

February 28, 2013

Rusty Lundberg, Director
Division of Radiation Control
Department of Environmental Quality
195 North 1950 West
P.O. Box 14485
Salt Lake City, UT 84116

Dear Mr. Lundberg:

We have reviewed Utah's House Bill (H.B.) 124, "Radiation Control Amendments" received by our office on February 19, 2013, which proposes revisions to Utah Code, Title 19 Chapter 1 and 3. The proposed amendments to the legislation were reviewed by comparison to 10 CFR Part 61, "Licensing Requirements for Land Disposal of Radioactive Waste" and the Suggested State Legislation (SSL) on "Radiation Control," published in 1983 by the Council of State Governments. We discussed our review of the proposed amendments with John Hultquist and Craig Jones on February 26, 2013.

As a result of our review, we have one comment as discussed below. Please note that we have limited our review to program elements required for compatibility and/or health and safety and the identification of program elements that create conflicts, duplications or gaps in the orderly pattern of regulations on a nationwide basis (See the 1997 Policy Statement on Adequacy and Compatibility of Agreement State Programs).

We have identified the following comment on the proposed amendments:

In 19-3-106.4(2), the proposed changes to the Utah Code prohibit granting a generator site access permit to a generator or broker unless the generator or broker allows the division reasonable access to its facilities for inspection and verification of radioactive waste using Nuclear Regulatory Commission approved accountability guidelines. This provision appears to authorize the State of Utah under their 274b. Agreement to conduct inspections of radioactive material facilities under the regulatory jurisdiction of the Nuclear Regulatory Commission and other Agreement States.

Utah does have authority to verify that waste shipped to the state is consistent with Utah's waste acceptance criteria. However, Utah does not have the regulatory authority under their 274b. Agreement to conduct inspections of facilities under the regulatory jurisdiction of the Nuclear Regulatory Commission or other Agreement States. Thus as currently worded, this provision exceeds that authority and must be modified in order to meet the compatibility and health and safety categories established in the Office of Federal and State Materials and Environmental Management Programs (FSME) Procedure SA-200, "Compatibility Categories and Health and Safety Identification for NRC Regulations and Other Program Elements." While respecting the need to verify the classification and characteristics of waste being disposed of in the State of Utah, a clear distinction must be made between NRC's or other Agreement States' regulatory authority and the ability of the State of Utah to verify waste shipment consistent with its requirements.

R. Lundberg

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The State Regulation Status (SRS) Data Sheet summarizes our knowledge of the status of other Utah regulations and legally binding requirements, as indicated. Please let us know if you note any inaccuracies, or have any comments on the information contained in the SRS Data Sheet. This letter, including the SRS Data Sheet, is posted on the FSME website: <http://nrc-stp.ornl.gov/rulemaking.html>.

If you have any questions regarding the comments, please contact Kathleen Schneider, State Regulation Review Coordinator at 301-415-2320 (kathleen.schneider@nrc.gov).

Sincerely,

/RA/

Pamela Henderson, Deputy Director
Division of Materials Safety and State Agreements
Office of Federal and State Materials
and Environmental Management Programs

Enclosure:
Utah SRS Data Sheet

R. Lundberg

-2-

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If you have any questions regarding the comments, please contact Kathleen Schneider, State Regulation Review Coordinator at 301-415-2320 (kathleen.schneider@nrc.gov).

Sincerely,

/RA/

Pamela Henderson, Deputy Director
Division of Materials Safety and State Agreements
Office of Federal and State Materials
and Environmental Management Programs

Enclosure:
Utah SRS Data Sheet

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DIR RF (13-8) DCD (SP08) RErickson, RSAO JKatanic, ASPB GSuber, DWMEP
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Incoming Document: ML13051A474

OFC	MSSA/ASPB	DWMEP/EPPAD	OGC	ASPB: BC	MSSA: DD
NAME	KSchneider	AMohseni/Hsueh	BJones/JBiggins	DWhite	PHenderson
DATE	02/22/13	02/26/13	02/26/13	02/27/13	02/28/13

ML13052A448

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Package ML13052A441

STATE REGULATION STATUS

State: Utah

Tracking Ticket Number: 13-8
Date: 02/28/2013

[Proposed legislative for Utah is identified by a * at the beginning of the equivalent NRC requirement.]

