

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 18-1231.01 Thomas Morris x4218

SENATE BILL 18-245

SENATE SPONSORSHIP

Cooke,

HOUSE SPONSORSHIP

Arndt,

Senate Committees

Agriculture, Natural Resources, & Energy

House Committees

Agriculture, Livestock, & Natural Resources

A BILL FOR AN ACT

101 **CONCERNING REPEAL OF THE PROHIBITION ON THE STATE BOARD OF**
102 **HEALTH ADOPTING RULES CONCERNING THE DISPOSAL OF**
103 **NATURALLY OCCURRING RADIOACTIVE MATERIALS UNTIL AFTER**
104 **THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY HAS**
105 **ADOPTED RULES CONCERNING THE DISPOSAL OF NATURALLY**
106 **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

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.

HOUSE
3rd Reading Unamended
May 8, 2018

HOUSE
2nd Reading Unamended
May 7, 2018

SENATE
Amended 3rd Reading
May 3, 2018

SENATE
Amended 2nd Reading
May 2, 2018

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 repeals this prohibition.

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)(b) as follows:

4 **25-11-104. Rules to be adopted - fees - fund created -**
5 **definitions - repeal.** (1) (b) (I) SUBJECT TO THE DEPARTMENT PROVIDING
6 ITS REPORT AND SUMMARY TO THE SENATE COMMITTEE ON HEALTH AND
7 HUMAN SERVICES AND THE HOUSE OF REPRESENTATIVES COMMITTEE ON
8 HEALTH, INSURANCE, AND ENVIRONMENT OR THEIR SUCCESSOR
9 COMMITTEES PURSUANT TO SUBSECTION (1)(b)(V) OF THIS SECTION, the
10 state board ~~may~~ SHALL, BY DECEMBER 31, 2020, adopt rules concerning
11 the disposal of naturally occurring radioactive materials. ~~at any time after~~
12 ~~the promulgation by the federal environmental protection agency or its~~
13 ~~successor of rules for the disposal of naturally occurring radioactive~~
14 ~~materials.~~

15 (II) TO FACILITATE DECISIONS AND APPROACHES TO THE
16 HANDLING, TRANSPORTATION, BENEFICIAL USE, AND DISPOSAL IN
17 COLORADO OF NATURALLY OCCURRING RADIOACTIVE MATERIAL AND
18 TECHNOLOGICALLY ENHANCED NATURALLY OCCURRING RADIOACTIVE
19 MATERIAL, REFERRED TO IN THIS SUBSECTION (1)(b) AS TENORM, THAT
20 ARE BASED ON A REASONABLE RELATIONSHIP TO THE ECONOMIC,
21 ENVIRONMENTAL, ENERGY, AND PUBLIC HEALTH COSTS AND IMPACTS OF
22 THESE ACTIVITIES, THE DEPARTMENT SHALL CONVENE A STAKEHOLDER
23 GROUP TO DISCUSS THE DEVELOPMENT OF RULES AND THE IMPACTS THE

1 RULES MIGHT HAVE ON VARIOUS INDUSTRIES. THE DEPARTMENT SHALL
2 INVITE PARTICIPATION BY REPRESENTATIVES OF, AT A MINIMUM, THE OIL
3 AND GAS INDUSTRY, MINING INDUSTRY, OPERATORS OF EP WASTE
4 DISPOSAL FACILITIES, AS THAT TERM IS DEFINED IN SECTION 30-20-109
5 (1.5)(a)(II), PUBLIC WATER PROVIDERS, PUBLIC WASTEWATER TREATMENT
6 PROVIDERS, SOLID WASTE LANDFILL OPERATORS, AND OTHER INTERESTED
7 OR AFFECTED PARTIES CONCERNING THE DISPOSAL OF NATURALLY
8 OCCURRING RADIOACTIVE MATERIAL AND TENORM.

9 (III) DURING THE STAKEHOLDER AND RULE-MAKING PROCESS, THE
10 DEPARTMENT SHALL:

11 (A) REVIEW AND CONSIDER TENORM RESIDUAL MANAGEMENT
12 AND REGULATORY LIMITS FROM OTHER STATES;

13 (B) PREPARE A REPORT WITH INPUT PROVIDED BY THE
14 STAKEHOLDER GROUP THAT CONSIDERS BACKGROUND RADIATION LEVELS
15 IN THE STATE, WASTE STREAM IDENTIFICATION AND QUANTIFICATION, USE
16 AND DISPOSAL PRACTICES, CURRENT ENGINEERING PRACTICES,
17 APPROPRIATE TEST METHODS, ECONOMIC IMPACTS, AND DATA GAPS; AND

18 (C) DEVELOP A PROPOSED RESIDUALS MANAGEMENT RULE BASED
19 ON THE REPORT SPECIFIED IN SUBSECTION (1)(b)(III)(B) OF THIS SECTION
20 THAT INCLUDES REGULATORY LIMITS FOR AT LEAST LANDFILL DISPOSAL,
21 BENEFICIAL REUSE, AND EXEMPTION LEVELS. THE RULE MUST ALLOW FOR
22 THE BENEFICIAL REUSE OF WATER TREATMENT RESIDUALS AND
23 BY-PRODUCTS OF THE WASTEWATER TREATMENT PROCESS.

