

ORIGINAL HOUSE
BILL NO. HB0004

ENROLLED ACT NO. 18, HOUSE OF REPRESENTATIVES

SIXTY-FOURTH LEGISLATURE OF THE STATE OF WYOMING
2017 GENERAL SESSION

AN ACT relating to the nuclear regulatory agreement and nuclear regulatory functions of the state developed under the agreement; requiring the adoption of a fee structure; permitting the assessment of fees as specified; clarifying scope of agreement and materials subject to state regulation; amending definitions; excluding certain laboratories from state regulation; clarifying reciprocity of out of state licenses; amending requirements related to financial assurance arrangements; authorizing the director to impound materials as specified; making conforming amendments; and providing for an effective date.

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

Section 1. W.S. 35-11-2005 is created to read:

35-11-2005. Fees.

(a) The department shall adopt a fee structure which accounts for the full cost of the program, including positions authorized by this article and other positions assessed to implement the program developed under this article.

(b) The department may assess fees for the regulation of source material under article 4 of this chapter, including but not limited to the review and processing of mining permit applications.

Section 2. W.S. 35-11-103(d)(v)(A), (E), (j)(i) and (ii), 35-11-2001(a) through (c) and by creating a new subsection (e), 35-11-2002(a) and (b) and 35-11-2003(a), (d) through (f) are amended to read:

35-11-103. Definitions.

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(d) Specific definitions applying to solid waste management:

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

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

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

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

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

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

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

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

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

(c) The governor, through the department, is authorized to negotiate all aspects of a potential agreement under this section between the state of Wyoming and the nuclear regulatory commission. The governor is authorized to enter into a final agreement with the nuclear regulatory commission for the regulation of source material ~~from~~ involved in uranium or thorium recovery or milling and the associated byproduct material. ~~generated in the state of Wyoming pursuant to the requirements of this article.~~

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

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

(a) Except as provided in this act, no person shall acquire, own, possess, transfer, offer or receive for transport or use any source material ~~from~~involved in uranium or thorium recovery or milling and the ~~created~~associated byproduct material without having been granted a license therefore from the department or the nuclear regulatory commission. The department is authorized to regulate and penalize any unlicensed activities involving source material ~~from~~involved in uranium or thorium recovery or milling and the ~~created~~associated byproduct material.

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

35-11-2003. Licensure; license requirements; enforcement actions.

(a) The director is authorized to issue licenses to implement the requirements of the Atomic Energy Act of 1954, 42 U.S.C. § 2011 et seq., as amended. Licenses issued under this section shall also authorize the possession and use of source materials ~~from~~involved in uranium or thorium recovery or milling and the associated byproduct material as provided in this article. The director is further authorized to enforce license provisions in accordance with this article. The department shall recognize existing and effective licenses issued by the nuclear regulatory commission. The department shall also recognize licenses issued by other agreement states

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only for source material involved in uranium or thorium recovery or milling or the associated byproduct material.

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

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

(f) The director is authorized to suspend licenses, impound source material involved in uranium or thorium recovery or milling and the associated byproduct material and conduct enforcement actions in accordance with this

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

Section 3. 2015 Wyoming Session Laws, Chapter 60, Section 2(c) is repealed.

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

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the House.

Chief Clerk