

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 10-0273.01 Thomas Morris

HOUSE BILL 10-1348

HOUSE SPONSORSHIP

McFadyen,

SENATE SPONSORSHIP

Kester and Bacon,

House Committees

Transportation & Energy

Senate Committees

A BILL FOR AN ACT

101 CONCERNING INCREASED REGULATORY AUTHORITY REGARDING
102 RADIOACTIVE MATERIALS.

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>.)

Section 1 of the bill requires uranium mills, uranium processing facilities, and associated disposal facilities licensed for the disposal of radioactive waste originating outside of Colorado or the acceptance of classified material (uranium processing and disposal facilities) that have caused a release that exceeds groundwater standards to submit an annual

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.

report to the owners of wells located within a mile of the contaminated groundwater plume. **Section 2** requires such facilities to submit an annual report to the department of public health and environment (department) regarding the adequacy of the facilities' financial assurance warranties, adjusts the applicable hearing procedures relating to the warranties, and prohibits the receipt of classified material at such a facility that disputes the department's proposed adjustment of a warranty unless the facility posts a cash bond equal to the amount in dispute. **Section 3** amends the decommissioning fund to explicitly allow it to be used for uranium processing and disposal facilities.

Sections 4 and 5 modify the procedural requirements, including public notice, that a uranium processing and disposal facility must meet for license applications, renewals, and amendments. Section 4 also:

- ! Modifies the department's deadlines for determining such actions; and
- ! Modifies the procedural requirements, including public notice, that such a facility must meet to receive, store, process, or dispose of classified material.

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

2 **SECTION 1.** 25-11-107 (5), Colorado Revised Statutes, is
3 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

4 **25-11-107. Prohibited acts - violations - penalties.** (5) (j) FOR
5 ANY SITE OR FACILITY LICENSED UNDER PART 2 OF THIS ARTICLE
6 DETERMINED BY THE DEPARTMENT TO HAVE CAUSED A RELEASE TO THE
7 GROUNDWATER THAT EXCEEDS GROUNDWATER STANDARDS, UNTIL
8 REMEDIATION HAS BEEN COMPLETED, THE LICENSEE SHALL PROVIDE
9 ANNUAL WRITTEN NOTICE OF THE STATUS OF THE RELEASE AND ANY
10 REMEDIATION ACTIVITIES ASSOCIATED WITH THE RELEASE, BY CERTIFIED
11 OR REGISTERED MAIL, RETURN RECEIPT REQUESTED, TO THE CURRENT
12 ADDRESS FOR EACH REGISTERED GROUNDWATER WELL WITHIN ONE MILE
13 OF THE KNOWN EXTENT OF THE RELEASE, UNLESS THE LICENSEE
14 DEMONSTRATES THAT A DISTANCE LESS THAN ONE MILE IS WARRANTED.

15 **SECTION 2.** 25-11-110 (5), Colorado Revised Statutes, is

1 amended to read:

2 **25-11-110. Financial assurance warranties - definitions.**

3 (5) (a) The department shall take reasonable measures to assure the
4 continued adequacy of any financial assurance warranty and may annually
5 or for good cause increase or decrease the amount of required financial
6 assurance warranties or require proof of THE value of existing warranties.

7 (b) THE LICENSEE SHALL SUBMIT AN ANNUAL REPORT TO THE
8 DEPARTMENT DEMONSTRATING PROOF OF THE VALUE OF EXISTING
9 WARRANTIES. THE ANNUAL REPORT SHALL DESCRIBE ANY CHANGES IN
10 OPERATIONS, ESTIMATED COSTS, OR ANY OTHER CIRCUMSTANCES THAT
11 MAY AFFECT THE AMOUNT OF THE REQUIRED FINANCIAL ASSURANCE
12 WARRANTIES, INCLUDING ANY INCREASED OR DECREASED COSTS
13 ATTRIBUTABLE TO INFLATION.

