

ROCKY MOUNTAIN LOW-LEVEL RADIOACTIVE WASTE BOARD

1675 Broadway, Suite 1400
Denver, Colorado 80202-4606
www.rmlwb.us

Telephone (303) 825-1912
Facsimile (303) 892-3882
Email board@rmlwb.us

DRAFT

NOTICE OF RULEMAKING PROCEDURE BEFORE THE ROCKY MOUNTAIN LOW-LEVEL RADIOACTIVE WASTE BOARD

SUBJECT:

Proposed Rule 12, Disposal of In-Region Naturally-Occurring Radioactive Material and Technologically-Enhanced Radioactive Material Wastes ("Proposed Rule"). A copy of the Proposed Rule is attached to this Notice as Exhibit 1.

STAKEHOLDER MEETING SCHEDULE, COLORADO:

DATE: October 18, 2006
TIME: 1:30 p.m.
PLACE: Office of the Attorney General, State of Colorado
1525 Sherman Street, Fifth Floor
Denver, Colorado

Please RSVP to Vicki Green by October 17, 2005.

Those attending should go to the 7th floor, tell the receptionist that they are attending the "NORM/TENORM Stakeholders Meeting" and ask for Amalia Stouse. You will have to sign in and will be given a guest badge.

STAKEHOLDER MEETING SCHEDULE, NEW MEXICO:

DATE: October 19, 2006
TIME: 1:00pm to 3:00pm
PLACE: New Mexico Environment Department
Sandia Room at the District 1 Office
5500 San Antonio NE
Albuquerque, New Mexico

MEMBER STATES: COLORADO, NEVADA, NEW MEXICO
EXECUTIVE DIRECTOR: LEONARD C. SLOSKY

STAKEHOLDER MEETING SCHEDULE, NEVADA:

DATE: November 2, 2006
TIME: 10:00 a.m. - noon
PLACE: Marriott Residence Inn
Spruce Goose Room
370 Hughes Center Dr
Las Vegas, Nevada
(702) 650-0040

HEARING SCHEDULE:

DATE: November 13, 2006
TIME: 11:00 A.M.
PLACE: Marriott Las Vegas Suites
325 Convention Center Drive
Las Vegas, Nevada
(702) 650-2000

The hearing will be conducted as part of a Regular Meeting of the Board. An agenda for the Regular Meeting is attached as Exhibit 2.

PUBLIC PARTICIPATION ENCOURAGED:

STAKEHOLDER MEETINGS. The Board encourages all stakeholders and interested persons to provide their opinions or recommendations regarding the Proposed Rule, either orally or in writing at the Stakeholder Meetings.

ALTERNATE PROPOSALS. Alternate proposals from stakeholders and interested parties must be received in the office of the Executive Director by 5:00 p.m. **November 6, 2006.**

Executive Director
Rocky Mountain Low-level Radioactive Waste Board
1675 Broadway, Suite 1400
Denver, CO 80202
email: vgreen@rmlwb.us
Fax: (303) 892-3882

REVISIONS TO THE PROPOSED RULE. The Executive Director may revise the Proposed Rule based upon input from the Stakeholder Meetings and consideration of alternate proposals. These revisions, if any, will be posted on the Board's website prior to the Hearing.

HEARING. The Board encourages all stakeholders and interested persons to provide their comments or recommendations regarding the Proposed Rule, either orally at the Hearing or in writing prior to the Hearing. Although oral testimony from stakeholders and other interested persons will be received at the Hearing, the time available for such oral testimony may be limited. Written submissions must be received at the office of the Executive Director by **November 6, 2006**. Oral testimony at the Hearing should primarily summarize written material previously submitted. The Hearing will emphasize Board questioning of stakeholders and other interested persons about their written submittals.

Dated this ___ day of October, 2006, at Denver, Colorado.

Rocky Mountain Low-level Radioactive Waste Board

Ron Curry, Chair

ROCKY MOUNTAIN LOW-LEVEL RADIOACTIVE WASTE BOARD

1675 Broadway, Suite 1400
Denver, Colorado 80202-4606
www.rmlwb.us

Telephone (303) 825-1912
Facsimile (303) 892-3882
Email board@rmlwb.us

DRAFT

PUBLIC NOTICE

EXECUTIVE SESSION OF THE

ROCKY MOUNTAIN LOW-LEVEL RADIOACTIVE WASTE BOARD

The Rocky Mountain Low-Level Radioactive Waste Board will hold an Executive Session for the purpose of obtaining legal advice from the Compact's counsel. The Executive Session will be held from 9:00 a.m. to 11:00 a.m. on November 13, 2006, at the Marriott Las Vegas Suites Hotel, 325 Convention Center Drive in Las Vegas, Nevada.

The meeting will be convened for the purpose of obtaining a motion to go into Executive Session. If the motion is approved, then the Executive Session will be closed to the public.

Information about the Board is available on its web page www.rmlwb.us.

For further information, contact Leonard Slosky, Executive Director of the Board, at lslosky@rmlwb.us or (303) 825-1912.

