



Colorado Department
of Public Health
and Environment

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

**Hazardous Materials and Waste Management Division,
Radiation Control**

6 CCR 1007-1, Part 15

**STATE BOARD OF HEALTH
COLORADO LOW-LEVEL RADIOACTIVE WASTE RATE
REGULATIONS**

(Amended November 20, 1985, effective January 30, 1986)

PART XV

COLORADO LOW-LEVEL RADIOACTIVE WASTE
RATE REGULATIONS

- RH 15.1 Authority. These regulations are promulgated in accordance with 24-60-2212 C.R.S. 1982. In the event of conflict between these rules and 24-60-2212, C.R.S. 1982, the latter shall control.
- RH 15.2 Basis and Purpose. The basis and purpose of these regulations is to achieve, in the application of these regulations pursuant to the requirements stated herein, just and reasonable rates for the management of low-level radioactive waste at facilities. The regulations are intended to effect the legislative intent of Section 24-60-2212, C.R.S. 1982, prescribing the powers and duties of the Board of Health as the designated agency responsible for regulating low-level radioactive waste management charges at facilities in the State. The rationale for these regulations as promulgated herein is to establish a regulatory scheme based upon that employed for the regulation of public utilities rates.
- RH 15.3 Amendment of Rules. These rules may be amended at any time by the Board of Health as provided by law.
- RH 15.3 Definitions. As used in these rules, the following words shall have meaning indicated unless context otherwise requires.
- "Board" means Board of Health of the State of Colorado.
- "Closure" means those actions that are taken upon completion of operations to prepare the facility for custodial care and that assure that the facility will remain stable and will not need ongoing active maintenance as defined in RH 14.2.
- "Facility" means a low-level radioactive waste facility capable of serving as a regional disposal or management site in compliance regulations and which also complies with the provisions of the "Rocky Mountain Low-Level Radioactive Waste Compact" set forth in 24-60-2212, C.R.S. 1982.
- "Management" means collection, consolidation, storage, treatment, incineration or disposal.
- "Normalization" is the requirement that a company reflect in its financial accounting income statement a deferred tax so that the entire federal income tax is equal to that which the company normally would have had to pay if it had chosen to use straight-line depreciation for tax purposes as well as for financial accounting.

"Reasonable cost" means a cost which in its nature or amount does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost.

"Straight-line basis" is the distribution of the depreciable cost of an asset in equal amounts over its useful life.

Rate Review and Approval Process

- RH 15.5 The licensee shall establish a schedule of rates for the management of low-level radioactive waste subject to approval by the Board, pursuant to 24-60-2212(3)(2), C.R.S. 1982 and in accordance with the procedures set forth in these regulations as follows:
- 15.5.1 The licensee shall file with the Board, at least sixty days prior to the proposed effective date, proposed schedules showing all rates, charges, and classifications collected or enforced or to be collected or enforced, and a filing fee in the amount of \$1000. Such rates, when effective, shall be posted and open to public inspection at the facility.
- 15.5.2 Within ten (10) days of receipt, the Board shall make available for public inspection the filing and supporting information and provide reasonable public notice thereof.
- 15.5.3 Unless the Board otherwise orders, no change shall be made in any rate, charge, or classification collected or enforced or to be collected or enforced by a facility except after sixty days of filing with the Board. All filing shall be kept open for public inspection with new schedules then in force and the time when the changes will go into effect.
- 15.5.4 The Board shall not approve or disapprove a filing without a public hearing. If the Board does not disapprove or schedule a hearing on a filing within sixty (60) days of receipt by the Board, the filing shall automatically become effective.
- 15.5.5 During the sixty-day (60) review period, the Board may conclude that it is in the public interested person may request a public hearing by written petition tho the Board.
- 15.5.6 Whenever the Board after a hearing upon its own motion or upon petition finds, based upon the record and investigation by the Board, that the rates or charges, enforced or the be enforced by any facility are unjust, unreasonable, discriminatory, or violative of any provision of law or that such rates, charges, or classifications are insufficient, the Board shall determine the just, reasonable, or sufficient rates, charges, classifications, rules, regulations, or practices to be thereafter observed and in force and shall fix the same by order of the Board.

