

HOUSE BILL NO. HB0004

NRC agreement state amendments.

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

A BILL

for

1 AN ACT relating to the nuclear regulatory agreement;
2 clarifying scope of agreement and materials subject to
3 state regulation; amending definitions; excluding certain
4 laboratories from state regulation; clarifying reciprocity
5 of out of state licenses; amending requirements related to
6 financial assurance arrangements; authorizing the director
7 to impound materials as specified; making conforming
8 amendments; and providing for an effective date.

9

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

11

12 **Section 1.** W.S. 35-11-103(d)(v)(A), (E), (j)(i) and
13 (ii), 35-11-2001(a) through (c) and by creating a new
14 subsection (e), 35-11-2002(a) and (b) and 35-11-2003(a),
15 (d) through (f) are amended to read:

1

2 **35-11-103. Definitions.**

3

4 (d) Specific definitions applying to solid waste
5 management:

6

7 (v) "Commercial radioactive waste management
8 facility" means any facility used or intended to be used to
9 receive for disposal, storage, reprocessing or treatment,
10 any amount of radioactive wastes which are generated by any
11 person other than the facility owner or operator, or which
12 are generated at a location other than the location of the
13 facility, but does not include:

14

15 (A) Uranium mill tailings facilities
16 licensed by the United States Nuclear Regulatory Commission
17 which receive in situ leaching uranium mining ~~by-product~~
18 byproduct materials or are specifically authorized by the
19 department on a limited basis to receive small quantities
20 of wastes defined in section ~~11e(2)~~ 11e.(2) of the Atomic
21 Energy Act of 1954, 42 U.S.C. § 2014(e)(2), ~~as amended,~~
22 which were generated by persons other than the facility

1 owner or operator or which were generated at a location
2 other than the location of the facility, or both; and

3
4 (E) Facilities licensed by the United
5 States nuclear regulatory commission whose sole purpose is
6 to receive in situ leaching uranium mining ~~by-product~~
7 byproduct materials as defined in section ~~11(e)(2)~~ 11e.(2)
8 of the Atomic Energy Act of 1954, 42 U.S.C. § 2014(e)(2),
9 as amended.

10
11 (j) Specific definitions applying to nuclear
12 regulatory functions of the state as provided in article 20
13 of this chapter:

14
15 (i) "Byproduct material" means the tailings or
16 wastes produced by the extraction or concentration of
17 uranium ~~and or~~ thorium from any ore processed primarily for
18 its source material content as defined in section ~~11(e)(2)~~
19 11e.(2) of the Atomic Energy Act of 1954, 42 U.S.C. §
20 2014(e)(2), as amended;

21
22 (ii) "Recovery or milling" means ~~as defined in~~
23 ~~10 C.F.R. part 40.4, as amended, to include~~ any activity

1 that generates byproduct material as defined in section
2 ~~11(e) (2)~~ 11e.(2) of the Atomic Energy Act of 1954, 42
3 U.S.C. § 2014(e) (2), as amended;

4
5 **35-11-2001. Authorization to negotiate transfer of**
6 **certain nuclear regulatory functions to the state; scope of**
7 **regulated material.**

8
9 (a) The governor, on behalf of the state, is
10 authorized to contact the nuclear regulatory commission to
11 express the intent of the state of Wyoming to enter into an
12 agreement under section 274 of the Atomic Energy Act of
13 1954, 42 U.S.C. § 2021, as amended, with the nuclear
14 regulatory commission providing for the assumption by the
15 state of regulatory authority over source material ~~from~~
16 involved in uranium or thorium recovery or milling and
17 byproduct material, ~~included under~~ as defined in section
18 ~~274~~ 11e.(2) of the Atomic Energy Act of 1954, 42 U.S.C. §
19 ~~2021~~ 2014(e) (2), as amended. The nuclear regulatory
20 commission shall maintain ~~regulation~~ regulatory authority
21 over all other source material, section 11e.(1), (3) and
22 (4) byproduct material and special nuclear material as
23 defined in the Atomic Energy Act of 1954, 42 U.S.C. § 2014,

1 as amended, and the activities reserved under section 274
2 of the Atomic Energy Act of 1954, 42 U.S.C. § 2021, as
3 amended.

4
5 (b) The department shall serve as the lead agency for
6 the regulation of source material ~~from~~ involved in uranium
7 or thorium recovery or milling and the associated byproduct
8 material. ~~generated pursuant to the requirements of this~~
9 ~~article in the state of Wyoming.~~ The department is
10 authorized to enforce the requirements of the Atomic Energy
11 Act of 1954, 42 U.S.C. § 2011 et seq., as amended, under
12 the agreement reached between the state and the nuclear
13 regulatory commission as provided in section 274 of the
14 Atomic Energy Act of 1954, 42 U.S.C. § 2021, as amended.

