



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

September 13, 2022

Jeffrey Semancik, Director
Radiation Division
Bureau of Air Management
Connecticut Department of Energy and
Environmental Protection
79 Elm Street
Hartford, CT 06106-5127

Dear Jeffrey Semancik:

We have reviewed the proposed revisions to the Connecticut legislation in the Raised Bill No. 238, received by our office on March 21, 2022. This legislation was reviewed by comparison to the Council of State Governments Suggested State Legislation (SSL), 1983, Volume 42, and NMSS procedure SA-700, *Processing an Agreement*. We discussed our review of the legislation with you and members of your staff on September 7, 2021.

As a result of our review and subsequent conversation noted above, we have seven comments that have been identified in the enclosure. If there are any changes to the proposed legislation as it makes its way through the committee process, please keep us informed. If you have any questions regarding the comments, the compatibility and health and safety categories, or any of the NRC regulations used in the review, please contact Michelle Beardsley, State Regulation Review Coordinator, at 301-415-0275 (michelle.beardsley@nrc.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "B. C. Anderson", followed by a horizontal line.

Signed by Anderson, Brian
on 09/13/22

Brian C. Anderson, Chief
State Agreement and Liaison Programs Branch
Division of Materials Safety, Security, State
and Tribal Programs
Office of Nuclear Material Safety
and Safeguards

Enclosure:
Comment table

SUBJECT: CONNECTICUT REVISED LEGISLATION IN RAISED BILL NO. 238
DATED: September 13, 2022

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OFFICE	NMSS/MSST	OGC	NMSS/MSST
NAME	Beardsley	JOImstead NLO via email	BAnderson
DATE	09/13/2022	09/13/2022	09/13/2022

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COMMENTS ON CONNECTICUT REVISED LEGISLATION

STATE SECTION		STATE SUGGESTED LEGISLATION SECTION	SUBJECT and COMMENTS
1	22a-154 Section 3(a) Definition sections: CT Section 16a-101 and 22a-151.	Section 7	<p>Connecticut omits the phrase “or devices or equipment utilizing such materials” to Section 22a-154 Section 3(a). To address this issue, CT needs to amend 22a-154 Section 3 (a), to add back in the deleted phrase “or devices or equipment utilizing such materials, based on the appropriate language from Vermont 18VS §1653(b)(1), “[T]he commissioner shall adopt regulations, in accordance with the provisions of chapter 54, for the general or specific licensing of sources of ionizing radiation, or devices or equipment utilizing such materials. The commission may issue, deny, renew, modify, suspend or revoke such licenses and may include such terms and conditions in such licenses that the commissioner deems necessary. This section does not confer authority to regulate materials or activities reserved to the NRC under 42 U.S.C. § 2021(c) and 10 C.F.R. Part 150.”</p> <p>The above Comment 13 stands from NRC letter dated March 17, 2021/ML21055A874, but is modified as follows:</p> <p>CT will seek an amendment adding the phrase “or devices or equipment utilizing such materials” to 22a-154 Section 3(a). and to add the definition, “[S]ources of radiation” means, collectively, radioactive material and radiation generating equipment” to the statute. Further confirm that if unsuccessful, the issue will be addressed through regulation.</p>
2	22a-6(7)	Section 11	<p>Surety Requirements</p> <p>Connecticut needs to deposit surety funds from licenses into a special fund instead of a general fund to ensure there are adequate funds to complete requirements if a licensee defaults. The depositing of licensee’s sureties into a special fund is a matter of adequacy and compatibility for entering into a 274b. Agreement. The following Vermont legislation provides an example. Please note that a state is not required to use the fee</p>