14 (c) PUBLIC NOTICE OF THE SUBMITTAL OF THE LICENSEE'S ANNUAL
15 REPORT SHALL BE POSTED ON THE DEPARTMENT'S WEB SITE AND
16 PUBLISHED BY THE OPERATOR IN THE LOCAL PAPER OF GENERAL
17 CIRCULATION. ANY PERSON MAY SUBMIT WRITTEN COMMENTS TO THE
18 DEPARTMENT CONCERNING THE ADEQUACY OF ANY FINANCIAL ASSURANCE
19 WARRANTIES.

20 (d) The licensee shall have sixty days after the date of written
21 notification by the department of a required adjustment to establish a
22 warranty fulfilling all new requirements unless granted an extension by
23 the department. If the licensee disputes the amount of the required
24 financial assurance warranties, the licensee may request a hearing to be
25 conducted in accordance with section 24-4-105, C.R.S.

26 (e) IF THE LICENSEE REQUESTS A HEARING, NO NEW CLASSIFIED
27 MATERIAL, AS THAT TERM IS DEFINED IN SECTION 25-11-201, MAY BE

1 BROUGHT ON SITE AND NO CLASSIFIED MATERIAL MAY BE PROCESSED
2 UNTIL THE LICENSEE'S DISPUTE OVER THE FINANCIAL ASSURANCE
3 WARRANTY IS RESOLVED, UNLESS THE LICENSEE POSTS A CASH BOND
4 EQUAL TO THE AMOUNT IN DISPUTE.

5 **SECTION 3.** 25-11-113 (2) (a), Colorado Revised Statutes, is
6 amended to read:

7 **25-11-113. Forfeitures - deposit - radiation control -**
8 **decommissioning fund - long-term care fund.** (2) (a) A fund to be
9 known as the decommissioning fund is hereby created ~~and established~~ in
10 the state treasury. ~~Such~~ THE fund shall be interest-bearing and invested
11 to return the maximum income feasible as determined by the state
12 treasurer and consistent with otherwise applicable state law. All moneys
13 collected from decommissioning warranties pursuant to this section shall
14 be transmitted to the state treasurer, who shall credit the same to the
15 decommissioning fund. All moneys deposited in the fund and all interest
16 earned on moneys in the fund shall remain in the fund for the purposes set
17 forth in this ~~part~~ ARTICLE and no part ~~thereof~~ OF THE FUND shall be
18 expended or appropriated for any other purpose.

19 **SECTION 4.** 25-11-203 (1) (b) (III), (2) (b) (I) (C), (3) (a), (3) (c)
20 (V), and (4), Colorado Revised Statutes, are amended to read:

21 **25-11-203. Approval of facilities, sites, and shipments for**
22 **disposal of radioactive waste.** (1) (b) (III) ~~Nothing in this paragraph (b)~~
23 ~~shall apply to a licensed facility as of June 3, 2003, as it undergoes its~~
24 ~~current five-year license renewal; except that, during the period from June~~
25 ~~3, 2003, until such license renewal is approved, such facility shall:~~
26 LICENSE AMENDMENTS FOR THE RECEIPT OF CLASSIFIED MATERIAL AT A
27 FACILITY ARE SUBJECT TO SUBSECTIONS (2) AND (3) OF THIS SECTION

1 EXCEPT WHEN THE MATERIAL IS FROM AN APPROVED SOURCE AND SUCH
2 AMENDMENT WOULD NOT RESULT IN A CHANGE IN OWNERSHIP, DESIGN, OR
3 OPERATION OF THE FACILITY. LICENSE AMENDMENTS NOT SUBJECT TO
4 SUBSECTIONS (2) AND (3) OF THIS SECTION ARE SUBJECT TO SUBSECTION
5 (4) OF THIS SECTION.

