

## LEGISLATIVE BILL 742

Approved by the Governor April 11, 1984

Introduced by Scofield, 49

AN ACT relating to environmental protection; to amend sections 81-1502 and 81-1531.02, Revised Statutes Supplement, 1983; to define terms; to require recommendations on uranium mining regulatory policies; to prohibit certain methods of uranium mining; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 81-1502, Revised Statutes Supplement, 1983, be amended to read as follows:  
81-1502. As used in the Environmental Protection Act, unless the context otherwise requires:

(1) Air contaminant or air contamination shall mean the presence in the outdoor atmosphere of any dust, fume, mist, smoke, vapor, gas, or other gaseous fluid, or particulate substance differing in composition from or exceeding in concentration the natural components of the atmosphere;

(2) Air pollution shall mean the presence in the outdoor atmosphere of one or more air contaminants or combinations thereof in such quantities and of such duration as are or may tend to be injurious to human, plant, or animal life, or property, or the conduct of business;

(3) Chairperson shall mean the chairperson of the Environmental Control Council; and council shall mean the Environmental Control Council;

(4) Complaint shall mean any charge, however informal, to or by the council, that any person or agency, private or public, is polluting the air, land, or water or is violating the provisions of sections 81-1501 to 81-1533 Environmental Protection Act or any rule or regulation of the department in respect thereof;

(5) Control and controlling shall include prohibition and prohibiting as related to air, land, or water pollution;

(6) Department shall mean the Department of Environmental Control, which department is hereby created;

(7) Director shall mean the Director of Environmental Control, which position is hereby established;

(8) Disposal system shall mean a system for disposing of wastes, either by surface or underground methods, and includes sewerage systems and treatment

works, disposal wells and fields, and other systems;

(9) Emissions shall mean releases or discharges into the outdoor atmosphere of any air contaminant or combination thereof;

(10) Person shall mean any individual, partnership, association, public or private corporation, trustee, receiver, assignee, agent, municipality, or other governmental subdivision, public agency, officer or governing or managing body of any municipality, governmental subdivision, or public agency, or any other legal entity except the Department of Environmental Control;

(11) Rule or regulation shall mean any rule or regulation of the department;

(12) Sewerage system shall mean pipelines, conduits, pumping stations, and force mains, and all other constructions, devices, appurtenances, and facilities used for collecting or conducting wastes to an ultimate point for treatment or disposal;

(13) Treatment works shall mean any plant or other works used for the purpose of treating, stabilizing, or holding wastes;

(14) Wastes shall mean sewage, industrial waste, and all other liquid, gaseous, solid, radioactive, or other substances which may pollute or tend to pollute any waters of the state;

(15) Refuse shall mean putrescible and nonputrescible solid wastes, except body wastes, and includes garbage, rubbish, ashes, incinerator ash, incinerator residue, street cleanings, and solid market and industrial wastes;

(16) Garbage shall mean rejected food wastes, including waste accumulation of animal, fruit, or vegetable matter used or intended for food or that attend the preparation, use, cooking, dealing in, or storing of meat, fish, fowl, fruit, or vegetables, and dead animals rejected by rendering plants;

(17) Rubbish shall mean nonputrescible solid wastes, excluding ashes, consisting of both combustible and noncombustible wastes, such as paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, or litter of any kind that will be a detriment to the public health and safety;

(18) Junk shall mean old scrap, copper, brass, iron, steel, rope, rags, batteries, paper, trash, rubber debris, waste, dismantled or wrecked automobiles, or parts thereof, and other old or scrap ferrous or nonferrous material;

(19) Land pollution shall mean the presence upon or within the land resources of the state of one or more contaminants or combinations thereof, including, but not limited to, refuse, garbage, rubbish, or junk, in such quantities and of such quality as will or are likely to (a)

create a nuisance, (b) be harmful, detrimental, or injurious to public health, safety, or welfare, (c) be injurious to plant and animal life and property, or (d) be detrimental to the economic and social development, the scenic beauty, or the enjoyment of the natural attractions of the state;

(20) Water pollution shall mean the manmade or man-induced alteration of the chemical, physical, biological, and or radiological integrity of water;

(21) Waters of the state shall mean all waters within the jurisdiction of this state including all streams, lakes, ponds, impounding reservoirs, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and or underground, natural or artificial, public or private, situated wholly or partly within or bordering upon the state;

(22) Point source shall mean any discernible confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, or vessel or other floating craft, from which pollutants are or may be discharged;

(23) Effluent limitation shall mean any restriction established by the council on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged from point sources into waters of the state, including schedules of compliance;

