

Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 24-0619.02 Sarah Lozano x3858

SENATE BILL 24-150

SENATE SPONSORSHIP

Cutter,

HOUSE SPONSORSHIP

Froelich,

Senate Committees
Transportation & Energy

House Committees

A BILL FOR AN ACT

101 CONCERNING REQUIREMENTS FOR THE PROCESSING OF MUNICIPAL
102 SOLID WASTE IN THE STATE.

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://leg.colorado.gov>.)

On and after July 1, 2024, **section 2** of the bill prohibits a person from operating or expanding certain units that incinerate municipal solid waste (incineration unit).

On and after January 1, 2025, **section 2** also clarifies that incineration and incineration units do not meet certain standards established by state law or rules.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

Section 3 changes current law to provide that synthetic gas produced by the pyrolysis of waste materials is not an eligible energy resource for the purpose of certain state-level renewable energy standards.

Section 4 changes current law to specify that methane derived from the pyrolysis of municipal solid waste is not recovered methane that is a clean heat resource for the purpose of clean heat plans.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds and declares that the incineration of municipal solid waste:

4 (a) Generates hazardous waste and toxic pollutants, which affect
5 the health of disproportionately impacted communities and low-income
6 communities;

7 (b) Destroys valuable materials that could be recycled back into
8 the supply chain;

9 (c) Perpetuates the extractive, polluting, linear economy by
10 investing in infrastructure that needs to be continuously supplied with
11 cardboard, paper, and plastics that could otherwise be reduced or
12 recycled; and

13 (d) Is an expensive approach to waste management that relies on
14 government investment of tax dollars or tax credits to build and maintain.

15 (2) The general assembly therefore determines that it is in the best
16 interest of the state to prohibit the construction, establishment, operation,
17 or expansion of units that incinerate municipal solid waste.

18 **SECTION 2.** In Colorado Revised Statutes, **add** 25-17-109 as
19 follows:

20 **25-17-109. Prohibition on facilities that incinerate municipal**
21 **solid waste - definitions.** (1) AS USED IN THIS SECTION, UNLESS THE
22 CONTEXT OTHERWISE REQUIRES:

1 (a) "BIOCHAR" MEANS THE SOLID CARBON-RICH PRODUCT MADE
2 WHEN BIOMASS UNDERGOES PYROLYSIS IN AN OXYGEN-DEPLETED
3 ATMOSPHERE IN A PROCESS THAT SEQUESTERS CARBON.

4 (b) "HARD-TO-RECYCLE PLASTICS" MEANS PLASTIC MATERIALS OR
5 PRODUCTS THAT:

6 (I) CANNOT BE EASILY SORTED BY A MATERIALS RECOVERY
7 FACILITY OR PROCESSED BY TRADITIONAL MECHANICAL RECYCLING
8 TECHNOLOGIES; OR

9 (II) LACK END-MARKET DEMAND.

10 (c) "HAZARDOUS WASTE" HAS THE MEANING SET FORTH IN
11 SECTION 25-15-101 (6).

12 (d) "INCINERATION UNIT" MEANS A MUNICIPAL WASTE
13 COMBUSTION UNIT, AS DEFINED IN 40 CFR 60.2977, OR OTHER SOLID
14 WASTE INCINERATION (OSWI) UNIT, AS DEFINED IN 40 CFR 60.2977, THAT
15 INCINERATES MUNICIPAL SOLID WASTE.

16 (e) (I) "MUNICIPAL SOLID WASTE" MEANS SOLID WASTE FROM
17 HOUSEHOLD, COMMUNITY, COMMERCIAL, OR INDUSTRIAL SOURCES THAT
18 DOES NOT CONTAIN HAZARDOUS WASTE.

19 (II) "MUNICIPAL SOLID WASTE" INCLUDES PLASTIC PRODUCTS.

20 (f) "PLASTIC PRODUCT" HAS THE MEANING SET FORTH IN SECTION
21 25-17-802 (16) AND INCLUDES HARD-TO-RECYCLE PLASTICS.

22 (g) "WASTE TIRE" HAS THE MEANING SET FORTH IN SECTION
23 30-20-1402 (12).

24 (2) (a) EXCEPT AS SET FORTH IN SUBSECTION (2)(b) OF THIS
25 SECTION, ON AND AFTER JULY 1, 2024, A PERSON SHALL NOT BUILD,
26 CONSTRUCT, ESTABLISH, OPERATE, OR EXPAND AN INCINERATION UNIT IN
27 THE STATE.

