

Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

PREAMENDED

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

LLS NO. 24-0619.02 Sarah Lozano x3858

SENATE BILL 24-150

SENATE SPONSORSHIP

Cutter and Michaelson Jenet, Fields, Gonzales, Jaquez Lewis, Priola, Winter F.

HOUSE SPONSORSHIP

Froelich,

Senate Committees
Transportation & Energy

House Committees
Energy & Environment
Finance

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.

SENATE
3rd Reading Unamended
March 15, 2024

SENATE
Amended 2nd Reading
March 13, 2024

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 combustion 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 ■ ■

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

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

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

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

1 follows:

2 **25-17-109. Units that combust municipal solid waste not**
3 **eligible for state-level incentives - definitions.** (1) AS USED IN THIS
4 SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

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

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

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

13 (d) "CREMATORY INCINERATOR" MEANS ANY INCINERATOR
14 DESIGNED AND USED SOLELY FOR THE BURNING OF ANATOMICAL
15 PATHOLOGICAL WASTE, WHICH INCINERATOR MAY ALSO BURN INCIDENTAL
16 ITEMS NORMALLY CREMATED AS PART OF THE FUNERAL PROCESS, OR AS
17 OTHERWISE DEFINED BY AIR QUALITY CONTROL COMMISSION RULE.

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

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

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

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

1 (2) NOTWITHSTANDING ANY LAW TO THE CONTRARY:

2 (a) ON AND AFTER JULY 1, 2024, EXCEPT AS SET FORTH IN
3 SUBSECTION (5) OF THIS SECTION, A COMBUSTION UNIT IS NOT ELIGIBLE
4 FOR ANY STATE INCENTIVES; EXCEPT THAT THIS SUBSECTION (2)(a) DOES
5 NOT APPLY TO:

6 (I) OPERATIONS TO EXCLUSIVELY TREAT SOURCE-SEPARATED
7 ORGANIC MATERIALS FOR THE PRODUCTION OF SOIL AMENDMENTS,
8 INCLUDING COMPOST, BIOSOLIDS, AND BIOCHAR;

9 (II) OPERATIONS TO CONDUCT ANAEROBIC DIGESTION;

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

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

15 (V) UNITS OPERATING AS A CREMATORY INCINERATOR; OR

16 (VI) BIOMASS BOILERS FIRING MATERIALS LISTED IN 40 CFR
17 60.2888 (b)(1) TO (b)(4) OR OTHER APPROVED FUELS;

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

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

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

1 ENTITIES PARTICIPATING IN THE WASTE TIRE CLEANUP PROGRAM, AS
2 DEFINED IN SECTION 30-20-1402 (13).

3 (4) NOTWITHSTANDING SECTION 39-22-556, AN APPLICANT FOR
4 THE TAX CREDIT ALLOWED PURSUANT TO SECTION 39-22-556, WHICH TAX
5 CREDIT IS FOR THE COSTS TO CONSTRUCT, RECONSTRUCT, OR ERECT A
6 COMBUSTION UNIT, MUST SUBMIT THE APPLICATION DESCRIBED IN SECTION
7 39-22-556 (4)(a) TO THE COLORADO ENERGY OFFICE BEFORE JANUARY 1,
8 2027, TO BE ELIGIBLE FOR THE TAX CREDIT.

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

17 **SECTION 3.** In Colorado Revised Statutes, 30-20-902, **amend**
18 (1) as follows:

19 **30-20-902. Definitions.** As used in this part 9, unless the context
20 otherwise requires:

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

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

27 **SECTION 4.** In Colorado Revised Statutes, 31-15-1002, **amend**

1 (1) as follows:

2 **31-15-1002. Definitions.** As used in this part 10, unless the
3 context otherwise requires:

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

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

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

12 **40-2-124. Renewable energy standards - qualifying retail and**
13 **wholesale utilities - definitions - net metering - legislative declaration**
14 **- rules.** (1) Each provider of retail electric service in the state of
15 Colorado, other than municipally owned utilities that serve forty thousand
16 customers or fewer, is a qualifying retail utility. Each qualifying retail
17 utility, with the exception of cooperative electric associations that have
18 voted to exempt themselves from commission jurisdiction pursuant to
19 section 40-9.5-104 and municipally owned utilities, is subject to the rules
20 established under this article 2 by the commission. No additional
21 regulatory authority is provided to the commission other than that
22 specifically contained in this section. In accordance with article 4 of title
23 24, the commission shall revise or clarify existing rules to establish the
24 following:

25 (a) Definitions of eligible energy resources that can be used to
26 meet the standards. "Eligible energy resources" means recycled energy,
27 renewable energy resources, and renewable energy storage. In addition,

1 resources using coal mine methane ~~and synthetic gas produced by~~
2 ~~pyrolysis of waste materials~~ are eligible energy resources if the
3 commission determines that the electricity generated by those resources
4 is greenhouse gas neutral. SYNTHETIC GAS PRODUCED BY PYROLYSIS OF
5 WASTE MATERIALS IS NOT AN ELIGIBLE ENERGY RESOURCE. The
6 commission shall determine, following an evidentiary hearing, the extent
7 to which such electric generation technologies utilized in an optional
8 pricing program may be used to comply with this standard. A fuel cell
9 using hydrogen derived from an eligible energy resource is also an
10 eligible electric generation technology. Fossil and nuclear fuels and their
11 derivatives are not eligible energy resources. As used in this section:

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

15 **40-3.2-108. Clean heat targets - legislative declaration -**
16 **definitions - plans - rules - reports. (2) Definitions.** As used in this
17 section, unless the context otherwise requires:

18

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

22

(II) Methane derived from:

23

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

24

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

- 1 the support and maintenance of the departments of the state and state
- 2 institutions.