

First Regular Session
Seventieth General Assembly
STATE OF COLORADO

REREVISED

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

LLS NO. 15-0701.01 Thomas Morris x4218

HOUSE BILL 15-1145

HOUSE SPONSORSHIP

Rankin, Coram

SENATE SPONSORSHIP

Hodge,

House Committees

Health, Insurance, & Environment

Senate Committees

Health & Human Services

A BILL FOR AN ACT

101 **CONCERNING THE REGULATION OF RADIOACTIVE MATERIALS, AND, IN**
102 **CONNECTION THEREWITH, IMPLEMENTING AN AUDIT REPORT**
103 **ISSUED BY THE FEDERAL NUCLEAR REGULATORY COMMISSION.**

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://www.leg.state.co.us/billsummaries>.)

The federal nuclear regulatory commission (NRC) has primary jurisdiction over radioactive materials but has delegated that authority within Colorado to the state by agreement. Last year, the NRC audited Colorado's radiation regulatory program. The audit report listed numerous amendments to Colorado's radiation control statute that are necessary to

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

Capital letters indicate new material to be added to existing statute.

Dashes through the words indicate deletions from existing statute.

SENATE
3rd Reading Unamended
March 25, 2015

SENATE
2nd Reading Unamended
March 24, 2015

HOUSE
3rd Reading Unamended
February 25, 2015

HOUSE
2nd Reading Unamended
February 24, 2015

maintain the delegated authority.

The bill implements the requirements and recommendations of the audit report and updates the radiation control statutes by:

- ! Modifying and repealing definitions (**sections 1 and 7** of the bill);
- ! Modifying the state board of health's authority to adopt rules (**section 2**), including requiring NRC approval before the application of groundwater remediation standards that differ from federal standards (**section 3**);
- ! Repealing an unnecessary exemption regarding the transportation of radioactive materials (**section 4**);
- ! Repealing the state board's authority to issue a provisional medical license (**section 5**);
- ! Increasing the amount of required financial assurance by reducing the assumed annual interest rate from 6% to 1% (**section 6**);
- ! Clarifying that, in keeping with existing provisions of the "State Administrative Procedures Act", an administrative law judge may approve a radioactive material license application (**section 8**);
- ! Clarifying limitations on the receipt of radioactive materials for processing and making conforming amendments (**section 8**); and
- ! Repealing an obsolete provision relating to the acquisition of sites under the federal "Uranium Mill Tailings Radiation Control Act of 1978" (**section 9**).

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

2 **SECTION 1.** In Colorado Revised Statutes, 25-11-101, **amend**
3 (1) and (2.7); and **add** (1.5), (6.4), and (6.7) as follows:

4 **25-11-101. Definitions.** As used in this part 1, unless the context
5 otherwise requires:

6 (1) ~~"Civil penalty" means a monetary penalty levied against a~~
7 ~~licensee or registrant because of a violation of a statute, rule, license, or~~
8 ~~registration certificate. "Civil penalty" does not include any criminal~~
9 ~~penalty levied under section 25-1-114 or 25-11-107 (3). "BYPRODUCT~~
10 ~~MATERIAL" MEANS:~~

1 (a) ANY RADIOACTIVE MATERIAL, EXCEPT SPECIAL NUCLEAR
2 MATERIAL, YIELDED IN, OR MADE RADIOACTIVE BY, EXPOSURE TO THE
3 RADIATION INCIDENT TO THE PROCESS OF PRODUCING OR USING SPECIAL
4 NUCLEAR MATERIAL;

5 (b) THE TAILINGS OR WASTES PRODUCED BY THE EXTRACTION OR
6 CONCENTRATION OF URANIUM OR THORIUM FROM ORE PROCESSED
7 PRIMARILY FOR ITS SOURCE MATERIAL CONTENT, INCLUDING DISCRETE
8 SURFACE WASTES RESULTING FROM URANIUM SOLUTION EXTRACTION
9 PROCESSES. UNDERGROUND ORE BODIES DEPLETED BY THESE SOLUTION
10 EXTRACTION OPERATIONS ARE NOT "BYPRODUCT MATERIAL".

11 (c) (I) ANY DISCRETE SOURCE OF RADIUM-226 THAT IS PRODUCED,
12 EXTRACTED, OR CONVERTED AFTER EXTRACTION, BEFORE, ON, OR AFTER
13 AUGUST 8, 2005, FOR USE FOR A COMMERCIAL, MEDICAL, OR RESEARCH
14 ACTIVITY; OR

15 (II) ANY MATERIAL THAT:

16 (A) HAS BEEN MADE RADIOACTIVE BY USE OF A PARTICLE
17 ACCELERATOR; AND

18 (B) IS PRODUCED, EXTRACTED, OR CONVERTED AFTER
19 EXTRACTION, BEFORE, ON, OR AFTER AUGUST 8, 2005, FOR USE FOR A
20 COMMERCIAL, MEDICAL, OR RESEARCH ACTIVITY; AND