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Package	Outgoing Package	Notes
1991-1	Safety Requirements for Radiographic Equipment Part 34 55 FR 843 (Superceded by 1997-5)	01/10/1994	Final ML032180130	No Comments 08/28/2003 ML032400630	Utah has adopted Final Regulations Equivalent to RATS ID: 1997-5.
1991-2	ASNT Certification of Radiographers Part 34 56 FR 11504 (Superceded by 1997-5)	none	Not Required	Not Required	Utah has adopted Final Regulations Equivalent to RATS ID: 1997-5.
1991-3	Standards for Protection Against Radiation Part 20 56 FR 23360; 56 FR 61352; 57 FR 38588; 57 FR 57877; 58 FR 67657; 59 FR 41641; 60 FR 20183;	01/01/1994	Final	No Comments 02/10/1998	
1991-4	Notification of Incidents Parts 20, 30, 31, 34, 39, 40, 70 56 FR 64980;	10/15/1994	Final ML032180130	Comments 08/28/2003 ML032400630	
1992-1	Quality Management Program and Misadministrations Part 35 56 FR 34104 (Superceded by 2002-2)	01/27/1995	Not Required	Not Required	Utah has adopted Final Regulations Equivalent to RATS ID: 2002-2.
1992-2	Eliminating the Recordkeeping Requirements for Departures from Manufacturer's Instructions Parts 30, 35 57 FR 45566	none	Not Required	Not Required	These regulation changes are not required to be adopted for purposes of Compatibility.
1993-1	Decommissioning Recordkeeping and License Termination: Documentation Additions [Restricted areas and spill sites] Parts 30, 40 58 FR 39628	10/25/1996	Final	No Comments 01/08/1997	

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1993-2	Licensing and Radiation Safety Requirements for Irradiators Part 36 58 FR 7715	07/01/1996	Final	No Comments 06/14/2000	
1993-3	Definition of Land Disposal and Waste Site QA Program Part 61 58 FR 33886	07/22/1996	Final ML071990559	No Comments 09/04/2007 ML072470237	
1994-1	Self-Guarantee as an Additional Financial Mechanism Parts 30, 40, 70 58 FR 68726; 59 FR 1618	none	Not Required	Not Required	These regulation changes are not required to be adopted for purposes of Compatibility.
1994-2	Uranium Mill Tailings Regulations: Conforming NRC Requirements to EPA Standards Part 40 59 FR 28220	07/01/1997	Final ML023100574	No Comments 11/22/2002 ML023290240	
1994-3	Timeliness in Decommissioning Material Facilities Parts 30, 40, 70 59 FR 36026	08/15/1997	Final	No Comments 02/10/1998	
1995-1	Preparation, Transfer for Commercial Distribution, and Use of Byproduct Material for Medical Use Parts 30, 32, 35 59 FR 61767; 59 FR 65243; 60 FR 322	01/01/1998	Final	No Comments 02/10/1998	
1995-2	Frequency of Medical Examinations for Use of Respiratory Protection Equipment Part 20 60 FR 7900	03/13/1998	Final ML071990559	No Comments 09/04/2007 ML072470237	
1995-3	Low-Level Waste Shipment Manifest Information and Reporting Parts 20, 61 60 FR 15649; 60 FR 25983	03/01/1998	Final ML071990559	No Comments 09/04/2007 ML072470237	
1995-4	Performance Requirements for Radiography Equipment Part 34 60 FR 28323 (Superseded by 1997-5)	06/30/1998	Final ML032180130	No Comments 08/28/2003 ML032400630	Utah has adopted Final Regulations Equivalent to RATS ID: 1997-5.

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Package	Outgoing Package	Notes
1995-5	Radiation Protection Requirements: Amended Definitions and Criteria Parts 19, 20 60 FR 36038	08/14/1998	Final ML071990559	No Comments 09/04/2007 ML072470237	
1995-6	Clarification of Decommissioning Funding Requirements Parts 30, 40, 70 60 FR 38235	11/24/1998	Final	No Comments 02/10/1998	
1995-7	Medical Administration of Radiation and Radioactive Materials Parts 20, 35 60 FR 48623 (Superseded by 2002-2 and 2005-2)	10/20/1998	Not Required	Not Required	Utah has adopted Final Regulations Equivalent to RATS IDs: 2002-2 and 2005-2.
1996-1	Compatibility with the International Atomic Energy Agency Part 71 60 FR 50248; 61 FR 28724 (Superseded by 2004-1)	04/01/1999	Final	No Comments 04/16/1999	
1996-2	One Time Extension of Certain Byproduct, Source and Special Nuclear Materials Licenses Parts 30, 40, 70 61 FR 1109	02/15/1999	Not Required	Not Required	These regulation changes are not required to be adopted for purposes of Compatibility.
1996-3	Termination or Transfer of Licensed Activities: Record keeping Requirements Parts 20, 30, 40, 61, 70 61 FR 24669	06/17/1999	Final	No Comments 02/10/1998	Part 30 only
1997-1	Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials; Clean Air Act Part 20 61 FR 65120	01/9/2000	Final ML071990559	No Comments 09/04/2007 ML072470237	
1997-2	Recognition of Agreement State Licenses in Areas Under Exclusive Federal Jurisdiction Within an Agreement State Part 150 62 FR 1662	02/27/2000	Final ML032180130	No Comments 08/28/2003 ML032400630	

