

Second Regular Session
Sixty-sixth General Assembly
STATE OF COLORADO

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 08-1184.01 Thomas Morris

HOUSE BILL 08-1414

HOUSE SPONSORSHIP

Buescher,

SENATE SPONSORSHIP

Penry,

House Committees
Health and Human Services

Senate Committees
Health and Human Services

A BILL FOR AN ACT

101 **CONCERNING AN INCREASE IN THE REGULATION OF THE DISPOSAL OF**
102 **EXPLORATION AND PRODUCTION WASTES FROM OIL AND GAS**
103 **OPERATIONS AT COMMERCIAL SOLID WASTE FACILITIES**
104 **PURSUANT TO RULES PROMULGATED BY THE SOLID AND**
105 **HAZARDOUS WASTE COMMISSION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Requires the solid and hazardous waste commission to promulgate rules for the disposal of exploration and production wastes from oil and gas operations at commercial solid waste facilities, including:

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
May 6, 2008

SENATE
Amended 2nd Reading
May 5, 2008

HOUSE
3rd Reading Unamended
April 28, 2008

HOUSE
Amended 2nd Reading
April 25, 2008


- ! Mandatory set-backs from occupied structures and designated outside activity areas of at least one-half mile;
- ! Mandatory liners to prevent the migration of wastes to ground water;
- ! Waste analysis and reporting requirements to ensure that only exploration and production wastes are disposed of at such facilities;
- ! Restrictions on access to the facilities to protect the public and wildlife;
- ! Contingency plans to respond to emergencies; and
- ! Financial assurance requirements for closure and reclamation costs.

Requires existing facilities that accept exploration and production wastes to submit an application to amend the facilities' certificate of designation within 3 months after the rules become effective and to comply with the rules, other than the set-back requirements, within 24 months after the rules become effective. Allows a local government to issue or amend a certificate of designation despite a contrary recommendation by the department of public health and environment if that recommendation is based solely upon the public health or environmental impacts of the facility other than those identified pursuant to the department's technical review.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby:

4 (a) Finds that the disposal of exploration and production waste
5 from oil and gas operations raises public health and safety concerns;

6 
7 (b) Declares that this act is necessary to give the department of
8 public health and environment additional authority to adequately protect
9 public health and safety in connection with the disposal of exploration
10 and production waste at commercial solid wastes disposal sites.

11 **SECTION 2.** 30-20-109, Colorado Revised Statutes, is amended
12 BY THE ADDITION OF A NEW SUBSECTION to read:

13 **30-20-109. Commission to promulgate rules - definitions.**

1 (1.5) (a) AS USED IN THIS SUBSECTION (1.5):

2 (I) "EP WASTE" MEANS EXPLORATION AND PRODUCTION WASTE, AS
3 THAT TERM IS DEFINED IN SECTION 34-60-103, C.R.S.

4 (II) "EP WASTE DISPOSAL FACILITY" MEANS A COMMERCIAL SOLID
5 WASTES DISPOSAL SITE AND FACILITY THAT ACCEPTS THE DEPOSIT OF EP
6 WASTE.

7 (b) THE SOLID AND HAZARDOUS WASTE COMMISSION SHALL
8 PROMULGATE RULES THAT ARE SPECIFICALLY APPLICABLE TO THE DEPOSIT
9 OF EP WASTE AT AN EP WASTE DISPOSAL FACILITY. THE RULES SHALL
10 INCLUDE THE FOLLOWING:

11 (I) MANDATORY SET-BACKS OF EP WASTE DISPOSAL FACILITIES OF
12 ONE-HALF MILE FROM ALL RESIDENCES, EDUCATIONAL FACILITIES,
13 DAY CARE CENTERS, HOSPITALS, NURSING HOMES, JAILS, HOTELS, MOTELS,
14 OTHER OCCUPIED STRUCTURES, OR OUTSIDE ACTIVITY AREAS SUCH AS
15 PARKS AND PLAYING FIELDS AS DESIGNATED IN THE RULES;

16 (II) MANDATORY FABRICATED LINERS AND MONITORING
17 REQUIREMENTS AS NECESSARY TO PREVENT THE MIGRATION OF EP WASTE
18 TO GROUND WATER;

19 (III) WASTE ANALYSIS AND REPORTING REQUIREMENTS TO ENSURE
20 THAT ONLY EP WASTE IS DISPOSED OF AT AN EP WASTE DISPOSAL
21 FACILITY;

22 (IV) FENCING AND NETTING REQUIREMENTS TO PREVENT THE
23 PUBLIC AND WILDLIFE FROM ACCESSING EP WASTE DISPOSAL FACILITIES;

24 (V) CONTINGENCY PLANS TO RESPOND TO EMERGENCIES,
25 INCLUDING ADEQUATE FREEBOARD, OVERFLOW PONDS, OR BOTH; AND

26 (VI) FINANCIAL ASSURANCE REQUIREMENTS THAT ARE ADEQUATE
27 TO COVER CLOSURE AND RECLAMATION COSTS.

