent amendments or editions.

- 32 Illinois Administrative Code 34.90 (2004)

  - § 341.90 General License: Dot Specification Container:

a) A general license is issued to any licensee of the Department to transport or to deliver to a carrier for transport licensed material in a specification container for a Type B quantity of radioactive material as specified in the regulations of the U.S. DOT in 49 CFR 173 and 178, published October 1, 1992, exclusive of subsequent amendments or editions.

b) This general license applies only to a licensee who has a quality assurance program approved by the Department as satisfying the provisions of Section 341.200.

c) This general license applies only to a licensee who:

1) Has a copy of the specifications in accordance with 49 CFR 178; and

2) Complies with the terms and conditions of the specifications in accordance with 49 CFR 178 and the requirements of this Part.

d) The general license in subsection (a) above is subject to the limitation that the specification container may not be used for a shipment to a location outside the United States after August 31, 1986, except under special arrangements approved by U.S. DOT in accordance with 49 CFR 173.472, published October 1, 1992, exclusive of subsequent amendments or editions.

- 32 Illinois Administrative Code 341.100 (2004)

  - § 341.100 General License: Use of Foreign Approved Package:

    a) A general license is issued to any licensee of the Department to transport or to deliver to a carrier for transport licensed material in a package the design of which has been approved in a foreign national competent authority certificate which has been revalidated by the U.S. DOT as meeting the applicable requirements of 49 CFR 171.12, published October 1, 1992, exclusive of subsequent amendments or editions.

    b) This general license applies only to shipments made to or from locations outside the United States.

    c) This general license applies only to a licensee who:

    1) Has a copy of the certificate, the revalidation and the drawings and other documents referenced in the certificate relating to the use and maintenance of the packaging and to the actions to be taken prior to shipment; and

2) Complies with the terms and conditions of the certificate and revalidation and with the requirements of this Part.

- 32 Illinois Administrative Code 341.110 (2004)

  - § 341.110 General License: Type A, Fissile Class II Packages:

    a) A general license is hereby issued to any licensee to transport fissile material, or to deliver fissile material to a carrier for transport, if the material is shipped as a Fissile Class II package.
    b) This general license applies only when a package contains no more than a Type A quantity of radioactive material, including only one of the following:

    1) Up to 40 grams of uranium-235; or

    2) Up to 30 grams of uranium-233; or

    3) Up to 25 grams of the fissile radionuclides of plutonium, except that for encapsulated plutonium-beryllium neutron sources in special form, an A[1] quantity of plutonium may be present; or

    4) A combination of fissile radionuclides in which the sum of the ratios of the amount of each radionuclide to the corresponding maximum amounts in subsections (1) through (3) above does not exceed unity.

    c) This general license applies only when:

    1) A package containing more than 15 grams of fissile radionuclides is labeled with a transport index not less than the number given by the following equation, where the package contains x grams of uranium-235, y grams of uranium-233 and z grams of the fissile radionuclides of plutonium:

    $$\text{minimum transport index} = (0.4x + 0.67y + z)(1-(15/x+y+z))$$

    The transport index must be rounded up to one decimal place and may not exceed 10.0; or

    2) For a package in which the only fissile material is in the form of encapsulated plutonium-beryllium neutron sources in special form, the transport index based on criticality considerations shall be taken as 0.026 times the number of grams of the fissile radionuclides of plutonium in excess of 15 grams. The transport index must be rounded up to one decimal place and shall not exceed 10.0.

- 32 Illinois Administrative Code 341.120 (2004)

- § 341.120 General License: Restricted, Fissile Class II Package.

  a) A general license is hereby issued to any licensee to transport fissile material, or to deliver fissile material to a carrier for transport, if the material is shipped as a Fissile Class II package. The general license applies only under certain circumstances (See § 341.120 (b)(1) – (7))

- 32 Illinois Administrative Code 341.130 (2004)

  - § 341.130 Fissile Material: Assumptions as to Unknown Properties.

    When the isotopic abundance, mass, concentration, degree of irradiation, degree of moderation, or other pertinent property of fissile material in any package is not known, the licensee shall package the fissile material as if the unknown properties have credible values that will cause the maximum nuclear reactivity.

Tracking

- 32 Illinois Administrative Code 341.170 (2004)

  - § 341.170 Records:

    a) Each licensee Shall maintain for a period of 2 years after shipment a record of each shipment of licensed material not exempt under Section 341.40, showing, where applicable: 1) Identification of the packaging by model number; 2) Verification that there are no defects in the packaging, as shipped which would prevent the package from meeting the standards of 10 CFR 71, Subparts E and F, published January 1, 1992, exclusive of subsequent amendments or editions; 3) Volume and identification of coolant; 4) Type and quantity of licensed material in each package and the total quantity of each shipment; 5) Date of the shipment; 6) Name and address of the transferee; 7) Address to which the shipment was made; and 8) Results of the determinations required by Section 341.130.

    b) The licensee shall make available to the Department for inspection, at any time during shipment or upon 3 days notice after shipment, all records required by this Part.

- 32 Illinois Administrative Code 609. Appendix A (2004)

- § 609.Appendix A. Electronic Data Transmission:

  Any person required under Section 609.50(b), (c), (d) or (e) of this Part to report shipment information to the Tracking System Operator (TSO) shall prepare an Electronic Data Transmission (EDT) file for submittal to the TSO. This EDT file contains the pertinent information regarding the shipment in general (consignee, consignor, etc.) and the waste in detail (waste type, volume, activity, isotopes, etc.). The files are submitted to the TSO in electronic format via a modem over standard phone lines to a toll free telephone number.

A) EDT FILE RECORD TYPE DESCRIPTION

a) The information regarding the shipment of low-level radioactive waste (LLRW) contained in the EDT file is provided using the five different types of records. Each record type focuses on a specific aspect of the shipment. The record types are described below:

1) The “M” (Manifest) record contains the summary information about the waste shipment. This information is summary level information that is normally contained on the shipping papers prepared to accompany the shipment.

2) The “C” (Container) record contains information about the waste container. This information details for each container comprised in the shipment the contents of that container.

3) The “W “(Waste Type) record contains information about the waste type(s) in the container. Detailed information regarding the waste form contained in each container is provided using the “W” record.

4) The “I” (Isotope) record contains information about the isotopes contained in each waste type in each container. Each specific isotope contained in each waste type reported in each container is identified along with the associated activity information.

5) The “P” (Pointer) record contains cross reference information about each original container which has been consolidated into the current container. This record is used by a broker or processor to identify which original containers are currently packaged in a consolidated container. The use of the “P” record prevents the unnecessary report of information already contained in the TSO data base.

b) The record types described in subsection (A)(a) of this Appendix is further subdivided based on the specific reporting requirements for the various shipment scenarios. These specific record types include:

1) “M01” - This record type indicates that the record contains summary information about an original LLRW shipment. This record type shall always be followed by one or more container (“C05”) records.

2) “M02” - This record type indicates that the record contains summary information about a consolidated LLRW shipment. This record type shall always be used when all information on the containers being consolidated has already been reported to and verified by the TSO, and shall always be followed by one or more container (“C02”) records.

3) “M03” - This record type indicates that the record contains summary information about a consolidated LLRW shipment originating out of the State of Illinois. This record type shall always be accompanied by at least one original shipment (“M01”) record, and followed by one or more container (“C02”) records.

4) “C02” - This record type indicates that the record contains information about a specific container in a consolidated LLRW shipment. This record type is used in conjunction with the “M02” record types, and shall always be followed by one or more consolidated container (“P01”) records. There shall be one “C02” record for each container in the shipment.

5) “C04” - This record type indicates that the record contains information about a container which has been depleted (stored for decay to background, incinerated with no residue attributed to the generator or shipper, or ownership transferred from the generator to the receiving entity). It is not used in conjunction with any other record. There shall be one “C04” record for each depleted container reported.

6) “C05” - This record type indicates that the record contains information about a specific container in an original LLRW shipment. This record type is used in conjunction with the “M01” record type, and shall always be followed by one or more waste type (“W01”) records. There shall be one “C05” record for each container in the shipment.

7) “P01” - This record type indicates that the record contains information about a container which has been consolidated. This

record type is used in conjunction with the “C02” record type. There is one “P01” record for each previous container consolidated in the current container.

8) “W01” - This record type indicates that the record contains information about a specific waste type within an original container. This record type is used in conjunction with the “C05” record type, and shall always be followed by one or more isotope “I05” records. There is one “W01”record for each waste type in the container.

9) “I05” - This record type indicates that the record contains information about a specific isotope within a waste type within an original container. This record type is used in conjunction with the “W01” record type. There shall be one “I05” record for each isotope in each waste type present in the container.

c) A detailed listing of the data elements that comprise these various record types is shown on Table A-1 of this Part. Table A-2 of this Part provides the data element definitions as well as the field size, type and format, and usage codes.

B) SHIPMENT SCENARIOS AND EDT FILE FORMAT REQUIREMENTS

a) For purpose of defining the EDT file format requirements, the various transaction scenarios can be combined into the following groupings:

1) Original Shipment (both in-state and out-of-state).

2) Consolidated or continuing shipment by an Illinois shipper or a consolidated or continuing shipment of Illinois generated LLRW to a Facility in Illinois by an out-of-state shipper.

3) Consolidated or Continuing Shipment by an out-of-state shipper of out-of-state generated LLRW to a Facility located in Illinois.

4) Report of depleted containers.

b) Original Shipments are prepared and sent by the generator of the LLRW. Consolidated or Continuing Shipments are those shipments sent from a broker, collector, processor or storer of LLRW.

c) The following defines the record type requirements for the shipment scenarios listed in this Section.

1) Original Shipment (both in-region and out-of-region). Each EDT file for an original shipment of LLRW sent into, out from, or within the State of Illinois shall contain a
"M01" record. There shall be a "C05" record for each container of LLRW present in the shipment, followed by a
"W01" record for each waste type present in the container, followed by an "I05" record for each isotope present in each waste type.

2) Consolidated or continuing shipment by an Illinois shipper or a consolidated or continuing shipment of Illinois generated LLRW to a Facility in Illinois by an out-of-state shipper. Each EDT file for a Consolidated or Continuing Shipment of Illinois generated LLRW shall contain a "M02" record. There shall be a "C02" record for each container of consolidated or continuing LLRW present in the shipment, followed by a "P01" record for each previous container present in the consolidated or continuing container.

3) Consolidated or Continuing Shipment by an out-of-state shipper of out-of-state generated LLRW to a Facility located in Illinois:

A) Since the Tracking System will have no record of the out-ofstate generated LLRW received by an out-of-state facility, the out-of-state facility needs to report those records for the LLRW it ships into Illinois. This is accomplished by providing information comparable to that provided for an original shipment as part of the EDT file for the shipment into Illinois.

B) For each incoming shipment of LLRW to the out-of-state facility of out-of-state generated LLRW represented on the shipment to an Illinois facility, there will be a "M01" record followed by a "C05" record for each original container of LLRW present in the shipment, followed by a "W01" record for each waste type present in the container, followed by an "I05" record for each isotope present in each waste type. For the consolidated or continuing shipment by an out-of-state shipper of out-of-state generated LLRW to an Illinois Facility there will be a "M03" record followed by a "C02" record for each container of consolidated or continuing LLRW present in the shipment, followed by a "P01" record for each previous container present in the consolidated or continuing container.

4) Report of Depleted Containers: Illinois facilities that deplete LLRW need to report those depleted containers to the TSO in order for that waste to be removed from the tracking system. For purposes of the tracking system, LLRW is depleted when it has been stored for decay, incinerated with no residue attributed back to the original generator, or

otherwise had the ownership of the waste transferred (as in the melting of contaminated metal into usable shielding blocks). The facilities report the depleted containers to the TSO using an EDT file composed of one “C04” record for each container depleted.

- 32 Illinois Administrative Code 609.50 (2004)

  - § 609.50 Waste Shipment Tracking Process

    a) Each person sending a shipment of waste to a broker who will transport the waste to the broker’s facility in Illinois shall telefax a copy of the shipment manifest to the TSO or contact the TSO at 1-800-274-9784 and provide the TSO with the following information at the time of shipment:

    1) Consignor name;

    2) Consignee name;

    3) Tractor or trailer numbers if known;

    4) Number of containers;

    5) For each container:

    A) The container number;

    B) Waste type code;

    C) Total activity and the unit of measure;

    D) Prominent isotope;

    E) The activity of the prominent isotope and unit of measure; and

    6) Date of the shipment.

    b) Illinois brokers shall provide the TSO with an EDT file containing the information regarding the received shipment formatted and containing the information as prescribed in Appendix A of this Part. All EDT file submittals shall be made in a manner that allows the TSO to incorporate the transmission into the TSO’s electronic database.

    c) Each person sending a shipment of waste into, within or out of the State of Illinois that is not specified in subsection (a) of this Section shall provide the TSO with an EDT file formatted and containing the information as prescribed in Appendix A of this Part at the time of the shipment. All EDT file submittals

shall be made in a manner that allows the TSO to incorporate the transmission into the TSO's electronic data base.

d) All instate receiving facilities that store waste for decay in storage shall report to the TSO the placement of waste into decay in storage according to the procedures outlined in Appendix A of this Part. The receiving facilities shall also report to the TSO when the containers are removed from the decay in storage inventory utilizing the procedures identified in Appendix A of this Part.

e) All instate receiving facilities that process waste such that no waste, either direct or residual, is attributable back to the shipper shall report those affected containers according to the procedures identified in Appendix A of this Part.

f) Each person needing to correct information previously provided to the TSO pursuant to this Section shall provide those corrections to the Department in writing addressed to the Chief, Division of Low-Level Radioactive Waste Management, Illinois Department of Nuclear Safety, 1035 Outer Park Drive, Springfield, Illinois 62704.

g) If the tracking system is not functioning at the time the shipper is ready to transmit an EDT file pursuant to this Section, the shipper may proceed with the shipment and shall:

1) Telefax a copy of the shipment manifest to the TSO; and
2) Transmit the EDT file information to the TSO when the tracking system is functional.

Reporting

- 32 Illinois Administrative Code 341.180 (2004)

  - § 341.180 Reports:

    The licensee shall report to the Department within 30 days:

    a) Any instance in which a reduction in the effectiveness of any authorized packaging impacts upon compliance with 10 CFR 71, Subparts E and F, published January 1, 1992, exclusive of subsequent amendments or editions; and

    b) Details of any defects in the packaging after first use impacting upon compliance with 10 CFR 71, Subparts E and F, published January 1, 1992, exclusive of subsequent amendments or editions, with the means employed to repair the defects and prevent their recurrence.

Other

- 20 ILCS 2005/2005-1 (2004)

  - § 20 ILCS 2005/2005-1. Article short title:

    Sec. 2005-1. Article short title. This Article 2005 of the Civil Administrative Code of Illinois may be cited as the Department of Nuclear Safety Law.

- 32 Illinois Administrative Code 341.10 (2004)

  - § 341.10 Purpose and Scope:

    This Part establishes requirements for packaging, preparation for shipment and transportation of radioactive material and applies to any person who transports radioactive material or delivers radioactive material to a carrier for transport.

- 32 Illinois Administrative Code 341.20 (2004)

  - § 341.20 Definitions:

    As used in this Part, the following definitions apply:

    "A[1]" means the maximum activity of special form radioactive material permitted in a Type A package as listed in 49 CFR 173.435 or as derived from 49 CFR 173.433.
    "A[2]" means the maximum activity of radioactive material, other than special form radioactive material, permitted in a Type A package. Values for A[2] are listed in 49 CFR 173.435 or can be derived from 49 CFR 173.433.

    AGENCY NOTE: Values for A[1] and A[2] are listed in the U.S. Department of Transportation (U.S. DOT) regulations, 49 CFR 173.435 or can be derived from 49 CFR 173.433, published October 1, 1992, exclusive of subsequent amendments or editions.

    "Carrier" means a person engaged in the transportation of passengers or property by land or water as a common, contract or private carrier or by civil aircraft.

    "Exclusive use" (also referred to in regulations of the U.S. Department of Transportation as "sole use" or "full load") means the sole use of a conveyance by a single consignor and for which all initial, intermediate and final loading and unloading are carried out in accordance with the direction of the consignor or consignee.

“Fissile material” means any special nuclear material consisting of or containing one or more fissile radionuclides. Fissile radionuclides are plutonium-238, plutonium-239, plutonium-241, uranium-233 and uranium-235. Neither natural nor depleted uranium is fissile material.

AGENCY NOTE: Department of Nuclear Safety (Department) jurisdiction extends to special nuclear material only if quantities are not sufficient to form a critical mass as defined in 32 Illinois Administrative Code 310.

Fissile Class I: A package which may be transported in unlimited numbers and in any arrangement and which requires no nuclear criticality safety controls during transportation.

Fissile Class II: A package which may be transported together with other packages in any arrangement but, for criticality control, in numbers which do not exceed an aggregate transport index of 50. These shipments require no other nuclear criticality safety control during transportation. Individual packages may have a transport index not less than 0.1 and not more than 10.

AGENCY NOTE: A transport index is not assigned for purposes of nuclear criticality safety but may be required because of external radiation levels.

“Low specific activity material” means any of the following:

Uranium or thorium ores and physical or chemical concentrates of those ores;

Unirradiated natural or depleted uranium or unirradiated natural thorium;
Tritium oxide in aqueous solutions provided the concentration does not exceed 185 MBq (5 mCi) per milliliter;

Material in which the radioactivity is essentially uniformly distributed and in which the estimated average concentration per gram of contents does not exceed:

3.7 kBq (100 nCi) of radionuclides for which the A[2] quantity in 49 CFR 173.433 or 173.435 is not more than 1.85 GBq 50 mCi);

185 kBq (5 microCi) of radionuclides for which the A[2] quantity in 49 CFR 173.433 or 173.435 is more than 1.85 GBq (50 mCi), but not more than 37 GBq (l Ci); or

11.1 MBq (300 microCi) of radionuclides for which the A[2] quantity in 49 CFR 173.433 or 173.435 is more than 37 GBq (l Ci).

Objects of non-radioactive material externally contaminated with radioactive material, provided that the radioactive material is not readily dispersible and the surface contamination, when averaged over an area of 1 square meter, does not exceed 3.7 kBq (100 nCi) (220,000 transformations per minute) per square centimeter of radionuclides for which the A[2] quantity in 49 CFR 173.433 or

173.435 is not more than 1.85 GBq (50 mCi), or 37 kBq (l microCi) (2,200,000 disintegrations per minute) per square centimeter for other radionuclides.

AGENCY NOTE: Values for A[1] and A[2] are listed in 49 CFR 173.435, or can be derived from 49 CFR 173.433, published October 1, 1992, exclusive of subsequent amendments or editions.

“Normal form radioactive material” means radioactive material which has not been demonstrated to qualify as “special form radioactive material.”

“Specific activity” of a radionuclide means the radioactivity of the radionuclide per unit mass of that nuclide. The specific activity of a material in which the radionuclide is essentially uniformly distributed is the radioactivity per unit mass of the material.

“Transport index” means the dimensionless number (rounded up to the decimal place) placed on the label of a package to designate the degree of control to be exercised by the carrier during transportation. The transport index is the number expressing the maximum radiation level in millirem per hour at 1 meter from the external surface of the package.

“Type A quantity” means a quantity of radioactive material, the aggregate radioactivity of which does not exceed A[1] for special form radioactive material or A[2] for normal form radioactive material, where A[1] and A[2] are given in 49 CFR 173.435 or may be determined by procedures described in 49 CFR 173.433.

AGENCY NOTE: Values for A[1] and A[2] are listed in 49 CFR

173.435 or can be derived from 49 CFR 173.433, published October 1, 1992, exclusive of subsequent amendments or editions.

“Type B package” means a Type B packaging together with its radio- active contents. A Type B package design is designated as B(U) or B(M). B(U) refers to the need for unilateral approval of international shipments; B(M) refers to the need for multilateral approval. There is no distinction made in how packages with these designations may be used in domestic

transportation. To determine their distinction for international transportation, see (U.S. DOT) regulations in 49 CFR 173. A Type B package approved prior to September 6, 1983, was designated only as Type B. Limitations on its use are specified in Section 341.80.

"Type B packaging" means a packaging designed to retain the integrity of containment and shielding required by U.S. NRC regulations when subjected to the normal conditions of transport and hypothetical accident test conditions set forth in 10 CFR 71, published January 1, 1992, exclusive of subsequent amendments or editions.

"Type B quantity" means a quantity of radioactive material greater than a Type A quantity.

- 32 Illinois Administrative Code 341.160 (2004)

  - § 341.160 Air Transport of Plutonium:

    Notwithstanding the provisions of any general licenses and notwithstanding any exemptions stated directly in this Part or included indirectly by citation of U.S. DOT regulations, as may be applicable, the licensee shall assure that plutonium in any form is not transported by air or delivered to a carrier for air transport unless certain conditions exist (See § 341.160(a)-(d)

- 32 Illinois Administrative Code 609.30 (2004)

  - § 609.30 Prohibited Activities:

    a) Unless the shipment of the Waste is authorized by the Central Midwest Interstate Low-Level Radioactive Waste Commission, no person shall:

    1) Send Waste from any point located outside of the State of Illinois to any Facility located within the State of Illinois, regardless of its origin.

    2) Accept at any Facility in the State of Illinois any Waste from outside the Region, regardless of origin.

    3) Deposit at any Regional Facility in the State of Illinois any Waste that is owned or generated by the United States Department of Energy, owned or generated by the United States Navy as a result of decommissioning of vessels of the United States Navy, or owned or generated as the result of any research, development, testing or production of any atomic weapon.

    4) Accept at any Regional Facility in the State of Illinois any Waste that is owned or generated by the United States Department of Energy, owned or

generated by the United States Navy as a result of decommissioning of vessels of the United States Navy, or owned or generated as the result of any research, development, testing or production of any atomic weapon.

5) Send any Waste from the State of Illinois outside the State of Illinois, other than Waste that is owned or generated by the United States Department of Energy, owned or generated by the United States Navy as a result of decommissioning of vessels of the United States Navy, or owned or generated as the result of any research, development, testing or production of any atomic weapon.

6) Dispose of any Waste in the State of Illinois other than at a Regional Disposal Facility.

b) No person shall send to any Facility in Illinois or accept at any Facility in Illinois any Waste that has as its place of origin the Disposal Facility located at Maxey Flats, Kentucky.

c) No generator, broker, Facility or other person shall send any Waste into, out of or within the State of Illinois or accept any Waste without complying with the requirements of this Part, including all Department Tracking System Operator notification requirements.

Indiana – Existing State Regulatory Requirements

- Annotated Indiana Code– Title 13. Environment: 13-22-7.5-2 Coordination of transport; evaluation of potential transportation risks; transport safety plan

  - Sec. 2. (a) Subject to subsections (b) and (c), before transporting a substance referred to in section 1 of this chapter, a person must coordinate the transport with the appropriate state agencies of each state through which the substance will be transported and file in Indiana the following with the department, state police department, and state emergency management agency:

    (1) A written evaluation of potential transportation risks that:

    (A) accounts for the type and quantity of hazardous waste to be transported;

    (B) identifies the most likely types of incidents that could:

    (i) occur during the transport; and

    (ii) result in harm to the public health or environment;

    (C) assesses the likelihood of the occurrence of each type of incident referred to in clause (B);

    (D) identifies the magnitude of the potential harm to the public health or environment associated with each type of incident referred to in clause (B); and

    (E) is written in a manner understandable to:

    (i) the scientific community; and

    (ii) the public.

    (2) A written transport safety plan that:

    (A) is tailored to the risks described in subdivision (1);

    (B) demonstrates that the driver of each vehicle to be used in the transport:

    (i) has received United States Department of Transportation training and licensure; and

(ii) is familiar with the content of the plan;

(C) demonstrates for the transport route that appropriate procedures and response personnel will be available for:

(i) medical response;

(ii) environmental response;

(iii) local law enforcement response; and

(iv) evacuation of the area; and

(D) provides for submitting notice to the department before the first shipment of each particular chemical munition or hazardous waste described in section 1 of the chapter is transported.

- (b) A notice submitted under the transport safety plan provision described in subsection (a)(2)(D) must include the estimated shipment schedule for each chemical munition or hazardous waste for the duration of the transport activity. A person who transports a chemical munition or hazardous waste described in subsection (a) shall immediately notify the department of any major variations from the estimated shipment schedule provided under this subsection.

- (c) A person must file an amended:

  (1) evaluation of potential transportation risks; and

  (2) transport safety plan;

  under subsection (a) only if the proposed transport route changes.

Inspection

- Annotated Indiana Code – Title 13. Environment, Article 25. Hazardous Substances, Chapter 4. Hazardous Substances Response Trust Fund: 13-25-4-6 Entry for inspection by agent; reasonable promptness; samples

  - Sec. 6. (a) For the purpose of assisting in determining the need for corrective action under IC 13-22-13 or removal or remedial action in connection with a hazardous substance under this chapter, an officer, an employee, or a designated agent of the department may:

    (1) enter at reasonable times any establishment or other place:

(A) where hazardous substances are or have been generated, stored, treated, or disposed of; or

(B) from which hazardous substances have been transported; and

(2) inspect and obtain samples of:

(A) any hazardous substance;

(B) containers or labeling for hazardous substances; or

(C) soil, surface water, ground water, or other environmental media.

- (b) Each inspection under subsection (a)(2) must be commenced and completed with reasonable promptness. If the officer, the employee, or the representative of the department conducting the inspection obtains any samples, before leaving the premises the officer, the employee, or the representative shall give to the owner, the operator, or the person in charge of the premises:

  (1) a receipt describing the sample obtained; and

  (2) if requested, a portion or a duplicate of each sample equal in volume of weight to the portion retained.

- (c) If an analysis is made of samples obtained in an inspection under subsection (a)(2), a copy of the results of the analysis shall be furnished promptly to the owner, the operator, or the person in charge of the premises inspected.

Kansas – Existing State Regulatory Requirements

- Kansas Statutes Annotated, §§ 64-3430, 3441-3446, 3450 (2003).

- Kansas Administrative Regulations, §§ 28-35-189a, 190a, 231b (2003); *Advance notification of transport of nuclear waste*.

Permits and Fees:

- A specific or general license is required from the state agency or the United States nuclear regulatory commission prior to transporting nuclear material. Kan. Admin. Regs. r. 28-35-190a(b)(6)(c) (2003).

- Each vehicle transporting nuclear waste will be accompanied by a shipping manifest that includes the name, address, and telephone number of the person generating the waste; the name, address, and telephone number or the name and U.S. environmental protection agency hazardous waste identification number of the person transporting the waste to the land disposal facility; a physical description, which is as complete as practicable, of – the waste; the waste volume; the radionuclide identity and quantity; the total radioactivity; and the principal chemical form; the identity of the solidification agent; the identity of any wastes containing more than 0.1 percent chelating agents by weight and an estimate of the weight percentage of the chelating agent; a clear identification of wastes classified as class A, class B, or class C in K.A.R. 28-35-223b, unless transferred to a waste processor who treats or repackages wastes; and the total quantity of the radionuclides H-3, C-14, Tc-99, and I-129 in the waste shipment. Kansas Administrative Regulations r. 28-35-231b (2003).

***Notification*:**

- Advance notification of any transportation of nuclear waste must be given to the governor, or an appointee of the governor. This notification will include name, address, and telephone number of the shipper, carrier and receiver of the shipment; a description of the nuclear waste contained in the shipment as required by regulation of the U.S. department of transportation 49 CFR 172.202 and 172.203(d), the point of origin of the shipment and the seven day period during which departure of the shipment is estimated to occur; the seven day period during which arrival of the shipment at state boundaries is estimated to occur; the destination of the shipment, and the seven day period during which arrival of the shipment is estimated to occur; and a point of contact with a telephone number for current shipment information. Kansas Administrative Regulations. r. 28-35-189a(a), (b)(1)-(6) (2003).

Inspection:

- Kansas Statutes Annotated – Chapter 65.Public Health, Article 34. Solid and Hazardous Waste, Hazardous Waste

  - 65-3431. Duties and functions of secretary; standards; permits; fees.

    The secretary is authorized and directed to:

    (t) Adopt rules and regulations establishing minimum standards for the design, location, construction, alteration, operation, termination, closing and long-term care of hazardous waste facilities, including, but not limited to, notification of hazardous waste treatment, storage or disposal, general facility standards, contingency plans, emergency procedures, manifest system, recordkeeping, inspections, monitoring, reporting, closure and postclosure plans and financial requirements. The operator of the facility shall be responsible for long-term care of the facility for 30 years after closure of the facility except that the secretary may modify the long-term care requirements for any facility when all hazardous waste is removed from the facility at closure. The secretary may extend the long-term care responsibility of any operator of a facility as the secretary may deem necessary to protect the public health and safety or the environment. Any person acquiring rights of possession or operation of any hazardous waste facility permitted by the secretary at any time after the facility has begun to accept waste and prior to the end of the required period of long-term care shall be subject to all of the requirements, terms and conditions of the permit for the facility including all requirements relating to long-term care of the facility. The sale or acquisition of a hazardous waste facility during the long-term care period shall be subject to the assignment of long-term care responsibilities as determined by the secretary.

Liability:

- Kansas Statutes Annotated – Chapter 65. Public Health, Article 34. Solid and Hazardous Waste, Hazardous Waste

  - 65-3441. Unlawful acts; penalties.

    (a) It shall be unlawful for any person to:

    (1) Dump or deposit, or permit the dumping or depositing of, any hazardous waste regulated by this act into any facility which does not comply with the provisions of this act or rules or regulations, standards or orders of the secretary, but this provision shall not prohibit: (A) The use of

hazardous wastes in normal farming operations or in the processing or manufacturing of other products in a manner that will not adversely affect the public health or environment; or (B) a generator who periodically produces a quantity of hazardous waste less than the quantity regulated under subsection (k) of K.S.A. 65-3431, and amendments thereto, from disposing such quantity of hazardous waste into a facility approved by the department which has a permit issued under K.S.A. 65-3407, and amendments thereto.

(2) Construct, modify or operate a hazardous waste facility without a permit or other required written approval from the secretary or to be in violation of the rules and regulations, standards or orders of the secretary.

(3) Violate any condition of any permit issued by the secretary.

(4) Store, collect, treat or dispose of hazardous waste contrary to the rules and regulations, standards or orders of the secretary.

(5) Refuse or hinder entry, inspection, sampling and the examination or copying of records related to the purposes of this act by an agent or employee of the secretary after such agent or employee identifies and gives notice of their purpose at any time.

(6) Knowingly make any false material statement or representation in any application, label, manifest, record, report, permit or other document filed, maintained or used for purposes of compliance with this act.

(7) Knowingly destroy, alter or conceal any record required to be maintained under rules and regulations promulgated by the secretary pursuant to this act.

(8) Fail to designate on a manifest a facility which is authorized to operate under the federal hazardous waste program or under a state hazardous waste program which has received approval to operate in lieu of the federal hazardous waste program.

(9) Transport hazardous waste to a facility which is not authorized to operate under the federal hazardous waste program or under a state hazardous waste program which has received approval to operate in lieu of the federal hazardous waste program.

(10) Add, mix or blend any hazardous waste with fuel oil or any other fuel intended for use by residential consumers or sell such blended fuel to a residential consumer.

(11) Transport and dispose of, or cause the transportation and disposition of, hazardous waste in a manner contrary to the rules and regulations, standards or orders of the secretary. It shall not constitute a defense to the generator that the generator acted through an independent contractor in the transportation or disposition of the hazardous waste.

(12) Operate a hazardous waste transfer facility at which hazardous waste is transferred from one or more containers to one or more different containers. The provisions of this subsection shall not apply to overpacking of hazardous waste containers when the overpack containers are marked with labels that contain all the information on the original labels.

(b) Any person who violates any provision of paragraphs (1) to (10), inclusive, of subsection (a) shall be guilty of a class A nonperson misdemeanor and, upon conviction thereof, shall be punished as provided by law. Any person who violates any provision of paragraph (11) or (12) of subsection (a) shall be guilty of a severity level 10, nonperson felony and, upon conviction thereof, shall be punished as provided by law.

(c) Any person who knowingly violates any provisions of paragraphs (1) to (12), inclusive, of subsection (a) shall be guilty of a severity level 6, nonperson felony and, in the case of a continuing violation, every day such violation continues shall be deemed a separate violation and, upon conviction thereof, shall be punished as provided by law.

(d) Any individual who violates any of the provisions of paragraphs (1) to (12), inclusive, of subsection (a) shall be legally responsible to the same extent as if such acts were in the individual's own name or on the individual's own behalf.

(e) The county or district attorney of every county shall file appropriate actions for enforcement of this section upon request of the secretary or upon the county or district attorney's own motion after consultation with the secretary.

(f) No person shall be held responsible for failure to secure a permit under the provisions of this section for the dumping or depositing of any hazardous waste on land owned or leased by such person without their expressed or implied consent, permission or knowledge.

Safety:

- Kansas Statutes Annotated – Chapter 65. Public Health, Article 34. Solid and Hazardous Waste, Hazardous Waste
  - 65-3431. Duties and functions of secretary; standards; permits; fees.

The secretary is authorized and directed to:

(l) Adopt rules and regulations establishing: (1) Appropriate measures for monitoring generators, transporters and facilities during operation, during closure and after closure of such facilities to insure compliance with the rules and regulations adopted under this act and any permit issued under this act; (2) procedures to suspend operation of such generators, transporters or facilities as may be required to protect the public health and safety or the environment; and (3) appropriate measures to insure that any use of a hazardous waste facility after closure will not endanger the public health or safety or the environment.

Kentucky – Existing State Regulatory Requirements

- Kentucky Revised Statues Annotated §§ 174.400 to 174.435 (2002); *Transportation Cabinet – Hazardous Materials*.

  The purpose of this chapter is to provide for the public health and safety due to the predicted increase in transportation of hazardous materials through the central geographic location of Kentucky.

- Kentucky Revised Statues Annotated § 174.400 (2002).

- 2000 Kentucky Acts 100:070, (Kentucky Administrative Code); *Transportation of Radioactive Material*. Proposed Bills, 2004 KY H.B. 625

Permits and Fees:

- No person shall transport radioactive materials without a license (or exemption) issued by the cabinet. 902 Kentucky Administrative Regulations 100:070(1)-(2) (2000).

- Individuals who transport hazardous materials must comply with 49 CFR 170-189.

- Kentucky has different requirements for licensing for different types of radioactive materials. *See* 902 Kentucky Administrative Regulations 100:070 sections 1 – 20.

Notification:

- Any person shipping hazardous materials through the state of Kentucky must carry shipping papers required by 49 C.F.R. (1978). Kentucky Revised Statutes Annotated § 174.420 (2002).

- Prior to any transport of radioactive material, the carrier must notify the state subject to the requirements of 10 CFR 73.37(f). 902 Kentucky Administrative Regulations 100:070 section 12 (2002).

Inspection:

- Kentucky Revised Statutes – Title XV. Roads, Waterways, and Aviation, Chapter 174. Transportation Cabinet, Hazardous Materials

  - 174.410 Administrative regulations and agreements with other cabinets

    (3) The cabinet and the Justice Cabinet shall cooperate with and assist the Environmental and Public Protection Cabinet in implementing and enforcing

the transportation provisions of any state hazardous waste regulations promulgated pursuant to KRS Chapter 224. The specific nature and details of the assistance effort shall be established by a formal cooperative agreement acceptable to the cabinets, and all activities shall occur in accordance with the terms of the agreement. The agreement shall address and include, but not necessarily be limited to, the following items:(a) As a part of routine and periodic transportation checks and inspections, ensure that shipments of hazardous waste do not present a threat to the public or the environment; are accompanied by the required hazardous waste manifest or such other shipping or delivery documents as may be acceptable to the Environmental and Public Protection Cabinet; and comply with applicable shipping standards.

Emergency Preparedness and Response:

- In the event of an accident, the carrier must notify the Kentucky State Police department within one hour of the incident. The carrier must also provide the shipping papers so the local authorities are aware that the incident involves hazardous materials. Kentucky Revised Statutes Annotated § 174.420(2)(a)-(b) (2002).

- Proposed: 2004 KY H.B. 625:

  Create a new section of KRS Chapter 281A, regarding commercial driver's licenses, to require a fingerprint verified national criminal background check for all applicant seeking an initial, transfer, or renewal of a hazardous materials endorsement on a CDL; require State Police to collect the fingerprints; set fee to defray cost of fingerprinting and records check.

Highway and Rail Routing:

- Kentucky has designated routes for transportation of radioactive and non-radioactive hazardous materials. This route can be found in 65 Federal Register 75771, 75788 (Dec. 4, 2000). Restricted routes for all Kentucky hazardous materials are as follows:

  - Interstate 75 from Interstate 275 to Ohio. Ban has been currently lifted due to construction to northbound I-275. [This route will be evaluated again to reinstate after construction is complete.]

- Radioactive hazardous material routes are as follows:

  - Kentucky RAM Restricted Routes: Interstate 264 from Interstate 64 (west of Louisville) to Interstate 71 (east of Louisville)

  - Interstate 471 (in Newport area), use the preferred route I-275 instead

- Kentucky RAM preferred routes: Interstate 24 (western Kentucky north/south route)

- Interstate 64 (east/west route)

- Interstate 65 (central Kentucky north/south route]

- Interstate 71 from Indiana (in Louisville) to Interstate 275 (southwest of Covington)

- Interstate 275 from Interstate 75 to Ohio (preferred route origination date 11/2/88)

- Non-radioactive hazardous material routes are as follows:

  - Interstate 275 from Interstate 75 to Ohio (preferred route origination date 11/2/88)

- 65 Federal Register 75771, 75788 (Dec. 4, 2000)

- Kentucky Revised Statutes Annotated § 211.859 (2002); *Central Midwest Interstate Low-Level Radioactive Waste Compact*

  - Purpose: to effectively manage radioactive waste on a regional level and to ensure the safe and efficient handling of hazardous waste (Kentucky Revised Statutes Annotated § 211.859 [2002]).

  - A commission will be created that comprises two voting commissioners from each party state.

  - Illinois and Kentucky are eligible to be parties to this compact.

Louisiana – Existing State Regulatory Requirements

- Louisiana Revised Statutes
  Title 30. Minerals, Oil, and Gas and Environmental Quality (Refs & Annos)
  Subtitle II. Environmental Quality (Refs & Annos)
  Chapter 9. Hazardous Waste Control Law (Refs & Annos)

  - § 2189. Transporters

    A. The Department of Public Safety is authorized and directed to promulgate regulations and oversee compliance therewith governing the transportation of hazardous wastes by any means of commercial or private transport. The Department of Environmental Quality shall advise and cooperate in the promulgation of regulations pursuant to this Section.

    B. Such regulations at a minimum shall require:

    (1) Record keeping sufficient to determine the types and quantities of hazardous wastes transported in the state, the generator source, the treatment, storage, or disposal site to which such wastes have been transported, and periodic reports thereon.

    (2) Adherence to the manifest system otherwise authorized by this Chapter.

    (3) Transportation equipment standards which will assure the safe handling and transport of hazardous waste.

    (4) Permitting or licensing procedures for transporters by the Federal Environmental Protection Agency which, when coupled with the manifest system, will require identification of the transporters. Political subdivisions which operate such transportation systems with their own personnel shall not be required to provide a surety bond, certificate of public liability insurance, or other financial assurance, but shall be liable for any such damages.

    (5) Consistency and uniformity of standards as applied to interstate and intrastate transporters.

    (6) Such other regulations as are deemed necessary to effectively administer this Chapter and to comply with federal law.

    C. The use of any equipment, including, without limitation, containers and holding tanks, used to transport or store hazardous waste is expressly prohibited from being used to transport or store any item, product, or

commodity intended for human or animal consumption unless the equipment has been properly decontaminated.

- Credit(s):

  Acts 1979, No. 449, § 1, eff. Jan. 1, 1980. Amended by Acts 1983, No. 97, § 1, eff. Feb. 1, 1984; Acts 1984, No. 419, § 1; Acts 1986, No. 891, § 1.

- Historical and Statutory Notes:

  2000 Main Volume

  Chapter 11 of Title 30 was originally enacted by Acts 1978, No. 334, § 1, eff. July 10, 1978, to consist of Part I, comprised of R.S. 30:1101 to 30:1116. Chapter 11 of Title 30 was revised by Acts 1979, No. 449, § 1, eff. Jan. 1, 1980, to consist of Parts I to VII, comprised of R.S. 30:1051 to 30:1147. See notes and Table 1 preceding R.S. 30:2001. Chapter 11, expanded to consist of R.S. 30:1051 to 30:1150.96, was later redesignated as Subtitle II of Title 30, consisting of R.S. 30:2001 to 30:2396 (see notes, post).

  The amendments prior to House Resolution No. 247 of the 1987 Regular Session are to R.S. 30:1140, the predecessor of this section.

  Acts 1983, No. 97, § 1, in subsec. A, substituted “Environmental Quality” for “Natural Resources”.

  Senate Concurrent Resolution No. 3 of the 1983 Second Extraordinary Session suspended Acts 1983, No. 97 until the sixtieth day after adjournment of the 1984 Regular Session of the Legislature. However, the Governor, by Executive Order No. 83-30, challenged the validity of SCR No. 3 and directed implementation of Acts 1983, No. 97. The full texts of SCR No. 3 and Executive Order No. 83-30 are set forth under R.S. 30:2001.

  Senate Concurrent Resolution No. 3 of the 1983 Second Extraordinary Session was repealed by Acts 1984, No. 342, § 2, eff. July 2, 1984. See note following R.S. 30:2001.

  The 1984 amendment, in the first sentence of par. (B)(4), inserted “by the Federal Environmental Protection Agency”, and deleted from the end of the first sentence “and, by a surety bond in favor of the state, certificate of public liability insurance or other financial assurance, or any combination thereof which will assure that a financial responsibility in the event of damages as a result of accident or negligence”.

In par. (B)(4), as amended in 1984, a comma was inserted following "public liability insurance" pursuant to the statutory revision authority of the Louisiana State Law Institute.

The 1986 amendment added subsec. C, relating to proper decontamination of containers.

Pursuant to House Concurrent Resolution No. 247 of the 1987 Regular Session and pursuant to the statutory revision authority of the Louisiana State Law Institute, this section, formerly R.S. 30:1140 of Part VII of Chapter 11 of Title 30 of the Revised Statutes of 1950, was redesignated as R.S. 30:2189 of Chapter 9 of Subtitle II of Title 30 in 1988.

For disposition of the sections of former Chapter 11 following their reorganization and redesignation in Subtitle II pursuant to House Concurrent Resolution No. 247 of the 1987 Regular Session, see notes and Table 2 preceding R.S. 30:2001.

Pursuant to the statutory revision authority of the Louisiana State Law Institute and pursuant to the redesignation of the sections of Chapter 11 into Subtitle II, references in the texts of the affected sections to "Chapter" and "Part" were changed to refer to "Subtitle" and "Chapter", respectively, and internal citations to particular sections were changed to reflect their redesignation.

- Research References

  2000 Main Volume

- Treatises and Practice Aids:

  Louisiana Environmental Compliance § 1:17, Department of Public Safety and Corrections -- Office of State Police.

***Notification*:**

- Louisiana Revised Statute 30:2180 – Chapter 9. Hazardous Waste Control Law

  - § 2183. Notice; permits and licenses; enforcement; violations; penalties; notification

    A. No later than ninety days after the effective date of the regulations authorized by this Chapter, every person not otherwise exempt who generates, transports, or desires to transport in the state any hazardous waste or who owns, operates, or desires to own or operate a treatment, storage, transfer, or disposal facility which handles hazardous wastes within

the state shall file with the secretary or commission a notification stating the nature and location of the activity conducted or desired to be conducted and, if required by regulations, a request for an application for any necessary licenses, permits, schedules of compliance, or performance guidelines. Transfer facilities which are part of facilities that generate, transport, or dispose of hazardous waste which have already notified or applied for any necessary permits, where the notice or application describes the transfer facility adequately, shall not be required to file an additional notification or permit application to assure compliance with this Section.

B. It shall be unlawful to initiate or continue the generation, transportation, treatment, storage, or disposal of hazardous wastes after the time period provided in Subsection A of this Section except in compliance with the notice requirements thereof.

C. Upon receipt of the notices required in Subsection A of this Section or as soon as practicable thereafter, the secretary shall initiate the procedures as required by this Chapter and the regulations applicable thereto for the issuance or denial of permits and licenses and the establishment of schedules of compliance and performance guidelines for facilities and equipment.

Maine – Existing State Regulatory Requirements

Permits and Fees:

- Maine Revised Statutes Annotated – Title 38. Waters and Navigation, Chapter 14-A. Nuclear Waste Activity , Subchapter I. General Provisions

  - § 1453-A. Advisory Commission on Radioactive Waste and Decommissioning

    1. Establishment; purpose. The Advisory Commission on Radioactive Waste and Decommissioning, referred to in this section as the "commission," is established. The commission shall advise the Governor, the Legislature and other pertinent state agencies and entities on matters relating to radioactive waste management and decommissioning of nuclear power plants and provide information to the public and create opportunities for public input in order to facilitate public understanding of radioactive waste and decommissioning issues.

    2. Membership; appointment. The commission consists of 17 members, appointed as follows:

    A. The commissioner or the commissioner's designee;

    B. The Commissioner of Human Services or the commissioner's designee;

    C. The State Geologist or a designee;

    D. One person from a commercial nuclear power facility situated in the State, appointed by the Governor;

    E. Two persons from organizations that hold licenses issued by the State for the use of radioactive material, one appointed by the President of the Senate and one appointed by the Speaker of the House of Representatives;

    F. Three Senators, appointed by the President of the Senate, at least one belonging to the political party holding the largest number of seats in the Senate and at least one belonging to the political party holding the 2nd largest number of seats in the Senate. One of the Senators appointed must serve on the joint standing committee of the Legislature having jurisdiction over natural resources matters and one Senator must serve on the joint standing committee of the Legislature having jurisdiction over utility and energy matters;

G. Three members of the House of Representatives, appointed by the Speaker of the House of Representatives, at least one belonging to the political party holding the largest number of seats in the House of Representatives and at least one belonging to the political party holding the 2nd largest number of seats in the House of Representatives. One member of the House of Representatives appointed must serve on the joint standing committee of the Legislature having jurisdiction over natural resources matters and one member of the House of Representatives must serve on the joint standing committee of the Legislature having jurisdiction over utility and energy matters;

H. Four members of the general public with a knowledge of and interest in the management of radioactive materials and radioactive waste, 2 of whom are appointed by the Governor, one of whom is appointed by the President of the Senate and one of whom is appointed by the Speaker of the House of Representatives. Of these 4 members, one must be a resident of the local community in which the nuclear power plant is located and one must represent a local advisory group on nuclear power plants; and

I. One member representing an environmental advocacy organization, appointed by the Speaker of the House of Representatives.

The terms of the legislative members expire the first Wednesday in December of even-numbered years. The terms of the public member appointed by the President of the Senate, one public member appointed by the Governor and the licensee member appointed by the Speaker of the House of Representatives expire December 31, 1997 and every 2 years thereafter. The terms of the public member appointed by the Speaker of the House of Representatives, the licensee member appointed by the President of the Senate and one public member appointed by the Governor expire December 31, 1996 and every 2 years thereafter. The term of the member representing an environmental advocacy organization expires December 31, 2000 and every 2 years thereafter. Notwithstanding this subsection, any public member or licensee member may be removed by the appointing authority at the pleasure of the appointing authority and a new member may be appointed to complete the term of the preceding appointee. Members may continue to serve until their replacements are designated. Vacancies must be filled by the appointing authority to complete the term of the preceding appointee. The commission shall elect the chair and vice-chair from its membership by majority vote of all members present.

3. Duties. The duties of the commission are to:

A. Provide opportunities for public input and disseminate information to the general public and promote public understanding concerning the management of radioactive waste and the decommissioning of nuclear power plants;

B. Study the management, transportation, treatment, storage and disposal of radioactive waste, including high-level and low-level radioactive waste and mixed waste, generated in this State;

B-1. Study issues relating to the decommissioning of nuclear power plants, including, but not limited to, environmental issues;

B-2. Monitor the decommissioning of nuclear power plants;

C. Monitor methods, criteria and federal timetables for siting and constructing high-level radioactive waste repositories or storage facilities;

D. Monitor the Texas siting effort and Texas Low-Level Radioactive Waste Disposal Compact Commission activities and, if events require, propose legislation to reinstitute an in-state siting effort for the storage or disposal of low-level radioactive waste in the State;

E. Advise the Governor, the Legislature, the department and the Department of Human Services or their successors, the State's member of the Texas Low-Level Radioactive Waste Disposal Compact Commission and other pertinent state agencies and entities, as appropriate, on relevant findings and recommendations of the commission;

F. Receive a written report from the State's member of the Texas Low-Level Radioactive Waste Disposal Compact Commission within 60 days after a meeting of that commission or an oral report from that member at the next scheduled meeting of the Maine Commission on Radioactive Waste, whichever comes first; and

G. Prepare a newsletter recording developments relevant to radioactive waste issues.

4. Meetings and reports. The commission shall meet at least 4 times a year. The commission shall submit an annual report of activities to the Governor, the President of the Senate, the Speaker of the House of Representatives, the joint standing committee of the Legislature having jurisdiction over natural resource matters and the joint standing committee of the Legislature having jurisdiction over utility and energy matters by February 15th of each year. In its report in 2002, the commission shall include an assessment of its funding pursuant to Title 22, section 679-A and recommendations for altering the

funding formula in the event the Maine Yankee Atomic Power Company plant in Wiscasset no longer generates low-level radioactive waste.

5. Compensation. Members of the commission are entitled to legislative per diem in compensation for attendance at commission meetings in accordance with the provisions of Title 5, chapter 379, [FN1] except that all legislative members of the commission must obtain prior approval of out-of-state travel from their respective presiding officers.

6. Staff assistance. The Department of Human Services and the department shall provide assistance to the commission in the conduct of its business. The State Nuclear Safety Advisor and the Public Advocate shall provide consultation as requested.

7. Repeal. This commission is subject to review and terminates in accordance with Title 3, chapter 35. [FN2] The commission, unless granted an extension by law, is dissolved and terminates on June 30, 2006.

- Maine Revised Statutes Annotated – Title 38. Waters and Navigation

  - § 1319-R. Facility Siting:

    The board shall hold at least one public hearing in the municipality in which the facility will be located.

    During any proceeding for site review of a commercial hazardous waste facility, the legislative body of the municipality in which the facility is to be located may appoint 4 representatives to the board. If the facility is proposed to be located in an unorganized township, the county commissioners of that county may appoint 4 representatives. These representatives may vote on board decisions related to the proposed commercial hazardous waste facility. All representatives appointed under this subsection shall participate on the board only for that site review, until final disposition of the application, including any administrative or judicial appeals. A license application may not be considered by the board unless all municipal members of the board and the municipality have been given written notice of the board meeting and provided copies of all written recommendations of the department, at least 30 days prior to the date of the meeting. The municipal members are entitled to the same pay for each day and expenses as regular board members during the period of their service, to be paid by the department.

***Penalties*:**

- Maine Revised Statutes – Title 38. Waters and Navigation

  - § 349. Penalties

1. Criminal penalties. Except as otherwise specifically provided, a person who intentionally, knowingly, recklessly or with criminal negligence violates a law administered by the department, including, without limitation, a violation of the terms or conditions of an order, rule, license, permit, approval or decision of the board or commissioner, or who disposes of more than 500 pounds or more than 100 cubic feet of litter for a commercial purpose, in violation of Title 17, section 2264-A, commits a Class E crime. Notwithstanding Title 17-A, section 1301, the fine for a violation of this subsection may not be less than $2,500 and not more than $25,000 for each day of the violation, except that the minimum amount for knowing violations is $5,000 for each day of violation.
This subsection does not apply to actions subject to the criminal penalties set forth in section 1319-T.

2. Civil penalties. Except as otherwise specifically provided, a person who violates a law administered by the department, including, without limitation, a violation of the terms or conditions of an order, rule, license, permit, approval or decision of the board or commissioner, or who disposes of more than 500 pounds or more than 100 cubic feet of litter for a commercial purpose, in violation of Title 17, section 2265-A, is subject to a civil penalty, payable to the State, of not less than $100 and not more than $10,000 for each day of that violation or, if the violation relates to hazardous waste, of not more than $25,000 for each day of the violation. This penalty is recoverable in a civil action.

Maryland – Existing State Regulatory Requirements

- Annotated Code of Maryland – Environment: §§ 7.249 to 7.253 (2003); *Transportation of Controlled Hazardous Substances*.

Permits and Fees:

- A certificate is required for the transportation of any controlled hazardous substance (Annotated Code of Maryland – Environment § 7.249 [2003]).

- A certificate is not required for transport of controlled hazardous substances if used for residential purposes, regulated by the State Department of Agriculture, or for hazardous generated and disposed of on private property.

- A bond or other security is required in order to transport low-level nuclear waste (Annotated Code of Maryland – Environment § 7.250 [2003]).

- Each controlled substances transporter must pay an annual vehicle certificate fee set by the Department not to exceed $50.00 (Annotated Code of Maryland – Environment § 7.252 [2003]).

- The driver must also carry the manifest, prominently display the manifest on the outside, left door of the cab, and label and secure the substance according to the department's rules and regulations.

***Inspections*:**

- Annotated Code of Maryland – Environment, Title 7. Hazardous Materials and Hazardous Substances, Subtitle 2. Controlled Hazardous Substances, Part VII. Transportation of Controlled Hazardous Substances

  - § 7-252. Certificate Standards:

    (a) Each controlled hazardous substance hauler:

    (1) Shall maintain a bond or other security that the Department considers sufficient to indemnify this State for abatement of any pollution that may result from the improper transportation of a controlled hazardous substance;

    (2) Shall pay an annual vehicle certificate fee set by the Department but not more than $50;

    (3) When transporting any controlled hazardous substance, shall:

(i) Carry the manifest and the driver certificate in the cab of the controlled hazardous substance vehicle; and

(ii) Display prominently the vehicle certificate or affix the vehicle certificate to the outside of the left door of the cab of the controlled hazardous substance vehicle;

(4) May not transport a controlled hazardous substance unless the controlled hazardous substance is labeled properly and in secure containers in accordance with the rules and regulations of the Department that apply to that particular controlled hazardous substance;

(5) On the request of any police officer, shall stop the controlled hazardous substance vehicle and display to the police officer all required documentation and allow inspection and sampling of the controlled hazardous substance to determine if there is a violation of:

(i) The provisions of the vehicle certificate;

(ii) The provisions of a driver certificate; or

(iii) Any federal or state law;

(6) Except under the supervision of the Department during an emergency, may not remove the controlled hazardous substance from the controlled hazardous substance vehicle, or treat, store for any period of time, or mix any controlled hazardous substance except in a controlled hazardous substance facility; and

(7) Shall report periodically, on a form required by the Department, the following information about shipments of controlled hazardous substances:

(i) The source of the controlled hazardous substance;

(ii) The nature of the controlled hazardous substance; and

(iii) The disposal destination.

(b) (1) A driver certificate authorizes its holder to operate a vehicle transporting hazardous substances while the certificate is effective.

(2) Each controlled hazardous substance vehicle driver:

(i) Shall submit to the Department evidence that the person has received adequate training in the proper and safe handling of controlled hazardous substances;

(ii) Shall pay an annual driver certificate fee set by the Department but not more than $20; and

(iii) When transporting any controlled hazardous substance, shall comply with subsection (a)(3), (4), (5), and (6) of this section and all applicable State rules and regulations.

- Credit(s):

  Acts 1982, c. 240, § 2; Acts 1982, c. 439.

***Notification*:**

- Individuals who generate hazardous substances and wish for transportation of said substances must provide a controlled hazardous substance manifest, and notify the Department of the source of the substance, the name of the controlled substance transporter, destination of the shipment and volume of the substance. MD Environ. Code Ann. § 7.253 (2003).

- Proposed Bill: Requires the operator of a commercial motor vehicle placarded for hazardous materials to obtain a criminal history records check before the Motor Vehicle Administration may issue an endorsement of the operator's license to drive the vehicle. 2004 MD H.B. 855.

Highway and Rail Routing:

- Maryland has designated routes for transportation of radioactive and non-radioactive hazardous materials. This route can be found in 65 Federal Register 75771, 75790-75791 (Dec. 4, 2000). Restricted routes for all hazardous materials are as follows:

  - J.F.K. Memorial Highway [I-95].

- 65 Register 75771, 75790 (Dec. 4, 2000). Non-radioactive hazardous material routes are as follows:

  - Interstate 495 [NOTE: Restricts all vehicles carrying hazardous materials to right two lanes.]

- Annotated Code of Maryland – Environment, §§ 7.301 to 7.306(2003); *Appalachian States Low-Level Radioactive Waste Compact*:

- This compact ensures that there are sufficient regional facilities to dispose of low-level waste generated within the region.

- Each party state will maintain a manifest system which documents all waste-related activities of generators, brokers, carriers and establishes the chain of custody of waste from beginning to end. Copies of manifests must be submitted to the Commission on a regular and timely basis.

- Parties of this compact will develop and enforce procedures requiring low-level waste shipments being transported to a regional facility to conform to volume reduction, packaging, and transportation regulations as well as any other requirements specified by the regional facility. These procedures include inspecting packaging and shipping practices; inspecting low-level waste containers while in the custody of carriers; and appropriate enforcement actions in the event of a violation.

- Pennsylvania, West Virginia, Delaware, and Maryland are eligible to be parties to this compact.

Mississippi – Existing State Regulatory Requirements

- Mississippi Code Annotated, §§ 45-14-51 to 45-14-69 (2004); *Mississippi Radioactive Waste Transportation Act*.

Permits and Fees:

- Mississippi Code Annotated
  Title 17. Local Government; Provisions Common to Counties and Municipalities
  Chapter 17. Solid Wastes Disposal
  Location and Permitting of Commercial Hazardous Waste Management Facilities

- § 17-17-151. Application for permit; demonstration of need; criteria:

  (1) Each application for the issuance of a permit to operate a commercial hazardous waste management facility shall be accompanied by a demonstration of need for that facility in the anticipated service area, which shall be of the form and content as the Permit Board may prescribe. Applications for the reissuance, transfer or modification of previously issued permits, except modifications seeking an increase in the volume of hazardous waste to be managed on an annual basis, shall not be subject to the requirements of this section.

  (2) The demonstration of need shall be specific as to the types of hazardous waste to be managed and shall include, but not be limited to:

  (a) Documentation of the available capacity at existing commercial hazardous waste management facilities in the area to be served by the facility;

  (b) Documentation of the current volume of hazardous waste generated in the area to be served by the facility and the volume of hazardous waste reasonably expected to be generated in the area to be served over the next twenty (20) years; and

  (c) A description of any additional factors, such as physical limitations on the transportation of the hazardous waste or the existence of additional capacity outside the area to be served which may satisfy the projected need.

  (3) The Permit Board shall consider the following factors in evaluating the need for the proposed facility:

(a) The extent to which the proposed commercial hazardous waste management facility is in conformance with the Mississippi Capacity Assurance Plan and any interstate or regional agreements associated therewith;

(b) An approximate service area for the proposed facility which takes into account the economics of hazardous waste collection, transportation, treatment, storage and disposal;

(c) The quantity of hazardous waste generated within the anticipated service area suitable for treatment, storage or disposal at the proposed facility;

(d) The design capacity of existing commercial hazardous waste management facilities located within the anticipated service area of the proposed facility; and

(e) The extent to which the proposed facility is needed to replace other facilities, if the need for a proposed commercial hazardous waste management facility cannot be established under paragraphs (a) through (d).

(4) Based on the needs of the State of Mississippi, it is the intent of the Legislature that there shall not be a proliferation of unnecessary facilities in any one (1) county of the state.

(5) If the Permit Board determines that a proposed commercial hazardous waste management facility is inconsistent with or contradictory to the factors set forth in subsection (3), the Permit Board is hereby empowered to deny any permit for such facility.

(6) The commission shall develop and adopt criteria and standards to be considered in location and permitting of commercial hazardous waste management facilities. The standards and criteria shall be developed through public participation, shall be enforced by the Permit Board and shall include, in addition to all applicable state and federal rules and regulations, consideration of:

(a) Hydrological and geological factors such as flood plains, depth to water table, soil composition and permeability, cavernous bedrock, seismic activity, and slope;

(b) Natural resource factors such as wetlands, endangered species habitats, proximity to parks, forests, wilderness areas and historical sites, and air quality;

(c) Land use factors such as local land use, whether residential, industrial, commercial, recreational or agricultural, proximity to public water supplies, and proximity to incompatible structures such as schools, churches and airports;

(d) Transportation factors, such as proximity to waste generators and to population, route safety and method of transportation; and

(e) Aesthetic factors such as the visibility, appearance and noise level of the facility.

- Credit(s):

Laws 1991, Ch. 561, § 3; Laws 1997, Ch. 313, § 1, eff. July 1, 1997.

- Cross References:

Commercial hazardous waste management facility, definition, see § 17-17-3.

- Library References:

C.J.S. Health and Environment § § 91 to 92, 106, 109, 129 to 131.

- Research References:

Encyclopedias:

Encyclopedia of Mississippi Law Environmental Law § 79, Commercial Hazardous Waste Management Facilities.

- United States Supreme Court:

Hazardous waste workers, occupational safety and health standards for training, testing and licensing, preemption, see Gade v. National Solid Wastes Management Ass'n, U.S.Ill.1992, 112 S.Ct. 2374, 505 U.S. 88, 120 L.Ed.2d 73.

- Judicial Decisions

1. In general

Injunction prohibiting Department of Environmental Quality and Environmental Quality Permit Board from proceeding with any permitting procedures regarding hazardous waste treatment facilities, which injunction was issued in

action alleging noncompliance with Administrative Procedures Law (APL) in governor's adopting Capacity Assurance Plan (CAP) without public input, was overbroad to extent that it went beyond use of CAP; except to extent that they were statutorily circumscribed, agencies performed statutorily assigned tasks without regard to CAP. Fordice v. Thomas (Miss. 1995) 649 So.2d 835.

- Mississippi Code Annotated § 17-17-151, MS ST § 17-17-151:

- At least 30 days prior to shipment of radioactive waste, the shipper must apply for an annual permit (Mississippi Code Annotated § 45-14-59 [2004]).

- The shipper must provide proof of adequate liability insurance sufficient to protect the state from radiological injury or damage to any person or property due to packaging or transportation (Mississippi Code Annotated § 45-14-59(c) [2004]).
- The shipper shall pay a permit fee established by the agency in partnership with the state board of health. This fee will reflect the relative hazard and potential threat to the public health and safety of the radioactive waste, based upon its volume, radioactivity and toxicity (Mississippi Code Annotated § 45-14-61 [2004]).

***Notification*:**

- The shipper must provide notification to the agency prior to transportation of radioactive materials. Miss. Code Ann. § 45-14-63 (2004).

Highway and Rail Routing:

- Mississippi has designated routes for transportation of radioactive and non-radioactive hazardous materials. This route can be found in 65 Federal Register 75771, 75792 (Dec. 4, 2000). Non-radioactive hazardous material routes are as follows:

  - Utilize interstate system as the primary routes or transporting NRHM.

***Liability*:**

- Anyone who willfully violates any part of this act is subject to a fine of $5,000 and/or imprisonment for up to five years. Miss. Code Ann. § 4514-69 (2004).
- Mississippi Code Annotated, §§ 57-47-1 to 57-47-9; *Southeast Interstate Low-Level Radioactive Waste Compact*.

- Each party state recognizes that each state is responsible for providing for capacity either within or outside the state for disposal of low-level radioactive waste generated within its borders, except for waste generated as a result of defense activities of the federal government. Each state also recognizes that the

management of low-level radioactive waste is handled most efficiently on a regional basis.

- Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee and Virginia are eligible to be members of this compact.

- Mississippi Code Annotated
  Title 17. Local Government; Provisions Common to Counties and Municipalities
  Chapter 17. Solid Wastes Disposal
  Solid Wastes Disposal (Refs & Annos)

  - § 17-17-27. Enforcement of Chapter:

    (1) The department shall exercise such supervision over restrictions, equipment, methodology and personnel in the management of solid wastes as may be necessary to enforce sanitary requirements; and the commission shall adopt such rules and regulations as may be needed to specify methodology and procedures to meet the requirements of this chapter, which shall include at a minimum:

    (a) Criteria for the determination of whether any waste or combination of wastes is hazardous for the purposes of this chapter;

    (b) Rules and regulations for the storage, treatment and disposal of solid wastes;

    (c) Rules and regulations for the transportation, containerization and labeling of hazardous wastes, which rules shall be consistent with those issued by the United States Department of Transportation;

    (d) Rules and regulations specifying the terms and conditions under which the permit board shall issue, modify, suspend, revoke or deny such permits as may be required by this chapter. Such rules and regulations shall include, and not by way of limitation, specific authority for the permit board to consider the financial capability and performance history of an applicant;

    (e) Rules and regulations establishing standards and procedures for the safe storage or transportation of hazardous waste and for the safe operation and maintenance of hazardous waste treatment or disposal facilities or sites or equipment;

    (f) A listing of those wastes or combinations of wastes which are not compatible, and which may not be stored or disposed of together;

(g) Procedures and requirements for the use of a manifest during the transport of hazardous wastes;

(h) Standards for financial responsibility to cover the liability, closure and post-closure of any site and perpetual care of a commercial hazardous waste landfill. Rules and regulations promulgated hereunder may include, and not by way of limitation, requirements for maintaining liability insurance coverage if such coverage is not required under rules and regulations promulgated by the United States Environmental Protection Agency;

(i) Rules and regulations establishing minimum distances within which any hazardous waste disposal facility may be located from any municipality, school, residence, church or health care facility;

(j) Other rules and regulations as the commission deems necessary to manage hazardous wastes in the state, provided that such rules and regulations shall be equivalent to the United States Environmental Protection Agency's rules and regulations.

