

Rocky Mountain Low-Level Radioactive Waste Compact

The general assembly hereby approves and ratifies and the governor shall enter into a compact on behalf of the state of Colorado, which shall be known as the “Rocky Mountain Low-level Radioactive Waste Compact”, with any of the United States or other jurisdictions legally joining therein in the form substantially as follows:

ARTICLE 1

FINDINGS AND PURPOSE

A. The party states agree that each state is responsible for providing for the management of low-level radioactive waste generated within its borders, except for waste generated as a result of defense activities of the federal government or federal research and development activities. Moreover, the party states find that the United States Congress, by enacting the “Low-level Radioactive Waste Policy Act” (P.L. 96-573), [FN1] has encouraged the use of interstate compacts to provide for the establishment and operation of facilities for regional management of low-level radioactive waste.

B. It is the purpose of the party states, by entering into an interstate compact, to establish the means for cooperative effort in managing low-level radioactive waste; to ensure the availability and economic viability of sufficient facilities for the proper and efficient management of low-level radioactive waste generated within the region while preventing unnecessary and uneconomic proliferation of such facilities; to encourage reduction of the volume of low-level radioactive waste requiring disposal within the region; to restrict management within the region of low-level radioactive waste generated outside the region; to distribute the costs, benefits and obligations of low-level radioactive waste management equitably among the party states; and by these means to promote the health, safety and welfare of the residents within the region.

ARTICLE 2

DEFINITIONS

As used in this compact, unless the context clearly indicates otherwise:

A. “Board” means the Rocky Mountain low-level radioactive waste board;

B. "Carrier" means a person who transports low-level waste;

C. "Disposal" means the isolation of waste from the biosphere, with no intention of retrieval, such as by land burial;

D. "Facility" means any property, equipment or structure used or to be used for the management of low-level waste;

E. "Generate" means to produce low-level waste;

F. "Host state" means a party state in which a regional facility is located or being developed;

G. "Low-level waste" or "waste" means radioactive waste, other than:

(1) Waste generated as a result of defense activities of the federal government or federal research and development activities;

(2) High-level waste such as irradiated reactor fuel, liquid waste from reprocessing irradiated reactor fuel, or solids into which any such liquid waste has been converted;

(3) Waste material containing transuranic elements with contamination levels greater than ten nanocuries per gram of waste material;

(4) Byproduct material as defined in Section 11 e. (2) of the "Atomic Energy Act of 1954", as amended on November 8, 1978; [FN2] or

(5) Wastes from mining, milling, smelting, or similar processing of ores and mineral-bearing material primarily for minerals other than radium;

H. "Management" means collection, consolidation, storage, treatment, incineration or disposal;

I. "Operator" means a person who operates a regional facility;

J. "Person" means an individual, corporation, partnership or other legal entity, whether public or private;

K. "Region" means the combined geographical area within the boundaries of the party states; and

L. "Regional facility" means a facility within any party state which either:

(1) Has been approved as a regional facility by the board; or

(2) Is the low-level waste facility in existence on January 1, 1982, at Beatty, Nevada.

ARTICLE 3

RIGHTS, RESPONSIBILITIES AND OBLIGATIONS

A. There shall be regional facilities sufficient to manage the low-level waste generated within the region. At least one regional facility shall be open and operating in a party state other than Nevada within six years after this compact becomes law in Nevada and in one other state.

B. Low-level waste generated within the region shall be managed at regional facilities without discrimination among the party states; provided, however, that a host state may close a regional facility when necessary for public health or safety.

C. Each party state which, according to reasonable projections made by the board, is expected to generate twenty percent or more in cubic feet except as otherwise determined by the board of the low-level waste generated within the region has an obligation to become a host state in compliance with subsection D of this article.

D. A host state, or a party state seeking to fulfill its obligation to become a host state, shall:

(1) Cause a regional facility to be developed on a timely basis as determined by the board, and secure the approval of such regional facility by the board as provided in Article 4 before allowing site preparation or physical construction to begin;

(2) Ensure by its own law, consistent with any applicable federal law, the protection and preservation of public health and safety in the siting, design, development, licensure or other regulation, operation, closure, decommissioning and long-term care of the regional facilities within the state;

(3) Subject to the approval of the board, ensure that charges for management of low-level waste at the regional facilities within the state are reasonable;

(4) Solicit comments from each other party state and the board regarding siting, design, development, licensure or other regulation, operation, closure, decommissioning and long-term care of the regional facilities within the state and respond in writing to such comments;

(5) Submit an annual report to the board which contains projections of the anticipated future capacity and availability of the regional facilities within the state, together with other information required by the board; and

(6) Notify the board immediately if any exigency arises requiring the possible temporary or permanent closure of a regional facility within the state at a time earlier than was projected in the state's most recent annual report to the board.