(24) Schedule of compliance shall mean a schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with an effluent limitation, other limitation, prohibition, or standard;

(25) Hazardous waste shall mean a solid waste, or combination of solid wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may (a) cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness; or (b) pose a substantial present or potential hazard to human or animal health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed;

(26) Solid waste shall mean any garbage, refuse, or sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, and mining operations, and from community activities, but does not include solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to

permits under section 402 of the federal Clean Water Act, as amended, 33 U.S.C. 1251 et seq., or naturally occurring or accelerated produced radioactive material as defined in the Nebraska radiological health regulations or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended, 68 Stat. 923;

(27) Storage, when used in connection with hazardous waste, shall mean the containment of hazardous waste, either on a temporary basis or for a period of years, in such manner as not to constitute disposal of such hazardous waste, except by those generators who store their own waste on site for less than ninety days for subsequent disposal, recovery, or reuse;

(28) Manifest shall mean the form used for identifying the quantity, composition, and the origin, routing, and destination of hazardous waste during its transportation from the point of generation to the point of disposal, treatment, or storage;

(29) Processing shall mean to treat, detoxify, neutralize, incinerate, biodegrade, or otherwise process a hazardous waste to remove such waste's harmful properties or characteristics for disposal in accordance with regulations established by the council;

(30) Well shall mean a bored, drilled, or driven shaft, or a dug hole, whose depth is greater than the largest surface dimension of such shaft or hole;

(31) Injection well shall mean a well into which fluids are injected;

(32) Fluid shall mean a material or substance which flows or moves whether in a semisolid, liquid, sludge, gas, or any other form or state;

(33) Mineral production well shall mean a well drilled to promote extraction of mineral resources or energy including, but not limited to, a well designed for (a) mining of sulfur by the Frasch process, (b) solution mining of sodium chloride, potash, phosphate, copper, uranium, or any other mineral which can be mined by this process, (c) in situ combustion of coal, tar sands, oil shale, or any other fossil fuel, or (d) recovery of geothermal energy for the production of electric power. Mineral production well shall not include any well designed for conventional oil or gas production, for use of fluids to promote enhanced recovery of oil or natural gas, or for injection of hydrocarbons for storage purposes; and

(34) Mineral exploration hole shall mean a hole bored, drilled, driven, or dug in the act of exploring for a mineral other than oil and gas;

(35) Solution mining shall mean the use of an injection well and fluids to promote the extraction of mineral resources; and

(36) Uranium shall mean tri-uranium octoxide.

Sec. 2. That section 81-1531.02, Revised Statutes Supplement, 1983, be amended to read as follows:



81-1531.02. No person shall, on or before June 1, 1984, engage in uranium mining by means of strip mining, open pit mining, or shaft mining- (1) The department shall recommend an appropriate regulatory policy for controlling uranium mining to be presented to the council and the Legislature by January 1, 1986. The department shall evaluate all reasonable regulatory options for addressing the impacts on air, land, and water quality of uranium mining by methods other than mineral production and injection wells which are presently regulated. The department shall examine and consider regulatory programs created by other states and the federal government, their applicability to Nebraska, and their success in the states or areas where they are used and shall consider, but not be limited to, the following policy options:

(a) The development of uranium surface and shaft mining regulations;

(b) The development of regulations addressing appropriate development, mitigation, or reclamation standards for uranium mining or uranium mining-related activities;

(c) The appropriateness of developing regulations addressing ground or surface water use standards for uranium mining or uranium mining-related activities as a means of limiting the impact of uranium mining on land and water resources; and

(d) The use of any other existing state regulatory programs to control or regulate the impacts of uranium mining on land and water resources.

(2) The department shall perform the evaluation in cooperation with other state agencies which have or could have a role in regulating the impacts of uranium mining on Nebraska's people and resources or in controlling other uranium mining activities. The department shall also create a citizen advisory panel, of interested or affected parties, which shall be consulted for its input and opinion on the results of the evaluation of regulatory options.

(3) Uranium mining by any method other than mineral production and injection wells shall be prohibited until September 1, 1986. Upon receipt of evidence that uranium mining by any method other than by mineral production and injection wells or related activities are presenting or are likely to present an imminent and substantial threat to the environment, the director shall petition the district court for an injunction to immediately restrain any person from contributing to the alleged acts or to require any person to stop such acts or to take such other action as may be necessary. It shall be the duty of each county attorney or the Attorney General to whom the director reports a violation to cause appropriate proceedings to be instituted without delay to assure compliance with this section.

Sec. 3. That original sections 81-1502 and 81-1531.02, Revised Statutes Supplement, 1983, are repealed.