(2) In complying with this section the commission shall consider the variations within this state in climate, geology, population density and such other factors as may be relevant to the management of hazardous wastes. It is the intent of the Legislature that commercial hazardous waste landfills be located on those sites which, by virtue of their geologic conditions, provide a high degree of environmental protection. In carrying out the intent of this provision, the commission is authorized to adopt siting criteria for commercial hazardous waste landfills which are more stringent or extensive in scope, coverage and effect than the rules and regulations promulgated by the United States Environmental Protection Agency.

(3) Except as hereinafter provided, hazardous wastes shall not be disposed of in this state by the use of underground injection methods, as herein defined according to 40 CFR 260.10(74) to mean "subsurface emplacement of fluids through a bored, drilled, or driven well, or through a dug well, where the depth of the dug well is greater than the largest surface dimension." This prohibition shall not apply to the disposal on the generation site of hazardous wastes generated in the production of oil or gas or in a commercial or manufacturing operation. Commercial hazardous waste underground injection wells designed or intended to dispose of multiple nonhomogeneous types of wastes from multiple sources other than the owner of the well are hereby prohibited in the State of Mississippi.

A commercial hazardous waste landfill shall not be located on the same site or within one thousand (1,000) feet of an existing or abandoned ordinary

waste disposal site, unless the hazardous waste to be disposed of in said commercial landfill is specifically approved as exempted.

(4) After promulgation of the regulations required under this section, no person shall construct, substantially alter or operate any solid waste treatment or disposal facility or site, nor shall any person store, treat or dispose of any hazardous waste without first obtaining a permit from the permit board for such facility, site or activity. However, no person shall construct any new hazardous waste treatment or disposal facility or site or substantially alter any such existing facility or site, nor shall the permit board issue a permit for any such construction or alteration, until the commission has promulgated rules and regulations under the provisions of subsection (1)(j) of this section. Said rules and regulations shall be equivalent to counterpart rules and regulations of the Environmental Protection Agency whether now in effect or hereinafter promulgated. Any person who has made an application for a permit for an existing facility under this section shall be treated as having been issued such permit until such time as final administrative disposition of such application has been made unless the cause of such delay is the result of the failure of the applicant to furnish information reasonably required or requested in order to process the application.

(5) Any permit issued under this section may be revoked by the issuing agency at any time when the permittee fails to comply with the terms and conditions of the permit. Where the obtaining of or compliance with any permit required under this section would, in the judgment of the department, cause undue or unreasonable hardship to any person, the department may issue a variance from these requirements. In no case shall the duration of any such variance exceed one (1) year. Renewals or extensions may be given only after an opportunity has been given for public comment on each such renewal or extension.

(6) Information obtained by the commission concerning environmental protection including but not limited to information contained in applications for solid or hazardous waste disposal permits shall be public information and shall be made available upon proper request. Other information obtained by the commission, department, or permit board in the administration of Sections 17-17-1 through 17-17-47 concerning trade secrets, including, but not limited to, marketing or financial information, treatment, transportation, storage or disposal processes or devices, methods of manufacture, or production capabilities or amounts shall be kept confidential if and only if: (a) a written confidentiality claim is made when the information is supplied; (b) such confidentiality claim allows disclosure to authorized department employees and/or the United States Environmental Protection Agency (EPA); and (c) such confidentiality claim is determined by the commission to be valid. If the confidentiality claim is denied, the information sought to be covered thereby shall not be released or disclosed, except to the Environmental Protection

Agency, until the claimant has been notified in writing and afforded an opportunity for a hearing and appeal therefrom, as with other orders of the commission. Disclosure of confidential information by the EPA shall be governed by federal law and EPA regulations. Misappropriation of a trade secret shall be governed by the Mississippi Uniform Trade Secrets Act, Sections 75-26-1 through 75-26-19.

(7) Anyone making unauthorized disclosure of information determined to be confidential as herein provided shall be liable in a civil action for damages arising therefrom and shall also be guilty of a misdemeanor punishable as provided by law.

(8) Notwithstanding any other provision of this chapter, the executive director, upon receipt of information that the generation, storage, transportation, treatment or disposal of any solid waste may present an imminent and substantial hazard to the public health or to the environment, may take any legal, equitable or other action, including injunctive relief, necessary to protect the health of such persons or the environment.

- Credit(s):

Laws 1974, Ch. 573, § 6; Laws 1979, Ch. 491, § 3; Laws 1980, Ch. 551, § 1; Laws 1981, Ch. 528, § 8; Laws 1982, Ch. 490, § 1; Laws 1987, Ch. 332, § 1; Laws 1990, Ch. 442, § 11, eff. July 1, 1990.

- Cross References:

Disclosure statements, filing by applicants for waste management facilities permits, see § 17-17-503.

Municipalities, disposal of garbage and rubbish, power to regulate, see § 21-19-1.
Permits, hearings and appeals, see § 49-17-29.

Solid Waste Disposal Law, adoption of rules and regulations, see § 49-17-25.

Waste management facilities permits, performance history of applicants, see § 17-17-507.

Missouri – Existing State Regulatory Requirements

Authorities/Duties:

- Missouri Revised Statutes § 226.008 (2004). Responsibilities and authority of highways and transportation commission – transfer of authority to department of transportation:

  1. The highways and transportation commission shall have responsibility and authority, as provided in this section and sections 104.805, 389.005, 389.610, and 621.040, RSMo, for the administration and enforcement of:

  (1) Licensing, supervising and regulating motor carriers for the transportation of passengers, household goods and other property by motor vehicles within this state;

  (2) Licensing motor carriers to transport hazardous waste, used oil, infectious waste and permitting waste tire haulers in intrastate or interstate commerce, or both, by motor vehicles within this state;

  (3) Compliance by motor carriers and motor private carriers with applicable requirements relating to safety and hazardous materials transportation**,** within the terminals of motor carriers and motor private carriers of passengers or property;

  (4) Compliance by motor carriers and motor private carriers with applicable requirements relating to safety and hazardous materials transportation wherever they possess, transport or deliver hazardous waste, used oil, infectious waste or waste tires. This authority is in addition to, and not exclusive of, the authority of the department of natural resources to ensure compliance with any and all applicable requirements related to the transportation of hazardous waste, used oil, infectious waste or waste tires;

  (5) Collecting and regulating amounts payable to the state from interstate motor carriers in accordance with the provisions of the International Fuel Tax Agreement in accordance with section 142.617, RSMo, and any successor or similar agreements, including the authority to impose and collect motor fuel taxes due pursuant to chapter 142, RSMo, and such agreement;

  (6) Registering and regulating interstate commercial motor vehicles operated upon the highways of this state, in accordance with the provisions of the International Registration Plan in accordance with sections 301.271 through 301.277, RSMo, and any successor or similar agreements, including the authority to issue license plates in accordance with sections 301.130 and 301.041, RSMo;

(7) Permitting the transportation of over dimension or overweight motor vehicles or loads that exceed the maximum weights or dimensions otherwise allowed upon the public highways within the jurisdiction of the highways and transportation commission; and

2. The highways and transportation commission shall carry out all powers, duties and functions relating to intrastate and interstate transportation previously performed by:

(1) The division of motor carrier and railroad safety within the department of economic development, and all officers or employees of that division;

(2) The department of natural resources, and all officers or employees of that division, relating to the issuance of licenses or permits to transport hazardous waste, used oil, infectious waste or waste tires by motor vehicles operating within the state;

(3) The highway reciprocity commission within the department of revenue, and all officers or employees of that commission; and the director of revenue's powers, duties and functions relating to the highway reciprocity commission, except that the highways and transportation commission may allow the department of revenue to enforce the provisions of the International Fuel Tax Agreement, as required by such agreement; and

(4) The motor carrier services unit within the traffic functional unit of the department of transportation, relating to the special permitting of operations on state highways of motor vehicles or loads that exceed the maximum length, width, height or weight limits established by law or by the highways and transportation commission.

4. The division of motor carrier and railroad safety and the highway reciprocity commission are abolished.

5. Personnel previously employed by the division of motor carrier and railroad safety and the highway reciprocity commission shall be transferred to the department of transportation, but the department of natural resources shall not be required to transfer any personnel pursuant to this section. The administrative law judge within the division of motor carrier and railroad safety shall be transferred to the administrative hearing commission.

6. Credentials issued by the transferring agencies or officials before July 11, 2002, shall remain in force or expire as provided by law. In addition, the highways and transportation commission shall have the authority to suspend, cancel or revoke such credentials after July 11, 2002.

7. The Missouri hazardous waste management commission created in section 260.365, RSMo, shall have the authority to collect and establish by rule the

amount of the fee paid by applicants for a license to transport hazardous waste, used oil, or infectious waste pursuant to section 260.395, RSMo.

- Missouri Revised Statutes § 622.090 (2004). Powers and duties of division of motor carrier and railroad safety (*portions of text omitted*):

  The jurisdiction, supervision, powers and duties of the motor carrier and railroad safety division herein created and established shall extend under this chapter:

  (1) To all railroads within this state, and to all transportation of persons or property thereon, and to the person or corporation owning, leasing, operating or controlling the same, and to every person, corporation and entity that offers for transportation by railroad within this state hazardous or toxic materials as defined under the laws of this state or of the United States;

  (2) To all street railroads within this state, and to all transportation of persons or property thereon, and to the person or corporation owning, leasing, operating or controlling the street railroad;

  (3) To the extent authorized in section 389.1005, RSMo, to the operation of light rail, as defined in section 386.020, RSMo, located wholly or in part within this state, and to all transportation of persons and their baggage on light rail within this state;

  (4) To such portion of the lines of any other railroad, light rail or street railroad as lie within this state, and to the person, corporation or entity owning, leasing, operating or controlling the same, so far as concerns the construction, maintenance, equipment, terminal facilities and local transportation facilities and local transportation of persons or property within this state;

  (5) To all motor carriers, railroad corporations, and street railroad corporations operating or doing business within this state;

  (6) To all persons, corporations or partnerships engaged in the transportation of property or freight within the state;

- Missouri Revised Statutes § 260.370 (2004). Duties and powers of commission--rules and regulations to be adopted, procedures--inspection fees, use of, refund, variances granted after July 2002 (*portions of text omitted*):

3. In addition to any other powers vested in it by law, the commission shall have the following powers:

(1) From time to time adopt, amend or repeal, after due notice and public hearing, standards, rules and regulations to implement, enforce and carry out the provisions of sections 260.350 to 260.430 and any required of this state by any federal hazardous waste management act and as the commission may deem necessary to provide for the safe management of hazardous wastes to protect the health of humans and the environment. …the commission shall adopt rules and regulations including the following:

(c) Rules and regulations for the transportation**,** containerization and labeling of hazardous wastes, which shall be consistent with those issued by the Missouri public service commission;

(d) Rules and regulations establishing standards for the issuance, modification, suspension, revocation or denial of such licenses and permits as are consistent with the purposes of sections 260.350 to 260.430.

Rules and regulations establishing procedures and requirements for the reporting of the generation, storage, transportation**,** treatment or disposal of hazardous wastes

- Missouri Revised Statutes § 260.375 (2004). Duties of department--licenses required--permits required (*portions of text omitted*):

The department shall:

(7) Collect and maintain, and require any person to collect and maintain, such records and information of hazardous waste generation, storage, transportation**,** resource recovery, treatment and disposal in this state, including quantities and types imported and exported across the borders of this state and install, calibrate and maintain and require any person to install, calibrate and maintain such monitoring equipment or methods, and make reports consistent with the purposes of sections 260.350 to 260.430;

(11) Require each hazardous waste transporter operating in this state to obtain a license and to meet all applicable requirements of sections 260.350 to 260.430 and the standards, rules and regulations, orders and license terms and conditions adopted or issued pursuant to sections 260.350 to 260.430;

(13) Issue, continue in effect, revoke, modify or deny in accordance with the standards, rules and regulations, hazardous waste transporter licenses and hazardous waste facility permits;

(20) Represent the state of Missouri in all matters pertaining to interstate hazardous waste management including the negotiation of interstate compacts or agreements;

- Missouri Revised Statutes § 260.385 (2004). Activities not allowed and requirements to be met by hazardous waste transporters:

  After six months from the effective date of the standards, rules and regulations adopted by the commission pursuant to section 260.370, hazardous waste transporters shall:

  (1) Not transport any hazardous waste in this state without first obtaining a hazardous waste transporter license from the department as specified in section 260.395;

  (2) Use and operate equipment which has been approved by the department and follow procedures, when transporting hazardous wastes, which meet all applicable state and federal regulations and standards for the transportation of hazardous materials and all applicable standards, rules and regulations adopted under sections 260.350 to 260.430 and all terms and conditions of their license;

  (3) Unless otherwise provided in sections 260.350 to 260.430 or the rules and regulations adopted hereunder, accept only shipments of hazardous waste that are accompanied by a manifest, provided by the generator, that has been completed and signed by the generator in accordance with the rules and regulations adopted under sections 260.350 to 260.430;

  (4) Complete, sign and file the transporter portion of the manifest as specified in rules and regulations adopted under sections 260.350 to 260.430;

  (5) Deliver hazardous waste and the accompanying manifest only to the destination specified by the generator on the manifest, which destination must be a hazardous waste facility holding a permit under sections 260.350 to 260.430 or the federal Resource Conservation and Recovery Act, or a state hazardous waste management program authorized under the federal Resource Conservation and Recovery Act, or a resource recovery or other facility exempted from the permit requirement, and in accordance with provisions which apply under section 260.395 and rules and regulations adopted hereunder;

  (6) Collect and maintain such records and submit such reports as specified in sections 260.350 to 260.430 and in rules and regulations and terms and conditions of their license adopted or issued hereunder;

(7) Make available to the department upon request made during transportation**,** samples of wastes transported and all records relating to hazardous waste transportation**,** for inspection and copying, and allow the department to make unhampered inspections at any reasonable time of all facilities and equipment.

- Missouri Revised Statutes § 260.395 (2004). Transportation of hazardous waste, how permitted – fees, how determined – notice prior to issuance of permit – permit not required of whom – application for certification, when – permit maintained for post-closure care period – leachate collection system required – railroad hazardous waste transportation**,** fee (*portions of text omitted*):

  1. After six months from the effective date of the standards, rules and regulations adopted by the commission pursuant to section 260.370, it shall be unlawful for any person to transport any hazardous waste in this state without first obtaining a hazardous waste transporter license. Any person transporting hazardous waste in this state shall file an application for a license pursuant to this subsection which shall:

  (1) Be submitted on a form provided for this purpose by the department and shall furnish the department with such equipment identification and data as may be necessary to demonstrate to the satisfaction of the department that equipment engaged in such transportation of hazardous waste, and other equipment as designated in rules and regulations pursuant to sections 260.350 to 260.430, is adequate to provide protection of the health of humans and the environment and to comply with the provisions of any federal hazardous waste management act and sections 260.350 to 260.430 and the standards, rules and regulations adopted pursuant to sections 260.350 to 260.430. If approved by the department, this demonstration of protection may be satisfied by providing certification that the equipment so identified meets and will be operated in accordance with the rules and regulations of the Missouri public service commission and the federal Department of Transportation for the transportation of the types of hazardous materials for which it will be used;

  (2) Include, as specified by rules and regulations, demonstration of financial responsibility, including, but not limited to, guarantees, liability insurance, posting of bond or any combination thereof which shall be related to the number of units, types and sizes of equipment to be used in the transport of hazardous waste by the applicant.

- CSR 265-8.120 (Missouri Code of State Regulations) (2004). Hazardous Material Requirements:

  (1) The Division of Motor Carrier and Railroad Safety incorporates by reference in this rule the requirements governing the transportation of explosives and other

hazardous materials prescribed and adopted by the United States Department of Transportation**,** Research and Special Programs Administration, as published in Title 49, Code of Federal Regulations parts 100-185, on October 1, 1997, and subsequent final rules published in the Federal Register, except that the division does not incorporate by reference in this rule any provision the incorporation of which would exceed the statutory authority of this division.

Fees:

- Missouri Revised Statutes § 260.395 (2004):

  (3) Include, as specified in rules and regulations, a fee payable to the state of Missouri which shall consist of an annual application fee, plus an annual use fee based upon tonnage, mileage or a combination of tonnage and mileage. The fees established pursuant to this subdivision shall be set to generate, as nearly as is practicable, six hundred thousand dollars annually. No fee shall be collected pursuant to this subdivision from railroads that pay a fee pursuant to subsection 19 of this section. Fees collected pursuant to this subdivision shall be deposited in the hazardous waste fund created pursuant to section 260.391.

***Licensing*:**

- Missouri Revised Statutes § 260.395 (2004):

  2. If the department determines the application conforms to the provisions of any federal hazardous waste management act and sections 260.350 to 260.430 and the standards, rules and regulations adopted pursuant to sections 260.350 to 260.430, it shall issue the hazardous waste transporter license with such terms and conditions as it deems necessary to protect the health of humans and the environment. The department shall act within ninety days after receipt of the application. If the department denies the license, it shall issue a report to the applicant stating the reason for denial of the license.

  3. A license may be suspended or revoked whenever the department determines that the equipment is or has been operated in violation of any provision of sections 260.350 to 260.430 or any standard, rule or regulation, order, or license term or condition adopted or issued pursuant to sections 260.350 to 260.430, poses a threat to the health of humans or the environment, or is creating a public nuisance.

  4. Whenever a license is issued, renewed, denied, suspended or revoked by the department, any aggrieved person, by petition filed with the department within

thirty days of the decision, may appeal such decision and shall be entitled to a hearing as provided in section 260.400.

5. A license shall be issued for a period of one year and shall be renewed upon proper application by the holder and a determination by the department that the applicant is in compliance with all provisions of sections 260.350 to 260.430 and all standards, rules and regulations, orders and license terms and conditions adopted or issued pursuant to sections 260.350 to 260.430.

6. A license is not required for the transport of any hazardous waste on the premises where it is generated or onto contiguous property owned by the generator thereof, or for those persons exempted in section 260.380. Nothing in this subsection shall be interpreted to preclude the department from inspecting unlicensed hazardous waste transporting equipment and to require that it be adequate to provide protection for the health of humans and the environment.

19. Any railroad corporation as defined in section 388.010, RSMo, that transports any hazardous waste as defined in section 260.360 or any hazardous substance as defined in section 260.500 shall pay an annual fee of three hundred fifty dollars. Fees collected pursuant to this subsection shall be deposited in the hazardous waste fund created in section 260.391.

- 12 CSR 10-24.200 (Missouri Code of State Regulations) (2004). Driver License Classes (*portions of text omitted*):

  (1) There shall be six (6) classes of licenses in Missouri.

  (4) Class C--The holder of a Class C license may drive any single vehicle with a GVWR of twenty-six thousand pounds (26,000 lbs.) or less if the vehicle is designed to transport sixteen (16) or more passengers, including the driver, or if the vehicle is transporting hazardous materials and is required to be placarded under the Hazardous Material Transportation Act (46 U.S.C. section 1801), or any such vehicle towing a vehicle with a GVWR of ten thousand pounds (10,000 lbs.) or less; provided, the license bears the proper endorsement(s), if any, required for the type of vehicle being driven. A holder of a Class C license may drive all vehicles which may be driven by a holder of a Class E or Class F license, but not motorcycles or vehicles which require an endorsement(s) unless the proper endorsement(s) appears on the license.

  (8) In addition to holding the appropriate class of license as prescribed, a driver of a motor vehicle used to transport hazardous material in a type, quantity, or both, as to require placarding under the Hazardous Material Transportation Act (46 U.S.C. section 1801) and the Hazardous Materials Regulations (49 CFR part

172, subpart F) must have qualified for and obtained an H endorsement. Any applicant for a commercial driver license requiring a hazardous material endorsement shall be at least twenty-one (21) years of age.

- 10 CSR 25-6.263 (Missouri Code of State Regulations) (2004):

  3. License requirements for power unit transporters of hazardous waste, used oil or infectious waste. Transporters required by 10 CSR 256.263, 10 CSR 25-11.279(2)(E)1., or 10 CSR 80-7.010(4) to be licensed by the department shall comply with the following requirements:

  A. Power unit transporters shall submit to the department an application for a license on a form furnished by the department. The form shall be completed with the following information:

  (I) The applicant's name, address, location of the principal office or place of business and the legal owner of the applicant company;

  (II) A description of the service proposed to be rendered;

  (III) The applicant's Environmental Protection Agency (EPA) identification number;

  (IV) The number of power units to be used;

  (V) A certification that the applicant's equipment and operating procedures meet the standards of the Missouri Division of Motor Carrier and Railroad Safety, the Federal Department of Transportation (DOT), or the Federal Railroad Administration, or both;

  (VI) A description of each power unit to include make, model, year, vehicle identification number (VIN), licensed vehicle weight, and state and number of the license plate. Also required is a description of the trailers (cargo box, van, tank) and maximum trailer capacities used by the transporter;

  (VII) A disclosure statement for the applicant, principal corporate officers and the holders of more than twenty percent (20%) of the applicant company. If any of these persons were involved in hazardous waste management before their association with the applicant company, the applicant shall submit this information to the department including the names of these persons and the names and locations of the companies with which they were associated; and

  (VIII) For applicants who are not residents of Missouri, a written statement designating the director of the department as the authorized agent upon

whom legal service may be made for all actions arising in Missouri from any operation of motor vehicles under authority of the department.

C. License Renewal:

(I) A hazardous waste transporter wishing to renew his/her license shall submit a license renewal application on a form furnished by the department and shall submit other applicable information, as specified in this section, to the department at least sixty (60) days prior to the expiration date of his/her current license. A Certificate of Corporate Good Standing must be submitted with the renewal. This certificate must have been issued in the twelve (12) months preceding the license expiration date. Insurance requirements must be satisfied as specified in paragraph (2)(A)4. of this rule except for other than power unit carriers. The renewal application shall be accompanied by a fee as specified in 10 CSR 25-12.

Routing:

- Missouri Revised Statutes § 260.434 (2004). Proposed sites, hazardous waste facilities--department to examine transportation routes--department to examine local government's capability to respond to emergency--interagency agreement:

  1. The department shall assess the transportation system serving a proposed site for a new hazardous waste resource recovery, treatment or disposal facility as a part of its review of the application for a permit. The department shall examine the transportation route or routes to ensure that the design and maintenance of such route or routes provides adequate safety for the public using or living near the route or routes. The department may designate or prohibit specific routes, limit use of approved routes during certain time periods or impose other reasonable restrictions upon the transportation of hazardous waste to or from the facility.

  2. The department shall review the capability of local governments near a proposed site to respond to an emergency involving the transportation of hazardous waste or an emergency at the hazardous waste resource recovery, treatment or disposal facility when it reviews an application for a permit. The department shall reassess that capability whenever the operator proposes recovering, treating or disposing of a hazardous waste which is substantially more toxic, corrosive, ignitable or reactive than those wastes approved under the current permit. The department may require the operator to provide supplemental emergency response capability to ensure public safety.

  3. The department shall enter into an interagency agreement with the department of transportation and the department of public safety to permit the sharing of information and to assign responsibility for performing the assessment required in this section.

- See also Federal Register/ Vol. 65, No. 233, p. 75793, Dec. 4, 2000:
- No routes designated as of 11/14/00
- Contacts:
  - No agency designated
  - Federal Motor Carrier Safety Administration – Missouri Field Office; Missouri Motor Carrier State Director; 209 Adam St., Jefferson City, MO 65101; (573)636-3246

Emergency Preparedness:

- Missouri Revised Statutes § 260.505 (2004). Hazardous substance emergency response plan to be developed by department director--contents of plan:

  1. The director shall develop a "Hazardous Substance Emergency Response Plan", as an appendix to the annex of the "State of Missouri Basic Emergency Operation Plan", part II, "The Missouri Comprehensive Emergency Preparedness and Disaster Relief Plan". The hazardous substance emergency response plan shall be developed in consultation and cooperation with affected industries, and in cooperation and with the approval of the departments of public safety, social services, agriculture, conservation, transportation, and economic development for their areas of responsibility. The plan shall outline the respective responsibilities of the involved agencies in responding to hazardous substances emergencies. The department may enter into agreements with any state agency or unit of local government, with the federal government and with other persons as necessary to develop and implement the hazardous substances emergency response plan and to implement sections 260.005 to 260.550.

  2. The hazardous substance emergency response plan shall establish one statewide telephone number to be used to notify the state of Missouri whenever a hazardous substance emergency occurs. Such phone shall be monitored by technical staff capable of advising the person reporting the emergency of the proper immediate actions to take pending the arrival of response personnel or other qualified assistance. The number shall be established by rule by the department in cooperation with the other affected state agencies and in accordance with the hazardous substance emergency response plan.

  3. The person monitoring the statewide emergency telephone shall notify the appropriate agencies as designated in the hazardous substance emergency response plan.

4. Any person having control over a hazardous substance shall contact the state of Missouri, as specified in subsection 2 of this section, or the National Response Center, at the earliest practical moment upon discovery of an emergency involving the hazardous substance under his control. If requested, a written report of particulars of the incident shall be submitted. Failure to notify as required in this section is a class A misdemeanor. Notification received pursuant to this paragraph or information obtained by the exploitation of such notification shall not be used against any such person in any criminal case, except a prosecution for perjuring or for giving a false statement.

- CSR 265-8.010 (Missouri Code of State Regulations) (2004). Accidents:

  (1) Every railroad and street railroad corporation engaged in business in this state is ordered to give notice to this division of railroad accidents as set forth in this rule.

  (A) The division will be furnished with prompt telephone notice, twenty-four (24) hours a day for the following accidents:

  1. Hazardous material incident. At the earliest practicable moment, each carrier who transports hazardous materials shall give notice, in accordance with subsection (1)(C) of this rule, after each incident that occurs during the course of transportation (including loading, unloading and temporary storage) in which as a direct result of hazardous materials:

  A. A person is killed;

  B. A person receives injuries requiring his/her hospitalization;

  C. Estimated carrier or other property damage exceeds fifty thousand dollars ($ 50,000);

  D. Fire, breakage, spillage or suspected radioactive contamination occurs involving shipment of radioactive material;

  E. Fire, breakage, spillage or suspected contamination occurs involving shipment of etiologic agents; or
  F. A situation exists of a nature that, in the judgment of the carrier, it should be reported in accordance with subsection (1)(C) of this rule even though it does not meet the criteria of subparagraph (1)(A)1.A., B. or C. of this rule, for example, a continuing danger to life exists at the scene of the incident;

2. Major railroad accident. All derailments, collisions or other train accidents when ten (10) or more cars derail on trackage where trains operate at speeds greater than ten (10) miles per hour; and

3. Fatal grade crossing accident. All accidents which occur at grade crossings that involve railroad rolling equipment which results in a fatality.

(B) The division will be furnished with prompt telephone notice during regular working hours for the following accidents:

1. All grade crossing accidents which involve railroad rolling equipment that result in a personal injury of which the railroad has knowledge;

2. All derailments, collisions or other train accidents when five (5) or more cars are derailed;

3. All accidents which result in the loss of life to any person as a result of railroad operations; and

4. All accidents which involve AMTRAK, or any other passenger train.

(C) Reports made in accordance with subsections (1)(A) and (B) of this rule will:

1. Be made to the Railroad Safety Section at (573) 751-4291; and

2. Provide the following information:

A. Name of the official making report;

B. Phone number where the official can be reached;

C. Name of the carrier involved;

D. Date, time, location and type of accident;

E. Equipment involved, if the information is available;

F. Classification, name and quantity of hazardous materials involved if the information is available; and

G. Number of persons killed or injured.

(2) A Written Report of the Accident Shall Be Prepared by the Railroads or Street Railroads.

(A) Each railroad or street railroad which submits a report of Hazardous Materials Incident in accordance with paragraph (1)(A)1. of this rule shall file a copy of the report made to the United States Department of Transportation as required in 49 CFR 171.16 which is incorporated by reference in this rule, within the same time period as prescribed by the United States Department of Transportation.

(B) Each railroad or street railroad shall submit to the division a monthly report of all accidents which must be reported to the United States Department of Transportation and shall include all other accidents at grade crossings involving rolling equipment of which the railroad has knowledge. The form of these reports shall be the same forms as required by the United States Department of Transportation. The monthly reports of accidents shall be prepared in accordance with the Federal Railroad Administration (FRA) Guide for Preparing Accident/Incident Reports which is incorporated by reference in this rule.

(3) The details of any accident or delay to traffic not specifically provided for in this rule, upon request, shall be furnished the division immediately by the common carrier.

Violation/Penalties:

- Missouri Revised Statutes § 304.373 (2004). Hazardous materials, requirements for transportation – violations, penalties:

  1. For the purpose of this section, “hazardous materials” shall be as defined pursuant to Part 397, Title 49, Code of Federal Regulations, as adopted and amended.

  2. No person shall transport hazardous materials in or through any highway tunnel in this state. For purposes of this section, a tunnel shall be defined as a horizontal subterranean passageway through or under an obstruction of a length of one hundred yards or more.

  3. No person shall park a vehicle containing hazardous materials within three hundred feet of any highway tunnel in this state except as provided pursuant to Part 397, Title 49, Code of Federal Regulations, as adopted and as such regulations have been and may periodically be amended.

  4. Any person who is found or pleads guilty to a violation of this section shall be guilty of a class B misdemeanor. Any person who is found or pleads guilty to a second or subsequent violation of this section shall be guilty of a class A misdemeanor. Violations of this section shall be enforced pursuant to section 390.201, RSMo.

- Missouri Revised Statutes § 307.177 (2004). Transporting hazardous materials, equipment required – federal physical requirements not applicable, when – violations, penalty:

  1. It is unlawful for any person to operate any bus, truck, truck-tractor and trailer combination, or other commercial motor vehicle and trailer upon any highway of this state, whether intrastate transportation or interstate transportation**,** unless such transportation is conducted in accordance with the hazardous material regulations established by the United States Department of Transportation pursuant to Title 49, Code of Federal Regulations, as such regulations have been and may periodically be amended.

  2. Notwithstanding the provisions of subsection 1 of this section to the contrary, Part 391, Subpart E, Title 49, Code of Federal Regulations, relating to the physical requirements of drivers shall not be applicable to drivers in intrastate commerce, provided such drivers were licensed by this state as chauffeurs to operate commercial motor vehicles on May 13, 1988.

  3. Failure to comply with the requirements of this section may result in the commercial motor vehicle and trailer and driver of such vehicle and trailer being placed out of service. Criteria used for placing drivers and vehicles out of service are the North American Uniform Out-of-Service Criteria adopted by the Commercial Vehicle Safety Alliance and the United States Department of Transportation, as such criteria have been and may periodically be amended.

  4. Violation of this section shall be deemed a class A misdemeanor.

- Missouri Revised Statutes § 260.425 (2004). Violations, how punished (*portions of text omitted*):

  1. It is unlawful for any person to cause or permit any acts or hazardous waste management practices which violate sections 260.350 to 260.430 or any standard, rule or regulation, order or license or permit term or condition adopted or issued hereunder.

  2. Moneys received pursuant to this section that are not required by article IX, section 7, of the constitution to be distributed to schools shall be deposited in the hazardous waste fund created in section 260.391.

  3. Any person who knowingly:

     (1) Transports any hazardous waste to a facility which is not authorized to receive such waste pursuant to sections 260.350 to 260.430 or permits or

causes any other hazardous waste transportation practice in violation of any provision of sections 260.350 to 260.430;

(2) Treats, stores or disposes of any hazardous waste either:

(a) Without authorization to do so pursuant to sections 260.350 to 260.430; or

(b) In knowing violation of any material condition or requirement of such authorization; or

(c) In violation of any provision of sections 260.350 to 260.430;

(3) Makes any false material statement, representation or certification in any application, label, permit, record, report, manifest or other document filed, maintained, or required to be maintained under sections 260.350 to 260.430;

(4) Falsifies, tampers with, or renders inaccurate any monitoring device or result therefrom used, filed, maintained, or required to be maintained under sections 260.350 to 260.430;

(5) Generates, treats, stores, transports, disposes of or otherwise handles any hazardous waste, and who in connection therewith knowingly destroys, alters or conceals any record required to be maintained pursuant to sections 260.350 to 260.430; or

5. In addition to the authority granted to it under chapter 43, RSMo, the Missouri state highway patrol, any of its officers, or any other law enforcement officer, who has probable cause to believe that such a violation of sections 260.350 to 260.430 has been committed may detain any equipment involved in the violation and arrest the person controlling or operating such equipment. Any such officer shall also notify the department or the Missouri public service commission as soon as practicable, which shall, in addition, take whatever civil action they determine is necessary to correct or eliminate such violation or any threat to the health of humans or the environment. It shall be the duty of the Missouri state highway patrol as it pertains to highway use, and all other officers of the state of Missouri charged with enforcement of criminal law, to further the purposes of sections 260.350 to 260.430 and to render and furnish to the department when requested all information and assistance in their possession and in their power.

***Other*:**

- 10 CSR 25-6.263 (Missouri Code of State Regulations) (2004). Standards for Transporters of Hazardous Waste (*portions of text omitted*):

(1) The regulations set forth in 40 CFR part 263, July 1, 1997; 49 CFR parts 171-180, November 1, 1990 and December 1, 1997; and 49 CFR parts 40, 383, 387, 390-397, October 1, 1990 and October 1, 1997, are incorporated by reference, except for 49 CFR 390.3(f)(2), which is not incorporated by reference. Except as provided otherwise in this rule, the substitution of terms set forth in 10 CSR 25-3.260(1)(A) shall apply in this rule in addition to any other modifications set forth in section (2) of this rule except that the modifications do not apply to the 49 CFR parts incorporated in this rule. Where conflicting rules exist in 10 CSR 25, the more stringent shall control.

(2) A hazardous waste transporter shall comply with the requirements of this section in addition to those set forth in section (1). Any reference to a 40 CFR cite in this section shall mean as that provision is incorporated in 10 CSR 25. Where contradictory or conflicting requirements exist in 10 CSR 25, the more stringent shall control. (Comment: This section has been organized in order within the corresponding subsection of this section. For example, the additional requirements being added to 40 CFR part 263 subpart A are found in subsection (2)(A).)

(A) In addition to the requirements in 40 CFR part 263 subpart A, the following shall apply:

1. In 40 CFR 263.10(a) and (c)(1), incorporated in this rule, substitute “the state of Missouri” for “United States”;

2. In the last paragraph of the note following 40 CFR 263.10(a), change “49 CFR parts 171 through 179” to “49 CFR parts 171 through 180 and parts 383, 387 and 390-397” and add the following to the note: “The parts of 49 CFR are incorporated to the extent that these regulations do not conflict with the laws and regulations of the state of Missouri, or, in the event the regulations conflict, the more stringent shall control. The equipment used in the transportation of hazardous waste shall meet the standards of the Missouri Department of Economic Development’s Division of Motor Carrier and Railroad Safety, the United States Department of Transportation**,** or any combination of them, the Federal Railroad Administration, as applicable for the types of hazardous materials for which it will be used. The equipment to be used in the transportation of hazardous waste shall be compatible with that waste and shall be adequate to protect the health of humans and prevent damage to the environment”;

3. License requirements for power unit transporters of hazardous waste, used oil or infectious waste. Transporters required by 10CSR 25-6.263, 10 CSR 25-11.279(2)(E)1.,or 10 CSR 80-7.010(4) to be licensed by the department shall comply with the following requirements:

B. In addition to the completed application, an applicant shall submit each of the following:

(I) A fee as specified in 10 CSR 25-12.010;

(II) The insurance document(s) as specified in paragraph (2)(A)4. of this rule; and
(III) Statements, documents, or both, of the following, where applicable:

(a) If the applicant is a partnership, include an affidavit to this effect signed by the proprietor or include a copy of the partnership agreement. If no written partnership agreement has been entered into, include a statement summarizing the agreement between the parties which is signed by each of the partners and certified by a notary public;

(b) If the applicant is a Missouri corporation or a foreign corporation with authority to conduct business in Missouri or is a foreign corporation with facilities or employees in Missouri, a Certificate of Corporate Good Standing from the Missouri secretary of state shall be included. If the applicant is a nonresident corporation without facilities or employees in Missouri, a Certificate of Good Standing from the state or country of residence shall be included; and

(c) If the applicant is conducting its business under an assumed or fictitious name, a certified copy of the registration with the Missouri secretary of state of the assumed or fictitious name shall be included.

D. Power unit additions, replacements and temporary permits. Changes made to the power unit listings as shown on the current license application or renewal form shall be reported to the department as follows: A power unit can be added by submitting a written description of the power unit to be added and paying a fee in accordance with 10 CSR 25-12.010. A power unit can be replaced for another without any charge by submitting a description of the original power unit and its replacement. A power unit can be issued a temporary permit for a thirty (30)-day period by submitting a written description of the power unit and paying a fee in accordance with 10 CSR 25-12.010.

E. Proof of license. A transporter shall carry proof of license with each power unit transporting hazardous waste within Missouri. A legible copy of this certificate shall be in the possession of the driver of the power unit and shall be shown to representatives of the department, officers of the

Missouri State Highway Patrol and other law enforcement officials upon demand;

4. Insurance:

A. Transporters licensed in accordance with this chapter shall at all times have on file with the department a certification of public liability (bodily injury and property damage) insurance which shall include the required, uniform endorsements covering each motor vehicle in accordance with 49 CFR part 387 incorporated by reference in this rule. The minimum level of insurance coverage shall not be less than one (1) million dollars combined single limit. (Comment: The federal regulations at 49 CFR 387.9 set forth certain conditions which require five (5) million dollars coverage.)

B. The certificate of insurance shall state that the insurer has issued to the motor carrier a policy of insurance which, by endorsement, provides automobile bodily injury and property damage liability insurance covering the obligations imposed upon the motor carrier by the provisions of the law of Missouri. The certificate shall be duly completed and executed by the insurer on Form E--Uniform Motor Carrier Bodily Injury and Property Damage Liability Certificate of Insurance. The endorsements shall be attached to the insurance policy and shall form a part of that policy. The endorsements shall be made on Form F--Uniform Motor Carrier Bodily Injury and Property Damage Liability Insurance Endorsements. The certificate shall be duly completed and executed by the insurer. The surety bond shall be in the form set forth in Form G--Uniform Motor Carrier Bodily Injury and Property Damage Surety Bond. The bond shall be duly completed and executed by the surety and principal.

C. An insurer under the provisions of this rule shall submit to the department not fewer than thirty (30) days' notice of cancellation of motor carrier bodily injury and property damage liability insurance by filing with the department the form of notice set forth in Form K--Uniform Notice of Cancellation of Motor Carrier Insurance Policies. The notice shall be duly completed and executed by the insurer. A surety under the provisions of this rule shall give the department not fewer than thirty (30) days' notice of the cancellation of motor carrier bodily injury and property damage liability surety bond by filing with the department the form of notice set forth in Form L--Uniform Notice of Cancellation of Motor Carrier Surety Bond. The notice shall be duly completed and executed by the surety or motor carrier.

D. Forms E, F, G, K and L referred to in subparagraphs (2)(A)4.B. and C. of this rule are the standard forms determined by the National Association of Regulatory Utility Commissioners and promulgated by the Interstate

Commerce Commission pursuant to the provisions of section 202(b)(2) of the Interstate Commerce Act, 49 U.S.C. section 302(b)(2), 1994.

E. Before any policy of insurance will be accepted by the department, the insurance company issuing the policy or the carrier offering the same, upon request of the department, shall furnish evidence satisfactory to the department that the insurance company issuing the policy is duly authorized to transact business in Missouri and that it is financially able to meet the obligations of the policy offered.

F. All insurance certificates and surety bonds filed with the department shall remain on file with the department and shall not be removed except with the written permission of the director.

G. A new certificate of insurance shall be filed for reinstatement of insurance which has been canceled.

5. Vehicle marking. The transportation vehicle used to ship hazardous waste shall be marked in accordance with 49 CFR 390.21(b) and (c);
6. No hazardous waste shall be accepted for transport unless it has been properly loaded and secured in accordance with 49 CFR 177.834;

7. Incompatible wastes. A waste shall not be added to an unwashed or uncleaned container that previously held an incompatible material;

8. In addition to the requirements in 40 CFR 263.10(c)(1), add the following requirements: A transporter who accepts shipments of hazardous waste from a person not required to register as a generator in accordance with 10 CSR 25-5.262, and in so doing accumulates one hundred kilograms (100 kg) or more of hazardous waste, becomes a generator and shall comply with 10 CSR 25-5.262 in addition to the requirements of this rule. (Note: This provision is not intended to apply to municipal waste haulers who may unknowingly pick up small quantities of hazardous waste that may have been deposited in solid waste containers along their routes.);

9. In addition to the requirements in 40 CFR 263.11, add the following: “In the event that an EPA identification number has not been assigned, the department will assign an EPA identification number.” The applicant shall also submit an application for license in accordance with this rule at the time of notification; and

10. In addition to the requirements in 40 CFR 263.12, the following rules apply to transfer facilities. (Note: Used oil transfer facilities are regulated under 10 CSR 2511.279.):

A. A hazardous waste transported intrastate or into the state by motor carrier shall arrive at its destination in ten (10) calendar days or less from the date the initial transporter signs the manifest, or when the waste first enters the state, unless departmental approval is obtained prior to the expiration of the ten (10)-day period;

B. A hazardous waste destined for out-of-state treatment, storage or disposal shall leave the state in ten (10) calendar days or less from the date the initial transporter signs the manifest unless departmental approval is obtained prior to the expiration of the ten (10)day period;

C. A hazardous waste transported through the state by motor carrier shall pass through the state in ten (10) calendar days or less unless departmental approval is obtained prior to the expiration of the ten (10)-day period;

D. A secondary containment system for storage of hazardous waste in containers at a transfer facility shall meet the following requirements:

(I) A containment system shall be designed, maintained and operated as follows:

(a) The containment system shall include a base which is free of cracks or gaps and is sufficiently impervious to contain leaks, spills and accumulated precipitation until the collected material is detected and removed. The base shall be under the container;

(b) The base shall be sloped or the containment system shall be designed and operated to drain and remove liquids resulting from leaks, spills or precipitation, unless the containers are elevated or are otherwise protected from contact with accumulated liquids;

(c) The containment system shall have a capacity equal to ten percent (10%) of the containerized waste volume or the volume of the largest container, whichever is greater (Containers that do not contain free liquids need not be considered in this calculation.);

(d) Run-on into the containment system shall be prevented unless the collection system has sufficient excess capacity in addition to that required in part (2)(A)10.D.(I) of this rule to contain any run-on which might enter the system; and

(e) Spilled or leaked waste and accumulated precipitation shall be removed from the sump or collection area as necessary to prevent overflow of the collection system; and

(II) The containment system shall be inspected as part of the weekly inspections required by 40 CFR 265.174 incorporated by reference in 10 CSR 25-7.265(1);

E. The following requirements apply to the management of ignitable, reactive, incompatible or volatile wastes at a transfer facility: A transporter shall take precautions to prevent accidental ignition or reaction of ignitable or reactive wastes. These hazardous wastes shall be separated and protected from sources of ignition or reaction including, but not limited to, open flames, smoking, cutting and welding, hot surfaces, frictional heat, sparks (static, electrical or mechanical), spontaneous ignition (that is, from heat-producing chemical reactions) and radiant heat. While ignitable or reactive waste is being handled, a transporter shall confine smoking and open flame to specially designated locations. No Smoking signs shall be conspicuously placed wherever there is a hazard from ignitable or reactive waste;

F. Preparedness and prevention. A transporter shall equip the transfer station as specified in 40 CFR 265.32 incorporated by reference in 10 CSR 25-7.265(1). In addition, a transporter shall also provide safety equipment such as fire blankets, gas masks and self-contained breathing apparatus;

G. Closure. At closure of the storage area, a transporter shall remove and properly dispose of all hazardous waste and hazardous residues. For the purpose of this subparagraph, closure shall occur when the storage of hazardous wastes has not occurred, or is not expected to occur for one (1) year, or when the transporter's license lapses, whichever first occurs;

H. The contents of separate containers of hazardous waste may not be combined at a transfer facility. When containers are over-packed, the transporter shall affix labels to the over-pack container, which are identical to the labels on the original shipping container; and

I. A transfer facility shall not be the same facility as designated in item 9 of the manifest.

(B) Compliance with the Manifest System and Record Keeping. This subsection sets forth requirements in addition to or in lieu of the requirements set forth in 40 CFR part 263 subpart B.

1. Manifests.

A. In lieu of the requirements in 40 CFR 263.20(a), the following shall apply:

(I) In addition to the requirements in 10 CSR 25-5.262, a transporter shall not accept hazardous waste from a generator unless it is accompanied by a manifest signed and dated by the generator which contains federally required information in accordance with 10 CSR 25-5.262, except that the transporter may accept shipments of hazardous waste without a manifest from persons not required to register as provided in 10 CSR 255.262(2)(A) provided that the waste is transported only to a facility which is permitted or certified to accept the waste. The transporter shall maintain records on wastes accepted from those generators which contain information including the type or identity of each waste, the source of each waste and disposition of each waste. (Note: This paragraph is not intended to apply to municipal waste haulers who may unknowingly pick up small quantities of hazardous waste that may have been deposited in solid waste containers along their routes.)

(II) When the waste being transported is used oil as described at 10 CSR 2511.279(2)(I)1.B., or wastes described or listed in 10 CSR 25-4.261, then the Missouri transporter identification number shall appear on the manifest.

(III) Hazardous waste shall be transferred between licensed transporters only; and

(IV) For international shipments, the transporter shall also comply with the following requirements: In the case of exports, a transporter may not accept hazardous waste from a primary exporter or other person--1) if s/he knows the shipment does not conform to the EPA Acknowledgement of Consent, and 2) unless, in addition to a manifest signed in accordance with 10 CSR 25-5, the waste is also accompanied by an EPA Acknowledgement of Consent which, except for shipment by rail, is attached to the manifest (or shipping paper for exports by water (bulk shipment)). The shipping paper for exports by water (bulk shipment) shall contain all the information required on the manifest and, for exports, an EPA Acknowledgement of Consent shall accompany the hazardous waste. Rail transporters shall ensure that a shipping paper contains all the information required on the manifest and, for exports, an EPA Acknowledgement of Consent accompanies the hazardous waste at all times. A transporter shall also provide a copy of the manifest to a United States Customs official at the point of departure from the United States.

Inspection:

B. In addition to requirements in 40 CFR 263.22, the following shall apply: Each day that a vehicle is used for the transportation of hazardous waste,

the driver of that vehicle, prior to the transportation, shall inspect the vehicle to meet the requirements of 49 CFR 396.11 incorporated by reference in section (1) of this rule. The vehicle inspection shall be documented in writing. At a minimum once annually, transporters shall provide and document hazardous waste/materials training for each driver employee who transports hazardous waste. Records relating to hazardous waste transportation shall be available to representatives of the department for inspection and copying during regular business hours. Current files on driver vehicle inspections, vehicle maintenance, annual employee training and records of incident reports shall also be maintained for a period of three (3) years by the licensed transporter regardless of whether the vehicle(s) is owned or leased. The period of record retention for these records also extends automatically during the course of any unresolved enforcement action, and the records shall be available to authorized representatives of the department for inspection and copying during regular business hours.

2. (Reserved)

(C) Immediate Action. In addition to the requirements in 40 CFR part 263 subpart C, the following shall apply:

1. In addition to requirements in 40 CFR 263.30(c)(1), the transporter shall also notify the department at the earliest practical moment by calling the department's emergency number, (573) 634-2436 (634-CHEM); and

2. In addition to requirements in 40 CFR 263.30(c)(2), the transporter shall also submit a copy of that report to the department.

(D) Operations of Transporters by Modes Other Than Power Unit.

1. A person who transports hazardous waste by a mode other than power unit shall comply with paragraphs (2)(A)1. and 2., parts (2)(A)3.A.(V), (2)(A)3.B.(I) and (III), subparagraph (2)(A)3.C., paragraphs (2)(A)7., 8., 9. and 10. and subsections (2)(B) and (C) of this rule.

2. Application form. An applicant shall submit a completed, department-furnished form which shall contain the following information: name, address, type of transport vehicles to be used in hazardous waste transport and EPA identification number. If an EPA identification number has not been assigned by the EPA, the department will assign an identification number as provided to the department by the EPA.

3. An applicant shall complete and submit a Non-Motor Carrier Certification of Financial Responsibility form provided by the department to satisfy the transporter insurance requirement.

(E) Transportation of Universal Waste.

1. The requirements of this chapter are not applicable to those transporting only universal waste as defined in 10 CSR 25-16.273.

2. Universal waste transporters shall comply with the universal waste transporter standards at 10 CSR 25-16.273(2)(D).

Montana – Existing State Regulatory Requirements

Inspection:

- Montana Code Annotated – Title 50. Health And Safety, Chapter 79. Nuclear Regulation, Part 1. General Provisions

  - 50-79-107. Inspections:

    The department or its duly authorized representatives shall have the power to enter at all reasonable times upon any private or public property within the jurisdiction of the department, other than a private dwelling, for the purpose of determining whether or not there is compliance with or violation of the provisions of this chapter and rules promulgated thereunder, and the owner, occupant, or person in charge of such property shall permit such entry and inspection. Entry into areas under the jurisdiction of the federal government shall be effected only with the concurrence of the federal government or its duly designated representative.

Nebraska - Existing State Regulatory Requirements

- Nebraska Revised Statutes §§ 71-3523 to 71-3528 (2003); *High Level Radioactive Waste and Transuranic Waste*.

Permits and Fees:

- Until January 1, 2005, a $2000 fee will be assessed on each cask of high-level radioactive waste or transuranic waste shipped in or through the state, whether shipped by motor carrier or rail. On and after January 1, 2005, the department shall establish fees on all high-level radioactive waste and transuranic waste shipped by any means in or through the state (Nebraska Revised Statutes § 71-3525 [2003]).

- This act does not apply to high level waste transported for the United States government, military, national security, or national defense (Nebraska Revised Statutes § 71-3528 [2003]).

- Proposed Bill: States intent and provides for shipping fees for radioactive and transuranic waste; creates the Radiation Transportation Emergency Response Cash Fund; provides powers and duties; changes and eliminates provisions relating to power projects and under the Municipal Cooperative Financing Act; provides for indemnification by power districts for certain acts of negligence (2003 Bill Tracking NE L.B. 165).

- Proposed Bill: An act relating to government; to amend sections 18-2410, 18-2427, 18-2430, 18-2433, 18-2446, and 70-627.02, Reissue Revised Statutes of Nebraska; to state intent and provide for shipping fees for radioactive and transuranic waste as prescribed; to create a fund; to provide powers and duties; to change and eliminate provisions relating to power projects under the Municipal Cooperative Financing Act; to provide for indemnification by power districts for certain acts of negligence as prescribed; to harmonize provisions; to provide operative dates; to repeal the original sections; to outright repeal section 18-2429, Reissue Revised Statutes of Nebraska; and to declare an emergency (2003 Bill Text NE L.B. 165).

- Proposed Bill: A bill for an act relating to radioactive and transuranic waste; to state intent; to provide for shipping fees; to create a fund and provide for its use; to provide duties; to provide for applicability; and to declare an emergency.

  Text: Be it enacted by the people of the State of Nebraska,

  Sec. 1. It is the intent of the Legislature that costs incurred by the State of Nebraska attributable to the shipment of high-level radioactive waste and transuranic waste in or through the state shall be borne by the shipper.

Sec. 2. For purposes of sections 1 to 5 of this act:

(1) Department means the Department of Health and Human Services Regulation and Licensure;

(2) High-level radioactive waste has the definition found in section 81-1589; and

(3) Transuranic waste means waste material containing alpha-emitting radioactive elements having an atomic number greater than 92 in concentrations greater than ten nanocuries per gram.

Sec. 3. Until January 1, 2005, a fee of two thousand dollars shall be assessed on each cask of high-level radioactive waste or transuranic waste shipped in or through the state, whether shipped by motor carrier or rail. On and after January 1, 2005, the department shall establish and assess fees on all high-level radioactive waste and transuranic waste shipped by any means in or through the state. Such fees shall be equitable and shall be used for purposes related to (1) shipping of high-level radioactive waste and transuranic waste, including, but not limited to, inspections, escorts, and security for waste shipment, planning, and maintenance, (2) coordination of emergency response capability, (3) education and training, (4) purchase of necessary equipment, and (5) administrative costs attributable to the state agencies which are incurred as related to the shipping of high-level radioactive waste and transuranic waste. Fees assessed pursuant to this section shall be paid in advance of shipment by the shipper. Fees collected by the department under this section shall be remitted to the State Treasurer for credit to the Radiation Transportation Emergency Response Cash Fund.

Sec. 4. The Radiation Transportation Emergency Response Cash Fund is created. The fund shall consist of fees credited pursuant to section 3 of this act. The fund shall be used for the purposes stated in such section. The Director-State Engineer, the Superintendent of Law Enforcement and Public Safety, the Director of Regulation and Licensure, the Adjutant General as director of the Nebraska Emergency Management Agency, and the executive director of the Public Service Commission, or their designees, shall meet at least annually to recommend changes in the fees charged and allocation of the fees collected among participating agencies based upon their respective costs in carrying out such section. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 5. The department may adopt and promulgate rules and regulations to carry out sections 1 to 4 of this act.

Sec. 6. Sections 1 to 5 of this act do not apply to high-level radioactive waste or transuranic waste shipped by or for the United States Government for military, national security, or national defense purposes. Sections 1 to 5 of this act do not require disclosure of defense information or restricted data as defined in the federal Atomic Energy Act of 1954.
Sec. 7. Since an emergency exists, this act takes effect when passed and approved according to law.

Emergency Preparedness and Response:

- Proposed Bill: Updates federal safety and hazardous materials transportation regulations; changes a reference to the Federal Highway Administration; provides powers of the state patrol and carrier enforcement officers (2003 Bill Tracking NE L.B. 480).

Highway and Rail Routing:

- Nebraska has designated routes for transportation of radioactive and non-radioactive hazardous materials. This route can be found in 65 Federal Register 75771, 75793 (Dec. 4, 2000). Radioactive hazardous material routes are as follows:

  - Interstate 680 from Interstate 80 to Iowa (use in lieu of I-80 in the Omaha area)

- Nebraska Revised Statutes § 71-3522 (2003); Central Interstate Low-Level Radioactive Waste Compact – Nebraska has withdrawn from the Central Interstate Low-Level Radioactive Waste Compact.

Safety Measures:

- Nebraska Revised Statutes of 1943 – Chapter 81. State Administrative Departments, Article 15. Environmental Protection, (S) Nebraska Emergency Planning and Community Right to Know Act § 81-15,220. Emergency plan; contents:

  Each emergency plan as required in subdivision (1)(c) of section 81-15,217 shall include, but not be limited to, the following:

  (1) Identification of facilities containing an extremely hazardous substance in an amount which exceeds the threshold planning quantity established for such substance that are within the emergency planning district, identification of routes likely to be used for the transportation of extremely hazardous substances, and identification of additional facilities contributing or subjected

to additional risk due to their proximity to facilities subject to the requirements of this section;

(2) Methods and procedures to be followed by facility owners and operators and local emergency response and medical personnel to respond to any release of extremely hazardous substances;

(3) Designation of a community emergency coordinator and identification of facility emergency coordinators who will make determinations necessary to implement the plan;

(4) Procedures providing reliable, effective, and timely notification by the facility emergency coordinators and the community emergency coordinator to persons designated in the emergency plan and to the public that a release has occurred. Notification procedures shall be consistent with the notification requirements of section 81-15,222;

(5) Methods for determining the occurrence of a release and the area or population likely to be affected by the release;

(6) A description of emergency equipment and facilities in the community and at each facility in the community subject to the Nebraska Emergency Planning and Community Right to Know Act and an identification of the persons responsible for the equipment and facilities;

(7) Evacuation plans, including provisions for a precautionary evacuation and alternative traffic routes;

(8) Training programs, including schedules for training of local emergency response and medical personnel; and

(9) Methods and schedules for exercising the emergency plan.

Nevada – Existing State Regulatory Requirements

Responsible Agencies and Duties:

- State Emergency Response Commission (SERC)

  SERC is responsible for:

  - Collection of fees related to hazardous materials
  - Standardization of reporting forms
  - Adoption of regulations for fee collection and reporting

- State and local agencies are responsible for establishing regulations that are not in conflict or otherwise inconsistent with other provisions related to hazardous materials. These include the following:

  - Department of Public Safety (DPS)

    Before transporting a hazardous material upon a highway, a motor carrier must register with and obtain a permit for the transportation of hazardous materials from the DPS or from another state base pursuant to the uniform program NRS 459.7052

  - Department of Transportation (DOT)

    The Department of Transportation (DOT) is responsible for developing a plan based on its own risk analysis studies for routing shipments of controlled quantities of radioactive materials and high-level radioactive waste in cooperation with the Federal Government, regional organizations and other states. NRS 459.125

  - State Environmental Commission

    The State Environmental Commission (Commission) must provide for safety in the packaging, handling, transportation and disposal of hazardous waste. NRS 459.500(1)(a)(1)

    The Commission is responsible for the certification of any consultants involved in response to and the clean up of leaks of hazardous waste *NRS* 459.500(1)(a)(2)

    Commission regulations may also:

    - Provide for the licensing and other necessary regulation of generators, including shippers and brokers, who cause that waste be transported into or through Nevada or for disposal in Nevada;

- Require that the person responsible for a spill, leak or accident involving hazardous waste obtain proper handling of the spill, leak or accident from a certified consultant

- Establish standards relating to the qualifications for certification of consultants

- Establish regulations that provide for inspection, certification and other fees and for administrative penalties NRS 459.500(b)(2)(a-b)

- Department of Motor Vehicles

  The Department of Motor Vehicles or the Department of Public Safety may, by regulation applicable to all motor vehicles transporting hazardous materials, adopt standards for the transportation of hazardous materials and hazardous waste as defined in NRS 459.430 *NRS 706.173*

Licensing:

- The State Board of Health must adopt regulations for general or specific licensing of persons to receive, possess or transfer radioactive materials (Nevada Revised Statutes 459.201)

- A shipper of radioactive waste shall not dispose of the waste in NV until he obtains a license from the Health Division (Division) of the Department of Human Resources (DHR) (Nevada Revised Statutes 459.221[1])

- The Health Division may only issue a license to a shipper who has demonstrated to the satisfaction of the Division that he will package and label the waste he transports or causes to be transported to the disposal area in conformity with the regulations of the State Board of Health (Nevada Revised Statutes 459.221[2])

- The Director of the DHR may designate third parties to inspect and make recommendations concerning shippers and brokers and their shipments (Nevada Revised Statutes 459.221[2])

Enforcement:

- The Nevada Highway Patrol (NHP) has authority to enforce the laws that govern the transport and handling of radioactive waste as they affect the safety of drivers or vehicles (Nevada Revised Statutes 459.250[1])

- A peace officer may either impound a vehicle with unsafe equipment or detain a vehicle if any waste has leaked or spilled from its package (Nevada Revised Statutes 459.250[2])

- Designated employees of the DHR and the NHP shall enforce the regulations of the Commission relating to the transport and handling of hazardous waste and the leakage or spill of that waste from packages (Nevada Revised Statutes 459.500[3])

- Funds from the Account for Management of Hazardous Waste will be used to pay for:

  - the continuing observation or other management of hazardous waste;

  - establishing and maintaining a program for certification of consultants involved in leaks of hazardous waste;

  - training persons to respond to accidents or other emergencies related to hazardous materials;

  - establishing and maintaining a program by the Public Utilities Commission (PUC) to inspect and otherwise ensure the safety of any shipment of hazardous materials transported by rail car through or within the state (Nevada Revised Statutes 459.535(1)[a-d])

Inspections:

- Any authorized representative or employee of the Commission or the State Department of Conservation and Natural Resources (Department) may:

  - enter any place where a waste or substance which the Department has reason to believe may be hazardous is or may have been transported or otherwise handled

  - inspect and obtain samples of any waste or substance which the Department has reason to believe may be hazardous, including samples from any vehicle in which the waste/substance is being transported and

  - inspect and copy any records, reports or other information related to the management of hazardous waste/substances (Nevada Revised Statutes 459.560[1-3])

- Nevada Revised Statutes Title 40. Public Health and Safety, 459.565. Action to prevent practice or act which constitutes hazard to human health, public safety or environment:

2. The department may perform inspections pursuant to NRS 459.560 and issue an order directing the owner or operator of the facility for treatment, storage or disposal of waste or the owner or operator of any site where the treatment, storage or disposal of a hazardous substance has occurred or may occur or any other person who has custody of the waste or hazardous substance to take any necessary steps to prevent any act or eliminate any practice or effect which could constitute a hazard to human health, public safety or the environment.

- If the Department receives information that the handling or transportation of any hazardous waste/substance may present and imminent and substantial hazard to human health, public safety or the environment, it may:

  - Issue an order directing the person who has custody of the waste/substance to take necessary steps to prevent the act or eliminate the practice which constitutes the hazard

  - Order a site assessment to be conducted and a remediation plan to be developed pursuant to Commission regulations

  - Assess any costs/expenses incurred by the Department in correcting or terminating any hazard

  - Request that the Attorney General commence action to enjoin the practices/acts which constitutes the hazard

  - Take any other action to reduce or eliminate the hazard (Nevada Revised Statutes 459.565(1)[a-e])

Unlawful Transportation of Hazardous Waste:

- It is unlawful for any person to transport hazardous waste:

  - Without a manifest that complies with Commission regulations

  - The doesn't conform to description of the waste specified in the manifest

  - In a manner that does not conform to the manner of shipment described in the manifest; or

  - To a facility that has not been issued a permit to treat, store or dispose of the hazardous waste described in the manifest (Nevada Revised Statutes 459.590)

- Nevada law has separate provisions for "hazardous materials" (as defined in 49 C.F.R. §§ 171.8 172, 40 C.F.R § 262) and for "extremely hazardous materials"

(as defined in 40 C.F.R. § 355, App. A or B) (Nevada Revised Statutes 459.700 et. Seq)

Permits:

- Before a permit to transport radioactive waste is issued, the DPS must first determine that the carrier is in compliance with all Nevada and the Federal Government laws and regulations regarding the handling and transportation of radioactive waste and the safety of drivers and vehicles.

Safety Measures:

- Nevada Revised Statutes Annotated Currentness – Title 40. Public Health and Safety, Chapter 459. Hazardous Materials (Refs & Annos), + Handling of Hazardous Materials, + Transportation; Reporting and Collection of Information, 459.715. Repository for information concerning hazardous materials in Nevada:

  1. The repository for information concerning hazardous materials in Nevada is hereby created within the division.

  2. The commission shall coordinate the collection of information for the repository and may adopt regulations for that purpose which are consistent with all applicable laws and with any regulations adopted by the director regarding the management and operation of the repository.

  3. Every state and local governmental agency concerned with the generation, transportation, shipment, storage or disposal of hazardous materials shall submit to the division pursuant to the regulations of the department and the commission such information it collects regarding hazardous materials as required by the commission.

  4. The division shall collect, maintain and arrange all information submitted to it concerning hazardous materials.

  5. The division may, in a manner consistent with applicable laws and regulations:

    (a) Disseminate any information which is contained in the repository to any other governmental agency concerned with the storage, packaging, disposal or transportation of hazardous materials; and

    (b) Enter into cooperative agreements with federal and state repositories to facilitate exchanges of such information.

Notification:

- Nevada Revised Statutes Title 40. Public Health and Safety Chapter 459. Hazardous Materials (Refs & Annos), 459.709. Motor carriers: Prerequisites to transportation of high-level radioactive waste or spent nuclear fuel:

  1. A motor carrier shall not transport any high-level radioactive waste or spent nuclear fuel upon a public highway of this state unless:

     (a) The high-level radioactive waste or spent nuclear fuel is contained in a package that has been approved for that purpose pursuant to 10 C.F.R. Part
     71; and

     (b) The carrier has complied with the provisions of 10 C.F.R. Part 71 and 10 C.F.R. Part 73 requiring the advance notification of the governor of this state or his designee.

  2. As used in this section:

     (a) “High-level radioactive waste” has the meaning ascribed to it in 10 C.F.R. § 72.3.

     (b) “Spent nuclear fuel” has the meaning ascribed to it in 10 C.F.R. § 72.3.
- Added by Laws 1999, p. 3346. Amended by Laws 2001, c. 185, § 5, eff. Oct. 1, 2001 (Nevada Revised Statutes 459.709, NV ST 459.709)

New Hampshire - Existing State Regulatory Requirements

Authorities/Duties:

- Transportation of High-Level Radioactive Waste; Requirements; Rulemaking (New Hampshire Revised Statutes § 107D:1-10):

  I. Notwithstanding any other provision of law to the contrary, any carrier transporting high-level radioactive waste shall be subject to the requirements of this chapter.

  II. No person, including the state or any agency thereof, shall transport high- level radioactive waste in, to, or through this state on the public roads of this state or by water or by any railroad in this state, whether or not the transportation originated in this state; nor shall any person deliver in this state any high-level radioactive waste to any person for transportation; nor shall any such person accept any high-level radioactive waste for transportation in this state without compliance with the following requirements:

  (a) Such high-level radioactive waste shall be packaged, marked, labeled, handled, loaded, unloaded, stored, detained, transported, placarded, and monitored in compliance with rules adopted by the commissioner pursuant to RSA 541-A and consistent with federal law.

