

RESPONSIBLE DISPOSAL REAUTHORIZATION ACT OF 2018

SEPTEMBER 7, 2018.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. WALDEN, from the Committee on Energy and Commerce,
submitted the following

R E P O R T

[To accompany H.R. 2278]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 2278) to extend the authorization of the Uranium Mill Tailing Radiation Control Act of 1978 relating to the disposal site in Mesa County, Colorado, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

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The amendments are as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Responsible Disposal Reauthorization Act of 2018”.

SEC. 2. AUTHORIZATION.

Section 112(a)(1)(B) of the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7922(a)(1)(B)) is amended by striking “September 30, 2023” and inserting “September 30, 2048”.

Amend the title so as to read:

A bill to extend the authorization of the Uranium Mill Tailings Radiation Control Act of 1978 relating to the disposal site in Mesa County, Colorado.

PURPOSE AND SUMMARY

H.R. 2278 was introduced by Rep. Scott Tipton (R-CO) on May 1, 2017. The legislation extends the authorization to operate the disposal site for receiving and disposing residual radioactive material in Mesa County, Colorado until September 30, 2048.

BACKGROUND AND NEED FOR LEGISLATION

Uranium mill tailings are a byproduct of mining and processing uranium ore, which may contain residual radiation. Uranium production, primarily located in western states, throughout the development of the Federal government’s atomic energy defense programs and during the maturation of the commercial nuclear industry generated significant quantities of mill tailings. In certain instances, mill tailings were subsequently used as fill for construction purposes, which remains embedded throughout the respective areas surrounding legacy uranium mills.

To protect public health and safety from potential health risks, uranium mill tailings must be disposed at a site that is licensed and that meets standards established by the Nuclear Regulatory Commission (NRC) and the Environmental Protection Agency (EPA).

To facilitate safe disposal of mill tailings, Congress enacted the Uranium Mill Tailings Radiation Control Act of 1978¹ (UMTRCA) to provide a framework and assign authority to the Secretary of Energy to dispose of uranium mill tailings. UMTRCA established a program to regulate tailings at active mill sites to minimize or eliminate radiation health hazards to the public.²

Section 112 of UMTRCA authorized the Secretary to operate a disposal site known as the Cheney disposal cell, located near Grand Junction Colorado, until 2023 or until the disposal site is filled to capacity, whichever comes first.

Since 2003, the Department of Energy’s (DOE) Office of Legacy Management (LM) has managed the disposal site and annual site inspections “to evaluate surface feature conditions, perform . . . necessary site maintenance, and monitor . . . groundwater to verify the disposal . . . site’s integrity.”³ While DOE is responsible for the long-term maintenance and monitoring of the Grand Junction, Colorado site, the NRC has an oversight role to ensure the disposal site meets established regulatory standards.

The cell contains about 4.5 million cubic yards of residual radioactive material, receives approximately 2,700 cubic yards of additional waste per year, and has sufficient space to receive an esti-

¹ Uranium Mill Tailings Radiation Control Act of 1978, P.L. 95–604.

² Section 2 UMTRCA.

³ For more information on the site, see: https://www.lm.doe.gov/Grand_Junction_DP/Fact_Sheet_GJ.pdf.

mated 235,000 cubic yards, which represents 86 more years of operation at current rates.⁴

The Cheney Disposal Cell is the only operational mill tailings disposal site. The Colorado Department of Public Health and Environment states, “given that this is the only [DOE] uranium mill tailings disposal site left in the country, it is critical that this facility remains open to receive and dispose of the uranium mill tailings that are discovered in our communities. This action will ensure the continued protection of human health and the environment.”⁵

COMMITTEE ACTION

On May 18, 2018, the Subcommittee on Environment held a hearing on H.R. 2278. The Subcommittee received testimony from:

- The Honorable Tom Reed (NY-23), Member, U.S. House of Representatives;
- Mark Gilbertson, Associate Principal Deputy Assistant Secretary for Regulatory and Policy Affairs, Office of Environmental Management, Department of Energy; and,
- Noah Shaw, General Counsel and Secretary, New York State Energy Research and Development Authority.