1 (c) AN EP WASTE DISPOSAL FACILITY THAT ACCEPTED EP WASTE
2 ON OR BEFORE THE EFFECTIVE DATE OF THIS SUBSECTION (1.5) AND THAT
3 HAS NOT BEGUN CLOSURE BY THE EFFECTIVE DATE OF THIS SUBSECTION
4 (1.5) SHALL:

5 (I) FILE AN APPLICATION PURSUANT TO SECTION 30-20-103 WITHIN
6 THREE MONTHS AFTER THE RULES PROMULGATED PURSUANT TO THIS
7 SUBSECTION (1.5) BECOME EFFECTIVE WITH THE GOVERNING BODY HAVING
8 JURISDICTION TO AMEND THE FACILITY'S CERTIFICATE OF DESIGNATION TO
9 INCORPORATE THE REQUIREMENTS SPECIFIED IN THE RULES; AND

10 (II) COMPLY WITH THE RULES PROMULGATED PURSUANT TO THIS
11 SUBSECTION (1.5) WITHIN TWENTY-FOUR MONTHS AFTER THEY BECOME
12 EFFECTIVE, UNLESS THE EP WASTE DISPOSAL FACILITY DEMONSTRATES TO
13 THE DEPARTMENT NO LATER THAN EIGHTEEN MONTHS AFTER THE RULES
14 BECOME EFFECTIVE WHY IT CANNOT TIMELY COMPLY WITH THE RULES AND
15 THE DEPARTMENT AGREES TO A COMPLIANCE SCHEDULE. IN SUCH CASE,
16 THE DEPARTMENT MAY EXTEND THE COMPLIANCE DEADLINE TO NO MORE
17 THAN THIRTY-SIX MONTHS AFTER THE RULES BECOME EFFECTIVE; EXCEPT
18 THAT NOTHING IN THIS SUBSECTION (1.5) SHALL BE DEEMED TO:

19 (A) REQUIRE AN EP WASTE DISPOSAL FACILITY THAT LAWFULLY
20 ACCEPTED EP WASTE ON OR BEFORE THE EFFECTIVE DATE OF THIS
21 SUBSECTION (1.5) TO COMPLY WITH THE SET-BACK REQUIREMENTS OF THIS
22 SUBSECTION (1.5); OR

23 (B) PLACE AN EP WASTE DISPOSAL FACILITY INTO
24 NONCOMPLIANCE BECAUSE OF AN ALLEGED VIOLATION OF A SET-BACK
25 REQUIREMENT OF THIS SUBSECTION (1.5) DUE SOLELY TO THE FACT THAT
26 A RESIDENTIAL OR OTHER OCCUPIED STRUCTURE OR A DESIGNATED
27 OUTSIDE ACTIVITY AREA IS ESTABLISHED WITHIN THE SET-BACK DISTANCE

1 ON OR AFTER ISSUANCE OF THE CERTIFICATE OF DESIGNATION PURSUANT
2 TO THIS SUBSECTION (1.5).

3 (d) THE DEPARTMENT SHALL:

4 (I) COORDINATE WITH THE COLORADO OIL AND GAS
5 CONSERVATION COMMISSION CREATED IN SECTION 34-60-104, C.R.S.,
6 GOVERNING BODIES HAVING JURISDICTION, AND THE FEDERAL BUREAU OF
7 LAND MANAGEMENT TO IDENTIFY POTENTIAL EP WASTE DISPOSAL SITES
8 THAT ARE LOCATED REASONABLY CLOSE TO OIL AND GAS OPERATION
9 AREAS ON EITHER FEDERAL OR NONFEDERAL LAND AND THAT MEET THE
10 SET-BACK REQUIREMENTS OF THIS SUBSECTION (1.5); AND

11 (II) TO THE EXTENT PRACTICABLE, ENCOURAGE GOVERNING
12 BODIES HAVING JURISDICTION AND THE FEDERAL BUREAU OF LAND
13 MANAGEMENT TO APPROVE THE SITING OF EP WASTE DISPOSAL SITES AT
14 LOCATIONS IDENTIFIED PURSUANT TO THIS PARAGRAPH (d) WHEN SO
15 REQUESTED BY A COMMERCIAL OPERATOR.

16 **SECTION 3.** 30-20-103.5, Colorado Revised Statutes, is
17 amended to read:

18 **30-20-103.5. Existing solid wastes disposal sites and facilities**
19 **- application procedures.** EXCEPT AS SPECIFIED IN SECTION 30-20-109
20 (1.5), no existing solid wastes disposal site and facility ~~which~~ THAT is
21 operating pursuant to a valid certificate of designation shall be deemed to
22 be in violation of any provision of this part 1 because of any failure to
23 comply with application procedures ~~which~~ THAT are enacted ~~subsequent~~
24 ~~to~~ AFTER the issuance of such certificate of designation.

25

26 **SECTION 4. Applicability.** This act shall apply to acts
27 occurring on or after the effective date of this act.

1 **SECTION 5. Safety clause.** The general assembly hereby finds,
2 determines, and declares that this act is necessary for the immediate
3 preservation of the public peace, health, and safety.