  (b) Compliance with any rules shall be in addition to and supplemental of other regulations of the United States Department of Transportation, United States Nuclear Regulatory Commission, and any other laws or rules of an agency of this state, applicable to such persons.

  III. The commissioner shall adopt rules pursuant to RSA 541-A such that no person shall arrange for the transportation of or cause to be transported in, to, or through this state on the public roads or by water or by any railroad in this state any high-level radioactive waste unless such person shall notify the commissioner or designee in accordance with such rules.

  IV. Knowledge by a shipper that a carrier proposes to transport high-level radioactive waste in or through this state on the public roads or by water or by railroad in this state shall be sufficient contact with this state to subject such shipper to the jurisdiction of the courts of this state with respect to such transport.

Permits:

- Permit Required (New Hampshire Revised Statutes § 107-D:3):

  I. No transportation of high-level radioactive waste shall take place in or through this state until the commissioner or designee issues a permit authorizing the

applicant to operate or move upon the state's public roads, waters, or railways a motor vehicle, combination of vehicles, vessels, or rail carrier which carry high-level radioactive wastes. The commissioner or designee may recommend changes to the United States Department of Energy in the proposed dates, times, routes, detention, holding, or storage of such materials during transport as necessary to maximize protection of the public health, safety, or welfare, or of the environment. The commissioner is authorized to adopt reasonable rules which are necessary or desirable in governing the issuance of permits.

II. The department shall require as a condition of any permit, to the extent not inconsistent with federal law, the following:

(a) Each permit application and permit shall contain documentation of the carrier's federal safety rating, proof of federally required liability insurance, and a nuclear incident prevention plan and a cleanup plan acceptable to the commissioner and containing at least the following:

(1) Identification of each route and shipment to which such permit is applicable;

(2) Identification of emergency response personnel accompanying each shipment, and emergency response personnel and resources available along each route;

(3) The name, address, and emergency response training record of emergency response personnel to accompany each shipment; and

(4) Identification of foreseeable accident and shipment disruption scenarios, including worst-case scenarios, with consideration of existing studies conducted by the Nuclear Regulatory Commission, the United States Department of Energy, or other federal agencies, and written response scenarios applicable to each such accident or disruption scenario.

(b) Each permit application and permit shall specify the route to be followed for each shipment covered by such permit. Any deviation from the designated permit route shall be reported at the earliest practicable time to the department.

(c) Routes identified on such applications and permits shall be consistent with all applicable state and federal laws, rules, and regulations and each route shall be the safest practicable route calculated to minimize the potential exposure of members of the public to the shipment while maximizing availability of emergency response personnel and resources along the route. The department shall conduct at least one public hearing to the extent not

inconsistent with federal law on each proposed shipment route before issuing a permit.

(d) Each permit application and permit shall list the number of casks of high-level radioactive waste to be shipped under said permit and shall identify the type and quantity of material contained in each cask, the origin and destination of each cask, and the identifying serial number of each cask.

IV. The commissioner or designee may issue:
(a) An annual permit which shall allow vehicles, vessels, or rail carriers transporting high-level radioactive waste to be operated on the public roads, waters, or railroads in this state for 12 months from the date the permit is issued.

(b) A single-trip permit to any vehicle, vessel, or rail carrier.

***Notice*:**

- New Hampshire Revised Statutes § 107-D:3:

  III. All carriers of high-level radioactive waste are required to notify the department at least 7 days prior to the transportation within this state, identifying the permit under which such waste shall be shipped and the origin, destination, and place and approximate time of entry into and exit from the state, as appropriate.

Fees:

- (New Hampshire Revised Statutes § 107-D:4):

  I. The department shall establish in rules adopted by the commissioner pursuant to RSA 541-A the fees for the issuance of permits.

  II. A fee shall be paid by the owner of the shipment for the purpose of defraying the expenses of the department in inspection, regulation, management, and training involving such shipments.

  III. A shipment fee for high-level radioactive waste shall be paid at least 7 days before the shipment is made, or at the time of inspections provided for in RSA 107-D:5.

  IV. Failure to pay the fee shall subject the carrier and the owner of the shipment to a civil action for the recovery of the amount of such fee, plus costs and reasonable attorney's fees, for which the carrier and owner shall be jointly and severally liable. Such action may be filed in the superior court of the county in

which the shipment originated or in which it was or should have been inspected pursuant to RSA 107-D:5. Operating as a carrier engaged in the transportation of irradiated reactor fuel or high-level radioactive waste in this state or shipping irradiated reactor fuel or high-level radioactive waste on the public highways or by water or on the railroads of this state shall constitute submission to the jurisdiction of the courts of this state for the purposes of such an action.

Inspections:

- (New Hampshire Revised Statutes § 107-D:5):

  All carriers transporting irradiated reactor fuel or high-level radioactive waste entering the state may be subject to inspection by personnel designated by the commissioner. Shipments may be subject to inspection at the point of origin by personnel designated by the commissioner. All such inspections shall require the carrier to conform to all applicable federal safety regulations, and in the event that the United States Department of Energy adopts the Enhanced North American Standard Inspection for Transportation of Radioactive Materials, to the requirements of those standards.

Routing:

- See Federal Register/ Vol. 65, No. 233, p. 75794, December 4, 2000

- No routes designated as of 11/14/00

- Contacts:

  - New Hampshire Department of Safety, Commissioner Richard Flynn, 10 Hazen Dr., Concord, NH 03305 (603) 271-2792

  - Federal Motor Carrier Safety Administration – New Hampshire Field Office, New Hampshire Motor Carrier State Director; 279 Pleasant St., Ste. 202, Concord, NH 03301-2509; (603) 225-1626

Other:

- Bond required (New Hampshire Revised Statutes § 107-D:6):

  Notwithstanding any other provisions of law, a bond or indemnity insurance required of carriers shall be established in rules adopted by the commissioner pursuant to RSA 541-A and shall, for all persons subject to this chapter, whether intrastate or interstate carriers, be at least in the maximum amount or amounts authorized or required by federal law or regulations. The department shall require applicants for permits for the transportation of high-level radioactive waste, as a condition of the granting of any such permit, to verify

possession of a bond or indemnity insurance in at least the amount of $25,000,000.

- Application; Exceptions (New Hampshire Revised Statutes § 107-D:7):

  I. Notwithstanding any other provisions of this chapter, the department is authorized to establish such exceptions or exemptions from the requirements of this chapter, or any provision hereof, for such kinds, quantities, types, or shipments of high-level radioactive waste as it shall deem appropriate, consistent with the protection of the public health, safety, and welfare.
  II. This chapter shall not apply to transportation of radioactive materials shipped by or for the federal government for military, national security, or national defense purposes.

- Recovery for Damage (New Hampshire Revised Statutes § 107-D:8):

  In the event of any damage to state property or any discharge of high-level radioactive waste from the authorized shipping package or container or any threat of such discharge which results from the transportation, storage, holding, detention, delivery for transportation, or acceptance for transportation of high-level radioactive waste in this state, the state may recover from any shipper, carrier, bailor, bailee, or any other person responsible for such storage, transportation, holding, detention, delivery, or acceptance all costs incurred by the state in the reparation of the damage and all costs incurred in the prevention, abatement, or removal of any such discharge or threatened discharge, including reasonable attorney's fees incurred with respect to recovery.

- Coordination with Other Agencies (New Hampshire Revised Statutes § 107-D:9):

  The department is expressly authorized to coordinate with or to contract with the bureau of emergency management established in RSA 21-P:36 and with other state agencies or departments, including but not limited to the department of transportation and the department of health and human services, to perform any activities necessary to implement this chapter.

- Penalty. (New Hampshire Revised Statutes § 107-D:10):

  In addition to any other liability imposed by law, any person who violates any provision of this chapter shall be guilty of a misdemeanor if a natural person or a felony if any other person.

- Chapter 125-G. High-Level Radioactive Waste Act, RSA 125-G:23 (2003), Penalties:

Any person who is convicted of violating the provisions of this chapter shall be guilty of a misdemeanor and, notwithstanding the provisions of title LXII, shall be punished by a fine of $ 1,000 for each day upon which the violation occurred. Upon violation or upon reasonable belief of violation of this section, the attorney general shall institute proceedings for injunctive relief in the superior court of the county in which the violation occurred to require the immediate cessation of any testing, on-site evaluation, or any other site evaluation or selection procedure regarding possible use of any crystalline rock formation or other geologic structure within the jurisdiction of the state, the immediate cessation of transportation of high-level radioactive waste or other high-level radioactive material to the site, and the immediate removal from the state of such materials already located on the site.

- Chapter 362-C. Reorganization of Public Service Company of New Hampshire, RSA 362-C:7-a (2003), Transportation of Low-Level and High-Level Radioactive Waste for Disposal Prohibited:

  Notwithstanding any law or rule to the contrary, no utility shall transport into the state of New Hampshire any low-level or high-level radioactive waste for disposal in New Hampshire.

New Jersey – Existing State Regulatory Requirements

- New Jersey Statutes Annotated §§ 27:5H-1 to 27:5H-5 (2004); *Nuclear Waste Transportation*.

- New Jersey Administrative Code §§ 16:49-1.1 to 16:49-3.5 (2004); *Transportation of Hazardous Materials*.

- Because of its location as one of the corridor states on the eastern seaboard through which certain nuclear waste may well be transported, New Jersey created a Nuclear Waste Transport Commission in partnership with the Department of Transportation (New Jersey Statutes Annotated § 27:5H-3 [2004]).

- The New Jersey Department of Transportation, pursuant to N.J.S.A. 39:5B-25 et seq., hereby incorporates by reference the following portions of Title 49 Transportation, Code of Federal Regulations, revised as of April 1, 1999 (New Jersey Administrative Code 16:49-2.1 [2004]).

Permits and Fees:

- The Federal "Hazardous Materials Regulations" referenced herein, are adopted as revised as of April 1, 1999 (New Jersey Administrative Code 16:49-3.1(i)(1) [2004]).

Inspections:

- Under this chapter, the State Police, or authorized personnel, may break a cargo seal on vehicles when inspecting the carrier's equipment. Under no circumstances will U.S. Postal Service or Department of Defense seals or locks be broken for the purpose of inspecting cargo within any vehicle (New Jersey Administrative Code 16:49-3.1 [2004]).

- Proposed Bill: Extends certain hazardous material inspection and enforcement powers to police officers of the Delaware River and Bay Authority. 2004 Bill Tracking NJ A.B. 2490.

Notification:

- Except as otherwise provided, vehicles are required to be placarded for hazardous materials under the provisions of 49 C.F.R. §§ 172.500 (Subpart F), and are prohibited from traveling in or through the Route 29 tunnel facility (New Jersey Administrative Code 16:49-3.2 [2004]).

Highway and Rail Routing:

- New Jersey has not designated a route for transportation of radioactive materials.

Liability:

- The penalty for a violation of these provisions including the Federal regulations incorporated by reference in N.J.A.C. 16:49-2 and shall be specified under N.J.S.A. 39:5B-25 et seq. Each violation will be treated separately. If the violation is continuing, each day constitutes a separate offense (New Jersey Administrative Code 16:49-1.4 [2004]).

- Any transporter found in violation of this chapter shall be subject to the following penalties:

  1. For taking a vehicle requiring placarding for hazardous materials under 49 C.F.R. Part 172, Subpart F into or through the Route 29 tunnel facility, the following penalties shall apply:

     - First offense: $ 5,000;
     - Second offense: $ 10,000; and
     - Subsequent offenses: $ 25,000.

  2. In those cases where the above is inapplicable, for transporting one or more containers that individually hold, or are designed to individually hold, 10 or more pounds of compressed gases into or through the Route 29 tunnel facility, the following penalty shall apply:

     - Each offense: $ 500.00.

- New Jersey Statutes Annotated, §§ 32:31-1 to 32:31-11 (2004); Northeast Interstate Low-Level Radioactive Waste Compact:

  - The purpose of this act is to ensure availability for disposal of low-level radioactive waste generated within the region. The party states recognize that the management of low-level radioactive waste is handled most efficiently on a regional basis.

  - No party of this compact shall deposit or accept waste generated outside the region.

  - Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont are eligible to be a party to this compact.

New Mexico – Existing State Regulatory Requirements

- New Mexico Statutes §§ 74-4A-1 to 74-4A-14, *Radioactive and Hazardous Materials Act*; §§ 65-3-1 to 65-3-13, *Motor Carrier Safety Act*.

***Permits and Fees**:*

- The Environmental Improvement Board has exclusive authority to promulgate rules and regulations regarding requirements for transporting radioactive material.

- A bill was introduced January 20, 2004 that relates to motor vehicles and permits the Taxation and Revenue Department to conduct background checks for hazardous material endorsements; eliminates requirements pertaining to hazardous materials transportation permits (2004 Bill Tracking NM S.B. 40).

***Inspections**:*

- Rules and regulations regarding inspections cannot be inconsistent or more stringent than federal standards.

***Notification**:*

- Rules and regulations regarding marking, labeling and placarding cannot be inconsistent or more stringent than federal standards.

***Emergency Preparedness and Response**:*

- Rules and regulations regarding notification and reporting/recording accidents cannot be inconsistent or more stringent than federal standards.

***Highway and Rail Routing**:*

- Unless specifically preempted by federal statute, the New Mexico State Transportation Commission has the exclusive authority to designate routes for transportation of radioactive waste. Any route designated by the Environmental Improvement Board prior to March 1, 1991 is deemed void. **

- New Mexico has designated routes for radioactive hazardous materials and non-radioactive hazardous materials.

  Radioactive hazardous material routes are as follows:

  - Eastern WIPP Route: From the Texas – New Mexico border [MP 373.51] west on I-40 through Tucumcari to the junction of I-40 and US 54 [MP

276.836, Exit 275] at Santa Rosa; west on US 54 through Pastura to the junction of US 54 and US 285 at Vaughn; south on US 285 through Roswell (along the Roswell Relief Route) [MP 119.930] and Artesia to the junction of US 285 and US 62/180 [MP 31.180] in Carlsbad; east on US 62/180 to the WIPP north access road [MP 64.652]. If and when Artesia and Carlsbad Relief Routes are available, they shall be used instead of the route through each respective city. Currently posted “truck routes” shall not be used. Note: This designation is based on 18 NMAC 20.9 (Designation of Highway Routes for the Transport of Radioactive Materials).

- Los Alamos National Laboratory: From the Los Alamos National Laboratory in Los Alamos County [Tech Area 54, MP 0.00] east on the Los Alamos Truck Route to the junction of the Los Alamos Truck Route and NM 4; east on NM 4 to the junction of NM 4 and NM 502; [MP 68.186] east on NM 502 to the junction of NM 502

- [18.081] and US 84/285 at Pohoaque; south on US 84/285 [MP 181.251] to the junction of US 84/285 and NM 599; [MP 167.443] south on NM 599 to the junction of NM 599 and I-25; north on I25 to the junction of I-25 and US 285 [MP 290.809, Exit 290]; south on US 285 through Clines Corners, Encino, Vaughn, Roswell (along the Roswell Relief Route) and Artesia to the junction of US 285 and US 62/180 [MP 31.180] in Carlsbad; east on US 62/180 to the WIPP north access. If and when the Artesia and Carlsbad Relief Routes are available, they shall be used instead of the route through each respective city. Currently posted “truck routes” shall not be used, except for the Los Alamos Truck Route as stated above. Note: This designation is based on 18 NMAC 20.9 (Designation of Highway Routes for the Transport of Radioactive Materials).

- Northern WIPP Route: From the Colorado – New Mexico border [MP 462.124] south on I-25 through Raton, Springer, and Las Vegas to the junction of I-25 and US 285 [283.800, Exit 290] near Santa Fe; south on US 285 through Clines Corners, Encino, Vaughn, Roswell (along the Roswell Relief Route) [MP 119.930] and Artesia to the junction of US 285 and US 62/180 [MP 31.180] in Carlsbad; east on US 62/180 to the WIPP north access road [MP 64.652]. If and when Artesia and Carlsbad Relief Routes are available, they shall be used instead of the route through each respective city. Currently posted “truck routes” shall not be used. Note: This designation is based on 18 NMAC 20.9 (Designation of Highway Routes for the Transport of Radioactive Materials).

- Southern WIPP Route: From the Texas – New Mexico border [MP 0.000] north on US 285 through Loving to the junction on US 285 and US 62/180 [MP 31.180] in Carlsbad; east on US 62/180 to the WIPP north access road [MP 64.652]. If and when Artesia and Carlsbad Relief Routes are available, they shall be used instead of the route the city. Currently posted “truck routes”

shall not be used. Note: This designation is based on 18 NMAC 20.9 (Designation of Highway Routes for the Transport of Radioactive Materials).

- Western WIPP Route: From the Arizona – New Mexico border [MP 0.000] east on I-40 through Gallup, Thoreau, Grants, Albuquerque and Moriarty to the junction of I-40 and US 285 [MP 218.064, Exit 218] at Clines Corners; south on US 285 through Encino, Vaughn, Roswell (along the Roswell Relief Route) [MP 119.930] and Artesia to the junction of US 285 and US 62/180 [MP 31.180] in Carlsbad; east on US 62/180 to the WIPP north access road [MP 64.652]. If and when Artesia and Carlsbad Relief Routes are available, they shall be used instead of the route through each respective city. Currently posted "truck routes" shall not be used. Note: This designation is based on 18 NMAC 20.9 (Designation of Highway Routes for the Transport of Radioactive Materials).

- 65 Federal Register 75771, 75794-75795 (Dec. 4, 2000)

Non-radioactive hazardous material routes are as follows:

- Interstate 10 [within Las Cruces city limits]

- Interstate 25 [within Las Cruces city limits]

- US 70 from East City limits [Las Cruces near Organ] to Interstate 25

- 65 Federal Register 75771, 75795 (Dec. 4, 2000).

▪ New Mexico Statutes Annotated §§ 11-9A-1 to 11-9A- *Rocky Mountain Low-Level Radioactive Waste Compact*:

The Low Level Radioactive Waste Policy Act, enacted by Congress, encourages states to enter into compacts for the purpose of monitoring and managing regional low-level radioactive facilities.

New Mexico joined a compact created as a cooperative effort to manage low-level radioactive waste generated within the region. The purpose of this compact is to monitor and manage private facilities producing low-level radioactive waste and to reduce the volume of low-level radioactive waste production. In addition, this compact will assist in the distribution of costs, benefits and obligations attached to the management of low-level radioactive waste and promote the health, safety and welfare the citizens in the region.

States that have entered the compact agree to adopt and enforce packaging and transportation procedures for low-level waste shipments. These procedures include inspection and enforcement of:

- Packaging and shipping procedures

- Waste containers in the possession of the carrier

The compact will have a board comprised of one member from each party state.

(For further inquiry, see New Mexico Statutes Annotated §§ 74-4-1 to 74-4-14; *Hazardous Waste Act* -not reproduced in this report.)

- New Mexico Statutes Annotated – Chapter 11. Intergovernmental Agreements and Authorities Article 9A. Rocky Mountain Low-Level Radioactive Waste Compact § 11-9A-2:

  The Rocky Mountain Low-Level Radioactive Waste Compact is enacted into law and entered into with all other jurisdictions legally joining therein in the form substantially as follows:

  Article 7:

  D. It shall be unlawful for any person to manage at a regional facility any radioactive waste other than low-level waste as defined in this compact, unless authorized to do so both by the board and the host state. In determining whether to grant such authorization, the factors to be considered by the board shall include, but not be limited to, the following:

  (1) the impact of allowing such management on the available capacity and projected life of the regional facilities;

  (2) the availability of a facility appropriate for the disposal of the type of waste involved;

  (3) the existence of transuranic elements in the waste; and

  (4) the economic impact on the regional facilities.

  E. Any person who violates Subsection A or B of this article shall be liable to the board for a civil penalty not to exceed ten times the charges which would have been charged for disposal of the waste at a regional facility.

  F. Any person who violates Subsection C or D of this article shall be liable to the board for a civil penalty not to exceed ten times the charges which were charged for management of the waste at a regional facility.

  G. The civil penalties provided for in Subsections E and F of this article may be enforced and collected in any court of general jurisdiction within the region where necessary jurisdiction is obtained by an appropriate

proceeding commenced on behalf of the board by the attorney general of the party state wherein the proceeding is brought or by other counsel authorized by the board. In any such proceeding, the board, if it prevails, is entitled to recover reasonable attorney's fees as part of its costs.

H. Out of any civil penalty collected for a violation of Subsection A or B of this article, the board shall pay to the appropriate operator a sum sufficient in the judgment of the board to compensate the operator for any loss of revenue attributable to the violation. Such compensation may be subject to state and compact surcharges as if received in the normal course of the operator's business. The remainder of the civil penalty collected shall be allocated by the board. In making such allocation, the board shall give first priority to the needs of the long-term care funds in the region.

I. Any civil penalty collected for a violation of Subsection C or D of this article shall be allocated by the board. In making such allocation, the board shall give first priority to the needs of the long-term care funds in the region.

New York – Existing State Regulatory Requirements

- New York Environmental Conservation Law, § 72-0502 (2004).

- Official Compilation of Codes, Rules, and Regulations for the State of New York, §§ 381.1 to 381.18; *Transporters of Low-Level Radioactive Waste*.

Permits and Fees:

- Individuals transporting low-level radioactive waste must obtain a permit and pay the following fees:

  - $500 for the first shipment, and $200 for each additional shipment.

  - An application for a permit must include the following information: the type of waste involved, the vehicle that will be transporting the waste, any transfer or storage facilities the shipper will use, and the place where the shipper will dispose of the radioactive waste (New York Compilation of Codes, Rules and Regulations [N.Y. Comp. Codes, R. & Regs.] 381.8 [2004]).

  - The department may require a surety or security from the applicant to ensure compliance with the terms of the permit issued. N.Y. Comp. Codes, R. & Regs. 381.10(a) (2004).

  - $ 5,000,000 for the transport of low-level radioactive wastes in any vehicle which exceeds 10,000 pounds; and

  - $1,000,000 for the transport of low-level radioactive wastes in any vehicle which does not exceed 10,000 pounds.

  - Permits are not transferable (N.Y. Comp. Codes, R. & Regs. 381.11(g) [2004]).

- Proposed Bills: Enacts the Prevention of Environmental Terrorism Act of 2003 in connection with the transportation of regulated waste; sets stringent requirements for licensing and background checks of transporters; establishes a fund for related revenues deriving thereof, to be used in connection therewith. 2003 NY A.B. 2814.

Inspections:

- The department may inspect the shipments at any reasonable time as a condition of application approval (N.Y. Comp. Codes, R. & Regs. 381.8(2)(iv)(5) [2004]).

Notification:

- Any person transporting radioactive waste must display the name of the transporter on both sides of every vehicle. The transporter must also display the New York State LLRW transport permit number in a conspicuous manner on both sides and the rear of the vehicle. The permit number must be in figures at least three inches high and of a color which contrasts with the background (N.Y. Comp. Codes, R. & Regs. 381.11(c) [2004]).

- All low-level radioactive wastes must be placarded according to 49 CFR part 173 and 10 CFR part 71 (N.Y. Comp. Codes, R. & Regs. 381.11(d) [2004]).

Emergency Preparedness and Response:

- An emergency permit for the transport of regulated low-level radioactive wastes may be issued in the event a situation exists which poses an immediate threat to the environment or public health and safety. The terms of the emergency permit will be specific to the emergency situation and limited in scope and duration (N.Y. Comp. Codes, R. & Regs. 381.8(d) [2004]).

- In the event of an accident involving the transportation of low-level radioactive waste, the shipper must take immediate action to protect human health and the environment, and notify the New York State Department of Health immediately following the release or suspected release of radiation (N.Y. Comp. Codes, R. & Regs. 381.16(a) [2004]).

Highway and Rail Routing:

- New York has designated routes for transportation of radioactive and non-radioactive hazardous materials. This route can be found in 65 Federal Register 75771, 75796 - 75802 (Dec. 4, 2000).

  Restricted routes for all New York hazardous materials are as follows:

  - City of New York Hazardous Material Restrictions: For shipments of Hazardous Cargo through the City without pickup or delivery within the City, to piers, airports, and shipping terminals, hazardous cargo transportation prohibited by City, State, Federal law or regulations shall not be permitted to enter or pass through New York City, expect where specifically authorized by authorized governmental agencies and the Fire Commissioner. Such shipments shall conform to routes, times, and safety conditions specified by the Fire Commissioner. (Such designated routes are listed here in the National Hazardous Materials Route Registry.)

- Motor vehicles conforming to Fire Department Specifications and under Fire Department permit may be used to transport allowable Hazardous Cargo in accordance with Chapter 4 of Title 27 Administrative Code and the rules and regulations of the Fire Commissioner without conformance to the routing, time, escorts, and other restrictions and such “permitted” vehicles must be used for deliveries for storage and/or use or for pickup in the City.

- Hazardous cargo shipments shall transit the City only during non-rush hours. Shipments of explosives are permitted only during daylight hours, except shipments at night may be allowed in individual cases for escorted shipments as pursuant to Administrative Code 27-4019(b). Times for shipments are as follows:

  - Monday through Friday: for explosives, and prohibited materials for which specific permission has been given by the Fire Department: 10:00 a.m. to 3:00 p.m. and 7:00 p.m. to 6:00 a.m. For all other hazardous cargo: 9:00 a.m. to 4:00 p.m. and 6:00 p.m. to 7:00 a.m. Saturday, Sunday, and Holidays: as traffic conditions permit, consistent with the rules and regulations of government agencies and/or authorities having jurisdiction.

Non-radioactive hazardous material routes are as follows:

- Verrazano Bridge.

- City of New York Escort Rendezvous Points: Escorts by a fully manned fire department engine company shall be required for all permitted Class “A”, Class “B”, and Class “C” explosives (over 50 pounds in weight) from point of entry into the City until its exit from the City pursuant to 27-4034(j) Administrative Code of the City of New York. The fire commissioner reserves the right to require escorts for any hazardous cargo shipment when he deems necessary. Notification of arrival of explosives shipments shall be made 48 hours in advance by calling the notification desk in the chief of department’s office (718) 403-1580.

- Shipments from North Shore Long Island: Meet at safety area of Westbound Long Island Expressway (I-495) on the right side between Lakeville Road and Little Neck Parkway.

- Shipments from South Shore Long Island: Meet at northwest corner of intersection of Sunrise Highway (State 27) between Hook Creek Blvd. And 246th Street.

- From Upstate New York or New England via New England Thruway (I-95): exit at Connors Street exit, proceed on New England Thruway Service Road to Connors Street to meet Fire Department escort.

- From Upstate New York and New England via New York Thruway (I-87): exit into Service Area of Major Deegan Expressway located between Westchester County line and the East 233rd Street exit of the expressway to meet Fire Department escort.

- From NJ via Goethals, Bayonne, Outerbridge Crossing, and George Washington Bridges: Meet at Adm. Bldg – Toll Plaza.
- From J.F.K. International Airport: Meet in front of the Major Robert Fitzgerald Building 111 on the inbound service road of the Federal Circle.

- From LaGuardia Airport: Meet at Marine Air Terminal

- P.A.N.Y.N.J. Police Building, entering at 82nd Street entrance to LaGuardia Airport.

- NCY Route 1: From NJ to western Westchester County and upstate New York. George Washington Bridge (upper level) to Washington Expressway (without detour on City streets) via the Alexander Hamilton Bridge to the Major Deegan Expressway to New York Thruway (I-87). Note: Reverse routing permitted. Rendezvous with escort, if required.

- NYC Route 2: From NJ to eastern Westchester County, upstate New York, and New England: George Washington Bridge (upper level) to Washington Expressway (without detour on City streets) via the Alexander Hamilton Bridge directly to Cross Bronx Expressway (I-95) to Bruckner Interchange, continue on Bruckner Expressway to New England Thruway (I-95). Note: reverse routing permitted. Rendezvous with escort if required.

- NYC Route 3: From NJ to Nassau and Suffolk Counties. NYC Route 3(i): George Washington Bridge (upper level) via Washington Expressway (without detour on City streets) via the Alexander Hamilton Bridge directly to Cross Bronx Expressway (I-95), east on Cross Bronx Expressway (I-95) to Throgs Neck Bridge, south across Throgs Neck Bridge to Clearview Expressway (I-295) to Long Island Expressway, east on Long Island Expressway (I-495) to Nassau and/or Suffolk Counties.

- NYC Route 3(ii): Use either 3(ii)A, 3(ii)B, or 3(ii)C THEN, East on Staten Island Expressway (I-278) to Verrazano Bridge, cross upper level of Verrazano Bridge to Brooklyn Queens expressway (I-278), then east on Brooklyn Queens Expressway to Long Island Expressway (I-495), then east on Long Island Expressway to Nassau and/or Suffolk Counties.

- NYC Route 3(ii)A: Outerbridge crossing to West Shore Expressway, North on West Shore Expressway (State 440) to Staten Island Expressway (I-278).

- NYC Route 3(ii)B: Bayonne Bridge to Willowbrook Expressway (State 440) south to Staten Island Expressway (I-278).

- NYC Route 3(ii)C: Goethals Bridge to Staten Island Expressway (I-278). Note: Reverse routing permitted. Rendezvous with escort if required. Hazardous cargo requiring escort (i.e. explosives) shall use route via George Washington Bridge only to minimize travel time within the city. Explosives are prohibited on Verrazano Bridge.

- NYC Route 4: From Upstate NY or New England to Nassau and Suffolk Counties.

- NYV Route 4(i): New England Thruway (I-95) (to Connors Street exit to meet escort if required), to Bruckner Expressway (I-95) to Throgs Neck Expressway (I-295), to Throgs Neck Bridge, to Clearview Expressway (I-295), to Long Island expressway (I-495), east on Long Island Expressway to City Line.

- NYC Route 4(ii): New York State Thruway (I-87) sough to Major Deegan Expressway (I-87), to Cross Bronx Expressway (I-95), east to Bruckner Expressway (I-278) to Throgs Neck Bridge, to Clearview Expressway (I-295), to Long Island Expressway (I-495), east on Long Island Expressway to City Line. Note 1: Reverse routing permitted. Rendezvous with escort if required. See NYC Route 25 for alternate routes.

- NYC Route 5: From NJ to LaGuardia Airport via Goethals Bridge. Goethals Bridge to Staten Island Expressway (I278) to Verrazano Narrow Bridge (upper level) to Brooklyn Queens Expressway (I-278) to Astoria Blvd. (exit 39), east to 82nd Street then north on 82nd Street to LaGuardia Airport. Note: Reverse routing permitted. Rendezvous with escort if required. Explosives prohibited on Verrazano Bridge.

- NYC Route 6: From NJ to LaGuardia Airport via Outerbridge Crossing. Outerbridge Crossing to West Shore Expressway (State 440) to Staten Island Expressway (I278) east to Verrazano Narrows Bridge (upper level) to Brooklyn Queens Expressway (I-278) to Astoria Blvd. (exit 39), east to 82nd Street then north on 82nd Street to LaGuardia Airport. Note: reverse routing permitted. Rendezvous with escort if required. Explosives prohibited on Verrazano Bridge.

- NYV Route 7: From NJ to LaGuardia Airport via George Washington Bridge. George Washington Bridge (upper level) via Washington Expressway (without detour on City streets) via the Alexander Hamilton Bridge directly to Cross Bronx Expressway (I-95), east on Cross Bronx Expressway (I-95) to Throgs

Neck Bridge, south across Throgs Neck Bridge to Clearview Expressway (I-295) to Long Island expressway (I-495), west on Long Island Expressway to Van Wyck Expressway (I-678), north on Van Wyck Expressway to Northern Blvd. (25A), west on Northern Blvd. To Astoria Blvd. West on Astoria Blvd. To 82nd Street, north on 82nd Street to LaGuardia Airport.

- Note: See NYC Route 25 for alternate routes. Rendezvous with escort if required. Reverse routing permitted.

- NYC Route 8: From Long Island to LaGuardia Airport.

- NYC Route 8(i): Long Island Expressway (I-495) West to Van Wyck Expressway (I-678), North to Northern Blvd. (25A), West to Astoria Blvd., Astoria Blvd. to 82nd Street, north on 82nd Street to LaGuardia Airport.

- NYC Route 8(ii): Long Island Expressway (I-495) West to Brooklyn Queens Expressway (I-278) East to Astoria Blvd. (Exit 39) East to 82nd Street, North on 82nd Street to LaGuardia Airport.

- NYC Route 8(iii): West on Sunrise Highway (State 27) to North Conduit Blvd. to Van Wyck Expressway (I-678), North on Van Wyck Expressway to Northern Blvd. (25A), West to Astoria Blvd., Astoria Blvd. to 82nd Street, North on 82nd Street to LaGuardia Airport.

- NYC Route 8(iv): West on Sunrise Highway (State 27) to North Conduit Blvd. to Van Wyck Expressway (I-678), North on Van Wyck Expressway to Long Island Expressway (I-495), West to Brooklyn Queens Expressway (I-278), East to Astoria Blvd. (Exit 39), East to 82nd Street, North on 82nd Street to LaGuardia Airport. Note: Rendezvous for escort if required. Reverse routing permitted.

- NYC Route 9: From New England or upper New York State to LaGuardia Airport.

- NYC Route 9(i): New England Thruway (I-95) south (to Connors Street exit to meet escort, if required), to Bruckner Expressway (I-95) to Throgs Neck Expressway (I-295), via Throgs Neck Bridge to Clearview Expressway (I-295) to Long Island Expressway (I-495), west to Brooklyn Queens Expressway (I-278) east to Astoria Blvd. (Exit 39), east to 82nd Street, then north on 82nd Street to LaGuardia Airport.

- NYC Route 9(ii): New York State Thruway (I-87) sough to Major Deegan expressway (I-87) to Cross Bronx Expressway (I-95) east to Bruckner

Expressway (I-287) to Throgs Neck Bridge, to Clearview Expressway (I-295), to Long Island Expressway (I-495) west, to Brooklyn Queens Expressway (I-278) east, to Astoria Blvd. (Exit 39), east to 82nd Street, then north on 82nd Street to LaGuardia Airport. Note: Rendezvous with escort if required. Reverse routing permitted. See NYC Route 25 for alternate routes.

- NYC Route 10: From NJ to J.F.K. International Airport via Goethals Bridge. From New Jersey via Goethals Bridge to Staten Island Expressway (I-278) to Verrazano-Narrows Bridge (upper level), Brooklyn Queens

- Expressway (I-278) east to Long Island Expressway (I495), east to Van Wyck Expressway (I-678), south on Van Wyck to J.F.K. International Airport. Note: Rendezvous with escort if required. Reverse routing permitted. Explosives prohibited on Verrazano Bridge.

- NYC Route 11: From New Jersey to J.F.K. International Airport via Outerbridge Crossing. From New Jersey via Outerbridge Crossing to West Shore Expressway (State 440) to Staten Island Expressway (I-278) to Verrazano-Narrows Bridge (upper level), to Brooklyn Queens Expressway east (I-278) to Long Island Expressway (I495), East on Long Island Expressway to Van Wyck Expressway (I-678), South on Van Wyck Expressway to J.F.K. International Airport. Note: Rendezvous with escort if required. Reverse routing permitted. Explosives prohibited on Verrazano Bridge.

- NYC Route 12: From New Jersey to J.F.K. International Airport via George Washington Bridge (upper level). From New Jersey via George Washington Bridge (upper level), via Washington Expressway (without detouring onto City streets) via the Alexander Hamilton Bridge directly to Cross Bronx Expressway (I-95), east on Cross Bronx Expressway to Throgs Neck Bridge, south across Throgs Neck Bridge to Clearview Expressway (I-295) to Long Island Expressway (I-495), west to Van Wyck Expressway (I-78), south on Van Wyck Expressway to J.F.K. International Airport. Note: Rendezvous with escort if required. Reverse routing permitted. See NYC Route 25 for alternate routes.

- NYC Route 13: From New England and upper New York State to J.F.K. International Airport.

- NYC Route 13(i): New England Thruway (I-95), south (to Connors Street exit to meet escort, if required) to Bruckner expressway (I-95), to Throgs Neck Expressway (I-295), via Throgs Neck Bridge to Clearview Expressway (I-295), to Long Island Expressway (I-495) west on Long Island Expressway to Van Wyck Expressway (I-678), south on Van Wyck Expressway to J.F.K. International Airport.

- NYC Route 13(ii): New York State Thruway (I-78) south to Major Deegan expressway (I-87) to Cross Bronx Expressway (I-95), east to Bruckner Expressway (I-278) to Throgs Neck Bridge, to Clearview Expressway (I-295) to Long Island Expressway (I-495) west to Van Wyck Expressway (I-678), south on Van Wyck Expressway to J.F.K. Airport. Note: Rendezvous with escort if required. Reverse routing permitted. Nee NYC Route 25 for alternate routes.

- NYC Route 14: From Long Island to J.F.K. International Airport.

- NYC Route 14(i): West on Long Island Expressway (I495) to Van Wyck Expressway (I-678), south on Van Wyck Expressway to J.F.K. International Airport.

- NYC Route 14(ii): West on Sunrise Highway (State 27) to North Conduit Blvd. to Van Wyck Expressway (I-678), south on Van Wyck Expressway to J.F.K. International Airport.

- NYC Route 14(iii): West on Sunrise Highway (State 27) to North Conduit Blvd. to Rockaway Blvd., or 150th Street, to J.F.K. International Airport. Note: Rendezvous with escort if required. Reverse routing permitted.
- NYC Route 15: From New Jersey to Staten Island Piers.

- NYC Route 15(i): From New Jersey via Bayonne Bridge Plaza via Willowbrook Expressway (State 440) to Staten Island Expressway (I-278), west on Staten Island Expressway to Western Avenue, north on Western Avenue to Richmond Terrace, east on Richmond Terrace to Northside Piers, or Staten Island Expressway, east to Bay Street Exit, then local streets to east side piers.

- NYC Route 15(ii): From Goethals Bridge Plaza via Staten Island Expressway (I-278) to Forest Avenue, north on Forest Avenue to Goethals Road North, west on Goethals Road North to Western Avenue north on Western Avenue to Northside Piers, or Staten Island Expressway east to Bay Street exit, then local streets to east side piers.

- NYC Route 15(iii): From Outerbridge Crossing via West Shore Expressway (State 440) and Staten Island Expressway (I-278), west on Staten Island Expressway to Western Avenue, north on Western Avenue to Richmond Terrace, then local streets for Northside piers, or Staten Island Expressway east to Bay Street exit, then local streets to east side piers. Note: Rendezvous with escort if required. Reverse routing permitted.

- NYC Route 16: From New Jersey to Brooklyn Piers.

- NYC Route 16(i): From Bayonne Bridge, south via Willowbrook Expressway (State 440) to Staten Island Expressway (I-278), east to Verrazano-Narrows bridge (upper level) to Brooklyn Queens Expressway (I-278), east on Brooklyn Queens Expressway to nearest exit to location of pier then local streets to pier.

- NYC Route 16(ii): From New Jersey via Goethals Bridge to Staten Island Expressway (I-278) to Verrazano-Narrows Bridge (upper level), to Brooklyn Queens Expressway (I278), east on Brooklyn Queens Expressway to nearest exit to location of pier then local streets to pier.

- NYC Route 16(iii): From New Jersey via Outerbridge Crossing to West Shore Expressway (State 440) to Staten Island Expressway (I-278) to Verrazano-Narrows Bridge (upper level), to Brooklyn Queens Expressway (I-278), east on Brooklyn Queens Expressway to nearest exit to location of pier, local streets to pier. Note: Rendezvous with escort if required. Reverse routing permitted. Explosives prohibited on Verrazano Bridge.

- NYC Route 17: From New Jersey to Manhattan Piers via George Washington Bridge.

- NYC Route 17(i): From New Jersey via George Washington Bridge (upper level), exit at 178th Street and Fort Washington Avenue, east on 178th Street to Amsterdam avenue, south on Amsterdam Avenue to Cathedral Parkway (110th Street), west on 110th Street to Columbus Avenue, south of Columbus Avenue to west 57th Street, west on 57th street to 11th Avenue, south on 11th Avenue to 55th Street, west on 55th Street to 12th Avenue, 12th Avenue north or south to pier location. Note: Rendezvous with escort if required. Reverse routing permitted. In are of 12th Street, 12th Avenue becomes West Street.

- NYC Route 17(ii)A and 17(ii)B: From New Jersey to Manhattan Piers via Lincoln Tunnel.

- NYC Route 17(ii)A: Lincoln Tunnel to west side piers north of Lincoln Tunnel: From Lincoln Tunnel, exit at Dyer Avenue (40th Street) north on Dyer Avenue to 41st Street, west on 41st Street, to 12th Avenue (right turn at 12th Avenue adjacent to elevate structure of West Side Highway, continue north on 12th Avenue to piers.

- Return Route 17(ii)A: Return route to Lincoln Tunnel: South on 12th Avenue (at 43rd Street, move to left traffic land to exit at 42nd Street), east (left turn) at 42nd Street on block t 11th Avenue, turn south (right) at 11th Avenue, continue

south on 11th Avenue for two blocks (follow signs to Lincoln Tunnel), east (left) on 40th Street to Lincoln Tunnel entrance at Galvin avenue.

- NYC Route 17(ii)B: Lincoln Tunnel to west side piers south of Lincoln Tunnel: From Lincoln Tunnel exit at Dyer Avenue (40th Street) north on Dyer Avenue to 41st Street, west (left) on 41st Street to 12th Avenue, south (left) on 12th Avenue (under elevated structure of West Side Highway to southbound traffic land of 12th Avenue) continue south on 12th Avenue and/or West Street to piers.

- Return Route 17(ii)B: Return rout to Lincoln Tunnel: North on West Street to 12th Avenue, north on 12th Avenue to 40th Street, was on 40th Street across 11th Avenue to Galvin Avenue entrance to Lincoln Tunnel. Note: In are of 12th street, 12th Avenue become West street.

- NYC Route 17(ii)C and 17(ii)D: From New Jersey to Manhattan Piers via Holland Tunnel.

- NYC Route 17(ii)C: Holland Tunnel to west side piers north of Holland Tunnel: Exit from Holland Tunnel at Hudson Street, north (right turn) on Hudson Street to Canal Street, west (left turn) on Canal Street to West Street, north (right turn) on West Street, continue north on West Street and/or 12th Avenue, to piers.
- Return Route 17(ii)C: Return route to Holland Tunnel: South on 12th Avenue and continue south on West Street to Canal Street, east (left turn) on Canal Street to Hudson Street, then north (left turn) at Hudson Street to Holland Tunnel entrance.

- NYC Route 17(ii)D: Holland Tunnel to west side piers south of Holland Tunnel: Exit from Holland Tunnel at Hudson Street, north (right turn) on Hudson Street to Canal Street, west (left turn) on Canal Street to West Street, north (right turn) on West Street to west Houston Street, make “U” turn from north bound traffic land under elevated West Side Highway to south bound traffic land of West Street, continue sough on West Street to piers.

- Return Route 17(ii)D: North on West Street to Canal Street, east (right turn) on Canal Street to Hudson Street, then north (left turn) on Hudson Street to Holland Tunnel en trace. Note: In are of 12th Street, 12th Avenue becomes West Street.

- NYC Route 17(ii)E: From New Jersey, via George Washington Bridge, Lincoln or Holland Tunnels to lower east side (East River) piers. Utilize routs

17(ii)A through 17(ii)D, continue south on 12th Avenue or West Street, south on West Street to Battery Park Underpass (head room 12'11"), enter Battery Park Underpass and exit on South Street, continue north on South Street and/or marginal street under elevated F.D.R. Drive to location of pier.

- Return Route: Proceed south on marginal street under elevated F.D.R. Drive and/or South Street to Battery Park Underpass, enter Battery Park Underpass and exit on West Street, proceed north on West Street and/or 12th Avenue, continue as per routes 17(ii)A through 17(ii)D to Lincoln and Holland Tunnels respectively, and, for George Washington Bridge, proceed north on 12th Avenue to 57th Street, east on 57th Street to Amsterdam Avenue, north on Amsterdam Avenue to 179th Street, west on 179th Street to George Washington Bridge. Note: Rendezvous with escort if required. In are of 12th Street, 12th Avenue becomes West Street.

- NYC Route 18(i): From New England to Manhattan piers. South on New England Thruway (I-95) (to Connors Street exit to meet escort if required), to Bruckner Expressway (I278), to Willis Avenue and Third Avenue exit on 135th Street, west on 135th Street Third Avenue, south on Third Avenue across 3rd Avenue Bridge to 129th Street, east on 129th Street to Second avenue, sough on Second Avenue to East 125th Street.

- Return Route: From Manhattan Piers to upstate New York, Westchester County, and New England. Reverse route 18(ii) to 12th Avenue, north to West 57th Street, then east on West 57th Street to Amsterdam Avenue, north on Amsterdam Avenue to 125th Street, east to 1st Avenue, north on 1st Avenue to Willis Avenue Bridge, across Willis Avenue Bridge to Bruckner Blvd., Bruckner Blvd. to 138th Street entrance to Bruckner Expressway (I-278), east and north on Bruckner Expressway to New England Thruway (I-95), then New England Thruway north to City line. Note: Rendezvous with escort if required.

- NYC Route 18(ii): From Westchester County or upstate New York to Manhattan piers. New York Thruway (I-87), south to Major Deegan Expressway (I-87), Major Deegan Expressway south to 138th Street exit, service road to Third Avenue, south on 3rd Avenue, across 3rd Avenue Bridge to east 129th Street, east on 129th Street to Second Avenue, south on Second Avenue to east 125th Street. Then, west on 125th Street to Amsterdam avenue, south on Amsterdam Avenue to Cathedral Parkway (110th Street)

east on 110th Street to Columbus Avenue, south o Columbus Avenue to west 57th Street, west on 57th Street to 11th Avenue, south on 11th Avenue to west 55th Street, west on west 55th Street to 12th Avenue to West Street, south on West Street around Battery Park (do not use Battery Under-Pass) to South Street, north on marginal streets under the elevated F.D.R. Drive to location of pier. Return Route: Reverse route 18(ii) to 12th Avenue, then north to West 57th Street, then east on west 57th Street to Amsterdam Avenue, north on Amsterdam Avenue to 125th Street, east on 125th Street to 1st Avenue, north on 1st Avenue to Willis Avenue Bridge, across Willis Avenue Bridge, Willis Avenue to Major Deegan expressway (I-87), Major Deegan Expressway north to New York Thruway (I87), then north to City line. Note: Rendezvous with escort if required.

- NYC Route 19: From New England, upper New York State and Westchester County to Staten Island Piers.

- NYC Route 19(i): South on New England Thruway (I-95) (to Connors Street exit to meet escort if required) to Bruckner expressway (I-95) to Throgs Neck Expressway (I-295) via Throgs Neck Bridge to Clearview Expressway (I-295) to Long Island Expressway (I-495), west on Long Island Expressway to Brooklyn Queens Expressway (I278), west to Verrazano-Narrows Bridge (upper level) to Staten Island Expressway (I-278) to Bay Street exit for eastside piers, or west to Western Avenue, north to Richmond Terrace, then local streets to Northside piers.

- NYC Route 19(ii): New York State Thruway (I-87) south to Major Deegan Expressway (I-87) (exit into “service area” of Expressway, located between Westchester County line and east 233rd Street exit of the Expressway, to rendezvous with escort, if required) to Cross Bronx Expressway (I-95), east on Cross Bronx Expressway to Throgs Neck Bridge, to Clearview Expressway (I-295) to Long Island Expressway (I-495), west to Brooklyn Queens Expressway (I-279), west to Verrazano-Narrows Bridge (upper level), to Staten Island Expressway (I-278), exit at Bay Street for eastside piers, or continue on Staten Island expressway to Western Avenue, north on Western Avenue to Richmond Terrace, then local streets to Northside piers. Note: Rendezvous with escort if required. Reverse routing permitted. Explosives prohibited on Verrazano Bridge.

- NYC Route 20: From New England, Westchester County and upstate New York to Brooklyn piers.

- NCY Route 20(i): South on New England Thruway (I-95) (to Connors Street exit to meet escort if required) to Bruckner Expressway (I-95) to Throgs Neck

Expressway (I-295) via Throgs Neck Bridge to Clearview Expressway (I-295), to Long Island Expressway (I-495), west on Long Island Expressway (I-495) to Brooklyn Queens Expressway (I-278), west on Brooklyn Queens Expressway to nearest exit to pier location. Route from nearest expressway exit to pier via local streets.

- Route 20(ii): From New York State Thruway (I-87), south to Major Deegan Expressway (I-87) (exit into "service area" of expressway, located between Westchester County line and east 233rd Street exit of the Expressway, to rendezvous with escort, if required) to Cross Bronx Expressway (I-95), east on Cross Bronx Expressway to Throgs Neck Bridge, south to Clearview Expressway (I295), to Long Island Expressway, west on Long Island Expressway (I-495) to Brooklyn Queens Expressway, west on Brooklyn Queens Expressway (I-278) to nearest exit to pier location, then via local streets to pier. Note: Rendezvous with escort if required. Reverse routing permitted.

- NYC Route 21: From Long Island (Nassau or Suffolk) to Brooklyn and Staten Island piers. Long Island Expressway (I-495) west to Brooklyn Queens Expressway (I-278), then west on Brooklyn Queens Expressway, then either:

  - NYC Route 21(i)A: Continue to nearest exit for Brooklyn piers location.

  - NYC Router 21(i)B: Continue west on Brooklyn Queens Expressway (I-278) to Verrazano Bridge (upper level), cross bridge to Staten Island Expressway (I-278), exit at Bay Street for Staten Island eastside piers (utilizing local streets), or continue west on Staten Island Expressway to Western Avenue, north on Western Avenue to Richmond Terrace, then local streets fro Northside Staten Island piers. Note: Rendezvous with escort if required. Reverse routing permitted. Explosives prohibited on Verrazano Bridge.

- NYC Route 22: From Long Island (Nassau or Suffolk) to Manhattan piers. East on Long Island Expressway (I-495) to Clearview Expressway (I-295), north on Clearview Expressway across Throgs Neck Bridge to Bruckner Expressway (I-278), west on Bruckner Expressway continuing as per NYC route 18(i) and 18(ii) to Manhattan piers. Return Routing: From Manhattan piers to Long Island. Use return route for 18(i) to Bruckner Expressway (I-278), east on Bruckner Expressway to Throgs Neck Expressway (I-295), south on Throgs Neck Expressway, over Throgs Neck Bridge, south on Clearview Expressway (I-295) to Long Island Expressway (I-495), and then east on Long Island Expressway to Nassau and Suffolk Counties. Note: Rendezvous with escort if required.

- NYC Route 23(i): From New Jersey to Howland Hook truck Terminal, Staten Island.

- NYC Route 23(i)A: From New Jersey via Bayonne Bridge Plaza via Willowbrook Expressway (State 440) south to Staten Island expressway (I-278), north on Western Avenue, east to Howland Hook Terminal.

- NYC Route 23(i)B: From New Jersey via Outerbridge Crossing, north on West Shore Expressway (State 440) to Staten Island Expressway (I-278), west on Staten Island Expressway to Western Avenue, north on Western Avenue, east to Howland Hook Terminal.

- NYC Route 23(i)C: From New Jersey via Goethals Bridge to Staten Island Expressway (I-278) to Forest Avenue, north on Forest Avenue to Goethals Road North, west on Goethals Road North to Western Avenue, north on Western Avenue, then east to Howland Hook Terminal. Note: Rendezvous with escort if required. Reverse routing permitted.

- NYC Route 23(ii): From New England, upper New York State and Westchester County to Howland Hook Truck Terminal, Staten Island. Use routes 19(i) and 19(ii) except that entrance to Howland Hook Terminal is east from Western avenue. Note: Rendezvous with escort if required. Reverse routing permitted. Explosives prohibited on Verrazano Bridge.

- NYC Route 23 (iii): From Nassau County and Suffolk County to Howland Hook Truck Terminal, Staten Island. West on Long Island Expressway (I-495) to Brooklyn Queens Expressway (I-278), then west on Brooklyn Queens Expressway to Verrazano Bridge, cross upper level of Verrazano Bridge, then west on Staten Island Expressway (I-278) to Western avenue, north on Western Avenue, then east to Howland Hook Terminal. Note: Rendezvous with escort if required. Reverse routing permitted. Explosive prohibited on Verrazano Bridge.

- NYC Route 23(iv): From Airports to Howland Hook Truck Terminal, Staten Island.

- NYC Route 23(iv)A: From J.F.K. Airport, north on Van Wyck Expressway (I-678) to Long Island Expressway (I495), then west on Long Island Expressway continuing as per route 23(iii).

- NYC Route 23(iv) B: From LaGuardia Airport, south on 82nd Street to Astoria Blvd., west on Astoria Blvd., to Brooklyn Queens Expressway (I-278), then west on Brooklyn Queens Expressway continuing as per route 23(iii). Note: Rendezvous with escort if required. Reverse routing permitted. Explosive prohibited on Verrazano Bridge.
- NYC Route 24: Truck and Railroad Terminal in Bushwick area, Brooklyn and Maspeth area, Queens. Utilize routes 3(i) or 3(ii) from New Jersey, 4(i) or 4(ii) from upstate New York, New England or Westchester County, C-3 Island

Expressway (I-495), then long Island Expressway to Grand Avenue exit (westbound) or Maurice Ave. exit (eastbound), then to Grand Avenue (and Grand Street), east or west as required: Rendezvous with escort if required. Reverse routing permitted.

- NYC Route 25: Alternate hazmat routes in lieu of the Throgs Neck Bridge. For vehicles not carrying explosives, alternate routes utilizing the Whitestone Bridge or the Triboro Bridge may be used in lieu of the Throgs Neck Bridge specified in Routes 4(ii), 7(i), 9(ii), 12(i), 13(ii), 19(ii) and 20(ii), as follows:

  - NYC Route 25(i): Cross Bronx Expressway (I-95) to Hutchinson River Parkway, south on Hutchinson River parkway over Whitestone Bridge, and continue south on Whitestone Expressway (I-678) – THEN either:

    NYC Route 25(i)A: to Astoria Blvd., west on Astoria Blvd., to 82nd Street, north on 82nd Street to LaGuardia Airport.

    NYC Route 25(i)B: to Van Wyck Expressway (I-678), south to Long Island Expressway (I-495), west on Long Island Expressway (I-495) to Brooklyn Queens Expressway (I-278), west on Brooklyn Queens Expressway to Brooklyn or Staten Island piers as per routes 19 or 20.

    NYC Route 25(ii): South on Major Deegan expressway (I87) from Cross Bronx Expressway or Upstate New York, to Triboro Bridge, across Triboro Bridge to Queens, exit and proceed east on Astoria Blvd. – THEN either:

      NYC Route 25(ii)A: to 82nd Street, north on 82nd Street to LaGuardia Airport.

      NYC Route 25(ii)B: to Brooklyn Queens Expressway (I278), west on Brooklyn Queens Expressway to Long Island Expressway (I-495), west on Long Island Expressway to Van Wyck Expressway (I-678), sough on Van Wyck Expressway to J.F.K. Airport.

      NYC Route 25(ii)C: to Brooklyn Queens Expressway (I278), west on Brooklyn Queens Expressway to Brooklyn or Staten Island Piers as per routes 19 or 20. Note: Rendezvous with escort if required. Reverse routing permitted.

Liability:

- Proposed Bill: Provides a cause of action for persons injured of suffering economic loss due to exposure to hazardous waste**;** provides the person responsible for exposure shall be held strictly liable, jointly and severally for specified damages; defines a person responsible for such exposure to include

persons who operated a waste disposal site, arranged for storage, transportation or placement of hazardous waste**,** generated waste**,** accepted waste for storage or owns a waste disposal site. 2003 Bill Tracking NY A.B. 478.

North Carolina – Existing State Regulatory Requirements

- North Carolina General Statutes – Chapter 20. Motor Vehicles § 20-167.1. Transportation of spent nuclear fuel:

  (d) Any person, firm or corporation violating any provision of this section is guilty of a Class 3 misdemeanor and shall be punished only by a fine of not less than five hundred dollars ($500.00), and each unauthorized shipment shall constitute a separate offense.

Permits and Fees:

- North Carolina General Statutes – Chapter 130A. Public Health, Article 9. Solid Waste Management (Refs & Annos), Part 2. Solid and Hazardous Waste Management (Refs & Annos) § 130A-294.1. Fees applicable to generators and transporters of hazardous waste, and to hazardous waste storage, treatment, and disposal facilities:

  (a) It is the intent of the General Assembly that the fee system established by this section is solely to provide funding in addition to federal and State appropriations to support the State's hazardous waste management program.

  (b) Funds collected pursuant to this section shall be used for personnel and other resources necessary to:

  (1) Provide a high level of technical assistance and waste minimization effort for the hazardous waste management program;

  (2) Provide timely review of permit applications;

  (3) Insure that permit decisions are made on a sound technical basis and that permit decisions incorporate all conditions necessary to accomplish the purposes of this Part;

  (4) Improve monitoring and compliance of the hazardous waste management program;

  (5) Increase the frequency of inspections;

  (6) Provide chemical, biological, toxicological, and analytical support for the hazardous waste management program; and

  (7) Provide resources for emergency response to imminent hazards associated with the hazardous waste management program.

(c) It is the intent of the General Assembly that the total funds collected per year pursuant to this section not exceed thirty percent (30%) of the total funds budgeted from all sources for the hazardous waste management program. This subsection shall not be construed to limit the obligation of any person to pay any fee imposed by this section.

(d) The Hazardous Waste Management Account is established as a nonreverting account within the Department. All fees collected under this section shall be credited to the Account and shall be used for the purposes listed in subsection (b).

(e) A person who generates either one kilogram or more of any acute hazardous waste as listed in 40 C.F.R. § 261.30(d) or § 261.33(e) as revised 1 July 1987, or 1000 kilograms or more of hazardous waste, in any calendar month during the year beginning 1 July and ending 30 June shall pay an annual fee of one thousand dollars ($1,000).

(f) A person who generates 100 kilograms or more of hazardous waste in any calendar month during the year beginning 1 July and ending 30 June but less than 1000 kilograms of hazardous waste in each calendar month during that year shall pay an annual fee of one hundred twenty-five dollars ($125.00).

(g) A person who generates one kilogram or more of acute hazardous waste or 1000 kilograms or more of hazardous waste in any calendar month during the calendar year shall pay, in addition to any fee under subsections (e) and (f) of this section, a tonnage fee of fifty cents ($0.50) per ton or any part thereof of hazardous waste generated during that year up to a maximum of 25,000 tons.

(h) A person who generates less than one kilogram of acute hazardous waste and less than 100 kilograms of hazardous waste in each calendar month during the year beginning 1 July and ending 30 June shall not be liable for payment of a fee under subsections (e) and (f) of this section for that year.

(i) Hazardous waste generated as a result of any type of remedial action or by collection by a local government of hazardous waste from households shall not be subject to a tonnage fee under subsections (g) and (l) of this section.

(j) A person who transports hazardous waste shall pay an annual fee of six hundred dollars ($600.00).

(k) A storage, treatment, or disposal facility shall pay an annual activity fee of one thousand two hundred dollars ($1,200) for each activity.

(l) A commercial hazardous waste storage, treatment, or disposal facility shall pay annually, in addition to the fees applicable to all hazardous waste storage, treatment, or disposal facilities, a single tonnage charge of one dollar and

seventy-five cents ($1.75) per ton or any part thereof of hazardous waste stored, treated, or disposed of at the facility. A manufacturing facility that receives hazardous waste generated from the use of a product typical of its manufacturing process for the purpose of recycling is exempt from this tonnage charge. A facility must have a permit issued under this Article which includes the recycling activity and specifies the type and amount of waste allowed to be received from off-site for recycling.

(m) An applicant for a permit for a hazardous waste storage, treatment, or disposal facility that proposes to operate as a commercial facility shall pay an application fee for each proposed activity as follows:

(1) Storage facility	$10,000
(2) Treatment facility	$15,000
(3) Disposal facility	$25,000

(n) The Commission may adopt rules setting fees for modifications to permits. Such fees shall not exceed fifty percent (50%) of the application fee.

(o) Annual fees established under this section are due no later than 31 July for the fiscal year beginning 1 July in the same year. Tonnage fees established under this section are due no later than 31 July for the previous calendar year.

(p) The Department shall make an annual report to the General Assembly and its Fiscal Research Division on the cost of the hazardous waste management program. The report shall include, but is not limited to, beginning fund balance, fees collected under this section, anticipated revenue from all sources, total expenditures (by activities and categories) for the hazardous waste management program, ending fund balance, any recommended adjustments in the annual and tonnage fees which may be necessary to assure the continued availability of funds sufficient to pay the State's share of the cost of the hazardous waste management program, and any other information requested by the General Assembly. In recommending adjustments in annual and tonnage fees, the Department may propose fees for hazardous waste generators, and for hazardous waste treatment facilities which treat waste generated on-site, which are designed to encourage reductions in the volume or quantity and toxicity of hazardous waste.

- Added by Laws 1987, c. 773, §§ 2, 4 to 8. Amended by Laws 1987 (Reg. Sess., 1988), c. 1020, § 2; Laws 1989, c. 168, § 23; Laws 1989, c. 724, § 4; Laws 1991, c. 286, § 1; Laws 1991 (Reg. Sess., 1992), c. 890, § 10; Laws 1991 (Reg. Sess., 1992), c. 1039, § 9; S.L. 2003-284, §§ 35.2.(a), 35.2.(b), eff. July 15, 2003.

Administrative Code References:

- Hazardous waste permit program--part 270, see 15A NCAC 13A.0113.

North Dakota – Existing State Regulatory Requirements

- North Dakota Century Code – Title 23. Health and Safety, Chapter 23-20.2. Disposal of Nuclear and Other Waste Material. 23-20.2-06 Penalties:

  1. Any person who violates any provision of this chapter, or any rule, regulation, or order of the commission promulgated under this chapter, is subject to a civil penalty of not more than one thousand dollars for each act of violation and for each day that the violation continues.

  2. It is a class B misdemeanor for any person, for the purpose of evading this chapter, or any rule, regulation, or order of the commission, to make or cause to be made any false entry or statement in a report required by this chapter or by any rule, regulation, or order issued or promulgated by the commission, or to make or cause to be made any false entry in anyrecord, account, or memorandum required by this chapter, or by any rule, regulation, or order of the commission, or to omit, or cause to be omitted, from any such record, account, or memorandum, full, true, and correct entries as required by this chapter or by any rule, regulation, or order of the commission, or to remove from this state or destroy, mutilate, alter, or falsify any record, account, or memorandum.

  3. The civil penalties provided in subsection 1 are recoverable by suit filed by the attorney general in the name and on behalf of the commission, in the district court of the county in which the defendant resides, or in which any defendant resides, if there is more than one defendant, or in the district court of any county in which the violation occurred. The payment of any such penalty does not operate to relieve a person on whom the penalty is imposed from liability to any other person for damages arising out of such violation.

Ohio – Existing State Regulatory Requirements

Authority/Duties:

- Chapter 3701:1-50 Packaging and Transportation of Radioactive Material – Ohio Administrative Code Annotated 3701:1-50-02 (Anderson 2003), 3701:1-50-02 Purpose and scope:

  (A) This chapter establishes requirements for packaging, preparation for shipment, and transportation of radioactive material; and

  (B) The packaging and transport of radioactive material are also subject to other chapters of the Ohio Administrative Code and to the regulations of other agencies (such as the United States department of transportation, the United States postal service and the United States nuclear regulatory commission) having jurisdiction over means of transport. The requirements of this chapter are in addition to, and not in substitution for, other requirements.

  (C) This chapter applies to any licensee authorized by specific or general license issued by the director to receive, possess, use, or transfer licensed material, if the licensee delivers that material to a carrier for transport, transports the material outside the site of usage as specified in the Ohio license, or transports that material on public highways. No provision of this chapter authorizes possession of licensed material.

  (D) Exemptions from the requirement for license in rule 3701:1-50-04 of the Administrative Code is specified in rule 3701:1-50-06 of the Administrative Code. General licenses for which no package approval is required are issued in rules 3701:1-50-09 to 3701:1-50-13 of the Administrative Code. The general license in rule 3701:1-50-07 of the Administrative Code requires that an NRC certificate of compliance or other package approval be issued for the package to be used under the general license. The transport of licensed material or delivery of licensed material to a carrier for transport is subject to the operating controls and procedures requirements of rules 3701:150-14 to 3701:1-50-23 of the Administrative Code, to the quality assurance requirements of rule 3701:1-50-24 of the Administrative Code or NRC, and to the general provisions of rules 3701:1-50-01 to 3701:1-50-05 of the Administrative Code, including DOT regulations referenced in rule 3701:1-5005 of the Administrative Code.

  (E) These rules apply to any person required to obtain a certificate of compliance or an approved compliance plan from the United States nuclear regulatory commission pursuant to 10 C.F.R. 76 if the person delivers radioactive material to a common or contract carrier for transport or transports the material outside the confines of the person's plant or other authorized place of use.

(F) Chapter 3701:1-50 of the Administrative Code supersedes provisions of rule 3701-39-02.1 of the Administrative Code relating to standards and requirements contained in 10 C.F.R. 71 governing the transportation of radioactive materials.

- Ohio Administrative Code Annotated 3701:1-50-03 (Anderson 2003), 3701:1-50-03 Communications and records:

  (A) All communications required by this chapter shall be addressed to the bureau of radiation protection at:

  Ohio Department of Health 246 North High Street Bureau of Radiation Protection/7th floor, 35 bldg. Post Office Box 118 Columbus, Ohio 43216-0118

  If communications are required to be submitted to the United States nuclear regulatory commission use the following address: The Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001, or may be delivered in person, at the commission offices, at 11545 Rockville Pike, Rockville, Maryland.