21 (d) ANY DISCRETE SOURCE OF NATURALLY OCCURRING
22 RADIOACTIVE MATERIAL, OTHER THAN SOURCE MATERIAL, THAT:

23 (I) THE UNITED STATES NUCLEAR REGULATORY COMMISSION, IN
24 CONSULTATION WITH THE ADMINISTRATOR OF THE ENVIRONMENTAL
25 PROTECTION AGENCY, THE SECRETARY OF ENERGY, THE SECRETARY OF
26 HOMELAND SECURITY, AND THE HEAD OF ANY OTHER APPROPRIATE
27 FEDERAL AGENCY, DETERMINES WOULD POSE A THREAT SIMILAR TO THE

1 THREAT POSED BY A DISCRETE SOURCE OF RADIUM-226 TO THE PUBLIC
2 HEALTH AND SAFETY OR THE COMMON DEFENSE AND SECURITY; AND

3 (II) BEFORE, ON, OR AFTER AUGUST 8, 2005, IS EXTRACTED OR
4 CONVERTED AFTER EXTRACTION FOR USE IN A COMMERCIAL, MEDICAL, OR
5 RESEARCH ACTIVITY.

6 (1.5) "CIVIL PENALTY" MEANS A MONETARY PENALTY LEVIED
7 AGAINST A LICENSEE OR REGISTRANT BECAUSE OF A VIOLATION OF A
8 STATUTE, RULE, LICENSE, OR REGISTRATION CERTIFICATE. "CIVIL
9 PENALTY" DOES NOT INCLUDE ANY CRIMINAL PENALTY LEVIED UNDER
10 SECTION 25-1-114 OR 25-11-107 (3).

11 (2.7) "Naturally occurring radioactive material" means any nuclide
12 that is radioactive in its natural physical state and is not manufactured.
13 "Naturally occurring radioactive material" does not include source
14 material, special nuclear material, BYPRODUCT MATERIAL, or by-products
15 of fossil fuel combustion, including bottom ash, fly ash, and flue-gas
16 emission by-products.

17 (6.4) (a) "SOURCE MATERIAL" MEANS URANIUM OR THORIUM OR
18 ANY COMBINATION OF URANIUM AND THORIUM IN ANY PHYSICAL OR
19 CHEMICAL FORM, INCLUDING ORES THAT CONTAIN, BY WEIGHT,
20 ONE-TWENTIETH OF ONE PERCENT, OR MORE, OF URANIUM, THORIUM, OR
21 ANY COMBINATION OF URANIUM AND THORIUM.

22 (b) "SOURCE MATERIAL" DOES NOT INCLUDE SPECIAL NUCLEAR
23 MATERIAL.

24 (6.7) (a) "SPECIAL NUCLEAR MATERIAL" MEANS:

25 (I) PLUTONIUM, URANIUM-233, URANIUM ENRICHED IN THE
26 ISOTOPE 233 OR IN THE ISOTOPE 235, AND ANY OTHER MATERIAL THAT THE
27 UNITED STATES NUCLEAR REGULATORY COMMISSION, PURSUANT TO

1 SECTION 51 OF THE FEDERAL "ATOMIC ENERGY ACT OF 1954", AS
2 AMENDED, 42 U.S.C. SEC. 2071, DETERMINES TO BE SPECIAL NUCLEAR
3 MATERIAL; OR

4 (II) ANY MATERIAL ARTIFICIALLY ENRICHED BY ANY OF THE
5 MATERIAL SPECIFIED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (a).

6 (b) NOTWITHSTANDING ANY OTHER PROVISION OF THIS
7 SUBSECTION (6.7), "SPECIAL NUCLEAR MATERIAL" DOES NOT INCLUDE
8 SOURCE MATERIAL.

9 **SECTION 2.** In Colorado Revised Statutes, 25-11-104, **amend**
10 (1) (a), (1) (c), and (2) as follows:

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

12 (1) (a) The state board shall formulate, adopt, and promulgate rules as
13 provided in subsection (2) of this section that cover subject matter relative
14 to radiation machines and radioactive materials, including naturally
15 occurring radioactive materials and other sources of radiation. The subject
16 matter of the rules ~~shall~~ MUST include: Licenses and registration; records;
17 permissible levels of exposure; notification and reports of accidents;
18 technical qualifications of personnel; technical qualifications of
19 mammographers; handling, transportation, and storage; waste disposal;
20 posting and labeling of hazardous sources and areas; surveys; monitoring;
21 SECURITY OF MATERIALS; and financial assurance warranties.

