NOTE: This bill has been prepared for the signature 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.

HOUSE BILL 02-1408

BY REPRESENTATIVE(S) Spradley, Dean, Kester, Cloer, Coleman, Fairbank, Fritz, Harvey, Hefley, King, Lawrence, Mace, Madden, Plant, Romanoff, Sanchez, Schultheis, Stafford, Tapia, and Williams T.;
also SENATOR(S) Thiebaut, Chlouber, Dyer, Hagedorn, Hernandez, Nichol, and Tupa.

CONCERNING ADDITIONAL REQUIREMENTS FOR SHIPMENTS OF CERTAIN TYPES OF RADIOACTIVE WASTE FOR DISPOSAL INSIDE COLORADO.

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

SECTION 1. 25-11-201 (1), Colorado Revised Statutes, is amended, and the said 25-11-201 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

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

(1) (a) ~~"Disposal" means burial in soil, release through a sanitary sewerage system, incineration, or long-term storage with no intention of or provision for subsequent removal~~ "CLASSIFIED WASTE" MEANS RADIOACTIVE WASTE THAT IS EACH OF THE FOLLOWING:

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

(I) "TYPE 2 BYPRODUCT MATERIAL" AS DEFINED IN 42 U.S.C. SEC. 2014 (e) (2);

(II) NATURALLY OCCURRING URANIUM-BEARING OR THORIUM-BEARING SOILS, SOLIDS, OR LIQUIDS AND THEIR DECAY PRODUCTS; AND

(III) WASTE TAKEN FROM EITHER:

(A) A SITE LISTED AS A FEDERAL FORMERLY UTILIZED SITES REMEDIAL ACTION PROGRAM (FUSRAP) SITE;

(B) A DESIGNATED TITLE I OR TITLE II MILLSITE PURSUANT TO THE FEDERAL "URANIUM MILL TAILINGS RADIATION CONTROL ACT OF 1978"; OR

(C) A SITE LISTED ON THE FEDERAL NATIONAL PRIORITIES LIST (NPL) PURSUANT TO SECTION 105 OF THE FEDERAL "COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT" (CERCLA).

(b) NOTHING IN THIS SUBSECTION (1) SHALL BE DEEMED TO INCLUDE NATURALLY OCCURRING RADIOACTIVE MATERIAL AS DEFINED IN SECTION 25-11-101 (2.7).

(c) NOTHING IN THIS PART 2 SHALL BE DEEMED TO APPLY TO THE TREATMENT, STORAGE, MANAGEMENT, PROCESSING, OR DISPOSAL OF SOLID WASTE EITHER PURSUANT TO A CERTIFICATE OF DESIGNATION ISSUED UNDER ARTICLE 20 OF TITLE 30,C.R.S., OR AT A SOLID WASTE DISPOSAL SITE AND FACILITY CONSIDERED APPROVED OR OTHERWISE DEEMED TO SATISFY THE REQUIREMENT FOR A CERTIFICATE OF DESIGNATION PURSUANT TO ARTICLE 20 OF TITLE 30, C.R.S. FACILITIES THAT HAVE BOTH A RADIOACTIVE MATERIALS LICENSE AND A CERTIFICATE OF DESIGNATION SHALL COMPLY WITH THE PROVISION OF THIS ARTICLE.

(1.5) "DISPOSAL" MEANS BURIAL IN SOIL, RELEASE THROUGH A SANITARY SEWERAGE SYSTEM, INCINERATION, OR LONG-TERM STORAGE WITH NO INTENTION OF OR PROVISION FOR SUBSEQUENT REMOVAL.

SECTION 2. 25-11-203, Colorado Revised Statutes, is amended to read:

25-11-203. Approval of facilities, sites, and shipments for disposal of radioactive waste. (1) (a) No facility shall be constructed or site approved for the disposal of radioactive waste originating or used outside Colorado unless such facility or site has been approved as provided in subsection (3) of this section.

(b) (I) NO SITE WITHIN FIVE MILES OF A CITY OR TOWN SHALL RECEIVE CLASSIFIED WASTE FOR DISPOSAL UNLESS SUCH DISPOSAL HAS BEEN APPROVED AS PROVIDED IN SUBSECTION (3) OF THIS SECTION.

(II) NOTHING IN THIS PARAGRAPH (b) SHALL APPLY TO A CONTRACT FOR THE RECEIPT OF SHIPMENTS OF LESS THAN ONE HUNDRED TEN TONS OF CLASSIFIED WASTE OR TO RECEIPT OF SHIPMENTS OF CLASSIFIED WASTE FROM DRINKING WATER TREATMENT FACILITIES.

(III) NOTHING IN THIS PARAGRAPH (b) SHALL APPLY TO PROCESSING OF MATERIALS FOR THEIR MINERAL VALUE AND THE SUBSEQUENT DISPOSAL OF THE MILL TAILINGS FROM THAT PROCESSING.

(2) (a) Any person desiring to have a facility or site referred to in subsection (1) of this section approved shall apply to the department of public health and environment for approval of such facility or site. The application shall contain such information as the department requires and shall be accompanied by an application fee determined by the board pursuant to the provisions of part 1 of this article.

