

June 18, 2009

RULE 6

EXPORTATION OF WASTE FROM THE REGION

6.1 Purpose and General Provisions

The purpose of this Rule 6 is to implement Article 7 Section B of the Compact which prohibits any person from exporting from the region any waste generated in the region, without authorization from the Board.¹

Sections 6.1 through 6.9 of Rule 6 apply to all wastes that are to be exported from the region, except for the return of sealed sources to the manufacturer or supplier of the sealed sources.

6.2 Export Permit

Any person seeking the authorization of the Board pursuant to Article 7, Section B of the Compact to export waste generated within the region shall comply with this Rule 6.

6.2.1 The export of waste, other than return of sealed sources to the manufacturer or supplier of the sealed source, shall require an Export Permit.

6.2.2 No person shall export waste generated in the region, except for the return of sealed sources to the manufacturer or supplier of the sealed source, until the Board or Executive Director has issued an Export Permit pursuant to this Rule 6.

6.3 Export Application

Any person seeking an Export Permit shall file an application with the Executive Director in accordance with the following procedures:

6.3.1 Filing of Application with Executive Director

The applicant shall file the Export Application together with the appropriate Export Application Fee with the Executive Director at least three weeks prior to the date that the export of waste is intended to take place.

¹ Please note that the state and/or compact in which a disposal facility is located may have independent requirements (such as the issuance of a site use permit) that apply to generators and brokers who wish to dispose of waste.

6.3.2 Application Fee

A. The Export Application Fee shall be calculated as follows:

<u>VOLUME</u>	<u>FEE</u>
0-399	\$200
400-999	\$0.50/cubic foot
1,000 – 9,999 cubic feet	\$250 + \$0.25/cubic foot
10,000 – 99,999 cubic feet	\$750 + \$0.20/cubic foot
>100,000 cubic feet	\$15,750 + \$0.05/cubic foot
	MAXIMUM FEE NOT TO EXCEED \$50,000.

Please note that if an Export Application is approved, a Permit Fee as specified under Section 6.8 must also be paid by the applicant before the Export Permit is issued.

B. Any amendment to an Export Permit that does not result in an increase in the volume of waste shall be accompanied by a fee of \$100.00. Amendments that result in an increase in volume shall be charged the same fee as a new Export Application for the increase in volume.

6.3.3 Contents of Export Application

Applications must be on official letterhead signed by an authorized official of the entity seeking an Export Permit. If the applicant is different than the generator, both the applicant and the generator must sign the application. The Export Application shall contain the following:

- A. The name, address, and telephone number of the person seeking to export the waste;
- B. The name, address, and telephone number of the person who generated the waste;
- C. The type of waste (categorized according to Appendix A) which the applicant seeks to export and certification from the generator as to whether any portion of the waste is NORM/TENORM;
- D. A certification from the generator that the waste was generated within the region;
- E. For each type of waste the applicant seeks to export, the volume of waste (in cubic feet) including the outermost container;

- F. For each type of waste which the applicant seeks to export:
- (1) The quantity of:
 - (a) Byproduct material in curies;
 - (b) Source material in kilograms and the total Uranium and Thorium content in percent by weight;
 - (c) Special nuclear material in grams;
 - (d) Transuranic waste in nanocuries per gram and total weight in grams of the transuranic elements;
 - (e) The summed activity of all naturally-occurring radioactive material (NORM) and technologically-enhanced naturally-occurring radioactive material (TENORM) radionuclides in picocuries per gram and accelerator produced radioactive material (NARM) in nanocuries per gram and total weight in grams of the waste containing NORM, TENORM, and/or NARM; and
 - (f) The concentration of Radium-226 in picocuries per gram.
 - (2) The quantity of waste the applicant seeks to export that could lawfully be accepted for disposal by the Regional Facility.
- G. The date on which the export is estimated to take place;
- H. For waste that will be exported for management prior to disposal, the name and location of all facilities where the management will take place and the volume of waste that will be sent for management at each such facility;
- I. For the disposal of the waste which the applicant seeks to export:
- (1) The disposal facilities at which the waste will be disposed;
 - (2) The volume of the waste in cubic feet including the outermost container that will be disposed of at each disposal facility (following management, if applicable);
 - (3) The date by which disposal will occur at each facility;
 - (4) If any portion of the waste is to be disposed of at the Benton County, Washington facility, an explanation of whether the waste is acceptable at disposal facilities other than the Benton County, Washington facility; and

- (5) For devices containing sources or sealed sources being exported for disposal by the manufacturer of the devices, documentation of:
 - (a) The date(s) when the device(s) were manufactured;
 - (b) The date(s) when the manufacturer transferred the device(s) to a third party; and
 - (c) The date(s) when the third party returned the device(s) to the manufacturer.

- J. A certification from the generator that the generator is licensed (for radioactive material) and/or permitted (for hazardous waste), if applicable, and agrees to receive back the waste if its management or disposal is not allowed;

- K. For waste that will be exported to another low-level radioactive waste compact, a copy of all necessary documents (if any) issued by the appropriate compact commission(s) authorizing the import of the waste into that compact region; and

- L. The reasons that the Export Permit should be granted, including the economic impact on the generator if the Export Application is denied.

