

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

HOUSE BILL NO.

Source material associated with rare earth mining-agreement.

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

A BILL

for

1 AN ACT relating to environmental quality; authorizing the
2 governor to begin negotiations with the nuclear regulatory
3 commission to seek an agreement for the state to assume
4 regulation of source material involved in the incidental
5 recovery of uranium or thorium from rare earth mining
6 operations; authorizing the governor to negotiate and enter
7 into a final agreement with the nuclear regulatory
8 commission; providing definitions; providing for the
9 department of environmental quality to administer the
10 agreement; providing rulemaking authority; requiring the
11 department of environmental quality to adopt fees as
12 specified; making conforming amendments; providing an

1 appropriation; authorizing positions; and providing for an
2 effective date.

3
4 *Be It Enacted by the Legislature of the State of Wyoming:*

5
6 **Section 1.** W.S. 35-11-2001(b), (c), (e) and by
7 creating a new subsection (f), 35-11-2002(a) and 35-11-
8 2003(a), (d) and (f) are amended to read:

9
10 **35-11-2001. Authorization to negotiate transfer of**
11 **certain nuclear regulatory functions to the state; scope of**
12 **regulated material.**

13
14 (b) The department shall serve as the lead agency for
15 the regulation of source material involved in uranium or
16 thorium recovery or milling, ~~and~~ the associated byproduct
17 material and the incidental recovery of uranium or thorium
18 from rare earth mining or processing. The department is
19 authorized to enforce the requirements of the Atomic Energy
20 Act of 1954, 42 U.S.C. § 2011 et seq., as amended, under
21 the ~~agreement~~ agreements reached between the state and the
22 nuclear regulatory commission as provided in subsections

1 (a) and (f) of this section and in section 274 of the
2 Atomic Energy Act of 1954, 42 U.S.C. § 2021, as amended.

3
4 (c) The governor, through the department, is
5 authorized to negotiate all aspects of ~~a~~—potential
6 ~~agreement~~—agreements under this section between the state
7 of Wyoming and the nuclear regulatory commission. The
8 governor is authorized to enter into ~~a~~—final ~~agreement~~
9 agreements with the nuclear regulatory commission for the
10 regulation of source material involved in uranium or
11 thorium recovery or milling, ~~and~~—the associated byproduct
12 material and the incidental recovery of uranium or thorium
13 from rare earth mining or processing.

14
15 (e) The categories of materials governed by this
16 article, as agreed upon by the nuclear regulatory
17 commission and the state, are source material involved in
18 uranium or thorium recovery or milling ~~and~~—the associated
19 byproduct material~~,~~ as defined in section 11e.(2) of the
20 Atomic Energy Act of 1954, 42 U.S.C. § 2014(e)(2), as
21 amended and the incidental source material as defined in
22 section 11z. of the Atomic Energy Act of 1954, 42 U.S.C. §
23 2014(z). This article does not govern independent or

1 commercial laboratory facilities that possess, use or
2 accept byproduct material. The nuclear regulatory
3 commission shall retain regulatory authority over
4 independent or commercial laboratory facilities.

5
6 (f) The governor, on behalf of the state, is
7 authorized to contact the nuclear regulatory commission to
8 express the intent of the state of Wyoming to amend the
9 agreement authorized by subsection (a) of this section or
10 enter into an additional agreement under section 274 of the
11 Atomic Energy Act of 1954, 42 U.S.C. § 2021, as amended,
12 with the nuclear regulatory commission providing for the
13 assumption by the state of regulatory authority over source
14 material involved in incidental uranium or thorium
15 recovery, as defined by 42 U.S.C. § 2014(e)(2), that is
16 produced by rare earth mining or processing operations. The
17 nuclear regulatory commission shall maintain regulatory
18 authority over all other source material not specified in
19 this section, including byproduct material as defined by 42
20 U.S.C. § 2014(e)(1), (3) and (4), special nuclear material
21 as defined by 42 U.S.C. § 2014(aa) and the activities
22 reserved under section 274 of the Atomic Energy Act of
23 1954, 42 U.S.C. 2021, as amended.

1

2 **35-11-2002. Authority of department to enforce**
3 **article; rulemaking.**

4

5 (a) Except as provided in this act, no person shall
6 acquire, own, possess, transfer, offer or receive for
7 transport or use any source material involved in uranium or
8 thorium recovery or milling, ~~and~~ the associated byproduct
9 material and the incidental recovery of uranium or thorium
10 from rare earth mining or processing without having been
11 granted a license therefore from the department or the
12 nuclear regulatory commission. The department is authorized
13 to regulate and penalize any unlicensed activities
14 involving source material involved in uranium or thorium
15 recovery or milling, ~~and~~ the associated byproduct material
16 and the incidental recovery of uranium or thorium from rare
17 earth mining or processing.

