A BILL FOR AN ACT

CONCERNING ENHANCED PROTECTIONS REGARDING THE DISPOSAL OF
NATURALLY OCCURRING RADIOACTIVE MATERIALS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at http://leg.colorado.gov.)

Current law allows the state board of health to adopt rules concerning the disposal of naturally occurring radioactive materials (NORM) only after the federal environmental protection agency (EPA) has adopted rules concerning the disposal of NORM. The EPA has not adopted the rules. The bill:

- Requires the state board to adopt rules for the disposal of
NORM and technologically enhanced NORM (TENORM); and

While the state board is conducting its rule-making investigation, temporarily prohibits the disposal of oil and gas exploration and production waste (EP waste) with potentially high concentrations of radionuclides at a facility that is not specifically approved and designated to receive the waste unless:

- The generator of the waste has sampled and tested the EP waste on a per-shipment basis or in a representative and statistically valid manner approved by the state board; and

- The results of the test indicate that the EP waste contains low levels of TENORM.

A generator of EP waste must file reports with the state board.

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1. Be it enacted by the General Assembly of the State of Colorado:

2. SECTION 1. In Colorado Revised Statutes, 25-11-104, amend

3. (1) as follows:

4. 25-11-104. Rules to be adopted - fees - fund created - definitions - repeal. (1) (a) The state board shall formulate, adopt, and promulgate rules as provided in subsection (2) of this section that cover subject matter relative to radiation machines and radioactive materials, including naturally occurring radioactive materials, TENORM, and other sources of radiation. The subject matter of the rules must include:

5. Licenses and registration; records; permissible levels of exposure; notification and reports of accidents; technical qualifications of personnel; technical qualifications of mammographers; handling, transportation, and storage; waste disposal; posting and labeling of hazardous sources and areas; surveys; monitoring; security of materials; and financial assurance warranties.

6. (b) The state board, may IN CONSULTATION WITH THE WATER QUALITY CONTROL COMMISSION, THE SOLID AND HAZARDOUS WASTE
COMMISSION, AND THE COLORADO OIL AND GAS CONSERVATION
COMMISSION, SHALL adopt rules concerning the disposal of naturally occurring radioactive materials, 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 INCLUDING TENORM.

BEFORE ADOPTING THE RULES, THE STATE BOARD SHALL INVESTIGATE:

(I) THE CONCENTRATION OF RADIONUCLIDES IN EP WASTE BELOW WHICH TENORM-CONTAINING WASTE MAY BE DISPOSED OF AT A SOLID WASTES DISPOSAL SITE AND FACILITY, AT AN EP WASTE DISPOSAL FACILITY, BY ANY OTHER MEANS OF LAND DISPOSAL THAT IS NOT SPECIFICALLY APPROVED AND DESIGNATED TO RECEIVE THE WASTE, OR BY DISCHARGE INTO STATE WATERS;

(II) THE CONCENTRATION OF RADIONUCLIDES IN EP WASTE ABOVE WHICH TENORM-CONTAINING WASTE MUST BE DISPOSED OF AT A FACILITY SPECIFICALLY APPROVED AND DESIGNATED TO RECEIVE THE WASTE; AND

(III) THE MINIMUM TECHNICAL SPECIFICATIONS NECESSARY FOR THE SAFE DISPOSAL OF TENORM-CONTAINING WASTE AND OTHER SUBJECTS RELATED TO THE CHARACTERIZATION AND SAFE DISPOSAL OF TENORM-CONTAINING WASTES.

(c) UNTIL THE STATE BOARD ADOPTS THE RULES SPECIFIED IN SUBSECTION (1)(b) OF THIS SECTION:

(I) A PERSON SHALL NOT DISPOSE OF EP WASTE WITH POTENTIALLY HIGH LEVELS OF TENORM AT A FACILITY OR LOCATION THAT IS NOT SPECIFICALLY APPROVED AND DESIGNATED TO RECEIVE THE WASTE, INCLUDING AT A SOLID WASTES DISPOSAL SITE AND FACILITY, AT AN EP WASTE DISPOSAL FACILITY, BY ANY OTHER MEANS OF LAND DISPOSAL THAT IS NOT SPECIFICALLY APPROVED AND DESIGNATED TO RECEIVE THE
WASTE, OR BY DISCHARGE INTO STATE WATERS, UNLESS:

(A) The generator of the EP waste has sampled and tested the waste, without prior mixing or dilution, on a per-shipment basis or in a representative and statistically valid manner approved by the state board; and

(B) The results of the test indicate that the EP waste contains low levels of tenorm;

(II) EP waste shall be managed as having potentially high levels of tenorm until adequate characterization in accordance with state board-approved characterization methods demonstrates that the waste has low levels of tenorm.

