

29 LSO - 765

# HOUSE BILL

454

**HOUSE BILL 454**

**Titles**

AN ACT to create W.S. 35-12-122; and to amend W.S. 35-12-102(a)(iii) by creating a new subparagraph (C) relating to facilities subject to the Industrial Development Information and Siting Act; providing a procedure for determining whether a full permit application is required; expanding the definition of industrial facility; and providing for an effective date.

**Introduced by:**

Day 2 report

[illegible]

**CONTINUED ON BACK**

House of Intro			
_____	To Com No.	_____	
_____	Stand Report Do	Amd _____	Not _____
_____	Com Whole Do	Amd _____	Not _____
_____	2nd Reading Amd	_____	
_____	3rd Reading Amd	Pass _____	Fail _____

Second House			
_____	To Com No.	_____	
_____	Stand Report Do	Amd _____	Not _____
_____	Com Whole Do	Amd _____	Not _____
_____	2nd Reading Amd	_____	
_____	3rd Reading Amd	Pass _____	Fail _____

1979

STATE OF WYOMING

79LSO-765.01

HOUSE BILL NO. 454

Industrial siting facilities.

Sponsored by: Representative BRYANT

A BILL

for

1 AN ACT to create W.S. 35-12-122; and to amend W.S.  
 2 35-12-102(a)(iii) by creating a new subparagraph (C)  
 3 relating to facilities subject to the Industrial Develop-  
 4 ment Information and Siting Act; providing a procedure for  
 5 determining whether a full permit application is required;  
 6 expanding the definition of industrial facility; and pro-  
 7 viding for an effective date.

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

9 Section 1. W.S. 35-12-122 is created to read:

10 35-12-122. Notice; determination of permit status.

1           (a) Any person proposing to construct an industrial  
2 facility under this section shall file a "notice of intent  
3 to construct" with the office at least eighteen (18)  
4 months prior to intended construction, except that facilities  
5 proposed for construction prior to eighteen (18)  
6 months from the effective date of this legislation shall  
7 file such "notice" as soon as practicable after the date  
8 of enactment as noted herein.

9           (b) The notice of intent shall include:

10               (i) An identification of what the applicant  
11 deems to be the site location, the areas of site influence,  
12 and the area or local governments primarily affected  
13 by the proposed facility. The immediately adjoining area  
14 and local governments shall also be identified with a  
15 statement of the reasons for their exclusion from the list  
16 of area or local governments primarily affected by the  
17 proposed facility;

18               (ii) A description of the type of facility  
19 including its size, capacity and estimated cost;

20               (iii) A general statement regarding the  
21 facility's fuel consumption, feedstock requirements, emissions,  
22 discharges, water utilization requirements, solid  
23 wastes and chemical utilization;

1                   (iv) A proposed construction schedule and  
2 employment projections and area population statistics  
3 applicable during construction and operation of the facil-  
4 ity;

5                   (v) A list of any federal requirements which  
6 the applicant must meet, and any other studies the appli-  
7 cant may choose to submit to the office.

8           (c) Upon receipt of a completed notice of intent to  
9 construct the office shall within ten (10) days:

10                   (i) Distribute the notice to state agencies  
11 identified in W.S. 35-12-111(b);

12                   (ii) Serve notice of the intent to construct  
13 upon the governing bodies of local government which will  
14 be primarily affected by the proposed facility;

15                   (iii) Cause a summary of the notice of intent  
16 to be published in one (1) or more newspapers of general  
17 circulation within the area primarily affected by the pro-  
18 posed facility;

19                   (iv) File a copy of the notice of intent with  
20 the county clerk of the county or counties in which the  
21 proposed facility will be constructed;

1                   (v) File a copy of the notice of intent at the  
2 public libraries within affected areas.

3                   (d) An application fee of five thousand dollars  
4 (\$5,000.00) shall accompany the notice of intent to con-  
5 struct and shall be used for reviewing, processing,  
6 serving notice and conducting any hearing required.  
7 Unused portions of the fee shall be promptly refunded.

8                   (e) Not more than forty-five (45) days after receipt  
9 of a notice of intent, the director shall:

10                   (i) Schedule and conduct an informational  
11 hearing;

12                   (ii) Notify the applicant and local govern-  
13 ments of the hearing;

14                   (iii) Cause notice of the hearing to be pub-  
15 lished in one (1) or more newspapers of general circu-  
16 lation within the area to be primarily affected by the  
17 proposed facility;

18                   (iv) Hold the informational hearing at a com-  
19 munity as close as practicable to the proposed facility.  
20 Any person may participate in the hearing to the extent  
21 deemed reasonable and relevant by the presiding officer.