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1997-3	Criteria for the Release of Individuals Administered Radioactive Material Parts 20, 35 62 FR 4120	05/29/2000	Final ML07 1990559	No Comments 09/04/2007 ML072470237	
1997-4	Fissile Material Shipments and Exemptions Part 71 62 FR 5907 (Superseded by 2004-1)	02/10/2000	Not Required	Not Required	These regulation changes are not required to be adopted for purposes of Compatibility. (See STP-97-078)
1997-5	Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiography Operations Parts 30, 34, 71, 150 62 FR 28947	06/27/2000	Final	No Comments 04/01/1998	
1997-6	Radiological Criteria for License Termination Parts 20, 30, 40, 70 62 FR 39057	08/20/2000	Final	No Comments 06/14/2000	
1997-7	Exempt Distribution of a Radioactive Drug Containing One Micro curie of Carbon-14 Urea Part 30 62 FR 63634	01/02/2001	Final	No Comments 04/16/1999	
1998-1	Deliberate Misconduct by Unlicensed Persons Parts 30, 40, 61, 70, 71, 150 63 FR 1890; 63 FR 13773	02/12/2001	Final ML011 100015	No Comments 07/31/2001 ML012150220	
1998-2	Self-Guarantee of Decommissioning Funding by Nonprofit and Non-Bond-Issuing Licensees Parts 30, 40, 70 63 FR 29535	07/01/2001	Not Required	Not Required	These regulation changes are not required to be adopted for purposes of Compatibility.
1998-3	License Term for Medical Use Licenses Part 35 63 FR 31604 (Superseded by 2002-2)	07/10/2001	Not Required	Not Required	These regulation changes are not required to be adopted for purposes of Compatibility. (See STP-98-074) Utah has adopted Final Regulation equivalent to RATS ID: 2002-2.

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1998-4	Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiographic Operations Part 34 63 FR 37059	07/09/2001	Final ML071990559	No Comments 09/04/2007 ML072470237	
1998-5	Minor Corrections, Clarifying Changes, and a Minor Policy Change Parts 20, 32, 35, 36, 39 63 FR 39477; 63 FR 45393	10/26/2001	Final ML032510947	No Comments 09/16/2003 ML032730694	
1998-6	Transfer for Disposal and Manifests: Minor Technical Conforming Amendment Part 20 63 FR 50127	11/20/2001	Final ML013530478	No Comments 02/07/2002 ML020390486	
1999-1	Radiological Criteria for License Termination of Uranium Recovery Facilities Part 40 64 FR 17506	06/11/2002	Final ML023100574	No Comments 11/22/2002 ML023290240	
1999-2	Requirements for Those Who Possess Certain Industrial Devices Containing Byproduct Material to Provide Requested Information Part 31 64 FR 42269	10/04/2002	Not Required	Not Required	These regulation changes are not required to be adopted for purposes of Compatibility.
1999-3	Respiratory Protection and Controls to Restrict Internal Exposure Part 20 64 FR 54543; 64 FR 55524	02/02/2003	Final ML013530478	No Comments 02/07/2002 ML020390486	
2000-1	Energy Compensation Sources for Well Logging and Other Regulatory Clarifications Part 39 65 FR 20337	05/17/2003	Final ML012850044	No Comments 12/27/2001 ML020020182	
2000-2	New Dosimetry Technology Parts 34, 36, 39 65 FR 63750	01/08/2004	Final ML052850130	No Comments 10/20/2005 ML052940121	

