

**PROPOSED AMENDMENTS TO ROCKY MOUNTAIN
BOARD RULE 6 CONCERNING WASTE EXPORT
PERMIT FEES AND WASTE EXPORT PERMIT
APPLICATION CONTENTS**

AND

**PROPOSED CHANGES TO THE COMPACT
SURCHARGE FOR WASTE DISPOSED AT THE CLEAN
HARBORS REGIONAL FACILITY**

BACKGROUND

For eight of the last ten years the Rocky Mountain Board's (RMB or Board) expenditures have exceeded its income. The average deficit has been \$99,367 per year. The maximum deficit was \$181,708 in 2021. At the ten-year average deficit, the Board's funds will be exhausted in 2030. If the 2021 deficit continues, the Board's funds will be exhausted in 2026. Thus, the Board must increase its revenue if the benefits afforded by the Rocky Mountain Compact to its member states are to continue.

The Board's annual budget is approximately \$300,000. Actual expenditures have increased very little over the last ten years and most years have been significantly under budget.

The waste export permit fees and the Compact Surcharge have not been increased for over 10 years. The Board has also taken aggressive action to reduce expenditures, primarily by reducing staff salaries and meeting expenses.

If the waste export fees and Compact Surcharges are adopted as proposed, total revenue will be increased by approximately \$38,000. This would represent 38% of the average 10-year deficit and 20% of the maximum annual deficit. Because of this the RMB will also be exploring other revenue options which may not involve regulated entities.

**RULE 6 OF THE ROCKY MOUNTAIN LOW-LEVEL RADIOACTIVE
WASTE BOARD IS PROPOSED TO BE AMENDED AS FOLLOWS**

THESE AMENDMENTS SHALL BE EFFECTIVE MAY 1, 2023

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 Required

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> |
|----------------------------|------------------------------|
| 0-99 | \$400 |
| 100-499 | \$4.50/cubic foot |
| 500-999 | \$2,100 + 0.50/cubic foot |
| 1,000 – 9,999 cubic feet | \$2,600 + \$1.00/cubic foot |
| 10,000 – 99,999 cubic feet | \$10,750 + \$0.50/cubic foot |
| >100,000 cubic feet | \$60,500 + \$.10/cubic foot |

These fees shall be increase by 5.0% effective January 1, 2024 and annually thereafter. The Executive Director shall publish the fee schedule for the upcoming calendar year not later than December 1 of the preceding year.

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 \$ 250.00. 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

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; and
- 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 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.

RULE 6.10

EXPORTATION OF SEALED SOURCES FROM THE REGION AND APPLICATION FOR DISPOSAL OF SEALED SOURCES AT THE BENTON COUNTY, WASHINGTON FACILITY

6.11 Purpose

This section of Rule 6 authorizes the export of sealed sources from the region to the manufacturers or suppliers of the items. Thus, a specific export application and permit to return such items to the manufacturer or supplier is not necessary.

This section of Rule 6 also sets forth the procedure for manufacturers and suppliers of sealed sources to obtain authorization from the Board for the disposal of such items at the Benton County, Washington facility. Please note that State of Washington law requires that all generators and brokers using the Benton County, Washington facility must first obtain a site use permit from the State of Washington.

Applications should be submitted at least four weeks prior to the time disposal at the Benton County, Washington facility is intended to take place. No sealed sources may be disposed of at the Benton County, Washington facility until a permit is issued.

Applications for the export and disposal of sealed sources directly from generators in the region to the Benton County, Washington facility should be filed pursuant to Rule 6.1. Applications for sealed sources that are to be managed (e.g., processed/treated), by a person outside the region (broker/processor), other than the manufacturer or supplier of the item, should also be filed pursuant to Rule 6.1.

In section 6.15, items B through I must be separately provided for each last user whose sealed source is included in the application.

There is no requirement that any sealed source be disposed. There is also no requirement that if a sealed source from the region is going to be disposed of, that the disposal must occur at the Benton County, Washington facility. The Board's jurisdiction is limited to "waste." Hence, no export authorization is required for sealed sources that will continue to be used for their radiologic properties.

6.12 Definitions

For the purpose of Rule 6.10, "Sealed Source" means any radioactive material that is encased in a capsule designed to prevent leakage or escape of the radioactive material, and Technicium-99m generators.

6.13 Authorization of Export of Sealed Sources

Sealed sources may be exported from the region to the manufacturer or supplier thereof without additional authorization from the Board.

6.14 Filing of Application to Dispose of Sealed Sources at the Benton County, Washington Facility

Any person seeking the authorization of the Board pursuant to Article 7, Section B of the compact to dispose of sealed sources from the region at the Benton County, Washington facility shall submit a written Application to Dispose of Sealed Sources to the Executive Director. The application filed pursuant to this Rule 6.10 shall be accompanied by an Application Fee to be calculated as follows:

| <u>VOLUME</u> | <u>FEE</u> |
|----------------------------|------------------------------|
| 0-99 | \$400 |
| 100-499 | \$4.50/cubic foot |
| 500-999 | \$2,100 + 0.50/cubic foot |
| 1,000 – 9,999 cubic feet | \$2,600 + \$1.00/cubic foot |
| 10,000 – 99,999 cubic feet | \$10,750 + \$0.50/cubic foot |
| >100,000 cubic feet | \$60,500 + \$.10/cubic foot |

These fees shall be increase by 5.0% effective January 1, 2024 and annually thereafter. The Executive Director shall publish the fee schedule for the upcoming calendar year not later than December 1 of the preceding year.