6.4 Transmission of Export Application and Comment by Regional Facility

Upon receipt of a complete application in conformance with Rule 6.3, if any portion of the waste is acceptable at the Regional Facility, the Executive Director shall transmit a copy of the application to the Regional Facility for comment and shall notify the Board that an application has been received. Within five (5) days of receipt of the application, the Regional Facility shall submit written comments, if any, to the Executive Director regarding the economic impact of the Export Application on the Regional Facility.

6.5 Factors to be Considered in Review of the Export Application

The Board shall consider the application utilizing the following factors:

- A. The availability of a regional facility appropriate for the disposal of the waste involved;

- B. The economic impact of the export of the waste on the regional facilities;

- C. The economic impact on the generator of refusing to permit the export of the waste;

- D. The existence of any reciprocal agreements or arrangements with other regional compact commissions or individual states;
- E. Whether the applicant has the authority to import the waste into the compact region in which the management and/or disposal is to take place;
- F. The ability of the generator to store its waste;
- G. The existence of unresolved violations pending against the applicant, generator, management company, or disposal facility involved in the application;
- H. For waste to be exported to the Benton County, Washington facility:
 - (1) The availability of disposal capacity under the annual volume limitation contained in the Board's contract with the Northwest Low-Level Waste Compact Committee;
 - (2) The volume of waste which has previously been authorized for export to the Benton County, Washington facility during the period in which export is sought;
 - (3) The anticipated needs for disposal capacity at the Benton County, Washington facility for other generators in the Rocky Mountain region during the period in which export is sought;
 - (4) The volume of waste which the applicant has previously been authorized to and/or has disposed of at the Benton County, Washington facility;
 - (5) The volume of waste that was generated in the applicant's state which has been authorized for or disposed of at the Benton County, Washington facility during the period in which export is sought;
 - (6) A comparison reflecting any volumes of waste previously authorized for disposal by the generator for the preceding year and the actual amount of waste disposed of during the previous year; and
 - (7) The availability of a facility other than the Benton County, Washington facility for the disposal of the waste.
- I. Compliance of generator, applicant, and proposed management facility(ies) with Export Permit conditions to provide notices and reports to the Board.

6.6 Decision by the Board on the Export Application

The Board may take one of the following actions on the Export Application:

- A. Approve the Export Permit; or
- B. Deny the Export Permit; or
- C. Approve the Export Permit with conditions.
 - (1) The Board may impose any conditions on the Export Permit reasonably related to furthering the purposes of the Compact and these Rules.
 - (2) The applicant shall either accept the conditions in writing within thirty (30) calendar days of the conditional approval or prior to the export of the waste (whichever occurs first). If timely written acceptance is not received, the Export Permit shall become void.

6.7 Delegation of Authority to the Executive Director

The Board hereby delegates to the Executive Director the authority to act on an Export Application in the circumstances described in Section 6.7 A, below. The Executive Director may at his discretion refer the application to the Board for action rather than exercise this delegated authority.

- A. The Executive Director has determined that the waste is not acceptable for disposal at a regional facility or the export of the waste will not cause or contribute to a significant adverse economic impact on any regional facility.
- B. For waste to be disposed of at the Benton County Washington Facility:
 - (1) The volume cap for the Benton County, Washington facility will not be exceeded;
 - (2) The volume of waste for disposal at the Benton County, Washington facility does not exceed 1,000 cubic feet; and
 - (3) The total volume of waste authorized for disposal by the Board and Executive Director at the Benton County, Washington facility has not exceeded 75 percent of the annual volume cap for the Benton County, Washington facility during the calendar year in which disposal will occur, or the volume of each generator's waste to be disposed of at the Benton

County, Washington facility does not exceed 150 cubic feet in the calendar year in which disposal is sought.

- C. For waste to be disposed at facilities other than the Benton County, Washington facility the volume does not exceed 10,000 cubic feet; and
- D. The Executive Director considers the factors set forth in Rule 6.5.

6.7.1 Executive Director Decision

The Executive Director may take one of the following actions on the Export Application:

- A. Approve the Export Permit; or
- B. Deny the Export Permit; or
- C. Approve the Export Permit with conditions.
 - (1) The Executive Director may impose any conditions on the Export Permit reasonably related to furthering the purposes of the Compact and these Rules.
 - (2) The applicant shall either accept the conditions in writing within thirty (30) calendar days of the conditional approval or prior to the export of the waste (whichever occurs first). If timely written acceptance is not received, the Export Permit shall become void.

6.7.2 Request for Reconsideration

If the Executive Director denies a complete application, the applicant may, within ten days of notification of the denial, file a written request for reconsideration of the application. Any such application will be considered by the Board, de novo, pursuant to Rule 6.5 and 6.6

6.8 Permit Fee

No Export Permit shall be issued until the applicant has paid a permit fee calculated as follows:

<u>VOLUME</u>	<u>FEE</u>
0-100 cubic feet	No Fee
101-399 cubic feet	\$2.00 cubic foot, less the application fee of \$200
400-999 cubic feet	\$1.50 cubic foot
1,000 – 9,999 cubic feet	\$750 + \$0.75/cubic foot
10,000 – 99,999 cubic feet	\$5,250 + \$0.30/cubic foot
>100,000 cubic feet	\$30,250 + \$0.05/cubic foot
	MAXIMUM FEE NOT TO EXCEED \$50,000.

6.9 Agreements to Export

Nothing in this Rule shall limit the authority of the Board to enter into agreements with the United States, regional compact commissions, or individual states for the exportation of waste.

The revised Rule 6 shall be effective and apply to any application received on or after July 1, 2009.