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2001-1	Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material Parts 30, 31, 32 65 FR 79162	02/16/2004	Final ML040580276	No Comments 03/08/2004 ML040690493	
2002-1	Revision of the Skin Dose Limit Part 20 67 FR 16298	04/05/2005	Final ML052640263	No Comments 10/18/2005 ML052930360	
2002-2	Medical Use of Byproduct Material Parts 20, 32, 35 67 FR 20249	10/24/2005	Final ML052640263	No Comments 10/18/2005 ML052930360	
2003-1	Financial Assurance for Materials Licensees Parts 30, 40, 70 68 FR 57327	12/03/2006	Final ML062910213	No Comments 11/09/2006 ML063130115	
2004-1	Compatibility With IAEA Transportation Safety Standards and Other Transportation Safety Amendments Part 71 69 FR 3697	10/01/2007	Final ML080350285	No Comments 02/26/2008 ML080560403	
2005-1	Security Requirements for Portable Gauges Containing Byproduct Material Part 30 70 FR 2001	07/11/2008	Final ML070370332	No Comments 03/06/2007 ML0706050102	
2005-2	Medical Use of Byproduct Material - Recognition of Specialty Boards Part 35 70 FR 16336; 71 FR 1926	04/29/2008	Final ML062000081	No Comments 08/02/2006 ML062150142	
2005-3	Increased Controls for Risk-Significant Radioactive Sources (NRC Order EA-05-090) 70 FR 72128	12/01/2005	License Condition ML052920243	No Comments 10/20/2005 ML052940078	
2006-1	Minor Amendments Parts 20, 30, 32, 35, 40 and 70 71 FR 15005	03/27/2009	Final ML091540302	No Comments 07/02/2009 ML091730130	

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2006-2	National Source Tracking System - Serialization Requirements Part 32 with reference to Part 20 Appendix E 71 FR 65685	02/06/2007	Final ML080370626	No Comments 02/28/2008 ML080590006	
2006-3	National Source Tracking System Part 20 71 FR 65685, 72 FR 59162	01/31/2009	Final ML080370626	No Comments 02/28/2008 ML080590006	
2007-1	Medical Use of Byproduct Material - Minor Corrections and Clarifications Parts 32 and 35 72 FR 45147, 54207	10/29/2010	Final ML091540302	No Comments 07/02/2009 ML091730130	
2007-2	Exemptions From Licensing, General Licenses, and Distribution of Byproduct Material: Licensing and Reporting Requirements Parts 30, 31, 32, 150 72 FR 58473	12/17/2010	Final ML110120370	No Comments 02/23/2011 ML110250295	
2007-3	Requirements for Expanded Definition of Byproduct Material Parts 20, 30, 31, 32, 33, 35, 61, 150 72 FR 55864	11/30/2010	Final ML110120370	Comments 02/23/2011 ML110250295	
2007-4	Order Imposing Fingerprinting Requirements and Criminal History Records Check Requirements for Unescorted Access to Certain Radioactive Material NRC Order EA-07-305 72 FR 70901	06/05/2008	License Condition ML080980588	No Comments 05/01/2008 ML081220351	
2008-1	Occupational Dose Records, Labeling Containers, and Total Effective Dose Equivalent Parts 19, 20 72 FR 68043	02/15/2011	Final ML110120370	No Comments 02/23/2011 ML110250295	
2009-1	Medical Use of Byproduct Material – Authorized User Clarification Part 35	09/28/2012	Final ML110120370	No Comments 02/23/2011 ML110250295	

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	74 FR 33901				
2011-1	Decommissioning Planning Parts 20, 30, 40, 70 76 FR 35512	12/17/2015			
2011-2	Licenses, Certifications, and Approvals for Materials Licensees Parts 30, 36, 39, 40, 70, and 150 76 FR 56951	11/14/2014			
2012-1	Change of Compatibility of 10 CFR 31.5 and 31.6 (See RATS ID: 2001-1 for Rule text) 77 FR 3640	01/25/2015			
2012-2	Advance Notification to Native American Tribes of Transportation of Certain Types of Nuclear Waste Part 71 77 FR 34194	08/10/2015			
2012-3	Technical Corrections Part 30, 34, 40 and 70 77 FR 39899	08/06/2015			
2012-4	Requirements for Distribution of Byproduct Material Parts 30, 31, 32, 40 and 70 77 FR 43666	10/23/2015			
N/A	10 CFR 61.13 and 40.13	N/A	Final ML102000008	No Comments 08/06/2010 ML102090537	
N/A	10 CFR 61.13, Technical analyses	N/A	Final ML110730004	No Comments 04/05/2011 ML110800571	
N/A	Enabling Legislation	N/A	ML12255A021	No Comments 10/25/2012 ML12289A098	Radiation Control Agency only

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*N/A	Radiation Control Amendments to Enabling Legislation	N/A	ML13051A474	Comments 02/28/2013 ML13052A441	