

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

HOUSE BILL NO.

Used nuclear fuel storage-amendments.

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

A BILL

for

1 AN ACT relating to environmental quality; establishing
2 requirements and standards for the storage of used nuclear
3 fuel; amending siting requirements for used nuclear fuel
4 storage facilities; providing definitions; making
5 conforming amendments; repealing obsolete provisions;
6 requiring rulemaking; and providing for effective dates.

7

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

9

10 **Section 1.** W.S. 35-11-2201 and 35-11-2202 are created

11 to read:

12

1 ARTICLE 22 - USED NUCLEAR FUEL STORAGE

2

3 **35-11-2201. Definitions.**

4

5 (a) As used in this article:

6

7 (i) "Consolidated interim storage facility" means
8 a facility that stores used nuclear fuel that is reviewed
9 for and receives any required specific licenses from the
10 United States nuclear regulatory commission under title 10
11 of the Code of Federal Regulations, part 72;

12

13 (ii) "Dry cask storage" means the storage of used
14 nuclear fuel that has been cooled utilizing containers,
15 including any components and systems associated with the
16 containers, that use a realistic security, seismic and
17 flooding design basis for the storage of used nuclear fuel;

18

19 (iii) "Independent used fuel storage
20 installation" means an independent spent fuel storage
21 installation as defined by title 10 of the Code of Federal
22 Regulations, part 72, section 3;

23

1 (iv) "Installation" means an independent used
2 fuel storage installation and a consolidated interim
3 storage facility;

4

5 (v) "Used nuclear fuel" means fuel that has been
6 withdrawn from a nuclear reactor following irradiation, the
7 constituent elements of which have not been separated by
8 reprocessing. "Used nuclear fuel" includes the special
9 nuclear material, byproduct material, source material and
10 other radioactive materials associated with fuel
11 assemblies.

12

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14 *****

15 STAFF COMMENT

16
17 The definition of "independent spent fuel storage
18 installation" in the Code of Federal Regulations is below.

19

20 *Independent spent fuel storage installation or ISFSI* means
21 a complex designed and constructed for the interim storage
22 of spent nuclear fuel, solid reactor-related GTCC waste,
23 and other radioactive materials associated with spent fuel
24 and reactor-related GTCC waste storage. An ISFSI which is
25 located on the site of another facility licensed under this
26 part or a facility licensed under part 50 of this chapter
27 and which shares common utilities and services with that
28 facility or is physically connected with that other
29 facility may still be considered independent.

30

31 *****
32 *****

33

1 **35-11-2202. Used nuclear fuel storage installation;**
2 **application; siting requirements; funds.**

3

4 (a) Any person undertaking the siting of an
5 installation shall do so in accordance with this article.

6

7 (b) Any person undertaking the siting of any
8 installation governed by this article shall submit an
9 application to the department before commencing
10 construction of the installation. The application shall
11 include:

12

13 (i) A copy of any application and other materials
14 submitted to the United States nuclear regulatory
15 commission;

16

17 (ii) A copy of any license granted to the
18 applicant for the installation from the United States
19 nuclear regulatory commission;

20

21 (iii) An acknowledgment in writing that the
22 installation will be temporary and will use dry cask

1 storage for the storage of only used nuclear fuel that
2 originates from a nuclear facility in the United States;

3

4 (iv) To the extent that the following information
5 is not submitted to the department under paragraphs (i) or
6 (ii) of this subsection, the following information:

7

8 (A) The criteria upon which the proposed
9 installation site was chosen, and information showing how
10 the site meets the criteria of the nuclear regulatory
11 commission and the department;

12

13 (B) The technical feasibility of the
14 proposed storage equipment and technology;

15

16 (C) The environmental, social and economic
17 impact of the installation in the area of study;

18

19 (D) Conformance with the federal guidelines
20 for an installation.

21

22 (c) Upon receiving an application and the information
23 required under subsection (b) of this section, the

1 department, through the director, shall approve the
2 application for an installation:

3

4 (i) Upon satisfactory proof to the department
5 that the applicant has obtained a license for an
6 installation from the United States nuclear regulatory
7 commission and is otherwise in compliance with this
8 article;

9

10 (ii) That uses dry cask storage; and

11

12 (iii) That is temporary. The department shall
13 receive substantial assurances from the applicant that the
14 installation is temporary, including a license that is
15 time-limited from the United States nuclear regulatory
16 commission or other substantial assurances options
17 including a time frame for the movement of the used nuclear
18 fuel to be stored from the installation to a permanent
19 repository, delivery of the used nuclear fuel for
20 reprocessing or to a purchaser of used nuclear fuel for
21 reprocessing.

22

1 (d) Installations approved under this article are
2 exempt from the jurisdiction of the Industrial Development
3 Information and Siting Act.