  (B) Each record required by this chapter must be legible throughout the retention period specified by each rule. The record may be the original or a reproduced copy or a microform provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of producing a clear copy throughout the required retention period. The record may also be stored in electronic media with the capability for producing legible, accurate, and complete records during the required retention period. Records such as letters, drawings, specifications, must include all pertinent information such as stamps, initials, and signatures. The licensee shall maintain adequate safeguards against tampering with and loss of records.

- Ohio Administrative Code Annotated 3701:1-50-05 (Anderson 2003), 3701:1-50-05 Transportation of licensed material:

  (A) Each licensee who transports licensed material outside the site of usage, as specified in the U.S. nuclear regulatory commission or Ohio license, or where transport is on public highways, or who delivers licensed material to a carrier for transport, shall comply with the applicable requirements of the DOT regulations in 49 C.F.R. parts 170 to 189 appropriate to the mode of transport. These regulations include:

  (1) Packaging-49 C.F.R. part 173: subparts A and B and I.

  (2) Marking and labeling-49 C.F.R. part 172: subpart D, “172.400 to 172.407, “ 172.436 to 172.440, and subpart E.

(3) Placarding-49 C.F.R. part 172: subpart F, especially “172.500 to 172.519, 172.556, and appendices B and C.

(4) Accident reporting-49 C.F.R. part 171: “171.15 and 171.16.

(5) Shipping papers and emergency information – 49 C.F.R. part 172: subparts C and G.
(6) Hazardous material employee training-49 C.F.R. part 172: subpart H.

(7) Hazardous material shipper/carrier registration-49 C.F.R. part 107: subpart G.

(8) DOT regulations pertaining to the following modes of transportation:

(a) Rail-49 C.F.R. part 174: subparts A to D and K.

(b) Air-49 C.F.R. part 175.

(c) Vessel-49 C.F.R. part 176: subparts A to F and M.

(d) Public highway-49 C.F.R. part 177 and parts 390 to 397.

(B) If DOT regulations are not applicable to a shipment of licensed material, the licensee shall conform to the standards and requirements of the DOT specified in paragraph (A) of this rule to the same extent as if the shipment or transportation were subject to DOT regulations. Required notifications shall include the department as specified in rule 3701:1-50-03 of the Administrative Code.

Licensing:

- Ohio Administrative Code Annotated 3701:1-50-04 (Anderson 2003), 3701:1-50-04 Requirement for license:

  Except as authorized in a general license or a specific license issued by the director, or as exempted in this chapter, no licensee may:

  (A) Deliver licensed material to a carrier for transport; or

  (B) Transport licensed material.

- Ohio Administrative Code Annotated 3701:1-50-06 (Anderson 2003), 3701:1-50-06 Exemption for low-level materials:

  A licensee is exempt from all requirements of this chapter with respect to shipment or carriage of a package containing radioactive material having a specific activity not greater than seventy Bq/g (0.002 5Ci/g).

- Ohio Administrative Code Annotated 3701:1-50-07 (Anderson 2003), 3701:1-50-07 General license: NRC-approved package:

  (A) A general license is hereby issued to any Ohio radioactive materials licensee to transport, or to deliver to a carrier for transport, licensed material, provided it is contained in a package for which a license, certificate of compliance, or other approval has been issued by the United States nuclear regulatory commission.
  (B) This general license applies only to a licensee who has a quality assurance program approved by the director which meets the provisions of rule 3701:1-50-24 of the Administrative Code.

  (C) This general license applies only to a licensee who:

  (1) Has a copy of the certificate of compliance, or other approval of the package, and has the drawings and other documents referenced in the approval relating to the use and maintenance of the packaging and to the actions to be taken before shipment;

  (2) Complies with the terms and conditions of the license, certificate, or other approval, as applicable, and the applicable requirements of this chapter; and

  (3) Submits in writing to the director, office of nuclear material safety and safeguards, U.S. nuclear regulatory commission, Washington, D.C. 20555-0001, before the licensee's first use of the package, the licensee's name and license number and the package identification number specified in the package approval.

  (D) This general license applies only when the package approval authorizes use of the package under this general license.

  (E) For a type B or fissile material package, the design of which was approved by the United States nuclear regulatory commission before April 1, 1996, the general license is subject to the additional restrictions of rule 3701:1-50-08 of the Administrative Code.

***Packaging*:**

- Ohio Administrative Code Annotated 3701:1-50-08 (Anderson 2003), 3701:1-50-08 Previously approved package:

  (A) A type B package previously approved by the United States nuclear regulatory commission but not designated as B(U) or B(M) in the identification number of the United States nuclear regulatory commission certificate of compliance, may be used under the general license of rule 3701:1-50-07 of the Administrative Code with the following additional conditions:

(1) Fabrication of the packaging was satisfactorily completed by August 31, 1986, as demonstrated by application of its model number in accordance with 10 C.F.R. 71.85(C);

(2) A package used for a shipment to a location outside the United States is subject to multilateral approval, as defined in DOT regulations at 49 C.F.R. 173.403; and

(3) A serial number that uniquely identifies each packaging which conforms to the approved design is assigned to, and legibly and durably marked on, the outside of each packaging.

(B) A type B(U) package, a type B(M) package, a low specific activity (LSA) material package or a fissile material package, previously approved by the United States nuclear regulatory commission but without the designation "-85" in the identification number of the United States nuclear regulatory commission certificate of compliance, may be used under the general license of rule 3701:1-50-07 of the Administrative Code with the following additional conditions:

(1) Fabrication of the package is satisfactorily completed by April 1, 1999 as demonstrated by application of its model number in accordance with 10 C.F.R. 71.85(C);

(2) A package used for a shipment to a location outside the United States is subject to multilateral approval, as defined in DOT regulations at 49 C.F.R. 173.403; and

(3) A serial number which uniquely identifies each packaging which conforms to the approved design is assigned to and legibly and durably marked on the outside of each packaging.

- Ohio Administrative Code Annotated 3701:1-50-09 (Anderson 2003), 3701:1-50-09 General license: dot specification container:

  (A) A general license is issued to any licensee to transport, or to deliver to a carrier for transport, licensed material in a specification container for fissile material or for a Type B quantity of radioactive material as specified in DOT regulations at 49 C.F.R. parts 173 and 178.

  (B) This general license applies only to a licensee who has a quality assurance program approved by the director as satisfying the provisions of this chapter.

  (C) This general license applies only to a licensee who:

  (1) Has a copy of the specification; and

(2) Complies with the terms and conditions of the specification and the applicable requirements of this chapter.

(D) This general license is subject to the limitation that the specification container may not be used for a shipment to a location outside the United States, except by multilateral approval, as defined in DOT regulations at 49 C.F.R. 173.403.

- Ohio Administrative Code Annotated 3701:1-50-10 (Anderson 2003), 3701:1-50-10 General license: Use of foreign approved package:

  (A) A general license is issued to any licensee to transport, or to deliver to a carrier for transport, licensed material in a package the design of which has been approved in a foreign national competent authority certificate that has been revalidated by DOT as meeting the applicable requirements of 49 C.F.R.

  (B) This general license applies only to shipments made to or from locations outside the United States.

  (C) This general license applies only to a licensee who:

  (1) Has a copy of the applicable certificate, the revalidation, and the drawings and other documents referenced in the certificate, relating to the use and maintenance of the packaging and to the actions to be taken before shipment;

  (2) Complies with the terms and conditions of the certificate and revalidation, and with the applicable requirements of this chapter; and

  (3) Has a quality assurance program approved by the United States Nuclear Regulatory Commission.

- Ohio Administrative Code Annotated 3701:1-50-11 (Anderson 2003), 3701:1-50-11 General license: Fissile material, limited quantity per package:

  (A) A general license is issued to any licensee to transport fissile material, or to deliver fissile material to a carrier for transport, without complying with the package standards of Subparts E and F of 10 C.F.R. 71, provided that the material is shipped in accordance with this rule.

  (B) The general license applies only to a licensee who has a quality assurance program approved by the United States nuclear regulatory commission as satisfying the provisions of Subpart H of 10 C.F.R. 71.

  (C) Except as provided in paragraph (D) of this rule, this general license applies only when a package contains no more than a Type A quantity of radioactive material, including only one of the following:

(1) Up to forty grams of uranium-235;

(2) Up to thirty grams of uranium-233;

(3) Up to twenty five grams of the fissile radionuclides of plutonium, except that for encapsulated plutonium-beryllium neutron sources in special form, an A1 quantity of plutonium may be present; or

(4) A combination of fissile radionuclides in which the sum of the ratios of the amount of each radionuclide to the corresponding maximum amounts in paragraphs (C)(1) to (C)(3) of this rule does not exceed unity.

(D) For packages where fissile material is mixed with substances having an average hydrogen density greater than water, this general license applies only when a package contains no more than a type A quantity of radioactive material, including only one of the following:

(1) Up to twenty nine grams of uranium-235;

(2) Up to eighteen grams of uranium-233;

(3) Up to eighteen grams of fissile radionuclides of plutonium, or

(4) A combination of fissile radionuclides in which the sum of the ratios of the amount of each radionuclide to the corresponding maximum amounts in paragraphs (D)(1) to

(D)(3) of this rule does not exceed unity.

(E) Except for the beryllium contained within the special form plutonium-beryllium sources authorized in paragraph (C) of this rule, this general license applies only when beryllium, graphite, or hydrogenous material enriched in deuterium is not present in quantities exceeding 0.1 percent of the fissile material mass.

(F) Except as specified in paragraph (G) of this rule for encapsulated plutonium-beryllium sources, this general license applies only when, a package is labeled with a transport index not less than the number given by the following equation, where the package contains x grams of uranium-235, Y grams of uranium-233, and Z grams of the fissile radionuclides of plutonium: Minimum transport index= (0.25X+0.33Y+0.4Z).

(G) For a package in which the only fissile material is in the form of encapsulated plutonium-beryllium neutron sources in special form, the transport index based on criticality considerations may be taken as 0.025 times the number of grams of the fissile radionuclides of plutonium.

(H) Packages which have a transport index greater than ten are not authorized under the general license provisions of this chapter.

- Ohio Administrative Code Annotated 3701:1-50-12 (Anderson 2003), 3701:1-50-12 General license: Fissile material, limited moderator per package:

  (A) A general license is issued to any licensee to transport fissile material, or to deliver fissile material to a carrier for transport, without complying with the package standards of Subparts E and F of 10 C.F.R. 71 if the material is shipped in accordance with this rule.

  (B) The general license applies only to a licensee who has a quality assurance program approved by the United States nuclear regulatory commission as satisfying the provisions of Subpart H of 10 C.F.R. 71.
  (C) This general license applies as follows:

  (1) The package contains no more than a type A quantity of radioactive material;

  (2) Neither beryllium nor hydrogenous material enriched in deuterium is present;

  (3) The total mass of graphite present does not exceed 7.7 times the total mass of uranium-235 plus plutonium;

  (4) Substances having a higher hydrogen density than water (such as certain hydrocarbon oils), are not present, except that polyethylene may be used for packing or wrapping;

  (5) Uranium-233 is not present, and the amount of plutonium does not exceed one percent of the amount of uranium-235;

  (6) The amount of uranium-235 is limited as follows:

  (a) If the fissile radionuclides are not uniformly distributed, the maximum amount of uranium-235 per package may not exceed the value given in appendix A to this rule; or

  (b) If the fissile radionuclides are distributed uniformly (i.e., cannot form a lattice arrangement within the packaging), the maximum amount of uranium-235 per package may not exceed the value given in appendix B to this rule; and

  (7) The transport index of each package, based on criticality considerations, is taken as ten times the number of grams of uranium-235 in the package

divided by the maximum allowable number of grams per package in accordance with appendix A or appendix B to this rule, as applicable.

- Ohio Administrative Code Annotated 3701:1-50-13 (Anderson 2003); 3701:1-50-13 General license: Fissile material, limited quantity, controlled shipment:

  (A) A general license is issued to any licensee to transport fissile material, or to deliver fissile material to a carrier for transport, without complying with the package standards of Subparts E and F of 10 C.F.R. 71, if limited material is shipped in accordance with this rule.

  (B) The general license applies only to a licensee who has a quality assurance program approved by the United States nuclear regulatory commission as satisfying the provisions of Subpart H of 10 C.F.R. 71.

  (C) This general license applies only when a package contains no more than a type A quantity of radioactive material and no more than four hundred grams total of the fissile radionuclides of plutonium encapsulated as plutonium-beryllium neutron sources in special form.

  (D) This general license applies only when:

    (1) The encapsulated plutonium-beryllium neutron sources are in special form and the total mass of fissile radionuclides in the shipment does not exceed two thousand five hundred grams, or

    (2) The mass of fissile radionuclides in the shipment is limited under certain conditions (See Ohio Administrative Code Annotated 3701:1-50-13 for specifications of fissile materials)

  (E) Except for the beryllium contained within the special form plutonium-beryllium sources authorized in paragraphs (C) and (D) of this rule, this general license applies only when beryllium, graphite or hydrogenous material enriched in deuterium is not present in quantities exceeding 0.1 percent of the fissile material mass.

  (F) This general license applies only when shipment of these packages is made under procedures specifically authorized by DOT, in accordance with 49 C.F.R. 173 of its regulations, to prevent loading, transport, or storage of these packages with other fissile material shipments.

- Ohio Administrative Code Annotated 3701:1-50-16 (Anderson 2003); 3701:1-50-16 Preliminary determinations:

  Before the first use of any packaging for the shipment of licensed material:

(A) The licensee shall ascertain that there are no cracks, pinholes, uncontrolled voids, or other defects that could significantly reduce the effectiveness of the packaging;

(B) Where the maximum normal operating pressure will exceed thirty five kilopascal (five pounds force per square inch) gauge, the licensee shall test the containment system at an internal pressure at least fifty percent higher than the maximum normal operating pressure, to verify the capability of that system to maintain its structural integrity at that pressure; and

(C) The licensee shall conspicuously and durably mark the packaging with its model number, serial number, gross weight, and a package identification number assigned by the U. S. Nuclear regulatory commission. Before applying the model number, the licensee shall determine that the packaging has been fabricated in accordance with the design approved by the United States nuclear regulatory commission.

- Ohio Administrative Code Annotated 3701:1-50-17 (Anderson 2003), 3701:1-50-17 Routine determinations:

  Before each shipment of licensed material, the licensee shall ensure that the package with its contents satisfies the applicable requirements of this chapter and of the license. The licensee shall comply with the following:

  (A) The package is proper for the contents to be shipped;

  (B) The package is in unimpaired physical condition except for superficial defects such as marks or dents;

  (C) Each closure device of the packaging, including any required gasket, is properly installed and secured and free of defects;

  (D) Any system for containing liquid is adequately sealed and has adequate space or other specified provision for expansion of the liquid;

  (E) Any pressure relief device is operable and set in accordance with written procedures;

  (F) The package has been loaded and closed in accordance with written procedures;

  (G) For fissile material, any moderator or neutron absorber, if required, is present and in proper condition;

(H) Any structural part of the package that could be used to lift or tie down the package during transport is rendered inoperable for that purpose, unless it satisfies the design requirements below:

(1) Any lifting attachment that is a structural part of a package must be designed with a minimum safety factor of three against yielding when used to lift the package in the intended manner, and it must be designed so that failure of any lifting device under excessive load would not impair the ability of the package to meet other package approval requirements in 10 C.F.R. 71, Subpart E. Any other structural part of the package that could be used to lift the package must be capable of being rendered inoperable for lifting the package during transport, or must be designed with strength equivalent to that required for lifting attachments.

(2) Tie-down devices shall comply with the following:

(a) If there is a system of tie-down devices that is a structural part of the package, the system must be capable of withstanding, without generating stress in any material of the package in excess of its yield strength, a static force applied to the center of gravity of the package having a vertical component of two times the weight of the package with its contents, a horizontal component along the direction in which the vehicle travels of ten times the weight of the package with its contents, and a horizontal component in the transverse direction of five times the weight of the package with its contents.

(b) Any other structural part of the package that could be used to tie down the package must be capable of being rendered inoperable for tying down the package during transport, or must be designed with strength equivalent to that required for tie-down devices.

(c) Each tie-down device that is a structural part of a package must be designed so that failure of the device under excessive load would not impair the ability of the package to meet other requirements of this chapter.

(I) The level of non-fixed or removable radioactive contamination on the external surfaces of each package offered for shipment is as low as reasonably achievable;

(1) The level of non-fixed radioactive contamination may not exceed the limits set forth in table 1

(2) The level of non-fixed radioactive contamination shall be determined by either:

(a) Wiping an area of three hundred square centimeters of the surface concerned with an absorbent material, using moderate pressure, and measuring the activity on the wiping material. Sufficient measurements must be taken in the most appropriate locations to yield a representative assessment of the non-fixed contamination levels. The amount of radioactivity measured on any single wiping material, when averaged over the surface wiped, may not exceed the limits set forth in table 1 at any time during transport; or

(b) Using other methods of assessment of equal or greater efficiency, in which case the efficiency of the method used must be taken into account and the non-fixed contamination on the external surfaces of the package may not exceed ten times the limits set forth in paragraph (I)(1) of this rule.

(3) Except as provided in paragraph (I)(5) of this rule, in the case of packages transported as exclusive use shipments by rail or public highway only, the removable or non-fixed radioactive contamination on any package at any time during transport may not exceed ten times the levels prescribed in paragraph (I)(1) of this rule. The levels at the beginning of transport may not exceed the levels prescribed in paragraph (I)(1) of this rule;

(4) Except as provided in paragraph(I)(5) of this rule, each transport vehicle used for transporting radioactive materials as an exclusive use shipment that utilizes the provisions of paragraph (I)(3) of this rule must be surveyed with appropriate radiation detection instruments after each use. A vehicle may not be returned to service until the radiation dose rate at each accessible surface is 0.005 mSv per hour (0.5 mrem per hour) or less, and there is no significant removable or non-fixed radioactive surface contamination as specified in paragraph (I)(1) of this rule.

(5) Paragraphs (I)(3) and (I)(4) of this rule do not apply to any closed transport vehicle used solely for the transportation by highway or rail of radioactive material packages with contamination levels that do not exceed ten times the levels prescribed in paragraph (I)(1) of this rule if:

(a) A survey of the interior surfaces of the empty vehicle shows that the radiation dose rate at any point does not exceed 0.1 mSv per hour (ten mrem per hour) at the surface or 0.02 mSv per hour (two mrem per hour) at one meter (3.3 feet) from the surface;

(b) Each vehicle is stenciled with the words “for radioactive materials use only” in letters at least seventy six millimeters (three inches) high in a conspicuous place on both sides of the exterior of the vehicle; and

(c) Each vehicle is kept closed except for loading or unloading.

(J) External radiation levels around the package, and around the vehicle if applicable, will not exceed the limits specified below at any time during transportation:

(1) Each package of radioactive materials offered for transportation must be designed and prepared for shipment so that under conditions normally incident to transportation the radiation level does not exceed two mSv/h (two hundred mrem/h) at any point on the external surface of the package, and the transport index does not exceed ten;

(2) A package that exceeds the radiation level limits specified in paragraph (J)(1) of this rule must be transported by exclusive use shipment only, and the radiation levels for such shipment must not exceed the following during transportation:

(a) Two mSv/h (two hundred mrem/h) on the external surface of the package, unless the following conditions are met, in which case the limit is ten mSv/h (one thousand mrem/h):

(i) The shipment is made in a closed transport vehicle;

(ii) The package is secured within the vehicle so that its position remains fixed during transportation; and

(iii) There are no loading or unloading operations between the beginning and end of the transportation;

(b) Two mSv/h (two hundred mrem/h) at any point on the outer surface of the vehicle, including the top and underside of the vehicle; or in the case of a flat-bed style vehicle, at any point on the vertical planes projected from the outer edges of the vehicle, on the upper surface of the load or enclosure, if used, and on the lower external surface of the vehicle; and

(c) 0.1 mSv/h (ten mrem/h) at any point two meters (eighty inches) from the outer lateral surfaces of the vehicle (excluding the top and underside of the vehicle); or in the case of a flat-bed style vehicle, at any point two meters (6.6 feet) from the vertical planes projected by the outer edges of the vehicle (excluding the top and underside of the vehicle); and

(d) 0.02 mSv/h (two mrem/h) in any normally occupied space, except that this provision does not apply to private carriers, if exposed

personnel under their control wear radiation dosimetry devices in conformance with rule 3701:1-38-14 of the Administrative Code.

(3) For shipments made under the provisions of paragraph (J)(2) of this rule, the shipper shall provide specific written instructions to the carrier for maintenance of the exclusive use shipment controls. The instructions must be included with the shipping paper information.

(4) The written instructions required for exclusive use shipments must be sufficient so that, when followed, they will cause the carrier to avoid actions that will unnecessarily delay delivery or unnecessarily result in increased radiation levels or radiation exposures to transport workers or members of the general public; and

(K) Accessible package surface temperatures will not exceed, in still air at thirty eight degrees centigrade (one hundred degrees Fahrenheit) and in the shade, at any time during transportation:

(1) Fifty degrees centigrade (one hundred twenty two degrees Fahrenheit) in a nonexclusive use shipment, or

(2) Eighty five degrees centigrade (one hundred eighty five degrees Fahrenheit) in an exclusive use shipment.

(L) A package may not incorporate a feature intended to allow continuous venting during transport.

- Ohio Administrative Code Annotated 3701:1-50-18 (Anderson 2003), 3701:1-50-18 Air transport of plutonium:

  (A) Notwithstanding the provisions of any general licenses and notwithstanding any exemptions stated directly in this chapter or included indirectly by citation of 49 C.F.R. chapter I, as may be applicable, the licensee shall assure that plutonium in any form, whether for import, export, or domestic shipment, is not transported by air or delivered to a carrier for air transport unless:

  (1) The plutonium is contained in a medical device designed for individual human application; or

  (2) The plutonium is contained in a material in which the specific activity is not greater than seventy BQ/G (0.002 5CI/G) of material and in which the radioactivity is essentially uniformly distributed; or

(3) The plutonium is shipped in a single package containing no more than an A2 quantity of plutonium in any isotope or form, and is shipped in accordance with rule 3701:1-50-05 of the Administrative Code; or

(4) The plutonium is shipped in a package specifically authorized for the shipment of plutonium by air in the certificate of compliance for that package issued by the United States nuclear regulatory commission.

(B) The requirements of paragraph (A) of this rule are in addition to the requirements of 10 C.F.R. 73.24.

(C) For a shipment of plutonium by air which is subject to paragraph (A)(4) of this rule, the licensee shall, through special arrangement with the carrier, require compliance with 49 C.F.R. 175.704, United States department of transportation regulations applicable to the air transport of plutonium.

- Ohio Administrative Code Annotated 3701:1-50-19 (Anderson 2003)**,** 3701:1-50-19 Opening instructions:

  Before delivery of a package to a carrier for transport, the licensee shall ensure that any special instructions needed to safely open the package have been sent to, or otherwise made available to, the consignee for the consignee's use in accordance with rule 3701:1-38-18 of the Administrative Code.

Inspections:

- Ohio Administrative Code Annotated 3701:1-50-21 (Anderson 2003), 3701:1-50-21 Inspection and tests:

  (A) The licensee shall permit the director, at all reasonable times, to inspect the licensed material, packaging, premises, and facilities, in which the licensed material or packaging is used, provided, constructed, fabricated, tested, stored, or shipped.

  (B) The licensee shall perform, and permit the director to perform, any tests the department deems necessary or appropriate for the administration of the rules in this chapter.

Reporting:

- Ohio Administrative Code Annotated 3701:1-50-22 (Anderson 2003), 3701:1-50-22 Reports:

  The licensee shall report to the director, within thirty days:

  (A) Any instance in which there is significant reduction in the effectiveness of any approved Type B, or fissile, packaging during use;

  (B) Details of any defects with safety significance in type B, or fissile, packaging after first use, with the means employed to repair the defects and prevent their recurrence; or

  (C) Instances in which the conditions of approval in the certificate of compliance were not observed in making a shipment.

Notice:

- Ohio Administrative Code Annotated 3701:1-50-23 (Anderson 2003), 3701:1-50-23 Advance notification of shipment of nuclear waste:

  (A) As specified in paragraphs (B), (C) and (D) of this rule, each licensee shall provide advance notification of the shipment of licensed material, through, or across the boundary of the state, before the transport, or delivery to a carrier, for transport, of licensed material outside the confines of the licensee's place of use or storage in compliance with section 4163.07 of the Revised Code.

  (B) Advance notification is required under this rule for shipments of licensed material, other than irradiated reactor fuel, meeting the following three conditions:

  (1) The licensed material is required by this part to be in type B packaging for transportation;

  (2) The licensed material is being transported to or across a state boundary in route to a disposal facility or to a collection point for transport to a disposal facility; and

  (3) The quantity of licensed material in a single package exceeds the least of the following:

  (a) Three thousand times the A1 value of the radionuclides as specified in rule 3701:1-50-25 of the Administrative Code for special form radioactive material;

  (b) Three thousand times the A2 value of the radionuclides as specified in rule 3701:1-50-25 of the Administrative Code for normal form radioactive material; or

(c) One thousand TBq (twenty seven thousand Ci).

(C) Each licensee shall submit as follows:

(1) The notification must be made in writing to each appropriate office listed in paragraph (A) of this rule and to the administrator of the appropriate NRC regional office listed in appendix A of 10 C.F.R. 73.

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

(3) A notification delivered by messenger must reach the offices listed in paragraph (A) of this rule at least four days before the beginning of the seven-day period during which departure of the shipment is estimated to occur.

(4) The licensee shall retain a copy of the notification as a record for three years.

(D) Each advance notification of shipment of nuclear waste must contain the following information:

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

(2) A description of the nuclear waste contained in the shipment, as specified in the regulations of DOT in 49 C.F.R. 172.202 and 49 C.F.R. 172.203(D);

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

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

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

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

(E) A licensee who finds that schedule information previously furnished to an office listed in paragraph (A) of this rule will not be met shall telephone the responsible individual and inform that individual of the extent of the delay beyond the schedule originally reported. The licensee shall maintain a record of the name of the individual contacted for three years.

(F) Cancellation notice.

(1) Each licensee who cancels a nuclear waste shipment for which advance notification has been sent shall send a cancellation notice to the offices listed in paragraph (A) of this rule previously notified, and to the administrator of the appropriate NRC regional office listed in appendix A of 10 C.F.R. 73 prior to the day scheduled as the shipment date.

(2) The licensee shall state in the notice that it is a cancellation and identify the advance notification that is being canceled. The licensee shall retain a copy of the notice as a record for three years.

Routing:

- See Federal Register Vol. 54, No. 233, p. 75803, December 4, 2000

- Restricted routes for all Ohio hazardous materials are as follows:

  - City of Cambridge, City of Cleveland, City of Lorain, Interstates 71, 77,90, 480, 490

  Preferred radioactive hazardous material routes are as follows:

  - Preferred routes are interstate system highways, including interstate system bypasses or interstate system beltways as per 49 CFR Part 397

  Also include designated non-radioactive hazardous material routes

Contacts:

- Public Utilities Commission of Ohio, Dan Fisher; 180 E. Broad St.; Columbus, OH 43215; (614) 752-7991

- Federal Motor Carrier Safety Administration - Ohio Field Office; Ohio Motor Carrier State Director, 200 N. High St, Rm. 328; Columbus, OH 43215 (614) 280-54657

Other:

- Ohio Administrative Code Annotated 3701:1-50-14 (Anderson 2003), 3701:1-50-14 Applicability of operating controls and procedures:

  A licensee subject to this chapter, who, under a general or specific license, transports licensed material or delivers licensed material to a carrier for transport, shall comply with the requirements of this rule and rules 3701:1-50-15 to 3701:1-

5023 of the Administrative Code, with the quality assurance requirements of rule 3701:1-50-24 of the Administrative Code, and with the general provisions of rules 3701:1-50-01 to 3701:1-50-05 of the Administrative Code.

- Ohio Administrative Code Annotated 3701:1-50-15 (Anderson 2003), 3701:1-50-15 Assumptions as to unknown properties:

  When the isotopic abundance, mass, concentration, degree of irradiation, degree of moderation, or other pertinent property of fissile material in any package is not known, the licensee shall package the fissile material as if the unknown properties have credible values that will cause the maximum neutron multiplication.

- Ohio Administrative Code Annotated 3701:1-50-20 (Anderson 2003), 3701:1-50-20 Records:

  (A) Each licensee shipping material shall maintain, for a period of three years after shipment, a record of each shipment of licensed material not exempt under rule 3701:1-50-06 of the Administrative Code, showing where applicable:

  (1) Identification of the packaging by model number and serial number;

  (2) Verification that there are no significant defects in the packaging, as shipped;

  (3) Volume and identification of coolant;

  (4) Type and quantity of licensed material in each package, and the total quantity of each shipment;

  (5) For each item of irradiated fissile material:

  (a) Identification by model number and serial number;

  (b) Irradiation and decay history to the extent appropriate to demonstrate that its nuclear and thermal characteristics comply with license conditions; and

  (c) Any abnormal or unusual condition relevant to radiation safety;

  (6) Date of the shipment;
  (7) For fissile packages and for type B packages, any special controls exercised;

  (8) Name and address of the transferee;

(9) Address to which the shipment was made; and

(10) Results of the determinations required by rule 3701:1-50-17 of the Administrative Code and by the conditions of the package approval.

(B) The licensee shall make available to the department for inspection, upon reasonable notice, all records required by this chapter. Records are only valid if stamped, initialed, or signed and dated by authorized personnel or otherwise authenticated.

(C) The licensee shall maintain sufficient written records to furnish evidence of the quality of packaging. The records to be maintained include results of the determinations required by rule 3701:1-50-16 of the Administrative Code; design, fabrication, and assembly records, results of reviews, inspections, tests, and audits; results of monitoring work performance and materials analyses; and results of maintenance, modification and repair activities. Inspection, test, and audit records must identify the inspector or data recorder, the type of observation, the results, the acceptability and the action taken in connection with any deficiencies noted. The records must be retained for three years after the life of the packaging to which they apply.

- Ohio Administrative Code Annotated 3701:1-50-24 (Anderson 2003), 3701:1-50-24 Quality assurance requirements:

  (A) Each licensee shall establish, maintain, and execute a quality assurance program to verify by procedures such as checking, auditing, and inspection that deficiencies, deviations, and defective material and equipment relating to the shipment of packages containing radioactive material are promptly identified and corrected. This quality assurance program shall contain the elements of the quality assurance program in 10 C.F.R. 71.101 to 10 C.F.R. 71.137.

  (B) Before the use of any package for the shipment of licensed material, each licensee shall obtain department approval of its quality assurance program. Each licensee shall file a description of its quality assurance program, including a discussion of which requirements are applicable and how they will be satisfied, with Ohio department of health bureau of radiation protection.

Liability:

- Ohio Revised Code Annotated – Title XLI. Labor and Industry, 4163.99 Penalty:

  Whoever violates division (E) of section 4163.07 of the Revised Code is guilty of a felony of the fourth degree. Each shipment made in violation of that division is a separate offense.

Oklahoma – Existing State Regulatory Requirements

- Oklahoma Statutes Annotated – Title 27A. Environment and Natural Resources, Chapter 2. Oklahoma Environmental Quality Code, Article VIII. Low-Level Radioactive Waste, Part 1. Central Interstate Low-Level Radioactive Waste:

  § 2-8-102. Central Interstate Low-Level Radioactive Waste Compact – Enactment

  The Central Interstate Low-Level Radioactive Waste Compact [FN1] is hereby enacted into law and entered into by the State of Oklahoma with all other states legally joining therein in accordance with its terms, in the form substantially as follows:

  Article I. Policy and Purpose

  The party states recognize that each state is responsible for the management of its nonfederal low-level radioactive wastes. They also recognize that the Congress, by enacting the Low-Level Radioactive Waste Policy Act, 42 U.S.C., Sections 2121b to 2121d, has authorized and encouraged states to enter into compacts for the efficient management of wastes. It is the policy of the party states to cooperate in the protection of the health, safety and welfare of their citizens and the environment and to provide for and encourage the economical management of low-level radioactive wastes. It is the purpose of this compact to provide the framework for such a cooperative effort; to promote the health, safety and welfare of the citizens and the environment of the region; to limit the number of facilities needed to effectively and efficiently manage low-level radioactive wastes and to encourage the reduction of the generation thereof; and to distribute the costs, benefits and obligations among the party states. It is the policy of the party states that activities conducted by the Commission are the formation of public policies and are therefore public business.

  Article II. Definitions

  As used in this compact, unless the context clearly requires a different construction:

  A. “Commission” means the Central Interstate Low-Level Radioactive Waste Compact Commission;

  B. “Decommissioning” means the measure taken at the end of a facility’s operating life to assure the continued protection of the public from any residual radioactivity or other potential hazards present at the facility;

C. “Disposal” means the isolation and final disposition of waste;

D. “Extended care” means the continued observation of a facility after closure for the purpose of detecting a need for maintenance, ensuring environmental safety, and determining compliance with applicable licensure and regulatory requirements and includes undertaking any action or cleanup necessary to protect public health and the environment;

E. “Facility” means any site, location, structure or property used or to be used for the management of waste;

F. “Generator” means any person who, in the course of or as an incident to manufacturing, power generation, processing, medical diagnosis and treatment, biomedical research, other industrial or commercial activity, other research or mining in a party state, produces or processes waste. “Generator” does not include any person who receives waste generated outside the region for subsequent shipment to a regional facility;

G. “Host state” means any party state in which a regional facility is situated or is being developed;

H. “Institutional control” means those activities carried out by the host state to physically control access to the disposal site following transfer of the license to the owner of the disposal site. These activities include, but are not limited to, environmental monitoring, periodic surveillance, minor custodial care, and other necessary activities at the site as determined by the host state and administration of funds to cover the costs of these activities. The period of institutional control will be determined by the host state but may not be less than one hundred (100) years following transfer of the license to the owner of the disposal site;

I. “Low-level radioactive waste” or “waste” means, as defined in the Low-Level Radioactive Waste Policy Act (Public Law 96-573), radioactive waste not classified as: High-level radioactive waste, transuranic waste, spent nuclear fuel, or byproduct material as defined in Section 11 e.2 of the Atomic Energy Act of 1954, U.S.C. Section 2014, as amended through 1978;

J. “Management of waste” means the storage, treatment or disposal of waste;

K. “Notification of each party state” means transmittal of written notice to the Governor, presiding officer of each legislative body and any other persons designated by the party state’s Commission member to receive such notice;

L. “Party state” means any state which is a signatory party to this compact;

M. “Person” means any individual, corporation, business enterprise or other legal entity, either public or private;

N. “Region” means the area of the party states;

O. “Regional facility” means a facility which is located within the region and which has been approved by the Commission for the benefit of the party states;

P. “Site” means any property which is owned or leased by a generator and is contiguous to or divided only by a public or private way from the source of generation;

Q. “State” means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands or any other territorial possession of the United States;

R. “Storage” means the holding of waste for treatment or disposal; and

S. “Treatment” means any method, technique or process, including storage for radioactive decay, designed to change the physical, chemical or biological characteristics or composition of any waste in order to render such waste safer for transport or management, amenable for recovery, convertible to another usable material or reduced in volume.

Article III. Rights and Obligations

A. There shall be provided within the region one or more regional facilities which together provide sufficient capacity to manage all wastes generated within the region. It shall be the duty of regional facilities to accept compatible wastes generated in and from party states, and meeting the requirements of the Central Interstate Low-level Radioactive Waste Compact, and each party state shall have the right to have the wastes generated within its borders managed at such facility.

B. To the extent authorized by federal law and host state law, a host state shall regulate and license any regional facility within its borders and ensure the extended care of such facility.

C. Rates shall be charged to any user of the regional facility, set by the operator of a regional facility and shall be fair and reasonable and be subject to the approval of the host state. Such approval shall be based upon criteria established by the Commission.

D. A host state may establish fees which shall be charged to any user of a regional facility and which shall be in addition to the rates approved pursuant to subsection C of Article III of the compact, for any regional facility within its

borders. Any fees proposed by the host state shall be subject to a one hundred twenty-day prior notice to the Commission with an opportunity to provide comments to the host state. Such fees shall be fair and reasonable, and shall provide the host state with sufficient revenue to cover all anticipated present and future costs associated with any regional facility and a reasonable reserve for future contingencies which are not covered by rates established in subsection C of Article III of the compact including, but not limited to:

1. The licensure, operation, monitoring, inspection, maintenance, decommissioning, closure, institutional control, and extended care of a regional facility;
2. Response, removal, or remedial action or cleanup deemed appropriate and required by the host state as a result of a release of radioactive or hazardous materials from such regional facility;

3. Premiums for property and third party liability insurance;

4. Protection of the public health and safety and the environment;

5. Compensation and incentives to the host community;

6. Any amount due from a judgment or settlement involving a property or third party liability claim for medical expenses and all other damages incurred as a result of personal injury or death and damages or losses to real or personal property or the environment; and

7. The cost of defending or pursuing liability claims against any party or state.

The fees established pursuant to subsection D of Article III of the compact may include incentives for source and volume reduction and may be based on the hazard of the waste. Notwithstanding anything to the contrary in the compact, or in any state constitution, statute, or regulation, to the extent that such fees are insufficient to pay for any costs associated with a regional facility, including all costs under subsection D of Article III of the compact, all party states and any other state or states whose generators use the regional facility, shall share liability for all such costs. However, there shall be no recovery from the states under subsection D of this article until all available funds, payments, or in-kind services have been exhausted including:

a. designated low-level radioactive waste funds managed by the host state,

b. payable proceeds of insurance or surety policies applicable to a regional facility,

c. proceeds of reasonable collection efforts against the regional facility operator or operators, and

d. payments from in-kind services by generators.

In the event any regional facility operator files or has filed against it a bankruptcy proceeding, then for purposes of determining whether or not reasonable collection efforts have been undertaken, the filing of such proceedings, if not dismissed within sixty (60) days of filing, shall be considered exhaustion of reasonable collection efforts with respect to such party. Recovery from the states under subsection D of Article III of the compact upon satisfaction of the exhaustion of available funds, payments, or in-kind services shall not preclude any state from further recovery of its costs from a facility operator, insurer or generator. During the period of time that such reasonable collection efforts or exhaustion of available funds, payments, or in-kind services occur, any applicable statutes of limitation with respect to claims against any other parties or states will be deemed tolled and will not run. All costs or liabilities shared by a state will be shared proportionately by comparing the volume of the waste received at a regional facility from the generators of each state with the total volume of the waste received at a regional facility from all generators.

E. To the extent authorized by federal law, each party state is responsible for enforcing any applicable federal and state laws and regulations pertaining to the packaging and transportation of waste generated within or passing through its borders and shall adopt practices that will ensure that waste shipments originating within its borders and destined for a regional facility will conform to applicable packaging and transportation laws and regulations.

F. Each party state has the right to rely on the good faith performance of each other party state.

G. Unless authorized by the Commission, it shall be unlawful after January 1, 1986, for any person:

1. To deposit at a regional facility, waste not generated within the region;

2. To accept, at a regional facility, waste not generated within the region;

3. To export from the region, waste which is generated within the region; and

4. To transport waste from the site at which it is generated except to a regional facility.

Article IV. The Commission

A. There is hereby established the Central Interstate Low-Level Radioactive Waste Compact Commission. The Commission shall consist of one voting member from each party state, except that each host state shall have two at-large voting members and one nonvoting member from the county in which the facility is located. All members shall be appointed according to the laws of each state. The appointing authority of each party state shall notify the Commission in writing of the identity of its member and any alternates. An alternate may act on behalf of the member only in the absence of such member. Each state is responsible for the expenses of its member of the Commission.

B. Except for the nonvoting member, each Commission member shall be entitled to one vote. Unless otherwise provided herein, no action of the Commission shall be binding unless a majority of the total membership casts its vote in the affirmative.

C. The Commission shall elect from among its membership a chairman. The Commission shall adopt and publish, in convenient form, bylaws and policies which are not inconsistent with this compact.

D. The Commission shall meet at least once a year and shall also meet upon the call of the chairman, by petition of a majority of the membership or upon the call of a host state member. All meetings of the Commission shall be open to the public with reasonable advance publicized notice given, and such meetings shall be subject to those exceptions provided for within the open meetings laws of the host state. The Commission shall adopt bylaws that are consistent in scope and principle with the open meetings laws of the host state, or if there is no host state, the open meetings law of the state in which the Commission headquarters is located.

E. The Commission may initiate any proceedings or appear as an intervenor or party in interest before any court of law, or any federal, state or local agency, board or commission that has jurisdiction over any matter arising under or relating to the terms and provisions of this compact. The Commission shall determine in which proceedings it shall intervene or otherwise appear and may arrange for such expert testimony, reports, evidence or other participation in such proceedings as may be necessary to represent its views.

F. The Commission may establish such committees as it deems necessary for the purpose of advising the Commission on any and all matters pertaining to the management of waste.

G. The Commission may employ and compensate a staff limited only to those persons necessary to carry out its duties and functions. The Commission may also contract with and designate any person to perform necessary functions to assist the Commission. Unless otherwise required by acceptance of a federal grant the staff shall serve at the Commission's pleasure irrespective of the civil service, personnel or other merit laws of any of the party states or the federal government and shall be compensated from funds of the Commission.

H. Funding for the Commission shall be as follows:

1. The Commission shall set and approve its first annual budget as soon as practicable after its initial meeting. Party states shall equally contribute to the Commission budget on an annual basis, an amount not to exceed Twenty-five Thousand Dollars ($25,000.00) until surcharges are available for that purpose. Host states shall begin imposition of the surcharges provided for in this subsection as soon as practicable and shall remit to the Commission funds resulting from collection of such surcharges within sixty (60) days of their receipt; and

2. Each state hosting a regional facility shall annually levy surcharges on all users of such facilities, based on the volume and characteristics of wastes received at such facilities, the total of which:

a. shall be sufficient to cover the annual budget of the Commission, and

b. shall be paid to the Commission, provided, however, that each host state collecting such surcharges may retain a portion of the collection sufficient to cover the administrative costs of collection, and that the remainder be sufficient only to cover the approved annual budget of the Commission.

I. The Commission shall keep accurate accounts of all receipts and disbursements. A licensed public accountant or a certified public accountant shall annually audit all receipts and disbursements of Commission funds and submit an audit report to the Commission. Such audit report shall be made a part of the annual report of the Commission required by Article IV of the compact.

J. The Commission may accept for any of its purposes and functions any and all donations, grants of money, equipment, supplies, materials and services,

conditional or otherwise from any person and may receive, utilize and dispose of same. The nature, amount and conditions, if any, attendant upon any donation or grant accepted pursuant to this subsection, together with the identity of the donor, grantor or lender, shall be detailed in the annual report of the Commission.

K. 1. Except as otherwise provided herein, nothing in this compact shall be construed to alter the incidence of liability of any kind for any act, omission, course of conduct, or on account of any causal or other relationships. Generators, transporters of waste, owners and operators of facilities shall be liable for their acts, omissions, conduct or relationships in accordance with all laws relating thereto; and

2. The Commission herein established is a legal entity separate and distinct from the party states and shall be so liable for its actions. Liabilities of the Commission shall not be deemed liabilities of the party states. Members of the Commission shall not be personally liable for actions taken by them in their official capacity.

L. Any person or party state aggrieved by a final decision of the Commission may obtain judicial review of such decisions in the United States District Court in the district wherein the Commission maintains its headquarters by filing in such court a petition for review within sixty (60) days after the Commission's final decision. Proceedings thereafter shall be in accordance with the rules of procedure applicable in such court.

M. The Commission shall:

1. Receive and approve the application of a nonparty state to become a party state in accordance with Article VII of the compact;

2. Submit an annual report to, and otherwise communicate with, the Governors and the presiding officers of the legislative bodies of the party states regarding the activities of the Commission;

3. Hear and negotiate disputes which may arise between the party states regarding this compact;

4. Require of and obtain from the party states, and nonparty states seeking to become party states, data and information necessary to the implementation of Commission and party states' responsibilities;

5. Approve the development and operation of regional facilities in accordance with Article V of the compact;

6. Notwithstanding any other provision of this compact, have the authority to enter into agreements with any person for the importation of waste into the region and for the right of access to facilities outside the region for waste generated within the region. Such authorization to import or export waste requires the approval of the Commission, including the affirmative vote of any host state which may be affected;

7. Revoke the membership of a party state in accordance with Articles V and VII of the compact;

8. Require all party states and other persons to perform their duties and obligations arising under this compact by an appropriate action in any forum designated in subsection E of Article IV of the compact; and

9. Take such other action as may be necessary to perform its duties and functions as provided in this compact.

N. All files, records, and data of the Commission shall be open to reasonable public inspection, regardless of physical form, subject to those exceptions listed within the public records laws of the host state. The Commission shall adopt bylaws relating to the availability of files, records, and data of the Commission that are consistent in scope and principle with the public records laws of the host state, or if there is no host state, the public records laws of the state in which the Commission headquarters is located.

O. All decisions of the Commission regarding public meetings and public records issues shall be reviewable solely in a United States District Court of a host state, or if there is no host state, then in the state in which the Commission headquarters is located.

Article V. Development and Operation of Regional Facilities

A. Following the collection of sufficient data and information from the states, the Commission shall allow each party state the opportunity to volunteer as a host for a regional facility.

B. If no state volunteers or if no proposal identified by a volunteer state is deemed acceptable by the Commission, based on the criteria in subsection C of Article V of the compact, then the Commission shall publicly seek applicants for the development and operation of regional facilities.

C. The Commission shall review and consider each applicant's proposal based upon the following criteria:

1. The capability of the applicant to obtain a license from the applicable authority;

2. The economic efficiency of each proposed regional facility, including the total estimated disposal and treatment costs per cubic foot of waste;

3. Financial assurances;

4. Accessibility to all party states; and

5. Such other criteria as shall be determined by the Commission to be necessary for the selection of the best proposal, based on the health, safety and welfare of the citizens in the region and the party states.

D. The Commission shall make a preliminary selection of the proposal or proposals considered most likely to meet the criteria enumerated in subsection C of Article V of the compact and the needs of the region.

E. Following notification of each party state of the results of the preliminary selection process, the Commission shall:

1. Authorize any person whose proposal has been selected to pursue licensure of the regional facility or facilities in accordance with the proposal originally submitted to the Commission or as modified with the approval of the Commission; and

2. Require the appropriate state or states or the U.S. Nuclear Regulatory Commission to process all applications for permits and licenses required for the development and operation of any regional facility or facilities within a reasonable period from the time that a completed application is submitted.

F. The preliminary selection or selections made by the Commission pursuant to Article V of the compact shall become final and receive the Commission's approval as a regional facility upon the issuance of a license by the licensing authority. If a proposed regional facility fails to become licensed, the Commission shall make another selection pursuant to the procedures identified in Article V of the compact.

G. The Commission may by a two-thirds affirmative vote of its membership, revoke the membership of any party state which, after notice and hearing shall be found to have arbitrarily or capriciously denied or delayed the issuance of a license or permit to any person authorized by the Commission to apply for such license or permit. Revocation shall be in the same manner as provided for in subsection E of Article VII of the compact.

Article VI. Other Laws and Regulations

A. Nothing in this compact shall be construed to:

1. Abrogate or limit the applicability of any act of Congress or diminish or otherwise impair the jurisdiction of any federal agency expressly conferred thereon by the Congress;

2. Prevent the application of any law which is not otherwise inconsistent with this compact;

3. Prohibit or otherwise restrict the management of waste on the site where it is generated if such is otherwise lawful;

4. Affect any judicial or administrative proceeding pending on the effective date of this compact;

5. Alter the relations between, and the respective internal responsibilities of, the government of a party state and its subdivisions; and

6. Affect the generation or management of waste generated by the federal government or federal research and development activities.

B. No party state shall pass or enforce any law or regulation which is inconsistent with this compact.

C. All laws and regulations or parts thereof of any party state which are inconsistent with this compact are hereby declared null and void for purposes of this compact. Any legal right, obligation, violation or penalty arising under such laws or regulations prior to enactment of this compact shall not be affected.

D. No law or regulation of a party state or of any subdivision or instrumentality thereof may be applied so as to restrict or make more costly or inconvenient access to any regional facility by the generators of another party state than for the generators of the state where the facility is situated.

Article VII. Eligible Parties, Withdrawal, Revocation, Entry into Force, Termination

A. This compact shall have as initially eligible parties the states of Arkansas, Iowa, Kansas, Louisiana, Minnesota, Missouri, Nebraska, North Dakota, Oklahoma and South Dakota.

B. Any state may petition the Commission for eligibility. A petitioning state shall become eligible for membership in the compact upon the unanimous approval of the Commission.

C. An eligible state shall become a member of the compact and shall be bound by it after such state has enacted the compact into law. In no event shall the compact take effect in any state until it has been entered into force as provided for in subsection F of Article VII of the compact.

D. Any party state may withdraw from this compact by enacting a statute repealing the same. Unless permitted earlier by unanimous approval of the Commission, such withdrawal shall take effect five (5) years after the Governor of the withdrawing state has given notice in writing of such withdrawal to each Governor of the party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

E. Any party state which fails to comply with the terms of this compact or fulfill its obligations hereunder may, after notice and hearing, have its privileges suspended or its membership in the compact revoked by the Commission. Revocation shall take effect one (1) year from the date such party state receives written notice from the Commission of its action. The Commission may require such party state to pay to the Commission, for a period not to exceed five (5) years from the date of notice of revocation, an amount determined by the Commission based on the anticipated fees which the generators of such party state would have paid to each regional facility and an amount equal to that which such party state would have contributed in accordance with subsection D of Article III of the compact, in the event of insufficient revenues. The Commission shall use such funds to ensure the continued availability of safe and economical waste management facilities for all remaining party states. Such state shall also pay an amount equal to that which such party state would have contributed to the annual budget of the Commission if such party state would have remained a member of the compact. All legal rights established under this compact of any party state which has its membership revoked shall cease upon the effective date of revocation; however, any legal obligations of such party state arising prior to the effective date of revocation shall not cease until they have been fulfilled. Written notice of revocation of any state's membership in the compact shall be transmitted immediately following the vote of the Commission, by the chairman, to the Governor of the affected party state, all other Governors of the party states and the Congress of the United States.

F. This compact shall become effective after enactment by at least three eligible states and after consent has been given to it by the Congress. The Congress shall have the opportunity to withdraw such consent every five (5) years. Failure of the Congress to withdraw its consent affirmatively shall have the effect of renewing consent for an additional five-year period. The consent given to this compact by the Congress shall extend to any future admittance of new party states under subsections B and C of Article VII of the compact

and to the power to ban the exportation of waste pursuant to Article III of the compact.

G. The withdrawal of a party state from this compact under subsection D of Article VII of the compact or the revocation of a state's membership in this compact under subsection E of Article VII of the compact shall not affect the applicability of this compact to the remaining party states.

H. This compact shall be terminated when all party states have withdrawn pursuant to subsection D of Article VII of the compact.

Article VIII. Penalties

A. Each party state, consistent with its own law, shall prescribe and enforce penalties against any person for violation of any provision of this compact.

B. Each party state acknowledges that the receipt by a regional facility of waste packaged or transported in violation of applicable laws and regulations can result in sanctions which may include suspension or revocation of the violator's right of access to the regional facility.

Article IX. Severability and Construction

The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared by a court of competent jurisdiction to be contrary to the Constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If any provision of this compact shall be held contrary to the Constitution of any state participating therein, the compact shall remain in full force and effect as to the state affected as to all severable matters. The provisions of this compact shall be liberally construed to give effect to the purpose thereof.

Credit(s)

Laws 1983, c. 27, § 2; Laws 1992, c. 380, § 1, eff. July 1, 1992. Renumbered from Title 63, § 1-2102 and amended by Laws 1993, c. 145, § § 126, 359, eff. July 1, 1993.

[FN1] Title 27A, § 2-8-101 et seq.

<General Materials (GM) - References, Annotations, or Tables**>**

Historical and Statutory Notes

1997 Main Volume

The 1992 amendment, in article I, in the second sentence, substituted “, 42 U.S.C., Sections 2121b to 2121d” for “(Public Law 96-573)” and added the fifth sentence; in article II, in subsection A, inserted “Compact”, inserted subsection B, redesignated former subsections B through F as subsections C through G, in subsection D, substituted “continued observation of a facility after closure for the purpose of detecting a need for maintenance, ensuring environmental safety, and determining compliance with applicable licensure and regulatory requirements and includes undertaking any action or cleanup necessary to protect public health and the environment” for “care of a regional facility including necessary corrective measures subsequent to its active use for waste management until such time as the regional facility no longer poses a threat to the environment or public health”, inserted subsection H, redesignated former subsections G through Q as subsections I through S, and in subsection I, substituted “U.S.C. Section 2014, as amended through 1978;” for “as amended through 1978.”; in article III, rewrote subsection D, which prior thereto read:

“A host state may establish fees which shall be charged to any user of a regional facility and which shall be in addition to the rates approved pursuant to subsection C of this article, for any regional facility within its borders. Such fees shall be reasonable and shall provide the host state with sufficient revenue to cover any costs associated with such facilities. If such fees have been reviewed and approved by the Commission and to the extent that such revenue is insufficient, all party states shall share the costs in a manner to be determined by the Commission.”in article IV, in subsection A, in the first sentence, inserted “Compact”, and in the second sentence, substituted “, except that each host state shall have two at-large voting members and one nonvoting member from the county in which the facility is located. All members shall” for “to”, thereby creating the third sentence, in subsection B, in the first sentence, substituted “Except for the nonvoting member, each” for “Each”, in subsection D, added the second and third sentences, in subsection I, in the second sentence, substituted “A licensed public accountant or a” for “An independent”, and added subsections N and O; and in article VII, in subsection E, in the fifth sentence, substituted “would have” for “had”.

The 1993 amendment, in the introductory paragraph, substituted “the State of Oklahoma” for “this state”; in article III, in subsection A, in the second sentence, substituted “the Central Interstate Low-level Radioactive Waste Compact” for “this act”, in subsection D, in the introductory paragraph, in the first and third sentences, substituted “Article III of the compact” for “this article”, and in paragraph 7, in the second paragraph, in the first and second sentences, substituted “Article III of the compact” for “this article”, and in the third paragraph, in the second sentence, substituted “Article III of the

compact” for “this article”; in article IV, in subsection I, in the third sentence, substituted “Article IV of the compact” for “this article”, and in subsection M, in paragraphs 1, 5 and 7, inserted “of the compact”, and in paragraph 8, substituted “Article IV of the compact” for “this article”; in article V, in subsections B and D, substituted “Article V of the compact” for “this article, in subsection F, in the first and second sentences, substituted “Article V of the compact” for “this article”, and in subsection G, in the second sentence, inserted “of the compact”; and in article VII, in subsection A, deleted the second sentence, which read, “Such initial eligibility shall terminate on January 1, 1984.”; in subsection C, in the second sentence, substituted “Article VII of the compact” for “this article”, in subsection E, in the third sentence, inserted “of the compact”, in subsection F, in the fourth sentence, substituted “Article VII of the compact and to the power to ban the exportation of waste pursuant to Article III of the compact” for “this article and to the power to ban the exportation of waste pursuant to Article III”, and in subsection G, twice substituted “Article VII of the compact” for “this article”.

27A Okl. St. Ann. § 2-8-102, OK ST T. 27A § 2-8-102

Oregon – Existing State Regulatory Requirements

Authorities/Duties:

- Oregon Revised Statutes § 466.005. Definitions for Oregon Revised Statutes 453.635 and 466.005 to 466.385. (*portions of text omitted*):

  As used in Oregon Revised Statutes 453.635 and 466.005 to 466.385 and 466.992, unless the context requires otherwise:

  (1) “Commission” means the Environmental Quality Commission.

  (2) “Department” means the Department of Environmental Quality.

  (3) “Director” means the Director of the Department of Environmental Quality.

  (4) “Dispose” or “disposal” means the discharge, deposit, injection, dumping, spilling, leaking or placing of any hazardous waste into or on any land or water so that the hazardous waste or any hazardous constituent thereof may enter the environment or be emitted into the air or discharged into any waters of the state as defined in Oregon Revised Statutes 468B.005.

  (5) “Facility” means all contiguous land, structures, other appurtenances and improvements on the land used for treating, storing or disposing of hazardous waste. “Facility” may consist of one or more treatment, storage or disposal operational units.

  (6) “Generator” means the person, who by virtue of ownership, management or control, is responsible for causing or allowing to be caused the creation of a hazardous waste.

  (7) “Hazardous waste” does not include radioactive material or the radioactively contaminated containers and receptacles used in the transportation**,** storage, use or application of radioactive waste, unless the material, container or receptacle is classified as hazardous waste under paragraph (a), (b) or (c) of this subsection on some basis other than the radioactivity of the material, container or receptacle. Hazardous waste does include all of the following which are not declassified by the commission under Oregon Revised Statutes 466.015 (3):

- Oregon Revised Statutes § 469.603. Intent to regulate transportation of radioactive material:

It is the intention of the Legislative Assembly that the state shall regulate the transportation of radioactive material to the full extent allowable under and consistent with federal laws and regulations.

- Oregon Revised Statutes § 453.825. Department of Transportation plan for regulating transport of hazardous substances and radioactive waste:

  (1) The Department of Transportation shall coordinate development of a single plan and procedure for the regulation of the transportation of hazardous material and waste and radioactive material and waste in Oregon.

  (2) In developing the plan under subsection (1) of this section, the Department of Transportation shall cooperate with the Interagency Hazard Communication Council created under Oregon Revised Statutes 453.510.

  (3) As used in this section, “hazardous waste” has the meaning given that term in Oregon Revised Statutes 466.005.

- Oregon Revised Statutes § 469.607. Authority of council:

  (1) After consultation with the Department of Transportation and other appropriate state, local and federal agencies, the Energy Facility Siting Council by rule:

    (a) May fix requirements for notification, record keeping, reporting, packaging and emergency response;

    (b) May designate those routes by highway, railroad, waterway and air where transportation of radioactive material can be accomplished safely;

    (c) May specify conditions of transportation for certain classes of radioactive material, including but not limited to, specific routes, permitted hours of movement, requirements for communications capabilities between carriers and emergency response agencies, speed limits, police escorts, checkpoints, operator or crew training or other operational requirements to enhance public health and safety; and

    (d) May establish requirements for insurance, bonding or other indemnification on the part of any person transporting radioactive material into or within the State of Oregon under Oregon Revised Statutes 469.603 to 469.619 and 469.992.

  (2) The requirements imposed by subsection (1) of this section must be consistent with federal Department of Transportation and Nuclear Regulatory Commission rules.

(3) Rules adopted under this section shall be adopted in accordance with the provisions of Oregon Revised Statutes chapter 183.

- Oregon Revised Statutes § 469.530. Review and approval of security programs:

  The Energy Facility Siting Council and the Director of the State Department of Energy shall review and approve all security programs attendant to a nuclear-fueled thermal power plant, a nuclear installation and the transportation of radioactive material derived from or destined for a nuclear-fueled thermal power plant or a nuclear installation. The council shall provide reasonable public notice of a meeting of the council held for purposes of such review and approval.

- Oregon Revised Statutes § 824.090. Department to set standards for safe transportation of hazardous wastes; rules; civil penalty:

  (1) The Department of Transportation shall adopt rules setting standards for the safe transportation of hazardous wastes, as defined in Oregon Revised Statutes 466.005, by all transporters.

  (2) The authority granted under this section:

  (a) Is in addition to any other authority granted the department.

  (b) Does not supersede the authority of the Energy Facility Siting Council to regulate the transportation of radioactive materials under Oregon Revised Statutes 469.550, 469.563, 469.603 to 469.619 and 469.992.

  (3) In addition to any other penalty for violation of a rule adopted under this section, the department, in the manner provided in Oregon Revised Statutes 183.745, may impose a civil penalty of not more than $ 10,000 for violation of a rule adopted under this section. Each day of noncompliance with a rule is a separate violation.

  (4) As used in this section, “transporter” has the meaning given that term in Oregon Revised Statutes 466.005.

- Oregon Administrative Rules 345-060-0003 (2004), Applicability and Scope:

  (1) These rules apply to the transportation of radioactive material by means other than railcars in the State of Oregon. The rules contained in Oregon Administrative Rules 345-060-0001 to 345-060-0055 are auxiliary to and supplemental to the rules of Oregon Administrative Rules 740-110-0060 to 740-1100080 for highway transport.

(2) Transport by or under the direction of an agency of the federal government in federal vehicles is exempt. This section does not exempt other shipments:

(a) That are subject to federal physical security requirements;

(b) That originate from or are destined for a federal facility; or

(c) That include material owned by the federal government.

(3) In accordance with Oregon Revised Statutes 469.603 and 469.607, it is the intent of these rules to be consistent with the United States Department of Transportation and Nuclear Regulatory Commission rules.

Stat. Auth.: Oregon Revised Statutes 469.470, 469.605 and 469.607

Reporting:

- Oregon Revised Statutes § 453.835. Report to legislative committee:

  The Department of Transportation shall submit regular reports on progress made toward completion of the plans to a committee designated by the Speaker of the House and the President of the Senate. If no such committee is designated, the reports shall be submitted to the Emergency Board.

- Oregon Revised Statutes § 469.609. Annual report to state agencies and local governments on shipment of radioactive wastes:

  Annually, the Director of the State Department of Energy shall report to interested state agencies and all local government agencies trained under Oregon Revised Statutes 469.611 on shipment of radioactive material made during the preceding year. The director's report shall include:

  (1) The type and quantity of material transported;

  (2) Any mode of transportation used;

  (3) The route or routes taken; and

  (4) Any other information at the discretion of the director.

- Oregon Revised Statutes § 469.617. Report to legislature; content:

  The Director of the State Department of Energy shall prepare and submit to the Governor for transmittal to the Legislative Assembly, on or before the beginning

of each regular legislative session, a comprehensive report on the transportation of radioactive material in Oregon and provide an evaluation of the adequacy of the state's emergency response agencies. The report shall include, but need not be limited to:

(1) A brief description and compilation of any accidents and casualties involving the transportation of radioactive material in Oregon;

(2) An evaluation of the effectiveness of enforcement activities and the degree of compliance with applicable rules;
(3) A summary of outstanding problems confronting the State Department of Energy in administering Oregon Revised Statutes 469.550, 469.563, 469.603 to 469.619 and 469.992; and

(4) Such recommendations for additional legislation as the Energy Facility Siting Council considers necessary and appropriate.

- Oregon Administrative Rules 333-118-0180 (2004). Reports:

The licensee shall report to the Agency within 30 days:

(1) Any instance in which there is significant reduction in the effectiveness of any approved Type B or fissile packaging during use; and

(2) Details of any defects with safety significance in the Type B or fissile packaging after first use, with the means employed to repair the defects and prevent their recurrence; or

(3) Instances in which the conditions of approval in the certificate of compliance were not observed in making a shipment.

Stat. Auth.: Oregon Revised Statutes 453.605 – 453.755

Insurance:

- Oregon Revised Statutes § 469.561. Property insurance required; exceptions; filing of policy:

(1) A person owning and operating a nuclear power plant in this state under a license issued by the United States Nuclear Regulatory Commission or under a site certificate issued under Oregon Revised Statutes 469.300 to 469.563, 469.590 to 469.619, 469.930 and 469.992 shall obtain and maintain property insurance in the maximum insurable amount available for each nuclear incident occurring within this state, as required by this section. The insurance shall cover property damage occurring within a nuclear plant and its related or supporting facilities as a result of the nuclear incident.

(2) Insurance required under this section does not apply to:

(a) Any claim of an employee of a person obtaining insurance under this section, if the claim is made under a state or federal workers' compensation Act and if the employee is employed at the site of and in connection with the nuclear power plant at which the nuclear incident occurred; or

(b) Any claim arising out of an act of war.

(3) A person obtaining insurance under this section shall maintain insurance for the term of the license issued to the nuclear power plant by the United States Nuclear Regulatory Commission and for any extension of the term, and until all radioactive material has been removed from the nuclear power plant and transportation of the radioactive material from the nuclear power plant has ended.

(4) A person obtaining insurance under this section shall file a copy of the insurance policy, any amendment to the policy and any superseding insurance policy with the Director of the State Department of Energy.

(5) Property insurance required under this section is in addition to and not in lieu of insurance coverage provided under the Price-Anderson Act (42 U.S.C. 2210).

(6) Property insurance required by subsections (1) to (5) of this section may include private insurance, self-insurance, utility industry association self-assurance pooling programs, or a combination of all three.

(7) A person may fulfill the requirements for an insurance policy under subsections (1) to (5) of this section by obtaining policies of one or more insurance carriers if the policies together meet the requirements of subsections (1) to (5) of this section.

- Oregon Revised Statutes § 469.615. Indemnity for claims against state insurance coverage certification; reimbursement for costs incurred in nuclear incident:

(1) A person transporting radioactive materials in this state shall indemnify the State of Oregon and its political subdivisions and agents for any claims arising from the release of radioactive material during that transportation and pay for the cost of response to an accident involving the radioactive material.

(2) With respect to radioactive materials, the Director of the State Department of Energy shall ascertain and certify that insurance coverage required under 42 U.S.C. 2210 is in force and effect at the time the permit is issued under Oregon Revised Statutes 469.605.