(b) IN ADDITION TO THE REQUIREMENTS OF PARAGRAPH (a) OF THIS SUBSECTION (2), IF A SITE SUBJECT TO THIS SECTION IS PROPOSING TO DISPOSE OF CLASSIFIED WASTE, THE SITE SHALL PROVIDE WRITTEN NOTICE TO THE DEPARTMENT THAT SHALL INCLUDE:

(I) TRANSCRIPTS OF TWO PUBLIC MEETINGS HOSTED BY AND AT THE EXPENSE OF THE SITE. THE SITE SHALL PROVIDE THE PUBLIC WITH:

(A) PURSUANT TO PART 1 OF ARTICLE 70 OF TITLE 24, C.R.S., AT LEAST TWO WEEKS' WRITTEN NOTICE BEFORE THE FIRST MEETING AND AN ADDITIONAL TWO WEEKS' WRITTEN NOTICE BEFORE THE SECOND MEETING;

(B) AT BOTH MEETINGS, SUMMARIES OF THE SITE'S LICENSE TO DISPOSE OF CLASSIFIED WASTE AND THE NATURE OF THE CLASSIFIED WASTE, AND AN OPPORTUNITY TO BE HEARD; AND

(C) ACCESS TO MAKE COPIES OF A TRANSCRIPT OF THE MEETINGS;

(II) AN ENVIRONMENTAL ASSESSMENT REGARDING:

(A) THE ENVIRONMENTAL IMPACTS ON COLORADO OF ACCEPTING THE WASTE;

(B) ANY POTENTIAL NONENVIRONMENTAL ADVERSE IMPACTS ON COLORADO OF ACCEPTING THE WASTE;

(C) ANY POTENTIAL MITIGATION TO IDENTIFIED ADVERSE IMPACTS; AND

(D) ALTERNATIVES TO ACCEPTING THE WASTE; AND

(III) A RESPONSE, IF ANY, TO THE ENVIRONMENTAL ASSESSMENT WRITTEN BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY IN WHICH THE CLASSIFIED WASTE IS PROPOSED TO BE DISPOSED AND PROVIDED TO THE SITE WITHIN THIRTY DAYS AFTER THE FIRST PUBLIC MEETING. UPON REQUEST OF SUCH BOARD, THE APPLICANT SHALL PROVIDE THE BOARD WITH UP TO TWENTY THOUSAND DOLLARS FOR AN INDEPENDENT ENVIRONMENTAL ANALYSIS BY A DISINTERESTED PARTY TO ASSIST THE BOARD IN PREPARING ITS RESPONSE.

(c) AS USED IN PARAGRAPH (b) OF THIS SUBSECTION (2), "ENVIRONMENTAL ASSESSMENT" MEANS A REPORT AND ASSESSMENT SUBMITTED TO THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT BY A SITE PROPOSING TO RECEIVE CLASSIFIED WASTE THAT ADDRESSES THE IMPACTS OF THE RECEIPT OF SUCH WASTE. THE ENVIRONMENTAL ASSESSMENT SHALL CONTAIN ALL INFORMATION DEEMED NECESSARY BY THE DEPARTMENT, AND SHALL INCLUDE AN ASSESSMENT OF THE SHORT-TERM AND LONG-TERM IMPACTS OF THE DISPOSAL; THE RADIOLOGICAL AND NONRADIOLOGICAL IMPACTS TO THE PUBLIC, INCLUDING SOCIAL AND ECONOMIC IMPACTS; ANY IMPACT ON ANY WATERWAY AND GROUND WATER; AND AN ANALYSIS OF ANY BENEFITS OF THE PROPOSAL AGAINST ENVIRONMENTAL COSTS WHILE CONSIDERING AVAILABLE ALTERNATIVES.

(3) (a) Upon receipt of an application OR NOTICE as provided in subsection (2) of this section, the department of public health and environment shall forward a copy of such application OR NOTICE to the governor and the general assembly, AS APPROPRIATE.

(b) (I) No facility or site referred to in PARAGRAPH (a) OF subsection (1) of this section shall be constructed or approved by the department of public health and environment unless the governor and the general assembly have approved such facility or site.

(II) The governor and the general assembly, in making their determination, shall consider criteria developed by the department of public health and environment for disposal of radioactive wastes pursuant to section 25-11-103 (3) in approving or disapproving the proposed facility or site.

(c) NO DISPOSAL REFERRED TO IN PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION SHALL OCCUR UNLESS THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT HAS APPROVED SUCH DISPOSAL. THE DEPARTMENT SHALL CONSIDER THE TRANSCRIPTS OF THE PUBLIC MEETINGS HELD BY THE SITE, THE SITE'S LICENSE, AND ANY ENVIRONMENTAL ASSESSMENT OR ANALYSIS PERFORMED PURSUANT TO THIS SECTION.

SECTION 3. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Doug Dean SPEAKER OF THE HOUSE OF REPRESENTATIVES	Stan Matsunaka PRESIDENT OF THE SENATE
Judith Rodrigue CHIEF CLERK OF THE HOUSE OF REPRESENTATIVES	Karen Goldman SECRETARY OF THE SENATE

APPROVED_____

Bill Owens
GOVERNOR OF THE STATE OF COLORADO