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FISCAL IMPACT REPORT

SPONSOR: Madalena DATE TYPED: 03/08/01 HB 315
 SHORT TITLE: "Mineral" & Mining" Definitions SB _____
 ANALYST: Dotson

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
	See Fiscal Implications				See Fiscal Implications

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Relates to Appropriation in The General Appropriation Act _____

SOURCES OF INFORMATION

Department of Game and Fish, Department of Energy, Minerals and Natural Resources and the Commissioner of Public Lands.

SUMMARY

Synopsis of Bill

HB 315 amends the definitions of "mining" and "mineral" contained in the NM Mining Act to clarify that operations or portions of operations that are not regulated by Nuclear Regulatory Commission (NRC) are covered by the NM Mining Act.

Significant Issues

Uranium mining activity is expected to increase significantly over the upcoming years. The stockpiles of reactor grade uranium are not being replenished at the current rate of usage. The proposed national energy policy contains nuclear energy as an option to alleviate the nation's dependance on foreign oil.

The authority to regulate byproduct materials, commodities and waste materials produced by Uranium mining activities that are not specifically regulated by the Nuclear Regulatory Commission under Subtitle C of the Federal Resource Conservation and Recovery Act of 1976. This would allow the State to have a clearer role in the regulation of uranium mine operations or portions of operations that are not regulated by the Federal Nuclear Regulatory Commission.

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According to the Commissioner of Public lands, the current law exempts commodities and activities regulated by the NRC. While the NRC does regulate certain types of activities associated with uranium milling and processing, it does not regulate uranium mines. A recent District Court decision found that all uranium activities including unregulated mines are exempt from the Mining Act. This bill would clarify that any operations not regulated by the NRC would be permitted and reclaimed under the NM Mining Act.

According to the Department of Game and Fish, currently, there is ambiguity in the N.M. Mining Act that potentially allows the operation or portions of operations of uranium mines and the production of commodities, byproduct materials and wastes that are not specifically regulated by the Federal Nuclear Regulatory Commission to go unregulated. Because of the ambiguity, there is a potential for significant portions of Uranium Mining operations, including mining operations that occurred prior to the enactment of the Mining Act, to potentially have long term environmental impacts that would fall outside of regulatory authority of the State and the Federal Governments. Under the Mining Act the Department has an opportunity to review the project for impacts to wildlife and to comment and offer mitigation measures for impacts to wildlife and wildlife habitat that are identified. If these operations fall outside of the Mining Act there may be impacts to the States wildlife resources that potentially could occur.

PERFORMANCE IMPLICATIONS

According to the Department of Game and Fish, this bill, and its proposed amendments to the Mining Act would be consistent with the Department's proposed Performance Based Programs. There potentially would be more mine applications that would need to be reviewed for environmental implications by the Department. This bill will allow for improved review of uranium mining operations, covered under the Mining Act, and their effects on wildlife and wildlife habitat in New Mexico by the Department within existing regulatory authority provided under the New Mexico Mining Act and as defined in the existing Mining Act Rules. The Department presently consults and coordinates review activities with the New Mexico Energy, Minerals and Natural Resources Department (Mining and Minerals Division). No significant change in how the existing program operates for other mining activities is foreseen. This may mean, in some instances, tighter deadlines and less of an opportunity to review this and other work. However, these instances should be rare and off-set by the increased likelihood of wildlife and wildlife habitat concerns being addressed in those portions of uranium mine applications covered under this section.

FISCAL IMPLICATIONS

HB 315 contains no appropriation. However, according to the Commissioner of Public Lands, the Mining Act regulatory program is funded by permit fees paid by the industry. Any new activity required by this bill would be covered by the fee structure and not by general fund revenues.

According to the Department of Game and Fish, The bill would likely result in a small (estimated 1-2%) increase in Department activities as authorized under the Mining Act. Current Department support to the Mining Act is provided by less than one FTE and these activities are funded in part by 1) mine operator fee surcharges through the Mining Act and 2) federal aid. The Department is expected to be able to absorb the anticipated increase in costs.

According to the Energy, Minerals and Natural Resources Department, if the bill does not pass and the permitted uranium mines withdraw their permits, their annual fees of \$16,927 per year will not be paid. Also, no fees would be collected from any new uranium mines that are opened in the future.

TECHNICAL ISSUES

The Department of Game and Fish suggests, the word federal should also be added to the amended section of Paragraph G. that reads "...operations regulated by the federal nuclear regulatory commission"

OTHER SUBSTANTIVE ISSUES

According to the Commissioner of Public Lands, the District Court decision that exempts all uranium activities from the Mining Act is under appeal to the NM Court of Appeals. The court decision affects three mines of the United Nuclear Corporation. No decision has yet been issued by this court on the status of these three mines. This bill would impact all other current and future uranium mines.

PD/njw