(3) A person who owns, designs or maintains facilities, structures, vehicles or equipment used for handling, transportation, shipment, storage or disposal of nuclear material shall reimburse the state for all expenses reasonably incurred by the state or a political subdivision of the state, in protecting the public health and safety and the environment from a nuclear incident or the imminent danger of a nuclear incident caused by the person's acts or omissions. These expenses include but need not be limited to, costs incurred for precautionary evacuations, emergency response measures and decontamination or other clean-up measures. As used in this subsection "nuclear incident" has the meaning given that term in 42 U.S.C. 2014(q).

(4) Nothing in subsection (3) of this section shall affect any provision of subsection (1) or (2) of this section.

- Oregon Administrative Rules 345-060-0045 (2004). Financial Assurances:

  (1) If required by the Price-Anderson Act (42 USC Sections 2014 and 2210, in effect as of the date of this rule), the carrier or shipper shall maintain insurance on shipments of spent nuclear reactor fuel.

  (2) Carriers of radioactive materials shall comply with applicable federal and Oregon insurance requirements (see Oregon Administrative Rules, Chapter 740, Division 40, Oregon Department of Transportation rules and Title 49 CFR, Part 387, in effect as of the date of this rule).

  (3) Carriers of radioactive material shall indemnify the State of Oregon and its political subdivisions and agents for any claims arising from the release of radioactive material during transportation and pay for the cost of response to an accident.

  [Publications: The publications referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: Oregon Revised Statutes 469.470 and 469.607

Permit:

- Oregon Revised Statutes § 469.605. Permit to transport required; application; delegation of authority to issue permits:

  (1) No person shall ship or transport radioactive material identified by the Energy Facility Siting Council by rule as posing a significant hazard to public health and safety or the environment if improperly transported into or within the State of Oregon without first obtaining a permit from the State Department of Energy.

(2) Such permit shall be issued for a period not to exceed one year and shall be valid for all shipments within that period of time unless specifically limited by permit conditions.

(3) Application for a permit under this section shall be made in a form and manner prescribed by the Director of the State Department of Energy and may include:

(a) A description of the kind, quantity and radioactivity of the material to be transported;

(b) A description of the route or routes proposed to be taken and the transport schedule;

(c) A description of any mode of transportation; and

(d) Other information required by the director to evaluate the application.

(4) The director shall collect a fee from all applicants for permits under this section in an amount reasonably calculated to provide for the costs to the department of performing the duties of the department under Oregon Revised Statutes 469.550 (3), 469.563, 469.603 to 469.619 and 469.992. Fees collected under this subsection shall be deposited in the State Department of Energy Account established under Oregon Revised Statutes 469.120.

(5) The director shall issue a permit only if the application demonstrates that the proposed transportation will comply with all applicable rules adopted under Oregon Revised Statutes 469.603 to 469.619 and if the proposed route complies with federal law as provided in Oregon Revised Statutes 469.606.

(6) The director may delegate the authority to issue permits for the material to the Department of Transportation. In exercising such authority, the Department of Transportation shall comply with the applicable provisions of Oregon Revised Statutes 469.603 to 469.619 and rules adopted by the director or the Energy Facility Siting Council under Oregon Revised Statutes 469.603 to 469.619. Permits issued by the Department of Transportation under this subsection shall be enforced according to the provisions of Oregon Revised Statutes 825.258. The director also may delegate other authority granted under Oregon Revised Statutes 469.605 to 469.619 to other state agencies if the delegation will maintain or enhance the quality of the transportation safety program.

- Oregon Administrative Rules 345-060-0004 (2004). Permits:

(1) Persons must obtain an “Oregon Radioactive Material Transport” permit from the Oregon Department of Transportation (ODOT) prior to transport in

the State of Oregon of radioactive material that requires a placard on the vehicle according to 49 CFR 172(f) in effect as of the date of this rule.

(2) A carrier shall submit a permit application annually to ODOT, 550 Capitol Street NE, Salem, Oregon 97301. A carrier applying for the first time shall submit the application at least 30 days prior to transporting any materials specified in section (1).

(3) ODOT may issue a permit on an emergency basis by telephone or fax when the carrier cannot comply with the 30 day requirement of section (2) as a result of conditions beyond the carrier's control. A carrier acquiring a permit under this section shall provide the information contained in subsections (4)(a) through (d) and (f) of this rule and the name of its insurance company, policy number, minimum levels of coverage and date of policy expiration or verification of self insurance.

(4) In the permit application, the carrier shall include:

(a) The name and address of the carrier;

(b) The telephone numbers of the carrier that will be answered at any time for emergencies and a statement that the carrier has a 24hour telephone number for all shippers;

(c) A description of the material to be transported, number of shipments and estimated radioactivity per shipment. Precise information is not necessary if unavailable;

(d) A description of the route or routes to be taken and approximate schedule. Precise information is not necessary if unavailable;

(e) A description of any violations by the applicant of any local, state or federal regulations within the past year related to radioactive material transportation**.** The carrier may satisfy this requirement by submitting copies of federal or state motor carrier safety or hazardous material audit and inspection reports that include descriptions of those violations, if any;

(f) ODOT Operating Authority Identification Number, U.S. Department of Transportation Number, and U.S. Environmental Protection Agency Identification Number, when appropriate; and

(g) Proof of insurance including minimum levels of coverage and policy expiration date or verification of self-insurance.

(5) ODOT shall issue a regular permit if the applicant's record of violations of federal and state motor carrier safety and hazardous material requirements

indicate that its practices have not and will not create an undue risk to public health, safety, or the environment.

(6) ODOT shall issue a conditional permit, which requires pre-trip notification to arrange for inspection, to any carrier who has a “conditional” safety fitness rating pursuant to the authority of Title 49 CFR 385.1 in effect as of the date of this rule.

(7) ODOT shall not issue an Oregon Radioactive Material Transport permit if the carrier has an “unsatisfactory” safety fitness rating pursuant to the authority of Title 49 CFR 385.1 in effect as of the date of this rule.

(8) For all shipments requiring an Oregon Radioactive Material Transport Permit, the carrier shall have a copy of the permit in the vehicle during shipment.

(9) Any person who has been denied a permit under this rule may submit to the Office of Energy a written request for a contested case proceeding. In the request, the person shall describe the issues to be contested, state the facts believed to be at issue, and include the person’s mailing address. The Council shall conduct the proceeding under the provisions of Oregon Administrative Rules 345-015-0002 to 345015-0085. After the hearing in the contested case proceeding, the Council, in its final order, shall grant or deny the permit.
(10) Once issued, permits remain valid for one year from the date of issuance unless revoked or suspended under section (11).

(11) ODOT or the Office of Energy may revoke or suspend permits for failure to comply with the conditions named on the permit or violations of the motor carrier safety requirements or hazardous or radioactive materials requirements.

(12) For reinstatement of a permit revoked or suspended under section (11) of this rule, the carrier shall submit a new application and evidence that the carrier has taken remedial actions to prevent recurrence of the violation(s).

(13) Temporary permits are available at Field Registration Offices at Oregon Ports of Entry and the Portland Bridge Motor Carrier Transportation Branch field office.

[Publications: The publications referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: Oregon Revised Statutes 469.470 and 469.607

- Oregon Administrative Rules 740-110-0070 (2004). Oregon Radioactive Materials Transport Permit:

  (1) A person shall obtain an "Oregon Radioactive Materials Transport Permit" from the Oregon Department of Transportation**,** Motor Carrier Transportation Division, prior to transport in the State of Oregon of radioactive material which requires a placard on the vehicle according to Title 49, Code of Federal Regulations, Part 172 Sub Part F.

  (2) An application for a permit shall be submitted annually to the Oregon Department of Transportation, Motor Carrier Transportation Division, 550 Capitol Street NE, Salem, Oregon 97301-2530. Carriers applying for the first time shall submit the application at least 30 days prior to transporting any materials specified in section (1) of this rule.

  (3) An application shall include:

  (a) Name and address of the carrier;

  (b) Telephone numbers of the carrier that will be answered at any time for emergencies and a statement that the carrier has a 24-hour telephone number for contacting all shippers;

  (c) A description of the material to be transported, number of shipments and estimated radioactivity per shipment. Precise information is not necessary if unavailable;

  (d) A description of the route or routes to be taken and approximate schedule. Precise information is not necessary if unavailable;

  (e) A description of any violations by the applicant of any local, state or federal regulations within the past two years related to radioactive materials transportation. Copies of most recent federal and/or state motor carrier safety and/or hazardous materials audit and inspection reports are sufficient to satisfy this requirement;

  (f) Oregon DOT operating authority identification number, U.S. DOT Number, and U.S. EPA Identification Number, when appropriate; and

  (g) Proof of insurance including minimum levels of coverage and policy expiration date, or verification of self insurance.

  (4) A regular permit will be issued if the applicant's record of violations of federal and state motor carrier safety and hazardous materials requirements indicate that its practices have not and will not create an undue risk to public health, safety, or the environment.

(5) Conditional permits will be issued when the carrier's Federal Highway Administration safety rating is "conditional" pursuant to the authority of Title 49, Code of Federal Regulations, Part 385.1. Shipments made under a conditional permit require pre-trip notification to arrange for inspection.

(6) A permit may be issued by telephone when, as a result of conditions not subject to the control of the carrier, compliance within the 30-day requirement of section (2) of this rule is not possible. A carrier acquiring a permit under this section shall provide information contained in subsection (3)(a) through (d), (f) and (g) of this rule.

(7) Copies of the carrier's Oregon Radioactive Materials Transport Permit shall accompany shipments of radioactive material transported by highway.

(8) Any person who has been denied a permit under this rule shall upon request be granted a hearing before the Department. After hearing, the Department shall grant or deny the permit.

(9) Once issued, permits may remain valid for one year from date of issuance.

(10) Permits may be revoked for failure to comply with the conditions named on the permit, and/or violations of the motor carrier safety, hazardous and/or radioactive materials requirements.
(11) Reinstatement of a permit revoked under section (10) of this rule will require submission of a new application and a demonstration that remedial actions have been taken to prevent recurrence of the violation(s).

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: Oregon Revised Statutes 469.470, 823.011, 825.252 and 825.258

Routing:

- Oregon Revised Statutes § 469.606. Determination of best and safest route:

  (1) Upon receipt of an application required under Oregon Revised Statutes 469.605 for which radioactive material is proposed to be transported by highway, the State Department of Energy shall confer with the following persons to determine whether the proposed route is safe, and complies with applicable routing requirements of the United States Department of Transportation and the United States Nuclear Regulatory Commission:

  (a) The Oregon Department of Transportation, or a designee of the Oregon Department of Transportation;

(b) The Energy Facility Siting Council, or a designee of the Energy Facility Siting Council; and

(c) The Oregon Transportation Commission, or a designee of the Oregon Transportation Commission.

(2) If, after consultation with the persons set forth in subsection (1) of this section, a determination is made that the proposed route is not the best and safest route for transporting the material, the Director of the State Department of Energy shall deny the application except as provided in subsection (3) of this section.

(3) If the applicant is prohibited by a statute, rule or other action of an adjacent state or a political subdivision in an adjacent state from using the route that complies with federal law, the director:

(a) Shall petition the United States Department of Transportation for an administrative determination of preemption of the ban, pursuant to section 13 of the Hazardous Materials Transportation Uniform Safety Act of 1990, P.L. 101-615.

(b) May issue a permit as provided under Oregon Revised Statutes 469.605 (5) with conditions necessary to ensure safe transport over a route available to the applicant, until the United States Department of Transportation determines whether the prohibition by the other state or political subdivision is preempted.

- Oregon Administrative Rules 345-060-0040 (2004). Highway Routes:

  In Oregon, the carrier shall route all shipments of spent nuclear reactor fuel in accordance with 10 CFR 73.37 in effect as of the date of this rule and all placarded highway shipments of radioactive materials in accordance with 49 CFR 397.101 and 49 CFR 397.103 in effect as of the date of this rule.

  [Publications: The publications referred to or incorporated by reference in this rule are available from the agency.]

  Stat. Auth.: Oregon Revised Statutes 469.470 and 469.607

  See also Federal Register, Vol. 65, No. 233, p. 75805, Dec 4, 2000

  Restricted routes for Oregon hazardous materials are as follows:

  - NW Balboa Ave, NW Doane Ave., US 26, US 30

Restricted radioactive hazardous material routes are as follows:

- Interstate 84

Restricted routes for non-radioactive hazardous materials are as follows:

- Interstate 84

Designated routes for non-radioactive hazardous materials are as follows:

- Interstates 5, 205, 405, Kittridge Ave.

Contacts:

- Oregon Department of Transportation, Michael Sullivarn, 12349 N. Center Ave., Portland, OR 97217; (503) 283-5790

- Federal Motor Carrier Safety Administration – Oregon Field Office; Oregon Motor Carrier State Director; The Equitable Center –Ste. 100; 530 Center St. NE, Salem, OR 973013740; (503) 399-5775

Emergency Preparedness:

- Oregon Revised Statutes § 469.611. Emergency preparedness and response program; radiation emergency response team; training:

  Notwithstanding Oregon Revised Statutes chapter 401:

  (1) The Director of the State Department of Energy shall coordinate emergency preparedness and response with appropriate agencies of government at the local, state and national levels to ensure that the response to a radioactive material transportation accident is swift and appropriate to minimize damage to any person, property or wildlife. This program shall include the preparation of localized plans setting forth agency responsibilities for on-scene response.

  (2) The director shall:

  (a) Apply for federal funds as available to train, equip and maintain an appropriate response capability at the state and local level; and

  (b) Request all available training and planning materials.

(3) The Department of Human Services shall maintain a trained and equipped radiation emergency response team available at all times for dispatch to any radiological emergency. Before arrival of the department at the scene of a radiological accident, the Director of the State Department of Energy may designate other technical advisors to work with the local response agencies.

(4) The Department of Human Services shall assist the Director of the State Department of Energy to ensure that all emergency services organizations along major transport routes for radioactive materials are offered training and retraining in the proper procedures for identifying and dealing with a radiological accident pending the arrival of persons with technical expertise. The Department of Human Services shall report annually to the Director of the State Department of Energy on training of emergency response personnel.

- Oregon Revised Statutes § 469.535. Governor may assume control of emergency operations during nuclear accident or catastrophe:

  Notwithstanding Oregon Revised Statutes chapter 401, when an emergency exists because of an accident or catastrophe in the operation of a nuclear power plant or nuclear installation or in the transportation of radioactive material, the Governor, for the duration of the emergency, may:

  (1) Assume complete control of all emergency operations in the area affected by the accident or catastrophe, direct all rescue and salvage work and do all things deemed advisable and necessary to alleviate the immediate conditions.
  (2) Assume control of all police and law enforcement activities in such area, including the activities of all local police and peace officers.

  (3) Close all roads and highways in such area to traffic or by order of the Director of the State Department of Energy limit the travel on such roads to such extent as the director deems necessary and expedient.

  (4) Designate persons to coordinate the work of public and private relief agencies operating in such area and exclude from such area any person or agency refusing to cooperate with other agencies engaged in emergency work.

  (5) Require the aid and assistance of any state or other public or quasi-public agencies in the performance of duties and work attendant upon the emergency conditions in such area.

- Oregon Administrative Rules 345-060-0030 (2004). Reporting and Emergency Response:

The carrier of any radioactive material shall immediately notify local emergency response authorities and the Oregon Emergency Response System (within Oregon call 1-800-452-0311, outside Oregon call 1-503378-6377) of any of the following:

(1) Vehicle accidents regardless of whether radioactive material has been damaged or dispersed;

(2) Loss of any radioactive material;

(3) Tampering with or obstruction of any shipments.

Stat. Auth.: Oregon Revised Statutes 469.470 and 469.607

Inspections:

- Oregon Revised Statutes § 469.613. Records; inspection:

  (1) Any person obtaining a permit under Oregon Revised Statutes 469.605 shall establish and maintain any records, make any reports and provide any information as the Energy Facility Siting Council may by rule or order require to assure compliance with the conditions of the permit or other rules affecting the transportation of radioactive materials and submit the reports and make the records and information available at the request of the Director of the State Department of Energy. Any requirement imposed by the council under this subsection shall be consistent with regulations of the United States Department of Transportation and the United States Nuclear Regulatory Commission.

  (2) The director may authorize any employee or agent of the director to enter upon, inspect and examine, at reasonable times and in a reasonable manner for the purpose of administration or enforcement of the provisions of Oregon Revised Statutes 469.550, 469.563, 469.603 to 469.619 and 469.992 or rules adopted thereunder, the records and property of persons within this state who have applied for permits under Oregon Revised Statutes 469.605.

  (3) The director shall provide for:

  (a) The inspection of each highway route controlled shipment prior to or upon entry of the shipment into this state or at the point of origin for the transportation of highway route controlled shipments within the state; and

  (b) Inspection of a representative sample of shipments containing material required to bear a radioactive placard as specified by federal regulations.

- Oregon Administrative Rules 345-060-0007 (2004). Inspections:

  The State of Oregon or its agents may inspect shipments under these rules for compliance with applicable rules and regulations. The State shall inspect all spent nuclear reactor fuel (defined in 10 CFR 73.37 in effect as of the date of this rule) and highway route controlled quantity shipments (defined in 49 CFR 173.403(1) in effect as of the date of this rule). The state may inspect samplings of other shipments. The State may inspect highway shipments made under conditional permits described in Oregon Administrative Rules 345-060-0004(6). The State shall make arrangements for inspection when the carrier gives notice for inspection, as described in Oregon Administrative Rules 345-060-0005.

  [Publications: The publications referred to or incorporated by reference in this rule are available from the agency.]

  Stat. Auth.: Oregon Revised Statutes 469.470, 469.605 and 469.607

Licensing:

- Oregon Administrative Rules 333-118-0030 (2004). Requirement for License:

  No person shall transport radioactive material or deliver radioactive material to a carrier for transport except as authorized in a general or specific license issued by the Agency or as exempted in Oregon Administrative Rules 333-1180040.

  Stat. Auth.: Oregon Revised Statutes 453.605 – 453.755

- Oregon Administrative Rules 333-118-0040 (2004). Exemptions:

  (1) Common and contract carriers, freight forwarders, and warehouse workers that are subject to the requirements of the U.S. Department of Transportation in 49 CFR 170 through 189 or the U.S. Postal Service in the U.S. Postal Service Manual Domestic Mail Manual, (DMM), section C-023.9.0 are exempt from the rules in divisions 102, 105, 113, 115, 116, 117, and 121 of this chapter and the requirements for a license to the extent that they transport or store radioactive material in the regular course of their carriage for others or storage incident thereto. Common and contract carriers who are not subject to the requirements of the U.S. Department of Transportation or U.S. Postal Service are subject to Oregon Administrative Rules 333-118-0030 and other applicable requirements of these rules.

(2) Any licensee is exempt from the requirements of this Division to the extent that the licensee delivers to a carrier for transport a package containing radioactive material having a specific activity not greater than (0.002 microcurie per gram 70 Becquerels per gram (Bq/g). Stat. Auth.: Oregon Revised Statutes 453.605 - Oregon Revised Statutes 453.755

- Oregon Administrative Rules 333-118-0050 (2004) Transportation of Licensed Material:

  (1) Each licensee who transports licensed material outside the site of usage, as specified in the Agency license, or where transport is on public highways, or who delivers licensed material to a carrier for transport shall:

  (a) Comply with the applicable requirements, appropriate to the mode of transport, of the regulations of the U.S. Department of Transportation in 49 CFR 170-189, particularly the regulations of U.S. Department of transportation in the following areas:

  (A) Packaging -- 49 CFR Part 173: Subparts A and B and I.

  (B) Marking and labeling -- 49 CFR Part 172: Subpart D, §§ 172.400 through 172.407, §§ 172.436 through 172.440, and Subpart E.

  (C) Placarding -- 49 CFR Part 172: Subpart F, especially §§ 172.500 through 172.519, 172.556, and Appendices B and C.

  (D) Accident reporting -- 49 CFR Part 171: §§ 171.15 and 171.16.

  (E) Shipping papers and emergency information -- 49 CFR Part 172: Subparts C and G.

  (F) Hazardous material employee training -- 49 CFR Part 172: Subpart H.

  (H) Hazardous material shipper/carrier registration -- 49 CFR Part 107: Subpart G.

  (b) The licensee also shall comply with applicable U.S. Department of Transportation regulations pertaining to the following modes of transportation:

  (A) Rail -- 49 CFR Part 174: Subparts A through D and K.

  (B) Air -- 49 CFR Part 175.

  (C) Vessel -- 49 CFR Part 176: Subparts A through F and M.

(D) Public highway -- 49 CFR Part 177 and Parts 390 through 397.

(c) Assure that any special instructions needed to safely open the package are sent to or have been made available to the consignee.

(2) If, for any reason, the regulations of the U.S. Department of Transportation are not applicable to a shipment of licensed material, the licensee shall conform to the standards and requirements of 49 CFR Parts 170 through 189 appropriate to the mode of transport and to the same extent as if the shipment were subject to the regulations.

Stat. Auth.: Oregon Revised Statutes 453.605 – 453.755

- Oregon Administrative Rules 333-118-0060 (2004). General Licenses for Carriers:

  (1) A general license is hereby issued to any common or contract carrier not exempt under Oregon Administrative Rules 333-118-0040 to receive, possess, transport, and store radioactive material in the regular course of their carriage for others or storage incident thereto, provided the transportation and storage is in accordance with the applicable requirements, appropriate to the mode of transport, of the U.S. Department of Transportation, insofar as such requirements relate to the loading and storage of packages, placarding of the transporting vehicle, and incident reporting.

  NOTE: Notification of an incident shall be filed with, or made to, the Department as prescribed in 49 CFR, regardless of and in addition to the notification made to the U.S. Department of Transportation or other agencies.

  (2) A general license is hereby issued to any private carrier to transport radioactive material, provided the transportation is in accordance with the applicable requirements, appropriate to the mode of transport, of the U.S. Department of Transportation, insofar as such requirements relate to the loading and storage of packages, placarding of the transporting vehicle, and incident reporting.

  (3) Persons who transport radioactive material pursuant to the general licenses in 333-118-0060(1) or 333-118-0060(2) are exempt from the requirements of Divisions 111 and 120 of these rules to the extent that they transport radioactive material. Stat. Auth.: Oregon Revised Statutes 453.605 - Oregon Revised Statutes 453.755

- Oregon Administrative Rules 333-102-0305 (2004). Specific Terms and Conditions of License (*portions of text omitted*):

(13) Each licensee shall transport radioactive material or deliver radioactive material to a carrier for transport in accordance with the provisions of Parts 170 through 189 of Title 49, Code of Federal Regulations and in accordance with division 118 of this Chapter, "Transportation of Radioactive" Material."

Packaging:

- Oregon Administrative Rules 333-118-0010 (2004). Purpose and Scope:

  The rules in this Division establish requirements for packaging, preparation for shipment, and transportation of radioactive material and apply to any person who transports radioactive material or delivers radioactive material to a carrier for transport.

- Oregon Administrative Rules 333-118-0070 (2004). General License: Nuclear Regulatory Commission-Approved Packages:

  (1) A general license is hereby issued to any licensee of the Agency to transport, or to deliver to a carrier for transport, licensed material in a package for which a license, certificate of compliance, or other approval has been issued by the U.S. Nuclear Regulatory Commission.

  (2) This general license applies only to a licensee who:

  (a) Has a copy of the specific license, certificate of compliance, or other approval by the Nuclear Regulatory Commission of the package and has the drawings and other documents referenced in the approval relating to the use and maintenance of the packaging and to the actions to be taken prior to shipment;

  (b) Complies with the terms and conditions of the license, certificate, or other approval by the Nuclear Regulatory Commission, as applicable, and the applicable requirements of division 118;

  (c) Prior to the licensee's first use of the package, has registered with the U.S. Nuclear Regulatory Commission; and

  (d) Has a quality assurance program required by Oregon Administrative Rules 333-118-0200 and approved by the Agency.

  (3) The general license in Oregon Administrative Rules 333-118-0070(1) applies only when the package approval authorizes use of the package under this general license.

(4) For previously approved Type B packages which are not designated as either B(U) or B(M) in the Certificate of Compliance, this general license is subject to additional restrictions in Oregon Administrative Rules 333-118-0080. For a Type B or fissile material package, the design of which was approved by Nuclear Regulatory Commission before April 1, 1996, the general license is subject to additional restrictions of Oregon Administrative Rules 333-118-0080.

Stat. Auth.: Oregon Revised Statutes 453.605 – 453.755

- Oregon Administrative Rules 333-118-0080 (2004). General License: Previously Approved Packages:

  (1) A Type B package previously approved by the U.S. Nuclear Regulatory Commission, but not designated as B(U) or B(M) in the Certificate of Compliance, may be used under the general license of Oregon Administrative Rules 333-118-0070 with the following additional limitations:

  (a) Fabrication of the packaging was satisfactorily completed before August 31, 1986, as demonstrated by application of its model number in accordance with U.S. Nuclear Regulatory Commission regulations at 10 CFR 71.85(c); and

  (b) The package may not be used for a shipment to a location outside the United States except when approved under special arrangement in accordance with 49 CFR 173.471. A package used for a shipment to a location outside the United States is subject to multilateral approval, as defined in U.S. Department of Transportation regulations at 49 CFR 173.403; and

  (c) A serial number that uniquely identifies each packaging which conforms to the approved design is assigned to, and legibly and durably marked on, the outside of each packaging.

  (2) A Type B(U) package, a Type B(M) package, a low specific activity (LSA) material package or a fissile material package, previously approved by the Nuclear Regulatory Commission but without the designation “-85” in the identification number of the Nuclear Regulatory Commission certificate of compliance, may be used under the general license of 333-1180070 with the following additional conditions:

  (a) Fabrication of the package is satisfactorily completed by April 1, 1999, as demonstrated by application of its model number in accordance with Nuclear Regulatory Commission regulations at 10 CFR 71.85(c);

(b) A package used for a shipment to a location outside the United States is subject to multilateral approval except approved under special arrangement in accordance with U.S. Department of Transportation regulations at 49 CFR 173.403; and

(c) A serial number that uniquely identifies each packaging which conforms to the approved design is assigned to, and legibly and durably marked on, the outside of each packaging.

Stat. Auth.: Oregon Revised Statutes 453.605 – 453.755

- Oregon Administrative Rules 333-118-0090 (2004). General License: U.S. Department of Transportation Specification Container:

  (1) A general license is issued to any licensee of the Agency to transport, or to deliver to a carrier for transport, licensed material in a specification container containing a fissile material or a Type B quantity of radioactive material as specified in 49 CFR Parts 173 and 178.

  (2) This general license applies only to a licensee who has a quality assurance program required by Oregon Administrative Rules 333-118-0200 and approved by the Agency.

  (a) Has a copy of the specification;

  (b) Complies with the terms and conditions of the specification and the applicable requirements of division 118; and

  (c) Has a quality assurance program required by Oregon Administrative Rules 333-118-0200.

  (3) The general license. in Oregon Administrative Rules 333-118-0090 is subject to the limitation that the specification container may not be used for a shipment to a location outside the United States except by multilateral approval as defined in 49 CFR 173.403

  Stat. Auth.: Oregon Revised Statutes 453.605 – 453.755

- Oregon Administrative Rules 333-118-0100 (2004). General License: Use of Foreign Approved Package:

  (1) A general license is issued to any licensee of the Agency to transport, or to deliver to a carrier for transport, licensed material in a package the design of which has been approved in a foreign national competent authority certificate which has been revalidated by the U.S. Department of Transportation as meeting the applicable requirements of 49 CFR 171.12.

(2) This general license applies only to international shipments.

(3) This general license applies only to a licensee who:

(a) Has a copy of the applicable certificate, the revalidation, and the drawings and other documents referenced in the certificate relating to the use and maintenance of the packaging and to the actions to be taken prior to shipment;

(b) Complies with the terms and conditions of the certificate and revalidation and with the applicable requirements of this Division.

(c) Has a quality assurance program approved by the Nuclear Regulatory Commission.

Stat. Auth.: Oregon Revised Statutes 453.605 – 453.755

- Oregon Administrative Rules 333-118-0110 (2004). General License: Fissile Material, Limited Quantity per Package:

(1) A general license is hereby issued to any licensee to transport fissile material, or to deliver fissile material to a carrier for transport, if the material is shipped as a Fissile Class II package in accordance with division 333-0118.

(2) This general license applies only when a package contains no more than a Type A quantity of radioactive material, including only one of the following:

(a) Up to 40 grams of uranium-235; or

(b) Up to 30 grams of uranium-233; or

(c) Up to 25 grams of the fissile radionuclides of plutonium, except that for encapsulated plutonium-beryllium neutron sources in special form, an A1 quantity of plutonium may be present; or

(d) A combination of fissile radionuclides in which the sum of the ratios of the amount of each radionuclide to the corresponding maximum amounts in 333-118-0110(2)(a), 333-118-0110(2)(b), and 333-118-0110(2)(c) does not exceed unity.

(3) Except as specified in 333-118-0110(3)(b), this general license applies only when all of the following requirements are met:

(a) A package containing fissile radionuclides is labeled with a transport index not less than the number given by the following equation:

Minimum Transport Index = (0.25x + 0.33y + 0.4z)

where the package contains x grams of uranium-235, y grams of uranium233, and z grams of the fissile radionuclides of plutonium;

(b) For a package in which the only fissile material is encapsulated plutonium-beryllium neutron sources in special form, the transport index based on criticality considerations may be taken as 0.025 times the number of grams of the fissile radionuclides of plutonium.

(c) In all cases, the transport index must be rounded up to one decimal place and shall not exceed 10.0.

(d) Except for the beryllium contained within the special form plutonium-beryllium sources authorized in 333-118-0110(2), beryllium, graphite, or hydrogenous material enriched in deuterium is not present in quantities exceeding 0.1% of the fissile material mass.

(e) The licensee has a quality assurance program approved by the nuclear regulatory commission.

Stat. Auth.: Oregon Revised Statutes 453.605 – 453.755

- Oregon Administrative Rules 333-118-0120 (2004). General License: Fissile Material, Limited Moderator per Package:

(1) A general license is hereby issued to any licensee to transport fissile material, or to deliver fissile material to a carrier for transport, if the material is shipped as a Fissile Class II package in accordance with Division 333-118.

(2) This general license applies only when all of the following requirements are met.

(a) The package contains no more than a Type A quantity of radioactive material.

(b) Neither beryllium nor hydrogenous material enriched in deuterium is present.

(c) The total mass of graphite present does not exceed 7.7 times the total mass of uranium-235 plus plutonium.

(d) Substances having higher hydrogen density than water, for example certain hydrocarbon oils, are not present, except that polyethylene may be used for packing or wrapping.

(e) Uranium-233 is not present, and the amount of plutonium does not exceed one percent of the amount of uranium-235.

(f) The amount of uranium-235 is limited as follows:

(A) If the fissile radionuclides are not uniformly distributed, the maximum amount of uranium-235 per package may not exceed the value given in the following Table 1.

(B) If the fissile radionuclides are distributed uniformly, for example, they cannot form a lattice arrangement within the packaging, and the maximum amount of uranium-235 per package may not exceed the value given in Table 2.

(g) The transport index of each package based on criticality considerations is taken as 10 times the number of grams of uranium-235 in the package divided by the maximum allowable number of grams per package in accordance with Table 1 or 2 of this section as applicable. [Tables not included. See ED. NOTE.]

Stat. Auth.: Oregon Revised Statutes 453.605 – 453.755

- Oregon Administrative Rules 333-118-0130 (2004). Fissile Material: Assumptions as to Unknown Properties of Fissile Material:

  When the isotopic abundance, mass, concentration, degree of irradiation, degree of moderation, or other pertinent property of fissile material in any package is not known, the licensee shall package the fissile material as if the unknown properties had credible values that would cause the maximum neutron multiplication.

  Stat. Auth.: Oregon Revised Statutes 453.605 - Oregon Revised Statutes 453.755

- Oregon Administrative Rules 333-118-0140 (2004). Preliminary Determinations:

  Prior to the first use of any packaging for the shipment of radioactive material:

  (1) The licensee shall show that there are no defects that could significantly reduce the effectiveness of the packaging;

  (2) Where the maximum normal operating pressure will exceed 35 kilopascals (five pounds per square inch (psi)) gauge, the licensee shall test the containment system at an internal pressure at least 50 percent higher than

the maximum normal operating pressure to show that the system will maintain its structural integrity at that pressure;

(3) The licensee shall determine that the packaging has been fabricated in accordance with the design approved by the U.S. Nuclear Regulatory Commission; and

(4) The licensee shall conspicuously and durably mark the packaging with its model number, serial number, gross weight, and a package identification number as assigned by the U.S. Nuclear Regulatory Commission.

Stat. Auth.: Oregon Revised Statutes 453.605 – 453.755

- Oregon Administrative Rules 333-118-0150 (2004). Routine Determinations:

Prior to each shipment of licensed material, the licensee shall determine that:

(1) The package is proper for the contents to be shipped;

(2) The package is in unimpaired physical condition except superficial defects such as marks or dents;

(3) Each closure device of the packaging, including any required gasket, is properly installed and secured and free of defects;

(4) Any system for containing liquid is adequately sealed and has adequate space or other specified provision for expansion of the liquid;

(5) Any pressure relief device is operable and set in accordance with written procedures;

(6) The package has been loaded and closed in accordance with written procedures;

(7) Any structural part of the package which could be used to lift or tie down the package during transport is rendered inoperable for that purpose unless it satisfies design requirements specified in 10 CFR 71.45;

(8) The level of non-fixed (removable) radioactive contamination on the external surfaces of each package offered for shipment is as low as reasonably achievable.

(a) The level of non-fixed (removable) radioactive contamination may be determined by wiping an area of 300 square centimeters of the surface concerned with an absorbent material, using moderate pressure, and measuring the activity on the wiping material. Sufficient measurements must be taken in the most appropriate locations to yield a representative

assessment of the removable contamination levels. Except as provided in Oregon Administrative Rules 333-118-0150(8)(b), the amount of radioactivity measured on any single wiping material, when averaged over the surface wiped, must not exceed the limits given in Table 3 below at any time during transport. Other methods of assessment of equal or greater efficiency may be used. When other methods are used, the detection efficiency of the method used must be taken into account and in no case may the removable contamination on the external surfaces of the package exceed 10 times the limits listed in Table 3.

(b) In the case of packages transported as exclusive use shipments by rail or highway only, the non-fixed (removable) radioactive contamination at any time during transport must not exceed 10 times the levels prescribed in Oregon Administrative Rules 333-118-0150(8)(a). The levels at the beginning of transport must not exceed the levels in Oregon Administrative Rules 333-118-0150(8)(a);

(9) External radiation levels around the package and around the vehicle, if applicable, will not exceed 2 mSv/hr (200 millirem per hour) at any point on the external surface of the package at any time during the transportation. The transport index shall not exceed 10; [Table not included. See ED. NOTE.]

(10) For a package transported in exclusive use by rail, highway, or water, radiation levels external to the package may exceed the limits specified in Oregon Administrative Rules 333-118-0150(10) but shall not exceed any of the following:

(a) 2 milliSieverts per hour (mSv/h) (200 millirem per hour) on the accessible external surface of the package unless the following conditions are met, in which case the limit is 10 milliSieverts per hour (mSv/h) (1000 millirem per hour);

(A) The shipment is made in a closed transport vehicle,

(B) Provisions are made to secure the package so that its position within the vehicle remains fixed during transportation, and

(C) There are no loading or unloading operations between the beginning and end of the transportation.

(b) 2 milliSieverts per hour (mSv/h) (200 millirem per hour) at any point on the outer surface of the vehicle, including the upper and lower surfaces, or, in the case of a flat-bed style vehicle, with a personnel barrier*, at any point on the vertical planes projected from the outer edges of the vehicle, on the upper surface of the load (or enclosure, if used), and on the lower external surface of the vehicle;

*NOTE: A flat-bed style vehicle with a personnel barrier shall have radiation levels determined at vertical planes. If no personnel barrier, the package cannot exceed 2 milliSieverts per hour (mSv/h) (200 millirem per hour) at the surface.

(c) 0.1 milliSieverts per hour (mSv/h) (10 millirems per hour) at any point two (2) meters from the vertical planes represented by the outer lateral surfaces of the vehicle, or, in the case of a flat-bed style vehicle, at any point two (2) meters from the vertical planes projected from the outer edges of the vehicle; and

(d) 0.02 milliSieverts per hour (mSv/h) (2 millirem per hour) in any normally occupied positions of the vehicle, except that this provision does not apply to private motor carriers when persons occupying these positions are provided with special health supervision, personnel radiation exposure monitoring devices, and training in accordance with Oregon Administrative Rules 333-111-0005; and

(11) A package must be prepared for transport so that in still air at 100 degrees Fahrenheit (38 degrees Celsius) and in the shade, no accessible surface of a package would have a temperature exceeding 122 degrees Fahrenheit (50 degrees Celsius) in a nonexclusive use shipment or 185 degrees Fahrenheit (85 degrees Celsius) in an exclusive use shipment. Accessible package surface temperatures shall not exceed these limits at any time during transportation.

(12) A package may not incorporate a feature intended to allow continuous venting during transport.

(13) Before delivery of a package to a carrier for transport, the licensee shall ensure that any special instructions needed to safely open the package have been sent to, or otherwise made available to, the consignee.

NOTE: A flat-bed style vehicle with a personnel barrier shall have radiation levels determined at vertical planes. If no personnel barrier is in place, the package cannot exceed 2 mSv/h (200 millirems per hour) at any accessible surface.

Stat. Auth.: Oregon Revised Statutes 453.605 – 453.755

- Oregon Administrative Rules 333-118-0160 (2004). Air Transport of Plutonium:

Notwithstanding the provisions of any general licenses and notwithstanding any exemptions stated directly in this Division or included indirectly by citation of the U.S. Department of Transportation regulations, as may be applicable, the

licensee shall assure that plutonium in any form is not transported by air, or delivered to a carrier for air transport, unless:

(1) The plutonium is contained in a medical device designed for individual human application; or

(2) The plutonium is contained in a material in which the specific activity is not greater than 70 Bq/g (0.002 microcuries per gram) of material and in which the radioactivity is essentially uniformly distributed; or

(3) The plutonium is shipped in a single package containing no more than an A2 quantity of plutonium in any isotope or form and is shipped in accordance with Oregon Administrative Rules 333-118-0050; or

(4) The plutonium is shipped in a package specifically authorized (in the certificate of compliance issued by the Nuclear Regulatory Commission for that package) for the shipment of plutonium by air. and the licensee requires, through special arrangement with the carrier, compliance with 49 CFR 175.704, the U.S. Department of Transportation regulations applicable to the air transport of plutonium.

Stat. Auth.: Oregon Revised Statutes 453.605 – 453.755

- Oregon Administrative Rules 345-060-0025 (2004). Packaging, Placarding, Labeling and Documentation:

  The shipper shall maintain all packaging, placarding, labeling shipment documentation and all other aspects of transporting any radioactive material in accordance with 10 CFR 71 and 73, and 49 CFR 171 through 179 in effect as of the date of this rule.

  [Publications: The publications referred to or incorporated by reference in this rule are available from the agency.]

  Stat. Auth.: Oregon Revised Statutes 469.470 & Oregon Revised Statutes 469.607

- Oregon Administrative Rules 333-118-0170 (2004). Shipment Records:

  Each licensee shall maintain for a period of 3 years after shipment, or until inspected by the Agency, a record of each shipment of licensed material not exempt under Oregon Administrative Rules 333-118-0040, showing, where applicable:

(1) Identification of the packaging by model and serial number;

(2) Verification that the packaging, as shipped, had no significant defects;

(3) Volume and identification of coolant;

(4) Type and quantity of licensed material in each package, and the total quantity of each shipment;

(5) Date of the shipment;

(6) Name and address of the transferee;

(7) Address to which the shipment was made; and

(8) Results of the determinations required by Oregon Administrative Rules 333-118-0150.

Stat. Auth.: Oregon Revised Statutes 453.605 – 453.755

***Notice*:**

- Oregon Administrative Rules 333-118-0190 (2004). Advance Notification of Transport of Nuclear Waste:

  (1) Prior to the transport of any nuclear waste outside of the confines of the licensee's facility or other place of use or storage, or prior to the delivery of any nuclear waste to a carrier for transport, each licensee shall provide advance notification of such transport to the governor, or governor's designee, of each state within or through which the waste will be transported.

  NOTE: A list of the mailing addresses of the governors and governors' designees is available upon request from the Director, Office of State, Local, and Indian Tribe Programs, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

  (2) Advance notification is required only when:

  (a) The nuclear waste is required to be in Type B packaging for transportation;

  (b) The nuclear waste is being transported into, within, or through, a state en route to a disposal facility or to a collection point for transport to a disposal facility; and

(c) The quantity of licensed material in a single package exceeds any one of the following:

(A) 3000 times the A[1]value of the radionuclides as specified in Appendix A, Table A-1 for special form radioactive material;

(B) 3000 times the A[2]value of the radionuclides as specified in Appendix A, Table A-1 for normal form radioactive material;

(C) 1000 TBq (27,000 Ci)

(3) Each advance notification required by 333-118-0190(1) shall contain the following information:

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

(b) A description of the nuclear waste contained in the shipment as required by 49 CFR 172.202 and 172.203(d);

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

(d) The 7-day period during which arrival of the shipment at state boundaries is estimated to occur;

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

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

(4) The notification required by 333-118-0190(1) shall be made in writing to the office of each appropriate governor, or governor's designee, and to the Agency. A notification delivered by mail must be postmarked at least seven days before the beginning of the 7-day period during which departure of the shipment is estimated to occur. A notification delivered by the messenger must reach the office of the governor, or governor's designee, at least four (4) days before the beginning of the 7-day period during which departure of the shipment is estimated to occur. A copy of the notification shall be retained by the licensee for 3 years or until inspected by the agency.

(5) The licensee shall notify each appropriate governor, or governor's designee, and the Agency of any changes to schedule information provided pursuant to 333-118-0190(1). Such notification shall be by telephone to a responsible individual in the office of the governor, or governor's designee, of

the appropriate state or states. The licensee shall maintain for 3 years a record of the name of the individual contacted.

(6) Each licensee who cancels a nuclear waste shipment, for which advance notification has been sent, shall send a cancellation notice to the governor, or governor's designee, of each appropriate state and to the Agency. A copy of the notice shall be retained by the licensee for 3 years.

Stat. Auth.: Oregon Revised Statutes 453.605 – 453.755

- Oregon Administrative Rules 345-060-0005 (2004). Notification for Inspection:

  (1) The shipper shall submit notification pursuant to Nuclear Regulatory Commission rules found in 10 CFR 71.97 and 10 CFR 73.37(f) in effect as of the date of this rule for irradiated reactor fuel and other materials to: Secretary, Energy Facility Siting Council, 625 Marion St., NE., Suite 1, Salem, Oregon 97301-3742, Telephone: (503) 378-4040.

  (2) The carrier shall submit notice to the Oregon Department of Transportation and make arrangements for inspection for all spent nuclear reactor fuel shipments, Highway Route Controlled Quantity Shipments, and shipments that require notice and inspection under a conditional Oregon Radioactive Material Transport Permit. The carrier shall submit notice for inspection as follows:

  (a) As soon as practicable but no later than 48 hours before time of shipment in Oregon;

  (b) When, as a result of conditions beyond the control of the carrier, the carrier cannot comply with the 48-hour minimum notification, then the carrier shall give notice immediately by telephone or fax, or in any event not later than on the next working day, and shall explain why the carrier could not comply with the 48-hour requirement;

  (c) When an inspection has been scheduled, the carrier shall give additional notice if the shipper or carrier cancels the shipment or if the carrier will arrive at the inspection location early or late by two or more hours;

  (d) The carrier shall make all notice for inspection and schedule changes in writing or by telephone or fax between 8 a.m. and 5 p.m. (Pacific time) to the Oregon Department of Transportation, 550 Capitol Street NE Salem, Oregon 97301, Telephone: (503) 378-5916, (503) 378-4601, fax (503) 378-8815;

(e) In a notice for inspection, the carrier shall include the following information:

(A) The carrier's name, address, telephone number, Oregon Department of Transportation Operating Authority Identification Number and U.S. Department of Transportation Number;

(B) The shipper's and receiver's name, address, and telephone number;

(C) A description of the material that shall include proper shipping name, hazard class, hazardous material identification number, and total quantity by weight or volume, and number of curies;

(D) A description of the route and approximate schedule; and

(E) A description of the transport vehicle(s) and name(s) of driver(s).

[Publications: The publications referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: Oregon Revised Statutes 469.470 and 469.607

- Oregon Administrative Rules 740-110-0090 (2004). Notification of Inspection:

A motor carrier engaged in the transportation of radioactive materials shall provide notification as follows:

(1) Notification pursuant to Nuclear Regulatory Commission rules found in Title 10, Code of Federal Regulations, Part 71.97 and Part 73.37(f) for irradiated reactor fuel and other materials shall be to: Administrator, Energy Resources Division, Oregon Office of Energy, 625 Marion St., NE, Salem, Oregon 97310, Telephone: (503) 378-4040.

(2) Notice and arrangements for inspection shall be made by the carrier for all spent nuclear reactor fuel, Highway Route Controlled Quantity Shipments (defined in Title 49, Code of Federal Regulations, Part 173.403(1)) and when required as a condition to an Oregon Radioactive Materials Transport Permit.

Notice for inspection shall be by the carrier as follows:

(a) As soon as practicable, but no later than 48 hours before time of shipment in Oregon;

(b) When, as a result of conditions not subject to the control of the carrier, it is not possible to comply with the 48-hour minimum notification, then

notice shall be made immediately by telephone, or in any event not later than on the next working day, and shall explain why the carrier could not comply with the 48-hour requirement;

(c) When an inspection has been scheduled, additional notice is required if the shipment is cancelled, or if carrier's arrival at the inspection location will miss the designated inspection time by two or more hours (early or late);

(d) All notices for inspection and schedule changes shall be in writing or by telephone between 0800 and 1700 Pacific Time to: Oregon Department of Transportation, Motor Carrier Transportation Division, 550 Capitol Street NE, Salem, Oregon 97310-2530, Telephone: (503) 378-5916; and

(e) Notice for inspection shall include the following information:

(A) Carrier's name, address, telephone number and Oregon DOT Operating Authority Identification Number;

(B) Shipper's and receiver's names, addresses and telephone numbers;

(C) A description of the material, which shall include proper shipping name, hazard class, hazardous material identification number, and total quantity by weight or volume, and number of curies;

(D) A description of the route and approximate schedule; and

(E) A description of the transport vehicle(s) and name of driver(s).

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: Oregon Revised Statutes 469.470, 823.011, 825.252 and 825.258

***Fees*:**

- Oregon Administrative Rules 345-060-0006 (2004). Fees:

(1) Except as provided in section (2) through (5) of this rule, the carrier shall submit a $ 70 fee to the Oregon Office of Energy, 625 Marion St., N.E., Suite 1, Salem, Oregon 97301-3742 for each placarded shipment. The Oregon Office of Energy invoices motor carriers each three months for shipments recorded at Oregon Ports of Entry in the previous quarter. The Oregon Office of Energy may establish with carriers special invoice procedures for shipments that do not regularly pass through an Oregon Port of Entry.

(2) For placarded shipments of well-logging material, radiographic material, and radiopharmaceuticals, the carrier shall submit an annual fee of $ 500 or $ 70 per shipment, whichever is less.

(3) No additional fee will be charged for shipments for which:

(a) The cargo is transferred from a previous vehicle for which a fee has been assessed; or

(b) The vehicle has a number of stops before unloading the radioactive cargo for which a fee has been assessed.

(4) Radioactive material carriers may petition for an alternative fee schedule. The secretary of the Council may grant such a request based on evaluation of whether:

(a) The carrier demonstrates that the applicable fee schedule severely impacts the cost of the product;

(b) Other payments or services to the Oregon Office of Energy support applicable safety programs of the state of Oregon;

(c) The shipment of the material involves a single radioactive source and frequent movement between sites where the source is used; or

(d) The carrier is a public university or research organization using the material for public benefit.

(5) The carrier shall pay a $ 100 fee for each shipment traveling under a temporary permit described under Oregon Administrative Rules 345-060-0004(12), unless the carrier applies for a permit from the Oregon Department of Transportation within two weeks after the carrier first gives notice of the need for a permit.

Stat. Auth.: Oregon Revised Statutes 469.470 and 469.607

Violations/Penalties:

- Oregon Administrative Rules 345-060-0055 (2004). Enforcement:

(1) The Administrator of the Oregon Office of Energy may issue an order to halt the transport of radioactive material if he or she believes there is a clear and immediate danger to public health or safety. The Administrator may serve the order without prior hearing or notice.

(2) In accordance with Division 29 of this chapter, the Office of Energy may issue a notice of violation and may assess a civil penalty for violations of the rules of this division or applicable provisions of Oregon Revised Statutes Chapter 469.

Stat. Auth.: Oregon Revised Statutes 469.470 and 469.607

***Other*:**

- Oregon Administrative Rules 345-070-0005 (2004). Purpose:

  The purpose of these rules is to protect the confidentiality of information submitted to the Energy Facility Siting Council and the Secretary regarding security programs for nuclear-fueled power plants, nuclear installations, and the transportation of radioactive materials to and from such facilities, and, to the extent possible, maximize information available to the public regarding the nuclear fuel cycle.

  Stat. Auth.: Oregon Revised Statutes 469.470

- Oregon Administrative Rules 740-110-0060 (2004).Radioactive Material: Applicability, References and Terminology:

  (1) These rules apply to the transportation of radioactive material by highway in the State of Oregon. Oregon Administrative Rules 740-110-0060 to 740-110-0080 are auxiliary to and supplemental to Oregon Administrative Rules 345-060-0001 to 345-060-0055.

  (2) Transport by or under the direction of an agency of the federal government in federal vehicles is exempt. This section does not exempt shipments:

  (a) Because federal physical security requirements are applicable;

  (b) Because they originate from or are destined for a federal facility; or

  (c) Because the material is owned by the federal government.

  (3) In accordance with Oregon Revised Statutes 469.603 and 469.607, it is the intent of these rules to be consistent with the United States Department of Transportation and the Nuclear Regulatory Commission rules.

  Stat. Auth.: Oregon Revised Statutes 183, 469, 823, 824 and 825

- Oregon Administrative Rules 345-060-0050 (2004). Weather and Road Conditions:

The carrier shall avoid movement of motor vehicles during a road condition advisory of the Oregon State Highway Division unless vehicles have the required chains or traction tires specified in Oregon Administrative Rules Chapter 734, Division 17.
Stat. Auth.: Oregon Revised Statutes 469.470 and 469.607

- Oregon Administrative Rules 330-030-0005 (2004). Purpose:

  The purpose of these rules is to protect the confidentiality of information submitted to the Energy Facility Siting Council and the Oregon Office of Energy regarding security programs for nuclear-fueled power plants, nuclear installations, and the transportation of radioactive materials to and from such facilities, and, to the extent possible, maximize information available to the public regarding the nuclear fuel cycle.

  Stat. Auth.: Oregon Revised Statutes 469.470

- Oregon Administrative Rules 333-114-0005 (2004). Definitions (*portions of text omitted*):

  For the purposes of Oregon Revised Statutes 469.611 and these rules:

  (1) “Certified Training” means radiological safety training in which performance has been demonstrated through the satisfactory completion of an authorized exam.

  (2) “Authorized Exam” means an exam, either written or oral; or a performance demonstration that has been authorized by the Agency as adequate to demonstrate the competency of a particular skill level. Whenever possible authorized exams will be developed consistent with the programs and policies with the Oregon Department of Energy, Oregon Department of Environmental Quality, State Fire Accreditation Board, and the Board on Police Standards and Training.

  (3) “Skill Level” means:

  (a) “Radiological Monitor (RM)” means person who has demonstrated competency through the satisfactory completion of an authorized (RM) exam and therefore is qualified to be a member of a radiological response team. An RM must be recertified every four years;

  (b) “Regional Radiological Technical Assistant (RRTA)” means a person who has demonstrated competency through the satisfactory completion of an authorized RRTA exam. An RRTA is also qualified to instruct employees of emergency services agencies in the proper response to

transportation accident involving radioactive materials. An RRTA must be recertified every two years;

(c) “Radiological Officer (RO)” means a person who has demonstrated competency through the satisfactory completion of an authorized RO exam and therefore is qualified to advise a community before during and after a nuclear attack and/or incident. A RO must be recertified every three years;

(d) “Radiological Monitor Instructor (RMI)” means a person who has demonstrated competency through the satisfactory completion of an authorized RMI exam and therefore is qualified to be an instructor of “Radiological Monitoring”. An RMI must be recertified every three years.

Stat. Auth.: Oregon Revised Statutes 453.605 - Oregon Revised Statutes 453.755

- Oregon Administrative Rules 333-118-0200 (2004). Quality Assurance Requirements:

  (1) Unless otherwise authorized by the agency, each licensee shall establish, maintain, and execute a quality assurance program to verify by procedures such as checking, auditing, and inspection, that deficiencies, deviations, and defective material and equipment relating to the shipment of packages containing radioactive material are promptly identified and corrected.

  (2) The licensee shall identify the material and components to be covered by the quality assurance program.

  (3) Each licensee shall document the quality assurance program by written procedures or instructions and shall carry out the program in accordance with those procedures throughout the period during which packaging is used.

  (4) Prior to the use of any package for the shipment of radioactive material, each licensee shall obtain approval by the Agency of its quality assurance program.

  (5) The licensee shall maintain sufficient written records to demonstrate compliance with the quality assurance program. Records of quality assurance pertaining to the use of a package for shipment of radioactive material shall be maintained for a period of 3 years after shipment or until inspected by the Agency.

  Stat. Auth.: Oregon Revised Statutes 453.605 – 453.755

- Oregon Administrative Rules 333-118-0800 (2004). Referenced Materials:

(1) This Division of chapter 333 of the Oregon Administrative Rules incorporates by reference material originally published elsewhere. Certified copies of the complete text of incorporated materials referenced are available for public inspection during regular business hours at the Radiation Protection Services Office. Copies of referenced material will be provided at cost upon request. Information regarding how the incorporated material may be obtained or examined is available from Radioactive Materials Program, Radiation Protection Services, 800 NE Oregon Street Suite 260, Portland, Oregon 97232.

(2) Material referenced in this Division does not include amendments to or revised editions of the material published later than the effective date of the relevant section.

Stat. Auth.: Oregon Revised Statutes Ch. 453.605 - 453.807

- Oregon Administrative Rules 333-120-0440 (2004). Exemptions to Labeling Requirements:

A licensee is not required to label:

(1) Containers holding licensed material in quantities less than the quantities listed in 10 CFR, Part 20, Appendix C to20.1001 to 20.2401 ; or

(2) Containers holding licensed material in concentrations less than those specified in 10 CFR, Part 20, Table 3 of Appendix B to 20.1001 to 20.2401 ; or

(3) Containers attended by an individual who takes the precautions necessary to prevent the exposure of individuals in excess of the limits established by this Division; or

(4) Containers when they are in transport and packaged and labeled in accordance with the regulations of the U.S. Department of Transportation (49 CFR); or

[NOTE: Labeling of packages containing radioactive materials is required by the U.S. Department of Transportation (DOT) if the amount and type of radioactive material exceeds the limits for an excepted quantity or article as defined and limited by DOT regulations 49 CFR 173.403(m) and (w) and 173.421 - 173.424.]

(5) Containers that are accessible only to individuals authorized to handle or use them, or to work in the vicinity of the containers, if the contents are identified to these individuals by a readily available written record (examples

of containers of this type are containers in locations such as water-filled canals, storage vaults, or hot cells). The record must be retained as long as the containers are in use for the purpose indicated on the records; or

(6) Installed manufacturing or process equipment, such as reactor components, piping, and tanks.
[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: Oregon Revised Statutes 431.925 –431.955 and 453.605 – 453.755

- Oregon Administrative Rules 345-060-0015 (2004). Vehicles, Operator, Equipment:

  The carrier shall maintain all aspects of vehicles, operators and equipment in accordance with Oregon Administrative Rules Chapter 740, Division 100. These Oregon Department of Transportation rules reference the requirements of 49 CFR 390 through 397 in effect as of the date of this rule. [Publications: The publications referred to or incorporated by reference in this rule are available from the agency.]

  Stat. Auth.: Oregon Revised Statutes 469.470 and 469.607

Pennsylvania – Existing State Regulatory Requirements

- 35 Pennsylvania Consolidated Statutes §§ 7130.303 (2003); *Radioactive Waste Disposal Act*. 25 Pennsylvania Code §§ 230.1 to 230.47 (2004); *Packaging and Transporting Radioactive Material*.

Permits and Fees:

- Each person transporting low-level radioactive waste must maintain records that identify the volume and radioactive content of the waste shipped, the method of transportation, origin, and disposal of the waste (35 Pennsylvania Consolidated Statutes § 7130.303 [2003]).

- A manifest system must be utilized (35 Pennsylvania Consolidated Statutes § 7130.303(3) [2003]).

- Radioactive waste must be transported to approved facilities (35 Pennsylvania Consolidated Statutes § 7130.303(4) [2003]).

- 10 CFR Part 71 (relating to packaging and transportation of radioactive material) are incorporated by reference (25 Pennsylvania Code § 230.3 [2004]).

***Notification*:**

- In the event of an accident or spill, the shipper must notify the designated public agency and take immediate steps to contain the spill (35 Pennsylvania Consolidated Statutes § 7130.303(7) [2003]).

- Prior to the transport of radioactive waste, or prior to delivery, each shipment must provide advance notification to the Governor, or an authorized representative (25 Pennsylvania Code § 230.47 [2004]).

Highway and Rail Routing:

- Pennsylvania has designated routes for transportation of radioactive and non-radioactive hazardous materials. These routes can be found in 65 Federal Register 75771, 75806 - 75807 (Dec. 4, 2000).

  Restricted routes for all Pennsylvania hazardous materials are as follows:

  - Interstate 279 [Fort Pitt Tunnels in Pittsburgh]

  - [(1) Explosives A, (2) Explosives B, (3) Blasting Agents, (4) Flammable Gas, (5) Flammable, (6) Flammable Solids, and (7) Flammable Solid W. prohibited.]

- Interstate 376 [Squirrel Hill Tunnels in Pittsburgh] from Exit 8 to Exit 9.

- [(1) Explosives A, (2) Explosives B, (3) Blasting Agents, (4) Flammable Gas, (5) Flammable, (6) Flammable Solids, and (7) Flammable Solid W. prohibited.]

- Liberty Ave. [in Liberty Tunnels – Allegheny County] from Carston St. to saw Mill Run Blvd.

- [(1) Explosives A, (2) Explosives B, (3) Blasting Agents, (4) Flammable Gas, (5) Flammable, (6) Flammable Solids, and (7) Flammable Solid W. prohibited.]

- State 34 [in Cumberland County] from Segment 0270/Offset 0000 to Segment 0300/Offset 0000.

- State 39 [Dauphin County] from Segment 0030/Offset 0000 to Segment 0210/Offset 0000.

- State 74 [In Cumberland County] from Segment 0170/Offset 0000 to Segment 0210/Offset 0000.

- State 641 [in Cumberland County] from Segment 0440/Offset 3196 to Segment 0470/Offset 0000.

- SR3009 [Dauphin County] from Segment 0210/Offset 0720 to Segment 0221/Offset 1382.

- SR4020 [Lancaster County] from Segment 0010/Offset 0000 to Segment 0130/Offset 0000.

- US 11 [in Cumberland County] from Segment 0360/Offset 2119 to Segment 0510/Offset 0000.

- US 22 [Eastbound – Dauphin County] from Segment 0420/Offset 0000 to Segment 0570/Offset 0000.

- US 22 [Westbound – Dauphin County] from Segment 0421/Offset 0000 to Segment 0571/Offset 0000.

- US 30 [West – Descending Laurel Mountain in Somerset/Westmoreland Counties] [Descending Laurel Mountain into the Village of Laughlintown (to protect Ligonier Municipal Reservoir). The “recommended” alternate route is south on US 219 to I-76 (PA Turnpike), west on I-76 to New Stanton.]

- Interstate 70/I76 [Allegheny Tunnel – Somerset County] from Exit 10 to Exit 11. [Effective July 16, 2000: All Table 1 materials and explosives are still prohibited. Table 2 materials (except explosives) permitted for non-bulk packages (those placards that do not require four-digit codes)].

- Interstate 76 [Blue Mountain Tunnel and Kittatinny Tunnel – Franklin County] from Exit 14 to Exit 15. [Effective July 16, 2000: All Table 1 materials and explosives are still prohibited. Table 2 materials (except explosives) permitted for non-bulk packages (those placards that do not require four-digit codes)].

- Interstate 76 [Tuscarora Tunnel – Franklin/Huntingdon Counties] From Exit 13 to Exit 14. [Effective July 16, 2000: All Table 1 materials and explosives are still prohibited. Table 2 materials (except explosives) permitted for non-bulk packages (those placards that do not require four-digit codes)].

- Interstate 476 [Northeast Extension of PA Turnpike at Lehigh Tunnel] from Exit 33 to Exit 34. [Effective July 16, 2000: All Table 1 materials and explosives are still prohibited. Table 2 materials (except explosives) permitted for non-bulk packages (those placards that do not require four-digit codes)].

- The purpose of this compact is to ensure adequate capacity for disposal of low-level radioactive waste generated within the region.

- Each party state will create and enforce shipping requirement for low-level waste including volume reduction, and packaging and transportation regulations.

- It is unlawful for any person to dispose of low-level waste within the region except at an authorized regional facility.

- Pennsylvania, West Virginia, Delaware and Maryland are eligible to be members of this compact.

- 35 Pennsylvania Consolidated Statutes §§ 7125.1 to 7125.4 (2003); *Appalachian States Low-Level Radioactive Waste Compact*.

Rhode Island – Existing State Regulatory Requirements

Authority/Duties:

- Rhode Island General Laws § 23-19.9-1 (2004). Policy and purpose:

  There is created the Rhode Island-Massachusetts Interstate Low-Level Radioactive Waste Management Compact. The party states recognize that the Congress has declared that each state is responsible for providing for the availability of capacity, either within or outside its borders, for disposal of low-level waste generated within its borders, except for waste which remains a federal responsibility, including waste generated as a result of atomic energy defense activities of the federal government, as defined in the Low-Level Radioactive Waste Policy Act, 42 U.S.C. § 2021b et seq., or federal research and development activities. The party states further recognize that the Congress of the United States has provided for, and encouraged the development of, regional low-level waste compacts to manage low-level waste. The party states recognize that the long-term, safe and efficient management of low-level waste generated within the region requires that sufficient capacity to manage low-level waste is properly provided.

  In order to promote public health and safety in the region, it is the policy of the party states to: enter into a regional low-level waste management compact as a means of facilitating an interstate cooperative effort; promote safe transportation of low-level waste generated in the region; minimize the number of facilities required to effectively and efficiently manage the low-level waste generated in the region; assist in the reduction of both the volume of low-level waste generated in the region and the volume of low-level waste that must be disposed in the region, to the extent consistent with protection of public health, safety, and the environment; distribute the costs, benefits, and obligations of proper low-level waste management equitably among the party states; and promote the environmentally sound and economical management of low-level waste throughout the packaging, transportation, storage, disposal, closure, post-closure observation and maintenance and institutional control periods of waste-related activity

- Rhode Island General Laws § 23-19.9-3 (2004). Rights and obligations of party states (*portions of text omitted*):

  > (d) To the extent not prohibited by federal law, each party state shall require shipments of low-level waste generated within, or passing through, its borders to conform to federal packaging and transportation regulations and applicable host state regulations. Upon notification by a party state or a federal agency that a generator, shipper or carrier is in violation of federal or state management regulations, the party state in which the violation occurred shall

take appropriate actions to ensure that these violations are not repeated. Each party state acknowledges that the shipment to a host state of low-level waste packaged or transported in violation of applicable laws and regulations can result in the imposition of sanctions by the host state. These sanctions may include, but are not limited to, suspension or revocation of the violator's right of access to the regional facility.
(e) Each party state may impose reasonable fees upon generators, shippers or carriers pursuant to the provision of § 23-19.9-10(a).

(g) Each party state shall provide to the Commission and host state any intrastate data and information necessary for the implementation of the Commission's or host state's responsibilities, and shall establish the capability to obtain any intrastate data and information.

- Rhode Island General Laws § 23-19.9-7 (2004). Other laws and regulations (*portions of text omitted*):

  (a) Nothing in this compact shall be construed to abrogate or limit the regulatory responsibility or authority of the U.S. Nuclear Regulatory Commission, the U.S. Department of Transportation, the U.S. Department of Energy, any other federal agency, or any Agreement State under Section 274 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. § 2021.

  (b) Except as otherwise specifically provided in this compact, the laws or portions of those laws of party states shall remain in full force.

  (c) Nothing in this compact shall be construed to preempt, in whole or in part, any provision of the Constitution of any party state.

  (g) The generation, treatment, storage, transportation, or disposal of waste which remains a federal responsibility, including waste generated by the atomic energy defense activities of the federal government, as defined in the Policy Act or federal research and development activities are not affected by this compact.

- Rhode Island General Laws § 23-19.9-9 (2004). Enforcement:

  Primary responsibility for enforcing the provisions of this compact shall rest with the affected state or states. Each party state, consistent with federal and host state regulations and laws, shall adopt and enforce laws imposing penalties on any person, not acting as an official of a party state, for violation of this compact. The Commission, upon a two-thirds (2/3) majority of the eligible votes of its members, may bring action to seek enforcement or appropriate remedies against party states which violate the laws or regulations adopted pursuant to this compact.

