

RULE 6

February 28, 2006

EXPORTATION OF WASTE FROM THE REGION

6.1 Purpose

This section of Rule 6 applies 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. No waste may be exported until an export permit is issued.

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

6.2 Filing of Application to Export Waste

Any person seeking the authorization of the Board pursuant to Article 7, Section B of the compact to export waste which was generated within the region shall submit a written application to the Executive Director for permission to export waste. Applications should be submitted at least three weeks prior to the time exportation is intended to take place.

The application filed pursuant to this Rule 6.2 shall be accompanied by an Export Application Fee to be calculated as follows:

<u>VOLUME</u>	<u>FEE</u>
0-999 cubic feet	\$200 or \$2.00/cubic foot, whichever is greater
1,000 - 9,999 cubic feet	\$1,000 + \$1.00/cubic foot
10,000 - 99,999 cubic feet	\$6,000 + \$0.50/cubic foot
>100,000 cubic feet	\$46,000 + \$0.10/cubic foot
	MAXIMUM FEE NOT TO EXCEED \$100,000.

6.2.1 Amendments to an Application to Export Waste

Any amendment to an Application to Export Waste 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 Application to Export Waste.

6.3 Contents of Application to Export Waste

Applications must be on official letterhead signed by an authorized official. If the applicant is different than the generator, both the applicant and the generator must sign the application. The application for permission to export waste 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;
- D. for each type of waste the applicant seeks to export, the volume of waste (in cubic feet) including the outermost container;
- E. for the waste which the applicant seeks to export:
 - (1) the quantity of:
 - (a) byproduct material in curies;
 - (b) source material in kilograms;
 - (c) special nuclear material in grams;
 - (d) transuranic waste in nanocuries per gram and total weight in grams of the transuranic elements; and
 - (e) the summed activity of all naturally occurring radioactive material (NORM) radionuclides in nanocuries per gram and accelerator produced radioactive material (NARM) in nanocuries per gram and total weight in grams of the waste containing NORM and/or NARM.
 - (2) certification from the generator as to whether any portion of the waste is waste from mining, milling, smelting, or similar processing of ores and mineral-bearing material primarily for radium;
 - (3) the concentration of radium 226 in picocuries per gram;

- (4) if any portion of the waste is acceptable at the Clean Harbors regional facility (i.e., waste from mining, milling, smelting, or similar processing of ores and mineral-bearing material primarily for radium, the summed activity of all NORM radionuclides does not exceed 2,000 picocuries per gram, and the concentration of radium 226 does not exceed 400 picocuries per gram), a letter from the operator of the Clean Harbors regional facility describing:
 - (a) the economic impact of the export of the waste on the Clean Harbors regional facility; and
 - (b) whether there is capacity at the Clean Harbors regional facility for disposal of the waste;
 - (5) if any portion of the waste is acceptable at the Clean Harbors regional facility, an explanation from the generator of the economic impact on the generator of refusing to permit the export of the waste;
- F. the date on which the export is estimated to take place;
- G. 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;
- H. 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 facility (following management, if applicable); and
 - (3) the date by which disposal will occur at each facility;
- I. 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;
- 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 it cannot be disposed of;

- K. a copy of all necessary documents (if any) issued by the appropriate compact commission(s) authorizing the import of the waste into the region(s) in which the management and/or disposal is to take place;
- L. a certification from the generator that the waste was generated within the region;
- M. if no portion of the waste is acceptable at the Clean Harbors regional facility, the reasons that export should be permitted including the economic impact on the generator of refusing to permit the export of the waste;
- N. a statement from the generator that it is utilizing reasonably available minimization practices (applicable only for waste to be disposed of at Benton County facility); and
- O. a statement from the generator that storage for decay of any or all of the waste has been considered as an alternative to exportation of the waste (applicable only for waste to be disposed of at Benton County facility).

6.4 Transmission of Application to Export Waste

Unless the Executive Director chooses to exercise the power delegated under Rule 6.6, upon the receipt of an application conforming with the requirements of Rule 6.2 and 6.3, the Executive Director shall notify the members of the Board of the receipt of the application.

6.5 Consideration of the Application.

The Board shall consider the application utilizing the following factors:

- A. the economic impact of the export of the waste on the 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 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, or management company involved in the application;
- H. a comparison reflecting any volumes of waste previously authorized for disposal for the preceding year and the actual amount of waste disposed of during the previous year;
- I. 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 (applicable only to waste exported to the Benton County facility);
- J. 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 (applicable only to waste exported to the Benton County facility);
- K. 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 (applicable only to waste exported to the Benton County facility);
- L. the availability of a facility other than the Benton County, Washington facility for the disposal of the waste (applicable only to waste exported to the Benton County facility);
- M. the availability of disposal capacity under the annual volume limitation contained in the Board's contract with the Northwest Low-Level Waste Compact Committee (applicable only to waste exported to the Benton County facility); and

- N. the volume of waste which the applicant has previously been authorized to and/or has disposed of at the Benton County, Washington facility (applicable only to waste exported to the Benton County facility).

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, scheduling the date of export and disposal of the waste, and requiring the submission reports on waste export and disposal by the applicant. If the Board grants its approval subject to conditions, the applicant shall either accept the conditions in writing prior to the export of the waste, or the application will be deemed denied. The Board may postpone taking action on any application in which the disposal of waste will not take place during the calendar year in which the application is filed.

6.6 Power of the Executive Director: Exportation

The Board hereby delegates to the Executive Director the authority to approve or deny any application submitted pursuant to Rule 6.2, so long as:

- A. for waste to be disposed of at the Benton County, Washington facility:
- the volume cap for the Benton County, Washington facility will not be exceeded;
 - the volume of waste for disposal at the Benton County, Washington facility does not exceed 1,000 cubic feet; and
 - 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 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.
- B. for waste to be disposed at facilities other than the Benton County, Washington facility the volume does not exceed 10,000 cubic feet; and

- C. 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.

6.6.1 Executive Director Decision

The Executive Director shall apply the criteria set forth in Rule 6.5 and 6.6(C) to rule on an application to export waste. 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, scheduling the date of export and disposal of the waste, and requiring the submission reports on waste export and disposal by the applicant. Within ten days of approving or denying the export of waste 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 grants approval subject to conditions, the applicant shall either accept the conditions in writing prior to the export of the waste or the application will be deemed denied.

6.6.2 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

6.7 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.