

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 18-0075.02 Thomas Morris x4218

HOUSE BILL 18-1215

HOUSE SPONSORSHIP

Arndt,

SENATE SPONSORSHIP

(None),

House Committees

Health, Insurance, & Environment

Senate Committees

A BILL FOR AN ACT

101 CONCERNING ENHANCED PROTECTIONS REGARDING THE DISPOSAL OF
102 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

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

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.

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 -**
5 **definitions - repeal.** (1) (a) The state board shall formulate, adopt, and
6 promulgate rules as provided in subsection (2) of this section that cover
7 subject matter relative to radiation machines and radioactive materials,
8 including naturally occurring radioactive materials, TENORM, and other
9 sources of radiation. The subject matter of the rules must include:
10 Licenses and registration; records; permissible levels of exposure;
11 notification and reports of accidents; technical qualifications of
12 personnel; technical qualifications of mammographers; handling,
13 transportation, and storage; waste disposal; posting and labeling of
14 hazardous sources and areas; surveys; monitoring; security of materials;
15 and financial assurance warranties.

16 (b) The state board, ~~may~~ IN CONSULTATION WITH THE WATER
17 QUALITY CONTROL COMMISSION, THE SOLID AND HAZARDOUS WASTE

1 COMMISSION, AND THE COLORADO OIL AND GAS CONSERVATION
2 COMMISSION, SHALL adopt rules concerning the disposal of naturally
3 occurring radioactive materials, ~~at any time after the promulgation by the~~
4 ~~federal environmental protection agency or its successor of rules for the~~
5 ~~disposal of naturally occurring radioactive materials~~ INCLUDING TENORM.

6 BEFORE ADOPTING THE RULES, THE STATE BOARD SHALL INVESTIGATE:

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

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

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

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

22 (I) A PERSON SHALL NOT DISPOSE OF EP WASTE WITH POTENTIALLY
23 HIGH LEVELS OF TENORM AT A FACILITY OR LOCATION THAT IS NOT
24 SPECIFICALLY APPROVED AND DESIGNATED TO RECEIVE THE WASTE,
25 INCLUDING AT A SOLID WASTES DISPOSAL SITE AND FACILITY, AT AN EP
26 WASTE DISPOSAL FACILITY, BY ANY OTHER MEANS OF LAND DISPOSAL
27 THAT IS NOT SPECIFICALLY APPROVED AND DESIGNATED TO RECEIVE THE

1 WASTE, OR BY DISCHARGE INTO STATE WATERS, UNLESS:

2 (A) THE GENERATOR OF THE EP WASTE HAS SAMPLED AND TESTED
3 THE WASTE, WITHOUT PRIOR MIXING OR DILUTION, ON A PER-SHIPMENT
4 BASIS OR IN A REPRESENTATIVE AND STATISTICALLY VALID MANNER
5 APPROVED BY THE STATE BOARD; AND

6 (B) THE RESULTS OF THE TEST INDICATE THAT THE EP WASTE
7 CONTAINS LOW LEVELS OF TENORM;

8 (II) EP WASTE SHALL BE MANAGED AS HAVING POTENTIALLY HIGH
9 LEVELS OF TENORM UNTIL ADEQUATE CHARACTERIZATION IN
10 ACCORDANCE WITH STATE BOARD-APPROVED CHARACTERIZATION
11 METHODS DEMONSTRATES THAT THE WASTE HAS LOW LEVELS OF TENORM.
12 ONCE EP WASTE HAS BEEN CHARACTERIZED, IF THE ADMINISTRATIVE
13 RELEASE LEVELS REFERRED TO IN SUBSECTION (1)(f)(III) OF THIS SECTION
14 ARE EXCEEDED, THE HIGH-LEVEL TENORM EP WASTE SHALL BE HANDLED
15 IN COMPLIANCE WITH SECTION 25-11-107 AND CAN BE DISPOSED OF ONLY
16 AT A DISPOSAL SITE THAT IS SPECIFICALLY APPROVED AND DESIGNATED TO
17 RECEIVE THE WASTE.