***Fees*:**

- Rhode Island General Laws § 23-19.9-10 (2004). Fees, compensation and liability (*portions of text omitted*):

  (a) Each party state may establish reasonable fees which shall be imposed upon generators, shippers, or carriers to recover the cost of inspections and other administrative actions taken under this compact**.**

  (b) A host state may establish reasonable fees and surcharges which shall be imposed upon users of a regional facility. No distinction in fees or surcharges shall be made among persons of the several party states to this compact.

  (1) A host state shall approve and periodically review operational fee schedules to be imposed on all users of the regional facility situated within its borders. One fee schedule shall be established by the operator of the regional facility, under applicable state and federal regulations, and shall be reasonable and sufficient to cover all costs related to the development, operation, closure and post-closure observation and maintenance of the regional facility. The host state shall also establish a schedule for contributions to an institutional control fund. The party states and the Commission shall be afforded a reasonable opportunity to review and comment on all proposed fee schedules.

  (2) A host state may establish an additional administrative surcharge per unit of **waste** received at any regional facility situated within its borders. The surcharge shall be sufficient to cover all reasonable costs associated with administrative oversight and regulation of the facility. A host state may also impose reasonable surcharges for purposes of host community compensation and development incentives. The Commission shall be afforded a reasonable opportunity to review and comment on any proposed host state surcharge.

  (c) The Commission is authorized to expend monies from the operating account established in § 23-19.9-5 for the expenses of any staff and consultants retained pursuant to this compact and for official Commission business. Financial support for the operating account shall be provided as follows:

(1) In accordance with the provisions of § 23-19.9-8(b), each eligible state, upon becoming a party state, shall pay an entry fee to the Commission, which shall be used for administrative costs of the Commission.

(2) The Commission shall impose a "Commission surcharge" per unit of waste received at any regional facility. The size of the surcharge shall be calculated by the Commission in its annual budget preparation process after a public hearing pursuant to subsection (h) of § 23-19.9-5. This surcharge shall be collected for the Commission by the host state.
(3) Until such time as at least one regional facility is in operation and accepting waste for management, or to the extent that revenues under subdivisions (1) and (2) of this subsection are unavailable or insufficient to cover the approved annual budget of the Commission, each party shall pay an apportioned amount of the difference between the funds available and the total budget in accordance with the following formula:

(i) Twenty percent (20%) in equal shares;

(ii) Thirty percent (30%) in the proportion that the population of the party state bears to the total population of all party states, according to the most recent U.S. census;

(iii) Fifty percent (50%) in the proportion that the low-level waste originating in each party state bears to the total waste generated in the region for the most recent calendar year in which reliable data are available, as determined by the Commission.

(d) It shall be the responsibility of each regional facility's operator or custodial agency to take all necessary steps to clean up, stabilize and restore the facility and surrounding areas whenever there has been damage to the facility or surrounding areas which may cause or contribute to a hazard to the public health or the environment. Any person who carries on an abnormally dangerous activity involving the management of low-level waste shall be subject to strict liability for harm to the person, land or property of another resulting from the activity. This strict liability shall be limited to the kind of harm, the possibility of which makes the activity abnormally dangerous.

Insurance and Indemnity

(e) During a regional facility's operational, closure and post-closure periods, the host state shall ensure the availability of funds and procedures for the facility operator to satisfy its responsibilities and liabilities under subsection (d), and for the compensation of injured facility employees. The state may satisfy this obligation by requiring bonds, insurance or compensation funds of the facility operator, or by providing bonds, insurance or compensation funds

itself, or by any other means or combination of means. The funds available to satisfy third party liability claims shall be equal to the maximum amount available from the nuclear insurance pools or other commercial insurers.

(f) During a regional facility's institutional control period, the custodial agency shall administer the institutional control funds collected pursuant to subdivision (1) of subsection (b), for surveillance and all required maintenance of the regional facility, including any clean-up, stabilization or restoration required by subsection (d). The custodial agency shall ensure that funds equal to the maximum amount available from the nuclear insurance pools or other commercial insurers are available to satisfy third party liability claims.

(g) If all other sources of funds, including federal assistance, have been exhausted, all party states shall be responsible for the reasonable costs of clean-up, stabilization and restoration of a regional facility in the proportion that the low-level waste disposed of at the facility which originated in each party state bears to the total low-level waste disposed of at the facility.

(h) The Commission shall provide a means of compensation for third party injuries to persons, land or property, which shall be available only if no other funds, insurance, tort compensation or other means of satisfying a damage judgment or settlement resulting from the management of low-level waste are available from the host state or other entities.

(1) This responsibility shall be met by a special fund, insurance, or other means. The same fund for compensation shall provide liability coverage for all subsequent and concurrent regional facilities. The Commission is authorized to take any measures that may be necessary to implement this section, including the use of a portion of the fees collected pursuant to subdivision (2) of subsection (c) to establish an independent insurance entity. Subject to host state approval, an independent insurance entity shall be exempt from state insurance regulations.

(2) The existence of a special fund or other means of compensation shall not imply any liability by the Commission, by the party states, or by any of their officials and staff. Claims or suits for compensation shall be directed against the fund, the insurance entity or other responsible entity.

(3) The liability of the special fund, insurance entity, or other entity shall be limited to the amount contained therein at the time a final judgment or settlement awarding damages is executed.

Routing:

- See Federal Register, Vol. 65, No. 233, p. 75807, December 4, 2000

- Restricted routes for all Rhode Island hazardous materials are as follows:

  - Aquidneck Ave, Bliss Mine Rd, Burchard Rd., Central Pike, Danielson Pike, Miantonami Ave., Neck Rd, N. Main Rd., Old Plainfield Pike, Peckham Rd., Reservoir Rd., Rocky Hill Rd., Route 101, Route 102, Route 116, Route 12, Route 120, Route 14, Route 295, Route 6, Route 77, Route 94, School House Rd., Serprentine Rd., Valley Rd. and Wave Ave

- Contacts:

  - Department of Environmental Management, Beverly Migliore, Division of Waste Management, 291 Promenade St., Providence RI 02908, (401) 222-2797

  - Federal Motor Carrier Safety Administration – Rhode Island Field Office, Rhode Island Motor Carrier State Director, 380 Westminster Mall, Rm. 547, Providence, RI 02903

Other:

- Rhode Island General Laws § 23-19.9-11 (2004). Severability and construction:

  (a) The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared by a court of competent jurisdiction to be contrary to the Constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any other government, agency, person or circumstance shall not be affected thereby. If any provision of this compact shall be held contrary to the Constitution of any state participating therein, the compact shall remain in full force and effect as to the state affected as well as to all severable matters. The provisions of this compact shall be liberally construed to give effect to the purposes thereof.

  (b) Nothing in this compact shall be construed to authorize the Commission or any party state to waive the provisions of the compact or the requirements adopted pursuant to it.

***Safety*:**

- General Laws of Rhode Island Annotated, 1956 – Title 23. Health and Safety, Chapter 19.1. Hazardous Waste Management 23-19.1-12. Inspections – Penalty for hindering entry:

(a) For the purposes of enforcing this chapter or any rule or regulation issued pursuant to this chapter, the director may:

(1) Enter any hazardous waste management facility or any place that the director has reason to believe hazardous wastes are generated, stored, treated, or disposed of;

(2) Inspect vehicles which the director has reasonable ground to believe are being used for the transportation of hazardous wastes;

(3) Inspect and obtain samples of any waste or other substance, labels, containers of waste or other substance, or samples from any vehicle in which hazardous wastes are transported or in which the director has reason to believe hazardous wastes are transported; and

(4) Inspect and copy General Laws of Rhode Island Annotated, 1956 Title 23. Health and Safety Chapter 19.1. Hazardous Waste Management 23-19.1-12. Inspections – Penalty for hindering entry.

(a) For the purposes of enforcing this chapter or any rule or regulation issued pursuant to this chapter, the director may:

(1) Enter any hazardous waste management facility or any place that the director has reason to believe hazardous wastes are generated, stored, treated, or disposed of;

(2) Inspect vehicles which the director has reasonable ground to believe are being used for the transportation of hazardous wastes;

(3) Inspect and obtain samples of any waste or other substance, labels, containers of waste or other substance, or samples from any vehicle in which hazardous wastes are transported or in which the director has reason to believe hazardous wastes are transported; and

(4) Inspect and copy records, reports, information, or test results kept or maintained at a hazardous waste management facility.

(b) Any person obstructing or hindering, or in any way causing to be obstructed or hindered, the director from the performance of his or her duties, or who shall refuse to permit the director entrance to any premises, building, vehicle, plant, or equipment, in the performance of the director's duties, shall be guilty of a misdemeanor and fined not more than five hundred dollars ($500).

History of records, reports, information, or test results kept or maintained at a hazardous waste management facility.

South Carolina – Existing State Regulatory Requirements

- South Carolina Code Annotated §§ 13-7-110 to 13-7-200 (2003); *South Carolina Radioactive Waste Transportation and Disposal Act*.

- South Carolina Code of Regulations §§ 61-83 (2003); *Transportation of Radioactive Waste into or within South Carolina*.

Permits and Fees:

- Code of Laws of South Carolina 1976 Annotated – Title 44. Health, Chapter 56. South Carolina Hazardous Waste Management Act, Article 1.General Provisions, § 44-56-60. Annual evaluation; permit requirements; disposal limits; preference for in-state generated waste:

  (a) (1) In order to provide the General Assembly with the information it needs to accomplish the above goals, the Department of Health and Environmental Control shall evaluate annually the effects of new and existing waste management technologies, alternate methods of storage or disposal, recycling, incineration, waste minimization laws and practices, and other factors that tend to reduce the volume of hazardous waste. The results of the department's evaluation must be reported to the General Assembly not later than February first of each year, beginning in 1991, in a form that will permit the General Assembly to determine whether or not hazardous waste landfill capacity in this State should be reduced.

  (2) No person may construct, substantially alter, or operate a hazardous waste treatment, storage, or disposal facility or site, nor may a person transport, store, treat, or dispose of hazardous waste without first obtaining a permit from the department for the facility, site, or activity. Beginning July 1, 1990, permitted hazardous waste disposal sites are restricted to a rate of land disposal by burial not to exceed one hundred twenty thousand tons of hazardous waste for the twelve-month period ending July 1, 1991. On July 1, 1991, permitted hazardous waste disposal sites are restricted to a rate of land disposal by burial not to exceed one hundred ten thousand tons of hazardous waste for each twelve-month period thereafter within the permitted area of the site.

  (3) During a twelve-month period, the commissioner may allow land disposal by burial in excess of the limitation upon certification of the department that:

  (A) disposal by land burial from a particular site in South Carolina is necessary to protect the health and safety of the people of this State; or

(B) at least one hundred ten thousand tons of hazardous waste disposed of by land burial in this State during the twelve-month period was generated in South Carolina.

During each twelve-month period, a person operating a hazardous waste disposal facility or site shall reserve at least the same capacity to dispose of hazardous waste generated in South Carolina that was disposed of by burial at that facility or site during the previous year excluding capacity that was used to dispose of hazardous waste pursuant to subitem (A). No more hazardous waste from out of state shall be buried in South Carolina than was buried in the previous twelve-month period.

Certification must be issued to the party seeking to use land disposal of the waste, and the certification must be presented to the operator of the facility at the time of disposal. The facility shall submit this certification with its regular report to the department of permitted activity at the disposal site.

(b) Any person who:

(1) Owns or operates a facility required to have a permit under this section which facility is in existence on the effective date of this section;

(2) Has complied with the requirements of § 44-56-120; and

(3) Has made an application for a permit under this section is deemed to have been issued the permit until such time as final administrative disposition of each application is made by the department, unless final administrative disposition of each application has not been made because of the failure of the applicant to furnish information reasonably required or requested in order to process the application.

(c) Before issuance of a permit, the Department shall require:

(1) Evidence of liability coverage for sudden and nonsudden accidental occurrences in an amount the Department may determine necessary for the protection of the public health and safety, and the environment;

(2) Evidence of financial assurance in the form and amount as the Department may determine to be necessary to ensure that, upon abandonment, cessation, or interruption of the operation of a facility or site, all appropriate measures are taken to prevent present and future damage to the public health and safety and to the environment. The Department shall assume continuing responsibility for environmental

monitoring and for any response actions necessary to ensure the health and safety of the state's citizens for any hazardous waste disposal or treatment sites permitted under this chapter when the facilities, sites, or activities close and all responsibilities required of any other party by any state or federal law or regulation cease. The Department's responsibility for monitoring and response action is neither a limitation nor a termination of the liability of generators, transporters, or the operators of the facility under any provision of law or at common law.

(3) Evidence of other financial assurance in such forms and amounts as the department determines to be necessary to ensure the adequate availability of funds for clean-up costs and restoration of environmental impairment arising from the facility.

- Prior to any shipment of radioactive wastes, the shipper must deposit cash or a corporate surety or evidence of liability insurance with the Department in an amount appropriate to protect the public from possible radiological damage due to packaging, transporting, disposing, storing or delivering of radioactive wastes (South Carolina Code Annotated § 13-7-140 [2003]).

- The shipper must purchase an annual permit and the amount of surety bond or cash must be $500,000 (South Carolina Code of Regulations 61-83[(2003]).

- Annual permit fees are determined by classification of the radioactive waste (South Carolina Code of Regulations 61-83 [2003]).

- The shipper must also agree to hold South Carolina harmless for all claims arising out of injury during transportation of radioactive waste (South Carolina Code Annotated § 13-7-140 [2003]).

- Any person shipping radioactive material must apply for a permit from the Department and supply all information that the Department deems necessary (South Carolina Code Annotated § 13-7-140 [2003]).

- Permits are non-transferable (South Carolina Code Annotated § 13-7-140 [2003]).

- Any person transporting radioactive materials who is not a citizen of the state, or registered with the state, shall be subject to service for the purpose of enforcing this article (South Carolina Code Annotated § 13-7-145 [2003]).

- The Department shall issue interim regulations as needed for the implementation of this article immediately upon the effective date of this article (South Carolina Code Annotated § 13-7-160 [2003]).

- Proposed Bill: Administers the state's commercial driver license program; revises the definition of the term conviction; relates the issuance of a commercial driver's license; revises the requirements to obtain a hazardous material endorsement; provides that a vehicle may not be driven or towed through or over any railroad grade crossing until the driver has determined that the vehicle has sufficient undercarriage clearance (2003 Bill Tracking SC S.B. 1012).

***Notification*:**

- The shipment must be properly placarded and comply with all requirement of the federal government and the State of South Carolina regarding safety and operational regulations (South Carolina Code Annotated § 13-7-150 [2003]).

- Written notice regarding transportation of radioactive materials must be given to the Department not less than 72 hours nor more than 30 days (South Carolina Code of Regulations 61-83 [2003]).

- The shipper must also notify the Department of any change in date of arrival, carrier, route, waste description, curie content, volume, or waste classification (South Carolina Code of Regulations 61-83 [2003]).

Highway and Rail Routing:

- South Carolina has not designated a route for transportation of hazardous materials.

- After departure with a shipment of radioactive waste, a carrier shall immediately notify the Department of any change in the shipper's primary route and estimated date of arrival (South Carolina Code Annotated § 13-7-150 [2003]).

***Liability*:**

- Violations for any part of this act will subject the violator to a civil penalty of up to $1000 for each violation. If the department determines that a series or serious violation has occurred, in addition to the civil penalty, may revoke the shipper's permit (South Carolina Code Annotated § 13-7-180 [2003]).

***Notification*:**

- Code of Laws of South Carolina 1976 – Title 44. Health, Chapter 56. South Carolina Hazardous Waste Management Act, Article 1. General Provisions, § 44-56-120. Notification of department of identification and activity relating to hazardous wastes:

  Not later than ninety days after final promulgation or revision of regulations under § 44-56-30 identifying by its characteristics or listing any substance as hazardous

waste subject to this chapter, any person generating or transporting such substance or owning or operating a facility for treatment, storage, or disposal of such substance shall file with the department a notification stating the location and general description of such activity and the identified or listed hazardous waste handled by such person. Not more than one such notification shall be required to be filed with respect to the same substance. No identified or listed hazardous waste subject to this chapter may be transported, treated, stored, or disposed of unless notification has been given as required under this section.

***Inspection*:**

Code of Laws of South Carolina 1976 Annotated Currentness – Title 44. Health, Chapter 56. South Carolina Hazardous Waste Management Act, Article 1. General Provisions, § 44-56-90. Inspections; obtaining samples:

(a) For the purpose of enforcing this chapter and §§ 44-56-160 through 44-56-190, or any regulations authorized pursuant thereto, any authorized representative or employee of the department may, upon presentation of appropriate credentials, at any reasonable time:

1. Enter any place where hazardous wastes are generated, stored, treated, or disposed of;

2. Inspect and copy any records, reports, information, or test results relating to the purpose of this chapter and §§ 44-56-160 through 44-56-190; and

3. Inspect and obtain samples from any person of any wastes including samples from any vehicles in which wastes are being transported, as well as samples of any containers or labels. The Department shall provide a sample of equal volume or weight to the owner, operator or agent in charge upon request. The Department shall also provide the owner, operator, or agent in charge a copy of the results of any analyses of such samples.

(b) For the purpose of implementing necessary governmental response actions as provided in § 44-56-180, the Department or its authorized representative may, at any time, enter the premises of any publicly or privately owned property which it has determined to be an uncontrolled hazardous waste site. The owner or operator of such site shall cooperate fully with the department when such governmental response actions are taken.

***Safety*:**

- Code of Laws of South Carolina 1976 – Title 44. Health, Chapter 56. South Carolina Hazardous Waste Management Act, Article 1. General Provisions, § 44-56-70. Utilization of approved manifest systems:

  All generators, transporters, and operators of hazardous waste storage, treatment, and disposal facilities shall utilize a manifest system as prescribed by the department to insure that all such hazardous waste generated is designated for storage, treatment, or disposal in storage, treatment, or disposal facilities, other than facilities on the premises where the waste is generated, which have been properly permitted for such purposes.

Tennessee – Existing State Regulatory Requirements:

- Tennessee Code Annotated §§ 65-15-126 (2003); *Transporting Nuclear Fuel*.

- Compilation – Rules and Regulations of the State of Tennessee (Tennessee Comp. R. & Regs.) §§ 1200-2-10-.30 (2004); *Packaging and Transportin*g *Radioactive Material*.

- Tennessee Comp. R. & Regs. R. 1200-2-10-.32 (2004); *Licensing of Shippers o*f *Radioactive Materials Into or Within Tennessee*.

Permits and Fees:

- A fee shall of $1000 per cask for truck shipments and $2000 per cask for rail shipments will be assessed for all nuclear spent fuel shipments. Tennessee Code Annotated § 65-15-126(c)(1) (2003).

- Any person shipping nuclear spent fuel through the state must submit a surety bond in an amount satisfactory to the Department. Tennessee Code Annotated § 65-15-126(c)(2) (2003).

- Shippers must obtain a license for transporting radioactive materials from the Division. Shippers must also deposit with the Division an acceptable form of financial assurance in the amount of $ 500,000.00; or, provide to the Division satisfactory evidence of liability insurance. Liability insurance means coverage $ 500,000.00 per occurrence and $1,000,000.00. Tenn. Comp. R. & Regs. R. 1200-2-10-.32 (2004)

- Proposed Bill: Concerns Hazardous Materials; requires entities that transport hazardous waste or materials to initiate a criminal background check on any person who is employed by the entity in a position which involves transporting such hazardous waste or materials. 2003 Bill Tracking TN H.B. 2631.

- Proposed Bill: Concerns Hazardous Materials; requires entities that transport hazardous waste or materials to initiate a criminal background check on any person who is employed by the entity in a position which involves transporting such hazardous waste or materials. 2003 Bill Tracking TN S.B. 2588.

***Notification*:**

- Notification of shipment must be given to the governor and to the Director of the Division of Radiological Health at least four days prior to the beginning of the seven-day period during which departure of the shipment is estimated to occur (Tenn. Comp. R. & Regs. R. 1200-2-10-.30 [2004]).

- Notion must also be given if there are any changes in the time, place, route, or type of waste being transported (Tenn. Comp. R. & Regs. R. 1200-2-10-.30 [2004])

Emergency Preparedness and Response:

- Any person shipping nuclear spent fuel through the state must provide for an escort (Tennessee Code Annotated § 65-15-126(d) [2003]).

Highway and Rail Routing:

- Tennessee has designated routes for transportation of radioactive and non-radioactive hazardous materials. This route can be found in 65 Federal Register 75771, 75808 – 75809 (Dec. 4, 2000).

- Restricted routes for all Tennessee hazardous materials are as follows:

  - Interstate 40 [through city of Knoxville] from Exit 385 [intersection with I-75/I-640 west of Knoxville] to Exit 393 [Intersection with I-640 east of Knoxville]. [Prohibition does not apply to hazmat shipments originating at or destined to the City of Knoxville and to service points of US 129 in Blount County as verified by appropriate shipping papers, or shipments to be interlined with other carriers or to be transferred to other vehicles of the same carrier at facilities in these areas, or to vehicles which need emergency repair or warranty work performed at authorized dealers in these areas.]
  - Radioactive Hazmat Routes:

  - Interstate 640/I-75 from Interstate 40 [exit 385 West of Knoxville] to Interstate 40 [exit 393 East of Knoxville] [In lieu of I-40 in the Knoxville area. Preferred route originate date is 8/3/88]
  - Non-Radioactive Hazmat Routes:

  - Interstate 640/I-75 from Interstate 40 [exit 385 West of Knoxville] to Interstate 40 [exit 393 East of Knoxville] [In lieu of I-40 in the Knoxville area. Preferred route originate date is 8/3/88]

- Tennessee Code Annotated §§ 68-202-701 to 68-202-709 (2003); *Southeast Interstate Low-Level Radioactive Waste Compact*.

  - The purpose of this compact is to ensure appropriate capacity for the disposal of low-level radioactive waste generated within the region. The party states recognize that radioactive materials are handled more economically on a regional basis.

  - Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee and Virginia are eligible to become members of this compact.

- Any person in violation of any provision of this compact is subject to a civil penalty of not less than one hundred dollars ($ 100) and not more than five thousand dollars ($ 5,000) per day for each violation. Each day the violation continues constitutes a separate offense.

***Liability*:**

- Tennessee Code Annotated – Title 68. Health, Safety and Environmental Protection, Environmental Protection § 68-212-114. Violations; crimes and offenses; suspension of permits; civil penalties or damages:

  (a) (1) Any person violating any provision of this part, or failing, neglecting or refusing to comply with any order, or any term or condition of any permit, issued by the commissioner or board, commits a Class A misdemeanor. Each day upon which a violation occurs constitutes a separate punishable offense.

  (2) Any person who knowingly disposes of hazardous waste in violation of this part, rules, regulations, the terms or conditions of a permit, or orders of the commissioner or board commits a Class C felony. Each day upon which such violation occurs constitutes a separate punishable offense.

  (3) In addition to the penalties imposed under subdivisions (a)(1) and (2), the court, department or board may suspend the permit to store, transport, treat or dispose of hazardous waste for a period of up to ten (10) years of any person who has been convicted of two (2) such felonies within a two-year period. The court, department or board shall suspend the permit to store, transport, treat or dispose of hazardous waste for a period of ten (10) years of any person who has been convicted of three (3) such felonies within a two-year period. No person who has had such person's permit suspended pursuant to this subsection shall be eligible to apply for any other permit issued pursuant to this part until the period of time for which the permit was suspended has expired. No succeeding person who has substantial factual or legal connections, continuity or identity with any person who has had such person's permit suspended pursuant to this subsection shall be eligible to apply for any permit issued pursuant to this part until the period of time for which the permit was suspended has expired, but a succeeding person who is a good faith purchaser and who does not have substantial factual or legal connections, continuity or identity, may apply for a permit. Determination of factual or legal connection, continuity or identity under this section shall be made by the chancellor of Davidson County upon request of the succeeding person. Nothing in this subsection precludes the suspension, revocation or denial of a permit by the department or board when such action is otherwise authorized by law.

(b) (1) Any person who violates or fails to comply with any provision of this part, any order of the board or commissioner, the terms or conditions of any permit issued, or any rule, regulation or standard adopted pursuant to this part shall be subject to a civil penalty of up to fifty thousand dollars ($50,000) per day for each day of violation. Each day upon which such violation occurs constitutes a separate punishable offense, and such person shall also be liable for any damages to the state resulting therefrom.

(2) Any civil penalty or damages shall be assessed in the following manner:

(A) The commissioner may issue an assessment against any person responsible for the violation or damages. Such person shall receive notice of such assessment by certified mail, return receipt requested; (B) Any person against whom an assessment has been issued may petition the board for a review of the assessment; (C) The manner of review of an assessment shall be the same as that for an order as set out in § 68-212-113; (D) If a petition for review of the assessment is not filed within thirty (30) days after the date the assessment is served, the violator shall be deemed to have consented to the assessment and it shall become final; and (E) The commissioner may institute proceedings for assessment in the chancery court of Davidson County or in the chancery court of the county in which all or part of the violation or failure to comply occurred.

(3) In assessing a civil penalty, the following factors may be considered:

(A) The harm done to public health or the environment;

(B) The economic benefit gained by the violators;

(C) The amount of effort put forth by the violator to attain compliance; and

(D) Any unusual or extraordinary enforcement costs incurred by the commissioner.

(4) Damages to the state may include any reasonable expenses incurred in investigating and enforcing violations of this part, and in restoring the air, water, land and other property, including animal, plant and aquatic life, of the state to their former condition.

(c) (1) Any person who violates or fails to comply with any provision of this part or any rule, regulation, or standard adopted pursuant to this part shall be subject to an administrative penalty not to exceed one thousand dollars

($1,000) per violation, with each day such violation continues constituting a separate punishable offense.

(2) The board shall promulgate and adopt rules and regulations establishing a schedule of administrative penalty amounts for certain specific nondiscretion violations or categories of violations established by this part.

(3) The commissioner may issue an assessment of administrative penalties against any person responsible for a nondiscretionary violation. Such person shall receive notice of such assessment by certified mail, return receipt requested.

(4) Any person against whom an assessment of administrative penalties has been issued may petition the board for a review of the assessment. The manner of such review shall be the same as that for an order as set out in § 68-212- 113. If a petition for a review of an assessment is not filed within thirty (30) days after the date the assessment is served, the violator shall be deemed to have consented to the assessment and it shall become final.

(5) The commissioner may issue an assessment of civil penalties pursuant to subsection (b) against any person who fails to comply with an assessment of administrative penalties lawfully issued in accordance with this subsection.

(d) Any person qualified by law may intervene as a matter of right in any court action brought by the commissioner or board pursuant to this part.

(e) (1) Whenever any order or assessment under § 68-212-113 or this section has become final, a notarized copy of the order or assessment may be filed in the office of the clerk of the chancery court of Davidson County.

(2) When filed in accordance with subdivision (e)(1), a final order or assessment shall be considered as a judgment by consent of the parties on the same terms and conditions as those recited therein. Such judgment shall be promptly entered by the court. Except as otherwise provided in this section, the procedure for entry of the judgment and the effect thereof shall be the same as provided in title 26, chapter 6.

(3) (A) If the final order or assessment resulting in a judgment under subdivision (e)(2) is from the board, the judgment shall become final thirty (30) days after the date a summons has been served upon the defendant.

(B) If the final order or assessment resulting in a judgment under subdivision (e)(2) is from the commissioner, any citizen shall, within forty-five (45) days after entry of the judgment, have the right to intervene on the ground that the penalties or remedies provided are inadequate or are based on erroneous findings of facts. Upon receipt of a timely motion for intervention, the court shall determine whether it is duplicitous or frivolous, and shall notify the movant and the parties of its determination. If the motion is determined not to be duplicitous or frivolous, all parties shall be considered to have sought review of the final order or assessment, and the court shall proceed in accordance with § 4-5-322. If no timely motion for intervention is filed, or if any such motion is determined to be duplicitous or frivolous, the judgment shall become final forty-five (45) days after the date of entry.

(4) A final judgment under this subsection has the same effect, is subject to the same procedures, and may be enforced or satisfied in the same manner, as any other judgment of a court of record of this state.

Texas – Existing State Regulatory Requirements

Permits:

- Texas Statutes and Codes Annotated – Health and Safety Code, Title 5. Sanitation and Environmental, Subtitle D. Nuclear and Radioactive Materials, Chapter 401. Radioactive Materials and Other Sources of Radiation, Subchapter D. Licensing and Registration, § 401.101. License and Registration Requirement:

  A person may not use, manufacture, produce, transport, transfer, receive, acquire, own, possess, process, or dispose of a source of radiation unless that person has a license, registration, or exemption from the department or commission as provided by this chapter.

***Fees*:**

- Vernon's Texas Codes Annotated – Health and Safety Code, Title 5. Sanitation and Environmental Quality, Subtitle D. Nuclear and Radioactive Materials, Chapter 401. Radioactive Materials and Other Sources of Radiation, Subchapter C. Powers and Duties, § 401.052. Rules for Transportation and Routing:

  (d) Fees assessed under this section:

  (1) may not exceed $10 per cubic foot of shipped low-level radioactive waste;

  (2) shall be collected by the department and deposited to the credit of the perpetual care account;

  (3) shall be used exclusively by the department for emergency planning for and response to transportation accidents involving low-level radioactive waste; and

  (4) shall be suspended when the amount of fees collected reaches $500,000, except that if the balance of fees collected is reduced to $350,000 or less, the assessments shall be reinstituted to bring the balance of fees collected to $500,000.

  (d) as amended by Acts 2003, 78th Leg., ch. 1067, § 2

  (d) (1) Fees assessed under the rules adopted under Subsection (b)(5):

  (A) may not exceed $10 per cubic foot of shipped low-level radioactive waste;

(B) shall be collected by the compact waste disposal facility license holder under Subchapter F and remitted to the commission for deposit to the credit of the perpetual care account; and

(C) may be used only by the department for emergency planning for and response to transportation accidents involving low-level radioactive waste.

(2) Fee assessments under the rules adopted under Subsection (b)(5) shall be suspended when the amount of fees collected reaches $500,000, except that if the balance of fees collected is reduced to $350,000 or less, the assessments shall be reinstituted to bring the balance of fees collected to $500,000.

(e) Money expended from the perpetual care account to respond to accidents involving low-level radioactive waste must be reimbursed to the perpetual care account by the responsible shipper or transporter according to rules adopted by the board.

(f) In this section, “shipper” means a person who generates low-level radioactive waste and ships or arranges with others to ship the waste to a disposal site.

Utah – Existing State Regulatory Requirements

- Utah Code Annotated, §§ 19-3-101 to 19-3-113 (2003); *Radiation Control Act*.

- On March 3, 2004, the Legislative Management Committee adopted a Senate Joint Resolution that provides funding for the creation of a committee to investigate and study high-level nuclear waste transportation (2004 Bill Text UT S.J.R 10 [March 3, 2004]).

***Permits and Fees**:*

- Any person transporting licensed material must comply with U.S. Department of Transportation regulations in 49 CFR 170 through 189 (2002) (Utah Administrative Code r. 313-19-100 [2004]).

Notification:

- Utah does have in place statutes regarding notification of the media when there is a radiation leak from the Nevada Test Site (Utah Code Annotated § 19-3-112 [2003]).

***Highway and Rail Routing**:*

- Utah has designated routes for transportation of radioactive hazardous materials and non-radioactive hazardous materials.

  Radioactive hazardous material routes are as follows:

  - Interstate 15 from Idaho to Interstate 84

  - Interstate 80 from Interstate 84 to Wyoming

  - Interstate 84 from Interstate 15 to Interstate 80

  - Note: The Perry Port of Entry on 1-15 / I-84 is a designated safe haven for radioactive materials in transit.

  - 65 Federal Register 75771, 75812 (Dec. 4, 2000).

  Non-radioactive hazardous material routes are as follows:

  - All Interstates. [The Utah Department of Transportation states that all Interstate routes in the State are designated NRHM routes.]

  - Interstate 215 [Belt Route] [Entire Route].

- 65 Federal Register 75771, 75812 (Dec. 4, 2000).

Liability:

- Civil Penalties: any person in violation of §§ 19-3-104 to 19-3-113 is subject to a civil penalty not to exceed $5000 for each violation (Utah Code Annotated § 19-3-109 [2003]).

- Criminal Penalties: any person who knowingly or intentionally violates §§ 19-104 to 19-3-113 is guilty of a class B misdemeanor for the first offense and a third degree felony for any subsequent offense (Utah Code Annotated § 19-3-110 [2003]).

- Utah has proposed a bill that imposes strict liability for any harm in connection with incidents that arise out of ownership, possession, transportation, shipping, storing or disposing of nuclear waste. State immunity is waived for a suit arising from a nuclear incident (2004 Bill Text UT S.B. 55 [March 23, 2004]).

- Utah Code Annotated §§ 19-3-201 to 19-3-317 (2003); *Interstate Compact on Low-Level Radioactive Waste*.

  - Alaska, Hawaii, Idaho, Montana, Oregon, Utah, Washington, and Wyoming are eligible to become members of the compact.

  - Purpose: To cooperatively manage radioactive waste in a manner that promotes the safety and health of the citizens of each party state (Utah Code Annotated § 19-3-201 [2003]).

Inspections:

- Each state agrees to conform to the packaging and transportation requirements of the host state (state in which the facility is located).

- Each party may impose fees upon generators and shippers to recover the costs of inspections or other considerations under the compact (Utah Code Annotated § 19-3-202 [2003]).

Requirements:

- Each state shall accept low-level waste generated by a party state so long as the waste is packaged and transported according to established rules.

- A party state may not accept low-level waste from other states outside the region (Utah Code Annotated § 19-3-203 [2003]).

Transportation:

- Transportation of low-level waste may not occur without the approval of the Department of Transportation after having demonstrated compliance with the Department of Transportation rules and regulations (Utah Code Annotated § 19-3-315 [2003]).

- The Department of Transportation shall issue rules regarding transport and route approval permit, weight restrictions and may also assess appropriate fees.

- The Department of Environmental Quality shall establish rules regarding transportation of low-level waste for the purpose of protecting public health, safety and the environment.

- Utah Code Annotated, §§ 63-41-1 to 63-41-6: *Western Interstate Nuclear Compact*.

  - Members of this compact will give mutual aid in the event of a nuclear incident (Utah Code Annotated § 63-41-3, Article VI [2003]).

Vermont – Existing State Regulatory Requirements

Authority/Duties:

- Transportation of hazardous materials (5 Vermont Statutes Annotated. § 2001):

  (a) The secretary of transportation is authorized to promote safety in the transportation of hazardous materials by all modes of transportation, and furthermore:

  (1) is authorized to make rules, under 3 Vermont Statutes Annotated, Chapter 25, governing transportation of hazardous materials. “Hazardous materials” are those substances or materials in such quantity and form which may pose an unreasonable risk to health and safety or property when transported in commerce, by all modes. For purposes of this section, hazardous materials may include, but are not limited to, explosives, radioactive materials, etiologic agents, flammable liquids or solids, combustible liquids or solids, poisons, oxidizing or corrosive materials, and compressed gases. These rules shall be no less protective of public safety than the rules promulgated by the federal government with respect to the transportation of hazardous materials but no rule shall prohibit a person between the ages of 18 to 21 from operating a motor vehicle transporting hazardous materials;

  (2) is authorized to enforce these rules through the use of agency staff or others pursuant to cooperative agreement; and

  (3) is authorized to enter into cooperative agreements with agencies of this and other states and of the federal government in relation to enforcement of these rules and rules or regulations promulgated by the federal government which apply to transportation in Vermont.

  (b) It shall be unlawful for any person to violate any of the rules promulgated by the secretary under this section.

  (c) Any person who violates these rules shall be subject to a penalty of not more than $1,000.00. These rules shall identify violations, and possible penalties, by category, depending on the seriousness of the violation.

  (d) Notwithstanding any other provision of this chapter or other law whether general, special or local, violations of any rules promulgated pursuant to this section involving the operation of a motor vehicle may be charged through the use of a traffic complaint prescribed by the supreme court pursuant to 23 Vermont Statutes Annotated. § 2303.

(e) With respect to the transportation of radioactive materials, nothing in this section shall be construed to abrogate or affect the provisions of any other federal or state statute or local ordinance, regulation or resolution which are more restrictive than or which supersede the provisions of this section or rules adopted pursuant to this section.

(f) The regulations promulgated by the Materials Transportation Bureau of the United States Department of Transportation contained in Parts 170189 of Title 49 of the Code of Federal Regulations revised as of December 31, 1976, and any amendment or addition to these regulations, and the regulations promulgated by the Bureau of Motor Carrier Safety, Federal Highway Administration, United States Department of Transportation contained in Parts 390-397 of Title 49 of the Code of Federal Regulations, revised as of October 1, 1976, and any amendment or addition to these regulations and any provisions of any other regulations regarding the transportation of hazardous materials adopted by a federal agency may be adopted by the secretary of transportation

- Vermont Statutes Annotated – Title 10. Conservation and Development, Chapter 162. Texas Low-Level Radioactive Waste Disposal Compact

  - § 7065 Compact responsibilities (*portions of text omitted*):

    (a) For low-level radioactive waste, to the extent necessary to meet the requirements of the Texas Low-Level Radioactive Waste Disposal Compact, the secretary of natural resources shall do the following:

    (1) Develop and enforce procedures for packaging, processing, and waste form specifications for low-level radioactive waste shipments to the compact facility.

    (4) Collect, compile and distribute data and information required under this section.

    (b) For low-level radioactive waste, as part of its present responsibilities under 18 Vermont Statutes Annotated. chapter 32, the commissioner of health shall do the following:

    (2) Maintain an accounting of waste shipped and proposed to be shipped to the compact facility by volume and curies, proposed transportation methods and routes, and proposed shipment schedules.

    (c) The secretary of natural resources may do the following:

    (1) Develop and enforce procedures for reports and manifests from generators of low-level radioactive waste within the state concerning

the quantities, concentrations, and characteristics of waste generated and shipped; proposed transportation methods and routes; proposed shipment schedules; expected generation rates; packaging; and storage conditions and any other information reasonably necessary for the agency and the commission member to carry out their responsibilities.

(2) Adopt rules under chapter 25 of Title 3 for fulfilling the state responsibilities identified in this section and any other responsibilities established in the compact for low-level radioactive waste.

(d) The commission member, established under section 7062, shall report by January 15 each year to the house and senate committees on natural resources and energy. The report shall include: an evaluation of federal status and activities related to low-level radioactive waste storage and disposal, with special consideration to changes in federal law and regulation; the status of licensing the Texas facility; a summary of the costs of the compact; an evaluation of the effect on Vermont ratepayers; and a recommendation regarding continued participation in the compact.

- § 7069 Texas Low-Level Radioactive Waste Disposal Compact (*portions of text omitted*):

The general assembly ratifies the Texas low-level radioactive waste disposal compact to provide access to facilities in the state of Texas for the permanent disposal of all low-level radioactive waste. The text is as follows:

Article I. Policy and Purpose

Sec. 1.01. The party states recognize a responsibility for each state to seek to manage low-level radioactive waste generated within its boundaries, pursuant to the Low-Level Radioactive Waste Policy Act, as amended by the Low-Level Radioactive Waste Policy Amendments Act of 1985 (42 U.S.C. Secs. 2021b-2021j). They also recognize that the United States Congress, by enacting the Act, has authorized and encouraged states to enter into compacts for the efficient management and disposal of low-level radioactive waste. It is the policy of the party states to cooperate in the protection of the health, safety, and welfare of their citizens and the environment and to provide for and encourage the economical management and disposal of low-level radioactive waste. It is the purpose of this compact to provide the framework for such a cooperative effort; to promote the health, safety, and welfare of the citizens and the environment of the party states; to limit the number of facilities needed to effectively, efficiently, and economically manage low-level radioactive waste and to encourage the reduction of the generation thereof; and to

distribute the costs, benefits, and obligations among the party states; all in accordance with the terms of this compact.

Article II. Definitions

Sec. 2.01. As used in this compact, unless the context clearly indicates otherwise, the following definitions apply:

(2) “Commission” means the Texas Low-Level Radioactive Waste Disposal Compact Commission established in Article III of this compact.

(13) “Party state” means any state that has become a party in accordance with Article VII of this compact. Texas, Maine, and Vermont are initial party states under this compact.

(15) “Transporter” means a person who transports low-level radioactive waste.

Article III. The Commission

Sec. 3.01. There is hereby established the Texas Low-Level Radioactive Waste Disposal Compact Commission. The commission shall consist of one voting member from each party state except that the host state shall be entitled to six voting members. Commission members shall be appointed by the party state governors, as provided by the laws of each party state. Each party state may provide alternates for each appointed member.

Sec. 3.03. The commission is a legal entity separate and distinct from the party states and has governmental immunity to the same extent as an entity created under the authority of Article XVI, Section 59, of the Texas Constitution. Members of the commission shall not be personally liable for actions taken in their official capacity. The liabilities of the commission shall not be deemed liabilities of the party states.

Sec. 3.05. The commission may:

(6) Enter into an agreement with any person, state, regional body, or group of states for the importation of low-level radioactive waste into the compact for management or disposal, provided that the agreement receives a majority vote of the commission. The commission may adopt such conditions and restrictions in the agreement as it deems advisable.

(7) Upon petition, allow an individual generator, a group of generators, or the host state of the compact, to export low-level radioactive waste

to a low-level radioactive waste disposal facility located outside the party states. The commission may approve the petition only by a majority vote of its members. The permission to export low-level radioactive waste shall be effective for that period of time and for the specified amount of low-level radioactive waste, and subject to any other term or condition, as is determined by the commission.

(8) Monitor the exportation outside of the party states of material, which otherwise meets the criteria of low-level radioactive waste, where the sole purpose of the exportation is to manage or process the material for recycling or waste reduction and return it to the party states for disposal in the compact facility.

Sec. 4.04. The host state shall do the following:

(8) Identify and regulate, in accordance with federal and host state law, the means and routes of transportation of low-level radioactive waste in the host state.

Sec. 4.05. Each party state shall do the following:

(1) Develop and enforce procedures requiring low-level radioactive waste shipments originating within its borders and destined for the facility to conform to packaging, processing, and waste form specifications of the host state.

(8) Provide on a regular basis to the commission and host state:

(A) an accounting of waste shipped and proposed to be shipped to the compact facility, by volume and curies;

(B) proposed transportation methods and routes; and

(C) proposed shipment schedules.

Article V. Party State Contributions

Sec. 5.01. Each party state, except the host state, shall contribute a total of $25 million to the host state.

Article VI. Prohibited Acts and Penalties

Sec. 6.01. No person shall dispose of low-level radioactive waste generated within the party states unless the disposal is at the compact facility, except as otherwise provided in Section 3.05(7) of Article III.

Sec. 6.02. No person shall manage or dispose of low-level radioactive waste within the party states unless the low-level radioactive waste was generated within the party states, except as provided in Section 3.05(6) of Article III. Nothing herein shall be construed to prohibit the storage or management of low- level radioactive waste by a generator, nor its disposal pursuant to 10 C.F.R. Section 20.302.

Sec. 6.03. Violations of this article may result in prohibiting the violator from disposing of low-level radioactive waste in the compact facility, or in the imposition of penalty surcharges on shipments to the facility, as determined by the commission.

Article VII. Eligibility; Entry into Effect; Congressional Consent; Withdrawal; Exclusion

Sec. 7.01. The states of Texas, Maine, and Vermont are party states to this compact.

Sec. 7.08. This compact is subject to review by the United States Congress and the withdrawal of the consent of Congress every five years after its effective date, pursuant to federal law.

Sec. 7.09. The host state legislature, with the approval of the governor, shall have the right and authority, without the consent of the non-host party states, to modify the provisions contained in Section 3.04(11) of Article III to comply with Section 402.219(c)(1), Texas Health and Safety Code, as long as the modification does not impair the rights of the initial non-host party states.

Article VIII. Construction and Severability

Sec. 8.01. The provisions of this compact shall be broadly construed to carry out the purposes of the compact, but the sovereign powers of a party shall not be infringed upon unnecessarily.

Sec. 8.02. This compact does not affect any judicial proceeding pending on the effective date of this compact.

Sec. 8.03 No party state acquires any liability, by joining this compact, resulting from the siting, operation, maintenance, long-term care or any other activity relating to the compact facility. No non-host party state shall be liable for any harm or damage from the siting, operation, maintenance, or long- term care relating to the compact facility. Except as otherwise expressly provided in this compact, nothing in this compact shall be construed to alter the incidence of liability of any kind for any act or failure to act. Generators, transporters, owners and operators of the facility shall

be liable for their acts, omissions, conduct or relationships in accordance with applicable law. By entering into this compact and securing the ratification by Congress of its terms, no party state acquires a potential liability under Section 5(d)(2)(C) of the Act (42 U.S.C. Sec. 2021e(d)(2)(C)) that did not exist prior to entering into this compact.

Sec. 8.05. The provisions of this compact shall be severable. If any provision of this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the state affected as to all severable matters.

Sec. 8.06. Nothing in this compact diminishes or otherwise impairs the jurisdiction, authority, or discretion of either of the following:

(1) the United States Nuclear Regulatory Commission pursuant to the Atomic Energy Act of 1954, as amended (42 U.S.C. Sec. 2011 et seq.); or

(2) an agreement state under Section 274 of the Atomic Energy Act of 1954, as amended (42 U.S.C. Sec. 2021).

Sec. 8.07. Nothing in this compact confers any new authority on the states or commission to do any of the following:

(1) Regulate the packaging or transportation of low-level radioactive waste in a manner inconsistent with the regulations of the United States Nuclear Regulatory Commission or the United States Department of Transportation.

- 10 Vermont Statutes Annotated. § 6610a (2003). Enforcement:

(a) Notwithstanding any other provision of this chapter, the secretary, upon receipt of information that the storage, transportation, treatment, or disposal of any solid or hazardous waste as defined herein may present a hazard to the health of persons or to the environment, or may be in violation of any provision of this chapter, the rules promulgated thereunder, or the terms or conditions of any order or certification issued under this chapter, may take such action as the secretary determines to be necessary. The action the secretary may take includes, but is not limited to:

(1) after notice and opportunity for hearing, issuing an order directing any person to take such steps as are necessary to prevent the act, correct the condition, or eliminate the practice which constitutes such hazard or violation. Such action may include, with respect to a facility or site, permanent or temporary cessation of operation; and

(2) requesting that the attorney general or appropriate state's attorney commence an action for injunctive relief, or for the imposition of penalties and fines as provided in section 6612 of this title and other relief as appropriate. The court may issue a temporary injunction or order in any such proceedings and may exercise all the plenary powers available to it in addition to the power to:

(A) enjoin future activities;

(B) order the design, construction, installation or operation of abatement of facilities or alternate disposal systems;

(C) order removal of all wastes and restoration of the environment and health;

(D) fix and order compensation for any public property destroyed, damaged or injured;

(E) assess and award punitive damages; and

(F) order reimbursement to any agency of federal, state, or local government from any person whose act caused governmental expenditures under section 1283 of this title.

(3) When proceeding under this section, the secretary may use the assurance of discontinuance procedures under 3 Vermont Statutes Annotated. § 2822(c) without making efforts to secure voluntary compliance that would otherwise be required by 3 Vermont Statutes Annotated. § 2822(d).

(b) The hearing by the secretary under subdivision (a)(1) of this section shall be conducted as a contested case. The secretary may issue an emergency order without a prior hearing when an ongoing violation presents an immediate threat of substantial harm to the environment or an immediate threat to the public health. An emergency order shall be effective upon actual notice to the person against whom the order is issued. Any person to whom an emergency order is issued shall be given the opportunity for a hearing within five business days of the date the order is issued.

(c) This subsection shall apply only to facilities subject to exemption from the provisions of chapter 151 of this title, as provided by the provisions of subsection 6081(h) of this title. With respect to facilities subject to this subsection, notwithstanding any other provision of this chapter, the secretary may take such action as the secretary determines to be necessary, upon receipt of information that the storage, transportation, treatment, or disposal of any solid or hazardous waste as defined herein may present a hazard to

the health of persons or to the environment, or may be in violation of any provision of this chapter, the rules adopted thereunder, or the terms or conditions of any order or certification issued under this chapter, or upon receipt of information that a solid waste disposal facility has failed to perform closure and post-closure operations as deemed necessary by the secretary to preserve and protect the air, groundwater, surface water, public health and the environment. The action the secretary may take includes, but is not limited to:

(1) after notice and opportunity for hearing, issuing an order directing any person to take such steps as are necessary to prevent the act, correct the condition, or eliminate the practice which constitutes such hazard or violation. Such action may include, with respect to a facility or site, permanent or temporary cessation of operation; and

(2) requesting that the attorney general or appropriate state's attorney commence an action for injunctive relief, or for the imposition of penalties and fines as provided in section 6612 of this title and other relief as appropriate. The court may issue a temporary injunction or order in any such proceedings and may exercise all the plenary powers available to it in addition to the power to:

(A) enjoin future activities;

(B) order the design, construction, installation or operation of abatement facilities or alternate disposal systems, final cover systems and lining measures, monitoring, reporting and evaluation, remediation measures, financial responsibility and capability mechanisms, and other requirements deemed necessary and no less stringent than minimum program requirements by the secretary;

(C) order removal of all wastes and restoration of the environment and health;

(D) fix and order compensation for any public property destroyed, damaged or injured;

(E) assess and award punitive damages; and

(F) order reimbursement to any agency of federal, state, or local government from any person whose act caused governmental expenditures under section 1283 of this title.

***Permit*:**

- 10 Vermont Statutes Annotated. § 6607a (2003). Waste transportation:

(a) A commercial hauler desiring to transport waste within the state shall apply to the secretary for a permit to do so, by submitting an application on a form prepared for this purpose by the secretary and by submitting the disclosure statement described in section 6605f of this title. These permits shall have a duration of five years. The secretary shall establish a system whereby one-fifth of the permits issued under this section, or that were issued prior to July 1, 1996, shall be renewed annually. The secretary may extend the expiration date of permits issued under this section as of July 1, 1996, for up to four years. The application shall indicate the nature of the waste to be hauled and the area to be served by the hauler. The secretary may specify conditions that the secretary deems necessary to assure compliance with state law. If an area to be served is subject to a duly adopted flow control ordinance, the entity that adopted the flow control ordinance may notify the secretary of that fact on forms provided by the secretary, and shall specify the facility or facilities which must be the recipient of the waste from that area. The secretary shall issue to the applicant a permit which specifies those facilities to which the applicant must deliver waste collected from an area that is subject to a duly adopted flow control ordinance, and which otherwise contains the solid waste management conditions established by the secretary, sufficient to assure compliance with state law.

(b) For purposes of this section,

(1) “Commercial hauler” means:

(A) any person that transports regulated quantities of hazardous waste; and

(B) any person that transports solid waste for compensation in a vehicle having a rated capacity of more than one ton.

(2) The commercial hauler required to obtain a permit under this section is the legal or commercial entity that is transporting the waste, rather than the individual employees and subcontractors of the legal or commercial entity. In the case of a sole proprietorship, the sole proprietor is the commercial entity.

(c) Wastes shall be subject to inspection, by an agent of the secretary or any duly authorized law enforcement officer, during transportation or upon delivery to a facility, for compliance with the requirements of state law.

(d) It shall be unlawful for any person:

(1) to operate a motor vehicle subject to the provisions of this section upon any public highway in the state without first obtaining the permit from the

secretary, or to so operate without having in the vehicle a permit issued under this section;

(2) a violation of this section shall be considered a traffic violation within the meaning of 23 Vermont Statutes Annotated. chapter 24;

(3) any person who violates any provision of this section shall be subject to a penalty of not more than $ 200.00 for a traffic violation. The penalties imposed by this subsection shall be in addition to other penalties imposed by this chapter.

***Inspection*:**

- 10 Vermont Statutes Annotated. § 6609 (2003). Inspections; right of entry:

  For the purposes of developing or enforcing any rule or regulation authorized by this chapter, any duly authorized representative of the secretary may upon presentation of appropriate credentials at any reasonable time:

  (1) enter any place where wastes are generated, stored, treated, or disposed of;

  (2) inspect and obtain samples from any person storing, treating or disposing of any waste, including hazardous waste samples from any vehicle in which wastes are being transported;

  (3) inspect and copy any records, reports, information, or test results relating to the purposes of this chapter;

  (4) inspect any portion of a facility where wastes are generated, stored, treated, or disposed of including any equipment or other appurtenances contained in the facility;

  (5) upon any refusal of entry, inspection, sampling or copying pursuant to this section, the secretary or the duly authorized representative of the secretary may apply for and obtain a warrant or subpoena to allow such entry, inspection, sampling, or copying in the manner established by the Vermont rules of criminal procedure.

***Routing*:**

- Vermont Statutes Annotated § 2003. Transportation of radioactive materials; preferred routes:

  (a) The secretary of transportation, following consultation with the commissioner of health, and the commissioner of public safety shall

designate any highway as a part of a preferred route for the transportation of fissile radioactive materials and large quantity packages of radioactive materials as defined by the United States department of transportation in order to cause the least risk to persons and property. The secretary shall confer with the governing body of a municipality regarding the establishment of a preferred route within the boundaries of their jurisdiction and give their timely opinion due consideration.

- See also Federal Register, Vol. 54, No. 4 p. 75813, Dec 4, 2000
- No routes designated as of 11/14/00
- Contacts:
  - Vermont Emergency Management Division, Ed. Von Turkovich, Department of Public Safety, 103 S. Main St., Waterbury, VT 05671; (802) 244-8721
  - Federal Motor Carrier Safety Administration – Vermont Field Office, VT Motor Carrier State Director, Federal Building, 87 State St./ P.O. Box 568; Montepelier, VT 05601; (802) 828-4480

Liability:

- 10 Vermont Statutes Annotated. § 6615 (2003). Liability:

  (a) Subject only to the defenses set forth in subsections (d) and (e) of this section,

  (1) the owner or operator of a facility or both;

  (2) any person who at the time of release or threatened release of any hazardous material owned or operated any facility at which such hazardous materials were disposed of;

  (3) any person who by contract, agreement, or otherwise arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment, of hazardous materials owned or possessed by such person, by any other person or entity, at any facility owned or operated by another person or entity and containing such hazardous materials; and

  (4) any person who accepts or accepted any hazardous materials for transport to disposal or treatment facilities selected by such persons, from which there is a release, or a threatened release of hazardous materials shall be liable for:

(A) abating such release or threatened release, and

(B) costs of investigation, removal and remedial actions incurred by the state which are necessary to protect the public health or the environment.

(b) In the event that the responsible person or persons fails to act in a timely manner to take the necessary removal and remedial actions, the secretary may take such actions, order the responsible person or persons to act, or seek a court order requiring such actions. Any responsible person who fails to comply with such a court order shall be liable in an amount equal to three times the cost of such removal. Funds recovered under this section shall be deposited in the environmental contingency fund established under section 1283 of this title.

(c) In any suit to enforce claims of the state under this section, it is not necessary for the state to plead or prove negligence in any form or manner on the part of the person specified in subsection (a) of this section. The state need only plead and prove the fact of the release or threatened release and that the person in question was as specified in subsection (a), or that the release or threatened release occurred at or involved any real property, structure, equipment or conveyance under the control of that person. Any person who has released hazardous material as specified under subsection (a), or is in any way responsible for any hazardous materials which the agency has removed or is removing pursuant to 10 Vermont Statutes Annotated. § 1283(b) shall be strictly liable, jointly and severally, without regard to fault, for all cleanup, removal and remedial costs. Where hazardous materials released by one person are or may be mixed with those released by another, the strict liability established under this section shall be with respect to the cleanup, removal and remedial costs of all the materials involved; provided however, it shall be a defense to joint and several liability under this section if the responsible person establishes by a preponderance of the evidence that he or she is responsible for only a certain portion of the costs of the cleanup, removal and remedial action, considering such factors as the volume and toxicity of the material contributed by the person to the release, then that person's liability shall be limited to the amount so established. Operators of municipal landfills or persons operating landfills on behalf of municipalities shall not be jointly and severally liable under this section to the extent that they are acting as landfill operator. Generators of household waste, as defined by rule of the secretary, shall not be liable under this section.

(d) (1) There shall be no liability under this section for a person otherwise liable who can establish by a preponderance of the evidence that the release or threat of release of hazardous material and the damages resulting therefrom were caused solely by any of the following

(A) an act of God;

(B) an act of war;

(C) an act or omission of a third party other than an employee or agent of the defendant, or other than one whose act or omission occurs in connection with a contractual relationship, existing directly or indirectly, with the defendant. If the sole contractual arrangement arises from a published tariff and acceptance for carriage by a common carrier by rail, for purposes of this section, there shall be considered to be no contractual relationship at all. This subdivision (d)(1)(C) shall only serve as a defense if the defendant establishes by a preponderance of the evidence:

(i) that the defendant exercised due care with respect to the hazardous material concerned, taking into consideration the characteristics of that hazardous material, in light of all relevant facts and circumstances; and

(ii) that the defendant took precautions against foreseeable acts or omissions of any such third party and the consequences that could foreseeably result from those acts or omissions; or

(D) any combination of the above.

(2) There shall be no liability under subdivision (a)(1) of this section, regarding a particular facility, for a person otherwise liable who can establish all of the following by a preponderance of the evidence:

(A) the release or threat of release of hazardous material on, under, or from that person's property and the resulting damages were caused solely by the migration of a release of hazardous materials that did not originate on that person's property;

(B) the release or threat of release of hazardous material and the resulting damages were caused solely by a third party who is not an employee or agent of the person, and whose action was not associated with a contractual relationship with the person;

(C) the hazardous substance was not deposited, intentionally contained, or disposed of on a facility while the facility was owned or operated by the person;

(D) the person, at the time of any transfer of the property from the person, disclosed any knowledge or information the person had, concerning the nature and extent of any such release;

(E) the person has not caused or contributed to a release, such as through activities that knowingly exacerbated the existing contamination, and has not knowingly affected the release in such a way as to require additional remediation;

(F) the owner or operator of the facility provides access for, and does not interfere with, remediation activities.

(e) Any person who is the owner or operator of a facility where a release or threatened release existed at the time that person became owner or operator shall be liable unless he or she can establish by a preponderance of the evidence that after making diligent and appropriate investigation of the facility, he or she had no knowledge or reason to know that said release or threatened release was located on the facility.

(f) Except insofar as expressly provided in this section, nothing in this chapter shall be deemed to preclude the pursuit of any other civil or injunctive remedy by any person. The remedies in this chapter are in addition to those provided by existing statutory or common law.

(g) (1) A secured lender or a fiduciary, as that term is defined in section 204(b) of Title 14, shall not, absent other circumstances resulting in liability under this section, be liable as either an owner or operator under this section merely because of any one or any combination of more than one of the following:

(A) in the case of a secured lender, holding indicia of ownership in a facility primarily to assure the repayment of a financial obligation;

(B) in the case of a fiduciary, acquiring ownership status when that status arises by law upon appointment or requiring or conducting any activity which is necessary to carry out the fiduciary's duties and falls within the scope of the fiduciary's authority;

(C) requiring or conducting financial or environmental assessments of a facility or any portion thereof;

(D) monitoring the operations conducted at a facility;

(E) requiring, through financial documents or otherwise, the management of hazardous materials at a facility in compliance with the

requirements of this chapter and the regulations promulgated thereunder;

(F) giving advice, information, guidance, or direction concerning the general business and financial aspects of a borrower's operations;

(G) providing general information concerning federal, state or local laws governing the transportation, storage, treatment and disposal of hazardous waste or hazardous materials;

(H) engaging in financial workouts, restructuring, or refinancing of a borrower's obligations;

(I) extending or denying credit to a person owning or in lawful possession of a facility;

(J) in an emergency, requiring or undertaking activities to prevent exposure of persons to hazardous materials or to contain a release; or

(K) requiring or conducting abatement, investigation, remediation or removal activities in response to a release or threatened release, provided that:

(i) prior notice of intent to do any such activity is given to the secretary in writing, and, unless previously waived in writing by the secretary, no such activity is undertaken for 30 days after receipt of such notice by the secretary;

(ii) a workplan is prepared by a qualified consultant prior to the commencement of any such activity;

(iii) if the secretary, within 30 days of receiving notice as provided in subdivision (i) of this subdivision (K), elects to undertake a workplan review and gives written notice to the secured lender or fiduciary of such election, no such activity is undertaken without prior workplan approval by the secretary;

(iv) appropriate investigation is undertaken prior to any abatement, remediation, or removal activity;

(v) regular progress reports and a final report are produced during the course of any such activity;

(vi) all plans, reports, observations, data, and other information related to the activity are preserved for a period of 10 years and,

except for privileged materials, produced to the secretary upon request;

(vii) persons likely to be at or near the facility are not exposed to unacceptable health risk; and

(viii) such activity complies with all rules, procedures and orders of the secretary.

(2) There shall be no protection from liability for a secured lender or a fiduciary under subsections (g) and (h) of this section if the secured lender or fiduciary causes, worsens or contributes to a release or threat of release of hazardous material. A secured lender or fiduciary who relies on subdivision (g)(1)(K) of this section, or an agreement with the secretary entered into under subsection (h) of this section shall bear the burden of proving compliance with this subdivision.

(h) (1) Subject to the provisions of this subsection, the secretary may enter into an agreement with a secured lender or a fiduciary regarding a facility from which there is a release or threat of release of hazardous materials. Upon entering into an agreement with the secretary, a secured lender or fiduciary, to the extent allowed by the agreement and in compliance with the terms and conditions of the agreement, may:

(A) in the case of a secured lender, take possession, foreclose or otherwise take full title to the facility; and

(B) undertake other activities at the facility in addition to those of subdivisions (g)(1)(A)-(K) of this section, including use of the facility and new development.

(2) Such an agreement may be entered into only when the secretary has determined, in the secretary's sole discretion, that there exists a release or threat of release, that there will be a substantial benefit to the public health or the environment that would not otherwise be realized and that the proposed activity will not cause, worsen or contribute to a release or threat of release of hazardous materials at the facility or expose persons likely to be at or near the facility to unacceptable health risk. Prior to entering into an agreement which provides for any abatement, investigation, remediation, or removal activities to be taken by a secured lender or fiduciary in response to a release or threatened release, the secretary shall cause notice to be published in a local newspaper generally circulated in the area where the facility is located. The notice shall set forth the abatement, investigation, remediation, and removal activities proposed, shall state that the secretary is considering entering into an agreement providing for such activities, and shall request public comment

on the proposed activities within 15 days after publication. The decision of the secretary as to whether an agreement should be entered into and the terms and conditions of any agreement shall be final.

(3) Such an agreement, if previously approved by the attorney general, may provide for the payment, in whole or in part, of past or future costs described in subdivision (a)(4)(B) of this section and may limit, in whole or in part, the secured lender's or the fiduciary's liability under this section.

(4) A proposal by a secured lender or fiduciary to enter into such an agreement shall be accompanied by a fee of $ 1,000.00. If the secretary's costs related to the proposal exceed the fee paid, then any agreement shall provide for the secured lender or fiduciary to reimburse the secretary for the additional costs incurred. The fee and any excess costs paid to the secretary under this subsection shall be deposited into the contingency fund established under section 1283(a) of this title.

(5) If the secured lender or fiduciary enters into an agreement with the secretary, complies with the agreement and does not cause, worsen or contribute to a release or threat of release of a hazardous material, the maximum liability of such person under this section to the state for costs or injunctive relief shall be as provided in the agreement or, in the absence of such a provision, the fair market value of the property at the time of the agreement, estimated as if there were no release or threatened release of any hazardous materials, less any costs reasonably incurred by the person for any abatement, investigation, remediation or removal activity undertaken in compliance with subdivision (g)(1)(K) of this section or incurred in compliance with the agreement.

(i) In an action brought by the secretary under this section, a responsible person may implead, or in a separate action a responsible person may sue, another responsible person or persons and may obtain contribution or indemnification. A responsible person who has resolved its liability to the state under this section through a judicially approved settlement and a secured lender or fiduciary with whom the secretary has entered into an agreement under subsection (h) of this section shall not be liable for claims for contribution or indemnification regarding matters addressed in the judicially approved settlement or in the agreement. Likewise, an eligible person or successor who has obtained a certificate of completion pursuant to section 6615a of this title shall not be liable for claims for contribution or indemnification regarding releases or threatened releases described in the approved corrective action plan, as amended. Such a settlement or agreement or certificate of completion does not discharge any other potentially responsible person unless its

terms so provide, but it reduces the potential liability of other potentially responsible persons by the relief agreed upon. A secured lender or fiduciary with whom the secretary has entered into an agreement under subsection (h) of this section may not seek contribution or indemnification on the basis of such agreement from any other potentially responsible person. In any action for contribution or indemnification, the rights of any person who has resolved its liability to the state shall be subordinate to the rights of the state.

Violations/Penalties:

- Vermont Statutes Annotated. § 2003) Transportation of radioactive materials; preferred routes (*portions of text omitted*):

  (b) A person who violates the order of the secretary and transports radioactive materials in violation of this section shall be subject to the following penalties:

  (1) civil penalty-- a maximum penalty of up to $10,000.00 per day for each violation;

  (2) criminal penalty-- a fine of not more than $25,000.00 or imprisonment for not more than five years, or both.

  (a) Any person who violates any provision of this chapter, the rules promulgated herein or the terms or conditions of any order of certification granted by the secretary, shall be subject to a criminal penalty not to exceed $ 25,000.00 or imprisonment for not more than six months, or both.

  (b) Any person who violates any provision of this chapter relating to solid or hazardous waste management, the regulations promulgated thereunder, or the terms or conditions of any order relating to solid or hazardous waste management or terms and conditions of any solid or hazardous waste facility certification, shall be subject to a civil penalty not to exceed $ 10,000.00.

