§ 27-0305. Permits for waste transporters.

1. Except as otherwise exempted by this title, no person shall engage in the transportation of regulated waste originating or terminating at a location in this state without a permit pursuant to this section. In addition, no person shall engage in the transportation of low-level radioactive waste into, within or through this state without a permit pursuant to this section.

2. (a) The commissioner may, by regulation, exempt from the permit requirements of this title persons engaged in the transportation of:

(1) types of wastes which do not constitute a hazard to human health and the environment;

(2) small quantities of waste; or

(3) wastes transported by rail, water and air carriers.

(b) The commissioner may also exempt from the permit requirements of this title persons engaged in the transportation of low-level radioactive waste only upon a showing by such person that compliance with such requirements would create a hardship on his own business activities and upon a determination that, based upon the characteristics including half life, concentration, activity, and toxicity of the specific low-level radioactive waste transported, such transport imposes no potential significant adverse impact on public health, safety or welfare, the environment, or natural resources as determined by the department in consultation with the department of health. The commissioner shall promulgate guidelines for the purpose of determining the circumstances under which such exemption may be granted. Any person granted such an exemption must comply with such conditions as specified by the commissioner. Such exemption shall be reviewed periodically as specified by the commissioner but at least once every two years. Any exemption granted hereunder may be revoked after due notice and opportunity for hearing for a violation of any provision of this title or other applicable laws, rules or regulations relating to the transportation of regulated wastes or upon a showing that the exempted person no longer meets the requisite guidelines for exemption.

3. A generator of a waste may obtain a permit pursuant to this title

to transport his own waste or if he contracts with another person to remove, transport or dispose of regulated wastes. If a generator obtains such a permit, a person engaged in the removal, transportation or disposal of his waste shall not be required to obtain a permit pursuant to this title for the transportation of such wastes.

4. The department shall make rules and regulations implementing this section promulgated in accordance with the state administrative procedure act in order to carry out and enforce the intent and purposes thereof. Such rules and regulations and the provisions of article 70 of this chapter and rules and regulations adopted thereunder shall govern permit applications, permit conditions, renewals, modifications, suspensions and revocations under this section. The department shall, in promulgating any new or revised rule or regulation, accompany such rulemaking with an environmental impact statement or a written assessment stating the extent to or means by which such rule or regulation will carry out the intent and purpose of this section. The responsibility for the issuance and review of permits and the enforcement of the provisions of this section may be delegated to regional, district or county offices of the state department of health, or to local health departments where their jurisdiction may apply.

5. Applications filed pursuant to this section shall indicate the mechanical and other equipment, holding tanks and vehicles and any place of temporary storage used or to be used by the applicant and the place or places where and the manner in which the applicant will finally dispose of the regulated wastes, and such other information as the department deems necessary. If the department determines that the proposed method of transportation, the place or manner in which the waste product is to be treated, stored or disposed of or the method or location of temporary storage will be detrimental to or substantially damage or pollute the environment or natural resources of the state, it may deny the permit or may impose such permit conditions as will adequately protect against unreasonable defilement or degradation of the natural resources of the state.

6. As a condition for the permit the department shall require every

vehicle operated by the transporter to be conspicuously marked or placarded to identify, in a manner consistent with section fourteen-f of the transportation law and any rules and regulations promulgated thereunder and any related federal requirements, the regulated waste transported or its principal hazard. Further, any such vehicle shall be conspicuously marked or placarded in a like manner with the full name, including the full first name or legally registered trade name or names of the transporter and the number of the waste transporter permit issued pursuant to this section; provided, however, that such marking or placarding for any vehicle transporting low-level radioactive waste shall be consistent with federal rules and regulations. The commissioner may, by rules and regulations prescribe with respect to any specific regulated waste the minimum quantities below which no marking or placard is required, consistent with section fourteen-f of the transportation law and any rules and regulations promulgated thereunder.

7. As a condition for the permit or the exemption therefrom the department shall require the transporter, except transporters of hazardous waste subject to manifesting under section 27-0905 of this article, to make an annual report to the department, indicating the number and type of installations emptied or cleaned, the volume and nature of waste products disposed of, and the place and manner in which such waste products were finally disposed, and such other information as the department may require.

8. Such permit shall be renewed annually. The fees for such permit or renewal shall be those established by regulation promulgated pursuant to article 70 of this chapter. A renewal may be denied by the department for failure of the applicant to properly report as provided in subdivision 7 of this section.

9. The department may suspend or revoke any permit upon proof that the permittee has been found guilty of a misdemeanor in the violation of the provisions of this section as provided in section 71-1503, or if the department determines that the permittee has violated the provisions of this section, the rules and regulations implementing it or the rules and regulations adopted to implement article 70 of this chapter.

10. The department is authorized and directed to adopt rules and regulations with respect to the institution of a system of manifests associated with the transportation of low-level radioactive wastes, consistent with requirements of the United States nuclear regulatory commission, and in furtherance of the agreement between the state and the nuclear regulatory commission dated July fourth, nineteen hundred sixty-two. Such rules and regulations shall provide that a copy of the manifest shall be returned to the department.

11. The department shall issue a report based upon information made available to the department pursuant to this section, on an annual basis to the governor, the temporary president of the senate and the speaker of the assembly. Such report shall include, but not be limited to, the number, origin and destination of truckloads of low-level radioactive waste leaving or entering the state for disposal and the types of low-level radioactive waste being transported into, through or within this state and the frequency of such movement.

12. No person shall engage in the transportation of regulated medical waste originating or terminating at a location within the state without a permit pursuant to the provisions of title 15 of this article, unless otherwise exempted therein.