

SENATE FILE NO. SF0023

NRC agreement state amendments.

Sponsored by: Joint Minerals, Business & Economic
Development Interim Committee

A BILL

for

1 AN ACT relating to environmental quality; amending the
2 state's authority to regulate source material from recovery
3 or milling and the created by-product material as
4 specified; providing for the department of environmental
5 quality to implement and administer the program; requiring
6 licensure; providing license requirements as specified;
7 providing rulemaking authority; providing definitions;
8 repealing superseded provisions; and providing for an
9 effective date.

10

11 *Be It Enacted by the Legislature of the State of Wyoming:*

12

13 **Section 1.** W.S. 35-11-2002 through 35-11-2004 are
14 created to read:

15

1 **35-11-2002. Authority of department to enforce**
2 **article; rulemaking.**

3
4 (a) Except as provided in this act, no person shall
5 acquire, own, possess, transfer, offer or receive for
6 transport or use any source material from recovery or
7 milling and the created by-product material without having
8 been granted a license therefore from the department or the
9 nuclear regulatory commission. The department is authorized
10 to regulate and penalize any unlicensed activities
11 involving source material from recovery or milling and the
12 created by-product material.

13
14 (b) The council, upon recommendation from the
15 director, is authorized to promulgate reasonable rules and
16 regulations necessary to effectuate the purposes of this
17 article.

18
19 **35-11-2003. Licensure; license requirements;**
20 **enforcement actions.**

21
22 (a) The director is authorized to issue licenses to
23 implement the requirements of the Atomic Energy Act of

1 1954, 42 U.S.C. § 2011 et seq., as amended. Licenses
2 issued under this section shall also authorize the
3 possession and use of source materials from recovery or
4 milling and by-product material as provided in this
5 article. The director is further authorized to enforce
6 license provisions in accordance with this article. The
7 department shall recognize existing and effective licenses
8 issued by the nuclear regulatory commission.

9
10 (b) The director is authorized to use license
11 conditions to address matters specific to particular
12 licensees. The department may impose additional license
13 conditions when required to protect public health and
14 safety.

15
16 (c) The director shall grant an exemption from a
17 license requirement, including an exemption from the
18 requirement to obtain a license, if the exemption provides
19 adequate protection of public health and safety and is
20 compatible with nuclear regulatory commission requirements.

21
22 (d) The department shall inspect a licensee's
23 operation to ensure compliance with license conditions, as

1 determined necessary by the administrator of the land
2 quality division to protect public health and safety. The
3 department shall also inspect proposed facilities and
4 proposed expansion of existing facilities to ensure that
5 unauthorized construction is not occurring. Licensees,
6 permittees and applicants for a license or permit shall
7 obtain and grant the department access to inspect their
8 mining operations, source material recovery or milling
9 operations and by-product material generated at such times
10 and frequencies as determined necessary by the department
11 to protect public health and safety.

12

13 (e) When issuing a license for by-product material
14 under this article, the director shall require licensees to
15 provide an approved financial assurance arrangement
16 consistent with nuclear regulatory commission requirements
17 provided in 10 C.F.R. part 40, appendix A, criterion 9, as
18 amended. The arrangement shall contain sufficient funds to
19 cover the costs of decommissioning and, to the extent
20 applicable, long-term surveillance and maintenance for
21 conventional source material milling and heap leach
22 facilities.

23

1 (f) The director is authorized to suspend licenses
2 and conduct enforcement actions in accordance with this
3 article, article 9 of this chapter and rules and
4 regulations promulgated under this act. The director is
5 authorized to suspend licenses and conduct enforcement
6 actions in accordance with department rules and regulations
7 and this article. In cases of an imminent threat to public
8 health and safety, the director is authorized to issue an
9 emergency order immediately suspending a license and any
10 associated activity as provided in W.S. 35-11-115. The
11 director is authorized to suspend or revoke a license for
12 repeated or continued noncompliance with program
13 requirements pursuant to its rules and regulations and this
14 article. The director is also authorized to seek injunctive
15 relief and impose civil or administrative monetary
16 penalties as provided by law.

17

18 **35-11-2004. License conditions; termination of**
19 **licenses.**

20

21 (a) The department shall prescribe conditions in
22 licenses issued, renewed or amended for an activity that
23 results in production of by-product material to minimize

1 or, if possible, eliminate the need for long-term
2 maintenance and monitoring before the termination of the
3 license.

4

5 (b) Prior to terminating any license the
6 administrator of the land quality division shall obtain a
7 determination from the nuclear regulatory commission that
8 the licensee has complied with the commission's
9 decontamination, decommissioning, disposal and reclamation
10 standards.

