

## CHAPTER 402

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**HEALTH AND ENVIRONMENT**

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## SENATE BILL 18-245

BY SENATOR(S) Cooke, Crowder, Lambert, Martinez Humenik, Neville T., Scott, Tate, Grantham;  
also REPRESENTATIVE(S) Arndt, Esgar, Gray, Hooton, Lontine, Pabon, Roberts, Duran.

**AN ACT**

**CONCERNING REPEAL OF THE PROHIBITION ON THE STATE BOARD OF HEALTH ADOPTING RULES CONCERNING THE DISPOSAL OF NATURALLY OCCURRING RADIOACTIVE MATERIALS UNTIL AFTER THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY HAS ADOPTED RULES CONCERNING THE DISPOSAL OF NATURALLY OCCURRING RADIOACTIVE MATERIALS.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** In Colorado Revised Statutes, 25-11-104, **amend** (1)(b) as follows:

**25-11-104. Rules to be adopted - fees - fund created - definitions - repeal.**

(1) (b) (I) SUBJECT TO THE DEPARTMENT PROVIDING ITS REPORT AND SUMMARY TO THE SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES AND THE HOUSE OF REPRESENTATIVES COMMITTEE ON HEALTH, INSURANCE, AND ENVIRONMENT OR THEIR SUCCESSOR COMMITTEES PURSUANT TO SUBSECTION (1)(b)(V) OF THIS SECTION, the state board ~~may~~ **SHALL**, BY DECEMBER 31, 2020, 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.~~

(II) TO FACILITATE DECISIONS AND APPROACHES TO THE HANDLING, TRANSPORTATION, BENEFICIAL USE, AND DISPOSAL IN COLORADO OF NATURALLY OCCURRING RADIOACTIVE MATERIAL AND TECHNOLOGICALLY ENHANCED NATURALLY OCCURRING RADIOACTIVE MATERIAL, REFERRED TO IN THIS SUBSECTION (1)(b) AS TENORM, THAT ARE BASED ON A REASONABLE RELATIONSHIP TO THE ECONOMIC, ENVIRONMENTAL, ENERGY, AND PUBLIC HEALTH COSTS AND IMPACTS OF THESE ACTIVITIES, THE DEPARTMENT SHALL CONVENE A STAKEHOLDER GROUP TO DISCUSS THE DEVELOPMENT OF RULES AND THE IMPACTS THE RULES MIGHT HAVE ON VARIOUS INDUSTRIES. THE DEPARTMENT SHALL INVITE PARTICIPATION BY REPRESENTATIVES OF, AT A MINIMUM, THE OIL AND GAS INDUSTRY, MINING

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*Capital letters or bold & italic numbers indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

INDUSTRY, OPERATORS OF EP WASTE DISPOSAL FACILITIES, AS THAT TERM IS DEFINED IN SECTION 30-20-109 (1.5)(a)(II), PUBLIC WATER PROVIDERS, PUBLIC WASTEWATER TREATMENT PROVIDERS, SOLID WASTE LANDFILL OPERATORS, AND OTHER INTERESTED OR AFFECTED PARTIES CONCERNING THE DISPOSAL OF NATURALLY OCCURRING RADIOACTIVE MATERIAL AND TENORM.

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

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

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

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

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

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

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

NOVEMBER 14, 2017.

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

**SECTION 2. Act subject to petition - effective date.** 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.

Approved: June 6, 2018