15
16 (c) The governor, through the department, is
17 authorized to negotiate all aspects of a potential
18 agreement under this section between the state of Wyoming
19 and the nuclear regulatory commission. The governor is
20 authorized to enter into a final agreement with the nuclear
21 regulatory commission for the regulation of source material
22 ~~from~~ involved in uranium or thorium recovery or milling and

1 the associated byproduct material. ~~generated in the state~~
2 ~~of Wyoming pursuant to the requirements of this article.~~

3
4 (e) The categories of materials governed by this
5 article, as agreed upon by the nuclear regulatory
6 commission and the state, are source material involved in
7 uranium or thorium recovery or milling and the associated
8 byproduct material, as defined in section 11e.(2) of the
9 Atomic Energy Act of 1954, 42 U.S.C. § 2014(e)(2), as
10 amended. This article does not govern independent or
11 commercial laboratory facilities that possess, use or
12 accept byproduct material. The nuclear regulatory
13 commission shall retain regulatory authority over
14 independent or commercial laboratory facilities.

15
16 **35-11-2002. Authority of department to enforce**
17 **article; rulemaking.**

18
19 (a) Except as provided in this act, no person shall
20 acquire, own, possess, transfer, offer or receive for
21 transport or use any source material ~~from~~ involved in
22 uranium or thorium recovery or milling and the ~~created~~
23 associated byproduct material without having been granted a

1 license therefore from the department or the nuclear
2 regulatory commission. The department is authorized to
3 regulate and penalize any unlicensed activities involving
4 source material ~~from~~ involved in uranium or thorium
5 recovery or milling and the ~~created~~ associated byproduct
6 material.

7
8 (b) The council, upon recommendation from the
9 director, is authorized to promulgate ~~reasonable~~ rules and
10 regulations necessary to effectuate the purpose of this
11 article.

12
13 **35-11-2003. Licensure; license requirements;**
14 **enforcement actions.**

15
16 (a) The director is authorized to issue licenses to
17 implement the requirements of the Atomic Energy Act of
18 1954, 42 U.S.C. § 2011 et seq., as amended. Licenses
19 issued under this section shall also authorize the
20 possession and use of source materials ~~from~~ involved in
21 uranium or thorium recovery or milling and the associated
22 byproduct material as provided in this article. The
23 director is further authorized to enforce license

1 provisions in accordance with this article. The department
2 shall recognize existing and effective licenses issued by
3 the nuclear regulatory commission. The department shall
4 also recognize licenses issued by other agreement states
5 only for source material involved in uranium or thorium
6 recovery or milling or the associated byproduct material.

7
8 (d) The department shall inspect a licensee's
9 operation to ensure compliance with license conditions, as
10 determined necessary by the administrator of the land
11 quality division to protect public health and safety. The
12 department shall also inspect proposed facilities and
13 proposed expansion of existing facilities to ensure that
14 unauthorized construction is not occurring. Licensees,
15 permittees and applicants for a license or permit shall
16 obtain and grant the department access to inspect their
17 ~~mining operations~~ facilities, source material involved in
18 uranium or thorium recovery or milling ~~operations~~ and the
19 associated byproduct material ~~generated~~ at such times and
20 frequencies as determined necessary by the department to
21 protect public health and safety.

22

1 (e) When issuing a license for byproduct material
2 under this article, the director shall require licensees to
3 provide an approved financial assurance arrangement
4 consistent with nuclear regulatory commission requirements
5 provided in 10 C.F.R. part 40, appendix A, ~~critierion 9,~~ as
6 amended. The arrangement shall ~~contain sufficient funds to~~
7 cover the ~~costs of decommissioning and, to the extent~~
8 ~~applicable, long-term surveillance and maintenance for~~
9 ~~conventional source material milling and heap leach~~
10 ~~facilities~~ cost estimate and the payment of the charge for
11 long term surveillance and control pursuant to 10 C.F.R.
12 part 40, appendix A.

13
14 (f) The director is authorized to suspend licenses,
15 impound source material involved in uranium or thorium
16 recovery or milling and the associated byproduct material
17 and conduct enforcement actions in accordance with this
18 article, article 9 of this chapter and rules and
19 regulations promulgated under this act. The director is
20 authorized to suspend licenses and conduct enforcement
21 actions in accordance with department rules and regulations
22 and this article. In cases of an imminent threat to public
23 health and safety, the director is authorized to issue an

1 emergency order immediately suspending a license and any
2 associated activity as provided in W.S. 35-11-115. The
3 director is authorized to suspend or revoke a license for
4 repeated or continued noncompliance with program
5 requirements pursuant to its rules and regulations and this
6 article. The director is also authorized to seek injunctive
7 relief and impose civil or administrative monetary
8 penalties as provided by law.

10 **Section 2.** This act is effective immediately upon
11 completion of all acts necessary for a bill to become law
12 as provided by Article 4, Section 8 of the Wyoming
13 Constitution.

(END)