



RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

OFFICE OF THE DIRECTOR
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April 4, 2024

The Honorable David A. Bennett
Chairman
House Committee on Environment and Natural Resources
82 Smith Street
Providence, Rhode Island 02903

RE: H 8071 An Act Relating to Health and Safety – Hazardous Waste Management

Dear Chairman Bennett,

Thank you for providing the Department of Environmental Management (DEM) the opportunity to comment on H 8071, which would prohibit DEM from adopting any plan, rule, regulation, procedure, or standard requiring remediation of arsenic which is less than or equal to twenty (20) milligrams per kilogram.


Arsenic is a naturally occurring element found in soil that can also be introduced through human activity and has been found to pose a significant threat to human health. At present, DEM's site remediation regulations (250-RICR-140-30-1) include a tiered system whereby different remedial requirements take effect at 7 parts per million (ppm; 1 ppm is equivalent to 1 milligram per kilogram), 15ppm, and 43ppm. This standard was developed based on the background, or naturally occurring, levels of arsenic in soil in Rhode Island rather than based on the risk of impacts to human health. The current standard was informed in large part by the work of the 2008 Rhode Island House of Representatives Special Legislative Commission to Study Naturally Occurring Arsenic in the Soil. A copy of the Commission's final report is attached to this letter for your review. The 7ppm standard represents the 95% upper confidence limit for naturally occurring arsenic present in soil across the state based on the results of extensive sampling.

It is notable that the soil of Aquidneck Island is known to have higher levels of naturally occurring arsenic than the rest of Rhode Island due to the geologic history of the island. Because the DEM standard applies uniformly statewide, development projects on the island are frequently subjected to the remedial requirements triggered by the 7ppm and 15ppm thresholds. DEM has also been informed that the comparable standards for arsenic in soil in both Massachusetts and Connecticut are consistent with the 20ppm limit proposed in this legislation. The difference between the Rhode Island standard and those in our neighboring states can largely be explained by the differences in local geology between Rhode Island and its neighbors, which became

evidence in the statewide sampling used to assess the average level of naturally occurring arsenic.

We appreciate the opportunity to offer comments on this legislation and would be pleased to make ourselves available as needed. Please feel free to contact Susan Forcier, DEM Deputy Director for Environmental Protection, at susan.forcier@dem.ri.gov should you have any additional questions or wish to discuss this matter further.

Sincerely,

A handwritten signature in cursive script that reads "Terrence Gray".

Terrence Gray, P.E.
Director

cc: Members of the House Committee on Environment and Natural Resources
The Honorable Terri Cortvriend
Nicole McCarty, Esq., Chief Legal Counsel to the Speaker of the House
Lynne Urbani, House Policy Director

Enclosure