

ENROLLED ACT NO. 9, HOUSE OF REPRESENTATIVES

SIXTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING
2022 BUDGET SESSION

AN ACT relating to environmental quality; authorizing and requiring the department of environmental quality and the environmental quality council to establish a voluntary assigned trust option for reclamation bonds as specified; specifying requirements for voluntary assigned trusts; specifying that any voluntary assigned trust proceeds are held in trust by the state on behalf of each operator's permit or license for fulfilling all or a portion of reclamation requirements; requiring rulemaking; and providing for effective dates.

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

Section 1. W.S. 35-11-417 by creating a new subsection (h) is amended to read:

35-11-417. Bonding provisions.

(h) The council shall promulgate rules for a voluntary assigned trust program for coal, bentonite, trona and uranium permits or licenses to bond all or a portion of the full cost of reclamation as recommended by the administrator and determined by the director. This subsection shall not become operative until the governor has signed rules that the council promulgates for a voluntary assigned trust program that require that the protection provided by voluntary assigned trusts be consistent with the objectives and purposes of this act. Any rules promulgated under this subsection shall be in accordance with the following:

(i) Participation in an assigned trust program shall be voluntary on the part of an operator. An operator seeking to participate in a voluntary assigned trust as part of the operator's bonding option shall elect to create

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an assigned trust as required by rules promulgated by the council;

(ii) The amount necessary for an operator to fully fund the voluntary assigned trust shall be recommended by the administrator and determined by the director in accordance with the provisions of this article for each operator's permit or license;

(iii) For each payment plan for a voluntary assigned trust:

(A) The department shall provide the state treasurer with a copy of the director's annual bond letter that discloses the reclamation obligation and the estimated mine life and duration of reclamation for each individual voluntary assigned trust;

(B) Participants in the assigned trust shall provide annual payments of not less than one percent (1%) of the total annual reclamation bond obligation at any time until the assigned trust is fully funded and sufficient to cover the cost of the reclamation obligation as provided in W.S. 35-11-417(c);

(C) Participants in the assigned trust shall provide other acceptable bonding instruments authorized by this act to cover the remaining full cost of reclamation.

(iv) The funds received for a voluntary assigned trust for coal shall be invested by the state treasurer as authorized by law and in a manner to obtain the highest net return possible consistent with the preservation of one hundred percent (100%) of the corpus of the assigned trust.

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All earnings from investment of the corpus of the assigned trust shall be credited by the state treasurer to the balance of each voluntary assigned trust;

(v) The funds received for a voluntary assigned trust for non-coal shall be invested by the state treasurer as authorized by law and in a manner to obtain the highest net return possible less any administrative fees consistent with the preservation of the corpus of the assigned trust. All earnings from investment of the corpus of the assigned trust shall be credited by the state treasurer to the balance of each voluntary assigned trust;

(vi) The investment options of the treasurer shall include funds authorized by law. The investment fund options used shall be based on the corpus protection requirements as provided in paragraphs (iv) and (v) of this subsection. No funds shall be withdrawn by the participant from these accounts during the first year after the establishment of the participant's voluntary assigned trust;

(vii) The participant shall deposit any cash into an irrevocable assigned trust, managed by the state treasurer for the benefit of the department. The assets of each assigned trust shall be available solely to cover the department's cost of completing reclamation in the event of forfeiture. No portion of the trust assets shall be returned to the participant until trust assets are released in accordance with W.S. 35-11-423;

(viii) Any remaining amounts within an assigned trust shall be released to the participant in the manner provided for bonds in accordance with the provisions of W.S. 35-11-423 after funds are applied to cover all costs

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of reclaiming the affected land. Reclamation funds from the assigned trust shall be withdrawn last, following certification of the requested bond release by the director. Bond reductions to the permit or license shall be made from any other bond instruments first until the assigned trust is fully funded;

(ix) Each assigned trust shall not be withdrawn until released by the director in accordance with this act and any rules promulgated under this act;

(x) Any rules promulgated under this act shall include:

(A) A process for withdrawal of funds that exceed the bond obligation of a participant;

(B) Provisions for each assigned trust to be assigned to a new owner resulting from a permit or license transfer.

(xi) Permits or licenses that include federal lands with a federal bonding requirement may participate in the assigned trust following approval from the appropriate federal agencies.

Section 2. The department of environmental quality shall draft, and the environmental quality council shall promulgate, any rules necessary to implement this act.

ORIGINAL HOUSE
BILL NO. HB0045

ENGROSSED

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Section 3.

(a) Except as provided in subsection (b) of this section, this act 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.

(b) Section 1 of this act is effective July 1, 2022.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the House.

Chief Clerk