



SB18-245

SHORT TITLE: Allow Natural Occurring Radioactive Material Rules

LONG TITLE: 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.

SPONSORS: Sen. Cooke and Rep. Arndt

COMMITTEES: Senate Committees – Agriculture, Natural Resources, & Energy

PURPOSE OF THE BILL: To repeal statutory prohibition on Board of Health developing regulations of naturally occurring radioactive materials (NORM) until the EPA acts and to require stakeholder involvement prior to rulemaking.

PROPOSERS OF THE BILL: CDPHE, industries who believe they are limited in disposal options for certain industrial waste containing low levels of radioactivity

POTENTIAL STAKEHOLDERS: Industries whose waste streams may contain low levels of radioactivity such as water providers, wastewater treatment providers, oil/gas, mining

BACKGROUND: In 1994 legislation was enacted which deferred regulation of the disposal of naturally occurring radioactive material (NORM) until EPA adopts such rules. A subset of technologically enhanced radioactive material (TENORM) was also excluded from the radioactive waste disposal portion of the radiation control statutes. "Naturally occurring radioactive material" means any nuclide that is radioactive in its natural physical state and is not manufactured. "Naturally occurring radioactive material" does not include source material, special nuclear material, byproduct material, or by-products of fossil fuel combustion, including bottom ash, fly ash, and flue-gas emission by-products. "Technologically enhanced naturally occurring radioactive material" or "tenorm" means naturally occurring radioactive material whose radionuclide concentrations are increased by or as a result of past or present human practices. It is believed that efforts at federal regulation (focusing on studies to determine levels for regulation) have not been active in recent years.

Is this bill necessary this year? No.

How does the bill change current law? Current law contains a prohibition on development of regulation of disposal of naturally occurring radioactive materials until rules are adopted by EPA. This prohibition is repealed in SB 245, allowing the Board of Health to commence rulemaking

Does the bill affect the prior appropriations system? No

How is the bill implemented? If enacted, the Board of Health would commence rulemaking to regulate disposal of waste streams exhibiting as-yet unidentified low levels of technologically enhanced naturally occurring radiation. (Higher levels are regulated under the Radiation Control Act through a licensing process). . As amended in the Senate, the bill also requires CDPHE to develop rules by Dec. 31, 2020. Prior to the rulemaking, the department is required to convene a stakeholder group to 1) review TENORM regulatory programs from other states; 2) develop regulatory options for disposal, beneficial

reuse and exemption levels; 3) provide for beneficial use of wastewater treatment residuals and by products of wastewater treatment residuals; and 4) by Dec. 31, 2019 report to the respective health committees of the General Assembly on the stakeholder process. Prior to the effective date of the rules, the department's interim guidance protocols must be followed for disposal.

Practical considerations: As amended the rulemaking process must follow the parameters outlined to set concentration levels for appropriate disposal.

Fiscal Impact: There has not been a fiscal note issued for the amended bill. The fiscal note on the bill as introduced (which merely repealed the prohibition) stated that there would not be a fiscal impact requiring an appropriation.

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