

CDPHE TENORM Policy Revision Legal Working Group

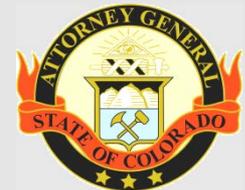
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Natural Resources Division

Colorado Attorney General's Office

The content and comments expressed herein do not necessarily reflect the opinion of the Colorado Attorney General and should not be taken as legal advice. Please contact the Attorney General's Office with any questions.

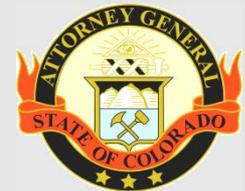


April 7, 2014



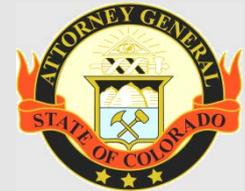
Road Map

- Current State of the Process
- Legal Issues from Comments
 - Identify each legal issue
 - Obtain consensus where possible
- Identify further Issues for Discussion
- Next Steps--Another meeting of this group?



Current State of TENORM Policy Making Process

- *Develop mechanisms to address radiation protection requirements while minimizing regulatory structure.*
- This meeting is critical to policy development! CDPHE wants to identify legal issues that may be an impediment to going forward with the policy making process.
- Identify any other problematic legal issues that may make the policy untenable.
- Next Stakeholder meeting has not yet been scheduled.

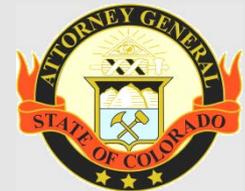


Definitions Relevant to TENORM Policy Making Process

"Technologically enhanced naturally occurring radioactive material" or "tenorm" means naturally occurring radioactive material whose radionuclide concentrations are increased by or as a result of past or present human practices. "Tenorm" does not include:

- (a) Background radiation or the natural radioactivity of rocks or soils;
- (b) "Byproduct material" or "source material", as defined by Colorado statute or rule; or
- (c) Enriched or depleted uranium as defined by Colorado or federal statute or rule.

§25-11-201(4), C.R.S.



Definitions Relevant to TENORM Policy Making Process

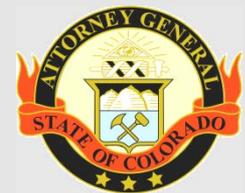
- "Technologically enhanced naturally occurring radioactive material" (TENORM) means naturally occurring radioactive material whose radionuclide concentrations are increased by or as a result of past or present human practices. "TENORM" does not include:
 - (1) Background radiation or the natural radioactivity of rocks or soils;
 - (2) "Byproduct material" or "source material", as defined by Colorado statute or rule; or
 - (3) Enriched or depleted uranium as defined by Colorado or federal statute or rule.

6 CCR 1007-1 Colorado Radiation Control Reg.



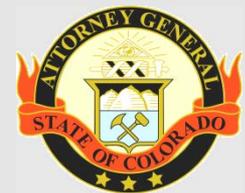
Legal Issues from Comments

- First, this is NOT an exclusive list.
- Second, we view this as an on-going process, so new issues may come up.
- Finally, your input is appreciated and will be considered in finalizing the policy...so **PLEASE** provide input.

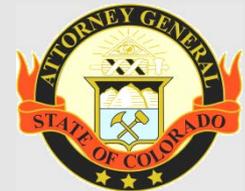


Legal Issues from Comments

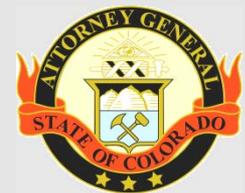
- Current policy making efforts are unlawful under APA
- Current policy and guidance is unlawful/ CDPHE needs to implement regulation of TENORM, not rely on policy
- Be consistent with other state requirements
- Perform cost-benefit analysis of alternate disposal methods
- CDPHE cannot require treatment then regulate disposal if TENORM created
- CDPHE cannot impose more stringent standard than federal regulation



Other Legal Issues that Need to be Addressed?



**Should another meeting of this
Working Group be scheduled?**



Thank you for attending!

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