MEMBER STATES: COLORADO, NEVADA, NEW MEXICO
EXECUTIVE DIRECTOR: LEONARD C. SLOSKY

EXHIBIT 1

DRAFT 9-29-06

RULE 12

DISPOSAL OF IN-REGION NATURALLY-OCCURRING RADIOACTIVE MATERIAL AND TECHNOLOGICALLY-ENHANCED RADIOACTIVE MATERIAL WASTES

The following rule shall apply to the disposal within the Compact region of naturally-occurring radioactive material (NORM) and technologically-enhanced radioactive material (TENORM) waste.

12.1 Definitions.

For purposes of this Rule 12, "in-region NORM/TENORM waste" shall mean NORM or TENORM waste generated within the member states of the Rocky Mountain Low-Level Radioactive Waste Compact.

12.2 Purpose.

This rule authorizes the disposal of in-region NORM/TENORM waste in accordance with state policies and regulations regarding the disposal of such waste. The Board, however, will continue to regulate the import and export of NORM/TENORM to further the purposes of the Compact. Persons wishing to import NORM/TENORM wastes generated outside the Compact region for disposal at the Clean Harbors facility or for management at any other facility within the Compact region shall obtain authorization pursuant to Board Rule 7, Application for Permission to Manage Waste Generated Outside the Region. Persons wishing to export in-region NORM/TENORM wastes shall obtain authorization pursuant to Rule 6, Exportation of Waste from the Region.

The Clean Harbors regional facility was designated by the Board for the disposal of certain types of NORM/TENORM waste. The State of Colorado in its application asked that the Clean Harbors facility be designated as a "non-exclusive" facility. The purpose of this rule is to implement Colorado's intent that in-region NORM/TENORM wastes are not generally required to be disposed of at the Clean Harbors facility.

One of the primary purposes of the Compact is "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." Another primary purpose of the Compact is "to restrict management within the region of low-level radioactive waste generated outside the region." (See Article 1. Rocky Mountain Low-Level Radioactive Waste Compact.) Currently, there

are adequate disposal facilities for NORM/TENORM waste generated within the Region, and the economic viability of Clean Harbors does not depend on being the exclusive facility for the disposal of in-region NORM/TENORM waste.

The responsibility for health, safety, and environmental protection regarding low-level radioactive waste is the responsibility of the member states. Each of the member states addresses the disposal of NORM/TENORM waste differently. States allow certain types or levels of NORM/TENORM to be disposed of at facilities other than facilities with radioactive materials licenses. Where disposal of NORM/TENORM is allowed under state law at facilities other than facilities with radioactive materials licenses, the Board finds that it furthers the purpose of the Compact to defer to such state policies and regulations for the disposal of in-region NORM/TENORM waste. There are certain types of NORM/TENORM wastes that the states require be disposed of at facilities with radioactive materials licenses. For example, the Colorado Department of Public Health and Environment requires that radium processing wastes be disposed of at a facility with a radioactive materials license.

The volume of NORM/TENORM generated outside the Compact region is substantial. Generators in states outside of the Compact region may seek to import such waste to the Compact region for disposal. To preserve the availability of facilities within the Compact region for disposal of in-region NORM/TENORM, the Board finds that it furthers the purpose of the Compact to regulate the import and disposal of waste generated outside the Compact region.

Although Uranium and Thorium are naturally-occurring radioactive materials, the U.S. Nuclear Regulatory Commission (US NRC) agreement states regulate material, in any physical or chemical form that contains by weight one-twentieth of one percent (0.05%) or more of: Uranium, Thorium, or any combination thereof, as Source Material. Regulations of the US NRC/agreement states require that Source Material be disposed of only at facilities licensed for Source Material. No such facilities currently are licensed within the Compact region. Thus, Source Material wastes must be exported from the Compact for disposal.

12.3 Disposal of In-Region Waste Within the Compact Region. In-region NORM/TENORM waste may be disposed of in the region at such facilities allowed by the policies and regulations of the state in which such disposal will occur.

12.4 Repealer. This rule repeals and supersedes Emergency Rule 2006-01 that was adopted by the Board on September 13, 2006.

EXHIBIT 2

**DRAFT
AGENDA
REGULAR MEETING**

Marriott Las Vegas Suites Hotel
325 Convention Center Drive
Las Vegas, Nevada
(702) 650-2000

November 13, 2006
11:00 a.m.

Approval of Minutes of the September 13, 2006 Regular Meeting

Consideration of Proposed Rule 12 - Disposal of In-Region Naturally-Occurring Radioactive Material and Technologically-Enhanced Radioactive Material Wastes

Status of Clean Harbors Regional Facility

Consideration of Amendment to Rule 6 - Waste Export, Correction to Error Concerning Permit Fees

Consideration of Application to Import Waste into Nevada for Processing

Discussion of Fiscal Year 2005-2006 Audit

Executive Director's Report

Fiscal Status/Investment Summary

Permit Fee Revenue for 2006

Expenditure/Budget Comparison Report

Status of Volumes Authorized for Export and Disposal in 2006

Executive Session to Discuss Legal Issues

The order of matters on this agenda is subject to change without notice.