6 ~~(A) Continue to substantially comply with its current license;~~

7 ~~(B) For each type of classified material for which an application~~
8 ~~for storage, processing, or disposal has already been submitted to the~~
9 ~~department, provide to a library in the community in which the facility is~~
10 ~~located the material acceptance report prepared consistent with and~~
11 ~~containing the information required by the interim guidance on disposal~~
12 ~~of non-"Atomic Energy Act of 1954", section 11 e (2) byproduct material~~
13 ~~in tailings impoundments, RIS 2000-23, and interim position and~~
14 ~~guidance on the use of uranium mill feed material other than natural ores,~~
15 ~~RIS 2000-23, as such guidance documents are amended from time to~~
16 ~~time, which report has also been provided to the department;~~

17 ~~(C) Meet the standards specified in subparagraph (HH) of~~
18 ~~paragraph (c) of subsection (3) of this section for each type of classified~~
19 ~~material; and~~

20 ~~(D) Comply with the provisions of subsection (4) of this section~~
21 ~~for classified material for which a material acceptance report has not~~
22 ~~already been filed with the department for receipt by the facility as of~~
23 ~~June 3, 2003.~~

24 (2) (b) In addition to the requirements of paragraph (a) of this
25 subsection (2), each proposed license, five-year license renewal, or
26 license amendment pertaining to the facility's receipt of classified
27 material shall include a written application to the department and

1 information relevant to the pending application, including:

2 (I) Transcripts of two public meetings hosted and presided over
3 by a person selected upon agreement by the department, the board of
4 county commissioners of the county where the facility is located, and the
5 applicant. One or both of the meetings shall be a hearing conducted to
6 comply with section 24-4-104 or 24-4-105, C.R.S. The reasonable,
7 necessary, and documented expense of the meetings or hearing shall be
8 paid by the facility. Such meetings shall not be held until the department
9 determines that the application is substantially complete. The facility
10 shall provide the public with:

11 (C) Access to make copies of a transcript of the meetings, AND
12 SHALL PROVIDE AN ELECTRONIC COPY TO THE DEPARTMENT IN A MANNER
13 THAT ALLOWS POSTING ON THE DEPARTMENT'S WEB SITE WITHIN TEN DAYS
14 AFTER RECEIPT FROM THE TRANSCRIPTION SERVICE;

15 (3) (a) Upon receipt of an application or notice as provided in
16 subsection (2) of this section, the department of public health and
17 environment shall NOTIFY THE PUBLIC AND forward a copy of ~~such~~ THE
18 application or notice to the governor and the general assembly, as
19 appropriate.

20 (c) (V) (A) The department shall ~~make~~ PUBLISH a determination
21 as to whether an application submitted pursuant to paragraph (b) of
22 subsection (2) of this section is substantially complete within ~~thirty~~
23 FORTY-FIVE days after receipt of ~~such~~ THE application.

24 (B) The first public meeting or hearing required by subparagraph
25 (I) of paragraph (b) of subsection (2) of this section shall be convened
26 within forty-five days after PUBLICATION OF its determination that the
27 application is substantially complete. ~~and~~ The second such public meeting

1 or hearing shall be convened within thirty days after the first public
2 meeting.

3 (C) The department shall approve, approve with conditions, or
4 deny the application submitted under paragraph (b) of subsection (2) of
5 this section within ~~two hundred seventy days after the department's~~
6 ~~receipt of any response of the board of county commissioners to the~~
7 ~~application prepared pursuant to subparagraph (HH) of paragraph (b) of~~
8 ~~subsection (2) of this section and within three hundred sixty days after the~~
9 ~~second public meeting. or hearing if no timely response is received by the~~
10 ~~department from the board of county commissioners.~~

11 (4) (a) (I) At least ~~sixty~~ NINETY days before a facility proposes to
12 receive, store, process, or dispose of classified material THAT IS NOT
13 SUBJECT TO SUBSECTIONS (2) AND (3) OF THIS SECTION AND for which a
14 material acceptance report has not already been filed with the department,
15 the facility shall ~~provide notice to~~ NOTIFY the department, and the
16 department shall ~~provide notice to~~ NOTIFY the PUBLIC AND THE board of
17 county commissioners of the county in which the facility is located, of
18 ~~identification of~~ the specific classified material to be received, stored,
19 processed, or disposed of. ~~Such~~ THE notice shall include:

20 (A) A representative analysis ~~suitable to the department,~~ of the
21 physical, chemical, and radiological properties of the classified material;

22 (B) The material acceptance report prepared consistent with ~~and~~
23 ~~containing the information required by, the interim guidance on disposal~~
24 ~~of non-"Atomic Energy Act of 1954", section 11 e (2) byproduct material~~
25 ~~in tailings impoundments, RIS 2000-23, and interim position and~~
26 ~~guidance on the use of uranium mill feed material other than natural ores,~~
27 ~~RIS 2000-23, as such guidance documents are amended or superceded~~

1 ~~from time to time~~ DEPARTMENT GUIDANCE THAT DEMONSTRATES THAT
2 THE CLASSIFIED MATERIAL DOES NOT CONTAIN HAZARDOUS WASTE
3 CHARACTERISTICS NOT FOUND IN URANIUM ORE;

4 (C) A DETAILED PLAN FOR TRANSPORT, ACCEPTANCE, STORAGE,
5 HANDLING, PROCESSING, AND DISPOSAL OF THE MATERIAL;

6 (D) A DEMONSTRATION THAT THE MATERIAL CONTAINS
7 TECHNICALLY AND ECONOMICALLY RECOVERABLE URANIUM, WITHOUT
8 TAKING INTO ACCOUNT ITS VALUE AS DISPOSAL MATERIAL;

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

10 ~~(D)~~ (F) The history of the classified material;

11 ~~(E)~~ (G) ~~If available~~, A WRITTEN STATEMENT BY THE APPLICANT
12 DESCRIBING any pre-existing regulatory classification of the classified
13 waste in the state of origin THAT DESCRIBES ALL STEPS TAKEN BY THE
14 APPLICANT TO IDENTIFY SUCH CLASSIFICATION;

15 ~~(F)~~ (H) A written statement from the United States department of
16 energy or successor agency that the receipt, storage, processing, or
17 disposal of the classified material at the facility will not adversely affect
18 the department of energy's receipt of title to the facility pursuant to the
19 federal "Atomic Energy Act of 1954 ", 42 U.S.C. sec. 2113; and

20 ~~(G)~~ (I) Documentation showing any necessary approvals of the
21 United States environmental protection agency; AND

22 (J) AN ENVIRONMENTAL ASSESSMENT AS DEFINED IN PARAGRAPH
23 (c) OF SUBSECTION (2) OF THIS SECTION, WHICH MAY INCORPORATE BY
24 REFERENCE RELEVANT INFORMATION CONTAINED IN AN ENVIRONMENTAL
25 ASSESSMENT PREVIOUSLY SUBMITTED FOR THE FACILITY.

26 (II) For classified material that would otherwise be subject to the
27 "Low-level Radioactive Waste Act", part 22 of article 60 of title 24,

1 C.R.S., the facility's notice shall also include written documentation that
2 the rocky mountain low-level radioactive waste board has been notified
3 that the classified material is being considered for disposal in the subject
4 facility.

5 (b) Within ~~five~~ THIRTY days after the department's receipt of
6 notice pursuant to subparagraph (I) of paragraph (a) of this subsection (4),
7 the department shall ~~publish a notice of~~ DETERMINE WHETHER THE NOTICE
8 IS COMPLETE.

9 (c) ONCE THE DEPARTMENT DETERMINES THAT THE NOTICE IS
10 COMPLETE, THE DEPARTMENT SHALL PUBLISH THE NOTICE ON ITS WEB SITE
11 AND PROVIDE a ~~thirty-day~~ SIXTY-DAY public comment period for the
12 receipt of written comments ~~only~~, concerning the notice. A PUBLIC
13 HEARING MAY BE HELD, AT THE DEPARTMENT'S DISCRETION, AT THE
14 OPERATOR'S EXPENSE.