22 (c) Notwithstanding any provision of section 25-11-103 (7) (h),
23 it is not necessary that a governmental entity own any site that is used for
24 the concentration, storage, or disposal of radioactive material ~~that at the~~
25 ~~time of its acceptance for concentration, storage, or disposal is owned or~~
26 ~~generated by the United States department of energy and is defined as~~
27 ~~low-level radioactive waste under the federal "Low-level Radioactive~~

1 ~~Waste Policy Act Amendments of 1986", as amended,~~ if the owner of the
2 site complies with rules promulgated by the board in accordance with this
3 section. The rules ~~shall~~ MUST ensure the long-term protection of the
4 public health and safety and may include financial assurance warranties
5 pursuant to this part 1, deed annotations and restrictions, easement
6 provisions, restrictive covenants, and adequate markers to warn of the
7 presence of radioactive materials.

8 (2) Rules promulgated under this section ~~shall~~ MUST be consistent
9 with UNITED STATES NUCLEAR REGULATORY COMMISSION REQUIREMENTS
10 NECESSARY TO MAINTAIN AGREEMENT STATE STATUS AND FINAL
11 regulations proposed by the Conference of Radiation Control Program
12 Directors, Inc., or its successor, under the title, "Suggested State
13 Regulations for Control of Radiation"; except that, if the state board
14 concludes on the basis of detailed findings that a substantial deviation
15 from any of the suggested state regulations is warranted and that a
16 substitute rule or no rule would effectively permit maximum utilization
17 of sources of radiation consistent with the health and safety of all persons
18 who might otherwise become exposed to the radiation, the state board
19 need not maintain the suggested state regulation or may promulgate a
20 substitute rule as the case may be.

21 **SECTION 3.** In Colorado Revised Statutes, 25-11-107, **amend**
22 (5) (j) as follows:

23 **25-11-107. Prohibited acts - violations - penalties - rules -**
24 **cease-and-desist orders.** (5) (j) For any site or facility licensed under
25 part 2 of this article determined by the department to have caused a
26 release to the groundwater that exceeds the basic standards for
27 groundwater as established by the water quality control commission, until

1 remediation has been completed, the licensee shall provide annual written
2 notice of the status of the release and any remediation activities
3 associated with the release, by certified or registered mail, return receipt
4 requested, to the current address for each registered groundwater well
5 within one mile of the release as identified in the corrective action
6 monitoring program. Under no circumstances shall remediation be
7 deemed complete until all groundwater wells affected by any release
8 associated with the site or facility are restored to at least the numeric
9 groundwater standards as established by the water quality control
10 commission that apply to the historic uses of the wells. PRIOR TO THE
11 APPLICATION OF ANY NUMERIC GROUNDWATER STANDARD DIFFERENT
12 FROM THE BASELINE STANDARD CONTAINED IN 10 CFR PART 40, THE
13 STANDARD MUST HAVE BEEN APPROVED BY THE UNITED STATES NUCLEAR
14 REGULATORY COMMISSION IN ACCORDANCE WITH SECTION 274o OF THE
15 FEDERAL "ATOMIC ENERGY ACT OF 1954", 42 U.S.C. SEC. 2021 (o). The
16 licensee shall remediate any release affecting groundwater wells in the
17 most expedited manner reasonably possible using best available active
18 restoration and groundwater monitoring technologies.

19 **SECTION 4.** In Colorado Revised Statutes, 25-11-108, **amend**
20 (1) introductory portion; and **repeal** (1) (c) as follows:

21 **25-11-108. Exemptions.** (1) ~~The provisions of Sections~~
22 ~~25-11-103 and 25-11-104 shall~~ DO not apply to the following sources or
23 conditions:

24 (c) ~~Any radioactive material while being transported in conformity~~
25 ~~with regulations adopted by the atomic energy commission, or any~~
26 ~~successor thereto, or the surface transportation board and specifically~~
27 ~~applicable to the transportation of such radioactive materials;~~

1 **SECTION 5.** In Colorado Revised Statutes, **repeal** 25-11-109 as
2 follows:

3 **25-11-109. Provisional license.** ~~In the event the department has~~
4 ~~failed to issue or has denied a request for a license, or an amendment~~
5 ~~thereto, as authorized by this article, within thirty days of the date of~~
6 ~~receipt by the department of a completed application made on the~~
7 ~~appropriate forms designated by the department to a hospital as licensed~~
8 ~~or certified pursuant to section 25-1.5-103 (1) (a) (I) and (1) (a) (II), a~~
9 ~~provisional license shall be deemed to have been issued by the~~
10 ~~department. In the case of a denial, the department shall provide the~~
11 ~~applicant in writing with information and substantive reasons in~~
12 ~~explanation thereof. The provisional license shall be in effect for a period~~
13 ~~of ninety days and may be continued for one additional ninety-day period.~~
14 ~~Such provisional license shall apply only to licensed or certified hospitals~~
15 ~~when the purpose is to acquire, possess, and use radioactive material for~~
16 ~~diagnostic or therapeutic human use.~~

17 **SECTION 6.** In Colorado Revised Statutes, 25-11-110, **amend**
18 (4) (d) and (5) (e) as follows:

19 **25-11-110. Financial assurance warranties - definitions.**

20 (4) (d) The amount of a long-term care warranty ~~shall~~ **MUST** be enough
21 that, with an assumed ~~six~~ **ONE** percent annual real interest rate, the annual
22 interest earnings will be sufficient to cover the annual costs of site
23 surveillance by the department, including reasonable administrative costs
24 incurred by the department, in perpetuity, subsequent to the termination
25 of the radioactive materials license for that site.

