

August 29, 2013

Rusty Lundberg, Director
Division of Radiation Control
Department of Environmental Quality
195 North 1950 West
P.O. Box 144850
Salt Lake City, UT 84116

Dear Mr. Lundberg:

We have reviewed the final legislation changes to the Utah Code, Title 19 Chapters 1 and 3, which resulted from State of Utah House Bill 124, "Radiation Control Amendments." Our review also included your letter dated March 22, 2013, and the June 5, 2013, letter from Ms. Laura Lockhart, State of Utah Assistant Attorney General on interpretation of the new provision in 19-3-106.4(2), "Generator Site Access Permits." The changes to the Utah Code 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 final amendments to the Utah Code with you on August 21, 2013.

As a result of our review, we have no comments. 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 previously identified the following comment, in part in our February 28, 2013, letter 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.

Although the wording of the provision in 19-3-106.4(2) remained the same in the final amendments to the Utah Code, and did not address our comment, your letter of March 22, 2013, clearly outlines Division of Radiation Control's intent and approach to implement this provision. Your letter describes that the implementation of the provision is to verify that waste shipped to the State is consistent with Utah's waste acceptance criteria and your approach clearly distinguishes Utah's jurisdiction from the Nuclear Regulatory Commission's (NRC) or

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other Agreement State's regulatory jurisdictions. The June 5, 2013, advice from State of Utah Office of the Attorney General supports the interpretation that Utah does not have the regulatory authority under their 274b. Agreement to conduct inspections of facilities under the regulatory jurisdiction of the NRC or other Agreement States.

If Utah develops proposed regulations that explicitly acknowledge that the Division of Radiation Control does not have the regulatory authority to conduct inspections of low-level radioactive waste generator facilities subject to the jurisdictional authority of NRC or other Agreement States, we request the proposed regulations be provided to us for review in accordance with FSME Procedure [SA-201](#), "Review of State Regulatory Requirements."

The enclosed 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 J. 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

cc: Laura Lockhart
Assistant Attorney General

Amanda Smith
Department of Environmental Quality

STATE REGULATION STATUS

State: Utah

Tracking Ticket Number: 13-29

[1 amendment(s) reviewed is identified by a *
at the beginning of the equivalent NRC requirement.]

Date: August 29, 2013

| 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 | |
| 1993-2 | Licensing and Radiation Safety Requirements for Irradiators Part 36 58 FR 7715 | 07/01/1996 | Final | No Comments 06/14/2000 | |

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|---------|---|-----------------------------|----------------------|--|--|
| 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. |
| 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 | |

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| 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 (Superceded 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 (Superceded 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 | |
| 1997-3 | Criteria for the Release of Individuals Administered Radioactive Material Parts 20, 35 62 FR 4120 | 05/29/2000 | Final ML071990559 | No Comments 09/04/2007 ML072470237 | |

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| 1997-4 | Fissile Material Shipments and Exemptions Part 71 62 FR 5907 (Superceded 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 ML011100015 | 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 (Superceded 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. |
| 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 | |

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|---------|---|-----------------------------|----------------------|--|--|
| 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 | |
| 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 | |

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|---------|---|-----------------------------|----------------------------------|---|-------|
| 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 | 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 | |
| 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 | |

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| 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 ML120790065 | No Comments 04/17/2012 ML120930319 | |
| 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 74 FR 33901 | 09/28/2012 | Final ML110120370 | No Comments 02/23/2011 ML110250295 | |
| 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 | | | |

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|---------|---|-----------------------------|----------------------|--|-------------------------------|
| 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 | | | |
| 2013-1 | Physical Protection of Byproduct Material, 10 CFR Parts 20, 30, 32, 33, 34, 35, 36, 37, 39, and 71 78 FR 16922 | 03/19/2016 | | | |
| 2013-2 | Distribution of Source Material to Exempt Persons and to General Licensees and Revision of General License and Exemptions, 10 CFR Parts 30, 40, and 70 78 FR 32310 | 08/27/2016 | | | |
| 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 | 10 CFR Part 34, not associate with a specific RATS ID | N/A | Final ML120790065 | Comments 04/17/2012 ML120930319 | |
| N/A | Enabling Legislation | N/A | ML12255A021 | No Comments 10/25/2012 ML12289A098 | Radiation Control Agency only |
| *N/A | Radiation Control Amendments to Enabling Legislation | N/A | Final ML13051A474 | No Comments 08/29/2013 ML13091A047 | |