- 15.5.7 The Board has the authority, after a hearing upon its own motion or upon complaint, to investigate a single rate, charge, classification, or practice of any facility and to establish new rates, charges, classifications or practices in lieu thereof.
- 15.5.8 Within ten (10) days of Board approval of the rate schedules or within 10 days after becoming automatically effective, the rate schedules shall be forwarded to the Rocky Mountain Low-Level Radioactive Waste Board for approval pursuant to 24-60-2212, (3)(D), C.R.S. 1982.
- RH 15.6 The rates for managing low-level radioactive waste at facilities shall remain in effect until modified by the Board upon application by the licensee or upon the Board's own motion or until a new rate application becomes effective automatically pursuant to RH 15.5.
- RH 15.7 Initial rates for the facility shall be based on a forecasted twelve (12) month test year which shall include an estimate of the revenues expected to be derived from the projected volume of waste to managed at the facility and the cost projected to be incurred to provide such service associated with the estimated volume of waste to be disposed. If the revenue derived from the actual volume of waste managed differs from the initial projections by 15% after twelve (12) months, the licensee shall petition the Board to adjust the rates to correct for the error in projection.
- RH 15.8 Two (2) years after the facility has been operated, the licensee shall petition the Board to determine the rates using a historic test period of no less than twelve (12) continuous months, adjusted for known and certain future expenditures that will be incurred by the licensee which are reasonable and necessary for the operation of the facility.
- RH 15.9 In the event the licensee or the board determines that various classes of low-level radioactive waste will be managed at the facility which will impact upon the cost of service, rates shall be designated which best reflect the actual costs incurred in order to manage a particular class of low-level radioactive waste, so that the various classes do not subsidize costs associated with the management of another class of waste.
- RH 15.10 When applying for approval of a proposed rate schedule by the Board, the licensee shall submit the following:
- 15.10.1 Identification including name, location of business, and licensee number;
- 15.10.2 Proposed rate schedules according to waste classes which may be characterized by chemical, physical form, container type, or by radiation quantity and concentration; and

- 15.10.3 Estimated allowable expenses and proposed rate of return in accordance with RH 15.17 through 15.20.
- RH 15.11 Calculation of the Rates
- 15.11.1 Rates are based upon the licensee's cost of rendering service to the public.
- 15.11.2 The two components of cost of service are allowable expenses and return on invested capital.
- RH 15.12 Allowable expenses. Only those expenses which are reasonable and necessary to provide service shall be included in allowable expenses. Allowable expenses may include, but are not limited to the following general categories:
- 15.12.1 Site operating cost incurred during the daily operation of the facility (labor, supplies, and maintenance cost).
- 15.12.2 Depreciation expense based on original cost of all buildings and equipment used on the facility computed on a straight line basis for a period extending from the date of purchase to the expected date of closure.
- 15.12.3 Amortization expense based on the original costs for site acquisition, environmental and geotechnical studies, licensing site development, and administrative and legal expenses incurred prior to the start of site operations, computed on a straight line basis for a period extending from the date such costs and expenses are incurred to the expected date of closure.
- 15.12.4 Assessments and taxes other than income taxes.
- 15.12.5 Federal and state income taxes normalized to reflect the taxes that would have been paid had the licensee elected to use straight line depreciation.
- 15.12.6 Cost of financial assurance required by the Department for facility closure and post-closure monitoring and maintenance pursuant to Parts III and XIV.
- 15.12.7 State surcharge of one percent of gross revenue and local surcharge of up to two percent of annual gross revenue as provided in 24-60-2212, C.R.S. 1982.
- 15.12.8 Compact surcharge as authorized in 24-60-2212. c.s. 1982
- 15.12.9 Annual license fee and attendant legal fees pursuant to regulations.
- 15.12.10 Cost of liability insurance for both sudden and accidental or slow and gradual contamination to people and/or property off site.