26 (5) (e) If the licensee requests a hearing, no new ~~classified~~
27 ~~material, as that term is defined in section 25-11-201, ORE OR OTHER~~

1 RADIOACTIVE MATERIAL may be brought on site FOR PROCESSING OR
2 DISPOSAL and no ~~classified~~ NEW RADIOACTIVE material may be processed
3 until the licensee's dispute over the financial assurance warranty is
4 resolved, unless the licensee posts a bond in a form approved by the
5 department equal to the amount in dispute.

6 **SECTION 7.** In Colorado Revised Statutes, **amend** 25-11-201 as
7 follows:

8 **25-11-201. Definitions - scope.** (1) As used in this part 2, unless
9 the context otherwise requires:

10 ~~(1) (a) "Classified material" means radioactive materials that are~~
11 ~~one or more of the following types:~~

12 ~~(I) "Type 2 byproduct material" as byproduct material is defined~~
13 ~~in 42 U.S.C. sec. 2014 (e) (2);~~

14 ~~(II) Naturally occurring or technologically enhanced naturally~~
15 ~~occurring radioactive material;~~

16 ~~(III) Non-11 e (2) material; or~~

17 ~~(IV) Ore.~~

18 ~~(b) Nothing in this subsection (1) shall be deemed to include the~~
19 ~~following naturally occurring radioactive materials or technologically~~
20 ~~enhanced naturally occurring radioactive materials:~~

21 ~~(I) Residuals or sludges from the treatment of drinking water by~~
22 ~~aluminum, ferric chloride, or similar processes; except that the material~~
23 ~~may not contain hazardous substances that otherwise would preclude~~
24 ~~receipt;~~

25 ~~(II) Sludges, soils, or pipe scale in or on equipment from oil and~~
26 ~~gas exploration, production, or development operations or drinking water~~
27 ~~or wastewater treatment operations; except that the material may not~~

1 contain hazardous substances that otherwise would preclude receipt;

2 (HH) ~~Materials from or activities related to construction material~~
3 ~~mining regulated under article 32.5 of title 34, C.R.S.~~

4 (c) ~~Nothing in this part 2 shall be deemed to apply to the~~
5 ~~treatment, storage, management, processing, or disposal of solid waste,~~
6 ~~which may include naturally occurring radioactive material as defined in~~
7 ~~section 25-11-101 (2.7), and tenorm as defined in subsection (4) of this~~
8 ~~section, either pursuant to a certificate of designation issued under article~~
9 ~~20 of title 30, C.R.S., or at a solid waste disposal site and facility~~
10 ~~considered approved or otherwise deemed to satisfy the requirement for~~
11 ~~a certificate of designation pursuant to article 20 of title 30, C.R.S., or~~
12 ~~section 25-15-204 (6).~~

13 (1.5) (a) "Disposal" means burial in soil, release through a sanitary
14 sewerage system, incineration, or long-term storage with no intention of
15 or provision for subsequent removal; ~~except that, with regard to classified~~
16 ~~material, "disposal" shall not include release through a sanitary sewer or~~
17 ~~incineration at a facility.~~

18 (1.6) (b) "Facility" means a uranium or thorium mill, processing,
19 or disposal facility required to be licensed pursuant to this article and a
20 site for ~~such~~ THE facility;

21 (1.7) ~~"Non-11 e (2) material" means material that is not type 2~~
22 ~~byproduct material or ore. "Non-11 e (2) byproduct material" does not~~
23 ~~include depleted or enriched uranium as defined by Colorado or federal~~
24 ~~statute or rule.~~

25 (1.8) (c) "Ore" means naturally occurring uranium-bearing,
26 thorium-bearing, or radium-bearing material in its natural form prior to
27 chemical processing such as roasting, beneficiating, or refining, and

1 specifically includes material that has been physically processed, such as
2 by crushing, grinding, screening, or sorting;

3 ~~(2) (d) "Radioactive" means emitting alpha rays PARTICLES, beta~~
4 ~~rays PARTICLES, gamma rays, high-energy neutrons or protons, or other~~
5 ~~high-level radioactive particles; The term "radioactive" does not include~~
6 ~~material in which the estimated specific activity is not greater than .002~~
7 ~~microcuries per gram of material, and in which the radioactivity is~~
8 ~~essentially uniformly distributed.~~