  (c) Each violation may be a separate and distinct offense and, in the case of a continuing violation, each day's continuance thereof may be deemed a separate and distinct offense.

  (d) Any person who commits any of the following in violation of any provision of this chapter, the rules adopted under this chapter, or the terms or conditions of any order or certification under this title shall be subject to a criminal penalty not to exceed $ 250,000.00, or imprisonment for not more than five years, or both:

(1) the knowing or reckless transport, treatment, storage or disposal of any hazardous waste;

(2) the knowing or reckless transport, treatment, storage or disposal of more than one cubic yard of solid waste or more than 275 pounds of solid waste;

- 10 Vermont Statutes Annotated. § 6612 (2003) Penalties (3) the knowing or reckless release of any hazardous material.

***Other*:**

- 10 Vermont Statutes Annotated. § 7021 (2003). Siting requirements (*portions of text omitted*):

  (b) The rules establishing the siting requirements for a low-level radioactive waste disposal facility shall also consider the following:

  (4) mitigation or avoidance of harm from unanticipated releases and from transportation accidents.

- 10 Vermont Statutes Annotated. Conservation and Development, Part 5. Land Use and Development.

Virginia – Existing State Regulatory Requirements

- Virginia Code Annotated §§ 10.1-1400 to 10.1-1407.1 (2004); Virginia Waste Management Act.

- Virginia Code Annotated §§ 10.1-1450 to 10.1-1454 (2004); Virginia Waste Management Act, Transportation of Hazardous Materials.

- Virginia Administrative Code §§ 20-60-420 to 20-60-500 (2003); Regulations Applicable to Transporters of Hazardous Waste.

- Virginia Administrative Code §§ 20-110-10 to 20-110-130 (2003); Regulations Governing the Transportation of Hazardous Materials.

Permits and Fees:

- Permit fees are based on the average time and complexity of processing the permit in each of categories of permits and permit actions (Virginia Code Annotated § 10.1-1402.1(1) [2004]).

- On ever even numbered year, the board shall evaluate the permit fee program (Virginia Code Annotated § 10.1-1402.1(3) [2004]).

- Any fee program developed by the board must be in conformity with the federal guidelines (Virginia Code Annotated § 10.1-1402.3 [2004]).

- All transporters must retain one signed copy of all manifests in their records for not less than three years (9 Virginia Administrative Code 20-60-430 [2003]).

- A transporter permit shall last for 10 years. The permit will remain in effect unless, the transporter ceases business operation; the transporter requests, in writing, that the permit be terminated; the permit is revoked; the director determines that an emergency; and/or upon the expiration date of the permit, unless reapplication is received at least 30 days prior to the expiration date (9 Virginia Administrative Code 20-6-450(D)(1)-(5) [2003]).

- Proposed Bill: Meets the requirements of the U.S.A. Patriot Act, which, in part, prohibits issuance by states of commercial driver's licenses with hazardous materials endorsements unless the U.S. Secretary of Transportation certifies that the applicant poses no security risk (2002 Bill Tracking VA H.B. 1962).

- Proposed Bill: Relates to commercial driver's licenses and hazardous materials endorsement; provides that no such endorsement shall be issued, renewed or reissued unless the endorsement is in conformance with certain sections of the Patriot Act; provides for notification from the United States Transportation

Security Administration that the applicant does not present a threat; provides for cancellation of such endorsements under certain circumstances (2004 Bill Tracking VA S.B. 345).

***Inspections*:**

- The Department of Emergency Management will maintain a register of shippers of hazardous radioactive materials and monitor the transportation within the state of those hazardous radioactive materials, which may constitute a significant risk to the citizens of the Commonwealth (Virginia Code Annotated § 44-146.30 [2004]).

- Prior to any shipment of radioactive materials, the shipper must notify the coordinator in writing as required by 10 CFR 71.97, 10 CFR 73.37 (f) or other applicable federal regulations (9 Virginia Administrative Code 20-110-122 [2003]).

Highway and Rail Routing:

- Virginia has designated routes for transportation of radioactive and non-radioactive hazardous materials. These routes can be found in 65 Fed. Reg. 75771, 75813 - 75815 (Dec. 4, 2000).

  Restricted routes for all Virginia hazardous materials are as follows:

  - Airport Tunnel [City of Roanoke] [Detours: Airport Road – Route 118; Hershberger Road – Route 101; Williamson Road – Route 11; Peters Creek Road – Route 117.]

  Radioactive hazardous material routes are as follows:

  - Interstate 64 [Tunnel] from [Hampton] to [Norfolk].
  - Interstate 77 [to/from West Virginia] [Tunnel]
  - Interstate 264 from [Norfolk] to [Portsmouth]
  - Interstate 664 [Tunnel] from [Newport News] to [Suffolk]
  - US 58 [Tunnel] from Norfolk to Portsmouth

  Non-radioactive hazardous material routes are as follows:

  - Chesapeake Bay Bridge – Tunnel. This falls under the jurisdiction o f Chesapeake Bay Bridge and Tunnel District, who maintain their own regulations regarding its use. Copies of these regulations can be obtained from: Chesapeake Bay Bridge and Tunnel District, 32386 Lankford Highway, P.O. Box 111, Cape Charles, VA 23310. Elizabeth River Tunnel [Downtown]. Classes 1.1, 1.2, 1.3, 2.3, 4.3, and 6.1 are prohibited. Hazmat shippers must abide by rules & regulations outlined in VA DOT's

“Rules and Regulations Governing the Transportation of Hazardous Materials Through Bridge-Tunnel Facilities.” This document is available from VDOT EOC, 1221 E. Broad St., Richmond VA 23219. See http://www.vdot.state.va.us/roads/tunnel.html for real-time traffic information. Elizabeth River Tunnel [Midtown]. Classes 1.1, 1.2, 1.3, 2.3, 4.3, and 6.1 are prohibited. Hazmat shippers must abide by rules & regulations outlined in VA DOT’s “Rules and Regulations Governing the Transportation of Hazardous Materials Through Bridge-Tunnel Facilities.” This document is available from VDOT EOC, 1221 E. Broad St., Richmond VA 23219. See http://www.vdot.state.va.us/roads/tunnel.html for real-time traffic information. Hampton Roads Bridge – Tunnel. Classes 1.1, 1.2, 1.3, 2.3, 4.3, and 6.1 are prohibited. Hazmat shippers must abide by rules & regulations outlined in VA DOT’s “Rules and Regulations Governing the Transportation of Hazardous Materials Through Bridge-Tunnel Facilities.” This document is available from VDOT EOC, 1221 E. Broad St., Richmond VA 23219. Monitor-Merrimac Memorial [Bridge/Tunnel]. Classes 1.1, 1.2, 1.3, 2.3, 4.3, and 6.1 are prohibited. Hazmat shippers must abide by rules & regulations outlined in VA DOT’s “Rules and Regulations Governing the Transportation of Hazardous Materials Through Bridge-Tunnel Facilities.” This document is available from VDOT EOC, 1221 E. Broad St., Richmond VA 23219. See http://www.vdot.state.va.us/roads/tunnel.html for real-time traffic information. Big Walker Mountain Tunnel. Hazmat shippers must abide by rules & regulations outlined in VA DOT’s “Rules and Regulations Governing the Transportation of Hazardous Materials Through Bridge-Tunnel Facilities.” This document is available from VDOT EOC, 1221 E. Broad St., Richmond VA 23219. Chesapeake Bay Bridge – Tunnel. This falls under the jurisdiction o f Chesapeake Bay Bridge and Tunnel District, who maintain their own regulations regarding its use. Copies of these regulations can be obtained from: Chesapeake Bay Bridge and Tunnel District, 32386 Lankford Highway, P.O. Box 111, Cape Charles, VA 23310. East River Mountain Tunnel. Hazmat shippers must abide by rules & regulations outlined in VA DOT’s “Rules and Regulations Governing the Transportation of Hazardous Materials Through Bridge-Tunnel Facilities.” This document is available from VDOT EOC, 1221 E. Broad St., Richmond VA 23219. Elizabeth River Tunnel [Downtown]. Classes 1.1, 1.2, 1.3, 2.3, 4.3, and 6.1 are prohibited. Hazmat shippers must abide by rules & regulations outlined in VA DOT’s “Rules and Regulations Governing the Transportation of Hazardous Materials Through Bridge-Tunnel Facilities.” This document is available from VDOT EOC, 1221 E. Broad St., Richmond VA 23219. See http://www.vdot.state.va.us/roads/tunnel.html for real-time traffic information. Elizabeth River Tunnel [Midtown]. Classes 1.1, 1.2, 1.3, 2.3, 4.3, and 6.1 are prohibited. Hazmat shippers must abide by rules & regulations outlined in VA DOT’s “Rules and Regulations Governing the Transportation of Hazardous Materials Through Bridge-Tunnel Facilities.”

This document is available from VDOT EOC, 1221 E. Broad St., Richmond VA 23219. See http://www.vdot.state.va.us/roads/tunnel.html for real-time traffic information.

- Hampton Roads Bridge – Tunnel. Classes 1.1, 1.2, 1.3, 2.3, 4.3, and 6.1 are prohibited. Hazmat shippers must abide by rules & regulations outlined in VA DOT's "Rules and Regulations Governing the Transportation of Hazardous Materials Through Bridge-Tunnel Facilities." This document is available from VDOT EOC, 1221 E. Broad St., Richmond VA 23219.

- Interstate 495. [**Restricted to right lanes only**]

- Interstate 664 [Bridge-Tunnel]. Hazmat shippers must abide by rules and regulations outlined in VA DOT's "Rules and Regulations Governing the Transportation of Hazardous Materials through Bridge-Tunnel Facilities." This document is available from VDOT EOC, 1221 E. Broad St., Richmond VA 23219.

- Monitor-Merrimac Memorial [Bridge/Tunnel]. Classes 1.1, 1.2, 1.3, 2.3, 4.3, and 6.1 are prohibited. Hazmat shippers must abide by rules & regulations outlined in VA DOT's "Rules and Regulations Governing the Transportation of Hazardous Materials through Bridge-Tunnel Facilities." This document is available from VDOT EOC, 1221 E. Broad St., Richmond VA 23219. See http://www.vdot.state.va.us/roads/tunnel.html for real-time traffic information.

Radioactive hazardous material routes are as follows:

- Interstate 85 from Interstate 95 to state 460.
- State 5 from State 155 [in Charles City] to state 156.
- State 10 from state 156 to State 58.
- State 100 [at Pearisburg] from US 460 to Interstate 81.
- State 155 from Interstate 64 to State 5 [at Charles City].
- State 156 from State 5 to State 10.
- State 208 from US 522 to US 1.
- State 460 from Interstate 85 to State 726 [Mt. Athos Road in Lynchburg].
- US 1 from state 208 to Interstate 95 [at Fourmile Fork].
- US 17/U258 from Interstate 64 to State 10.
- US 29 from Interstate 66 to Interstate 64.
- US 58 from Portsmouth to Interstate 95.
- US 220 Alt. From US 460 to Interstate 81.
- US 460 from US 1 [in Petersburg] to US 58 [North of Suffolk].
- US 460 from West Virginia to State 100 [Pearisburg].
- US 469 from State 726 [Mt. Athos Road in Lynchburg] to US 220 Alt.
- US 522 from State 208 to Interstate 64.

***Liability*:**

- No liability will be assessed for clean up or reimbursement to the Virginia Environmental Emergency Response Fund in the event of an accident or spill if the shipper can demonstrate that the incident was due to an Act of God, an Act of War, or as a result of a third party. Virginia Code Annotated § 10.1-1406 (2004).

- Virginia Code Annotated §§ 10.1-1500 to 10.1-1504 (2004); Southeast Interstate Low-Level Radioactive Waste Compact.
  - The purpose of this compact is to ensure appropriate capacity for the disposal of low-level radioactive waste generated within the region. The party states recognize that radioactive materials are handled more economically on a regional basis. Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee and Virginia are eligible to become members of this Compact.

***Notification*:**

- Virginia Administrative Code – Database updated through 20:24 Va. R. August 9, 2004. Chapter 60, Virginia Hazardous Waste Management Regulations, Part 263 – Standards Applicable to Transporters of Hazardous Waste, Subpart B – Compliance With the Manifest System and Recordkeeping, § 263.20 The manifest system:

  (a) A transporter may not accept hazardous waste from a generator unless it is accompanied by a manifest signed in accordance with the provisions of 40 CFR 262.20. In the case of exports other than those subject to subpart H of 40 CFR part 262, a transporter may not accept such waste from a primary exporter or other person if he knows the shipment does not conform to the EPA Acknowledgement of Consent; and unless, in addition to a manifest signed in accordance with the provisions of 40 CFR 262.20, such waste is also accompanied by an EPA Acknowledgement of Consent which, except for shipment by rail, is attached to the manifest (or shipping paper for exports by water (bulk shipment)). For exports of hazardous waste subject to the requirements of subpart H of 40 CFR part 262, a transporter may not accept hazardous waste without a tracking document that includes all information required by 40 CFR 262.84. (b) Before transporting the hazardous waste, the transporter must sign and date the manifest acknowledging acceptance of the hazardous waste from the generator. The transporter must return a signed copy to the generator before leaving the generator's property. (c) The transporter must ensure that the manifest accompanies the hazardous waste. In the case of exports, the transporter must ensure that a copy of the EPA Acknowledgment of Consent also accompanies the hazardous waste. (d) A transporter who delivers a hazardous waste to another transporter or to the designated facility must: (1) Obtain the date of delivery and the handwritten

signature of that transporter or of the owner or operator of the designated facility.

***Inspection*:**

- Annotated Code of Virginia – Title 10.1. Conservation, Subtitle II. Activities Administered by Other Entities, Chapter 14. Virginia Waste Management Act, Article 2. Solid Waste Management § 10.1-1413. State aid to localities for solid waste disposal:

  A. To assist localities in the collection, transportation, disposal and management of solid waste in accordance with federal and state laws, regulations and procedures, each county, city and town may receive for each fiscal year from the general fund of the state treasury sums appropriated for such purposes. The Director shall distribute such grants on a quarterly basis, in advance, in accordance with Board regulations, to those counties, cities and towns which submit applications therefore.

  B. Any county, city or town applying for and receiving such funds shall utilize the funds only for the collection, transportation, disposal or management of solid waste. The Director shall cause the use and expenditure of such funds to be audited and all funds not used for the specific purposes stated herein shall be refunded to the general fund.

  C. All funds granted under the provisions of this section shall be conditioned upon and subject to the satisfactory compliance by the county, city or town with applicable federal and state legislation and regulations. The Director may conduct periodic inspections to ensure satisfactory compliance.

Washington - Existing State Regulatory Requirements

Authorities/Duties:

- Annotated Revised Code of Washington § 43.145.010 (2004). Compact:

  The Northwest Interstate Compact on Low-Level Radioactive Waste Management is hereby enacted into law and entered into by the state of Washington as a party, and is in full force and effect between the state and other states joining the compact in accordance with the terms of the compact.

  Northwest Interstate Compact on Low-Level Radioactive Waste Management (*portions of text omitted*):

  Article I – Policy and Purpose:

  The party states recognize that low-level radioactive wastes are generated by essential activities and services that benefit the citizens of the states. It is further recognized that the protection of the health and safety of the citizens of the party states and the most economical management of low-level radioactive wastes can be accomplished through cooperation of the states in minimizing the amount of handling and transportation required to dispose of such wastes and through the cooperation of the states in providing facilities that serve the region. It is the policy of the party states to undertake the necessary cooperation to protect the health and safety of the citizens of the party states and to provide for the most economical management of low-level radioactive wastes on a continuing basis. It is the purpose of this compact to provide the means for such a cooperative effort among the party states so that the protection of the citizens of the states and the maintenance of the viability of the states' economies will be enhanced while sharing the responsibilities of radioactive low-level waste management.

  Article II – Definitions (Omitted)

  Article III – Regulatory Practices

  Each party state hereby agrees to adopt practices which will require low-level waste shipments originating within its borders and destined for a facility within another party state to conform to the applicable packaging and transportation requirements and regulations of the host state. Such practices shall include:

  (1) Maintaining an inventory of all generators within the state that have shipped or expect to ship low-level waste to facilities in another party state;

(2) Periodic unannounced inspection of the premises of such generators and the waste management activities thereon;
(3) Authorization of the containers in which such waste may be shipped, and a requirement that generators use only that type of container authorized by the state;

(4) Assurance that inspections of the carriers which transport such waste are conducted by proper authorities, and appropriate enforcement action taken for violations;

(5) After receiving notification from a host state that a generator within the party state is in violation of applicable packaging or transportation standards, the party state will take appropriate action to assure that such violations do not recur. Such action may include inspection of every individual low-level waste shipment by that generator.

Each party state may impose fees upon generators and shippers to recover the cost of the inspections and other practices under this Article. Nothing in this Article shall be construed to limit any party state's authority to impose additional or more stringent standards on generators or carriers than those required under this Article.

Article IV – Regional Facilities

Section 1. Facilities located in any party state, other than facilities established or maintained by individual low-level waste generators for the management of their own low-level waste, shall accept low-level waste generated in any party state if such waste has been packaged and transported according to applicable laws and regulations.

Section 2. No facility located in any party state may accept low-level waste generated outside of the region comprised of the party states, except as provided in Article V.

Section 3. Until such time as Section 2 takes effect as provided in Article VI, facilities located in any party state may accept low-level waste generated outside of any of the party states only if such waste is accompanied by a certificate of compliance issued by an official of the state in which such waste shipment originated. Such certificate shall be in such form as may be required by the host state, and shall contain at least the following:

(1) The generator's name and address;

(2) A description of the contents of the low-level waste container;

(3) A statement that the low-level waste being shipped has been inspected by the official who issued the certificate or by his agent or by a representative of the United States Nuclear Regulatory Commission, and found to have been packaged in compliance with applicable federal regulations and such additional requirements as may be imposed by the host state;
(4) A binding agreement by the state of origin to reimburse any party state for any liability or expense incurred as a result of an accidental release of such waste during shipment or after such waste reaches the facility.

Section 4. Each party state shall cooperate with the other party states in determining the appropriate site of any facility that might be required within the region comprised of the party states, in order to maximize public health and safety while minimizing the use of any one party state as the host of such facilities on a permanent basis. Each party state further agrees that decisions regarding low-level waste management facilities in their region will be reached through a good faith process which takes into account the burdens borne by each of the party states as well as the benefits each has received.

Section 5. The party states recognize that the issue of hazardous chemical waste management is similar in many respects to that of low-level waste management. Therefore, in consideration of the state of Washington allowing access to its low-level waste disposal facility by generators in other party states, party states such as Oregon and Idaho which host hazardous chemical waste disposal facilities will allow access to such facilities by generators within other party states. Nothing in this compact may be construed to prevent any party state from limiting the nature and type of hazardous chemical or low-level wastes to be accepted at facilities within its borders or from ordering the closure or [of] such facilities, so long as such action by a host state is applied equally to all generators within the region composed of the party states.

Section 6. Any host state may establish a schedule of fees and requirements related to its facility, to assure that closure, perpetual care, and maintenance and contingency requirements are met, including adequate bonding.

Article V – Northwest Low-Level Waste Compact Committee

The governor of each party state shall designate one official of that state as the person responsible for administration of this compact. The officials so designated shall together comprise the Northwest low-level waste compact committee. The committee shall meet as required to consider matters arising under this compact. The parties shall inform the committee of existing

regulations concerning low-level waste management in their states, and shall afford all parties a reasonable opportunity to review and comment upon any proposed modifications in such regulations. Notwithstanding any provision of Article IV to the contrary, the committee may enter into arrangements with states, provinces, individual generators, or regional compact entities outside the region comprised of the party states for access to facilities on such terms and conditions as the committee may deem appropriate. However, it shall require a two-thirds vote of all such members, including the affirmative vote of the member of any party state in which a facility affected by such arrangement is located, for the committee to enter into such arrangement.

Article VI – Eligible Parties and Effective Date

Section 1. Each of the following states is eligible to become a party to this compact: Alaska, Hawaii, Idaho, Montana, Oregon, Utah, Washington, and Wyoming. As to any eligible party, this compact shall become effective upon enactment into law by that party, but it shall not become initially effective until enacted into law by two states. Any party state may withdraw from this compact by enacting a statute repealing its approval.

Section 2. After the compact has initially taken effect pursuant to Section 1, any eligible party state may become a party to this compact by the execution of an executive order by the governor of the state. Any state which becomes a party in this manner shall cease to be a party upon the final adjournment of the next general or regular session of its legislature or July 1, 1983, whichever occurs first, unless the compact has by then been enacted as a statute by that state.

Section 3. Section 2 of Article IV of this compact shall take effect on July 1, 1983, if consent is given by Congress. As provided in Public Law 96-573, Congress may withdraw its consent to the compact after every five-year period.

Article VII – Severability

If any provision of this compact, or its application to any person or circumstance, is held to be invalid, all other provisions of this compact, and the application of all of its provisions to all other persons and circumstances, shall remain valid; and to this end the provisions of this compact are severable.

- Annotated Revised Code of Washington **§** 43.146.010 (2004). Pacific States Agreement on Radioactive Materials Transportation Management:

  The Pacific States Agreement on Radioactive Materials Transportation Management is hereby enacted into law and entered into by the state of

Washington as a party, and is in full force and effect between the state and other states joining the agreement in accordance with its terms.

Pacific States Agreement on Radioactive Materials Transportation Management:

Article I – Policy and Purpose

The party states recognize that protection of the health and safety of citizens and the environment, and the most economical transportation of radioactive materials, can be accomplished through cooperation and coordination among neighboring states. It is the purpose of this agreement to establish a committee comprised of representatives from each party state to further cooperation between the states on emergency response and to coordinate activities by the states to eliminate unnecessary duplication of rules and regulations regarding the transportation and handling of radioactive material.

The party states intend that this agreement facilitate both interstate commerce and protection of public health and the environment. To accomplish this goal, the party states direct the committee to develop model regulatory standards for party states to act upon and direct the committee to coordinate decisions by party states relating to the routing and inspection of shipments of radioactive material.

Article II– Definitions

As used in this agreement:

(1) “Carrier” includes common, private, and contract carriers.

(2) “Hazardous material” means a substance or material which has been determined by the United States department of transportation to be capable of posing an unreasonable risk to health, safety, and property when transported in commerce, and which has been so designated.

(3) “Radioactive material” has the meaning given that term in federal department of transportation regulations found in 49 C.F.R. Sec. 173, and includes, but is not limited to, high-level radioactive waste, low-level radioactive waste, and spent nuclear fuel, as defined in section 2 of the nuclear waste policy act of 1982 (96 Stat. 2202; 42 U.S.C.A. Sec. 10101).

(4) “Transportation” means the transport by any means of radioactive material destined for or derived from any location, and any loading, unloading, or storage incident to such transport. “Transportation” does not include permanent storage or disposal of the material.

Article III – Regulatory Practices

Section 1. The party states agree to develop model standards, not in conflict with federal law or regulations, for carriers of radioactive material to provide information regarding:

(1) The amount and kind of material transported;

(2) The mode of transportation and, to the extent feasible, the route or routes and the time schedule;

(3) The carrier's compliance with local, state, and federal rules and regulations related to radioactive material transportation**;**

(4) The carrier's compliance with federal and state liability insurance requirements.

Section 2. Consistent with federal law or regulations pertaining to transportation of radioactive material, the party states also agree to:

(1) Develop model uniform procedures for issuing permits to carriers;

(2) Develop model uniform record-keeping processes that allow access on demand by each state;

(3) Develop model uniform safety standards for carriers;

(4) Coordinate routing of shipments of radioactive materials;

(5) Develop a method for coordinating the party states' emergency response plans to provide for regional emergency response including (a) systems for sharing information essential to radiation control efforts, (b) systems for sharing emergency response personnel, and (c) a method to allocate costs and clarify liability when a party state or its officers request or render emergency response;

(6) Recommend parking requirements for motor vehicles transporting radioactive materials;

(7) Coordinate state inspections of carriers; and

(8) Develop other cooperative arrangements and agreements to enhance safety.

Section 3. The party states also agree to coordinate emergency response training and preparedness drills among the party states, Indian tribes,

and affected political subdivisions of the party states, and, if possible, with federal agencies.

Section 4. The party states recognize that the transportation management of hazardous waste and hazardous materials is similar in many respects to that of radioactive materials. The party states, therefore, agree to confer as to transportation management and emergency response for those items where similarities in management exist.

Article IV – Pacific States Radioactive Materials Transportation Committee

Section 1. Each party state shall designate one official of that state to confer with appropriate legislative committees and with other officials of that state responsible for managing transportation of radioactive material and with affected Indian tribes and be responsible for administration of this agreement. The officials so designated shall together comprise the Pacific states radioactive materials transportation committee. The committee shall meet as required to consider and, where necessary, coordinate matters addressed in this agreement. The parties shall inform the committee of existing regulations concerning radioactive materials transportation management in their states, and shall afford all parties a reasonable opportunity to review and comment upon any proposed modifications in such regulations.

Section 2. The committee may also engage in long-term planning to assure safe and economical management of radioactive material transportation on a continuing basis.

Section 3. To the extent practicable, the committee shall coordinate its activities with those of other organizations.

Article V – Eligible Parties and Effective Date

Section 1. The states of Arizona, California, Colorado, Idaho, Montana, New Mexico, Nevada, Oregon, Utah, Washington, and Wyoming are eligible to become a party to this agreement.
As to any eligible party, this agreement shall become effective upon enactment into law by that party, but it shall not become initially effective until enacted into law by two states. Any party state may withdraw from this agreement by enacting a statute repealing its approval.

Section 2. After the agreement has initially taken effect under section 1 of this article, any eligible party state may become a party to this agreement by the execution of an executive order by the governor of the state. Any

state which becomes a party in this manner shall cease to be a party upon the final adjournment of the next general or regular session of its legislature or July 1, 1988, whichever occurs first, unless the agreement has by then been enacted as a statute by that state.

Article VI – Severability

If any provision of this agreement, or its application to any person or circumstance, is held to be invalid, all other provisions of this agreement, and the application of all of its provisions to all other persons and circumstances, shall remain valid; and to this end the provisions of this agreement are severable.

- Washington Administrative Code § 246-231-001 (2004). Purpose and scope:

  (1) This chapter establishes requirements for packaging, preparation for shipment, and transportation of radioactive material.

  (2) These rules are in addition to applicable requirements of the United States Nuclear Regulatory Commission (NRC), the United States Department of Transportation (DOT), the U.S. Postal Service <1 >, and other requirements of Title 246 Washington Administrative Code.

  (3) The regulations in this chapter apply to any licensee authorized by specific or general license issued by the department to receive, possess, use, or transfer licensed material, if the licensee delivers that material to a carrier for transport, transports the material outside the site of usage as specified in the license, or transports that material on public highways. No provision of this chapter authorizes possession of licensed material.

- Annotated Revised Code of Washington § 46.48.200 (2004). Radioactive waste – Additional ports of entry. (Contingent expiration date.):

  Any additional ports of entry for highway transportation of radioactive waste materials other than those designated by Washington Administrative Code 446-50-040 as filed on December 11, 1979, must be authorized by the state legislature. This section shall expire when both the Washington state legislature and at least one other eligible state enact an interstate agreement on radioactive materials transportation management.

- Annotated Revised Code of Washington § 47.01.270 (2004)**.** Radioactive or hazardous cargo, notice of prohibition:

  The department of transportation shall adopt regulations to establish procedures for giving notice to transporters of placarded radioactive or hazardous cargo of times when transportation of such cargo is prohibited.

- Washington Administrative Code § 446-50-010 (2004). Authority:

  Chapter 46.48 RCW authorizes the Washington state patrol acting by and through its chief after conferring with the committee created by RCW 46.48.190 to adopt regulations concerning the safe transportation of hazardous materials, hazardous waste, and radioactive waste materials upon the public highways of this state. Chapter 46.32 RCW permits the inspection of vehicles traveling on the highways of this state.

Licensing:

- Washington Administrative Code § 246-231-005 (2004). Requirement for license:

  No person shall deliver radioactive material to a carrier for transport or transport radioactive material except as authorized in a general or specific license issued by the department, or as exempted in this chapter.

- Washington Administrative Code § 246-231-030 (2004). Transportation of licensed material:

  (1) Each licensee who transports licensed material outside the site of usage, as specified in the license issued by the department, or where transport is on public highways, or who delivers licensed material to a carrier for transport, shall comply with the applicable requirements of the DOT regulations in 49 CFR Parts 170 through 189 appropriate to the mode of transport.

  (a) The licensee shall particularly note DOT regulations in the following areas:

  (i) Packaging--49 CFR Part 173: Subparts A and B and I.

  (ii) Marking and labeling--49 CFR Part 172: Subpart D, Secs. 172.400 through 172.407, Secs. 172.436 through 172.440, and subpart E.

(iii) Placarding--49 CFR Part 172: Subpart F, especially Secs. 172.500 through 172.519, 172.556, and appendices B and C.

(iv) Accident reporting--49 CFR Part 171: Secs. 171.15 and 171.16.

(v) Shipping papers and emergency information--49 CFR Part 172: Subparts C and G.

(vi) Hazardous material employee training--49 CFR Part 172: Subpart H.

(vii) Hazardous material shipper/carrier registration--49 CFR Part 107: Subpart G.

(b) The licensee shall also note DOT regulations pertaining to the following modes of transportation:

(i) Rail--49 CFR Part 174: Subparts A through D and K.

(ii) Air--49 CFR Part 175.

(iii) Vessel--49 CFR Part 176: Subparts A through F and M.

(iv) Public Highway--49 CFR Part 177 and Parts 390 through 397.

(2) If DOT regulations are not applicable to a shipment of licensed material, the licensee shall conform to the standards and requirements of the DOT specified in paragraph (1) of this section to the same extent as if the shipment or transportation were subject to DOT regulations. A request for modification, waiver, or exemption from those requirements, and any notification referred to in those requirements, must be filed with, or made to, the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

- Washington Administrative Code § 246-231-040 (2004). Exemptions:

(1) Common and contract carriers, freight forwarders, and warehouse workers who are subject to the rules and regulations of the United States Department of Transportation (49 CFR Parts 170 through 189) or the United States Postal Service (Domestic Mail Manual, Section 124.3 incorporated by reference, 39 CFR 111.11 (1974) are exempt from this chapter to the extent that they transport or store radioactive material in the regular course of their carriage for another or storage incident thereto. Common and contract carriers who are not subject to the rules and regulations of the United States Department of Transportation or United States Postal Service are subject to Washington

Administrative Code 246-231-005 and other applicable sections of these regulations.

(2) Any licensee who delivers radioactive material to a carrier for transport, where such transport is subject to the regulations of the United States Postal Service, is exempt from the provisions of Washington Administrative Code 246-231-005.

(3) Physicians as defined in Washington Administrative Code 246-220-010, are exempt from the requirements of this chapter only to the extent that they transport radioactive material for emergency use in the practice of medicine.

(4) A licensee is exempt from all requirements of this chapter with respect to shipment or carriage of a package containing radioactive material having a specific activity not greater than 70 Bq/g (0.002 uCi/g).

(5) A licensee is exempt from all requirements of this chapter, other than Washington Administrative Code 246-231-030 and 246-231-120, with respect to shipment or carriage of the following packages, provided the packages contain no fissile material:

(a) A package containing no more than a Type A quantity of radioactive material;

(b) A package in which the only radioactive material is low specific activity (LSA) material or surface contaminated objects (SCO), provided the external radiation level at 3 m from the unshielded material or objects does not exceed 10 mSv/h (1 rem/h); or

(c) A package transported within locations within the United States which contains only americium or plutonium in special form with an aggregate radioactivity not to exceed 20 curies.

(6) A licensee is exempt from all requirements of this chapter, other than Washington Administrative Code 246-231-030 and 246-231-120, with respect to shipment or carriage of low-specific-activity (LSA) material in group LSA-I, or surface contaminated objects (SCOs) in group SCO-I.

- Washington Administrative Code § 246-231-050 (2004). General licenses for carriers:

(1) A general license is hereby issued to any common or contract carrier not exempted under Washington Administrative Code 246-231-040 to receive, possess, transport and store radioactive material in the regular course of their carriage for another or storage incident thereto, provided the transportation and storage is in accordance with the applicable requirements of the

regulations, appropriate to the mode of transport, of the United States Department of Transportation.

(2) A general license is hereby issued to any private carrier to transport radioactive material, provided the transportation is in accordance with the applicable requirements of the regulations, appropriate to the mode of transport, of the United States Department of Transportation insofar as such regulations relate to the loading and storage of packages, placarding of the transporting vehicle, shipping papers, and incident reporting. Any notification of incidents referred to in those requirements shall be filed with, or made to, the department.

(3) Persons who transport radioactive material pursuant to the general licenses of subsection (1) or (2) of this section are exempt from the requirements of chapters 246-221 and 246-222 Washington Administrative Code to the extent that they transport radioactive material.

(4) A general license is hereby issued to deliver radioactive material to a carrier <1 >for transport provided that:

(a) The licensee complies with the applicable requirements of the regulations, appropriate to the mode of transport, of the United States Department of Transportation insofar as such regulations relate to the packaging of radioactive material, to shipping papers, and to the monitoring, marking and labeling of those packages.

(b) The licensee has established procedures for opening and closing packages in which radioactive material is transported to provide safety and to assure that, prior to the delivery to a carrier for transport, each package is properly closed for transport.

(c) Prior to delivery of a package to a carrier for transport, the licensee shall assure that any special instructions needed to safely open the package are sent to or have been made available to the consignee.

(d) In addition to the requirements of the United States Department of Transportation, each package of Type A or B quantity radioactive material prepared for shipment must have the innermost container labeled as to the isotope, chemical form, number of bequerels or subunits thereof, and date of determination of activity and each innermost container shall be tested to assure that the container is properly sealed and that contamination which would cause undue hazard to public health and safety or property is not present prior to transportation. This requirement does not apply to properly packaged shipments of radioactive waste consigned to a commercial low level radioactive waste disposal facility.

Note 1 – For the purpose of this regulation, licensees who transport their own licensed material as a private carrier are considered to have delivered such material to a carrier for transport.

- Washington Administrative Code § 246-232-090 (2004). Transportation:

  No person shall deliver radioactive material to a carrier for transport or transport radioactive material except as authorized in a general or specific license issued by the department or as exempted in chapter 246-231 Washington Administrative Code. General licenses for transportation of radioactive material and other transportation requirements are found in chapter 246-231 Washington Administrative Code.

- Washington Administrative Code § 246-231-060 (2004). General license--NRC-approved package:

  (1) A general license is hereby issued to any licensee of the department to transport or to deliver to a carrier for transport, licensed material in a package for which a license, certificate of compliance, or other approval has been issued by the department or NRC.

  (2) This general license applies only to a licensee who has a quality assurance program approved by the USNRC.

  (3) This general license applies only to a licensee who:

  (a) Has a copy of the certificate of compliance, or other approval of the package, and has the drawings and other documents referenced in the approval relating to the use and maintenance of the packaging and to the actions to be taken before shipment;

  (b) Complies with the terms and conditions of the license, certificate, or other approval, as applicable, and the applicable requirements of the USNRC; and

  (c) Submits in writing to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, before the licensee's first use of the package, the licensee's name and license number and the package identification number specified in the package approval.

  (4) This general license applies only when the package approval authorizes use of the package under this general license.

(5) For a Type B or fissile material package, the design of which was approved by NRC before April 1, 1996, the general license is subject to the additional restrictions of NRC regulations 10 CFR 71.13.

***Notice*:**

- Washington Administrative Code § 246-231-140 (2004). Advance notification of shipment of irradiated reactor fuel and nuclear waste:

  (1) As specified in subsections (2), (3), and (4) of this section, each licensee shall provide advance notification to the governor of a state, or the governor's designee, of the shipment of licensed material, through, or across the boundary of the state, before the transport, or delivery to a carrier, for transport, of licensed material outside the confines of the licensee's plant or other place of use or storage.

  (2) Advance notification is required under this section for shipments of irradiated reactor fuel in quantities less than that subject to advance notification requirements of NRC regulations 10 CFR 73.37(f). Advance notification is also required under this section for shipment of licensed material, other than irradiated fuel, meeting the following three conditions:

  (a) The licensed material is required by this section to be in Type B packaging for transportation;

  (b) The licensed material is being transported to or across a state boundary en route to a disposal facility or to a collection point for transport to a disposal facility; and

  (c) The quantity of licensed material in a single package exceeds the least of the following:

  (i) 3000 times the A1 value of the radionuclides as specified in Washington Administrative Code 246-231-200, Table A-1 for special form radioactive material;

  (ii) 3000 times the A2 value of the radionuclides as specified in Washington Administrative Code 246-231-200, Table A-1 for normal form radioactive material; or

  (iii) 1000 TBq (27,000 Ci).

  (3) Procedures for submitting advance notification.

  (a) The notification must be made in writing to the office of each appropriate governor or governor's designee and to the Administrator of

the appropriate NRC Regional Office listed in Appendix A of NRC regulations 10 CFR Part 73.

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

(c) A notification delivered by messenger must reach the office of the governor or of the governor's designee at least four days before the beginning of the seven-day period during which departure of the shipment is estimated to occur.

(i) A list of the names and mailing addresses of the governors' designees receiving advance notification of transportation of nuclear waste was published in the *Federal Register* on June 30, 1995, (60 FR 34306).

(ii) The list will be published annually in the *Federal Register* on or about June 30 to reflect any changes in information.

(iii) A list of the names and mailing addresses of the governors' designees is available on request from the Director, Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

(d) The licensee shall retain a copy of the notification as a record for three years.

(4) Information to be furnished in advance notification of shipment. Each advance notification of shipment of irradiated reactor fuel or nuclear waste must contain the following information:

(a) The name, address, and telephone number of the shipper, carrier, and receiver of the irradiated reactor fuel or nuclear waste shipment;

(b) A description of the irradiated reactor fuel or nuclear waste contained in the shipment, as specified in the regulations of DOT in 49 CFR 172.202 and 172.203(d);

(c) The point of origin of the shipment and the seven-day period during which departure of the shipment is estimated to occur;
(d) The seven-day period during which arrival of the shipment at state boundaries is estimated to occur;

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

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

(5) Revision notice. A licensee who finds that schedule information previously furnished to a governor or governor's designee, in accordance with this section, will not be met, shall telephone a responsible individual in the office of the governor of the state or of the governor's designee and inform that individual of the extent of the delay beyond the schedule originally reported. The licensee shall maintain a record of the name of the individual contacted for three years.

(6) Cancellation notice.

(a) Each licensee who cancels an irradiated reactor fuel or nuclear waste shipment for which advance notification has been sent shall send a cancellation notice to the governor of each state or to the governor's designee previously notified, and to the Administrator of the appropriate NRC Regional Office listed in Appendix A of USNRC regulations 10 CFR 73.

(b) The licensee shall state in the notice that it is a cancellation and identify the advance notification that is being canceled. The licensee shall retain a copy of the notice as a record for three years.

***Inspections*:**

- Washington Administrative Code § 446-50-020 (2004). Purpose:

  These rules are intended to protect persons and property from unreasonable risk of harm or damage due to incidents or accidents resulting from the transportation of hazardous materials and hazardous waste and to insure that the vehicle equipment of all carriers of radioactive waste materials are inspected by the Washington state patrol.

***Packaging*:**

- Washington Administrative Code § 246-231-070 (2004). Previously approved package:

  (1) A Type B package previously approved by NRC but not designated as B(U) or B(M) in the identification number of the NRC Certificate of Compliance, may be used under the general license of Washington Administrative Code 246-231-060 with the following additional conditions:

(a) Fabrication of the packaging was satisfactorily completed by August 31, 1986, as demonstrated by application of its model number in accordance with Washington Administrative Code 246-231-100 (2)(c);

(b) A package used for a shipment to a location outside the United States is subject to multilateral approval, as defined in DOT regulations at 49 CFR 173.403; and

(c) A serial number that uniquely identifies each packaging which conforms to the approved design is assigned to, and legibly and durably marked on, the outside of each packaging.

(2) A Type B(U) package, a Type B(M) package, a low specific activity (LSA) material package or a fissile material package, previously approved by the NRC but without the designation “85” in the identification number of the NRC Certificate of Compliance, may be used under the general license of Washington Administrative Code 246-231-060 with the following additional conditions:

(a) Fabrication of the package is satisfactorily completed by April 1, 1999, as demonstrated by application of its model number in accordance with Washington Administrative Code 246-231-100 (2)(c);

(b) A package used for a shipment to a location outside the United States is subject to multilateral approval as defined in DOT regulations at 49 CFR 173.403; and

(c) A serial number which uniquely identifies each packaging which conforms to the approved design is assigned to and legibly and durably marked on the outside of each packaging.

- Washington Administrative Code § 246-231-080 (2004)**.** General license--DOT specification container:

(1) A general license is issued to any licensee of the department to transport, or to deliver to a carrier for transport, licensed material in a specification container for fissile material or for a Type B quantity of radioactive material as specified in DOT regulations at 49 CFR Parts 173 and 178.

(2) This general license applies only to a licensee who has a quality assurance program approved by the NRC as satisfying the provisions of subpart H of the NRC regulations, 10 CFR 71.

(3) This general license applies only to a licensee who:

(a) Has a copy of the specification; and

(b) Complies with the terms and conditions of the specification and the applicable requirements of subparts A, G, and H of NRC regulations 10 CFR 71.

(4) This general license is subject to the limitation that the specification container may not be used for a shipment to a location outside the United States, except by multilateral approval, as defined in DOT regulations at 49 CFR 173.403.

- Washington Administrative Code § 246-231-090 (2004). General license – Use of foreign approved package:

  (1) A general license is issued to any licensee of the department to transport, or to deliver to a carrier for transport, licensed material in a package the design of which has been approved in a foreign national competent authority certificate that has been revalidated by DOT as meeting the applicable requirements of 49 CFR 171.12.

  (2) Except as otherwise provided in this section, the general license applies only to a licensee who has a quality assurance program approved by the USNRC.

  (3) This general license applies only to shipments made to or from locations outside the United States.

  (4) This general license applies only to a licensee who:

  (a) Has a copy of the applicable certificate, the revalidation, and the drawings and other documents referenced in the certificate, relating to the use and maintenance of the packaging and to the actions to be taken before shipment; and

  (b) Complies with the terms and conditions of the certificate and revalidation, and with the applicable requirements of the USNRC.

- Washington Administrative Code § 246-231-100 (2004). Applicability of operating controls and procedures:

  (1) A licensee subject to this chapter, who, under a general or specific license, transports licensed material or delivers licensed material to a carrier for transport, shall also comply with the requirements of NRC regulations 10 CFR 71 subpart G, with the quality assurance requirements of subpart H, and with the general provisions of subpart A.

  (2) Before the first use of any packaging for the shipment of licensed material:

(a) The licensee shall ascertain that there are no cracks, pinholes, uncontrolled voids, or other defects that could significantly reduce the effectiveness of the packaging;

(b) Where the maximum normal operating pressure will exceed 35 kPa (5 lbf/in <2 >) gauge, the licensee shall test the containment system at an internal pressure at least fifty percent higher than the maximum normal operating pressure, to verify the capability of that system to maintain its structural integrity at that pressure; and

(c) The licensee shall conspicuously and durably mark the packaging with its model number, serial number, gross weight, and a package identification number assigned by NRC. Before applying the model number, the licensee shall determine that the packaging has been fabricated in accordance with the design approved by the U.S. Nuclear Regulatory Commission.

- Washington Administrative Code § 246-231-110 (2004). Routine determinations.

  Before each shipment of licensed material, the licensee shall ensure that the package with its contents satisfies the applicable requirements of this section and of the license. The licensee shall determine that:

  (1) The package is proper for the contents to be shipped;

  (2) The package is in unimpaired physical condition except for superficial defects such as marks or dents;

  (3) Each closure device of the packaging, including any required gasket, is properly installed and secured and free of defects;

  (4) Any system for containing liquid is adequately sealed and has adequate space or other specified provision for expansion of the liquid;

  (5) Any pressure relief device is operable and set in accordance with written procedures;

  (6) The package has been loaded and closed in accordance with written procedures;

  (7) For fissile material, any moderator or neutron absorber, if required, is present and in proper condition;

(8) Any structural part of the package that could be used to lift or tie down the package during transport is rendered inoperable for that purpose, unless it satisfies the design requirements of NRC regulations 10 CFR 71.45;

(9) The level of non-fixed (removable) radioactive contamination on the external surfaces of each package offered for shipment is as low as reasonably achievable, and within the limits specified in DOT regulations in 49 CFR 173.443;

(10) External radiation levels around the package and around the vehicle, if applicable, will not exceed the limits specified in NRC regulations 10 CFR 71.47 at any time during transportation; and

(11) Accessible package surface temperatures will not exceed the limits specified in NRC regulations 10 CFR 71.43(g) at any time during transportation.

- Washington Administrative Code § 246-231-120 (2004). Air transport of plutonium.

  (1) Notwithstanding the provisions of any general licenses and notwithstanding any exemptions stated directly in this part or included indirectly by citation of 49 CFR chapter I, as may be applicable, the licensee shall assure that plutonium in any form, whether for import, export, or domestic shipment, is not transported by air or delivered to a carrier for air transport unless:

  (a) The plutonium is contained in a medical device designed for individual human application; or

  (b) The plutonium is contained in a material in which the specific activity is not greater than 0.002 uCi/g (70 Bq/g) of material and in which the radioactivity is essentially uniformly distributed; or

  (c) The plutonium is shipped in a single package containing no more than an A2 quantity of plutonium in any isotope or form, and is shipped in accordance with Washington Administrative Code 246-231-030; or

  (d) The plutonium is shipped in a package specifically authorized for the shipment of plutonium by air in the Certificate of Compliance for that package issued by the U.S. Nuclear Regulatory Commission.

  (2) Nothing in subsection (1) of this section is to be interpreted as removing or diminishing the requirements of NRC regulations 10 CFR 73.24.

(3) For a shipment of plutonium by air which is subject to subsection (1)(d) of this section, the licensee shall, through special arrangement with the carrier, require compliance with 49 CFR 175.704, U.S. Department of Transportation regulations applicable to the air transport of plutonium.

- Washington Administrative Code § 246-231-130 (2004). Opening instructions:

  Before delivery of a package to a carrier for transport, the licensee shall ensure that any special instructions needed to safely open the package have been sent to, or otherwise made available to, the consignee for the consignee's use in accordance with Washington Administrative Code 246-221-160.

Violations/Penalties:

- Annotated Revised Code of Washington § 47.48.050 (2004). Transportation of radioactive or hazardous cargo – Definition – Violation, penalty:

  The chief or other officer of the Washington state patrol may prohibit the transportation of placarded radioactive or hazardous cargo over the highways of the state, or a portion thereof, if weather or other conditions create a substantial risk to public safety. For the purposes of this section hazardous cargo shall mean hazardous materials as defined in RCW 70.136.020(1). Violation of an order issued under this section constitutes a misdemeanor.

- Annotated Revised Code of Washington § 70.99.050 (2004). Violations – Penalties – Injunctions – Jurisdiction and venue –Fees and costs:

  (1) A violation of or failure to comply with the provisions of RCW 70.99.030 or 70.99.040 is a gross misdemeanor.

  (2) Any person or entity that violates or fails to comply with the provisions of RCW 70.99.030 or 70.99.040 is subject to a civil penalty of one thousand dollars for each violation or failure to comply.

  (3) Each day upon which a violation occurs constitutes a separate violation for the purposes of subsections (1) and (2) of this section.

  (4) Any person or entity violating this chapter may be enjoined from continuing the violation. The attorney general or any person residing in the state of Washington may bring an action to enjoin violations of this chapter, on his or her own behalf and on the behalf of all persons similarly situated. Such action may be maintained in the person's own name or in the name of the state of Washington. No bond may be required as a condition to obtaining any injunctive relief. The superior courts have jurisdiction over actions brought under this section, and venue shall lie in the county of the plaintiff's residence,

in the county in which the violation is alleged to occur, or in Thurston county. In addition to other relief, the court in its discretion may award attorneys and expert witness fees and costs of the suit to a party who demonstrates that a violation of this chapter has occurred.

***Routing*:**

- See Federal Register, Vol. 65, No. 233, p. 75815, Dec 4, 2000
- No routes designated as of 11/14/00
- Contacts:
  - No agency designated
  - Federal Motor Carrier Safety Administration – Washington Field Office, Washington Motor Carrier State Director, 711 S. Capitol Way, Ste. 501, Olympia, WA 98501-1284; (206) 753-9875

***Other*:**

- Records
  - Washington Administrative Code § 246-243-200 (2004). Records required at temporary job sites:

    Each licensee conducting radiographic operations at a temporary site shall have copies of the following documents and records available at that site for inspection by the department:

    (1) Appropriate license;

    (2) Operating and emergency procedures;

    (3) Applicable regulations;

    (4) Survey records required pursuant to Washington Administrative Code 246-243-190 for the period of operation at the site;

    (5) Direct reading dosimeter records for the period of operation at the site;

    (6) The latest radiation survey instrument calibration record and leak test record for specific devices in use at the site;

    (7) The latest calibration record for alarm rate meters and operability checks of pocket dosimeters and/or electronic personal dosimeters as required by Washington Administrative Code 246243-150;

(8) Utilization records for each radiographic exposure device dispatched from that location as required by Washington Administrative Code 246-243-110;

(9) Records of equipment problems identified in daily checks of equipment as required by Washington Administrative Code 246-243-120;

(10) Records of alarm system and entrance control checks required by Washington Administrative Code 246243-220, if applicable;

(11) The shipping papers for the transportation of radioactive materials; and

(12) When operating under reciprocity pursuant to Washington Administrative Code 246-232-040, a copy of the NRC or agreement state license authorizing the use of radioactive material.

- Manifests

  - Washington Administrative Code § 246-249-090 (2004). Transfer for disposal and manifests:

    The requirements of this section are designed to control transfers of low-level radioactive waste by any waste generator, waste collector, or waste processor licensee who ships low-level waste either directly, or indirectly through a waste collector or waste processor, to a licensed low-level waste land disposal facility; establish a manifest tracking system; and supplement existing requirements concerning transfers and recordkeeping for those wastes.

    (1) Effective March 1, 1998, each shipment of radioactive waste intended for disposal at a licensed land disposal facility in the state of Washington must be accompanied by a uniform low-level radioactive waste shipment manifest.

    (2) Any licensee shipping radioactive waste intended for ultimate disposal at a licensed land disposal facility must document the information required on NRC's Uniform Low-Level Radioactive Waste Manifest and transfer this recorded manifest information to the intended consignee in accordance with this section.

    (a) Each shipment manifest must include a certification by the waste generator as specified in this section.

(b) Each person involved in the transfer for disposal and disposal of waste, including the waste generator, waste collector, waste processor, and disposal facility operator, shall comply with the requirements specified in this section.

(c) When recording information on shipment manifests, information must be recorded in the International System of Units (SI) or in SI and units of curie, rad, rem, including multiples and subdivisions.

(3) A waste generator, collector, or processor who transports, or offers for transportation**,** low-level radioactive waste intended for ultimate disposal at a licensed low-level radioactive waste land disposal facility must prepare a manifest reflecting information requested on applicable NRC Forms 540 (Uniform Low-Level Radioactive Waste Manifest (Shipping Paper)) and 541 (Uniform Low-Level Radioactive Waste Manifest (Container and Waste Description)) and, if necessary, on an applicable NRC Form 542 (Uniform Low-Level Radioactive Waste Manifest (Manifest Index and Regional Compact Tabulation)). NRC Forms 540 and 540A must be completed and must physically accompany the pertinent low-level waste shipment. Upon agreement between shipper and consignee, NRC Forms 541 and 541A and 542 and 542A may be completed, transmitted, and stored in electronic media with the capability for producing legible, accurate, and complete records on the respective forms. Licensees are not required by the department to comply with the manifesting requirements of this section when they ship:

(a) LLW for processing and expect its return (i.e., for storage under their license) prior to disposal at a licensed land disposal facility;

(b) LLW that is being returned to the licensee who is the “waste generator” or “generator,” as defined in this part; or

(c) Radioactively contaminated material to a “waste processor” that becomes the processor’s “residual waste.”

For guidance in completing these forms, refer to the instructions that accompany the forms. Copies of manifests required by this section may be legible carbon copies, photocopies, or computer printouts that reproduce the data in the format of the uniform manifest.
This section includes information requirements of the U.S. Department of Transportation, as codified in 49 CFR Part 172. Information on hazardous, medical, or other waste, required to meet Environmental Protection Agency regulations, as codified in 40 CFR Parts 259, 261 or elsewhere, is not addressed in this section, and must be provided on the required EPA forms. However, the required EPA forms must

accompany the Uniform Low-Level Radioactive Waste Manifest required by this section.

(4) Information requirements.

(a) General information.

The shipper of the radioactive waste, shall provide the following information on the uniform manifest:

(i) The name, facility address, and telephone number of the licensee shipping the waste;

(ii) An explicit declaration indicating whether the shipper is acting as a waste generator, collector, processor, or a combination of these identifiers for purposes of the manifested shipment; and

(iii) The name, address, and telephone number, or the name and EPA identification number for the carrier transporting the waste.

(b) Shipment information.

The shipper of the radioactive waste shall provide the following information regarding the waste shipment on the uniform manifest:

(i) The date of the waste shipment;

(ii) The total number of packages/disposal containers;

(iii) The total disposal volume and disposal weight in the shipment;

(iv) The total radionuclide activity in the shipment;

(v) The activity of each of the radionuclides H-3, C-14, Tc-99, and I-129 contained in the shipment; and

(vi) The total masses of U-233, U-235, and plutonium in special nuclear material, and the total mass of uranium and thorium in source material.

(c) Disposal container and waste information.

The shipper of the radioactive waste shall provide the following information on the uniform manifest regarding the waste and each disposal container of waste in the shipment:

(i) An alphabetic or numeric identification that uniquely identifies each disposal container in the shipment;

(ii) A physical description of the disposal container, including the manufacturer and model of any high integrity container;

(iii) The volume displaced by the disposal container;

(iv) The gross weight of the disposal container, including the waste;

(v) For waste consigned to a disposal facility, the maximum radiation level at the surface of each disposal container;

(vi) A physical and chemical description of the waste;

(vii) The total weight percentage of chelating agent for any waste containing more than 0.1% chelating agent by weight, plus the identity of the principal chelating agent;

(viii) The approximate volume of waste within a container;

(ix) The sorbing, stabilization, or solidification media, if any, and the identity of the solidification or stabilization media vendor and brand name;

(x) The identities and activities of individual radionuclides contained in each container, the masses of U-233, U-235, and plutonium in special nuclear material, and the masses of uranium and thorium in source material. For discrete waste types (i.e., activated materials, contaminated equipment, mechanical filters, sealed source/devices, and wastes in solidification/stabilization media), the identities and activities of individual radionuclides associated with or contained on these waste types within a disposal container shall be reported;

(xi) The total radioactivity within each container; and

(xii) For wastes consigned to a disposal facility, the classification of the waste pursuant to this chapter. Waste not meeting the structural stability requirements of this chapter must be identified.

(d) Uncontainerized waste information.

The shipper of the radioactive waste shall provide the following information on the uniform manifest regarding a waste shipment delivered without a disposal container:

(i) The approximate volume and weight of the waste;

(ii) A physical and chemical description of the waste;

(iii) The total weight percentage of chelating agent if the chelating agent exceeds 0.1% by weight, plus the identity of the principal chelating agent;

(iv) For waste consigned to a disposal facility, the classification of the waste pursuant to this chapter. Waste not meeting the structural stability requirements of this chapter must be identified;

(v) The identities and activities of individual radionuclides contained in the waste, the masses of U-233, U-235, and plutonium in special nuclear material, and the masses of uranium and thorium in source material; and

(vi) For wastes consigned to a disposal facility, the maximum radiation levels at the surface of the waste.

(e) Multigenerator disposal container information.

This subsection applies to disposal containers enclosing mixtures of waste originating from different generators. (Note: The origin of the LLW resulting from a processor's activities may be attributable to one or more "generators," including "waste generators." It also applies to mixtures of wastes shipped in an uncontainerized form, for which portions of the mixture within the shipment originate from different generators.)

(i) For homogeneous mixtures of waste, such as incinerator ash, provide waste description applicable to the mixture and the volume of the waste attributed to each generator.

(ii) For heterogeneous mixtures of waste, such as the combined products from a large compactor, identify each generator contributing waste to the disposal container, and, for discrete waste types (i.e., activated materials, contaminated equipment, mechanical filters, sealed source/devices, and wastes in solidification/stabilization media), the identities and activities of individual radionuclides contained on these waste types within the disposal container. For each generator, provide the following:

(A) The volume of waste within the disposal container;

(B) A physical and chemical description of the waste, including the stabilization or solidification agent, if any;

(C) The total weight percentage of chelating agents for any disposal container containing more than 0.1% chelating agent by weight, plus the identity of the principal chelating agent;

(D) The sorbing, solidification, or stabilization media, if any, and the identity of the stabilization media vendor and brand name, if the media is claimed to meet stability requirements in Washington Administrative Code 246-249-050(2); and

(E) Radionuclide identities and activities contained in the waste, the masses of U-233, U-235, and plutonium in special nuclear material, and the masses of uranium and thorium in source material if contained in the waste.

(5) Certification.

An authorized representative of the waste generator, processor, or collector shall certify by signing and dating the shipment manifest that the transported materials are properly classified, described, packaged, marked, and labeled and are in proper condition for transportation according to the applicable regulations of the Department of Transportation, the U.S. Nuclear Regulatory Commission, and the department. A collector in signing the certification is certifying that nothing has been done to the collected waste which would invalidate the waste generator's certification.

(6) Control and tracking.

(a) Any licensee who transfers radioactive waste to a land disposal facility or a licensed waste collector shall comply with the requirements in (a)(i) through (ix) of this subsection. Any licensee who transfers waste to a licensed waste processor for waste treatment or repackaging shall comply with the requirements of (a)(iv) through (ix) of this section. A licensee shall:

(i) Prepare all wastes so that the waste is classified according to Washington Administrative Code 246-249-040 and meets the waste characteristics requirements in Washington Administrative Code 246-249-050;

(ii) Label each disposal container (or transport package if potential radiation hazards preclude labeling of the individual disposal

container) of waste to identify whether it is Class A waste, Class B waste, Class C waste, or greater than Class C waste, in accordance with Washington Administrative Code 246-249-040;

(iii) Conduct a quality assurance program to assure compliance with Washington Administrative Code 246-249-040 and 246-249-050 (the program must include management evaluation of audits);

(iv) Prepare the NRC Uniform Low-Level Radioactive Waste Manifest as required by this section;

(v) Forward a copy or electronically transfer the Uniform Low-Level Radioactive Waste Manifest to the intended consignee so that either receipt of the manifest precedes the LLW shipment or the manifest is delivered to the consignee with the waste at the time the waste is transferred to the consignee. Using both methods is also acceptable;

(vi) Include NRC Form 540 (and NRC Form 540A, if required) with the shipment regardless of the option chosen in (a)(v) of this subsection;

(vii) Receive acknowledgement of the receipt of the shipment in the form of a signed copy of NRC Form 540;

(viii) Retain a copy of or electronically store the Uniform Low-Level Radioactive Waste Manifest and documentation of acknowledgement of receipt as the record of transfer of licensed material as required by these regulations; and

(ix) For any shipments or any part of a shipment for which acknowledgement of receipt has not been received within the times set forth in this section, conduct an investigation in accordance with (e) of this subsection.

(b) Any waste collector licensee who handles only prepackaged waste shall:

(i) Acknowledge receipt of the waste from the shipper within one week of receipt by returning a signed copy of NRC Form 540;

(ii) Prepare a new manifest to reflect consolidated shipments that meet the requirements of this section. The waste collector shall ensure that, for each container of waste in the shipment, the manifest identifies the generator of that container of waste;

(iii) Forward a copy or electronically transfer the Uniform Low-Level Radioactive Waste Manifest to the intended consignee so that either receipt of the manifest precedes the LLW shipment, or the manifest is delivered to the consignee with the waste at the time the waste is transferred to the consignee. Using both methods is also acceptable;

(iv) Include NRC Form 540 (and NRC Form 540A, if required) with the shipment regardless of the option chosen in (b)(iii) of this subsection;

(v) Receive acknowledgement of the receipt of the shipment in the form of a signed copy of NRC Form 540;

(vi) Retain a copy of or electronically store the Uniform Low-Level Radioactive Waste Manifest and documentation of acknowledgement of receipt as the record of transfer of licensed material as required by these regulations;

(vii) For any shipments or any part of a shipment for which acknowledgement of receipt has not been received within the times set forth in this section, conduct an investigation in accordance with this section; and

(viii) Notify the shipper and the department when any shipment, or part of a shipment, has not arrived within sixty days after receipt of an advance manifest, unless notified by the shipper that the shipment has been canceled.

(c) Any licensed waste processor who treats or repackages waste shall:

(i) Acknowledge receipt of the waste from the shipper within one week of receipt by returning a signed copy of NRC Form 540;

(ii) Prepare a new manifest that meets the requirements of this section. Preparation of the new manifest reflects that the processor is responsible for meeting these requirements. For each container of waste in the shipment, the manifest shall identify the waste generators, the preprocessed waste volume, and the other information as required in subsection (4)(e) of this section;

(iii) Prepare all wastes so that the waste is classified according to Washington Administrative Code 246-249-040 and meets the waste characteristics requirements in Washington Administrative Code 246-249-050;

(iv) Label each package of waste to identify whether it is Class A waste, Class B waste, or Class C waste, in accordance with Washington Administrative Code 246-249-040 and 246-249-060;

(v) Conduct a quality assurance program to assure compliance with Washington Administrative Code 246-249-040 and 246-249-050 (the program shall include management evaluation of audits);

(vi) Forward a copy or electronically transfer the Uniform Low-Level Radioactive Waste Manifest to the intended consignee so that either receipt of the manifest precedes the LLW shipment, or the manifest is delivered to the consignee with the waste at the time the waste is transferred to the consignee. Using both methods is also acceptable;

(vii) Include NRC Form 540 (and NRC Form 540A, if required) with the shipment regardless of the option chosen in (c)(vi) of this subsection;
(viii) Receive acknowledgement of the receipt of the shipment in the form of a signed copy of NRC Form 540;

(ix) Retain a copy of or electronically store the Uniform Low-Level Radioactive Waste Manifest and documentation of acknowledgement of receipt as the record of transfer of licensed material as required by these regulations;

(x) For any shipment or any part of a shipment for which acknowledgement of receipt has not been received within the times set forth in this section, conduct an investigation in accordance with (e) of this subsection; and

(xi) Notify the shipper and the department when any shipment, or part of a shipment, has not arrived within sixty days after receipt of an advance manifest, unless notified by the shipper that the shipment has been canceled.

(d) The land disposal facility operator shall:

(i) Acknowledge receipt of the waste within one week of receipt by returning, as a minimum, a signed copy of NRC Form 540 to the shipper. The shipper to be notified is the licensee who last possessed the waste and transferred the waste to the operator. If any discrepancy exists between materials listed on the Uniform Low-Level Radioactive Waste Manifest and materials received,

copies or electronic transfer of the affected forms must be returned indicating the discrepancy;

(ii) Maintain copies of all completed manifests and electronically store the information required by Washington Administrative Code 246-250600(8) until the license is terminated; and

(iii) Notify the shipper and the department when any shipment, or part of a shipment, has not arrived within sixty days after receipt of an advance manifest, unless notified by the shipper that the shipment has been canceled.

(e) Any shipment or part of a shipment for which acknowledgement is not received within the times set forth in this section must:

(i) Be investigated by the shipper if the shipper has not received notification or receipt within twenty days after transfer; and

(ii) Be traced and reported. The investigation shall include tracing the shipment and filing a report with the department. Each licensee who conducts a trace investigation shall file a written report with the department within two weeks of completion of the investigation.

- Annotated Revised Code of Washington § 70.98.180 (2004). Exemptions:

  This chapter shall not apply to the following sources or conditions:

  (1) Radiation machines during process of manufacture, or in storage or transit: PROVIDED, that this exclusion shall not apply to functional testing of such machines.

  (2) Any radioactive material while being transported in conformity with regulations adopted by any federal agency having jurisdiction therein, and specifically applicable to the transportation of such radioactive materials.

  (3) No exemptions under this section are granted for those quantities or types of activities which do not comply with the established rules and regulations promulgated by the Atomic Energy Commission, or any successor thereto.

- Annotated Revised Code of Washington § 70.99.040 (2004). Transportation of radioactive waste from outside the state for storage within the state prohibited – Exception:

  Notwithstanding any law, order, or regulation to the contrary, after July 1, 1981, no person or entity may transport radioactive waste, except medical waste, generated or otherwise produced outside the geographic boundaries of the state

of Washington to any site within the geographic boundaries of the state of Washington for temporary, interim, or permanent storage.

- Annotated Revised Code of Washington § 70.99.905 (2004)**.** Severability

  If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

- Washington Administrative Code § 468-38-135 (2004). Transportation of radioactive or hazardous materials:

  Under provision of chapter 47.48 RCW, the chief of the Washington state patrol or the secretary of transportation or their designees may close a section (or sections) of highways of the state to transporters of placarded radioactive or hazardous cargo because of weather or other conditions that create a substantial risk to public safety. The department of transportation and Washington state patrol shall exchange notices of conditions requiring the closure of the highway and when conditions enable the closure to be terminated. The Washington state patrol or department of transportation shall manually control traffic until the closure is terminated or, if appropriate, until the time the department of transportation installs traffic control devices related to the closure. The Washington state patrol shall provide notice of both the imposition and lifting of the closure to placarded transporters through notices to news media, affected local law enforcement agencies, and other appropriate organizations, both public and private.