Once EP waste has been characterized, if the administrative release levels referred to in subsection (1)(f)(III) of this section are exceeded, the high-level tenorm EP waste shall be handled in compliance with section 25-11-107 and can be disposed of only at a disposal site that is specifically approved and designated to receive the waste.

(III) A generator of EP waste shall submit one-time or periodic reports to the state board concerning the person's EP waste containing information and in a format as specified by the state board.

(d) Subsection (1)(c) of this section and this subsection (1)(d) will be repealed if the state board adopts the rules specified in subsection (1)(b) of this section. The state board shall notify the revisor of statutes in writing of the date on which the condition specified in this subsection (1)(d) has occurred by e-mailing the notice to
SUBSECTION (1)(c) OF THIS SECTION AND THIS SUBSECTION (1)(d) ARE REPEALED, EFFECTIVE UPON THE DATE IDENTIFIED IN THE NOTICE THAT THE RULES WERE ADOPTED OR, IF THE NOTICE DOES NOT SPECIFY THAT DATE, UPON THE DATE OF THE NOTICE TO THE REVISOR OF STATUTES.

(e) THIS SUBSECTION (1) IS ENFORCEABLE PURSUANT TO SECTIONS 30-20-113 AND 30-20-114.

(f) FOR PURPOSES OF THIS SUBSECTION (1):

(I) "EP WASTE" MEANS EXPLORATION AND PRODUCTION WASTE AS THAT TERM IS DEFINED IN SECTION 34-60-103 (4.5); EXCEPT THAT THE TERM INCLUDES FILTER SOCKS; TANK BOTTOMS, BOTH SOLIDS AND LIQUIDS; DRILL CUTTINGS GENERATED FROM FORMATIONS BEARING NATURALLY OCCURRING RADIOACTIVE MATERIAL; FILTER PRESS CAKE OR SLUDGE; DISCARDED PIPE AND FLOW LINE SECTIONS; RESIDUAL MATERIALS DISLODGED DURING CLEANING AND MAINTENANCE ACTIVITIES ON PIPELINES; FLOW LINES; CONNECTOR PIPES; TANKS; AND VESSELS.

(II) "EP WASTE DISPOSAL FACILITY" HAS THE MEANING ESTABLISHED IN SECTION 30-20-109 (1.5)(a)(II).


(IV) "POTENTIALLY HIGH LEVELS OF TENORM" MEANS EP WASTE THAT HAS NOT BEEN CHARACTERIZED AS HAVING LOW LEVELS OF TENORM.
(V) "Radionuclides" includes radium 226 and radium 228, combined; natural thorium; and natural uranium.

(VI) "Solid wastes disposal site and facility" has the meaning established in section 30-20-101 (8).

(VII) "State waters" has the meaning established in section 25-8-103 (19).

(VIII) "Tenorm" has the meaning established in section 25-11-201 (f), and includes sludges, soils, and pipe scale in or on equipment from oil and gas exploration or production.

(e) (g) Notwithstanding any provision of section 25-11-103 (7)(h), it is not necessary that a governmental entity own any site that is used for the concentration, storage, or disposal of radioactive material if the owner of the site complies with rules promulgated by the board in accordance with this section. The rules must ensure the long-term protection of the public health and safety and may include financial assurance warranties pursuant to this part 1, deed annotations and restrictions, easement provisions, restrictive covenants, and adequate markers to warn of the presence of radioactive materials.

SECTION 2. In Colorado Revised Statutes, 25-11-201, amend (2) introductory portion and (2)(a)(II) as follows:

25-11-201. Definitions - scope. (2) Except as specified in section 25-11-104 (1), nothing in this part 2 applies to, includes, or affects:

(a) The following naturally occurring radioactive materials or tenorm:

(II) Sludges, soils, or pipe scale in or on equipment from oil and gas exploration, production, or development operations or drinking water.
or wastewater treatment operations; except that the material may not contain hazardous substances that otherwise would preclude receipt;

SECTION 3. Act subject to petition - effective date - applicability. (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2018 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to conduct occurring on or after the applicable effective date of this act.