9 ~~(3) "Radioactive waste" means all radioactive materials which~~
10 ~~have no useful purpose and are to be discarded and are:~~

11 ~~(a) Capable of producing radiation exposures with acute effects~~
12 ~~associated with the operation and decommissioning of nuclear reactors~~
13 ~~for commercial, military, research, and other purposes, including spent~~
14 ~~fuel if discarded, fuel reprocessing waste and radionuclides removed from~~
15 ~~associated process streams or effluents, and with the United States~~
16 ~~nuclear weapons program;~~

17 ~~(b) Transuranic (radionuclides with atomic numbers greater than~~
18 ~~92); and~~

19 ~~(c) Radionuclides which have been used for industrial and~~
20 ~~research use, and material contaminated with them, and which are capable~~
21 ~~of producing radiation exposures with acute effects as determined by the~~
22 ~~department of public health and environment.~~

23 (e) "RADIOACTIVE WASTE" MEANS LOW-LEVEL RADIOACTIVE
24 WASTES CONTAINING SOURCE, SPECIAL NUCLEAR, OR BYPRODUCT
25 MATERIAL THAT ARE ACCEPTABLE FOR DISPOSAL IN A LAND DISPOSAL
26 FACILITY. FOR THE PURPOSES OF THIS PARAGRAPH (e), "LOW-LEVEL
27 RADIOACTIVE WASTE" MEANS RADIOACTIVE WASTE NOT CLASSIFIED AS

1 HIGH-LEVEL RADIOACTIVE WASTE, TRANSURANIC WASTE, SPENT NUCLEAR
2 FUEL, OR BYPRODUCT MATERIAL, AS THAT TERM IS DEFINED IN SECTION
3 25-11-101 (1) (b), (1) (c), AND (1) (d).

4 ~~(4)~~ (f) "Technologically enhanced naturally occurring radioactive
5 material" or "tenorm" means naturally occurring radioactive material
6 whose radionuclide concentrations are increased by or as a result of past
7 or present human practices. "Tenorm" does not include:

8 ~~(a)~~ (I) Background radiation or the natural radioactivity of rocks
9 or soils;

10 ~~(b)~~ (II) "Byproduct material" or "source material", as defined by
11 Colorado statute or rule; or

12 ~~(c)~~ (III) Enriched or depleted uranium as defined by Colorado or
13 federal statute or rule.

14 (g) "TYPE 2 BYPRODUCT MATERIAL" MEANS THE SUBCATEGORY OF
15 BYPRODUCT MATERIAL SPECIFIED IN SECTION 25-11-101 (1) (b).

16 (2) NOTHING IN THIS PART 2 APPLIES TO, INCLUDES, OR AFFECTS:

17 (a) THE FOLLOWING NATURALLY OCCURRING RADIOACTIVE
18 MATERIALS OR TENORM:

19 (I) RESIDUALS OR SLUDGES FROM THE TREATMENT OF DRINKING
20 WATER BY ALUMINUM, FERRIC CHLORIDE, OR SIMILAR PROCESSES; EXCEPT
21 THAT THE MATERIAL MAY NOT CONTAIN HAZARDOUS SUBSTANCES THAT
22 OTHERWISE WOULD PRECLUDE RECEIPT;

23 (II) SLUDGES, SOILS, OR PIPE SCALE IN OR ON EQUIPMENT FROM OIL
24 AND GAS EXPLORATION, PRODUCTION, OR DEVELOPMENT OPERATIONS OR
25 DRINKING WATER OR WASTEWATER TREATMENT OPERATIONS; EXCEPT
26 THAT THE MATERIAL MAY NOT CONTAIN HAZARDOUS SUBSTANCES THAT
27 OTHERWISE WOULD PRECLUDE RECEIPT;

1 (III) MATERIALS FROM OR ACTIVITIES RELATED TO CONSTRUCTION
2 MATERIAL MINING REGULATED UNDER ARTICLE 32.5 OF TITLE 34, C.R.S.;
3 OR

4 (b) THE TREATMENT, STORAGE, MANAGEMENT, PROCESSING, OR
5 DISPOSAL OF SOLID WASTE, WHICH MAY INCLUDE NATURALLY OCCURRING
6 RADIOACTIVE MATERIAL AND TENORM, EITHER PURSUANT TO A
7 CERTIFICATE OF DESIGNATION ISSUED UNDER ARTICLE 20 OF TITLE 30,
8 C.R.S., OR AT A SOLID WASTE DISPOSAL SITE AND FACILITY CONSIDERED
9 APPROVED OR OTHERWISE DEEMED TO SATISFY THE REQUIREMENT FOR A
10 CERTIFICATE OF DESIGNATION PURSUANT TO ARTICLE 20 OF TITLE 30,
11 C.R.S., OR SECTION 25-15-204 (6).