4

5 (e) Not less than thirty (30) days before a person
6 commences construction on an installation, the person shall
7 submit a report to the department that includes:

8

9 (i) The number of jobs that will be created in
10 the planning, licensing, site analysis, preparation,
11 purchasing, construction, transportation, operation and
12 decommissioning of the installation and what number of
13 those jobs would be filled by Wyoming residents;

14

15 (ii) Local and state taxes that are estimated to
16 be generated by all aspects of the construction, operation
17 and decommissioning of the installation;

18

19 (iii) All benefits and impacts that will accrue
20 to the state and local community where the installation
21 will be located, including benefits from job training,
22 education, communications systems, monitoring and security
23 systems.

1

2 (f) The operator of each installation shall send to
3 the department copies of all publicly available reports,
4 notifications and violations sent to or from the United
5 States nuclear regulatory commission or the operator of the
6 installation as soon as practicable but not later than five
7 (5) days after the operator sends or receives the report.
8 The operator shall also transmit all information required
9 under this subsection to emergency management departments
10 of the local governments where the installation is located
11 and shall make the information available on a public
12 website.

13

14 (g) Upon receipt of an application under this article,
15 the director shall, as soon as possible, apply for any
16 funds that may be available to the state from the federal
17 interim storage fund, the federal nuclear waste fund and
18 any other funds that are or may become available to the
19 state under any federal or state program. Nothing in this
20 subsection shall be construed to authorize the siting,
21 construction or operation of any installation not otherwise
22 authorized under this article.

23

1 (h) Any used nuclear fuel in storage at an
2 installation shall remain the property of the generator of
3 the used nuclear fuel or the civilian nuclear power reactor
4 owner, until the used nuclear fuel is transferred to
5 permanent storage or until the United States or a federal
6 agency takes title to the used nuclear fuel under the
7 federal Nuclear Waste Policy Act or other applicable
8 federal law.

9

10 (j) This article shall be construed to avoid
11 duplication and to avoid interference with any of the
12 requirements of the United States nuclear regulatory
13 commission. Nothing in this article shall be deemed to
14 affect the authority of the United States nuclear
15 regulatory commission.

16

17 **Section 2.** W.S. 35-11-103(a)(xiii), 35-11-1501(a)(i)
18 through (iii), 35-11-1506(c)(intro), (iv) and (x) through
19 (xii) and (e)(i)(A) and 35-11-2101(b) and (d)(iv) are
20 amended to read:

21

22 **35-11-103. Definitions.**

23

1 (a) For the purpose of this act, unless the context
2 otherwise requires:

3
4 (xiii) "This act" means W.S. 35-11-101 through
5 35-11-403, 35-11-405, 35-11-406, 35-11-408 through 35-11-
6 1106, 35-11-1414 through 35-11-1432, 35-11-1601 through 35-
7 11-1613, 35-11-1701, 35-11-1801 through 35-11-1803, 35-11-
8 2001 through 35-11-2004, ~~and~~ 35-11-2101 and 35-11-2201 and
9 35-11-2202.

10

11 *****
12 *****
13 STAFF COMMENT

14
15 The effect of adding the new statutes to the definition of
16 "this act" is twofold: (1) brings in definitions of terms
17 used in this bill draft (i.e., "department" and
18 "director"); and (2) brings in the penalty provisions for
19 violations (W.S. 35-11-901(a), an up to \$10,000 per-day
20 fine for violations).

21 *****
22 *****
23

24
25 35-11-1501. Definitions.

26

27 (a) As used in this article:

28

1 (i) "High-level radioactive waste" means as
2 defined in the "Nuclear Waste Policy Act of 1982" as
3 amended, 42 U.S.C. 10101 et seq. "High-level radioactive
4 waste" does not include used nuclear fuel as defined by
5 W.S. 35-11-2201(a)(v);
6

7 (ii) "High-level radioactive waste storage" means
8 the emplacement of high-level radioactive waste, ~~or spent~~
9 ~~nuclear fuel~~ regardless of the intent to recover that waste
10 ~~or fuel~~ for subsequent use, processing or disposal;
11

12 (iii) "High-level radioactive waste storage
13 facility" includes any facility for high-level radioactive
14 waste storage, other than a permanent repository operated
15 by a federal agency pursuant to the Nuclear Waste Policy
16 Act of 1982, as amended. ~~"High-level radioactive waste~~
17 ~~storage facility" includes an independent spent fuel~~
18 ~~storage installation as defined in title 10 of the Code of~~
19 ~~Federal Regulations part 72 section 3;~~
20

21 **35-11-1506. Legislative approval of the siting of**
22 **high-level radioactive waste storage facilities;**
23 **conditions.**

