

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 byproduct material as specified;
4 providing for the department of environmental quality to
5 implement and administer the program; requiring licensure;
6 providing license requirements as specified; providing
7 rulemaking authority; providing definitions; amending
8 definitions; repealing superseded provisions; and providing
9 for an 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 byproduct 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 byproduct 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 (c) To the extent it is not inconsistent with the
20 provisions of this article, article 4 of this chapter shall
21 apply to all licenses issued and actions taken under this
22 article.

23

1 **35-11-2003. Licensure; license requirements;**
2 **enforcement actions.**

3
4 (a) The director is authorized to issue licenses to
5 implement the requirements of the Atomic Energy Act of
6 1954, 42 U.S.C. § 2011 et seq., as amended. Licenses
7 issued under this section shall also authorize the
8 possession and use of source materials from recovery or
9 milling and byproduct material as provided in this article.
10 The director is further authorized to enforce license
11 provisions in accordance with this article. The department
12 shall recognize existing and effective licenses issued by
13 the nuclear regulatory commission.

14

15 (b) The director is authorized to use license
16 conditions to address matters specific to particular
17 licensees. The department may impose additional license
18 conditions when required to protect public health and
19 safety.

20

21 (c) The director shall grant an exemption from a
22 license requirement, including an exemption from the
23 requirement to obtain a license, if the exemption provides

1 adequate protection of public health and safety and is
2 compatible with nuclear regulatory commission requirements.

3

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

17

18 (e) When issuing a license for byproduct material
19 under this article, the director shall require licensees to
20 provide an approved financial assurance arrangement
21 consistent with nuclear regulatory commission requirements
22 provided in 10 C.F.R. part 40, appendix A, criterion 9, as
23 amended. The arrangement shall contain sufficient funds to

1 cover the costs of decommissioning and, to the extent
2 applicable, long-term surveillance and maintenance for
3 conventional source material milling and heap leach
4 facilities.

5

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

22

1 **35-11-2004. License conditions; termination of**
2 **licenses.**

3

4 (a) The department shall prescribe conditions in
5 licenses issued, renewed or amended for an activity that
6 results in production of byproduct material to minimize or,
7 if possible, eliminate the need for long-term maintenance
8 and monitoring before the termination of the license.

9

10 (b) Prior to terminating any license the
11 administrator of the land quality division shall obtain a
12 determination from the nuclear regulatory commission that
13 the licensee has complied with the commission's
14 decontamination, decommissioning, disposal and reclamation
15 standards.

16

17 (c) Prior to terminating a byproduct material license
18 the department shall ensure the ownership of a disposal
19 site and the byproduct material resulting from licensed
20 activity are transferred to:

21

22 (i) The state of Wyoming; or

23

1 (ii) The federal government if the state
2 declines to acquire the site, the byproduct material, or
3 both the site and the byproduct material.

4
5 (d) Upon the transfer of a disposal site or the
6 byproduct material resulting from licensed activity to the
7 federal government, funds collected for decommissioning and
8 long-term surveillance shall also be transferred to the
9 federal government.

10
11 **Section 2.** W.S. 35-11-103(a)(xiii) and by creating a
12 new subsection (j) and 35-11-2001(a) through (c) are
13 amended to read:

14
15 **35-11-103. Definitions.**

16
17 (a) For the purpose of this act, unless the context
18 otherwise requires:

19
20 (xiii) "This act" means W.S. 35-11-101 through
21 35-11-403, 35-11-405, 35-11-406, 35-11-408 through
22 35-11-1106, 35-11-1414 through 35-11-1428, 35-11-1601

1 through 35-11-1613, 35-11-1701, ~~and~~ 35-11-1801 through
2 35-11-1803 and 35-11-2001 through 35-11-2004.

3
4 (j) Specific definitions applying to nuclear
5 regulatory functions of the state as provided in article 20
6 of this chapter:

7
8 (i) "Byproduct material" means the tailings or
9 wastes produced by the extraction or concentration of
10 uranium and thorium from any ore processed primarily for
11 its source material content as defined in section 11(e)(2)
12 of the Atomic Energy Act of 1954, 42 U.S.C. § 2014(e)(2),
13 as amended;

14
15 (ii) "Recovery or milling" means as defined in
16 10 C.F.R. part 40.4, as amended, to include any activity
17 that generates byproduct material as defined in section
18 11(e)(2) of the Atomic Energy Act of 1954, 42 U.S.C. §
19 2014(e)(2), as amended;

20
21 (iii) "Source material" means uranium or
22 thorium, or any combination thereof, in any physical or
23 chemical form or ores which contain by weight one-twentieth

1 of one percent (0.05%) or more of uranium, thorium, or any
2 combination thereof. Source material does not include
3 special nuclear material.

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

7
8 (a) The governor, on behalf of the state, is
9 authorized to contact the ~~federal~~-nuclear regulatory
10 commission to express the intent of the state of Wyoming to
11 enter into an agreement with the nuclear regulatory
12 commission providing for the assumption by the state of
13 ~~responsibilities relating to the regulation of source~~
14 ~~materials from uranium mining and milling and the wastes~~
15 ~~associated with the recovery, mining and milling of such~~
16 ~~source materials~~ regulatory authority over source material
17 from recovery or milling and byproduct material included
18 under section 274 of the Atomic Energy Act of 1954, 42
19 U.S.C. § 2021, as amended. The nuclear regulatory
20 commission shall maintain regulation over the activities
21 reserved under section 274 of the Atomic Energy Act of
22 1954, 42 U.S.C. § 2021, as amended.

23

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

14

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

1 or milling and the byproduct material generated in the
2 state of Wyoming pursuant to the requirements of this
3 ~~section article. A final agreement under this section shall~~
4 ~~include all necessary components of a program to regulate~~
5 ~~source materials from uranium mining and milling and the~~
6 ~~wastes associated with the recovery of such source~~
7 ~~materials.~~

8

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

10

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

15

16

(END)