- 15.12.11 Legal fees necessary to the safe operation and management of the facility.
- RH 15.13 Cost Not allowed. The following expenses shall never be allowed as a component of cost of service:
- 15.13.1 Legislative advocacy expenses, whether made directly or indirectly, including but not limited to legislative advocacy expenses included in professional or trade association dues.
- 15.13.2 Funds expended in support of political candidates, any political movement or in the promotion of political or religious causes.
- 15.13.3 Funds expended in support of or membership in social, recreational, fraternal, or religious clubs or organizations.
- 15.13.4 Funds expended to mail any material containing any of the items mentioned in RH 15.13 through 15.13.3.
- 15.13.5 Any other expenditure found by the Board to be unreasonable, unnecessary, or not in the public interest, including but not limited to executive salaries, advertising expenses, legal expenses incurred in suits initiated against the State of Colorado, or the Rocky Mountain Low-Level Radioactive Waste Board, or penalties and interest on overdue taxes.
- RH 15.14 Return on invested capital. The return on invested capital is the rate of return multiplied by invested capital (also known as rate base). Invested capital includes the original cost of plant, property and equipment, less accumulated depreciation authorized under these rules and the accumulated amortization expenses associated with start up cost incurred prior to the start of site operations, which were prudently incurred and are used and useful in rendering service to the public. Components to be included in determining the overall rate base are as follows:
- 15.14.1 Cost incurred prior to the start of site operations, less accumulated amortization expenses associated with such costs which shall include:
- 15.14.1.1 Site acquisition costs including but not limited to costs incurred to acquire the site for low-level radioactive waste management.
- 15.14.1.2 Licensing costs and costs associated with site selection, and the development of any plans, reports, design, manuals or schedules.
- 15.14.1.3 Site development costs including but not limited to the costs for grading, development of roads, installation of fencing and lighting.

- 15.14.1.4 Administrative costs and legal fees.
- 15.14.2 Plant in service, less accumulated depreciation actually incurred and as reported on federal and state income tax returns.
- 15.14.3 Working capital, which shall include:
 - 15.14.3.1 Reasonable inventories of materials, and supplies held specifically for purposes of permitting efficient operation of the facility.
 - 15.14.3.2 Reasonable prepayments for operation expenses.
- RH 15.15 Rate of Return. The Board shall allow the licensee an opportunity to earn a reasonable return on its invested capital and shall fix the rate of return in accordance with the following principles:
 - 15.15.1 The return should be sufficient to assure confidence in the financial soundness of the facility and should be adequate, under efficient management, to maintain and support its credit and enable it to raise the money necessary for proper discharge of its public duties. A rate of return may be reasonable at one time and become too high or too low by changes affecting opportunities for investment, the money market, inflation, deflation, the growth rate of the service area, business conditions generally and the need for the facility to attract necessary capital.
 - 15.15.2 The Board shall consider the risks associated with the unique character of this facility and the risks which the licensee must incur in order to establish, operate and maintain the facility. In evaluating these risks, the Board may consider such factors as the amount of capital expended and required to establish the facility, the potential liability which the licensee incurs while operating the facility, the potential liability the licensee may incur after closure, and whether the licensee is a small business which is not a public corporation or whether the licensee is a public corporation, and whether the licensee operates the facility as its sole business rather than a portion of a larger business.

Rate Review Documentation

- RH 15.16 For purpose of verifying the rate base upon which rates have been proposed or established, including any rate base changes affecting the calculation of proposed rates, the licensee shall supply the following reports and records to the Department.
 - 15.16.1 Semiannual reports of all allowable costs to operate the facility.
 - 15.16.2 Semiannual reports on the quantity of waste managed at the facility.

- 15.16.3 An annual financial report which includes complete data on the rates charged for each type of waste managed at the facility, all surcharges collected and paid by the licensee, the actual return on invested capital received by the licensee, and the data used or proposed to be used by the licensee in the calculation of the rate base and/or rates for the facility. This report shall be due within three months after the close of the licensee's
- RH 15.17 All contracts made by the licensee which require payments by the licensee of five percent of more of the latest annual reported gross revenue shall require that an independent audit report be made available to the Board.
- RH 15.18 The books and records supporting the reports referred to in this part shall be maintained in a form capable of review and audit by the Board or its staff, and the Board or its staff shall have the right in inspect these books and records.
- RH 15.19 All documents submitted pursuant to these rules which are proprietary, private or confidential shall be so identified by the applicant or licensee or any parties who apply to become the licensee of the facility. The Board may issue such protective orders as are necessary to protect such proprietary, private or confidential material, subject to the provisions of 24-72-204, C.R.S. 1985.