



COLORADO WATER UTILITY COUNCIL



Supporting Colorado's Water Quality and Treatment Needs

Dear Ms. Opila,

In response to the discussions we have had regarding CDPHE's desire to regulate Technologically Enhanced Naturally Occurring Radioactive Material (TENORM), the Colorado Water Utility Council (CWUC) and Colorado Wastewater Utility Council (CWWUC) have drafted the attached language for a potential TENORM bill.

As public drinking water and public wastewater utilities, we are on the front line of protecting the public health and environment. Our organizations are dedicated to providing high-quality services, meeting all applicable regulatory standards, and maintaining our fiduciary responsibility to our rate payers.

Our facilities generate water treatment residuals and wastewater biosolids that contain varying levels of TENORM. By definition, these materials are naturally occurring and are accumulated in the residuals and/or biosolids, which prevent them from getting into drinking water and surface water.

The level at which TENORM poses an unacceptable risk to human health has not been established and has been a topic of debate for several decades. Therefore, the CWUC and the CWWUC are proposing that CDPHE perform a comprehensive Human Health Risk Assessment to establish TENORM regulatory levels that establish levels for free release, beneficial use, and landfill disposal.

Historically, to determine case-by-case beneficial use/disposal options, CDPHE has required individual generators to perform a risk assessment of their own material. These individual risk assessments have been narrowly focused, not related to each other, and generally only looked at options within a limited geography of the State.

What is needed now is a comprehensive Human Health Risk Assessment that looks at all of the industrial waste streams containing TENORM and uses sound science/engineering principles to establish appropriate regulatory levels. This is the same approach EPA has used for over 40 years to establish regulatory levels for hundreds of chemicals under the Safe Drinking Water Act, the Clean Water Act, the Resource Conservation and Recovery Act, and many other environmental laws. The process to establish regulatory levels for TENORM should follow the same approach.

We also believe that CDPHE should conduct a broad based stakeholder process in parallel with the Human Health Risk Assessment. This potential regulation will have impacts on many different sectors of the Colorado economy. In order to be successful, all stakeholders need to have the opportunity to sit at the table together and produce a regulation that protects human health and makes sense for the economy.

Once the Human Health Risk Assessment and the stakeholder process are complete, CWUC and CWWUC will be supportive of CDPHE codifying regulations for TENORM.

Sincerely,

Serenity Valdez
Colorado Water Utility Council Chair

p.p. Bob Anastastov

Bob Anastastov
Colorado Wastewater Utility Council Chair

§25-11-? Legislative Declaration

(1) It is declared that naturally occurring radioactive materials are the result of natural rock formations and soils in the state, and may be concentrated through human activities.

(2) It is further declared that the General Assembly intends that section 104 of this article shall be construed to require that any program related to naturally occurring radioactive materials (NORM) or technologically-enhanced naturally occurring radioactive materials (TENORM) must take into consideration the economic, environmental, energy, and public health costs and impacts of such measures.

§25-11-104 (1)

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(b) The state board may adopt rules concerning the disposal of NORM or TENORM at any time after the promulgation by the federal environmental protection agency or its successor of rules for the disposal of naturally occurring radioactive materials or until the General Assembly authorizes the state board to adopt such rules by statute, whichever occurs first.

(I) To facilitate decisions and approaches to the handling, transportation, beneficial use and disposal of NORM and TENORM in Colorado that are based upon a reasonable relationship to the economic, environmental, energy, and public health costs and impacts of such measures, the Colorado Department of Public Health and Environment, Hazardous Materials and Waste Management Division (Division) shall convene a stakeholder group for the purposes of discussing the development of regulatory language and the impacts it might have on various industries. The Division shall invite participation by, at a minimum, representatives of the oil and gas industry, mining industry, power generators and suppliers, public water providers, public wastewater treatment providers, solid waste landfill operators, and other interested and/or affected parties concerning the disposal of NORM and TENORM.

(II) An independent third-party shall prepare a comprehensive report, with input provided by the stakeholder group referred to in paragraph (b)(I), that assesses the public health impacts from NORM and TENORM that could measurably impact public health. The report shall include a comprehensive Human Health Risk Assessment, in addition to the documentation of background radiation in all areas of the state, waste stream identification and quantification, analysis of historical beneficial use and disposal practices, evaluation of current engineering practices and appropriate test methods, and a detailed regulatory review of how other States regulate the handling, transportation, beneficial use, and disposal of NORM and TENORM. The report shall also identify data gaps and estimated economic impacts from regulating NORM and TENORM generated by the industries set forth in paragraph (b)(I).

(III) No later than December 31, 201X, the Division shall submit a detailed summary of the report described in paragraph (b)(II) to the General Assembly. This summary shall include a description of the stakeholder process, including outreach efforts, number of meetings held, and any dissenting comments submitted by participants in the stakeholder process.

(IV) Until rules adopted by the State Board of Health concerning the handling, transportation, beneficial use and disposal of NORM and TENORM become effective, handling, transportation, beneficial use and disposal of TENORM shall be governed by the "Interim Policy and Guidance Pending Rulemaking for the Control and Disposition of Technologically-Enhanced Naturally Occurring Radioactive Materials in Colorado," issued by the Department, dated February 2007.