

HOUSE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

March 22, 2018
Date

Committee on Health, Insurance, & Environment.

After consideration on the merits, the Committee recommends the following:

HB18-1215 be amended as follows, and as so amended, be referred to the Committee on Finance with favorable recommendation:

1 Amend printed bill, strike everything below the enacting clause and
2 substitute:

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

5 **25-11-104. Rules to be adopted - fees - fund created -**
6 **definitions - repeal.** (1) (a) The state board shall formulate, adopt, and
7 promulgate rules as provided in subsection (2) of this section that cover
8 subject matter relative to radiation machines and radioactive materials,
9 including naturally occurring radioactive materials, TENORM, and other
10 sources of radiation. The subject matter of the rules must include:
11 Licenses and registration; records; permissible levels of exposure;
12 notification and reports of accidents; technical qualifications of
13 personnel; technical qualifications of mammographers; handling,
14 transportation, and storage; waste disposal; posting and labeling of
15 hazardous sources and areas; surveys; monitoring; security of materials;
16 and financial assurance warranties.

17 (b) The state board, ~~may~~ IN CONSULTATION WITH THE WATER
18 QUALITY CONTROL COMMISSION, THE SOLID AND HAZARDOUS WASTE
19 COMMISSION, AND THE COLORADO OIL AND GAS CONSERVATION
20 COMMISSION, SHALL adopt rules concerning the disposal of naturally
21 occurring radioactive materials, ~~at any time after the promulgation by the~~
22 ~~federal environmental protection agency or its successor of rules for the~~
23 ~~disposal of naturally occurring radioactive materials~~ INCLUDING
24 TENORM. THE RULES MUST INCLUDE REQUIREMENTS FOR GROUNDWATER

1 AND LEACHATE MONITORING FOR RADIONUCLIDES AT EACH DISPOSAL
2 FACILITY THAT ACCEPTS TENORM WASTE.

3 (c) BEFORE ADOPTING THE RULES SPECIFIED IN SUBSECTION (1)(b)
4 OF THIS SECTION, THE DEPARTMENT SHALL:

5 (I) CONVENE A STAKEHOLDER GROUP TO FACILITATE DECISIONS
6 AND APPROACHES TO THE HANDLING, TRANSPORTATION, BENEFICIAL USE,
7 AND DISPOSAL OF NATURALLY OCCURRING RADIOACTIVE MATERIALS AND
8 TENORM THAT ARE BASED ON A REASONABLE RELATIONSHIP TO THE
9 ECONOMIC, ENVIRONMENTAL, ENERGY, AND PUBLIC HEALTH COSTS AND
10 BENEFITS OF THE DECISIONS AND APPROACHES AND TO DISCUSS THE
11 DEVELOPMENT OF PROPOSED RULES AND THE IMPACTS THE RULES MIGHT
12 HAVE ON THE REGULATED COMMUNITY AND THE PUBLIC;

13 (II) INVITE REPRESENTATIVES OF AT LEAST THE FOLLOWING
14 INTEREST GROUPS TO PARTICIPATE IN THE STAKEHOLDER GROUP: THE OIL
15 AND GAS INDUSTRY, MINING INDUSTRY, POWER GENERATORS AND
16 SUPPLIERS, PUBLIC WATER PROVIDERS, PUBLIC WASTEWATER TREATMENT
17 PROVIDERS, SOLID WASTE LANDFILL OPERATORS, AND OTHER INTERESTED
18 OR AFFECTED PARTIES;

19 (III) REQUIRE ALL GENERATORS OF TENORM WASTE TO:

20 (A) REPORT TO THE DEPARTMENT THE VOLUMES AND TYPES OF
21 TENORM WASTE THEY GENERATE AND THE LOCATIONS AT WHICH THEY
22 DISPOSE OF THE WASTE; AND

23 (B) MAKE ALL TENORM WASTE STREAMS AVAILABLE FOR
24 REPRESENTATIVE SAMPLING AND DATA COLLECTION BY AN INDEPENDENT
25 THIRD PARTY CONTRACTED WITH BY THE STATE;