15 (e) (d) Within thirty days after the close of the written public
16 comment period provided by paragraph (b) (c) of this subsection (4), the
17 department shall ~~confirm whether~~ APPROVE, APPROVE WITH CONDITIONS,
18 OR DENY THE RECEIPT, STORAGE, PROCESSING, OR DISPOSAL AS DESCRIBED
19 IN THE NOTICE BASED ON WHETHER the material proposed for receipt,
20 storage, processing, or disposal at the facility complies with the facility's
21 license and meets the standards established pursuant to subparagraph (III)
22 of paragraph (c) of subsection (3) of this section. ~~and no further approval~~
23 ~~shall be required for the facility to receive, store, process, or dispose of~~
24 ~~the classified material described in the notice.~~

25 **SECTION 5.** 25-11-203 (2) (c), Colorado Revised Statutes, is
26 amended BY THE ADDITION OF THE FOLLOWING NEW
27 SUBPARAGRAPHS to read:

1 **25-11-203. Approval of facilities, sites, and shipments for**
2 **disposal of radioactive waste.** (2) (c) As used in paragraph (b) of this
3 subsection (2), "environmental assessment" means a report and
4 assessment submitted to the department by a facility upon and in
5 connection with application for a license, a five-year renewal, or license
6 amendment pertaining to the facility's receipt of classified material,
7 proposing to receive classified material for storage, processing, or
8 disposal at a facility that addresses the impacts of the receipt for storage,
9 processing, or disposal of such material. The environmental assessment
10 shall contain all information deemed necessary by the department, and
11 shall include, at a minimum:

12 (VII) A LIST OF ALL VIOLATIONS OF LOCAL, STATE, OR FEDERAL
13 LAW AT THE FACILITY DURING THE PREVIOUS TEN YEARS;

14 (VIII) FOR AN APPLICATION FOR A LICENSE OR LICENSE
15 AMENDMENT PERTAINING TO THE FACILITY'S RECEIPT OF CLASSIFIED
16 MATERIAL FOR STORAGE, PROCESSING, OR DISPOSAL AT THE FACILITY, A
17 DEMONSTRATION THAT:

18 (A) ALL NOTICES OF VIOLATION HAVE BEEN CURED AND THE
19 UNDERLYING CAUSES REMEDIATED;

20 (B) THE OPERATOR IS NOT AWARE OF ANY CURRENT LICENSE
21 VIOLATION AT THE FACILITY;

22 (C) THERE ARE NO CURRENT RELEASES TO THE AIR, GROUND,
23 SURFACE WATER, OR GROUNDWATER THAT EXCEED PERMITTED LIMITS;
24 AND

25 (D) NO PERSON HAS CONDUCTED ACTIVITIES THAT WILL
26 ADVERSELY AFFECT THE DEPARTMENT OF ENERGY'S RECEIPT OF TITLE TO
27 THE FACILITY PURSUANT TO THE FEDERAL "ATOMIC ENERGY ACT OF

1 1954", 42 U.S.C. SEC. 2113;

2 (IX) A LIST OF ALL NECESSARY PERMITS AND ANY CHANGES TO
3 LOCAL LAND USE ORDINANCES THAT ARE NEEDED TO CONSTRUCT OR
4 OPERATE THE FACILITY; AND

5 (X) FOR SITES OR FACILITIES PLACED ON THE NATIONAL PRIORITY
6 LIST PURSUANT TO THE FEDERAL "COMPREHENSIVE ENVIRONMENTAL
7 RESPONSE, COMPENSATION, AND LIABILITY ACT", 42 U.S.C. SEC. 9605,
8 A COPY OF THE MOST RECENT FIVE-YEAR REVIEW AND ANY ASSOCIATED
9 UPDATES THAT HAVE BEEN ISSUED BY THE UNITED STATES
10 ENVIRONMENTAL PROTECTION AGENCY.

11 **SECTION 6. Applicability.** This act shall apply to applications
12 currently filed or filed on or after the effective date of this act and to
13 operations currently permitted or permitted on or after the effective date
14 of this act.

15 **SECTION 7. Safety clause.** The general assembly hereby finds,
16 determines, and declares that this act is necessary for the immediate
17 preservation of the public peace, health, and safety.