12 **SECTION 8.** In Colorado Revised Statutes, 25-11-203, **amend**
13 (1) (b), (2) (b) introductory portion, (2) (b) (I) (B), (2) (b) (III), (2) (c)
14 introductory portion, (2) (c) (I), (2) (c) (II), (2) (c) (VIII) introductory
15 portion, (3) (c) (I), (3) (c) (II), (3) (c) (III) introductory portion, (3) (c) (V)
16 (D), and (4) (a) as follows:

17 **25-11-203. Approval of facilities, sites, and shipments for**
18 **disposal of radioactive waste.** (1) (b) (I) ~~No~~ A facility shall NOT dispose
19 of or receive for storage incident to disposal or processing at the facility
20 ~~classified~~ RADIOACTIVE material, EXCEPT FOR NONPROCESSING
21 OPERATIONAL PURPOSES SUCH AS RADIOACTIVE STANDARDS, SAMPLES FOR
22 ANALYSIS, OR MATERIALS CONTAINED IN FIXED OR PORTABLE GAUGES,
23 unless ~~such~~ THE facility has received a license, a five-year license
24 renewal, or license amendment pertaining to the facility's receipt of
25 ~~classified~~ RADIOACTIVE material, in accordance with sections 24-4-104
26 ~~and~~ TO 24-4-105, C.R.S., for such receipt, storage, processing, or disposal
27 of ~~classified~~ RADIOACTIVE material and ~~such~~ THE license, license renewal,

1 or license amendment approves that type of ~~classified material~~ ACTIVITY.

2 (II) Nothing in this paragraph (b) ~~shall apply~~ APPLIES to a contract
3 for the storage, processing, or disposal of less than the sum of one
4 hundred ten tons of ~~classified~~ RADIOACTIVE material per source or to a
5 contract for a bench-scale or a pilot-scale testing project or a contract for
6 less than a de minimis amount of ~~classified~~ RADIOACTIVE material as
7 determined by the department for storage, processing, or disposal.

8 (III) License amendments for the receipt of ~~classified~~
9 RADIOACTIVE material at a facility are subject to subsections (2) and (3)
10 of this section except when the material is from an approved source and
11 ~~such~~ THE amendment would not result in a change in ownership, design,
12 or operation of the facility. License amendments not subject to
13 subsections (2) and (3) of this section are subject to subsection (4) of this
14 section.

15 (2) (b) In addition to the requirements of paragraph (a) of this
16 subsection (2), each proposed license, five-year license renewal, or
17 license amendment pertaining to the facility's receipt of ~~classified~~ ANY
18 RADIOACTIVE material must include a written application to the
19 department and information relevant to the pending application,
20 including:

21 (I) Transcripts of two public meetings hosted and presided over
22 by a person selected upon agreement by the department, the board of
23 county commissioners of the county where the facility is located, and the
24 applicant. The applicant shall pay the reasonable, necessary, and
25 documented expense of the meetings. The meetings shall not be held until
26 the department determines that the application is substantially complete.
27 The applicant shall provide the public with:

1 (B) At both meetings, summaries of the facility's license to
2 receive, store, process, or dispose of ~~classified~~ THE RADIOACTIVE material
3 and the nature of the ~~classified~~ RADIOACTIVE material, and an opportunity
4 to be heard; and

5 (III) A response, if any, to the environmental assessment written
6 by the board of county commissioners of the county in which the
7 ~~classified~~ RADIOACTIVE material is proposed to be received for storage,
8 processing, or disposal at a facility and provided to the facility within
9 ninety days after the first public meeting. Upon request of and
10 documentation of the expenditure by ~~such~~ THE board, the applicant shall
11 provide the board with up to fifty thousand dollars, as adjusted for
12 inflation since 2003, which is available to the board for the reasonable
13 and necessary expenses during the pendency of the application to assist
14 the board in responding to the application, including to pay for an
15 independent environmental analysis by a disinterested party with
16 appropriate environmental expertise to assist the board in preparing its
17 response. The board's response may consider whether the approval of the
18 license, five-year license renewal, or license amendment pertaining to the
19 facility's receipt or disposal of the ~~classified~~ RADIOACTIVE material will
20 present any substantial adverse impact upon the safety or maintenance of
21 transportation infrastructure or transportation facilities within the county.