6.14.1 Amendments to an Application to Dispose of Sealed Sources

Any amendment to an Application to Dispose of Sealed Sources that does not result in an increase in the volume of waste shall be accompanied by a fee of \$ 250.00 Amendments that result in an increase in volume shall be charged the same fee as a new Application to Export Waste.

6.15 Contents of Application to Dispose of Sealed Sources at the Benton County, Washington Facility

The application for permission to dispose of a sealed source shall contain the following:

- A. the name, address and telephone number of the person seeking to dispose of the sealed source;
- B. the name, address, telephone number, and radioactive materials license number of the person who last used the sealed source in the region;
- C. The date the applicant received the sealed source from the last user in the region;
- D. the type of sealed source (major isotope(s)) which the applicant seeks to dispose;

- E. the volume (in cubic feet), including the outermost container that is intended to be disposed, of each sealed source the applicant seeks to dispose;
- F. for each sealed source which the applicant seeks to dispose: the quantity of byproduct material and naturally occurring and accelerator produced radioactive material in curies; and special nuclear material in grams;
- G. the date on which the shipment for disposal is estimated to take place;
- H. a certification from the applicant that the sealed source was last used by the person listed in item 6.15 B; and
- I. an explanation of whether the sealed source is acceptable at disposal facilities other than the Benton County, Washington facility.

6.16 Transmission of Application to Dispose of Sealed Sources

Unless the Executive Director chooses to exercise the power delegated under Rule 6.17, upon the receipt of an application conforming with the requirements of Rule 6.14 and 6.15, the Executive Director shall notify the members of the Board of the receipt of the application. The Board shall consider the application utilizing the following factors:

- A. the economic impact of the export of the waste on regional facilities;
- B. the economic impact on the generator of refusing to permit the export of the waste;
- C. the availability of a regional facility appropriate for the disposal of the waste involved;
- D. the existence of any reciprocal agreements or arrangements with other regional compact Boards or individual states;
- E. whether the sealed source is required to be accepted at the Benton County, Washington facility pursuant to the Board's contract with the Northwest Low-Level Waste Compact Committee;
- F. the volume of waste which has previously been authorized for disposal at the Benton County, Washington facility during the calendar year in which disposal is sought;
- G. the availability of disposal capacity under the annual volume limitation contained in the Board's contract with the Northwest Low-Level Waste Compact Committee;

- H. the volume of waste which the applicant has previously been authorized to and/or has disposed of at the Benton County, Washington facility;
- I. the volume of waste from the last user's state which has been authorized for, or disposed of at the Benton County, Washington facility during the calendar year in which disposal is sought;
- J. the anticipated needs for disposal capacity at the Benton County, Washington facility for other generators in the Rocky Mountain region during the calendar year in which disposal is sought;
- K. the ability of the applicant and the last user to store the sealed source;
- L. the availability of a facility other than the Benton County, Washington facility for the disposal of the sealed source;
- M. the existence of unresolved violations pending against the applicant or the last user of the sealed source which is included in the application; and
- N. a comparison reflecting any volumes of waste previously authorized for disposal by the applicant for the preceding year and the actual amount of waste disposed of during the previous year.

In ruling on the application, the Board may: (1) grant the application, (2) deny the application, or (3) grant the application subject to conditions. These conditions may include, but are not limited to, fulfilling any obligations which the applicant has to the Board and scheduling the date of disposal of the sealed source. If the Board grants its approval subject to conditions, the applicant shall either accept the conditions in writing prior to the shipment of the sealed source for disposal or the application will be deemed denied.

6.17 Power of the Executive Director: Disposal

The Board hereby delegates to the Executive Director the authority to approve or deny any application submitted pursuant to Rule 6.10, so long as: (a) the volume of sealed source(s) sought to be disposed by the applicant does not exceed 1,000 cubic feet; (b) the total volume of waste authorized for disposal by the Board 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 is sought; or (c) the authorized volume of sealed source(s) sought to be disposed by the applicant will not exceed 2,000 cubic feet in the calendar year in which disposal is sought and the annual volume cap for the Benton County, Washington facility will not be exceeded; and (d) the Executive Director uses the criteria set forth in Rule 6.16. Within ten days of approving or denying the disposal of sealed source(s) pursuant to this section, the Executive Director shall give written notice of such action to each member of the Board and the applicant. If the Executive Director denies a complete application, the applicant may, within ten days of notification of the denial, file at the Board's offices a written request for reconsideration of

the application. Any such request for reconsideration shall be considered by the Board de novo, pursuant to Rule 6.16.

In ruling on the application, the Executive Director may: (1) grant the application, (2) deny the application, (3) grant the application subject to conditions, or (4) refer the matter to the Board for determination. The conditions may include, but are not limited to, fulfilling any obligations which the applicant has to the Board and scheduling the date of disposal of the sealed source(s). If the Executive Director grants approval subject to conditions, the applicant shall either accept the conditions in writing prior to the shipment of the sealed source for disposal or the application will be deemed denied.

6.18 Agreements to Export

Nothing in this Rule 6.10 shall limit the authority of the Board to enter into agreements with the United States, regional compact Boards, or individual states for the exportation of waste.

**REVISED COMPACT SURCHARGE FOR WASTE DISPOSED AT THE CLEAN HARBORS
REGIONAL FACILITY**

The Compact Surcharge for waste generated within the Rocky Mountain Compact Region shall be \$2.00 per ton. The Compact Surcharge for waste generated outside the Rocky Mountain Compact Region shall be \$10.00 per ton.

These new Compact Surcharges shall be effective on May 1, 2023.