

## CHAPTER 327

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**HEALTH AND ENVIRONMENT**

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## SENATE BILL 14-192

BY SENATOR(S) Hodge, Aguilar, Crowder, Grantham, Guzman, Heath, Jones, Kefalas, Nicholson, Steadman, Todd, Ulibarri, Carroll;  
also REPRESENTATIVE(S) Becker and Wright, Duran, Fields, Fischer, Ginal, Hamner, Hullinghorst, Labuda, Lebsock, Moreno, Pettersen, Primavera, Rosenthal, Salazar, Schafer, Singer, Williams, Young, Exum, Mitsch Bush.

**AN ACT**

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

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

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

**25-11-107. Prohibited acts - violations - penalties - rules - cease-and-desist orders.** (5) (j) For any site or facility licensed under part 2 of this article determined by the department to have caused a release to the groundwater that exceeds the basic standards for groundwater as established by the water quality control commission, until remediation has been completed, the licensee shall provide annual written notice of the status of the release and any remediation activities associated with the release, by certified or registered mail, return receipt requested, to the current address for each registered groundwater well within one mile of the release as identified in the corrective action monitoring program. ~~unless the licensee demonstrates that a distance less than one mile is warranted.~~ UNDER NO CIRCUMSTANCES SHALL REMEDIATION BE DEEMED COMPLETE UNTIL ALL GROUNDWATER WELLS AFFECTED BY ANY RELEASE ASSOCIATED WITH THE SITE OR FACILITY ARE RESTORED TO AT LEAST THE NUMERIC GROUNDWATER STANDARDS AS ESTABLISHED BY THE WATER QUALITY CONTROL COMMISSION THAT APPLY TO THE HISTORIC USES OF THE WELLS. THE LICENSEE SHALL REMEDIATE ANY RELEASE AFFECTING GROUNDWATER WELLS IN THE MOST EXPEDITED MANNER REASONABLY POSSIBLE USING BEST AVAILABLE ACTIVE RESTORATION AND GROUNDWATER MONITORING TECHNOLOGIES.

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

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

**SECTION 2.** In Colorado Revised Statutes, 25-11-201, **amend** (1.6) as follows:

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

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

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

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

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

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

transportation facilities within the county.

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

(C) The department shall INITIATE A FINAL PUBLIC COMMENT PROCESS BY POSTING ON THE DEPARTMENT'S WEB SITE AN INITIAL DRAFT DECISION TO approve, approve with conditions, or deny the application submitted under paragraph (b) of subsection (2) of this section, ~~within three hundred sixty days after the second public meeting; except that, for an applicant that has completed the second public meeting on or before June 8, 2010, the department shall act upon the application within the time frame prescribed by this sub-subparagraph (C) as it existed as of the date of the application~~ ALONG WITH ALL REQUIRED FINAL TECHNICAL AND ENVIRONMENTAL IMPACT ANALYSES CONDUCTED BY THE DEPARTMENT, ALL REQUESTS FROM THE DEPARTMENT SEEKING INFORMATION FROM THE APPLICANT, ALL OF THE APPLICANT'S RESPONSES, ALL PUBLIC COMMENTS, A DRAFT LICENSE FOR ANY PROPOSED APPROVAL, AND ANY ADDITIONAL INFORMATION THAT MAY ASSIST THE PUBLIC REVIEW OF THE DEPARTMENT'S DRAFT DECISION.

(D) AFTER REVIEW OF ALL FINAL PUBLIC COMMENTS, THE DEPARTMENT SHALL ISSUE A FINAL DRAFT DECISION AND PROVIDE AFFECTED PARTIES, INCLUDING THE APPLICANT IN THE CASE OF APPROVAL WITH CONDITIONS OR DENIAL, AN OPPORTUNITY TO REQUEST AN ADJUDICATORY HEARING IN ACCORDANCE WITH SECTIONS 24-4-104 AND 24-4-105, C.R.S. IF NO PARTY SEEKS A HEARING, THE FINAL DRAFT DECISION BECOMES FINAL AGENCY ACTION. IF ANY PARTY SEEKS A HEARING, RESOLUTION OF ALL MATERIAL ISSUES OF FACT, LAW, OR DISCRETION PRESENTED BY THE RECORD AND THE APPROPRIATE ORDER, SANCTION, RELIEF, OR DENIAL THEREOF MUST BE THROUGH AN INITIAL DECISION OF A HEARING OFFICER. THE APPLICANT SHALL PAY ALL REASONABLE, NECESSARY, AND DOCUMENTED EXPENSES OF THE HEARING. UPON ISSUANCE OF THE INITIAL DECISION OF THE HEARING OFFICER, AND AFTER ANY ALLOWABLE APPEAL TO THE EXECUTIVE DIRECTOR, THE DEPARTMENT SHALL ISSUE WITHIN A REASONABLE TIME A FINAL DECISION TO APPROVE, APPROVE WITH CONDITIONS, OR DENY THE APPLICATION. THE FINAL DECISION IS SUBJECT TO JUDICIAL REVIEW PURSUANT TO SECTION 24-4-106, C.R.S.

**SECTION 4. Appropriation.** In addition to any other appropriation, there is hereby appropriated, out of any moneys in the radiation control fund created in section 25-11-104 (6) (c), Colorado Revised Statutes, not otherwise appropriated, to the department of public health and environment, for the fiscal year beginning July 1, 2014, the sum of \$30,986 and 0.4 FTE, or so much thereof as may be necessary, to be allocated to the radiation management program for the implementation of this act as follows:

Personal Services	\$ 28,806 and 0.4 FTE
Operating Expenses	\$ 2,180.

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

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

Approved: June 5, 2014