

ENROLLED ACT NO. 22, HOUSE OF REPRESENTATIVES

SIXTY-SEVENTH LEGISLATURE OF THE STATE OF WYOMING
2023 GENERAL SESSION

AN ACT relating to environmental quality; authorizing the governor to begin negotiations with the nuclear regulatory commission to seek an agreement for the state to assume regulation of source material recovered from any mineral resources processed primarily for purposes other than obtaining the source material content; authorizing the governor to negotiate and enter into a final agreement with the nuclear regulatory commission; providing definitions; providing for the department of environmental quality to administer the agreement; providing rulemaking authority; requiring the department of environmental quality to adopt fees as specified; making conforming amendments; providing an appropriation; authorizing positions; and providing for an effective date.

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

Section 1. W.S. 35-11-2001(a) through (c) and (e), 35-11-2002(a) and 35-11-2003(a), (d) and (f) are amended to read:

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 involved in uranium or thorium recovery or milling and byproduct material, as defined in section 11e.(2) of the Atomic

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Energy Act of 1954, 42 U.S.C. § 2014(e)(2), as amended. The governor, on behalf of the state, is also 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 source material recovered from any mineral resources processed primarily for purposes other than obtaining the source material content. For the purposes of this agreement, the term "mineral resources" means any host rock, ore, material or waste associated with mining or milling that contains a recoverable mineral. The nuclear regulatory commission shall maintain 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.

(b) The department shall serve as the lead agency for the regulation of (1) source material involved in uranium or thorium recovery or milling and the associated byproduct material and (2) the source material recovered from any mineral resources processed primarily for purposes other than obtaining the source material content. 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 subsection (a) of this section and in section 274 of the Atomic Energy Act of 1954, 42 U.S.C. § 2021, as amended.

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(c) The governor, through the department, is authorized to negotiate all aspects of ~~a potential~~the 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 (1) source material involved in uranium or thorium recovery or milling and the associated byproduct material and (2) the source material recovered from any mineral resources processed primarily for purposes other than obtaining the source material content.

(e) The categories of materials governed by this article, as agreed upon by the nuclear regulatory commission and the state, are (1) 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 and (2) source material as defined in section 11z. of the Atomic Energy Act of 1954, 42 U.S.C. § 2014(z) recovered from any mineral resources processed primarily for purposes other than obtaining the source material content. This article does not govern independent or commercial laboratory facilities that possess, use or accept source material or byproduct material. The nuclear regulatory commission shall retain regulatory authority over independent or commercial laboratory facilities.

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 (1) source material involved in uranium or thorium recovery or milling and the associated

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byproduct material or (2) source material recovered from any mineral resources processed primarily for purposes other than obtaining the source material content 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 (1) source material involved in uranium or thorium recovery or milling and the associated byproduct material or (2) source material recovered from any mineral resources processed primarily for purposes other than obtaining the source material content.

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 (1) source materials involved in uranium or thorium recovery or milling and the associated byproduct material or (2) source material recovered from any mineral resources primarily for purposes other than obtaining the source material content 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 only for (1) source material involved in uranium or thorium recovery or milling or the associated byproduct material or (2) the source material recovered from any mineral resources primarily for purposes other than obtaining the source material content.

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(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 facilities, source material involved in uranium or thorium recovery or milling and the associated byproduct material or the source material recovered from any mineral resources processed primarily for purposes other than obtaining the source material content at such times and frequencies as determined necessary by the department to protect public health and safety.

(f) The director is authorized to suspend licenses, impound (1) source material involved in uranium or thorium recovery or milling and the associated byproduct material and (2) the source material recovered from any mineral resources processed primarily for purposes other than obtaining the source material content and conduct enforcement actions in accordance with this 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

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article. The director is also authorized to seek injunctive relief and impose civil or administrative monetary penalties as provided by law.

Section 2.

(a) Upon commencement of negotiations as authorized in W.S. 35-11-2001(a) as provided in section 1 of this act, the department of environmental quality shall adopt a fee structure for licenses for source material recovered from any mineral resources processed primarily for purposes other than obtaining the source material content in accordance with W.S. 35-11-2005.

(b) The environmental quality council, upon recommendation from the director, shall promulgate rules and regulations for the regulation of source material recovered from any mineral resources processed primarily for purposes other than obtaining the source material content.

Section 3. The department of environmental quality is authorized up to two (2) additional full-time positions for the period beginning with the effective date of this act and ending June 30, 2026 for purposes of implementing this act. It is the intent of the legislature that the department of environmental quality include these full-time positions in its 2026-2027 standard budget request.

Section 4. There is appropriated one million eight hundred forty thousand dollars (\$1,840,000.00) from the general fund to the department of environmental quality for the period beginning with the effective date of this act and ending June 30, 2026 to be expended only for purposes of entering into an agreement with the nuclear regulatory

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commission as authorized by W.S. 35-11-2001(a), as provided by section 1 of this act, and for establishing a program to assume regulatory authority over source material recovered from any mineral resources processed for purposes other than obtaining the source material content. This appropriation shall not be transferred or expended for any other purpose and any unexpended, unobligated funds remaining from this appropriation shall revert as provided by law on June 30, 2026. It is the intent of the legislature that this appropriation be included in the standard budget of the department of environmental quality for the 2026-2027 fiscal biennium through a general fund appropriation.

ORIGINAL HOUSE
BILL NO. HB0061

ENGROSSED

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Section 5. 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