E. Once a party state has served as a host state, it shall not be obligated to serve again until each other party state having an obligation under subsection C of this article has fulfilled that obligation. Nevada, already being a host state, shall not be obligated to serve again as a host state until every other party state has so served.

F. Each party state:

(1) Agrees to adopt and enforce procedures requiring low-level waste shipments originating within its borders and destined for a regional facility to conform to packaging and transportation requirements and regulations. Such procedures shall include but are not limited to:

(a) Periodic inspections of packaging and shipping practices;

(b) Periodic inspections of waste containers while in the custody of carriers; and

(c) Appropriate enforcement actions with respect to violations;

(2) Agrees that after receiving notification from a host state that a person in the party state has violated packaging, shipping or transportation requirements or regulations, it shall take appropriate action to ensure that violations do not recur. Appropriate action may include but is not limited to the requirement that a bond be posted by the violator to pay the cost of repackaging at the regional facility and the requirement that future shipments be inspected;

(3) May impose fees to recover the cost of the practices provided for in paragraphs (1) and (2) of this subsection;

(4) Shall maintain an inventory of all generators within the state that may have low-level waste to be managed at a regional facility; and

(5) May impose requirements or regulations more stringent than those required by this subsection.

ARTICLE 4

BOARD APPROVAL OF REGIONAL FACILITIES

A. Within ninety days after being requested to do so by a party state, the board shall approve or disapprove a regional facility to be located within that state.

B. A regional facility shall be approved by the board if and only if the board determines that:

(1) There will be, for the foreseeable future, sufficient demand to render operation of the proposed facility economically feasible without endangering the economic feasibility of operation of any other regional facility; and

(2) The facility will have sufficient capacity to serve the needs of the region for a reasonable period of years.

ARTICLE 5

SURCHARGES

A. The board shall impose a “compact surcharge” per unit of waste received at any regional facility. The surcharge shall be adequate to pay the costs and expenses of the board in the conduct of its authorized activities and may be increased or decreased as the board deems necessary.

B. A host state may impose a “state surcharge” per unit of waste received at any regional facility within the state. The host state may fix and change the amount of the state surcharge subject to approval by the board. Money received from the state surcharge may be used by the host state for any purpose authorized by its own law, including but not limited to costs of licensure and regulatory activities related to the regional facility, reserves for decommissioning and long-term care of the regional facility and local impact assistance.

ARTICLE 6

THE BOARD

A. The “Rocky Mountain low-level radioactive waste board”, which shall not be an agency or instrumentality of any party state, is created.

B. The board shall consist of one member from each party state. Each party state shall determine how and for what term its member shall be appointed, and how and for what term any alternate may be appointed to perform that member's duties on the board in the member's absence.

C. Each party state is entitled to one vote. A majority of the board constitutes a quorum. Unless otherwise provided in this compact, a majority of the total number of votes on the board is necessary for the board to take any action.

D. The board shall meet at least once a year and otherwise as its business requires. Meetings of the board may be held in any place within the region deemed by the board to be reasonably convenient for the attendance of persons required or entitled to attend and where adequate accommodations may be found. Reasonable public notice and opportunity for comment shall be given with respect to any meeting; provided, however, that nothing in this subsection shall preclude the board from meeting in executive session when seeking legal advice from its attorneys or when discussing the employment, discipline, or termination of any of its employees.

E. The board shall pay necessary travel and reasonable per diem expenses of its members, alternates and advisory committee members.

F. The board shall organize itself for the efficient conduct of its business. It shall adopt and publish rules consistent with this compact regarding its organization and procedures. In special circumstances the board, with unanimous consent of its members, may take actions by telephone; provided, however, that any action taken by telephone shall be confirmed in writing by each member within thirty days. Any action taken by telephone shall be noted in the minutes of the board.

G. The board may use for its purposes the services of any personnel or other resources which may be offered by any party state.

H. The board may establish its offices in space provided for that purpose by any of the party states or, if space is not provided or is deemed inadequate, in any space within the region selected by the board.

I. Consistent with available funds, the board may contract for necessary personnel services and may employ such staff as it deems necessary to carry out its duties. Staff shall be employed without regard for the personnel, civil service or merit system laws of any of the party states and shall serve at the pleasure of the board. The board may provide appropriate employee benefit programs for its staff.

