

November 26, 2013

Mr. Mark R. Ledoux
Certified Health Physicist
Corporate Director, Radiation Safety
EnergySolutions, LLC
423 West 300 South, Suite 200
Salt Lake City, UT 84101

SUBJECT: RESPONSE TO ENERGYSOLUTIONS'S SEPTEMBER 15, 2011, REQUEST
FOR INTERPRETATION OF THE DEFINITION OF SPECIAL NUCLEAR
MATERIAL IN TITLE 10, *CODE OF FEDERAL REGULATIONS* PART 70

Dear Mr. Ledoux:

This letter is in response to your September 15, 2011, request for an interpretation from the U.S. Nuclear Regulatory Commission (NRC) staff regarding the definition of special nuclear material (SNM). Also, you proposed that, with respect to uranium-235, waste must be enriched before SNM limitations apply. On November 15, 2011, you provided supplemental information to the NRC. Your request and supplemental information are available via the NRC's Agencywide Documents Access and Management System (ADAMS) at Accession Nos. ML13329A768 and ML13329A875.

EnergySolutions receives and disposes of shipments containing SNM at its Clive, Utah low-level waste disposal facility. Activities involving SNM are among those that EnergySolutions is authorized to perform under its Utah radioactive material license (RML UT 2300249). As an Agreement State, Utah has adopted a compatible regulatory provision for the definition of SNM and is responsible for its interpretation as it applies to their radiation protection program. Any questions about the definition of SNM under the Utah license should be discussed with the State.

The NRC maintains jurisdiction over SNM in quantities that exceed the limits in Title 10, *Code of Federal Regulations* 150.11 (10 CFR 150.11). Under that regulatory authority, the NRC issued an Order dated January 14, 2003, that exempted EnergySolutions from the NRC's requirements to obtain an NRC license to possess SNM in quantities greater than the limits in 10 CFR 150.11. That NRC Order allows EnergySolutions, under certain conditions and concentration limits, to possess more than the 10 CFR 150.11 quantities of SNM without an NRC license. Disposal of SNM at the Clive facility remains subject to the regulatory oversight of the State of Utah as long as the conditions and concentration limits of that NRC Order are met. The State of Utah has incorporated those conditions and concentration limits in RML UT 2300249 and it is our understanding that compliance with those limits is considered under Utah's inspection and/or compliance program associated with RML UT 2300249. Therefore, EnergySolutions should work with the State to address the matters raised in your September 15, 2011, request.

M. Ledoux

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Should you have any questions regarding this response, please contact me at (301) 415-6686 or the NRC Project Manager for this request, Harry Felsher, at (301) 415-6559.

Sincerely,

/RA/

Aby Mohseni, Deputy Director
Environmental Protection and
Performance Assessment Directorate
Division of Waste Management
and Environmental Protection
Office of Federal and State Materials
and Environmental Management Programs

Docket No.: 40-8989

cc: Mr. Rusty Lundberg,
Director, Utah Division of Radiation Control

M. Ledoux

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Sincerely,

Aby Mohseni, Deputy Director
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Docket No.: 40-8989

cc: Mr. Rusty Lundberg,
Director, Utah Division of Radiation Control

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