

NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.

An Act

SENATE BILL 24-150

BY SENATOR(S) Cutter and Michaelson Jenet, Fields, Gonzales, Jaquez Lewis, Priola, Winter F.;
also REPRESENTATIVE(S) Froelich, Bacon, Brown, Duran, Garcia, Herod, Jodeh, Joseph, Kipp, Lindsay, Marvin, McCormick, McLachlan, Sirota, Story, Titone, Valdez, Vigil, Weissman, Willford.

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

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

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

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

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

(c) Perpetuates the extractive, polluting, linear economy by investing

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

in infrastructure that needs to be continuously supplied with cardboard, paper, and plastics that could otherwise be reduced or recycled; and

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

(2) The general assembly therefore determines that it is in the best interest of the state to:

(a) Prohibit combustion units from being eligible for any state-level incentives; and

(b) Require pyrolysis and gasification processes to be regulated at the state and local level as solid waste-to-energy incineration systems.

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

25-17-109. Units that combust municipal solid waste not eligible for state-level incentives - definitions. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "ASTMD7566" MEANS THE ASTM INTERNATIONAL STANDARD D7566 ENTITLED "STANDARD SPECIFICATION FOR AVIATION TURBINE FUEL CONTAINING SYNTHESIZED HYDROCARBONS", AS AMENDED.

(b) "BIOCHAR" MEANS A CHARCOAL THAT IS PRODUCED BY PYROLYSIS OF BIOMASS AND THAT MAY BE USED AS A SOIL AMENDMENT.

(c) "BIOSOLIDS" HAS THE MEANING SET FORTH IN SECTION 25-8-103 (1.4).

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

(e) "CREMATORY INCINERATOR" MEANS ANY INCINERATOR DESIGNED AND USED SOLELY FOR THE BURNING OF ANATOMICAL PATHOLOGICAL WASTE, WHICH INCINERATOR MAY ALSO BURN INCIDENTAL

ITEMS NORMALLY CREMATED AS PART OF THE FUNERAL PROCESS, OR AS OTHERWISE DEFINED BY AIR QUALITY CONTROL COMMISSION RULE.

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

(g) "MUNICIPAL SOLID WASTE" MEANS SOLID WASTE FROM HOUSEHOLD, COMMUNITY, COMMERCIAL, OR INDUSTRIAL SOURCES THAT DOES NOT CONTAIN HAZARDOUS WASTE.

(h) (I) "STATE INCENTIVE" MEANS ANY STATE-LEVEL GRANT, LOAN, TAX CREDIT, TAX EXEMPTION, SUBSIDY, OR OTHER FINANCIAL INCENTIVE.

(II) "STATE INCENTIVE" DOES NOT INCLUDE THE TAX CREDIT ALLOWED PURSUANT TO SECTION 39-22-556.

(2) NOTWITHSTANDING ANY LAW TO THE CONTRARY:

(a) EXCEPT AS SET FORTH IN SUBSECTION (4) OF THIS SECTION, A COMBUSTION UNIT THAT TARGETS PLASTIC AS A FEEDSTOCK IS NOT ELIGIBLE FOR ANY STATE INCENTIVES NOT GRANTED OR AWARDED, OR THAT APPLY TO INCOME TAX YEARS, BEFORE JANUARY 1, 2025; EXCEPT THAT THIS SUBSECTION (2)(a) DOES NOT APPLY TO:

(I) OPERATIONS TO EXCLUSIVELY TREAT SOURCE-SEPARATED ORGANIC MATERIALS FOR THE CREATION OF COMPOST, BIOSOLIDS, BIO-OIL, AND BIOCHAR;

(II) OPERATIONS TO CONDUCT ANAEROBIC DIGESTION;

(III) AIR CURTAIN INCINERATORS USED FOR WILDFIRE MITIGATION OR INCINERATION OF THE MATERIALS LISTED IN 40 CFR 60.2888 (b)(1) TO (b)(4);

(IV) UNITS THAT COMBUST CONTRABAND OR PROHIBITED GOODS, AS DEFINED IN 40 CFR 60.2887 (p);

(V) UNITS OPERATING AS A CREMATORY INCINERATOR;

(VI) BIOMASS BOILERS FIRING MATERIALS LISTED IN 40 CFR 60.2888

(b)(1) TO (b)(4) OR OTHER APPROVED FUELS; OR

(VII) PROCESSES TO PRODUCE SUSTAINABLE AVIATION FUEL, AS DEFINED IN SECTION 40B(d) OF THE INTERNAL REVENUE CODE, SO LONG AS THE PROCESSES UTILIZE A PATHWAY THAT COMPLIES WITH ASTM D7566 AND ALL REQUIREMENTS OF THE FEDERAL "CLEAN AIR ACT", 42 U.S.C. SEC. 7401 ET SEQ., AS AMENDED, APPLICABLE TO THE PRODUCER OF THE SUSTAINABLE AVIATION FUEL;

(b) ON AND AFTER JANUARY 1, 2025, COMBUSTION IS NOT CONSIDERED "RECYCLING", "RENEWABLE ENERGY", "CLEAN ENERGY", "GREEN ENERGY", "CLIMATE-FRIENDLY", "CARBON-FREE", "BIOFUEL", "ZERO-CARBON", OR ANY OTHER SIMILAR TERM FOR THE PURPOSE OF A PROGRAM ESTABLISHED BY STATE LAW OR RULES; AND

(c) ON AND AFTER JANUARY 1, 2025, A COMBUSTION UNIT DOES NOT MEET A "RENEWABLE PORTFOLIO STANDARD", "LOW CARBON FUEL STANDARD", "RENEWABLE FUEL STANDARD", OR ANY OTHER SIMILAR STANDARD ESTABLISHED BY STATE LAW OR RULES.