1 The hearing shall be conducted in order to accomplish the  
2 following purposes:

3 (A) Provide knowledge and understanding  
4 of the proposed facility;

5 (B) Obtain the views and comments of the  
6 public and concerned governments and state agencies on the  
7 environmental, public health and safety, economic, social  
8 and land use impacts of the proposed facility at the pro-  
9 posed site;

10 (C) Determine the extent to which a fed-  
11 eral environmental impact statement or other documents  
12 prepared by the applicant might satisfy requirements of  
13 the council;

14 (D) Determine the nature and extent of  
15 exemptions from any provisions of this act that will be  
16 granted to the applicant.

17 (f) As soon as practicable but in any case not more  
18 than forty-five (45) days after the conclusion of the  
19 hearing, the office shall prepare and the council shall  
20 review and make public a report on the notice of intent to  
21 construct. The report shall be based on information sub-  
22 mitted by the applicant, testimony presented at the hear-

1     ing, comments transmitted by local governments and state  
2     agencies and other persons, and on studies conducted by  
3     the office.

4           (g) The report required by subsection (f) of this  
5     section shall include findings and conclusions within the  
6     limitations of the information required to be included in  
7     the notice of intent to construct with respect to:

8                   (i) The degree to which the proposed indus-  
9     trial facility and its proposed site will comply with  
10    applicable local, state and federal laws, standards and  
11    ordinances;

12                   (ii) The compatibility of the proposed indus-  
13    trial facility and its proposed site with state, intra-  
14    state, regional, county and local land use plans, if any,  
15    and with existing and projected nearby land utilization;

16                   (iii) The major areas of concern and the spe-  
17    cific issues, if any, which may be the basis for denial by  
18    any state agency, commission or board of a permit needed  
19    to locate, construct or operate the facility or any of its  
20    component parts. The report shall address, as a minimum,  
21    specific questions pertaining to:

22                   (A) The need for the proposed industrial

1 facility and markets served;

2 (B) The nature and extent of probable  
3 social, economic and interrelated environmental impacts of  
4 the location, construction and operation of the proposed  
5 facility;

6 (C) Compliance with all applicable  
7 local, state and federal laws and regulations;

8 (D) Compatibility with state, intra-  
9 state, regional, county and local land use plans;

10 (E) The capacity of state government and  
11 local governments to mitigate and absorb the social, eco-  
12 nomic and interrelated environmental impacts which may be  
13 caused by the location, construction and operation of the  
14 proposed facility;

15 (F) Applicability of requirements to be  
16 met by the applicant pursuant to federal laws and regula-  
17 tions;

18 (G) Such other issues and considerations  
19 as the council, by rule, may determine as being material  
20 and relevant.

21 (h) The report required by subsection (f) of this



1 section shall be published and shall be made available to  
2 persons and local governments, state agencies and other  
3 interested parties. Any person may respond in writing to  
4 the report. The responses shall be submitted to the  
5 office not later than fifteen (15) days after the distri-  
6 bution of the report.

7 (j) The council shall, within thirty (30) days  
8 following distribution of the report required by subsec-  
9 tion (f) of this section, issue an order containing find-  
10 ings and conclusions and which shall provide one (1) of  
11 the following:

12 (i) The proposed facility is exempt from the  
13 permit provisions of this act (and the council may impose  
14 such conditions as are necessary to insure the facility's  
15 continued exemption);

16 (ii) The proposed facility shall require an  
17 industrial siting permit issued by the council, and the  
18 applicant shall file the same application as is required  
19 of facilities defined in W.S. 35-12-102(a)(iii)(A) and  
20 (B).

21 (k) The council shall not exempt any proposed facil-  
22 ity from permit provisions of this act if on the basis of  
23 the preliminary information available, the council would

1 be required to deny a permit application under W.S.  
2 35-12-114(b).

3 (m) The council may exempt a proposed facility from  
4 permit provisions of this act and may authorize the appli-  
5 cant to locate, construct and operate the facility at the  
6 proposed site subject to certain conditions the council  
7 might choose to impose in order to assure that the loca-  
8 tion, construction and operation of the facility will  
9 comply with all applicable law, and will not yield unac-  
10 ceptable socioeconomic and interrelated environmental  
11 effects.

