

Regulation 61-107.10

Solid Waste Management:

Research, Development, and Demonstration

Permit Criteria

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SC DEPARTMENT *of*
ENVIRONMENTAL
SERVICES

Statutory Authority:

1976 Code Sections 44-96-310, 44-96-450, 48-6-10 et seq., and 2023 Act No. 60, effective July 1, 2024

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A. Applicability.

This regulation applies to solid waste management facilities, or parts of these facilities, proposing to utilize an innovative and experimental solid waste management technology or process.

B. Definitions.

1. "Department" means the South Carolina Department of Environmental Services.
2. "Disclosure statement" means a sworn statement or affirmation, the form and content of which shall be determined by the Department and as required by Section 44-96-300.
3. "Permit" means the process by which the Department can ensure cognizance of, as well as control over, the management of solid wastes.
4. "Person" means an individual, corporation, company, association, partnership, unit of local government, state agency, federal agency, or other legal entity.
5. "Solid waste management" means the systematic control of the generation, collection, source separation, storage, transportation, treatment, recovery, and disposal of solid waste.
6. "Solid waste management facility" means any solid waste disposal area, volume reduction plant, transfer station, or other facility, the purpose of which is the storage, collection, transportation, treatment, utilization, processing, recycling, or disposal, or any combination thereof, of solid waste. The term does not include a recovered materials processing facility or facilities which use or ship recovered materials, except that portion of the facilities which is managing solid waste.

C. General Provisions.

1. The Department may issue a research, development and demonstration permit for any solid waste management facility, or a part of the facility, which proposes to utilize an innovative and experimental solid waste technology or process for which permit standards for such activity have not been promulgated. Permits issued shall include such terms and conditions necessary to assure protection of human health, safety, and the environment and shall be for a period not to exceed two (2) years.
2. Nothing in this regulation creates exceptions to or authorizes the Department to grant variances from Federal and State laws and regulations and the Solid Waste Policy and Management Act.
3. The Department permit shall ensure the owner or operator provides for the receipt, storage, and disposal of only those types and quantities of solid waste that the Department deems necessary for purposes of determining the efficiency and performance capabilities of the technology or process and the effects of such technology or process on human health, safety and the environment.
4. The Department shall request a disclosure statement from the permit applicant in accordance with the guidelines established by Code Section 44-96-300. Local governments and regions comprised of local governments are exempt from this requirement.

D. Permit Requirements.

1. Prior to construction, modification, or operation of a solid waste research, development and demonstration facility, a permit shall be obtained from the Department. The application shall be signed by an engineer duly licensed and registered under the laws of the State of South Carolina.

2. Any person wishing to obtain a permit from the Department for a solid waste research, development and demonstration facility, shall submit to the Department three (3) copies of the following documents:

a. A completed permit application, on a form provided by the Department;

b. A detailed description of the proposed activity;

c. A description of the manner in which the permit applicant intends to provide for the management of solid waste in order to determine:

(1) the efficiency and performance capabilities of the technology or process;

(2) the effects of such technology or process on human health, safety and the environment; and,

(3) how the permit applicant intends to protect human health, safety and the environment in the conduct of the project;

d. A plan for assessing the effectiveness and environmental effect of the proposed facility;

e. A complete operational plan, including design details and a timetable for completing various phases of the facility from initiation of construction to completion of the project;

f. A demonstration of financial responsibility by the permit applicant through submission of proof of liability insurance or other form of financial surety deemed sufficient by the Department to meet the following: all responsibilities for closure of the research, development and demonstration facility; and/or all responsibilities in the case of a release of solid waste causing bodily injury or property damage to any third party, including contamination of groundwater and liability for environmental restoration resulting from negligence in operation. The owner or operator shall provide continuous coverage for closure or clean-up until released from financial responsibility requirements by certifying that closure or clean-up of the facility is complete.

g. A plan for corrective action utilizing conventional technology in the event of environmental, safety and/or health hazards.