J. The board shall establish a fiscal year which conforms to the extent practicable to the fiscal years of the party states.

K. The board shall keep an accurate account of all receipts and disbursements. An annual audit of the books of the board shall be conducted by an independent certified public accountant, and the audit report shall be made a part of the annual report of the board.

L. The board shall prepare and include in the annual report a budget showing anticipated receipts and disbursements for the ensuing year.

M. Upon legislative enactment of this compact, each party state shall appropriate seventy thousand dollars (\$70,000) to the board to support its activities prior to the collection of sufficient funds through the compact surcharge imposed pursuant to subsection A of article 5 of this compact.

N. The board may accept any donations, grants, equipment, supplies, materials or services, conditional or otherwise, from any source. The nature, amount and condition, if any, attendant upon any donation, grant or other resources accepted pursuant to this subsection, together with the identity of the donor or grantor, shall be detailed in the annual report of the board.

O. In addition to the powers and duties conferred upon the board pursuant to other provisions of this compact, the board:

(1) Shall submit communications to the governors and to the presiding officers of the legislatures of the party states regarding the activities of the board, including an annual report to be submitted by December 15;

(2) May assemble and make available to the governments of the party states and to the public through its members information concerning low-level waste management needs, technologies and problems;

(3) Shall keep a current inventory of all generators within the region, based upon information provided by the party states;

(4) Shall keep a current inventory of all regional facilities, including information on the size, capacity, location, specific wastes capable of being managed and the projected useful life of each regional facility;

(5) May keep a current inventory of all low-level waste facilities in the region, based upon information provided by the party states;

(6) Shall ascertain on a continuing basis the needs for regional facilities and capacity to manage each of the various classes of low-level waste;

(7) May develop a regional low-level waste management plan;

(8) May establish such advisory committees as it deems necessary for the purpose of advising the board on matters pertaining to the management of low-level waste;

(9) May contract as it deems appropriate to accomplish its duties and effectuate its powers, subject to its projected available resources; but no contract made by the board shall bind any party state;

(10) Shall make suggestions to appropriate officials of the party states to ensure that adequate emergency response programs are available for dealing with any exigency that might arise with respect to low-level waste transportation or management;

(11) Shall prepare contingency plans, with the cooperation and approval of the host state, for management of low-level waste in the event any regional facility should be closed;

(12) May examine all records of operators of regional facilities pertaining to operating costs, profits or the assessment or collection of any charge, fee or surcharge;

(13) Shall have the power to sue; and

(14) When authorized by unanimous vote of its members, may intervene as of right in any administrative or judicial proceeding involving low-level waste.

ARTICLE 7

PROHIBITED ACTS AND PENALTIES

A. It shall be unlawful for any person to dispose of low-level waste within the region, except at a regional facility; provided, however, that a generator who, prior to January 1, 1982, had been disposing of only his own waste on his own property may, subject to applicable federal and state law, continue to do so.

B. After January 1, 1986, it shall be unlawful for any person to export low-level waste which was generated within the region outside the region unless authorized to do so by the board. In determining whether to grant such authorization, the factors to be considered by the board shall include, but not be limited to, the following:

(1) The economic impact of the export of the waste on the regional facilities;

- (2) The economic impact on the generator of refusing to permit the export of the waste; and
- (3) The availability of a regional facility appropriate for the disposal of the waste involved.

C. After January 1, 1986, it shall be unlawful for any person to manage any low-level waste within the region unless the waste was generated within the region or unless authorized to do so both by the board and by the state in which said management takes place. In determining whether to grant such authorization, the factors to be considered by the board shall include, but not be limited to, the following:

- (1) The impact of importing waste on the available capacity and projected life of the regional facilities;
- (2) The economic impact on the regional facilities; and
- (3) The availability of a regional facility appropriate for the disposal of the type of waste involved.

D. It shall be unlawful for any person to manage at a regional facility any radioactive waste other than low-level waste as defined in this compact, unless authorized to do so both by the board and the host state. In determining whether to grant such authorization, the factors to be considered by the board shall include, but not be limited to, the following:

- (1) The impact of allowing such management on the available capacity and projected life of the regional facilities;
- (2) The availability of a facility appropriate for the disposal of the type of waste involved;
- (3) The existence of transuranic elements in the waste; and
- (4) The economic impact on the regional facilities.