On June 27, 2018, the Subcommittee on Environment met in open markup session and forwarded H.R. 2278, as amended, to the full Committee by a voice vote. On July 12, 2018, the full Committee on Energy and Commerce met in open markup session and ordered H.R. 2278, as amended, reported to the House by a voice vote.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. There were no record votes taken in connection with ordering H.R. 2278 reported.

OVERSIGHT FINDINGS AND RECOMMENDATIONS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee held a hearing and made findings that are reflected in this report.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 2278 would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by

⁴ Statement for the Record of Carmelo Melendez, Director, Office of Legacy Management, Department of Energy to Committee on Energy and Commerce Subcommittee on Environment, May 18, 2018.

⁵ Statement from Martha Rudolph, Director of Environmental Programs, Colorado Department of Public Health and Environment to Energy and Commerce Subcommittee on Environment members, May 15, 2018.

the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

H.R. 2278—Responsible Disposal Reauthorization Act of 2017

H.R. 2278 would amend the Uranium Mill Tailings Radiation Control Act of 1978 to extend, through September 30, 2048, the government's authority to operate the Cheney disposal cell in Mesa County, Colorado. That facility, administered by the Department of Energy (DOE), serves as a repository for mill tailings—radioactive waste generated during the conversion of uranium into fuel for nuclear reactors. Under current law, DOE's authority to operate that site is scheduled to expire on September 30, 2023.

Using information from DOE, CBO estimates that the agency's costs to administer the Cheney disposal cell (which primarily involves inspecting and maintaining the facility and preparing certain reports) total less than \$500,000 annually; such spending is subject to appropriation. However, because DOE is already authorized to operate that facility through fiscal year 2023, CBO estimates that enacting H.R. 2278 would have no effect on the department's costs over the 2018–2022 period covered by this estimate.

Enacting H.R. 2278 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

CBO estimates that H.R. 2278 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

H.R. 2278 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

On April 5, 2018, CBO transmitted a cost estimate for S. 1059, the Responsible Disposal Reauthorization Act of 2017, as ordered reported by the Senate Committee on Energy and Natural Resources on March 8, 2018. S. 1059 and H.R. 2278 are similar, and CBO's estimates of the budgetary effects are the same.

The CBO staff contact for this estimate is Megan Carroll. This estimate was reviewed by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

The goal and objective of H.R. 2278 is to provide a safe and predictable disposal path for uranium mill tailings.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII, no provision of H.R. 2278 is known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of Public Law 111–139 or the most recent Catalog of Federal Domestic Assistance.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

EARMARK, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

In compliance with clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives, the Committee finds that H.R. 2278 contains no earmarks, limited tax benefits, or limited tariff benefits.

DISCLOSURE OF DIRECTED RULE MAKINGS

Pursuant to section 3(i) of H. Res. 5, the Committee finds that H.R. 2278 contains no directed rule makings.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This section provides the short title of “Responsible Disposal Reauthorization Act of 2018.”

Section 2. Authorization

This section amends section 112(a)(1)(B) of the Uranium Mill Tailings Radiation Control Act of 1978 to authorize the operation of the Cheney disposal cell until the cell has been filled to capacity or September 30, 2048.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

**URANIUM MILL TAILINGS RADIATION CONTROL ACT OF
1978**

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TITLE I—REMEDIAL ACTION PROGRAM

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TERMINATION; AUTHORIZATION

SEC. 112. (a)(1) The authority of the Secretary to perform remedial action under this title shall terminate on September 30, 1998, except that—

(A) the authority of the Secretary to perform groundwater restoration activities under this title is without limitation, and

(B) the Secretary may continue operation of the disposal site in Mesa County, Colorado (known as the Cheney disposal cell) for receiving and disposing of residual radioactive material from processing sites and of byproduct material from property in the vicinity of the uranium milling site located in Monticello, Utah, until the Cheney disposal cell has been filled to the capacity for which it was designed, or **September 30, 2023** *September 30, 2048*, whichever comes first.

(2) For purposes of this subsection, the term “byproduct material” has the meaning given that term in section 11e.(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)(2)).

(b) The amounts authorized to be appropriated to carry out the purposes of this title by the Secretary, the Administrator, the Commission, and the Secretary of the Interior shall not exceed such amounts as are established in annual authorization Acts for fiscal year 1979 and each fiscal year thereafter applicable to the Department of Energy. Any sums appropriated for the purposes of this title shall be available until expended.

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