1 (b) THE PROHIBITION IN SUBSECTION (2)(a) OF THIS SECTION DOES
2 NOT APPLY TO:

3 (I) OPERATIONS TO TREAT SOURCE-SEPARATED ORGANIC
4 MATERIALS FOR THE PRODUCTION OF SOIL AMENDMENTS, INCLUDING
5 COMPOST AND BIOCHAR;

6 (II) OPERATIONS TO CONDUCT ANAEROBIC DIGESTION; OR

7 (III) OPERATIONS TO INCINERATE WASTE TIRES IN CEMENT KILNS.

8 (3) NOTWITHSTANDING ANY PROVISION OF LAW TO THE
9 CONTRARY, ON AND AFTER JANUARY 1, 2025:

10 (a) INCINERATION IS NOT CONSIDERED "RECYCLING", "RENEWABLE
11 ENERGY", "CLEAN ENERGY", "GREEN ENERGY", "CLIMATE-FRIENDLY",
12 "CARBON-FREE", "BIOFUEL", "ZERO-CARBON", OR ANY OTHER SIMILAR
13 TERM FOR THE PURPOSE OF A PROGRAM ESTABLISHED BY STATE LAW OR
14 RULES; AND

15 (b) AN INCINERATION UNIT DOES NOT MEET A "RENEWABLE
16 PORTFOLIO STANDARD", "LOW CARBON FUEL STANDARD", "RENEWABLE
17 FUEL STANDARD", OR ANY OTHER SIMILAR STANDARD ESTABLISHED BY
18 STATE LAW OR RULES.

19 **SECTION 3.** In Colorado Revised Statutes, 40-2-124, **amend**
20 (1)(a) introductory portion; and **repeal** (1)(a)(V) as follows:

21 **40-2-124. Renewable energy standards - qualifying retail and**
22 **wholesale utilities - definitions - net metering - legislative declaration**
23 **- rules.** (1) Each provider of retail electric service in the state of
24 Colorado, other than municipally owned utilities that serve forty thousand
25 customers or fewer, is a qualifying retail utility. Each qualifying retail
26 utility, with the exception of cooperative electric associations that have
27 voted to exempt themselves from commission jurisdiction pursuant to

1 section 40-9.5-104 and municipally owned utilities, is subject to the rules
2 established under this article 2 by the commission. No additional
3 regulatory authority is provided to the commission other than that
4 specifically contained in this section. In accordance with article 4 of title
5 24, the commission shall revise or clarify existing rules to establish the
6 following:

7 (a) Definitions of eligible energy resources that can be used to
8 meet the standards. "Eligible energy resources" means recycled energy,
9 renewable energy resources, and renewable energy storage. In addition,
10 resources using coal mine methane ~~and synthetic gas produced by~~
11 ~~pyrolysis of waste materials~~ are eligible energy resources if the
12 commission determines that the electricity generated by those resources
13 is greenhouse gas neutral. The commission shall determine, following an
14 evidentiary hearing, the extent to which such electric generation
15 technologies utilized in an optional pricing program may be used to
16 comply with this standard. A fuel cell using hydrogen derived from an
17 eligible energy resource is also an eligible electric generation technology.
18 Fossil and nuclear fuels and their derivatives are not eligible energy
19 resources. As used in this section:

20 (V) ~~"Pyrolysis" means the thermochemical decomposition of~~
21 ~~material at elevated temperatures without the participation of oxygen.~~

22 **SECTION 4.** In Colorado Revised Statutes, 40-3.2-108, **amend**
23 (2)(m); and **repeal** (2)(n)(II)(B) as follows:

24 **40-3.2-108. Clean heat targets - legislative declaration -**
25 **definitions - plans - rules - reports. (2) Definitions.** As used in this
26 section, unless the context otherwise requires:

27 (m) ~~"Pyrolysis" has the meaning set forth in section 40-2-124~~

1 ~~(1)(a)(V)~~ MEANS THE THERMOCHEMICAL DECOMPOSITION OF MATERIAL AT
2 ELEVATED TEMPERATURES WITHOUT THE PARTICIPATION OF OXYGEN.

3 (n) "Recovered methane" means any of the following that are
4 located in Colorado and meet a recovered methane protocol approved by
5 the air quality control commission:

6 (II) Methane derived from:

7 (B) ~~The pyrolysis of municipal solid waste;~~

8 **SECTION 5.** In Colorado Revised Statutes, 23-31-317, **amend**
9 (2)(e) as follows:

10 **23-31-317. Biomass utilization study - legislative declaration**
11 **- report - definitions - repeal.** (2) As used in this section, unless the
12 context otherwise requires:

13 (e) "Pyrolysis" has the meaning set forth in section ~~40-2-124~~
14 ~~(1)(a)(V)~~ 40-3.2-108 (2)(m).

15 **SECTION 6. Safety clause.** The general assembly finds,
16 determines, and declares that this act is necessary for the immediate
17 preservation of the public peace, health, or safety or for appropriations for
18 the support and maintenance of the departments of the state and state
19 institutions.