12 (n) The council shall require that an applicant  
13 shall file an application to construct a proposed facility  
14 with the office pursuant to the other provisions of the  
15 Industrial Development Information and Siting Act, if the  
16 preliminary information available is inadequate to allow  
17 an exemption under subsection (m) of this section.

18 (o) If by reason of an agency, board or commission  
19 approval, or due to other circumstances within or beyond  
20 the applicant's control, the design, construction or oper-  
21 ation of the facility or its major components are materi-  
22 ally altered from that which was considered by the council  
23 in reaching its decision pursuant to subsections (j) or

1 (m) of this section, the applicant shall promptly notify  
2 the council. The council shall consider the change and if  
3 it deems the change material insofar as its previous  
4 actions are concerned, shall give notice and rehear the  
5 matter in accordance with provisions identical to those  
6 under subsection (e) of this section and shall issue an  
7 order in accordance with provisions of subsections (j)  
8 through (m) of this section, which order shall rescind  
9 operative provisions of any previous orders related to the  
10 proposed facility. The council may take appropriate action  
11 to enjoin construction of a facility if the construction  
12 would be in conflict with provisions of its order under  
13 this subsection.

14 Section 2. W.S. 35-12-102(a)(iii) by creating a new  
15 subparagraph (C) is amended to read:

16 35-12-102. Definitions.

17 (a) As used in this act:

18 (iii) "Industrial facility" or "facility"  
19 means:

20 (C) ANY PLANT OR FACILITY DESIGNED FOR  
21 THE COMMERCIAL EXTRACTION, MINING, PROCESSING, HANDLING OR  
22 MANUFACTURING OF RAW MATERIALS, COMPONENT MATERIALS OR

1 FINISHED PRODUCTS, IF THE ESTIMATED CONSTRUCTION COST OF  
2 THE FACILITY WILL EXCEED TWENTY MILLION DOLLARS  
3 (\$20,000,000.00) BUT IS LESS THAN FIFTY MILLION DOLLARS  
4 (\$50,000,000.00) ADJUSTED PURSUANT TO SUBPARAGRAPH (B) OF  
5 THIS PARAGRAPH. THE COUNCIL SHALL ADJUST THE TWENTY MIL-  
6 LION DOLLARS (\$20,000,000.00) UP OR DOWN EACH YEAR USING  
7 RECOGNIZED CONSTRUCTION COST INDICES AS DETERMINED BY THE  
8 COUNCIL TO BE RELEVANT TO THE ACTUAL CHANGE IN CONSTRUC-  
9 TION COST APPLICABLE TO THE GENERAL TYPE OF CONSTRUCTION  
10 COVERED UNDER THIS ACT. ANY PLANT OR FACILITY DEFINED IN  
11 THIS PARAGRAPH SHALL COMPLY WITH W.S. 35-12-122.

12 Section 3. This act is effective May 25, 1979.

13 (END)

Industrial siting facilities

LSO - 765.L1

FISCAL NOTE

Anticipated REVENUE to:

Fiscal Year 19

Fiscal Year 19

TOTAL ESTIMATED REVENUE

Anticipated COST to:

Fiscal Year 19

Fiscal Year 19

TOTAL ESTIMATED COST

1. Additional costs and personnel may be required to implement the provisions of this measure.

## THE LEGISLATURE OF THE STATE OF WYOMING

## House of Representatives

Cheyenne, February 8, 19<sup>79</sup>HB 453 HSI/  
Mr. Speaker:

Your Committee No. 5 on Agriculture, Public Lands & Water Resources  
to whom was referred House Bill No. 453 - Wholesome Meat Act

respectfully reports same back to the House with the recommendation that HB453A be substituted for HB453 with the recommendation that HB 453A DO PASS.

"AN ACT to create W.S. 35-7-710; to amend W.S. 35-7-702(a)(xxii), (xxxvii) and (xli) and by creating a new paragraph <sup>and (xlii)</sup> (xlii), 35-7-704(a), (b), (d) by creating a new paragraph <sup>and (vii)</sup> (vi) and (e), 35-7-705(a), (n) and (p) introductory paragraph and (iv), 35-7-706(h) and by creating a new subsection (c), 35-7-707(a), (b), (d) and (f) and 35-7-709; and to repeal W.S. 35-7-707(e) relating to the Wholesome Meat Act of 1969; providing definitions; providing for license requirements; providing inspection exemptions; providing penalties; and providing for an effective date."

AYES

Asay  
Bryant  
Garber  
Salisbury  
Simons  
Smith  
Tugman  
Jennings

NOES

D. Scott

*Gary Jennings*  
Gary Jennings

Chairman