

ARTICLE 20
NUCLEAR REGULATORY AGREEMENT

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 nuclear regulatory commission to express the intent of the state of Wyoming to enter into an agreement with the nuclear regulatory commission providing for the assumption by the state of regulatory authority over source material from recovery or milling and byproduct included under section 274 of the Atomic Energy Act of 1954, 42 U.S.C. § 2021, as amended. The nuclear regulatory commission shall maintain regulation over the activities reserved under section 274 of the Atomic Energy Act of 1954, 42 U.S.C. § 2021, as amended.

(b) The category of material governed by this article, as agreed upon by the nuclear regulatory commission and the state, is source material involved in the extraction and concentration of uranium and thorium in source material and ores at uranium and thorium milling facilities and the management and disposal of byproduct material. Throughout this article, this category of material shall be referred to as the source material from recovery or milling and the associated byproduct material. This article does not govern independent commercial laboratory facilities who possess, use, or accept byproduct material as defined in section 11e.(2) of the Atomic Energy Act of 1954, 42 U.S.C § 2021, as amended. The regulation over 11e.(2) byproduct material at independent commercial laboratory facilities shall remain with the nuclear regulatory commission.

(c) The department shall serve as the lead agency for the regulation of source material from recovery or milling and the associated byproduct material ~~generated pursuant to the requirements of this article in the state of Wyoming~~. 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 section 274 of the Atomic Energy Act of 1954, 42 U.S.C. § 2021, as amended.

(d) The governor, through the department, is authorized to negotiate all aspects of a potential 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 source material from recovery or milling and the associated byproduct material ~~generated in the state of Wyoming pursuant to the requirements of this article.~~

(e) Repealed by Laws 2016, ch. 7, § 3.

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 source material from recovery or milling and the created associated byproduct material 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 source material from recovery or milling and the created associated byproduct material.

(b) The council, upon recommendation from the director, is authorized to promulgate reasonable rules and regulations necessary to effectuate the purposes of this article.

(c) To the extent it is not inconsistent with the provisions of this article, article 4 of this chapter shall apply to all licenses issued and actions taken under this article.

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 source material from recovery or milling and the associated byproduct material 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.

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

(c) The director shall grant an exemption from a license requirement, including an exemption from the requirement to obtain a license, if the exemption provides adequate protection of public health and safety and is compatible with nuclear regulatory commission requirements.

(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 mining operations, source material recovery or milling operations and byproduct material **generated**, at such times and frequencies as determined necessary by the department to protect public health and safety.

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

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

35-11-2004. License conditions; termination of licenses.

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

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

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

(i) The state of Wyoming; or

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

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

35-11-103. License conditions; termination of licenses.

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

(i) "Byproduct material" means 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 Atomic Energy Act of 1954, 42 U.S.C. § 2014(e)(2), as amended. Byproduct material shall not include any materials located at an independent commercial laboratory facility;

(ii) "Recovery or milling" means as defined in 10 C.F.R. part 40.4, as amended, to include any activity that generates byproduct material as defined in section 11(e)(2) of

the Atomic Energy Act of 1954, 42 U.S.C. § 2014(e)(2), as amended;

(iii) "Source material" means uranium or thorium, or any combination thereof, in any physical or chemical form or ores which contain by weight one-twentieth of one percent (0.05%) or more of uranium, thorium, or any combination thereof. Source material does not include special nuclear material