18

19 **35-11-2003. Licensure; license requirements;**
20 **enforcement actions.**

21

22 (a) The director is authorized to issue licenses to
23 implement the requirements of the Atomic Energy Act of

1 1954, 42 U.S.C. § 2011 et seq., as amended. Licenses
2 issued under this section shall also authorize the
3 possession and use of source materials involved in uranium
4 or thorium recovery or milling, ~~and~~ the associated
5 byproduct material and the incidental recovery of uranium
6 or thorium from rare earth mining or processing as provided
7 in this article. The director is further authorized to
8 enforce license provisions in accordance with this article.
9 The department shall recognize existing and effective
10 licenses issued by the nuclear regulatory commission. The
11 department shall also recognize licenses issued by other
12 agreement states only for source material involved in
13 uranium or thorium recovery or milling, ~~or~~ the associated
14 byproduct material or the incidental recovery of uranium or
15 thorium from rare earth mining or processing.

16

17 (d) The department shall inspect a licensee's
18 operation to ensure compliance with license conditions, as
19 determined necessary by the administrator of the land
20 quality division to protect public health and safety. The
21 department shall also inspect proposed facilities and
22 proposed expansion of existing facilities to ensure that
23 unauthorized construction is not occurring. Licensees,

1 permittees and applicants for a license or permit shall
2 obtain and grant the department access to inspect their
3 facilities, source material involved in uranium or thorium
4 recovery or milling, ~~and~~ the associated byproduct material
5 and the incidental recovery of uranium or thorium from rare
6 earth mining or processing at such times and frequencies as
7 determined necessary by the department to protect public
8 health and safety.

9
10 (f) The director is authorized to suspend licenses,
11 impound source material involved in uranium or thorium
12 recovery or milling, ~~and~~ the associated byproduct material
13 and the incidental recovery of uranium or thorium from rare
14 earth mining or processing and conduct enforcement actions
15 in accordance with this article, article 9 of this chapter
16 and rules and regulations promulgated under this act. The
17 director is authorized to suspend licenses and conduct
18 enforcement actions in accordance with department rules and
19 regulations and this article. In cases of an imminent
20 threat to public health and safety, the director is
21 authorized to issue an emergency order immediately
22 suspending a license and any associated activity as
23 provided in W.S. 35-11-115. The director is authorized to

1 suspend or revoke a license for repeated or continued
2 noncompliance with program requirements pursuant to its
3 rules and regulations and this article. The director is
4 also authorized to seek injunctive relief and impose civil
5 or administrative monetary penalties as provided by law.

6
7 **Section 2.**

8
9 (a) Upon commencement of negotiations as authorized in
10 W.S. 35-11-2001(f), as created by section 1 of this act,
11 the department of environmental quality shall adopt a fee
12 structure for licenses for source material involved in
13 incidental uranium or thorium recovery, as defined by 42
14 U.S.C. § 2014(e)(2), that is produced by rare earth mining
15 and processing operations in accordance with W.S. 35-11-
16 2005.

17
18 (b) The environmental quality council, upon
19 recommendation from the director, shall promulgate rules
20 and regulations for the regulation of source material
21 involved in incidental uranium or thorium recovery, as
22 defined by 42 U.S.C. § 2014(e)(2), that is produced by rare
23 earth mining and processing operations.

1

2 **Section 3.** The department of environmental quality is
3 authorized up to two (2) additional full-time positions for
4 purposes of implementing this act. It is the intent of the
5 legislature that the department of environmental quality
6 include these full-time positions in its 2025-2026 standard
7 budget request.

8

9 **Section 4.** There is appropriated one million eight
10 hundred forty thousand dollars (\$1,840,000.00) from the
11 general fund to the department of environmental quality for
12 the period beginning with the effective date of this act
13 and ending June 30, 2027 to be expended only for purposes
14 of entering into an agreement with the nuclear regulatory
15 commission as authorized by W.S. 35-11-2001(f), as created
16 by section 1 of this act, and for establishing a program to
17 assume regulatory authority of source material involved in
18 incidental uranium or thorium recovery, as defined by 42
19 U.S.C. § 2014(e)(2), that is produced by rare earth mining
20 and processing operations. This appropriation shall not be
21 transferred or expended for any other purpose and any
22 unexpended, unobligated funds remaining from this
23 appropriation shall revert as provided by law on June 30,

1 2027. It is the intent of the legislature that this
2 appropriation be included in the standard budget of the
3 department of environmental quality for the immediately
4 succeeding fiscal biennium.

5

6 **Section 5.** This act is effective immediately upon
7 completion of all acts necessary for a bill to become law
8 as provided by Article 4, Section 8 of the Wyoming
9 Constitution.

10

11 (END)