1

2 (c) With permission of the governor and the management
3 council, an applicant for ~~either~~ a monitored retrievable
4 storage facility ~~or an independent spent fuel storage~~
5 ~~installation~~ may enter into a preliminary but nonbinding
6 feasibility agreement and study with the director which
7 shall be submitted to and reviewed by the director,
8 governor and the management council. The public shall be
9 afforded a thirty (30) day public comment opportunity to
10 review the feasibility agreement prior to its submission to
11 the governor and the management council. The purposes of
12 this feasibility agreement and study are to allow the state
13 to make a preliminary determination, whether, on the basis
14 of the feasibility agreement and study, the proposed
15 benefits substantially outweigh any adverse effects and to
16 allow an applicant based on the state's preliminary review
17 of any proposed benefit to determine whether or not a
18 prudent investor, planner, builder and operator would
19 decide to proceed with an application. Upon entering into a
20 feasibility agreement, the applicant shall pay to the state
21 a fee of eighty thousand dollars (\$80,000.00). Effective
22 July 1, 2018, and annually thereafter, the fee shall be
23 adjusted for inflation by the department using the consumer

1 price index or its successor index of the United States
2 department of labor, bureau of labor statistics, for the
3 calendar year immediately preceding the date of adjustment.
4 The fee shall be used by the department for costs attendant
5 to the preliminary agreement. Excess funds collected may be
6 used by the department to review an application submitted
7 under W.S. 35-11-1502. Appropriate time shall be afforded
8 the director, the governor, the management council and the
9 applicant to prepare and to evaluate the preliminary
10 agreement and study, but neither the state nor the
11 applicant shall unnecessarily delay the feasibility
12 agreement and study. The preliminary feasibility agreement
13 and study shall not supersede nor replace other
14 requirements under this act. This agreement and study shall
15 set forth the following:

16

17 (iv) The preliminary design plan and technical
18 feasibility of the planned temporary ~~fuel-rod~~high-level
19 radioactive waste storage facility;

20

21 (x) Substantial assurances that the facility is
22 temporary, including options for that assurance including a
23 time frame for the movement of the temporarily stored ~~fuel~~

1 ~~rods~~ high-level radioactive waste to a permanent
2 repository, delivery of the ~~stored rods~~ high-level
3 radioactive waste to reprocessing centers or to a
4 purchaser, domestic or foreign, buying the ~~rods~~ waste for
5 future reprocessing;

6

7 (xi) A range of benefits the nearby communities
8 and the state might expect in return for temporarily
9 storing the ~~fuel rods~~ high-level radioactive waste, and a
10 best estimate of when the benefits might begin to be
11 received by the nearby communities and state;

12

13 (xii) A mutual review, by the state and
14 applicant, of a range of taxes the state might reasonably
15 impose on the facility and the ~~fuel rods~~ high-level
16 radioactive waste while ~~they are~~ in temporary storage
17 including the annual acceptance taxes to be levied, ~~on fuel~~
18 ~~rods~~, based upon the ~~kilograms of fuel rods~~ weight, in
19 kilograms, of the high-level radioactive waste stored at
20 the Wyoming facility;

21

1 (e) The legislature hereby authorizes the siting of
2 temporary high-level radioactive waste storage facilities
3 within this state subject to the following:

4

5 (i) A facility is authorized if:

6

7 (A) It is operated on the site of and to
8 store the high-level radioactive waste ~~or spent nuclear~~
9 ~~fuel~~ produced by a nuclear power generation facility
10 operating within the state;

11

12 **35-11-2101. Advanced nuclear reactors; requirements.**

13

14 (b) Any person operating an advanced nuclear reactor
15 in the state of Wyoming in accordance with this section
16 shall not store ~~spent~~used nuclear fuel or high-level
17 radioactive waste from the advanced nuclear reactor on the
18 site of the advanced nuclear reactor without first meeting
19 all of the requirements of the United States Nuclear
20 Regulatory Commission.

21

22 (d) As used in this section:

23

1 (iv) "~~Spent~~Used nuclear fuel" means as defined
2 in W.S. ~~35-11-1501(a)(iv)~~35-11-2201(a)(v).

3

4 **Section 3.** W.S. 35-11-1501(a)(iv) is repealed.

5

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STAFF COMMENT

9

10 W.S. 35-11-1501(a)(iv) is the definition of "spent nuclear
11 fuel," made obsolete by the definitions in Article 22 that
12 is created here:

13

14 35-11-1501. Definitions.

15

16 (a) As used in this article:

17

18 ~~(iv) "Spent nuclear fuel" means as defined in the~~
19 ~~Nuclear Waste Policy Act of 1982 as amended, 42 U.S.C.~~
20 ~~10101 et seq.~~

21

22 *****

23

24

25 **Section 4.** The environmental quality council, upon
26 recommendation from the department of environmental
27 quality, shall promulgate all rules necessary to implement
28 this act.

29

30 **Section 5.**

31

1 (a) Except as provided in subsection (b) of this
2 section, this act is effective July 1, 2025.

3

4 (b) Sections 4 and 5 of this act are effective
5 immediately upon completion of all acts necessary for a
6 bill to become law as provided by Article 4, Section 8 of
7 the Wyoming Constitution.

8

9

(END)