3. If the Department deems necessary, additional requirements may be imposed to ensure protection to human health, safety, and the environment including, but not limited to:

a. monitoring;

b. operation;

c. financial responsibility;

d. closure;

- e. corrective action; and,
- f. reporting.

E. Location Requirements.

Location requirements addressed in this section apply to all solid waste research, development, and demonstration facilities, unless otherwise approved by the Department.

1. Facilities shall be adjacent to or have direct access to roads which are of all weather construction and capable of withstanding anticipated load limits.
2. Facilities located in 100-year floodplains shall demonstrate that the facility will not restrict the flow of the 100-year flood.
3. The active waste handling area shall not be located within two hundred (200) feet of any surface water, excluding drainage ditches and sedimentation ponds.
4. Facilities shall not be located within any wetlands as delineated and defined specifically as wetlands according to the methodology accepted by the U. S. Army Corps of Engineers and the U. S. Environmental Protection Agency.
5. The active waste handling area shall not extend closer than one hundred (100) feet to any drinking water well.
6. Locations shall allow for sufficient room to minimize traffic congestion and allow for safe operation.
7. The active waste handling area shall not extend closer than two hundred (200) feet to residences, schools, hospitals and recreational park areas.
8. The active waste handling area shall not extend closer than one hundred (100) feet to all property lines.
9. Facilities shall adhere to all Federal, State, and local zoning, land use and other applicable local ordinances.

F. Design and Operation Requirements.

A research, development, and demonstration facility shall be designed and operated according to the minimum criteria listed in this section.

1. The facility shall not be larger than the area needed to adequately test the new or unique technology.
2. No waste shall be processed or disposed at the facility after two (2) years from the initial processing or disposal of waste at the facility, unless a different period is stated in the Department permit. Activities involving the management of solid waste at the facility prior to the issuance of the research, development, and demonstration permit, may be continued provided a valid Department permit for such activities is in effect.
3. Quarterly reports shall be prepared and submitted to the Department concerning the effectiveness and environmental effect of the facility.

4. If during the life of the permit, the Department determines that the facility is causing or is likely to cause harm to public health, safety or to the environment, the facility shall take appropriate action to prevent or eliminate the practice which is causing the hazard.

5. Trained personnel shall be present at all times during the operation of the facility.

G. Reporting Requirements.

1. Quarterly reports shall be submitted to the Department, within thirty (30) days of the end of each calendar quarter. The report shall include at a minimum, the following information:

a. Source, type, and total quantity in weight and/or volume of waste received at the facility for the previous quarter;

b. A description of the method and quantity of the distribution and/or disposal of the waste;

c. The weight and/or volume of each material recycled or marketed as a result of the process; and,

d. A report concerning the effectiveness and environmental effect of the facility.

2. Within ninety (90) days from the expiration of the permit, or within another period established by the Department, the owner or operator shall submit to the Department an analysis of the effectiveness and environmental effect of the facility.

H. Departmental Evaluation of Analysis.

1. The Department will review the quarterly reports and other relevant data to determine if the facility is satisfactorily achieving its objectives and if the facility is adequately protecting public health, safety, and the environment.

2. If after two (2) years, the Department determines that the facility adequately achieved its objectives and satisfactorily protected public health, safety, and the environment, the Department subsequently may promulgate regulations or criteria regarding the technology or process in accordance with the authority granted the Department by the Solid Waste Policy and Management Act. Prior to the Department establishing such regulations or criteria, the Department may issue written approval for the continuance of the technology or process.

I. Violations and Penalties.

A violation of this regulation subjects the person to the issuance of a Department order, or to civil or criminal enforcement action by the Attorney General's Office. In addition, the Department may impose reasonable civil penalties not to exceed ten thousand dollars (\$10,000.00) for each day of violation of the provisions of this regulation, including any order, permit or standard. A person to whom an order is issued may appeal it as a contested case in accordance with R.61-72 and the Administrative Procedures Act.

J. Severability.

Should any section, paragraph, sentence, clause or phrase of this regulation be declared unconstitutional or invalid for any reason, the remainder of this regulation shall not be affected thereby.