26 (IV) CONTRACT WITH AN INDEPENDENT THIRD PARTY TO PREPARE
27 A COMPREHENSIVE REPORT, WITH INPUT PROVIDED BY THE STAKEHOLDER
28 GROUP SPECIFIED IN SUBSECTION (1)(c)(I) OF THIS SECTION, THAT
29 ASSESSES THE MEASURABLE PUBLIC HEALTH IMPACTS FROM NATURALLY
30 OCCURRING RADIOACTIVE MATERIALS AND TENORM. THE REPORT MUST:

31 (A) ESTABLISH BACKGROUND RADIATION LEVELS IN VARIOUS
32 REGIONS OF THE STATE, IDENTIFY AND QUANTIFY WASTE STREAMS,
33 ANALYZE HISTORICAL BENEFICIAL USE AND DISPOSAL PRACTICES, AND
34 EVALUATE CURRENT ENGINEERING PRACTICES AND APPROPRIATE TEST
35 METHODS;

36 (B) IDENTIFY DATA GAPS AND ESTIMATED ECONOMIC IMPACTS
37 FROM REGULATING NATURALLY OCCURRING RADIOACTIVE MATERIALS
38 AND TENORM GENERATED BY THE INTEREST GROUPS SPECIFIED IN
39 SUBSECTION (1)(c)(II) OF THIS SECTION; AND

40 (C) INCLUDE A DETAILED REGULATORY REVIEW OF HOW OTHER
41 STATES REGULATE THE HANDLING, TRANSPORTATION, BENEFICIAL USE,

1 AND DISPOSAL OF NATURALLY OCCURRING RADIOACTIVE MATERIALS AND
2 TENORM.

3 (V) SUBMIT A DETAILED SUMMARY OF THE REPORT REQUIRED BY
4 SUBSECTION (1)(c)(IV) OF THIS SECTION TO THE GENERAL ASSEMBLY'S
5 COMMITTEES OF REFERENCE WITH JURISDICTION OVER PUBLIC HEALTH AND
6 NATURAL RESOURCES NO LATER THAN DECEMBER 31, 2020, WHICH
7 SUMMARY INCLUDES A DESCRIPTION OF THE STAKEHOLDER PROCESS,
8 INCLUDING THE DEPARTMENT'S OUTREACH EFFORTS, THE NUMBER OF
9 MEETINGS HELD, AND ANY DISSENTING COMMENTS SUBMITTED BY
10 PARTICIPANTS IN THE STAKEHOLDER PROCESS. THE COMMITTEES OF
11 REFERENCE SHALL HOLD A HEARING ON THE ISSUES ADDRESSED IN THE
12 SUMMARY BY MARCH 1, 2021.

13 (VI) BASED ON THE FEEDBACK OF THE STAKEHOLDER GROUP, THE
14 REPORT PREPARED PURSUANT TO SUBSECTION (1)(c)(IV) OF THIS SECTION,
15 AND THE HEARING HELD PURSUANT TO SUBSECTION (1)(c)(V) OF THIS
16 SECTION, PROPOSE DRAFT RULES CONCERNING:

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

23 (B) THE CONCENTRATION OF RADIONUCLIDES IN SOLID WASTE
24 ABOVE WHICH TENORM-CONTAINING WASTE MUST BE DISPOSED OF AT
25 A FACILITY SPECIFICALLY APPROVED AND DESIGNATED TO RECEIVE THE
26 WASTE; AND

27 (C) THE MINIMUM TECHNICAL SPECIFICATIONS NECESSARY FOR
28 THE SAFE DISPOSAL OF TENORM-CONTAINING WASTE AND OTHER
29 SUBJECTS RELATED TO THE CHARACTERIZATION AND SAFE DISPOSAL OF
30 TENORM-CONTAINING WASTES.