18 (III) A GENERATOR OF EP WASTE SHALL SUBMIT ONE-TIME OR
19 PERIODIC REPORTS TO THE STATE BOARD CONCERNING THE PERSON'S EP
20 WASTE CONTAINING INFORMATION AND IN A FORMAT AS SPECIFIED BY THE
21 STATE BOARD.

22 (d) SUBSECTION (1)(c) OF THIS SECTION AND THIS SUBSECTION
23 (1)(d) WILL BE REPEALED IF THE STATE BOARD ADOPTS THE RULES
24 SPECIFIED IN SUBSECTION (1)(b) OF THIS SECTION. THE STATE BOARD
25 SHALL NOTIFY THE REVISOR OF STATUTES IN WRITING OF THE DATE ON
26 WHICH THE CONDITION SPECIFIED IN THIS SUBSECTION (1)(d) HAS
27 OCCURRED BY E-MAILING THE NOTICE TO

1 REVISOROFSTATUTES.GA@STATE.CO.US. SUBSECTION (1)(c) OF THIS
2 SECTION AND THIS SUBSECTION (1)(d) ARE REPEALED, EFFECTIVE UPON
3 THE DATE IDENTIFIED IN THE NOTICE THAT THE RULES WERE ADOPTED OR,
4 IF THE NOTICE DOES NOT SPECIFY THAT DATE, UPON THE DATE OF THE
5 NOTICE TO THE REVISOR OF STATUTES.

6 (e) THIS SUBSECTION (1) IS ENFORCEABLE PURSUANT TO SECTIONS
7 30-20-113 AND 30-20-114.

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

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

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

19 (III) "LOW LEVELS OF TENORM" MEANS CONCENTRATIONS OF
20 RADIONUCLIDES IN EP WASTE AT LEVELS LESS THAN THE ADMINISTRATIVE
21 RELEASE LEVELS FOUND IN THE "INTERIM POLICY AND GUIDANCE
22 PENDING RULEMAKING FOR THE CONTROL AND DISPOSITION OF
23 TECHNOLOGICALLY-ENHANCED NATURALLY OCCURRING RADIOACTIVE
24 MATERIALS IN COLORADO", ISSUED BY THE DEPARTMENT, DATED
25 FEBRUARY 2007.

26 (IV) "POTENTIALLY HIGH LEVELS OF TENORM" MEANS EP WASTE
27 THAT HAS NOT BEEN CHARACTERIZED AS HAVING LOW LEVELS OF TENORM.

1 (V) "RADIONUCLIDES" INCLUDES RADIUM 226 AND RADIUM 228,
2 COMBINED; NATURAL THORIUM; AND NATURAL URANIUM.

3 (VI) "SOLID WASTES DISPOSAL SITE AND FACILITY" HAS THE
4 MEANING ESTABLISHED IN SECTION 30-20-101 (8).

5 (VII) "STATE WATERS" HAS THE MEANING ESTABLISHED IN
6 SECTION 25-8-103 (19).

7 (VIII) "TENORM" HAS THE MEANING ESTABLISHED IN SECTION
8 25-11-201 (1)(f), AND INCLUDES SLUDGES, SOILS, AND PIPE SCALE IN OR
9 ON EQUIPMENT FROM OIL AND GAS EXPLORATION OR PRODUCTION.

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

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

21 **25-11-201. Definitions - scope.** (2) EXCEPT AS SPECIFIED IN
22 SECTION 25-11-104 (1), nothing in this part 2 applies to, includes, or
23 affects:

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

26 (II) Sludges, soils, or pipe scale in or on equipment from ~~oil and~~
27 ~~gas exploration, production, or development operations or drinking water~~

1 or wastewater treatment operations; except that the material may not
2 contain hazardous substances that otherwise would preclude receipt;

3 **SECTION 3. Act subject to petition - effective date -**
4 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
5 the expiration of the ninety-day period after final adjournment of the
6 general assembly (August 8, 2018, if adjournment sine die is on May 9,
7 2018); except that, if a referendum petition is filed pursuant to section 1
8 (3) of article V of the state constitution against this act or an item, section,
9 or part of this act within such period, then the act, item, section, or part
10 will not take effect unless approved by the people at the general election
11 to be held in November 2018 and, in such case, will take effect on the
12 date of the official declaration of the vote thereon by the governor.

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