

From: [Tarlton - CDPHE, Steve](#)
To: [Schneider, Kathleen](#)
Cc: [Jarvis - CDPHE, James](#); jennifer.opila@state.co.us; [White, Duncan](#); [Erickson, Randy](#); [Henderson, Pamela](#); [Katanic, Janine](#); [Veget, Anton](#); [Tharakan, Binesh](#); [Meyer, Karen](#); [Poy, Stephen](#); [Howell, Linda](#); [Moses, John](#); [Sollenberger, Dennis](#); [Lynch, James](#)
Subject: Re: FYI: Receipt of Colorado's draft proposed revisions to the Radiation Control Act
Date: Tuesday, April 15, 2014 5:40:16 PM
Attachments: [192_01.pdf](#)

Ms. Schneider,
Attached is the bill as introduced in to the legislature last week.

On Fri, Mar 28, 2014 at 7:14 AM, Schneider, Kathleen
<Kathleen.Schneider@nrc.gov> wrote:

Dear Mr. Tarlton:

The Office of Federal and State Materials and Environmental Management Programs has received your March 24, 2014, letter transmitting the Colorado draft proposed revisions to the Radiation Control Act. Per my discussion with Jennifer Opila on March 24, 2014, we accept this package for review, but will not begin the review until receiving additional notification from you that the proposed revision was submitted to the legislature and whether there are any additional changes that you identify that may have been introduced or added to the proposed revision once introduced. The notification and any additional changes can be submitted electronically to supplement your March 24, 2014 submittal.

The review has been assigned to Stephen Poy and it is our goal to complete the review the draft proposed revisions to the Radiation Control Act as expeditiously as possible.

If you have any further comments or questions, please contact me. Thank you for your attention.

Kathleen Schneider

Sr. Project Manager

State Regulation Review Coordinator

USNRC

Division of Materials Safety and State Agreements (MSSA)

Agreements State Program Branch (ASPB)

kathleen.schneider@nrc.gov

[301-415-2320](tel:301-415-2320)

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 14-0987.01 Thomas Morris x4218

SENATE BILL 14-192

SENATE SPONSORSHIP

Grantham,

HOUSE SPONSORSHIP

(None),

Senate Committees
Health & Human Services

House Committees

A BILL FOR AN ACT

101 CONCERNING THE REGULATION OF FACILITIES LICENSED WITH
102 REGARD TO CLASSIFIED 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 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 control commission, that apply to the historic uses of the

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.

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 TREATMENT 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.

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

7 **25-11-203. Approval of facilities, sites, and shipments for**
8 **disposal of radioactive waste.** (2) (b) In addition to the requirements of
9 paragraph (a) of this subsection (2), each proposed license, five-year
10 license renewal, or license amendment pertaining to the facility's receipt
11 of classified material ~~shall~~ **MUST** include a written application to the
12 department and information relevant to the pending application,
13 including:

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

23 (III) A response, if any, to the environmental assessment written
24 by the board of county commissioners of the county in which the
25 classified material is proposed to be received for storage, processing, or
26 disposal at a facility and provided to the facility within ninety days after
27 the first public meeting. Upon request of and documentation of the

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

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

21 (C) The department shall INITIATE A FINAL PUBLIC COMMENT
22 PROCESS BY PUBLISHING ON THE DEPARTMENT'S WEB SITE AN INITIAL
23 DRAFT DECISION TO approve, approve with conditions, or deny the
24 application submitted under paragraph (b) of subsection (2) of this
25 section, ~~within three hundred sixty days after the second public meeting;~~
26 ~~except that, for an applicant that has completed the second public meeting~~
27 ~~on or before June 8, 2010, the department shall act upon the application~~

1 ~~within the time frame prescribed by this sub-subparagraph (C) as it~~
2 ~~existed as of the date of the application~~ ALONG WITH ALL REQUIRED FINAL
3 TECHNICAL AND ENVIRONMENTAL IMPACT ANALYSES CONDUCTED BY THE
4 DEPARTMENT, ALL REQUESTS FROM THE DEPARTMENT SEEKING
5 INFORMATION FROM THE APPLICANT, ALL OF THE APPLICANT'S RESPONSES,
6 ALL PUBLIC COMMENTS, A DRAFT LICENSE FOR ANY PROPOSED APPROVAL,
7 AND ANY ADDITIONAL INFORMATION THAT MAY ASSIST THE PUBLIC
8 REVIEW OF THE DEPARTMENT'S DRAFT DECISION.

9 (D) AFTER REVIEW OF ALL FINAL PUBLIC COMMENTS, THE
10 DEPARTMENT SHALL ISSUE A FINAL DRAFT DECISION AND PROVIDE
11 AFFECTED PARTIES, INCLUDING THE APPLICANT IN THE CASE OF APPROVAL
12 WITH CONDITIONS OR DENIAL, AN OPPORTUNITY TO REQUEST AN
13 ADJUDICATORY HEARING IN ACCORDANCE WITH SECTIONS 24-4-104 AND
14 24-4-105, C.R.S. IF NO PARTY SEEKS A HEARING, THE FINAL DRAFT
15 DECISION BECOMES FINAL AGENCY ACTION. IF ANY PARTY SEEKS A
16 HEARING, RESOLUTION OF ALL MATTERS PROPERLY RAISED DURING THE
17 HEARING MUST BE THROUGH AN INITIAL DECISION OF A HEARING OFFICER,
18 WHICH MUST INCLUDE ALL FINDINGS OF FACT AND DETERMINATIONS OF
19 LAW. THE APPLICANT SHALL PAY ALL REASONABLE, NECESSARY, AND
20 DOCUMENTED EXPENSES OF THE HEARING. UPON ISSUANCE OF THE INITIAL
21 DECISION OF THE HEARING OFFICER, AND AFTER ANY ALLOWABLE APPEAL
22 TO THE EXECUTIVE DIRECTOR, THE DEPARTMENT SHALL ISSUE WITHIN A
23 REASONABLE TIME A FINAL DECISION TO APPROVE, APPROVE WITH
24 CONDITIONS, OR DENY THE APPLICATION. THE FINAL DECISION IS SUBJECT
25 TO JUDICIAL REVIEW PURSUANT TO SECTION 24-4-106, C.R.S.

26 **SECTION 4. Act subject to petition - effective date -**
27 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following

1 the expiration of the ninety-day period after final adjournment of the
2 general assembly (August 6, 2014, if adjournment sine die is on May 7,
3 2014); except that, if a referendum petition is filed pursuant to section 1
4 (3) of article V of the state constitution against this act or an item, section,
5 or part of this act within such period, then the act, item, section, or part
6 will not take effect unless approved by the people at the general election
7 to be held in November 2014 and, in such case, will take effect on the
8 date of the official declaration of the vote thereon by the governor.

9 (2) This act applies to applications pending on or filed on or after
10 the applicable effective date of this act and to facilities licensed on or
11 after the applicable effective date of this act.