22 (c) As used in paragraph (b) of this subsection (2), "environmental
23 assessment" means a report and assessment submitted to the department
24 by a facility upon and in connection with application for a license, a
25 five-year LICENSE renewal, or license amendment pertaining to the
26 facility's receipt of ~~classified~~ RADIOACTIVE material, proposing to receive
27 ~~classified~~ ANY RADIOACTIVE material for storage, processing, or disposal

1 at a facility that addresses the impacts of the receipt for storage,
2 processing, or disposal of ~~such~~ THE RADIOACTIVE material. The
3 environmental assessment shall contain all information deemed necessary
4 by the department, and shall include, at a minimum:

5 (I) The identification of the types of ~~classified~~ RADIOACTIVE
6 material to be received, stored, processed, or disposed of;

7 (II) A representative presentation of the physical, chemical, and
8 radiological properties of the type of ~~classified~~ RADIOACTIVE material to
9 be received, stored, processed, or disposed of;

10 (VIII) For an application for a license or license amendment
11 pertaining to the facility's receipt of ~~classified~~ THE RADIOACTIVE material
12 for storage, processing, or disposal at the facility, a demonstration that:

13 (3) (c) (I) In deciding whether to approve a license, five-year
14 license renewal, or license amendment pertaining to the facility's receipt
15 of ~~classified~~ RADIOACTIVE material, the department shall consider the
16 transcripts of the public meetings held pursuant to subparagraph (I) of
17 paragraph (b) of subsection (2) of this section, the facility's license, any
18 environmental assessment or analysis performed pursuant to this section,
19 the facility's compliance with financial assurance requirements of section
20 25-11-110, and the board of county commissioners' response to the
21 environmental assessment prepared pursuant to subparagraph (III) of
22 paragraph (b) of subsection (2) of this section. The department shall deny
23 or approve the application as a whole.

24 (II) The department may order reasonable mitigation measures to
25 address any substantial adverse impacts to public health or the
26 environment or transportation infrastructure or transportation facilities
27 within the county attributable solely to approval of the license, five-year

1 LICENSE renewal, or license amendment pertaining to the facility's receipt
2 of ~~classified~~ THE RADIOACTIVE material.

3 (III) The applicant shall demonstrate that if the license, five-year
4 LICENSE renewal, or license amendment pertaining to the facility's receipt
5 of ~~classified~~ THE RADIOACTIVE material is approved, then the receipt,
6 storage, processing, and disposal of ~~classified~~ RADIOACTIVE material shall
7 WILL:

8 (V) (D) After review of all final public comments, the department
9 shall issue a final draft decision and provide affected parties, including
10 the applicant in the case of approval with conditions or denial, an
11 opportunity to request an adjudicatory hearing in accordance with
12 ~~sections 24-4-104 and~~ SECTION 24-4-105, C.R.S. If no party seeks a
13 hearing, the final draft decision becomes final agency action. If any party
14 seeks a hearing, resolution of all material issues of fact, law, or discretion
15 presented by the record and the appropriate order, sanction, relief, or
16 denial ~~thereof~~ OF THE MATERIAL ISSUES must be through an initial
17 decision of a hearing officer OR ADMINISTRATIVE LAW JUDGE. The
18 applicant shall pay all reasonable, necessary, and documented expenses
19 of the hearing. Upon issuance of the initial decision of the hearing officer
20 OR ADMINISTRATIVE LAW JUDGE, and after any allowable appeal to the
21 executive director, the department shall issue within a reasonable time a
22 final decision to approve, approve with conditions, or deny the
23 application. The final decision is subject to judicial review pursuant to
24 section 24-4-106, C.R.S.

25 (4) (a) (I) At least ninety days before a facility proposes to receive,
26 store, process, or dispose of ~~classified~~ RADIOACTIVE material in a license
27 application or amendment that is not subject to subsections (2) and (3) of

1 this section and for which a material acceptance report has not already
2 been filed with the department, the facility shall notify the department,
3 and the department shall notify the public and the board of county
4 commissioners of the county in which the facility is located, of the
5 specific ~~classified~~ RADIOACTIVE material to be received, stored,
6 processed, or disposed of. The notice ~~shall~~ MUST include:

7 (A) A representative analysis of the physical, chemical, and
8 radiological properties of the ~~classified~~ RADIOACTIVE material;

9 (B) The material acceptance report that demonstrates that the
10 ~~classified~~ RADIOACTIVE material does not contain hazardous waste
11 characteristics not found in uranium ore;

12 (C) A detailed plan for transport, acceptance, storage, handling,
13 processing, and disposal of the material;

14 (D) A demonstration that the material contains technically and
15 economically recoverable uranium, without taking into account its value
16 as disposal material;

17 (E) The existing location of the ~~classified~~ RADIOACTIVE material;

18 (F) The history of the ~~classified~~ RADIOACTIVE material;

19 (G) A written statement by the applicant describing any
20 preexisting regulatory classification of the ~~classified waste~~ RADIOACTIVE
21 MATERIAL in the state of origin that describes all steps taken by the
22 applicant to identify ~~such~~ THE classification;

23 (H) A written statement from the United States department of
24 energy or successor agency that the receipt, storage, processing, or
25 disposal of the ~~classified~~ RADIOACTIVE material at the facility will not
26 adversely affect the department of energy's receipt of title to the facility
27 pursuant to the federal "Atomic Energy Act of 1954 ", 42 U.S.C. sec.

1 2113;

2 (I) Documentation showing any necessary approvals of the United
3 States environmental protection agency; and

4 (J) An environmental assessment as defined in paragraph (c) of
5 subsection (2) of this section, which may incorporate by reference
6 relevant information contained in an environmental assessment previously
7 submitted for the facility.