24 (IV) THE DEVELOPMENT OF CONCENTRATION LIMITS FOR EACH
25 MANAGEMENT OPTION LISTED IN SUBSECTION (1)(b)(III)(C) OF THIS
26 SECTION MUST BE BASED ON THE CONTRIBUTION TO PUBLIC DOSE AND
27 ACCOUNT FOR DIFFERENT ACTIVITIES SPECIFIC TO EACH MANAGEMENT

1 OPTION.

2 (V) NO LATER THAN DECEMBER 31, 2019, THE DEPARTMENT
3 SHALL PROVIDE THE REPORT SPECIFIED IN SUBSECTION (1)(b)(III)(B) OF
4 THIS SECTION AND A DETAILED SUMMARY OF THE STAKEHOLDER PROCESS
5 SPECIFIED IN SUBSECTION (1)(b)(III) OF THIS SECTION TO THE SENATE
6 COMMITTEE ON HEALTH AND HUMAN SERVICES AND THE HOUSE OF
7 REPRESENTATIVES COMMITTEE ON HEALTH, INSURANCE, AND
8 ENVIRONMENT OR THEIR SUCCESSOR COMMITTEES. THE SUMMARY MUST
9 INCLUDE A DESCRIPTION OF THE STAKEHOLDER PROCESS, INCLUDING
10 OUTREACH EFFORTS, THE NUMBER OF MEETINGS HELD, AND ANY
11 DISSENTING COMMENTS SUBMITTED BY PARTICIPANTS IN THE
12 STAKEHOLDER PROCESS. THE DEPARTMENT SHALL NOT FILE A NOTICE OF
13 PROPOSED RULE-MAKING PURSUANT TO SECTION 24-4-103 FOR THE
14 PROPOSED RESIDUALS MANAGEMENT RULE AS SPECIFIED IN SUBSECTION
15 (1)(b)(III)(C) OF THIS SECTION UNTIL THE DEPARTMENT PROVIDES THE
16 REPORT AND SUMMARY TO THE COMMITTEES OF REFERENCE.

17 (VI) UNTIL THE RULES ADOPTED BY THE STATE BOARD PURSUANT
18 TO SUBSECTION (1)(b)(I) OF THIS SECTION BECOME EFFECTIVE, THE
19 HANDLING, TRANSPORTATION, BENEFICIAL USE, AND DISPOSAL OF
20 TENORM IS GOVERNED BY THE "INTERIM POLICY AND GUIDANCE
21 PENDING RULEMAKING FOR CONTROL AND DISPOSITION OF
22 TECHNOLOGICALLY-ENHANCED NATURALLY OCCURRING RADIOACTIVE
23 MATERIALS IN COLORADO," ISSUED BY THE DEPARTMENT, DATED
24 FEBRUARY 2007, AND THE OIL AND GAS WASTE PRODUCTION GUIDANCE
25 LETTERS DATED NOVEMBER 7 AND NOVEMBER 14, 2017.

26 (VII) SUBSECTIONS (1)(b)(II) TO (1)(b)(VI) OF THIS SECTION AND
27 THIS SUBSECTION (1)(b)(VII) ARE REPEALED IF THE STATE BOARD ADOPTS

1 THE RULES SPECIFIED IN SUBSECTION (1)(b)(I) OF THIS SECTION. THE
2 STATE BOARD SHALL NOTIFY THE REVISOR OF STATUTES IN WRITING OF
3 THE DATE ON WHICH THE RULES SPECIFIED IN SUBSECTION (1)(b)(I) OF THIS
4 SECTION BECOME EFFECTIVE BY E-MAILING THE NOTICE TO
5 REVISOROFSTATUTES.GA@STATE.CO.US. SUBSECTIONS (1)(b)(II) TO
6 (1)(b)(VI) OF THIS SECTION AND THIS SUBSECTION (1)(b)(VII) ARE
7 REPEALED, EFFECTIVE UPON THE DATE IDENTIFIED IN THE NOTICE THAT
8 THE RULES BECAME EFFECTIVE OR, IF THE NOTICE DOES NOT SPECIFY THAT
9 DATE, UPON THE DATE OF THE NOTICE TO THE REVISOR OF STATUTES.

10 **SECTION 2. Act subject to petition - effective date.** This act
11 takes effect at 12:01 a.m. on the day following the expiration of the
12 ninety-day period after final adjournment of the general assembly (August
13 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a
14 referendum petition is filed pursuant to section 1 (3) of article V of the
15 state constitution against this act or an item, section, or part of this act
16 within such period, then the act, item, section, or part will not take effect
17 unless approved by the people at the general election to be held in
18 November 2018 and, in such case, will take effect on the date of the
19 official declaration of the vote thereon by the governor.