(3) NOTHING IN THIS SECTION PROHIBITS STATE INCENTIVES FOR:

(a) ENTITIES PARTICIPATING IN THE WASTE TIRE CLEANUP PROGRAM, AS DEFINED IN SECTION 30-20-1402 (13); OR

(b) FEDERAL AND STATE AGENCIES AND INSTITUTIONS OF HIGHER EDUCATION CONDUCTING RESEARCH TO IMPROVE ENVIRONMENTAL AND HEALTH OUTCOMES OF COMBUSTION UNITS, WHICH RESEARCH DOES NOT INCLUDE THE OPERATION OF A COMMERCIAL-SCALE COMBUSTION UNIT.

(4) COMBUSTION UNITS THAT ARE IN EXISTENCE IN THE STATE ON OR BEFORE JULY 1, 2024, ARE ELIGIBLE FOR A STATE INCENTIVE TO CONDUCT TECHNOLOGICAL UPGRADES IF THE STATE AGENCY RESPONSIBLE FOR ISSUING THE STATE INCENTIVE DETERMINES THAT THE STATE INCENTIVE IMPROVES THE HEALTH AND SAFETY OF WORKERS, PROMOTES WORKFORCE DEVELOPMENT, REDUCES NEGATIVE IMPACTS OF OPERATIONS OF THE COMBUSTION UNIT, AND ENCOURAGES INVESTMENT IN THE COMMUNITY OF THE COMBUSTION UNIT.

SECTION 3. In Colorado Revised Statutes, 30-20-902, **amend** (1)

as follows:

30-20-902. Definitions. As used in this part 9, unless the context otherwise requires:

(1) (a) "Solid waste-to-energy incineration system" means the use of flammable waste material as a primary or supplemental fuel for the conversion of heat into steam, electrical power, or any other form of energy.

(b) "SOLID WASTE-TO-ENERGY INCINERATION SYSTEM" INCLUDES PYROLYSIS AND GASIFICATION PROCESSES.

SECTION 4. In Colorado Revised Statutes, 31-15-1002, **amend** (1) as follows:

31-15-1002. Definitions. As used in this part 10, unless the context otherwise requires:

(1) (a) "Solid waste-to-energy incineration system" means the use of flammable waste material as a primary or supplemental fuel for the conversion of heat into steam, electrical power, or any other form of energy.

(b) "SOLID WASTE-TO-ENERGY INCINERATION SYSTEM" INCLUDES PYROLYSIS AND GASIFICATION PROCESSES.

SECTION 5. In Colorado Revised Statutes, 40-2-124, **amend** (1)(a) introductory portion as follows:

40-2-124. Renewable energy standards - qualifying retail and wholesale utilities - definitions - net metering - legislative declaration - rules. (1) Each provider of retail electric service in the state of Colorado, other than municipally owned utilities that serve forty thousand customers or fewer, is a qualifying retail utility. Each qualifying retail utility, with the exception of cooperative electric associations that have voted to exempt themselves from commission jurisdiction pursuant to section 40-9.5-104 and municipally owned utilities, is subject to the rules established under this article 2 by the commission. No additional regulatory authority is provided to the commission other than that specifically contained in this section. In accordance with article 4 of title 24, the commission shall revise or clarify existing rules to establish the following:

(a) Definitions of eligible energy resources that can be used to meet the standards. "Eligible energy resources" means recycled energy, renewable energy resources, and renewable energy storage. In addition, resources using coal mine methane and synthetic gas produced by pyrolysis of waste materials are eligible energy resources if the commission determines that the electricity generated by those resources is greenhouse gas neutral. SYNTHETIC GAS PRODUCED BY PYROLYSIS OF WASTE MATERIALS IS NOT AN ELIGIBLE ENERGY RESOURCE. The commission shall determine, following an evidentiary hearing, the extent to which such electric generation technologies utilized in an optional pricing program may be used to comply with this standard. A fuel cell using hydrogen derived from an eligible energy resource is also an eligible electric generation technology. Fossil and nuclear fuels and their derivatives are not eligible energy resources. As used in this section:

SECTION 6. In Colorado Revised Statutes, 40-3.2-108, **repeal** (2)(n)(II)(B) as follows:

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

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

(II) Methane derived from:

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

SECTION 7. Safety clause. The general assembly finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety or for appropriations for

the support and maintenance of the departments of the state and state institutions.

Steve Fenberg
PRESIDENT OF
THE SENATE

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO