

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 14-0987.01 Thomas Morris x4218

SENATE BILL 14-192

SENATE SPONSORSHIP

Hodge,

HOUSE SPONSORSHIP

Becker and Wright,

Senate Committees

Health & Human Services
Appropriations

House Committees

Transportation & Energy
Finance
Appropriations

A BILL FOR AN ACT

101 **CONCERNING THE REGULATION OF FACILITIES LICENSED WITH**
102 **REGARD TO CLASSIFIED RADIOACTIVE MATERIALS, AND, IN**
103 **CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

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 specifies that:

! Groundwater wells affected by the release of radioactive materials must be restored to at least the numeric groundwater standards, as established by the water quality

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
April 30, 2014

SENATE
Amended 2nd Reading
April 29, 2014

control commission, that apply to the historic uses of the wells;

- ! Licensed radioactive materials facilities must notify the department of public health and environment as soon as practicable upon discovery of any spill or release involving toxic or radioactive materials and provide an initial written report within 7 days after any such discovery; and
- ! The department must post the reports on the department's web site no later than 7 days after receipt by the department.

Section 2 defines the "processing" of classified radioactive material as any physical or chemical concentration of classified material or underground aqueous extraction of ore, where a primary purpose is recovering uranium or thorium.

Current law requires a radioactive materials license applicant to pay up to \$50,000 to the local board of county commissioners for its reasonable and necessary expenses to respond to the application; **section 3** adjusts that figure for inflation since 2003. Section 3 also modifies the timing of the department's license review process, including the issuance of a draft decision and final draft decision.

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

2 **SECTION 1.** In Colorado Revised Statutes, 25-11-107, **amend**
3 (5) (j); and **add** (5) (k) as follows:

4 **25-11-107. Prohibited acts - violations - penalties - rules -**
5 **cease-and-desist orders.** (5) (j) For any site or facility licensed under
6 part 2 of this article determined by the department to have caused a
7 release to the groundwater that exceeds the basic standards for
8 groundwater as established by the water quality control commission, until
9 remediation has been completed, the licensee shall provide annual written
10 notice of the status of the release and any remediation activities
11 associated with the release, by certified or registered mail, return receipt
12 requested, to the current address for each registered groundwater well
13 within one mile of the release as identified in the corrective action
14 monitoring program. ~~unless the licensee demonstrates that a distance less~~

1 ~~than one mile is warranted.~~ UNDER NO CIRCUMSTANCES SHALL
2 REMEDIATION BE DEEMED COMPLETE UNTIL ALL GROUNDWATER WELLS
3 AFFECTED BY ANY RELEASE ASSOCIATED WITH THE SITE OR FACILITY ARE
4 RESTORED TO AT LEAST THE NUMERIC GROUNDWATER STANDARDS AS
5 ESTABLISHED BY THE WATER QUALITY CONTROL COMMISSION THAT APPLY
6 TO THE HISTORIC USES OF THE WELLS. THE LICENSEE SHALL REMEDIATE
7 ANY RELEASE AFFECTING GROUNDWATER WELLS IN THE MOST EXPEDITED
8 MANNER REASONABLY POSSIBLE USING BEST AVAILABLE ACTIVE
9 RESTORATION AND GROUNDWATER MONITORING TECHNOLOGIES.

10 (k) FOR ANY SITE OR FACILITY LICENSED UNDER PART 2 OF THIS
11 ARTICLE, IN ADDITION TO ANY REPORTING REQUIREMENTS PROVIDED IN
12 THE LICENSE OR RULES, THE LICENSEE SHALL PROVIDE NOTICE TO THE
13 DEPARTMENT AS SOON AS PRACTICABLE UPON DISCOVERY OF ANY SPILL OR
14 RELEASE INVOLVING TOXIC OR RADIOACTIVE MATERIALS AND SHALL
15 PROVIDE AN INITIAL WRITTEN REPORT WITHIN SEVEN DAYS AFTER ANY
16 SUCH DISCOVERY. THE DEPARTMENT SHALL POST ALL SUCH WRITTEN
17 REPORTS ON THE DEPARTMENT'S WEB SITE AS SOON AS PRACTICABLE, AND
18 IN NO CASE LATER THAN SEVEN DAYS AFTER RECEIPT BY THE
19 DEPARTMENT.