E. Any person who violates subsection A or B of this article shall be liable to the board for a civil penalty not to exceed ten times the charges which would have been charged for disposal of the waste at a regional facility.

F. Any person who violates subsection C or D of this article shall be liable to the board for a civil penalty not to exceed ten times the charges which were charged for management of the waste at a regional facility.

G. The civil penalties provided for in subsections E and F of this article may be enforced and collected in any court of general jurisdiction within the region where necessary jurisdiction is obtained by an appropriate proceeding commenced on behalf of the board by the attorney general of the party state wherein the proceeding is brought or by other counsel authorized by the board. In any such proceeding, the board, if it prevails, is entitled to recover reasonable attorney's fees as part of its costs.

H. Out of any civil penalty collected for a violation of subsection A or B of this article, the board shall pay to the appropriate operator a sum sufficient in the judgement of the board to compensate the operator for any loss of revenue attributable to the violation. Such compensation may be subject to state and compact surcharges as if received in the normal course of the operator's business. The remainder of the civil penalty collected shall be allocated by the board. In making such allocation, the board shall give first priority to the needs of the long-term care funds in the region.

I. Any civil penalty collected for a violation of subsection C or D of this article shall be allocated by the board. In making such allocation, the board shall give first priority to the needs of the long-term care funds in the region.

J. Violations of subsection A, B, C, or D of this article may be enjoined by any court of general jurisdiction within the region where necessary jurisdiction is obtained in any appropriate proceeding commenced on behalf of the board by the attorney general of the party state wherein the proceeding is brought or by other counsel authorized by the board. In any such proceeding, the board, if it prevails, is entitled to recover reasonable attorney's fees as part of its costs.

K. No state attorney general shall be required to bring any proceeding under any subsection of this article, except upon his consent.

ARTICLE 8

ELIGIBILITY, ENTRY INTO EFFECT, CONGRESSIONAL CONSENT, WITHDRAWAL,
EXCLUSION

A. Arizona, Colorado, Nevada, New Mexico, Utah and Wyoming are eligible to become parties to this compact. Any other state may be made eligible by unanimous consent of the board.

B. An eligible state may become a party state by legislative enactment of this compact or by executive order of its governor adopting this compact; provided, however, a state becoming a party by executive order shall cease to be a party state upon adjournment of the first general session of its legislature convened thereafter, unless before such adjournment the legislature shall have enacted this compact.

C. This compact shall take effect when it has been enacted by the legislatures of two eligible states. However, subsections B and C of article 7 shall not take effect until Congress has by law consented to this compact. Every five years after such consent has been given, Congress may by law withdraw its consent.

D. A state which has become a party state by legislative enactment may withdraw by legislation repealing its enactment of this compact; but no such repeal shall take effect until two years after enactment of the repealing legislation. If the withdrawing state is a host state, any regional facility in that state shall remain available to receive low-level waste generated within the region until five years after the effective date of the withdrawal; provided, however, this provision shall not apply to the existing facility in Beatty, Nevada.

E. A party state may be excluded from this compact by a two-thirds' vote of the members representing the other party states, acting in a meeting, on the ground that the state to be excluded has failed to carry out its obligations under this compact. Such an exclusion may be terminated upon a two-thirds' vote of the members acting in a meeting.

ARTICLE 9

CONSTRUCTION AND SEVERABILITY

A. The provisions of this compact shall be broadly construed to carry out the purposes of the compact.

B. Nothing in this compact shall be construed to affect any judicial proceeding pending on the effective date of this compact.

C. If any part or application of this compact is held invalid, the remainder, or its application to other situations or persons, shall not be affected.

[FN1] 42 U.S.C.A. § 2021b et seq.

[FN2] 42 U.S.C.A. § 2014(e).

§ 24-60-2203. Legislative declaration

The general assembly hereby finds and declares that the provisions of this part 22 are necessary for the state to fulfill its responsibilities under the “Rocky Mountain Low-level Radioactive Waste Compact” set forth in section 24-60-2202.

§ 24-60-2204. Definitions

As used in sections 24-60-2205 to 24-60-2212, unless the context otherwise requires:

(1) “Department” means the department of public health and environment.

(2) “Facility” means a low-level radioactive waste facility capable of serving as a regional disposal or management site for low-level radioactive waste and which complies with the provisions of the “Rocky Mountain Low-level Radioactive Waste Compact” set forth in section 24-60-2202.