11

12 (c) Prior to terminating a by-product material
13 license the department shall ensure the ownership of a
14 disposal site and the by-product material resulting from
15 licensed activity are transferred to:

16

17 (i) The state of Wyoming; or

18

19 (ii) The federal government if the state
20 declines to acquire the site, the by-product material, or
21 both the site and the by-product material.

22

1 (d) Upon the transfer of a disposal site or the
2 by-product material resulting from licensed activity to the
3 federal government, funds collected for decommissioning and
4 long-term surveillance shall also be transferred to the
5 federal government.

6
7 **Section 2.** W.S. 35-11-103 by creating a new
8 subsection (j) and 35-11-2001(a) through (c) are amended
9 to read:

10
11 **35-11-103. Definitions.**

12
13 (j) Specific definitions applying to nuclear
14 regulatory functions of the state as provided in article 20
15 of this chapter:

16
17 (i) "By-product material" means the tailings or
18 wastes produced by the extraction or concentration of
19 uranium and thorium from any ore processed primarily for
20 its source material content as defined in section 11(e)(2)
21 of the Atomic Energy Act of 1954, 42 U.S.C. § 2014(e)(2),
22 as amended;

1 (ii) "Recovery or milling" means as defined in
2 10 C.F.R. part 40.4, as amended, to include any activity
3 that generates by-product material as defined in section
4 11(e) (2) of the Atomic Energy Act of 1954, 42 U.S.C. §
5 2014(e) (2), as amended;

6
7 (iii) "Source material" means uranium or
8 thorium, or any combination thereof, in any physical or
9 chemical form or ores which contain by weight five
10 hundredths of one percent (0.05%) or more of uranium,
11 thorium, or any combination thereof. Source material does
12 not include special nuclear material.

13
14 **35-11-2001. Authorization to negotiate transfer of**
15 **certain nuclear regulatory functions to the state.**

16
17 (a) The governor, on behalf of the state, is
18 authorized to contact the ~~federal~~-nuclear regulatory
19 commission to express the intent of the state of Wyoming to
20 enter into an agreement with the nuclear regulatory
21 commission providing for the assumption by the state of
22 ~~responsibilities relating to the regulation of source~~
23 ~~materials from uranium mining and milling and the wastes~~

1 ~~associated with the recovery, mining and milling of such~~
2 ~~source materials~~ regulatory authority over source material
3 from recovery or milling and by-product material included
4 under section 274 of the Atomic Energy Act of 1954, 42
5 U.S.C. § 2021, as amended. The nuclear regulatory
6 commission shall maintain regulation over the activities
7 reserved under section 274 of the Atomic Energy Act of
8 1954, 42 U.S.C. § 2021, as amended.

9
10 (b) The department ~~of environmental quality~~ shall
11 serve as the lead agency for the regulation of source
12 ~~materials from uranium mining and milling and the wastes~~
13 ~~associated with the recovery, mining and milling of such~~
14 ~~source materials~~ material from recovery or milling and the
15 by-product materials generated pursuant to the requirements
16 of this article in the state of Wyoming. ~~under any proposed~~
17 ~~agreement negotiated under this section~~ The department is
18 authorized to enforce the requirements of the Atomic Energy
19 Act of 1954, 42 U.S.C. § 2011 et seq., as amended, under
20 the agreement reached between the state and the nuclear
21 regulatory commission as provided in section 274 of the
22 Atomic Energy Act of 1954, 42 U.S.C. § 2021, as amended.

23

1 (c) The governor, through the department, is
2 authorized to negotiate all aspects of a potential
3 agreement under this section between the state of Wyoming
4 and the ~~federal~~-nuclear regulatory commission. The
5 governor is authorized to enter into a final agreement with
6 the ~~federal~~-nuclear regulatory commission for the
7 regulation of source ~~materials from uranium mining and~~
8 ~~milling and the wastes associated with the recovery, mining~~
9 ~~and milling of such source materials~~ material from recovery
10 or milling and the by-product material generated in the
11 state of Wyoming pursuant to the requirements of this
12 ~~section~~ article. ~~A final agreement under this section shall~~
13 ~~include all necessary components of a program to regulate~~
14 ~~source materials from uranium mining and milling and the~~
15 ~~wastes associated with the recovery of such source~~
16 ~~materials.~~

17

18 **Section 3.** W.S. 35-11-2001(d) is repealed.

19

20 **Section 4.** This act is effective immediately upon
21 completion of all acts necessary for a bill to become law
22 as provided by Article 4, Section 8 of the Wyoming
23 Constitution.

1

2

(END)