

1 DEPARTMENT OF PUBLIC HEALTH AND
2 ENVIRONMENT
3

4 Solid and Hazardous Waste Commission Hazardous
5 Materials and Waste Management Division

6 6 CCR 1007-2
7

8 STATEMENT OF BASIS AND PURPOSE AND SPECIFIC
9 STATUTORY AUTHORITY FOR

10
11 Amendments to the Regulations Pertaining to Solid Waste Sites and Facilities (6
12 CCR 1007-2, Part 1) – For Consistency with 6 CCR 1007-1, Part 20
13

14
15 **Basis and Purpose**
16

17 I. Statutory Authority
18

19 Section 30-20-109, C.R.S. gives the Solid and Hazardous Waste Commission (the
20 commission) the authority to promulgate regulations for the design and operation of
21 solid waste disposal sites and facilities. This authority includes provisions related to the
22 management of solid waste that contains or potentially contains technologically
23 enhanced naturally occurring radioactive material (TENORM).
24

25 II. Purpose of revised regulations:
26

27 The purpose of the revised regulations is to make changes to the solid waste
28 regulations for conformance with 6 CCR 1007-1, Part 20 (the Part 20 TENORM
29 Regulation) promulgated by the Board of Health in December 2020. The Part 20
30 TENORM Regulation affects any solid waste facility that manages, or potentially
31 receives, non-exempt TENORM. In addition, the Part 20 Rule has sector-specific
32 requirements for several types of solid waste facilities.
33

34
35 **Discussion of Regulatory Proposal**
36

37 For the purpose of aligning with the Part 20 TENORM Regulation, several changes
38 to the Solid Waste Regulations (6 CCR 1007-2, Part 1) are proposed. These are
39 referred to by their section numbers. First, TENORM related definitions are added to
40 Section 1.2. Second, Section 2.1.2 is amended such that all solid waste disposal
41 sites and facilities required to have waste characterization plans will include waste
42 screening provisions for TENORM constituents in those plans. Furthermore, for each
43 type of solid waste facility addressed specifically in the Part 20 TENORM
44 Regulation, the pertinent requirements from Part 20 are proposed for direct adoption

45 in the Solid Waste Regulations. Section 12 on the management and disposal of
46 drinking water treatment residuals is proposed for deletion because its provisions for
47 TENORM characterization have now been superseded by the Part 20 TENORM
48 Regulation, and because its provisions for landfilling of sludge have been
49 superseded by Section 3 of the Solid Waste Regulations. Only one site permitted
50 under Section 12 is still operating and it will not be required to be re-permitted under
51 Section 3. Finally, for the subset of Section 9 waste impoundments that manage
52 potential TENORM waste, those facilities would need to modify their closure plans to
53 account for TENORM constituents.

54 Description of Local Government Involvement in the Stakeholder Process

55
56
57 Executive Order D 2011-005 (EO-5), “Establishing a Policy to Enhance the
58 Relationship between State and Local Government” requires state rulemaking
59 agencies to consult with and engage local governments prior to the promulgation of
60 any rules containing mandates. The Department completed an EO-5 Internal
61 Communication Form – Conception Phase that was transmitted to local governments.
62 These regulations would impact any county or municipality that operates a commercial
63 landfill. Additionally, local governments that operate commercial compost facilities or
64 section 9 impoundments would be affected to the extent that these waste
65 management units manage potential TENORM. The Department maintains contact
66 lists for solid waste facility owners and operators, and these were used to invite
67 entities who operate these types of facilities (including local governments) to
68 stakeholder meetings held for these different sectors.

69 70 Issues Encountered During Stakeholder Process:

71
72 The National Waste and Recycling Association (NWRA) was the sole commenter
73 during both written comment periods of the proposed rulemaking stakeholder process.
74 The first set of comments resulted in changes to the proposal. The second set of
75 comments showed that the NWRA’s issues were mostly resolved, with two exceptions
76 being as follows.

77
78 First, NWRA recommended, for simplicity’s sake that the Part 20 TENORM Regulation
79 requirements be referenced, not repeated, in the Solid Waste Regulations. The
80 Division considered this option but decided against it, reasoning that it is arguably
81 more user-friendly to have the pertinent requirements repeated in the Solid Waste
82 Regulations, rather than forcing solid waste sites to read two different sets of rules
83 simultaneously to obtain the full scope of requirements. Additionally, including the
84 TENORM provisions in the Solid Waste Regulations is necessary for the Solid Waste
85 and Materials Management Program (Program), as the primary regulator of solid waste
86 facilities and the entity that approves the Engineering Design and Operations Plans
87 that will incorporate requirements related to TENORM, to have the ability to enforce
88 these requirements.

89
90 Second, the NWRA highlighted what they perceive as a disconnect with groundwater
91 monitoring and remediation requirements in the Part 20 Regulation itself. Since this
92 rulemaking is solely for the purpose of consistency with the existing Part 20 Regulation,

93 making changes to the underlying Part 20 Regulation is outside the scope of this
94 rulemaking.

95

96 **Regulatory Alternatives**

97

98 No other regulatory alternatives were evaluated.

99

100 **Cost/Benefit Analysis**

101

102 A cost / benefit analysis will be performed if requested by the Colorado Department of
103 Regulatory Agencies.