

ENGROSSED

ORIGINAL HOUSE

BILL NO. HB0027

ENROLLED ACT NO. 43, HOUSE OF REPRESENTATIVES

SIXTY-THIRD LEGISLATURE OF THE STATE OF WYOMING

2015 GENERAL SESSION

The bill summary is amended to read:

A BILL

for

AN ACT relating to protection of public health and safety and environmental quality; authorizing the governor and State to pursue, negotiate, and assume regulatory authority over source material milling, and the byproduct material from such milling activities from the United States Nuclear Regulatory Commission (NRC) under Section 275 of the Federal Atomic Energy Act of 1954, as amended (AEA) (42 U.S.C. § 2011 et seq. (2015)), as specified; authorizing the Department to implement and administer the program; providing rulemaking authority; authorizing additional positions as specified; directing the Department to adopt a fee structure under the program as specified; providing appropriations; and providing for an effective date.

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

W.S. 35-11-109 is amended by creating new subsection (j) to read:

(j) Specific definitions applying to the Nuclear Regulatory Agreement:

(1) "AEA" is defined as the Federal Atomic Energy Act of 1954 as amended (42.U.S.C § 2011 et seq.)

(2) "Byproduct material" is defined as the tailings or wastes produced by the extraction or concentration of Uranium and Thorium from any ore processed primarily for its source material content as defined in section 11(e) (2) of the AEA (42 U.S.C. § 2014(e) (2) (2015));

(3) "Source material milling" is defined as any activity that generates byproduct material as defined in Section 11(e) (2) of the AEA (42 U.S.C. § 2014(e) (2) (2015)).

ARTICLE 20

NUCLEAR REGULATORY AGREEMENT

W.S. 35-11-2001 is amended to read:

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

(a) The governor, on behalf of the state, is authorized to contact the United States Nuclear Regulatory Commission (NRC) to express the intent of the State to enter

45 into an agreement with NRC providing for the assumption by the
46 State of regulatory authority over source material milling, and
47 the byproduct materials from such milling under Section 274 of
48 the AEA (42 U.S.C. § 2021 (2015)).

49 (b) The Department shall serve as the lead agency for
50 the regulation of the AEA materials and activities described in
51 W.S. 35-11-2001(a) for the State. The Department is authorized
52 to issue licenses as the means of authorizing licensees to possess
53 and use source material from milling and byproduct materials.
54 The Department shall also recognize existing and effective
55 licenses issued by the NRC.

56 (c) The governor, through the Department, is authorized to
57 negotiate all aspects of a potential agreement under this
58 section between the State and the NRC. The governor is
59 authorized to enter into a final agreement with the NRC for the
60 regulation of the AEA materials and activities described in W.S.
61 35-11-2001(a) of this Article. **W.S. 35-11-2002 through 32-11-**

62 **2003 are created to read:**

63 **35-11-2002. Rulemaking authority and procedure.**

64 (a) The Department is authorized to promulgate reasonable
65 rules and regulations necessary to effectuate the purposes of
66 this Article.

(b) The Department shall propose new rules and regulations consistent with the Wyoming Administrative Procedure Act (W.S. 16-3-101 et seq.) as necessary to effectuate the purposes of this Article.

(c) The Department is authorized to enforce regulations or other legally binding requirements such as license conditions or orders.

(d) The Department is authorized to use license conditions to address matters specific to particular licensees. The Department may impose license conditions containing additional requirements when required to protect public health and safety.

(e) The Department shall permit exemption(s) from licensing requirements, including exemption(s) from the requirement to obtain a license, if the exemption(s) provide adequate protection of public health and safety.

(f) The Department shall inspect licensees' operations to ensure compliance with regulatory requirements, and at frequencies to be determined by the Department. The Department shall also inspect proposed facilities to ensure that unauthorized construction is not occurring. To facilitate inspections, licensees and proposed licensees shall obtain and grant access to the Department at all reasonable times.

(g) The Department is authorized to take prompt enforcement

90 action and may issue penalties or legal sanctions, if warranted
91 and appropriate pursuant to the rules and regulations of this Act.
92 The Department is also authorized to suspend licenses and conduct
93 enforcement actions in accordance with its rules and regulations
94 and this Act. In cases of an imminent threat to public health and
95 safety, the Department is authorized to immediately suspend a
96 license and associated activity(ies) prior to a hearing.

97 (h) The Department is authorized to suspend or revoke a
98 license for repeated or continued noncompliance with program
99 requirements pursuant to its rules and regulations and this Act
100 The Department is also authorized to seek injunctive relief and
101 impose civil or administrative monetary penalties pursuant to its
102 rules and regulations and this Act. This Article does not limit
103 any civil or criminal remedies or actions pursuant to W.S. § 35-
104 11-903.

105 **35-11-2003. Specific requirements for the licensing of**
106 **byproduct material.**

107 (a) The Department is authorized to implement through
108 rulemaking and licensing the enforcement of the requirements of
109 the AEA (42 U.S.C. § 2011 et seq. (2015)) under the agreement
110 reached between the State and NRC for the AEA materials and
111 activities described in W.S 35-11-2001(a). Specifically, the
112 Department shall:

(1) Regulate 11(e)(2) byproduct material as defined in W.S. 35-11-109(j)(2);

(2) Require licensees to provide an approved financial assurance arrangement consistent with NRC requirements at 10 CFR Part 40, Appendix A, Criterion 9 (2015). 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;

(3) Issue, modify, and terminate byproduct material licenses consistent with its rules and regulations;

(4) Before terminating a byproduct material license for an in situ recovery (ISR) facility or other facility where no permanent byproduct material disposal site is present, the Department shall obtain a determination from NRC that the licensee has complied with its decontamination, decommissioning, and reclamation standards.

Sections 2 and 3 are amended to read:

Section 2.

(a) The Department is authorized up to six (6) additional positions to implement the purposes of this Article. The

Department shall include these positions in its 2017-2018 standard budget request.

(b) The office of the attorney general is authorized two (2) additional full-time permanent positions to implement the purposes of this Article. The office of the attorney general shall include these positions in its 2017-2018 standard budget request.

(c) The Department shall adopt a fee structure which accounts for the full cost of a program developed under this Article.

Section 3.

(a) For the period beginning with the effective date of this Article through June 30, 2016, there is appropriated one million two hundred seventeen thousand nine hundred sixty-one dollars (\$1,217,961.00) from the general fund to the Department to fund the full-time permanent positions authorized in subsection 2(a) of this Article. Notwithstanding any other provision of law, this appropriation shall not be transferred or expended for any other purpose. Any unobligated, unexpended funds shall revert as provided by law on June 30, 2016.

(b) For the period beginning with the effective date of this Article through June 30, 2016, there is appropriated

two hundred twelve thousand two hundred fifty-four dollars (\$212,254.00) from the general fund to the office of the attorney general to fund the full-time permanent positions authorized in subsection 2(b) of this Article. Notwithstanding any other provision of law, this appropriation shall not be transferred or expended for any other purpose. Any unobligated, unexpended funds shall revert as provided by law on June 30, 2016.

Section 4. This Article 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)

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173 _____
Speaker of the House

President of the Senate

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176 _____
Governor

177 TIME APPROVED: _____

178 DATE APPROVED: _____

179 I hereby certify that this act originated in the House.

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183 _____
Chief Clerk