20 **SECTION 2.** In Colorado Revised Statutes, 25-11-201, **amend**
21 (1.6); and **add** (1.9) as follows:

22 **25-11-201. Definitions.** As used in this part 2, unless the context
23 otherwise requires:

24 (1.6) "Facility" means a uranium OR THORIUM mill, processing, or
25 disposal facility, WHETHER ABOVE OR BELOW GROUND, required to be
26 licensed pursuant to this article and a site for such facility.

27 (1.9) "PROCESSING" MEANS ANY PHYSICAL OR CHEMICAL

1 CONCENTRATION OF CLASSIFIED MATERIAL OR UNDERGROUND AQUEOUS
2 EXTRACTION OF ORE, WHERE A PRIMARY PURPOSE IS RECOVERING
3 URANIUM OR THORIUM. "PROCESSING" DOES NOT INCLUDE CONVENTIONAL
4 OPEN OR UNDERGROUND MINING TECHNIQUES PERMITTED UNDER ARTICLE
5 32 OF TITLE 34, C.R.S.

6

==

7 **SECTION 3.** In Colorado Revised Statutes, 25-11-203, **amend**
8 (2) (b) introductory portion, (2) (b) (I) introductory portion, (2) (b) (III),
9 (3) (c) (V) (B), and (3) (c) (V) (C); and **add** (3) (C) (V) (D) as follows:

10 **25-11-203. Approval of facilities, sites, and shipments for**
11 **disposal of radioactive waste.** (2) (b) In addition to the requirements of
12 paragraph (a) of this subsection (2), each proposed license, five-year
13 license renewal, or license amendment pertaining to the facility's receipt
14 of classified material ~~shall~~ **MUST** include a written application to the
15 department and information relevant to the pending application,
16 including:

17 (I) Transcripts of two public meetings hosted and presided over
18 by a person selected upon agreement by the department, the board of
19 county commissioners of the county where the facility is located, and the
20 applicant. ~~One or both of the meetings shall be a hearing conducted to~~
21 ~~comply with section 24-4-104 or 24-4-105, C.R.S.~~ The APPLICANT SHALL
22 PAY THE reasonable, necessary, and documented expense of the meetings.
23 ~~or hearing shall be paid by the facility. Such~~ THE meetings shall not be
24 held until the department determines that the application is substantially
25 complete. The ~~facility~~ APPLICANT shall provide the public with:

26 (III) A response, if any, to the environmental assessment written
27 by the board of county commissioners of the county in which the

1 classified material is proposed to be received for storage, processing, or
2 disposal at a facility and provided to the facility within ninety days after
3 the first public meeting. Upon request of and documentation of the
4 expenditure by such board, the applicant shall provide the board with up
5 to fifty thousand dollars, AS ADJUSTED FOR INFLATION SINCE 2003, which
6 ~~shall be~~ IS available to the board for the reasonable and necessary
7 expenses during the pendency of the application to assist the board in
8 responding to the application, including to pay for an independent
9 environmental analysis by a disinterested party with appropriate
10 environmental expertise to assist the board in preparing its response. The
11 board's response may consider whether the approval of the license,
12 five-year license renewal, or license amendment pertaining to the
13 facility's receipt or disposal of the classified material will present any
14 substantial adverse impact upon the safety or maintenance of
15 transportation infrastructure or transportation facilities within the county.

16 (3) (c) (V) (B) The DEPARTMENT SHALL CONVENE THE first public
17 meeting ~~or hearing~~ required by subparagraph (I) of paragraph (b) of
18 subsection (2) of this section ~~shall be convened~~ within forty-five days
19 after publication of its determination that the application is substantially
20 complete. The DEPARTMENT SHALL CONVENE THE second such public
21 meeting ~~or hearing shall be convened~~ within thirty days after the first
22 public meeting GIVING PUBLIC NOTICE OF A DRAFT DECISION AS DESCRIBED
23 IN SUB-SUBPARAGRAPH (C) OF THIS SUBPARAGRAPH (V).