(3) “Low-level radioactive waste” means radioactive waste, other than:

(a) Waste generated as a result of defense activities of the federal government or federal research and development activities;

(b) High-level waste such as irradiated reactor fuel, liquid waste from reprocessing irradiated reactor fuel, or solids into which any such liquid waste has been converted;

(c) Waste material containing transuranic elements with contamination levels greater than ten nanocuries per gram of waste material;

(d) Byproduct material as defined in Section 11 e. (2) of the “Atomic Energy Act of 1954”, as amended on November 8, 1978; [FN1] or

(e) Wastes from mining, milling, smelting, or similar processing of ores and mineral-bearing material primarily for minerals other than radium.

[FN1] 42 U.S.C.A. § 2014(e).

§ 24-60-2205. Administration--application of other laws

(1) Except as otherwise provided in this part 22, the department shall be the agency responsible for administration of this part 22 on behalf of the state.

(2) Except as otherwise provided in this part 22, all facilities shall be subject to the provisions on radiation control set forth in part 1 of article 11 of title 25, C.R.S., and the provisions on solid wastes disposal sites and facilities set forth in part 1 of article 20 of title 30, C.R.S. The disposal of low-level radioactive waste made pursuant to this part 22 is not subject to the provisions of part 2 of article 11 of title 25, C.R.S.

§ 24-60-2206. Site recommendation by counties

(1) Prior to any action by the department for the assessment and evaluation of potential areas for a facility under section 24-60-2207, the department shall first cooperate with and provide counties in this state the opportunity to recommend facility sites within their boundaries. In making such recommendation, the board of county commissioners shall consider the factors set forth in section 24-60-2207(1)(b) and shall provide reasonable opportunity for public comment.

(2) In making such recommendation, the board of county commissioners shall also consider comments from the department and the Rocky Mountain low-level radioactive waste board; except that the board of county commissioners shall make the final determination as to the designation of a facility site pursuant to part 1 of article 20 of title 30, C.R.S.

(3) Any person who proposes to operate a facility shall first apply, pursuant to part 1 of article 20 of title 30, C.R.S., for a certificate of designation to the board of county commissioners of the county in which the proposed facility site is located. Such site and facility shall be reviewed and approved by such board of county commissioners prior to the issuance of any license pursuant to part 1 of article 11 of title 25, C.R.S.

(4) If no board of county commissioners in this state recommends a facility site by January 1, 1984, the department may proceed to prepare its statewide assessment and evaluation and its alternative plan pursuant to section 24-60-2207.

§ 24-60-2207. Statewide assessment of facility sites

(1) For the protection of the public health and safety and without limiting or qualifying other applicable laws, rules, regulations, standards, or limitations pertaining to the control of radiation in this state, the department shall be granted the following additional authority concerning low-level radioactive waste:

(a) The department may acquire by gift, transfer, or purchase any and all lands, buildings, and grounds reasonably necessary for a regional low-level radioactive waste facility.

(b) To ensure that a suitable regional low-level radioactive waste facility is established, the department shall conduct a statewide assessment and evaluation of potential areas for the location of a facility. The assessment and evaluation shall consider all applicable federal and state laws and regulations and shall consider but need not be limited to the following factors:

(I) Physical and chemical characteristics of strata;

(II) Surface and subsurface hydrology;

(III) Topography and drainage;

(IV) Meteorology and climatology;

(V) Demography (including population density near the site);

(VI) Access routes and affected public roads;

(VII) Ecological impact;

(VIII) Relationship to local land use plans;

(IX) Ownership of real property.

(c) The department shall provide reasonable opportunity for public comment during the assessment and evaluation and shall afford interested persons an opportunity, at public hearing, to submit data and views orally or in writing on the potentially suitable areas. Subsequent to having conducted the assessment and evaluation, the department shall identify those areas determined as potentially suitable for a facility.

(d) The department shall not approve any facility for the disposal of low-level radioactive waste outside of the areas identified pursuant to this subsection (1) or an area recommended by a board of county commissioners under section 24-60-2206 unless the site applicant demonstrates to the satisfaction of the department that the proposed site is at least as technically suitable as the areas identified pursuant to this subsection (1).

(e) The department may, by lease or license, provide for the operation of facilities for the implementation of the purposes of this part 22. No facility may be licensed until designated pursuant to part 1 of article 20 of title 30, C.R.S., by the board of county commissioners of the county in which the proposed facility is to be located. In the event that no county has recommended a facility site or an application for such site has not been submitted by January 1, 1985, the department shall prepare an alternative plan for facility development. Said alternative plan shall be submitted to the general assembly no later than January 1, 1986, for review and approval. In the submission of an alternative plan to the general assembly, the department shall also request authority to acquire a site for a facility.

(f) The department shall require the posting of a bond or other surety by each licensee to assure the availability of funds to the state in the event of accident, abandonment, discontinuance of an operation, insolvency, or other inability of a lessee or licensee to meet the requirements of the department pursuant to article 11 of title 25, C.R.S., in providing for the safe operation, decommissioning, decontamination, and reclamation of a facility, or any circumstance which results in a potential radiation hazard.

§ 24-60-2208. State surcharge

(1) In addition to the fees authorized by section 25-11-103, C.R.S., the following surcharges shall be imposed on each licensed facility:

(a) The licensee shall be required to pay an annual fee to the county or municipality in which the facility is located, unless waived by the county or municipality. The amount of the fee shall be established by mutual agreement of the county or municipality and the licensee and may include, but not be limited to, the actual direct costs of increased burden on county or municipal services created by the facility, including the improvement and maintenance of roads and bridges, fire protection, law enforcement, monitoring by county or municipal health officials, and emergency preparation and response. The amount of the annual fee shall not exceed two percent of the annual gross revenue received by the facility and shall be reduced by the amount paid by the facility as a payment in lieu of taxes to county government pursuant to section 25-11-103(7)(c), C.R.S. No licensee shall commence operations at a facility until the agreement for the annual fee is executed by the county or municipality and the licensee or such fee is waived by the county or municipality. In the event that the licensee fails to comply with the terms of the executed agreement, the board of county commissioners or the governing body of the municipality may petition the department to suspend the facility's license in the manner provided in article 4 of this title until the agreement has been fully complied with.

(b) Each licensee shall pay an additional surcharge of one percent of gross revenue received by the facility. The surcharge shall be paid quarterly, as accrued, to the department, which shall credit all such receipts in the general fund of the state.

§ 24-60-2209. Governor to appoint member to compact board

The governor shall appoint, with the consent of the senate, the Colorado member of the Rocky Mountain low-level radioactive waste board, and such member shall serve at the pleasure of the governor. The member shall receive no compensation for his services but shall be reimbursed for actual and necessary expenses incurred in the performance of his duties.

§ 24-60-2210. Repealed by Laws 2003, Ch. 120, § 19, eff. Aug. 6, 2003

§ 24-60-2211. Coordination with other programs and agencies

The department shall coordinate the low-level radioactive waste program with all other programs within the department and with other local, state, or federal agencies as appropriate. For the purpose of administration and enforcement of matters pertaining to transportation and packaging as provided in this part 22, the department shall coordinate its activities with those of the public utilities commission.

§ 24-60-2212. Regulation of fees

(1) All rates, charges, and classifications made, demanded, or received in the operation of a licensed facility located in the state of Colorado shall be just and reasonable. Every unjust or unreasonable charge made, demanded, or received with respect to such operation is prohibited.

(2) The power and authority is hereby vested in the state board of health and it is hereby made the duty of the board in promoting public health and safety to adopt necessary rules and regulations to govern and regulate the rates, charges, and classifications of every facility in this state and to prevent unjust, unreasonable, and discriminatory rates, charges, and classifications of every such facility.

(3)(a) Under such rules and regulations as the state board of health may prescribe, any person operating a facility in this state shall file with the state board of health, at least sixty days prior to the proposed effective date and in such form and with such filing fee as the state board of health may designate, proposed schedules showing all rates, charges, and classifications collected or enforced or to be collected or enforced. Such rates, when effective, shall be posted and open to public inspection at the facility.

(b) The board shall make available for public inspection the filing and supporting information and provide reasonable public notice thereof.

(4)(a) 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 filings shall be kept open for public inspection with new schedules stating plainly the changes to be made in the schedules then in force and the time when the changes will go into effect.

(b) 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 days of receipt by the board, the filing shall automatically become effective.

(c) During the sixty-day review period, the board may conclude that it is in the public interest to hold a public hearing, or an interested person may request a public hearing by so petitioning the board. Such hearings shall be held in the manner provided in article 4 of this title.

(5)(a) 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, charges, or classifications collected

or enforced or to be collected or 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.

(b) The board has the power, after a hearing upon its own motion or upon complaint, to investigate a single rate, charge, classification, or practice or the entire schedule of rates, charges, classifications, or practices of any facility and to establish new rates, charges, classifications, or practices in lieu thereof.

Current through laws effective July 1, 2011, see scope for further details
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