8 (II) For ~~classified~~ RADIOACTIVE material that would otherwise be
9 subject to the "Low-level Radioactive Waste Act", part 22 of article 60
10 of title 24, C.R.S., the facility's notice ~~shall~~ MUST also include written
11 documentation that the Rocky Mountain low-level radioactive waste
12 board has been notified that the ~~classified~~ RADIOACTIVE material is being
13 considered for disposal in the subject facility.

14 **SECTION 9.** In Colorado Revised Statutes, 25-11-303, **repeal** (1)
15 (d) as follows:

16 **25-11-303. Authorization to participate - implementation.**

17 (1) The general assembly hereby authorizes the department of public
18 health and environment to participate in federal implementation of the
19 "Uranium Mill Tailings Radiation Control Act of 1978", and for such
20 purpose the department has the authority to:

21 (d) ~~(f) Acquire by gift, transfer, exchange, or purchase pursuant~~
22 ~~to the requirements of article 56 of title 24, C.R.S., any designated~~
23 ~~processing site, including any interest in such site, and any site to be used~~
24 ~~for the permanent disposition and stabilization of residual radioactive~~
25 ~~materials. Acquisition of any such sites shall be for the purpose of~~
26 ~~performing remedial action and ultimate disposition of the site as required~~
27 ~~under the federal "Uranium Mill Tailings Radiation Control Act of 1978".~~

1 (H) If the negotiation procedures established in section 24-56-117,
2 C.R.S., fail to accomplish acquisition of the site, the matter may be
3 submitted to arbitration within ten days' notice by the fee title holder. The
4 arbitration panel shall consist of one arbitrator chosen by the siteowner,
5 one arbitrator chosen by the department, and one arbitrator chosen by the
6 other two arbitrators. If the two arbitrators cannot agree within ten days
7 on a third arbitrator, a request by either party shall be made to the district
8 court for the judicial district of the county in which the site is located for
9 appointment of a third impartial arbitrator. The department and the
10 siteowner shall share equally the cost of the use of the third arbitrator. All
11 arbitrators shall be residents of the county in which the land is located.
12 The arbitration panel shall issue its decision thirty days after its
13 appointment, and the decision shall be made in accordance with the
14 criteria established in section 24-56-117 (1) (c), C.R.S., and the
15 provisions of the federal "Uranium Mill Tailings Radiation Control Act
16 of 1978". If the arbitration panel will not be able to issue its decision
17 thirty days after its appointment, but at least two of the three arbitrators
18 determine that the panel is near a decision, the panel shall be allowed
19 fifteen days after the expiration of the initial thirty-day period to make its
20 decision. Such decision shall be made by at least a majority of the
21 arbitrators and shall not be binding on any court.

22 (HH) If the acquisition of any such site is not accomplished
23 pursuant to the arbitration procedures established in subparagraph (H) of
24 this paragraph (d), the department is authorized to obtain such site by
25 condemnation proceedings pursuant to the provisions of article 1 of title
26 38, C.R.S. A decision made pursuant to the provisions of article 1 of title
27 38, C.R.S., shall be made in accordance with the criteria established in

1 ~~section 24-56-117 (1) (c), C.R.S., and the provisions of the federal~~
2 ~~"Uranium Mill Tailings Radiation Control Act of 1978".~~

3 ~~(IV) Repealed.~~

4 **SECTION 10.** In Colorado Revised Statutes, **repeal** 38-1-202 (1)
5 (b) (IV) (E) as follows:

6 **38-1-202. Governmental entities, corporations, and persons**
7 **authorized to use eminent domain.** (1) The following governmental
8 entities, types of governmental entities, and public corporations, in
9 accordance with all procedural and other requirements specified in this
10 article and articles 2 to 7 of this title and to the extent and within any time
11 frame specified in the applicable authorizing statute, may exercise the
12 power of eminent domain:

13 (b) The state:

14 (IV) By action of the general assembly or by action of any of the
15 following officers and agencies of the state:

16 (E) ~~The department of public health and environment as~~
17 ~~authorized in section 25-11-303 (1) (d), C.R.S.;~~

18 **SECTION 11. Act subject to petition - effective date -**
19 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
20 the expiration of the ninety-day period after final adjournment of the
21 general assembly (August 5, 2015, if adjournment sine die is on May 6,
22 2015); except that, if a referendum petition is filed pursuant to section 1
23 (3) of article V of the state constitution against this act or an item, section,
24 or part of this act within such period, then the act, item, section, or part
25 will not take effect unless approved by the people at the general election
26 to be held in November 2016 and, in such case, will take effect on the
27 date of the official declaration of the vote thereon by the governor.

- 1 (2) This act applies to conduct occurring on or after the applicable
- 2 effective date of this act.