24 (C) The department shall INITIATE A FINAL PUBLIC COMMENT
25 PROCESS BY POSTING ON THE DEPARTMENT'S WEB SITE AN INITIAL DRAFT
26 DECISION TO approve, approve with conditions, or deny the application
27 submitted under paragraph (b) of subsection (2) of this section, ~~within~~

1 ~~three hundred sixty days after the second public meeting; except that, for~~
2 ~~an applicant that has completed the second public meeting on or before~~
3 ~~June 8, 2010, the department shall act upon the application within the~~
4 ~~time frame prescribed by this sub-subparagraph (C) as it existed as of the~~
5 ~~date of the application~~ ALONG WITH ALL REQUIRED FINAL TECHNICAL AND
6 ENVIRONMENTAL IMPACT ANALYSES CONDUCTED BY THE DEPARTMENT,
7 ALL REQUESTS FROM THE DEPARTMENT SEEKING INFORMATION FROM THE
8 APPLICANT, ALL OF THE APPLICANT'S RESPONSES, ALL PUBLIC COMMENTS,
9 A DRAFT LICENSE FOR ANY PROPOSED APPROVAL, AND ANY ADDITIONAL
10 INFORMATION THAT MAY ASSIST THE PUBLIC REVIEW OF THE
11 DEPARTMENT'S DRAFT DECISION.

12 (D) AFTER REVIEW OF ALL FINAL PUBLIC COMMENTS, THE
13 DEPARTMENT SHALL ISSUE A FINAL DRAFT DECISION AND PROVIDE
14 AFFECTED PARTIES, INCLUDING THE APPLICANT IN THE CASE OF APPROVAL
15 WITH CONDITIONS OR DENIAL, AN OPPORTUNITY TO REQUEST AN
16 ADJUDICATORY HEARING IN ACCORDANCE WITH SECTIONS 24-4-104 AND
17 24-4-105, C.R.S. IF NO PARTY SEEKS A HEARING, THE FINAL DRAFT
18 DECISION BECOMES FINAL AGENCY ACTION. IF ANY PARTY SEEKS A
19 HEARING, RESOLUTION OF ALL MATERIAL ISSUES OF FACT, LAW, OR
20 DISCRETION PRESENTED BY THE RECORD AND THE APPROPRIATE ORDER,
21 SANCTION, RELIEF, OR DENIAL THEREOF MUST BE THROUGH AN INITIAL
22 DECISION OF A HEARING OFFICER. THE APPLICANT SHALL PAY ALL
23 REASONABLE, NECESSARY, AND DOCUMENTED EXPENSES OF THE HEARING.
24 UPON ISSUANCE OF THE INITIAL DECISION OF THE HEARING OFFICER, AND
25 AFTER ANY ALLOWABLE APPEAL TO THE EXECUTIVE DIRECTOR AND WITHIN
26 FOUR HUNDRED FIFTY DAYS AFTER THE SECOND PUBLIC MEETING
27 SPECIFIED IN SUB-SUBPARAGRAPH (B) OF THIS SUBPARAGRAPH (V), THE

1 DEPARTMENT SHALL ISSUE █ A FINAL DECISION TO APPROVE, APPROVE
2 WITH CONDITIONS, OR DENY THE APPLICATION. THE FINAL DECISION IS
3 SUBJECT TO JUDICIAL REVIEW PURSUANT TO SECTION 24-4-106, C.R.S.

4 **SECTION 4. Appropriation.** In addition to any other
5 appropriation, there is hereby appropriated, out of any moneys in the
6 radiation control fund created in section 25-11-104 (6) (c), Colorado
7 Revised Statutes, not otherwise appropriated, to the department of public
8 health and environment, for the fiscal year beginning July 1, 2014, the
9 sum of \$32,307 and 0.4 FTE, or so much thereof as may be necessary, to
10 be allocated to the radiation management program for the implementation
11 of this act as follows:

12	<u>Personal Services</u>	\$ 31,927 and 0.4 FTE
13	<u>Operating Expenses</u>	\$ 380.

14 **SECTION 5. Act subject to petition - effective date -**
15 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
16 the expiration of the ninety-day period after final adjournment of the
17 general assembly (August 6, 2014, if adjournment sine die is on May 7,
18 2014); except that, if a referendum petition is filed pursuant to section 1
19 (3) of article V of the state constitution against this act or an item, section,
20 or part of this act within such period, then the act, item, section, or part
21 will not take effect unless approved by the people at the general election
22 to be held in November 2014 and, in such case, will take effect on the
23 date of the official declaration of the vote thereon by the governor.

24 (2) This act applies to applications pending on or filed on or after
25 the applicable effective date of this act and to facilities licensed on or
26 after the applicable effective date of this act.