- Washington Administrative Code § 246-244-060 (2004). Transport precautions:

  (1) Transport containers shall be physically secured to the transporting vehicle to prevent accidental loss, tampering, or unauthorized removal.

  (2) Transport of radioactive material shall be in accordance with applicable provisions of the United States Department of Transportation**,** as required by chapter 246-231 Washington Administrative Code.

- Washington Administrative Code § 480-14-400 (2004). Transportation of radioactive materials – Driving and parking rules:

  (1) Attendance and surveillance of motor vehicles.

  (a) Except as provided in (b) of this subsection, a motor vehicle containing an amount of radioactive material requiring highway route control pursuant to CFR part 173.403 in effect on the date specified in Washington Administrative Code 480-14-999 must be attended at all times by its driver or a qualified representative of the motor carrier that operates it.

(b) Subdivision (a) of this subsection shall not apply if all of the following conditions exist:

(i) The vehicle is located on the property of the motor carrier, on the property of a shipper or consignee of the radioactive material, or in a safe haven; and

(ii) The lawful bailee of the radioactive material is aware of the nature of the radioactive material the vehicle contains and has been instructed in the procedures that must be followed in emergencies; and

(iii) The vehicle is within the bailee's unobstructed field of view.

(c) For purposes of this section:

(i) A motor vehicle is attended when the person in charge of the vehicle is on the vehicle, awake, and not in a sleeper berth, or is within one hundred feet of the vehicle with an unobstructed field of view;

(ii) A qualified representative of a motor carrier is a person who:

(A) Has been designated by the carrier to attend the vehicle;

(B) Is aware of the nature of the radioactive materials contained in the vehicle;

(C) Has been instructed in the procedures to be followed in emergencies; and

(D) Is authorized to move the vehicle and has the means and ability to do so.

(d) A safe haven is an area specifically approved in writing by local, state or federal government authorities for the parking of unattended vehicles containing highway route controlled quantities of radioactive material.

(e) The rules in this section do not relieve a driver from any obligation imposed by law relating to the placing of warning devices when a motor vehicle is stopped on the public street or highway.

(2) Parking. A motor vehicle which contains an amount of radioactive material requiring highway route control must not be parked:

(a) On or within five feet of the traveled portion of a public street or highway;

(b) On private property (including premises of a fueling or eating facility) without the knowledge and consent of the person who is in charge of the property and who is aware of the nature of the hazardous materials the vehicle contains; or

(c) Within three hundred feet of a bridge, tunnel, dwelling, building, or place where people work, congregate, or assemble, except for brief periods when the necessities of operation require the vehicle to be parked and make it impracticable to park the vehicle in any other place.

- Revised Code of Washington Annotated – Title 43. State Government—Executive, Chapter 43.21f. State Energy Office, 43.21f.400. Western Interstate Nuclear Compact – Entered Into – Terms:

  The western interstate nuclear compact is hereby enacted into law and entered into by the state of Washington as a party, and is in full force and effect between the state and any other states joining therein in accordance with the terms of the compact, which compact is substantially as follows:

  Article I. Policy and Purpose

  The party states recognize that the proper employment of scientific and technological discoveries and advances in nuclear and related fields and direct and collateral application and adaptation of processes and techniques developed in connection therewith, properly correlated with the other resources of the region, can assist substantially in the industrial progress of the West and the further development of the economy of the region. They also recognize that optimum benefit from nuclear and related scientific or technological resources, facilities and skills requires systematic encouragement, guidance, assistance, and promotion from the party states on a cooperative basis. It is the policy of the party states to undertake such cooperation on a continuing basis. It is the purpose of this compact to provide the instruments and framework for such a cooperative effort in nuclear and related fields, to enhance the economy of the West and contribute to the individual and community well-being of the region's people.

  Article II. The Board

  (a) There is hereby created an agency of the party states to be known as the "Western Interstate Nuclear Board" (hereinafter called the Board). The Board shall be composed of one member from each party state designated or appointed in accordance with the law of the state which he represents and serving and subject to removal in accordance with such law. Any member of the Board may provide for the discharge of his duties and the performance of his functions thereon (either for the duration of his membership or for any

lesser period of time) by a deputy or assistant, if the laws of his state make specific provisions therefor. The federal government may be represented without vote if provision is made by federal law for such representation.

(b) The Board members of the party states shall each be entitled to one vote on the Board. No action of the Board shall be binding unless taken at a meeting at which a majority of all members representing the party states are present and unless a majority of the total number of votes on the Board are cast in favor thereof.

(c) The Board shall have a seal.

(d) The Board shall elect annually, from among its members, a chairman, a vice chairman, and a treasurer. The Board shall appoint and fix the compensation of an Executive Director who shall serve at its pleasure and who shall also act as Secretary, and who, together with the Treasurer, and such other personnel as the Board may direct, shall be bonded in such amounts as the Board may require.

(e) The Executive Director, with the approval of the Board, shall appoint and remove or discharge such personnel as may be necessary for the performance of the Board's functions irrespective of the civil service, personnel or other merit system laws of any of the party states.

(f) The Board may establish and maintain, independently or in conjunction with any one or more of the party states, or its institutions or subdivisions, a suitable retirement system for its full-time employees. Employees of the Board shall be eligible for social security coverage in respect of old age and survivors insurance provided that the Board takes such steps as may be necessary pursuant to federal law to participate in such program of insurance as a governmental agency or unit. The Board may establish and maintain or participate in such additional programs of employee benefits as may be appropriate.

(g) The Board may borrow, accept, or contract for the services of personnel from any state or the United States or any subdivision or agency thereof, from any interstate agency, or from any institution, person, firm or corporation.

(h) The Board may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials and services (conditional or otherwise) from any state or the United States or any subdivision or agency thereof, or interstate agency, or from any institution, person, firm, or corporation, and may receive, utilize, and dispose of the same. The nature, amount and conditions, if any, attendant upon any donation or grant accepted pursuant to this paragraph or upon any borrowing

pursuant to paragraph (g) of this Article, together with the identity of the donor, grantor or lender, shall be detailed in the annual report of the Board.
(i) The Board may establish and maintain such facilities as may be necessary for the transacting of its business. The Board may acquire, hold, and convey real and personal property and any interest therein.

(j) The Board shall adopt bylaws, rules, and regulations for the conduct of its business, and shall have the power to amend and rescind these bylaws, rules, and regulations. The Board shall publish its bylaws, rules, and regulations in convenient form and shall file a copy thereof, and shall also file a copy of any amendment thereto, with the appropriate agency or officer in each of the party states.

(k) The Board annually shall make to the governor of each party state, a report covering the activities of the Board for the preceding year, and embodying such recommendations as may have been adopted by the Board, which report shall be transmitted to the legislature of said state. The Board may issue such additional reports as it may deem desirable.

Article III. Finances

(a) The Board shall submit to the governor or designated officer or officers of each party state a budget of its estimated expenditures for such period as may be required by the laws of that jurisdiction for presentation to the legislature thereof.

(b) Each of the Board's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states. Each of the Board's requests for appropriations pursuant to a budget of estimated expenditures shall be apportioned equally among the party states. Subject to appropriation by their respective legislatures, the Board shall be provided with such funds by each of the party states as are necessary to provide the means of establishing and maintaining facilities, a staff of personnel, and such activities as may be necessary to fulfill the powers and duties imposed upon and entrusted to the Board.

(c) The Board may meet any of its obligations in whole or in part with funds available to it under Article II(h) of this compact, provided that the Board takes specific action setting aside such funds prior to the incurring of any obligation to be met in whole or in part in this manner. Except where the Board makes use of funds available to it under Article II(h) hereof, the Board shall not incur any obligation prior to the allotment of funds by the party jurisdictions adequate to meet the same.

(d) Any expenses and any other costs for each member of the Board in attending Board meetings shall be met by the Board.

(e) The Board shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Board shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Board shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become a part of the annual report of the Board.

(f) The accounts of the Board shall be open at any reasonable time for inspection to persons authorized by the Board, and duly designated representatives of governments contributing to the Board's support.

Article IV. Advisory Committees

The Board may establish such advisory and technical committees as it may deem necessary, membership on which may include but not be limited to private citizens, expert and lay personnel, representatives of industry, labor, commerce, agriculture, civic associations, medicine, education, voluntary health agencies, and officials of local, State and Federal Government, and may cooperate with and use the services of any such committees and the organizations which they represent in furthering any of its activities under this compact.

Article V. Powers

The Board shall have power to:

(a) Encourage and promote cooperation among the party states in the development and utilization of nuclear and related technologies and their application to industry and other fields.

(b) Ascertain and analyze on a continuing basis the position of the West with respect to the employment in industry of nuclear and related scientific findings and technologies.

(c) Encourage the development and use of scientific advances and discoveries in nuclear facilities, energy, materials, products, by-products, and all other appropriate adaptations of scientific and technological advances and discoveries.

(d) Collect, correlate, and disseminate information relating to the peaceful uses of nuclear energy, materials, and products, and other products and processes resulting from the application of related science and technology.

(e) Encourage the development and use of nuclear energy, facilities, installations, and products as part of a balanced economy.

(f) Conduct, or cooperate in conducting, programs of training for state and local personnel engaged in any aspects of:

1. Nuclear industry, medicine, or education, or the promotion or regulation thereof.

2. Applying nuclear scientific advances or discoveries, and any industrial commercial or other processes resulting therefrom.

3. The formulation or administration of measures designed to promote safety in any matter related to the development, use or disposal of nuclear energy, materials, products, by-products, installations, or wastes, or to safety in the production, use and disposal of any other substances peculiarly related thereto.

(g) Organize and conduct, or assist and cooperate in organizing and conducting, demonstrations or research in any of the scientific, technological or industrial fields to which this compact relates.

(h) Undertake such nonregulatory functions with respect to non-nuclear sources of radiation as may promote the economic development and general welfare of the West.

(i) Study industrial, health, safety, and other standards, laws, codes, rules, regulations, and administrative practices in or related to nuclear fields.

(j) Recommend such changes in, or amendments or additions to the laws, codes, rules, regulations, administrative procedures and practices or local laws or ordinances of the party states or their subdivisions in nuclear and related fields, as in its judgment may be appropriate. Any such recommendations shall be made through the appropriate state agency, with due consideration of the desirability of uniformity but shall also give appropriate weight to any special circumstances which may justify variations to meet local conditions.

(k) Consider and make recommendations designed to facilitate the transportation of nuclear equipment, materials, products, byproducts, wastes, and any other nuclear or related substances, in such manner and under such conditions as will make their availability or disposal practicable on an economic and efficient basis.

(l) Consider and make recommendations with respect to the assumption of and protection against liability actually or potentially incurred in any phase of operations in nuclear and related fields.

(m) Advise and consult with the federal government concerning the common position of the party states or assist party states with regard to individual problems where appropriate in respect to nuclear and related fields.

(n) Cooperate with the Atomic Energy Commission, the National Aeronautics and Space Administration, the Office of Science and Technology, or any agencies successor thereto, any other officer or agency of the United States, and any other governmental unit or agency or officer thereof, and with any private persons or agencies in any of the fields of its interest.

(o) Act as licensee, contractor or sub-contractor of the United States Government or any party state with respect to the conduct of any research activity requiring such **license** or contract and operate such research facility or undertake any program pursuant thereto, provided that this power shall be exercised only in connection with the implementation of one or more other powers conferred upon the Board by this compact.

(p) Prepare, publish and distribute (with or without charge) such reports, bulletins, newsletters or other materials as it deems appropriate.

(q) Ascertain from time to time such methods, practices, circumstances, and conditions as may bring about the prevention and control of nuclear incidents in the area comprising the party states, to coordinate the nuclear incident prevention and control plans and the work relating thereto of the appropriate agencies of the party states and to facilitate the rendering of aid by the party states to each other in coping with nuclear incidents.

The Board may formulate and, in accordance with need from time to time, revise a regional plan or regional plans for coping with nuclear incidents within the territory of the party states as a whole or within any subregion or subregions of the geographic area covered by this compact.

Any nuclear incident plan in force pursuant to this paragraph shall designate the official or agency in each party state covered by the plan who shall coordinate requests for aid pursuant to Article VI of this compact and the furnishing of aid in response thereto.

Unless the party states concerned expressly otherwise agree, the Board shall not administer the summoning and dispatching of aid, but this

function shall be undertaken directly by the designated agencies and officers of the party states.

However, the plan or plans of the Board in force pursuant to this paragraph shall provide for reports to the Board concerning the occurrence of nuclear incidents and the requests for aid on account thereof, together with summaries of the actual working and effectiveness of mutual aid in particular instances.

From time to time, the Board shall analyze the information gathered from reports of aid pursuant to Article VI and such other instances of mutual aid as may have come to its attention, so that experience in the rendering of such aid may be available.

(r) Prepare, maintain, and implement a regional plan or regional plans for carrying out the duties, powers, or functions conferred upon the Board by this compact.

(s) Undertake responsibilities imposed or necessarily involved with regional participation pursuant to such cooperative programs of the federal government as are useful in connection with the fields covered by this compact.

Article VI. Mutual Aid

(a) Whenever a party state, or any state or local governmental authorities therein, request aid from any other party state pursuant to this compact in coping with a nuclear incident, it shall be the duty of the requested state to render all possible aid to the requesting state which is consonant with the maintenance of protection of its own people.

(b) Whenever the officers or employees of any party state are rendering outside aid pursuant to the request of another party state under this compact, the officers or employees of such state shall, under the direction of the authorities of the state to which they are rendering aid, have the same powers, duties, rights, privileges and immunities as comparable officers and employees of the state to which they are rendering aid.

(c) No party state or its officers or employees rendering outside aid pursuant to this compact shall be liable on account of any act or omission on their part while so engaged, or on account of the maintenance or use of any equipment or supplies in connection therewith.

(d) All liability that may arise either under the laws of the requesting state or under the laws of the aiding state or under the laws of a third state on account

of or in connection with a request for aid, shall be assumed and borne by the requesting state.

(e) Any party state rendering outside aid pursuant to this compact shall be reimbursed by the party state receiving such aid for any loss or damage to, or expense incurred in the operation of any equipment answering a request for aid, and for the cost of all materials, transportation, wages, salaries and maintenance of officers, employees and equipment incurred in connection with such requests: PROVIDED, That nothing herein contained shall prevent any assisting party state from assuming such loss, damage, expense or other cost or from loaning such equipment or from donating such services to the receiving party state without charge or cost.

(f) Each party state shall provide for the payment of compensation and death benefits to injured officers and employees and the representatives of deceased officers and employees in case officers or employees sustain injuries or death while rendering outside aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within the state by or in which the officer or employee was regularly employed.

Article VII. Supplementary Agreements

(a) To the extent that the Board has not undertaken an activity or project which would be within its power under the provisions of Article V of this compact, any two or more of the party states (acting by their duly constituted administrative officials) may enter into supplementary agreements for the undertaking and continuance of such an activity or project. Any such agreement shall specify the purpose or purposes; its duration and the procedure for termination thereof or withdrawal therefrom; the method of financing and allocating the costs of the activity or project; and such other matters as may be necessary or appropriate.

No such supplementary agreement entered into pursuant to this article shall become effective prior to its submission to and approval by the Board. The Board shall give such approval unless it finds that the supplementary agreement or activity or project contemplated thereby is inconsistent with the provisions of this compact or a program or activity conducted by or participated in by the Board.

(b) Unless all of the party states participate in a supplementary agreement, any cost or costs thereof shall be borne separately by the states party thereto. However, the Board may administer or otherwise assist in the operation of any supplementary agreement.

(c) No party to a supplementary agreement entered into pursuant to this article shall be relieved thereby of any obligation or duty assumed by said party state under or pursuant to this compact, except that timely and proper performance of such obligation or duty by means of the supplementary agreement may be offered as performance pursuant to the compact.

(d) The provisions of this Article shall apply to supplementary agreements and activities thereunder, but shall not be construed to repeal or impair any authority which officers or agencies of party states may have pursuant to other laws to undertake cooperative arrangements or projects.

Article VIII. Other Laws And Relations

Nothing in this compact shall be construed to:

(a) Permit or require any person or other entity to avoid or refuse compliance with any law, rule, regulation, order or ordinance of a party state or subdivision thereof now or hereafter made, enacted or in force.

(b) Limit, diminish, or otherwise impair jurisdiction exercised by the Atomic Energy Commission, any agency successor thereto, or any other federal department, agency or officer pursuant to and in conformity with any valid and operative act of Congress; nor limit, diminish, affect, or otherwise impair jurisdiction exercised by any officer or agency of a party state, except to the extent that the provisions of this compact may provide therefor.

(c) Alter the relations between and respective internal responsibilities of the government of a party state and its subdivisions.

(d) Permit or authorize the Board to own or operate any facility, reactor, or installation for industrial or commercial purposes.

Article IX. Eligible Parties, Entry Into Force And Withdrawal

(a) Any or all of the states of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming shall be eligible to become party to this compact.

(b) As to any eligible party state, this compact shall become effective when its legislature shall have enacted the same into law: PROVIDED, That it shall not become initially effective until enacted into law by five states.

(c) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until two years

after the Governor of the withdrawing state has given notice in writing of the withdrawal to the Governors of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

(d) Guam and American Samoa, or either of them may participate in the compact to such extent as may be mutually agreed by the Board and the duly constituted authorities of Guam or American Samoa, as the case may be. However, such participation shall not include the furnishing or receipt of mutual aid pursuant to Article VI, unless that Article has been enacted or otherwise adopted so as to have the full force and effect of law in the jurisdiction affected. Neither Guam nor American Samoa shall be entitled to voting participation on the Board, unless it has become a full party to the compact.

Article X. Severability and Construction

The provisions of this compact and of any supplementary agreement entered into hereunder shall be severable and if any phrase, clause, sentence or provision of this compact or such supplementary agreement is declared to be contrary to the Constitution of any participating state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact or such supplementary agreement and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact or any supplementary agreement entered into hereunder shall be held contrary to the Constitution of any state participating therein, the compact or such supplementary agreement shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. The provisions of this compact and of any supplementary agreement entered into pursuant thereto shall be liberally construed to effectuate the purposes thereof.

Credit(s)

[1969 c 9 § 1. Formerly RCW 43.31.400.]

<General Materials (GM) - References, Annotations, or Tables**>**

Historical And Statutory Notes

Severability--1969 c 9: “If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.” [1969 c 9 § 6.]

Complementary Legislation:

- Alaska – AS 41.98.110 to 41.98.150.
- Ariz. – A.R.S. §§ 30-701 to 30-705.
- Cal. – West's Ann.Cal.Gov.Code, §§ 67400, 67401.
- Colo. – West'S C.R.S.A. § § 24-60-1401 to 24-60-1404.
- Idaho – I.C. §§ 39-3020 to 39-3024.
- Mt. – M.C.A. 90-5-201 to 90-5-203.
- Nev. – N.R.S. 459.001 to 459.005.
- N.M. – NMSA 1978, §§ 11-9-1 to 11-9-3.
- U.S. – Oct. 16, 1970, Pub.L. 91-461, 84 Stat. 979.
- Utah – U.C.A. 1953, 63-41-1 to 63-41-6.
- Wash. – West's RCWA 43.21F.400 to 43.21F.420.
- Wyo. – Wyo.Stat.Ann. §§ 9-6-101 to 9-6-105.

Wisconsin – Existing State Regulatory Requirements

- Chapter 196. Regulation of Public Utilities, 196.497. State Policy Regarding the Long-Term Disposal of High-Level Radioactive Waste and Transuranic Waste:

  (1) Definitions. As used in this section unless the context requires otherwise:

  (b) "Federal department of energy" means the federal department of energy or any successor agency assigned responsibility for the long-term disposal of high-level radioactive waste and transuranic waste.

  (c) "High-level radioactive waste" means:

  1. Fuel that is withdrawn from a nuclear reactor after irradiation and which is packaged and prepared for disposal; or

  2. Highly radioactive waste resulting from reprocessing irradiated nuclear fuel including both the liquid waste which is produced directly in reprocessing and any solid material into which the liquid waste is transformed.

  (d) "Transuranic waste" means waste material containing alpha-emitting radioactive elements having an atomic number greater than 92 in concentrations greater than 10 nanocuries per gram.

  (2) Coordination. (a) *Initial agency to be contacted.* The commission shall serve as the initial agency in this state to be contacted by the federal department of energy or any other federal agency on any matter related to the long-term disposal of high-level radioactive waste or transuranic waste.

  (b) *Receipt of information.* The commission shall serve as the initial agency in this state to receive any report, study, document, information or notification of proposed plans from the federal department of energy or any other federal agency on any matter related to the long-term disposal of high-level radioactive waste or transuranic waste. Notification of proposed plans include notification of proposals to conduct field work, on-site evaluation, on-site testing or similar activities.

  (c) *Dissemination of information.* The commission shall disseminate or arrange with the federal department of energy or other federal agency to disseminate information received under par. (b) to appropriate state agencies, local units of government, regional planning commissions, American Indian tribal governing bodies, the general public, interested citizen groups and persons who have requested in writing to receive this information.

(d) *Response.* The commission shall respond to contacts under par. (a) and information received under par. (b) if a response is appropriate. The commission shall consult with appropriate state agencies, local units of government, regional planning commissions, American Indian tribal governing bodies, the general public and interested citizen groups in preparing this response.

(3) Advocate. The commission shall serve as an advocate on behalf of the citizens of this state before the federal department of energy and other federal agencies on matters related to the long-term disposal of radioactive waste and transuranic waste.

(5) Review of applications for federal funds. The commission shall review any application to the federal department of energy or other federal agency by a state agency, local unit of government or regional planning commission for funds for any program related to the long-term disposal of high-level radioactive waste or transuranic waste. If the commission finds that the application is not consistent with the commission's policy related to the long-term disposal of high-level radioactive waste or transuranic waste or that the application is not in the best interest of the state, the commission shall forward its findings to the governor, the joint committee on finance and the federal agency to which the application for funds is being made. If the commission finds that the application of a state agency is not consistent with the commission's policy related to the long-term disposal of high-level radioactive waste or transuranic waste or that the application of a state agency is not in the best interest of the state, the findings forwarded to the governor shall include a recommendation that the governor act under s. 16.54(1) and stipulate conditions for the acceptance of the funds which are necessary to safeguard the interests of the state.

(6) Monitor federal activity. The commission shall monitor activity in congress and the federal government related to the long-term disposal of high-level radioactive waste and transuranic waste. The commission may advise the congressional delegation from this state of action which is needed to protect the interests of the state.

(7) Request attorney general to intervene. If appropriate the commission shall request the attorney general to intervene in federal proceedings to protect the state's interests and present the state's point of view on matters related to the long-term disposal of high-level radioactive waste or transuranic waste.

(8) Negotiation of agreements. (a) *Negotiations with the federal department of energy.* The commission shall serve as the agency in this state to negotiate written agreements and modifications to these agreements, with the federal

department of energy on any matter related to the long-term disposal of high-level radioactive waste or transuranic waste.

(b) *Negotiations with other federal agencies.* The commission shall serve as the agency in this state to negotiate written agreements and modifications to these agreements, with any federal agency other than the federal department of energy on any matter related to the long-term disposal of high-level radioactive waste or transuranic waste.
(d) *Hearings.* The commission shall conduct public hearings on any proposed agreement or modification to an agreement negotiated under par. (a) or (b). The commission shall provide 30 days' notice of the date and location of hearings conducted under this paragraph. The commission shall prepare a written summary of testimony presented at hearings conducted under this paragraph and shall consider the need for modifications to the negotiated agreement as a result of the hearings.

(f) *Approval of agreements and modifications by the legislature and governor*. No agreement or modification to an agreement negotiated under par. (a) or (b) may take effect unless it is approved under sub. (10).

(g) *Technical revisions.* The commission may negotiate what in the commission's judgment are technical revisions to any agreement approved under sub. (10).

(i) *Review of technical revisions by the legislature and governor*. No technical revision to an agreement negotiated under par. (g) may take effect unless it is considered approved under sub. (11).

(9) Agreements with the federal department of energy. (a) *Separate agreements.* The commission may negotiate separate agreements with the federal department of energy concerning different stages of the process of evaluating and selecting a site for the long-term disposal of high-level radioactive waste or transuranic waste. The commission shall negotiate a separate agreement with the federal department of energy for the final stages of the selection of any site for the long-term disposal of high-level radioactive waste or transuranic waste.

(b) *Contents.* Any agreement negotiated by the commission with the federal department of energy under sub. (8)(a) shall include all of the following:

1. A general description of the roles of the state and the federal department of energy.

2. A compliance schedule which includes a list of significant events and stages which are expected to be reached as the federal

department of energy assesses the suitability of the state for the long-term disposal of high-level radioactive waste or transuranic waste and a description of the actions to be taken by the federal department of energy and the state at each event and stage.

3. The criteria that the department of energy shall use in evaluating the suitability of any site in the state for the long-term disposal of high-level radioactive waste or transuranic waste.

4. A requirement that the federal department of energy shall comply with all federal laws, American Indian laws, state laws and local ordinances and shall respect state sovereignty consistent with the 10th amendment to the U.S. constitution and the U.S. constitution, regardless of the ownership of the land on which the activity takes place.

5. A requirement that the federal department of energy and any of its contractors or subcontractors shall provide the commission with all reports and documents the commission requests and any other relevant reports and documents in a timely manner and in accordance with any applicable law, regulation or rule. The requirement shall specify that the federal department of energy may not charge a fee for searching for or for supplying reports and documents requested by the commission. The requirement shall specify that the federal department of energy shall provide the commission with all reports and documents the commission requests and any other relevant reports and documents from contractors and subcontractors after the reports and documents are submitted to the federal department of energy regardless of whether the reports and documents have received the department of energy's final approval.

6. A requirement that, upon request by the commission, the federal department of energy shall provide the data, methods and underlying assumptions used in the preparation of reports and documents in accordance with any applicable law, regulation or rule.

7. A requirement that the federal department of energy shall notify the commission of any grants related to the long-term disposal of high-level radioactive waste and transuranic waste from the federal department of energy to any person in this state.

8. A requirement that the federal department of energy shall notify the commission in a timely manner of any proposed field work, on-site evaluation, on-site testing or similar activities it or any contractor or subcontractor intends to conduct and a requirement that the federal department of energy shall allow the commission to monitor these

activities by designating a reasonable number of persons to observe the activities or by any other appropriate means.

9. A requirement that the federal department of energy shall provide the commission in a timely manner with a copy of any requests for proposals and final contracts issued by the federal department of energy relating to the evaluation, selection or construction of a site for the long-term disposal of high-level radioactive waste or transuranic waste in this state.

10. A provision that the federal department of energy shall agree to provide funds to be used to review the activities of the federal department of energy and its contractors and subcontractors which relate to assessing the suitability of the state for the long-term disposal of high-level radioactive waste or transuranic waste.

11. A process for resolving disputes between the commission and the federal department of energy including disputes concerning alleged violations of the written agreement and disputes concerning technical assessments made by the federal department of energy. The process for resolving disputes concerning technical assessments made by the federal department of energy may involve a process of scientific review and mediation.

12. A requirement that if the federal department of energy selects a site in the state for construction of a repository for the long-term disposal of high-level radioactive waste or transuranic waste, the federal department of energy shall prepare, prior to submission of an application to license or construct the repository, a repository plan which shall include descriptions of the federal department of energy's plans for construction of the repository, transportation of wastes to the repository, operation of the repository, closing of the repository and monitoring the repository after closure.

(c) *Objection to site selection.* Any agreement negotiated by the commission with the federal department of energy under sub. (8)(a) shall include a list of reasons for which the commission may object to the selection of a site within this state for the long-term disposal of high-level radioactive waste and transuranic waste. These reasons shall include the following:

1. The site or the transportation of waste to the site poses a danger to public health and safety or to the environment.

2. The federal department of energy fails to address to the satisfaction of the commission the potential socioeconomic effects of the site or of the transportation of waste to the site.

3. The federal department of energy violates any written agreement or revision approved under sub. (10) or (11).

4. If, in the judgment of the commission, the federal department of energy fails to comply with criteria, regulations or standards of other federal agencies concerning the long-term disposal of high-level radioactive waste or transuranic waste including criteria which excludes a proposed site from consideration because of previous mining or drilling of any type within the area which could be affected by the construction of the site or by the heat resulting from the disposal of high-level radioactive waste or transuranic waste at the site.

5. If, in the judgment of the commission, the federal department of energy fails to use generally accepted scientific and technical practices in evaluating the suitability of a site for the long-term disposal of high-level radioactive waste or transuranic waste.

(10) Approval of agreements. (a) *Submission.* The commission shall submit any written agreement or modification to an agreement negotiated under sub. (8)(a) or (b), approved by the commission and approved by the federal department of energy or other federal agency to the speaker of the assembly and the president of the senate. The commission shall submit with the agreement or modification a written summary of the hearings held under sub. (8)(d).

(b) *Introduction of bill.* Upon request of the commission, the speaker of the assembly or the president of the senate shall introduce a bill to approve the agreement or modification to an agreement. The bill is not subject to s. 16.47(2).

(c) *Legislative action required.* Within 120 days after the bill is introduced the appropriate committees in each house of the legislature shall authorize an extraordinary session of the legislature to commence within the 120 days and to extend until the legislature passes the bill or passes a joint resolution which disapproves of the agreement or modification and returns the agreement or modification to the commission for renegotiation. If the 120-day period extends beyond the date specified in s. 13.02(1), the 120-day period is deemed to commence on the first day the succeeding legislature convenes, unless a bill or joint resolution is passed prior to that time.

(d) *Veto review*. Within 10 days after the bill passes the legislature, the chief clerk of the house of origin shall refer the bill to the governor for executive action. If the governor vetoes the bill, the appropriate committees in each house of the legislature shall schedule a veto review session.

(e) *Approval*. If the bill is enacted into law, the agreement or modification to the agreement is approved and shall take effect.

(11) Review of technical revisions. (a) *Submission.* The commission shall submit any technical revision to a written agreement negotiated under sub. (8)(g), approved by the commission and approved by the federal department of energy or other federal agency, to the presiding officer of each house of the legislature and to the governor.

(b) *Referral to standing committees*. Each presiding officer shall refer the technical revision to one standing committee within 7 working days after the day on which the revision is received unless the revision is received on or after November 1 of an even-numbered year. If a revision is received on or after November 1 of an even-numbered year, each presiding officer shall refer the revision to one standing committee within 7 days after the first day of the next regular session of the legislature. Each presiding officer shall cause a statement to appear in the journal of the appropriate house that a technical revision to an agreement approved under sub. (6) is submitted for review.

(c) *Standing committee review*. Either standing committee may object to the technical revision by taking action in executive session within 30 days after the revision is referred to the committee. If a standing committee objects to the revision, it shall submit a written notice of the objection to the presiding officer of that house of the legislature and the presiding officer shall cause the written notice of the objection to appear in the journal of the house.

(d) *Review by the governor.* The governor may object to the technical revision by taking action within 30 days after the revision is received unless the revision is received on or after November 1 of an even-numbered year. If the revision is received on or after November 1 of an even-numbered year, the governor may object to the revision by taking action within 30 days after the first day of the next regular session of the legislature. If the governor objects to the revision, the governor shall submit a written notice of the objection to the presiding officer of each house of the legislature and each presiding officer shall cause the written notice of the objection to appear in the journal of each house.

(e) *Objection.* A standing committee to which a revision is referred or the governor may object to a technical revision for any reason including a belief that the revision is so substantial that the revised agreement should be approved under sub. (10) rather than this subsection. If either standing committee to which a revision is referred or the governor objects to a technical revision within the 30-day review period, the revision may not take effect.

(f) *No objection*. If neither standing committee nor the governor objects to a technical revision within the 30-day review period, the revision is considered approved and shall take effect.

(11m) Review of final site selection and site plan. (a) *Review by the commission.* If the federal department of energy selects a site in the state for construction of a repository for the long-term disposal of high-level radioactive or transuranic waste, the commission shall review the adequacy of the selected site and of the site plan prepared by the federal department of energy under sub. (9)(b)12. The review shall include a full scientific review of the adequacy of the selected site and of the site plan. The commission shall utilize recognized experts in conducting its scientific review. The commission shall conduct more than one public hearing on the site plan and shall make available to the public arguments and evidence for and against the site plan. The commission shall provide 30 days' notice of the date and location of the public hearings. The commission shall solicit comments from appropriate state agencies, local units of government, regional planning commissions, American Indian tribal governing bodies, the general public and interested citizen groups on the adequacy of the selected site and the site plan. The commission shall make these comments available to the public.

(b) *Recommendation to the legislature and the governor.* After completing this review, the commission shall submit a recommendation to the speaker of the assembly, the president of the senate and the governor on whether the state should accept the site selected by the federal department of energy and the site plan. The reasons for which the commission may recommend that the legislature and the governor object to the site selection or the site plan, or both, include those specified in sub. (9)(c). The recommendation to the speaker of the assembly and the president of the senate shall be accompanied by a request for the introduction of a bill to approve the site selected and the site plan or by a request for the introduction of a bill to disapprove the site or the site plan or both.

(c) *Introduction of legislation.* Upon request of the commission, the speaker of the assembly or the president of the senate shall introduce a bill reflecting the recommendation of the commission on whether to approve or disapprove the site selected by the federal department of energy and the site plan. The bill is not subject to s. 16.47(2).

(d) *Legislative action required*. Within 120 days after the legislation is introduced under par. (c), the appropriate committees in each house of the legislature shall authorize an extraordinary session of the legislature to commence within the 120 days and to extend until the legislature passes a bill which approves the site selected by the federal department of energy and the site plan or the legislature passes a bill which disapproves the site or the site plan or both. If the 120-day period extends beyond the date specified under s. 13.02(1), the 120-day period is deemed to commence on the first day the succeeding legislature convenes, unless a bill is passed prior to that time.

(e) *Veto review*. Within 10 days after the bill passes the legislature, the chief clerk of the house of origin shall refer the bill to the governor for executive action. If the governor vetoes the bill, the appropriate committees in each house of the legislature shall schedule a veto review session.

(f) *Transmittal of action by the legislature and the governor.* After the legislature takes action under par. (d) and after the governor takes any action under par. (e), the chief clerk of the house of origin shall notify the commission of the action taken and the commission shall send a report to the president of the United States, the members of the U.S. senate, the members of the U.S. house of representatives, the federal department of energy and other appropriate federal agencies. The report shall contain a summary of the review undertaken by the commission in accordance with par. (a), the recommendation made by the commission under par. (b), the action of the legislature under par. (d) and any action of the governor under par. (e).

(11s) Escrowing of certain payments to the federal government. (a) If the commission determines that the federal department of energy is not meeting its obligations under contracts entered into under 42 USC 10222 with state agencies or with persons in this state, the commission, subject to par. (ab), shall direct the state agencies or persons to pay to the commission, instead of the federal department of energy the fees due under 42 USC 10222 for the period during which those contractual obligations are not met. The commission shall deposit any funds received under this paragraph in the nuclear waste escrow fund.

(ab) The commission may only direct the state agencies or persons to make the payment to the commission under par. (a) if a federal court or the federal department of energy has authorized the commission to receive the payment of the fees due under 42 USC 10222.

(b) Upon a showing by the secretary of the federal department of energy that the federal department of energy is meeting its obligations under

contracts entered into under 42 USC 10222, the commission shall pay to the secretary of the federal department of energy all funds contained in the nuclear waste escrow fund and shall cease accepting additional funds under par. (a).

(12) Implementation. The commission shall implement agreements, modifications and technical revisions approved under subs. (10) and (11). In implementing these agreements, modifications and revisions, the commission may solicit the views of appropriate state agencies, local units of government, regional planning commissions, American Indian tribal governing bodies, the general public and interested citizen groups.

(13) Funding. The commission shall attempt to finance all of its expenses under this section from moneys received from the federal department of energy and other federal agencies and from gifts and grants received from other persons.

(14) State agencies to cooperate. Other state agencies shall assist the commission in fulfilling its duties under this section to the fullest extent possible.

<<For credits, see Historical Note field.**>>**

<General Materials (GM) - References, Annotations, or Tables**>**

Historical and Statutory Notes

2002 Main Volume

Source:

- L.1981, c. 62, § 7, eff. Nov. 26, 1981.
- 1985 Act 29, § 101, eff. July 20, 1985.
- St.1987, § 16.08.
- 1989 Act 31, §§ 107m, 713e eff. Aug. 9, 1989.
- 1991 Act 25, § 4, eff. July 3, 1991.
- St.1993, § 36.50.
- 1995 Act 27, §§ 1779 to 1799, eff. July 29, 1995.
- 1999 Act 196, § 5, eff. June 2, 2000.

- 1995 Act 27 renumbered § 36.50(title) and subsecs. (1)(intro.) and (b) to (d), (8)(title), (f) and (i) as the section title and subsecs. (1)(intro.) and (b) to (d) and (8)(title), (f) and (i); renumbered and amended § 36.50(2), (3), (5) to (7), (8)(a), (b), (d) and (g) and (12) to (14) as subsecs. (2), (3), (5) to (7), (8)(a), (b), (d) and (g) and (12) to (14); renumbered § 36.50(9), (10), (11) and (11m) as subsecs. (9), (10), (11), and (11m), and amended

subsecs. (9)(a), (b)(intro,.) and 5 to 11 and (c)(intro.), 2, 4 and 5, (10)(a) to (c), (11)(a), (11m)(a) to (c) and (f), as renumbered.

- Laws 1981, c. 62, which created the radioactive waste review board, the radioactive waste policy council and the radioactive waste technical council, in § 1 provides:

- "Legislative findings and declaration. (1) Findings. The legislature finds that the state is not assured that the federal department of energy will consider the unique features of the state and the needs of the people of the state when assessing the state as a potentially suitable location for the long-term disposal of high-level radioactive waste or transuranic waste. Neither is the state assured that the federal department of energy will ensure adequate opportunity for public participation in the assessment process.

- "(2) Declaration. The legislature declares that it is in the best interests of the state to establish a radioactive waste review board to serve as an advocate for the people of the state before the federal government and to ensure a maximum of public participation in the assessment process.

- "(3) Interpretation. Nothing in this act shall be interpreted by the federal government or the federal department of energy as an expression by the people of this state to accept the establishment of a site for the long-term disposal of high-level radioactive waste or transuranic waste."

Notes of Decisions

Agreements with federal agencies 1

1. Agreements with federal agencies

Only the Radioactive Waste Review Board is authorized to negotiate agreements with the federal government regarding the disposal of high-level nuclear waste and transuranic waste either in a high-level radioactive waste repository or a monitored retrievable storage facility. Local units of government may apply for grants to provide funds to support information and education efforts related to potential negotiation of those sites. Those applications must be reviewed and commented upon by the Board. Op.Atty.Gen.No. 23-92, Aug. 12, 1992.
W. S. A. 196.497, WI ST 196.497

Wyoming – Existing State Regulatory Requirements

- Wyoming Statutes Annotated §§ 31-5-959 (2003); *Regulation of Traffic on Highways*.

- Wyoming Statutes Annotated §§ 31-8-407 (2003); *Commercial Vehicle Fees*.

- Wyoming Statutes Annotated §§ 37-14-103 (2003); *Radioactive Materials Transportation Management.*

Permits and Fees:

- Any person transporting hazardous materials must be at all times in compliance with regulations of the department adopted pursuant to W.S. 31-18-303 (Wyoming Statutes Annotated § 31-5-959 [2003]).

- In addition to any other fees provided by law, an emergency response fee of $ 200.00 shall be assessed to each package of radioactive waste transported through this state (Wyoming Statutes Annotated § 31-18-407 (2003), *see also* Wyoming Statutes Annotated § 37-14-103 [2003]).

Emergency Preparedness and Response:

- Proposed Bill: Creates the Emergency Response Act; creates the emergency response commission; provides procedures for response to the release of hazardous materials or a weapons of mass destruction incident as specified; authorizes local emergency planning committees and regional response teams; provides for liability for a released hazardous material; provides for recovery of expenses incurred in responding to hazardous material and weapons of mass destruction incidents (2004 Bill Tracking WY H.B. 144).

- Proposed Bill: A bill for an act relating to emergency response fees; modifying fees imposed on transportation of radioactive materials; modifying uses of fees; clarifying provisions; modifying definitions; repealing inconsistent provisions; and providing for an effective date (2004 Bill Text WY H.B. 14).

Highway and Rail Routing:

- Wyoming has designated routes for transportation of radioactive and non-radioactive hazardous materials. These routes can be found in 65 Federal Register 75771, 75816 (Dec. 4, 2000).

  Restricted routes for all Wyoming hazardous materials are as follows:

- City of Cheyenne. City ordinance: Hazardous materials and radioactive materials may not be transported by motor vehicle within the City of Cheyenne except for the purpose of making pickups and/or deliveries within the City, unless such routing is consistent with 49 CFR 397.7 or 49 CFR 177.825.

- Motor vehicles carrying hazardous and/or radioactive materials which are making local pickups and/or deliveries must be operated over the safest and most direct route to and from the origination and destination point. Such routes shall not pass through residential areas unless there is not practical alternative.

***Liability*:**

- Any person who violates subsection (b) of this section is guilty of a felony punishable by a fine of not more than $ 10,000.00, and/or imprisonment for not more than five years. Wyoming Statutes Annotated § 31-5-959(c) (2003).

- Wyoming Statutes Annotated §§ 9-6-101 (2003); *Western Interstate Nuclear Cooperation Compact*.

- Wyoming Statutes Annotated §§ 9-6-206 (2003); *Northwest Compact on Low-Level Radioactive Waste Management*.

  - The purpose of this compact is to protect the health and safety of the citizens of the party states and to provide the most economical management of low-level radioactive wastes. This can be accomplished through cooperative efforts of the states and the minimization of handling and transporting hazardous wastes.

  - Hawaii, Idaho, Montana, Oregon, Utah, Washington, and Wyoming are eligible to become members of this compact.

5.0 PROPOSED STATE REGULATORY REQUIREMENTS

Connecticut – Proposed State Regulatory Requirements

Amended text appears in parentheses.

***Fees*:**

- 2003 CT H.B. 6806B

  Status:

  - 8/16/2003 Introduced
  - 8/20/2003 Signed by Governor

  Sponsor: Lyons

  [121] Sec. 121. Subsection (a) of section 22a-135 of the general statutes is repealed and the following is substituted in lieu thereof (Effective from passage) (*only changes in text included*):

  [Fees]:

  The commissioner shall charge each of the four nuclear powered commercial electric power generating plants an annual fee of [D> forty <D] [A> SIXTY <A]* thousand dollars for monitoring radiation released from such plants. Nuclear fuels radiation facilities shall pay an annual fee of [D> ten <D] [A> FIFTEEN <A] thousand dollars for monitoring such plants.
  [Regulations]: The commissioner may adopt regulations, in accordance with the provisions of chapter 54, to prescribe the amount of the fees required pursuant to this section. Upon the adoption of such regulations, the fees required by this section shall be as prescribed in such regulations.

  [122] Sec. 122. Subsection (c) of section 22a-148 of the general statutes is repealed and the following is substituted in lieu thereof (Effective from passage):

  (c) (1) Except as hereinafter provided, each person, firm, corporation, town, city and borough conducting or planning to conduct any operation within the scope of this section shall register with the Commissioner of Environmental Protection on forms provided for the purpose and shall reregister annually in January. Such registration shall be accompanied by a fee of [D> one <D] [A> TWO <A] hundred dollars. The commissioner may require registrants to state the type or types of sources of radiation involved, the maximum size or rating of each source, the qualifications of the supervisory personnel, the protective measures contemplated by the registrant and such other information as it determines to be necessary. After initial registration, re-registration shall be required for any

radiation installation or mobile source of radiation at any other time when any increase is contemplated in the number of sources, the source strength, the output or the types of radiation energy involved. The act of registration shall not be interpreted to imply approval by the commissioner of the manner in which the activities requiring registration are carried out. (2) The activities described below are exempted from the registration requirements of this section: (A) The production, transportation, storage, use and disposal of naturally occurring radioactive materials of equivalent specific radioactivity not exceeding that of natural potassium; (B) the production, transportation, storage, use and disposal of other radioactive materials in quantities insufficient to involve risk of radiologic damage to a person; (C) the operation of equipment that is primarily not intended to produce radiation and that, by nature of design, does not produce radiation at the point of nearest approach in quantities sufficient to produce radiologic damage to a person; (D) the transportation of any radioactive material in conformity with regulations of the Interstate Commerce Commission or other agency of the federal government having jurisdiction. [D> The commissioner may adopt regulations, in accordance with the provisions of chapter 54, to prescribe the amount of the fees required pursuant to this section. Upon the adoption of such regulations, the fees required by this section shall be as prescribed in such regulations. <D]

Illinois – Proposed State Regulatory Requirements

Permitting/Fees

(See also proposal for nuclear accident fees below.)

- 2003 IL S.B. 234

  Synopsis: Amends the Illinois Nuclear Safety Preparedness Act. Increases the fees paid by the shipper of spent nuclear fuel, high-level radioactive waste, or transuranic waste that is traversing the State.

  Status:

  - 02/05/2003 Introduced
  - 02/05/2003 To Senate Committee on Rules
  - 02/06/2003 To Senate Committee on Environment and Energy
  - 02/19/2003 In Senate Committee on Environment and Energy: Postponed in Committee
  - 03/14/2003 Re-Referred to Senate Committee on Rules

  Sponsor: Silverstein

Inspections:

- 2003 IL H.B. 3629

  Synopsis: Amends the Illinois Nuclear Safety Preparedness Act. Defines "highway route controlled quantity of radioactive materials." Provides for charging fees for trucks hauling that quantity of radioactive materials. Adds the development and implementation of a plan for inspecting shipments of highway route controlled quantities of radioactive materials to the list of actions that shall be taken under the Illinois Nuclear Safety Preparedness Program.

  Status:

  - 02/28/2003 Introduced
  - 02/28/2003 To House Committee on Rules
  - 03/05/2003 To House Committee on Transportation and Motor Vehicles
  - 03/12/2003 From House Committee on Transportation and Motor Vehicles: Do Pass
  - 03/12/2003 In House. Placed on Short Debate Calendar – Second Reading
  - 04/04/2003 Re-Referred to House Committee on Rules.

Sponsor: Novak

- 2001 Bill Tracking IL H.B. 5720

  Synopsis: Amends the Illinois Nuclear Safety Preparedness Act. Provides that truck (instead of single cask truck) shipments of greater than 250 miles in Illinois are subject to a $ 25 fee per mile over 250 for each truck in the shipment (instead of the first truck in each shipment). Removes reference to the rules of the Department of Nuclear Safety in the Section concerning the Nuclear Safety Emergency Preparedness Fund.

  Status:

  - 02/07/2002 Introduced
  - 02/07/2002 To House Committee on Rules
  - 02/13/2002 To House Committee on Environment and Energy
  - 02/22/2002 From House Committee on Environment and Energy: Do Pass
  - 02/22/2002 In House. Placed on Short Debate Calendar – Second Reading
  - 03/22/2002 In House. Read Second Time
  - 03/22/2002 In House. Held on Calendar Order – Second Reading
  - 04/02/2002 In House. Placed on Short Debate Calendar – Third Reading
  - 04/02/2002 In House. Read Third Time – Passed House
    To Senate
  - 04/04/2002 To Senate Committee on Rules
  - 04/10/2002 To Senate Committee on Environment and Energy.
  - 04/17/2002 From Senate Committee on Environment and Energy: Do Pass
  - 04/17/2002 In Senate. Placed on Calendar Order – Second Reading
  - 04/18/2002 In Senate. Read Second Time
  - 04/18/2002 In Senate. Placed On Calendar Order – Third Reading
  - 04/24/2002 In Senate. Read Third Time – Passed Senate
  - 04/24/2002 Passed Both Houses
  - 05/23/2002 To Governor
  - 06/26/2002 Signed by Governor
  - 06/26/2002 Public Act No. XX

  Sponsor: Osmond and Geo-Karis

Emergency Preparedness/Fees:

- 2003 Bill Tracking IL H.B. 4335 (New Bill)

  Synopsis: Amends the Illinois Vehicle Code. Provides that vehicles of a municipal or county emergency services and disaster agency are authorized emergency

vehicles. Deletes language providing that vehicles of the Department of Nuclear Safety are authorized emergency vehicles.

Status:

- 02/02/2004 Introduced
- 02/02/2004 To House Committee on Rules

Sponsor: Hoffman

- 2003 Bill Text IL S.B. 900

Synopsis: An Act in Relation to Nuclear Safety

Status:

- 02/19/2003 Introduced

Sponsor: Sullivan, D.

Text: Be it enacted by the People of the State of Illinois, represented in the General Assembly:

Section 5. The Illinois Nuclear Safety Preparedness Act is amended by changing Section 4 as follows:

(420 ILCS 5/4) (from Ch. 111 1/2, par. 4304)

Sec. 4. Nuclear accident plans; fees. Persons engaged within [A> ILLINOIS <A] [D> this State <D] in the production of electricity utilizing nuclear energy, the operation of nuclear test and research reactors, the chemical conversion of uranium, or the transportation**,** storage or possession of spent nuclear fuel or high-level radioactive waste shall pay fees to cover the cost of establishing plans and programs to deal with the possibility of nuclear accidents. Except as provided below, the fees shall be used exclusively to fund those Departmental and local government activities defined as necessary by the Director to implement and maintain the plans and programs authorized by this Act. Local governments incurring expenses attributable to implementation and maintenance of the plans and programs authorized by this Act may apply to the Department for compensation for those expenses, and upon approval by the Director of applications submitted by local governments, the Department shall compensate local governments from fees collected under this Section. Compensation for local governments shall include $ 250,000 in any year through fiscal year 1993, $ 275,000 in fiscal year 1994 and fiscal year 1995, $ 300,000 in fiscal year 1996, $ 400,000 in fiscal year 1997, and $ 450,000 in fiscal year 1998 and thereafter. Appropriations to the Department of Nuclear

Safety for compensation to local governments from the Nuclear Safety Emergency Preparedness Fund provided for in this Section shall not exceed $ 650,000 per State fiscal year. Expenditures from these appropriations shall not exceed, in a single State fiscal year, the annual compensation amount made available to local governments under this Section, unexpended funds made available for local government compensation in the previous fiscal year, and funds recovered under the Illinois Grant Funds Recovery Act during previous fiscal years. Notwithstanding any other provision of this Act, the expenditure limitation for fiscal year 1998 shall include the additional $ 100,000 made available to local governments for fiscal year 1997 under this amendatory Act of 1997. Any funds within these expenditure limitations, including the additional $ 100,000 made available for fiscal year 1997 under this amendatory Act of 1997, that remain unexpended at the close of business on June 30, 1997, and on June 30 of each succeeding year, shall be excluded from the calculations of credits under subparagraph (3) of this Section. The Department shall, by rule, determine the method for compensating local governments under this Section. In addition, a portion of the fees collected may be appropriated to the Illinois Emergency Management Agency for activities associated with preparing and implementing plans to deal with the effects of nuclear accidents. The appropriation shall not exceed $ 500,000 in any year preceding fiscal year 1996; the appropriation shall not exceed $ 625,000 in fiscal year 1996, $ 725,000 in fiscal year 1997, and $ 775,000 in fiscal year 1998 and thereafter. The fees shall consist of the following:

(1) A one-time charge of $ 590,000 per nuclear power station in this State to be paid by the owners of the stations.

(2) An additional charge of $ 240,000 per nuclear power station for which a fee under subparagraph (1) was paid before June 30, 1982.

(3) Through June 30, 1982, an annual fee of $75,000 per year for each nuclear power reactor for which an operating license has been issued by the NRC, and after June 30, 1982, and through June 30, 1984 an annual fee of $ 180,000 per year for each nuclear power reactor for which an operating license has been issued by the NRC, and after June 30, 1984, and through June 30, 1991, an annual fee of $ 400,000 for each nuclear power reactor for which an operating license has been issued by the NRC, to be paid by the owners of nuclear power reactors operating in this State. After June 30, 1991, the owners of nuclear power reactors in this State for which operating licenses have been issued by the NRC shall pay the following fees for each such nuclear power reactor: for State fiscal year 1992, $925,000; for State fiscal year 1993, $ 975,000; for State fiscal year 1994; $1,010,000; for State fiscal year 1995, $ 1,060,000; for State fiscal years 1996 and 1997, $1,110,000; for State fiscal year 1998, $1,314,000; for State fiscal year 1999, $1,368,000; for State fiscal year 2000,

$1,404,000; for State fiscal year 2001, $1,696,455; for State fiscal year 2002, $1,730,636; for State fiscal year 2003 and subsequent fiscal years, $1,757,727. Within 120 days after the end of the State fiscal year, the Department shall determine, from the records of the Office of the Comptroller, the balance in the Nuclear Safety Emergency Preparedness Fund. When the balance in the fund, less any fees collected under this Section prior to their being due and payable for the succeeding fiscal year or years, exceeds $400,000 at the close of business on June 30, 1993, 1994, 1995, 1996, 1997, and 1998, or exceeds $500,000 at the close of business on June 30, 1999 and June 30 of each succeeding year, the excess shall be credited to the owners of nuclear power reactors who are assessed fees under this subparagraph. Credits shall be applied against the fees to be collected under this subparagraph for the subsequent fiscal year. Each owner shall receive as a credit that amount of the excess which corresponds proportionately to the amount the owner contributed to all fees collected under this subparagraph in the fiscal year that produced the excess.

(3.5) The owner of a nuclear power reactor that notifies the Nuclear Regulatory Commission that the nuclear power reactor has permanently ceased operations during State fiscal year 1998 shall pay the following fees for each such nuclear power reactor: $1,368,000 for State fiscal year 1999 and $1,404,000 for State fiscal year 2000.

(4) A capital expenditure surcharge of $1,400,000 per nuclear power station in this State, whether operating or under construction, shall be paid by the owners of the station.

(5) An annual fee of $25,000 per year for each site for which a valid operating license has been issued by NRC for the operation of an away-from-reactor spent nuclear fuel or high-level radioactive waste storage facility, to be paid by the owners of facilities for the storage of spent nuclear fuel or high-level radioactive waste for others in this State.

(6) A one-time charge of $280,000 for each facility in this State housing a nuclear test and research reactor, to be paid by the operator of the facility. However, this charge shall not be required to be paid by any tax-supported institution.

(7) A one-time charge of $50,000 for each facility in this State for the chemical conversion of uranium, to be paid by the owner of the facility.

(8) An annual fee of $150,000 per year for each facility in this State housing a nuclear test and research reactor, to be paid by the operator of the facility. However, this annual fee shall not be required to be paid by any tax-supported institution.

(9) An annual fee of $15,000 per year for each facility in this State for the chemical conversion of uranium, to be paid by the owner of the facility.

(10) A fee assessed at the rate of $2,500 per truck for each truck shipment and $4,500 for the first cask and $ 3,000 for each additional cask for each rail shipment of spent nuclear fuel, high-level radioactive waste, or transuranic waste received at or departing from any nuclear power station or away-from-reactor spent nuclear fuel, high-level radioactive waste, or transuranic waste storage facility in this State to be paid by the shipper of the spent nuclear fuel, high level radioactive waste, or transuranic waste. Truck shipments of greater than 250 miles in Illinois are subject to a surcharge of $25 per mile over 250 miles for each truck in the shipment. The amount of fees collected each fiscal year under this subparagraph shall be excluded from the calculation of credits under subparagraph (3) of this Section.

(11) A fee assessed at the rate of $2,500 per truck for each truck shipment and $4,500 for the first cask and $3,000 for each additional cask for each rail shipment of spent nuclear fuel, high-level radioactive waste, or transuranic waste traversing the State to be paid by the shipper of the spent nuclear fuel, high level radioactive waste, or transuranic waste. Truck shipments of greater than 250 miles in Illinois are subject to a surcharge of $ 25 per mile over 250 miles for each truck in the shipment. The amount of fees collected each fiscal year under this subparagraph shall be excluded from the calculation of credits under subparagraph (3) of this Section.

(12) In each of the State fiscal years 1988 through 1991, in addition to the annual fee provided for in subparagraph (3), a fee of $400,000 for each nuclear power reactor for which an operating license has been issued by the NRC, to be paid by the owners of nuclear power reactors operating in this State. Within 120 days after the end of the State fiscal years ending June 30, 1988, June 30, 1989, June 30, 1990, and June 30, 1991, the Department shall determine the expenses of the Illinois Nuclear Safety Preparedness Program paid from funds appropriated for those fiscal years. When the aggregate of all fees, charges, and surcharges collected under this Section during any fiscal year exceeds the total expenditures under this Act from appropriations for that fiscal year, the excess shall be credited to the owners of nuclear power reactors who are assessed fees under this subparagraph, and the credits shall be applied against the fees to be collected under this subparagraph for the subsequent fiscal year. Each owner shall receive as a credit that amount of the excess that corresponds proportionately to the amount the owner contributed to all fees collected under this subparagraph in the fiscal year that produced the

excess. (Source: P.A. 91-47, eff. 6-30-99; 91-857, eff. 6-22-00; 92-576, eff. 6-26-02.)

Missouri – Proposed State Regulatory Requirements

***Fees*:**

- 2004 Bill Text MO H.B. 1277

  Version: Perfected

  Version-Date: March 16, 2004

  Sponsor: Townley

  (*Only relevant amendments are included*)

  Added to § 260.370:

  > [A> 5. Beginning July 1, 2004, a joint committee appointed by the speaker of the house of representatives and the president pro tem of the senate shall consider proposals for restructuring the fees paid by hazardous waste generators and hazardous waste facilities. The committee shall consider options for expanding the fee structure to more fairly apportion the cost of services provided among all those that benefit from those services. The committee shall prepare and submit a report including its recommendation for changes to the governor, the House of Representatives, and the senate no later than December 31, 2004. <a]

New Hampshire – Proposed State Regulatory Requirements

- Top of Form 2001 Bill Tracking NH H.B. 740

  Synopsis: Makes a variety of changes to the decommissioning of nuclear electric generating facilities laws, including the laws governing the funding and administration of nuclear decommissioning financing funds; prohibits transportation, storage, or disposal of spent nuclear fuel within the state or its coastal jurisdiction.

  Status:

  - 02/15/2001 Introduced
  - 02/15/2001 Filed as LSR 386
  - 02/15/2001 To House Committee on Science, Technology and Energy
  - 04/11/2001 From House Committee on Science, Technology and Energy: Ought to Pass
  - 05/03/2001 Committee Report Adopted on House Floor
  - 05/03/2001 Passed House – To Senate
  - 05/09/2001 To Senate Committee on Energy and Economic Development
  - 05/30/2001 From Senate Committee on Energy and Economic Development: Ought To Pass
  - 05/31/2001 Committee Report Adopted on Senate Floor
  - 05/31/2001 Passed Senate
  - 06/12/2001 Enrolled Bill Committee Amendment Adopted by Senate
  - 06/13/2001 Enrolled Bill Committee Amendment Adopted by House
  - 06/26/2001 Ordered Enrolled
  - 06/26/2001 To Governor
  - 07/05/2001 Signed by Governor

  Sponsor: Bradley, J. et al

- New Hampshire Regulation Tracking – Reference Number: New Hampshire 5621
  Title: Radiological Health Rules State ID: 2003-93, Calendar Year: 2003

  Summary: Adopts rules concerning radiological health rules relating to the transportation of radioactive material. Establishes requirements for the packaging, preparation for shipment and transportation of radioactive material on the roads and highways within the State.

  Status:

  - 07/11/2003 Rule Proposed
  - 08/11/2003 Comment Deadline

- 10/22/2003 Rule Adoption
- 10/22/2003 Effective Date

Agency: Department of Health and Human Services/Office of Community and Public Health

Agency Contact: Valerie King, Rules Coordinator, Department of Health and Human Services, Office of Program Support, 129 Pleasant St, Concord, NH 03301-3857,
Telephone: 271-8960, Fax: 271-5590, email:vking@dhhs.state.nh.us

Washington – Proposed State Regulatory Requirements

Inspections:

- 2003 Bill Text WA S.B. 5278

  Version: Recommended as Substituted from Committee
  Version Date: February 20, 2003

  Synopsis: An Act Relating To Inspections Of Hazardous Materials Offered By Private Shippers For Transportation By Rail; Amending RCW 81.44.065; and Creating a New Section.

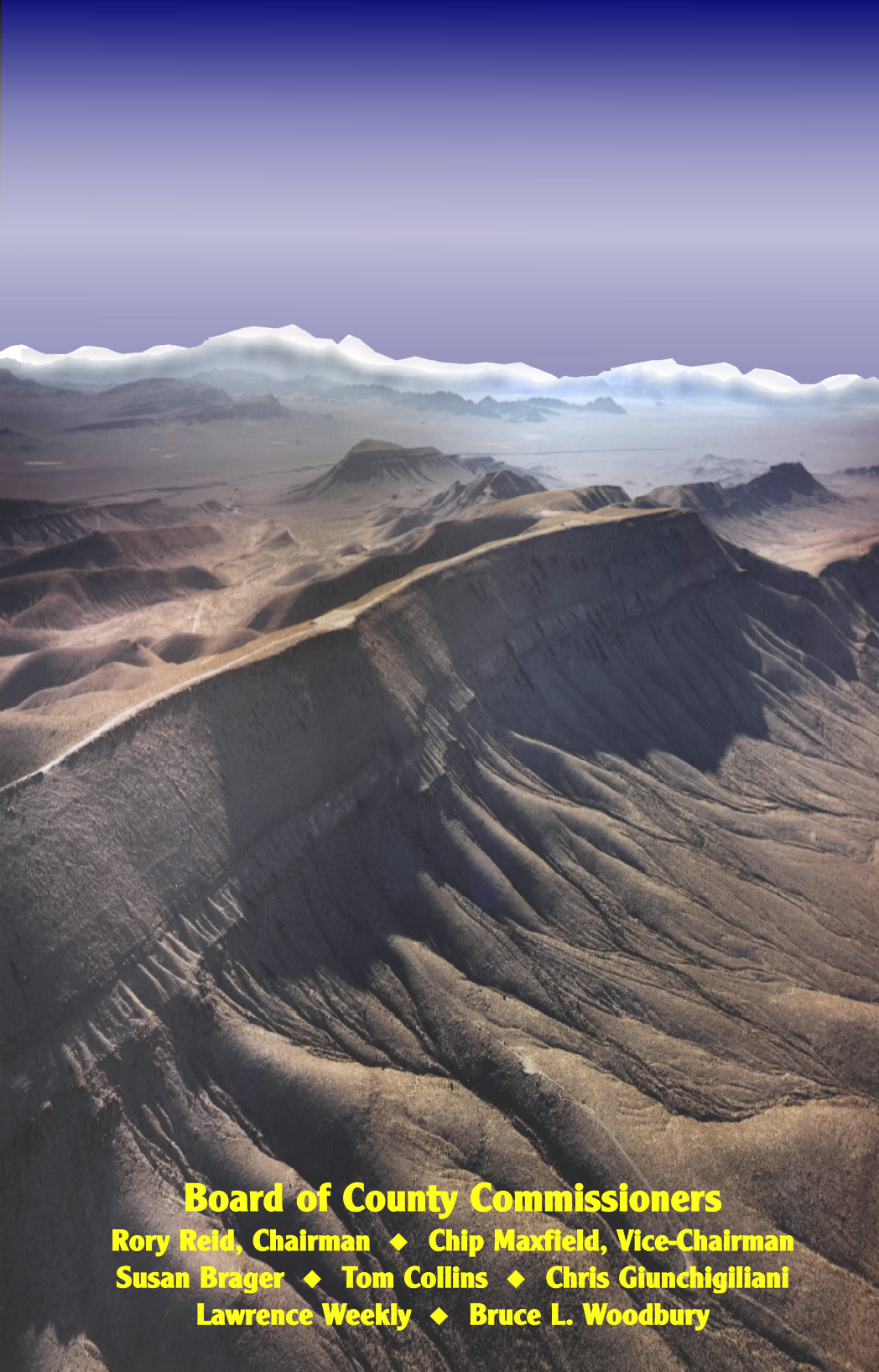
  Text: Be it Enacted by The Legislature of the State of Washington:

  NEW SECTION. Sec. 1. It is the intent of the legislature that this act clarifies certain authorities of employees of the Washington utilities and transportation commission. The legislature finds that this act is necessary to ensure the continuance of existing safety inspection programs. Further, this act does not create a new program or authorize new authority, and will not result in the expansion of the existing program.

  Sec. 2. RCW 81.44.065 and 1961 c 14 s 81.44.065 are each amended to read as follows:

  The utilities and transportation commission shall exercise all powers and duties in relation to the inspection of tracks, bridges, structures, equipment, apparatus, and appliances of railroads with respect to the safety of employees and the public and the administration and enforcement of all laws providing for the protection of the public and employees of railroads which prior THAT BEFORE April 1, 1955 were vested in and required to be performed by the director of labor and industries.

  a commission employee certified by the federal railroad administration to perform hazardous materials inspections may enter the property of any business that receives, ships, or offers for shipment hazardous materials by rail, or that manufactures, marks, maintains, reconditions, repairs, or tests containers that are represented, marked, certified, or sold for use in the transportation of hazardous materials by rail. Entry shall be at a reasonable time and in a reasonable manner. The purpose of such entry is limited to performing inspections, investigations, or surveillance of facilities, equipment, records, and operations relating to the packaging, loading, or transportation of hazardous materials by rail, pursuant only to the state participation program outlined in 49 CFR Part 212. The term “business” is all inclusive and is not limited to common carriers or public service companies.



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