RESPONSIBLE DISPOSAL REAUTHORIZATION ACT OF 2017

MAY 10, 2018.—Ordered to be printed

Ms. MURKOWSKI, from the Committee on Energy and Natural Resources, submitted the following

R E P O R T

[To accompany S. 1059]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1059) to extend the authorization of the Uranium Mill Tailings Radiation Control Act of 1978 relating to the disposal site in Mesa County, Colorado, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

This bill amends the Uranium Mill Tailings Radiation Control Act of 1978 to extend through Fiscal Year 2048 the authorization for the Department of Energy (DOE) to operate the Cheney disposal cell in Mesa County, Colorado.

BACKGROUND AND NEED

Grand Junction, Colorado, is home to a former uranium processing site known as the Climax mill that closed in 1970. The mill operated for 19 years and produced 2.2 million tons of radioactive tailings, the material that remained after most of the uranium metal had been extracted from uranium ore. From 1950 to 1966, mill tailings were available to private citizens to use as construction materials and more than 4,000 private and commercial properties in the Grand Junction area utilized the radioactive tailings (these buildings are referred to as vicinity properties).

In 1978, Congress found that uranium mill tailings located at uranium mill sites may pose a potential and significant hazard to
the public. Congress enacted the Uranium Mill Tailings Radiation Control Act of 1978 to address the hazard. Title I of the Act authorized the Secretary of Energy to remediate the tailings and other residual radioactive material at 22 designated inactive uranium mill sites and their associated vicinity properties. Remediation of these sites resulted in the construction of 19 disposal cells that are used to stabilize and contain the mill tailings and associated material.

The 94-acre Cheney disposal cell is one of the 19 disposal cells built pursuant to the 1978 Act. It was constructed in 1990 and was chosen by DOE “because it was remote, lacked significant groundwater, and was underlain by a thick, impermeable layer of Mancos shale.” An initial 4.4 million cubic yards of contaminated processing site materials, including vicinity property materials, was transported to the disposal cell by 1994 and that portion of the cell was closed.

Congress has needed to extend the original deadline for the Secretary to complete remediation of the 22 sites three times before. Section 112 of the Act, as amended, required the Secretary to complete work at most of the mill sites by September 30, 1998. But it expressly authorizes the Secretary to continue receiving and disposing of residual radioactive material at the Cheney disposal site until it is filled to capacity or September 30, 2023, whichever comes first. The exception was made for the Cheney disposal site because over one million cubic yards of tailings had been used as fill material in road beds and along utility corridors in and around Grand Junction. Under environmental protection standards for uranium mill tailings issued by the Environmental Protection Agency, these tailings were left in place because they did not pose a clear present or future hazard and the environmental harm or cost of removing them would have exceeded any public health benefits. But Congress recognized that these tailings would eventually be disturbed during future excavations for road or utility repairs, at which time, they could be disposed of in the Cheney disposal cell. So in 1996, Congress amended section 112 to provide for their disposal at the site. S. Rept. 104–301 at 3 and 4 (1996).

DOE testified that uranium mill tailings previously used in roads, sidewalks, and even homes continues to be excavated from vicinity properties around Grand Junction and require disposal. In addition, the Secretary has permanent authority to perform groundwater treatment systems under the Act, and those operations continue to generate waste that is eligible for disposal at the Cheney disposal site. According to the Department, the site receive approximately 2,700 cubic yards of waste per year and has sufficient space to receive an additional estimated 235,000 cubic yards, indicating the site could operate for 87 more years at current rates. The Department recommended reauthorizing the site until 2048, a period of twenty five more years after 2023, to make use of this valuable and necessary disposal capacity.

LEGISLATIVE HISTORY

An identical bill, H.R. 2278, sponsored by Representative Tipton, was introduced in the House of Representatives on May 1, 2017, and referred to the House Committee on Energy and Commerce.

In the 114th Congress, similar legislation, S. 3312, was introduced by Senator Gardner on September 12, 2016, and referred to the Committee on Energy and Natural Resources. A hearing was held on the bill on September 22, 2017.

Similar legislation, H.R. 5950, was introduced in the House of Representatives in the 114th Congress by Representative Tipton on September 7, 2016, and referred to House Committee on Energy and Commerce.

The Committee on Energy and Natural Resources met in open business session on March 8, 2018, and ordered S. 1059 favorably reported without amendment.

**COMMITTEE RECOMMENDATION**

The Senate Committee on Energy and Natural Resources, in open business session on March 8, 2018, by majority voice vote of a quorum present, recommends that the Senate pass S. 1059.

**SECTION-BY-SECTION ANALYSIS**

Section 1 sets forth the short title of the bill.

Section 2 reauthorizes the disposal site in Mesa County, Colorado, through September 30, 2048.

**COST AND BUDGETARY CONSIDERATIONS**

The following estimate of the costs of this measure has been provided by the Congressional Budget Office:

S. 1059 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 S. 1059 would have no effect on the department’s costs over the 2018–2022 period covered by this estimate.

Enacting S. 1059 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

CBO estimates that S. 1059 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

S. 1059 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.
REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 1059. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in making the adjustments provided for in the bill. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 1059, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

S. 1059, as ordered reported, does not contain any congressionally directed spending items, limited tax benefits, or limited tariff benefits as defined in rule XLIV of the Standing Rules of the Senate.

EXECUTIVE COMMUNICATIONS

The testimony provided by the Department of Energy at the October 3, 2017, hearing on S. 1059 follows:

TESTIMONY OF DEPUTY GENERAL COUNSEL BERNARD MCNAMEE, U.S. DEPARTMENT OF ENERGY, BEFORE THE U.S. SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, SUBCOMMITTEE ON ENERGY

S. 1059, RESPONSIBLE DISPOSAL REAUTHORIZATION ACT OF 2017

Legacy waste cleanup is a top priority for the Department of Energy. The Grand Junction, Colorado disposal site was authorized by Congress as part of the Uranium Mill Tailings Radiation Control Act of 1978.

The disposal site is the only active site available for receiving uranium mill tailings managed by DOE’s Office of Legacy Management (LM). The Department works closely with local, state, and federal officials to ensure the protection of public health, safety, and the environment by moving contaminated materials away from public places.

The Grand Junction Disposal Site contains about 4.5 million cubic yards of low-level radioactive waste and receives approximately 2,700 cubic yards of waste per year. The disposal site has sufficient space to receive an additional estimated 235,000 cubic yards indicating the site could operate for 87 more years at current rates.

New waste materials come from numerous locations—primarily the City of Grand Junction continues to excavate waste tailings previously used in roads, sidewalks, and homes. DOE–LM operates groundwater treatment systems at several sites that will continue to generate waste eligible for disposal in the Grand Junction Disposal Site, and that valuable capacity should continue to be utilized.
The Department of Energy looks forward to continuing to work with this subcommittee on responsible disposal management of the Nation’s legacy sites.

**Changes in Existing Law**

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, changes in existing law made by the original bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

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

Public Law 95–604, as amended

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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 subchapter shall terminate on September 30, 1998, except that—

(A) the authority of the Secretary to perform groundwater restoration activities under this subchapter 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.

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