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

33 (I) A PERSON SHALL COMPLY WITH THE "INTERIM POLICY AND
34 GUIDANCE PENDING RULEMAKING FOR THE CONTROL AND DISPOSITION
35 OF TECHNOLOGICALLY-ENHANCED NATURALLY OCCURRING
36 RADIOACTIVE MATERIALS IN COLORADO", ISSUED BY THE DEPARTMENT,
37 DATED FEBRUARY 2007; AND

38 (II) IF THE SOLID WASTE WAS GENERATED FROM OIL AND GAS
39 EXPLORATION AND PRODUCTION, THE PERSON SHALL ALSO COMPLY WITH
40 THE LETTERS DATED NOVEMBER 7, 2017, AND NOVEMBER 14, 2017, FROM
41 THE MANAGER OF THE DEPARTMENT'S SOLID WASTE AND MATERIALS

1 MANAGEMENT PROGRAM REGARDING MANAGEMENT AND DISPOSAL OF
2 TENORM WASTES GENERATED BY OIL AND GAS EXPLORATION AND
3 PRODUCTION.

4 (e) SUBSECTIONS (1)(c) AND (1)(d) OF THIS SECTION AND THIS
5 SUBSECTION (1)(e) WILL BE REPEALED IF THE STATE BOARD ADOPTS THE
6 RULES SPECIFIED IN SUBSECTION (1)(b) OF THIS SECTION. THE STATE
7 BOARD SHALL NOTIFY THE REVISOR OF STATUTES IN WRITING OF THE DATE
8 ON WHICH THE RULES SPECIFIED IN THIS SUBSECTION (1)(e) BECOME
9 EFFECTIVE BY E-MAILING THE NOTICE TO
10 REVISOROFSTATUTES.GA@STATE.CO.US. SUBSECTIONS (1)(c) AND (1)(d)
11 OF THIS SECTION AND THIS SUBSECTION (1)(e) ARE REPEALED, EFFECTIVE
12 UPON THE DATE IDENTIFIED IN THE NOTICE THAT THE RULES BECAME
13 EFFECTIVE OR, IF THE NOTICE DOES NOT SPECIFY THAT DATE, UPON THE
14 DATE OF THE NOTICE TO THE REVISOR OF STATUTES.

15 (f) THIS SUBSECTION (1) IS ENFORCEABLE PURSUANT TO SECTIONS
16 30-20-113 AND 30-20-114.

17 (g) FOR PURPOSES OF THIS SUBSECTION (1):

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

20 (II) "RADIONUCLIDES" INCLUDES RADIUM 226 AND RADIUM 228,
21 COMBINED; NATURAL THORIUM; AND NATURAL URANIUM.

22 (III) "SOLID WASTE" HAS THE MEANING ESTABLISHED IN SECTION
23 30-20-101 (6).

24 (IV) "SOLID WASTES DISPOSAL SITE AND FACILITY" HAS THE
25 MEANING ESTABLISHED IN SECTION 30-20-101 (8).

26 (V) "STATE WATERS" HAS THE MEANING ESTABLISHED IN SECTION
27 25-8-103 (19).

28 (VI) "TENORM" MEANS NATURALLY OCCURRING RADIOACTIVE
29 MATERIALS THAT HAVE BEEN CONCENTRATED OR EXPOSED TO THE
30 ACCESSIBLE ENVIRONMENT AS A RESULT OF HUMAN ACTIVITIES SUCH AS
31 MANUFACTURING, MINERAL EXTRACTION, OR WATER PROCESSING.
32 "TENORM" DOES NOT INCLUDE BACKGROUND RADIATION OF THE
33 ACCESSIBLE ENVIRONMENT; "BYPRODUCT MATERIAL" OR "SOURCE
34 MATERIAL", AS DEFINED BY COLORADO STATUTE OR RULE; OR ENRICHED
35 OR DEPLETED URANIUM AS DEFINED BY COLORADO OR FEDERAL STATUTE
36 OR RULE.

37 (e)(h) Notwithstanding any provision of section 25-11-103 (7)(h),
38 it is not necessary that a governmental entity own any site that is used for
39 the concentration, storage, or disposal of radioactive material if the owner
40 of the site complies with rules promulgated by the STATE board in
41 accordance with this section. The rules must ensure the long-term

1 protection of the public health and safety and may include financial
2 assurance warranties pursuant to this part 1, deed annotations and
3 restrictions, easement provisions, restrictive covenants, and adequate
4 markers to warn of the presence of radioactive materials.

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

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

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