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		<p>schedule in 10 C.F.R. § 170.31 or deposit fees into a special fund: Vermont 18 VS §1652(f), “[F]ees collected under this section shall be credited to a special fund established and managed pursuant to 32 V.S.A. chapter 7, subchapter 5 and shall be available to the Department to offset the costs of providing services relating to licensing and registration and controlling sources of ionizing radiation. (Added 1967, No. 27, § 2; amended 1977, No. 83, § 2;2007, No. 76, § 11; 2009, No. 134 (Adj. Sess.), § 27; 2011, No. 128 (Adj. Sess.), § 4; 2015, No. 57, § 8; 2015, No. 82 (Adj. Sess.),§ 1.)” Vermont–18 VS §1653(b)(3), “[T]he Department may collect a fee for licenses issued under this section. The fee schedule for these licenses shall be the schedule adopted by the U.S. Nuclear Regulatory Commission and published in 10 C.F.R. § 170.31 that is in effect as of July 1, 2016. Fees collected under this section shall be credited to the Nuclear Regulatory Fund established and managed under subdivision (4) of this subsection and shall be available to the Department to offset the costs of providing services under this section.” Vermont–18 VS §1653(b)(4), “[T]here is established the Nuclear Regulatory Fund to consist of the fees collected under subdivision (3) of this subsection and any other monies that may be appropriated to or deposited into the Fund. Balances in the Nuclear Regulatory Fund shall be expended solely for the purposes set forth in this section and shall not be used for the general obligations of government. All balances in the Fund at the end of any fiscal year shall be carried forward and remain part of the Fund, and interest earned by the Fund shall be deposited in the Fund. The Nuclear Regulatory Fund is established in the State Treasury pursuant to 32 V.S.A. chapter 7, subchapter 5.”</p> <p>The above Comment 17 stands from NRC letter dated March 17, 2021/ML21055A874, but is modified as follows:</p> <p>Please confirm that sureties or financial</p>

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			assurances required pursuant to regulations and permit approvals can be held outside the general fund. Additionally, confirm that CT will hold radiation control sureties in their office or special fund.
3	22a-6(7)	Section 11	<p>Surety Requirements</p> <p>Connecticut needs to deposit surety funds from licenses into a special fund instead of a general fund to ensure there are adequate funds to complete requirements if a licensee defaults. See Comment 17 that provides the Vermont legislation as an example.</p> <p>The above Comments 18 and 20 stands from NRC letter dated March 17, 2021/ML21055A874, but is modified as follows:</p> <p>Please confirm that letters of credit will be securely held in the Department's vault and cash sureties can be held outside the general fund in a special fund</p>
4	--	Section 12	<p>Inspection</p> <p>Connecticut can use either the language in SSL Section 12 or the Vermont statutory provision provided below to clarify Connecticut can enter private property and needs concurrence to enter into properties under federal government jurisdiction.</p> <p>SSL Section 12, "[T]he agency or its duly authorized representatives shall have the power to enter at all reasonable times upon any private or public property for the purpose of determining whether or not there is compliance with or violation of the provisions of this act and rules and regulations issued thereunder, except that entry into areas under the jurisdiction of the federal government shall be effected only with the concurrence of the federal government or its duly designated representative."</p>

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			<p>Vermont–18 VS §1654. Inspection, “[T]he Department or its duly authorized representatives may enter at all reasonable times upon any private or public property for the purpose of determining whether or not there is compliance with or violation of this chapter and rules and regulations issued thereunder, except that entry into areas under the jurisdiction of the federal government shall be made only with the concurrence of the federal government or its duly designated representative.”</p> <p>The above Comment 21 stands from NRC letter dated March 17, 2021/ML21055A874, but is modified as follows:</p> <p>CT will consult with Attorney General regarding proposing legislation to enable entry to private property and inform the NRC of any proposed legislation</p> <p>CT will evaluate effect requiring concurrence before entry onto federal property for the radiation control program would affect their responsibilities under their other delegated environmental programs and inform the NRC of the results.</p> <p>CT will inform NRC whether the State can provide the NRC confidential information like they currently do for the U.S. Environmental Protection Agency.</p>
5	22a-7	Section 17	<p>Administrative Procedure and Judicial Review</p> <p>Connecticut omits Section 17 (f).</p> <p>Connecticut needs to provide an explanation or justification as to the reason for the omissions; or supply the missing information.</p> <p>To address this comment, Connecticut could adopt either the language in SSL Section 17(f) or Vermont 18 VSA §1655(b).</p> <p>SSL Section 17(f), “Whenever the agency finds that an emergency exists requiring immediate action to protect the public health and safety, the</p>

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			<p>agency may, without notice or hearing, issue a regulation or order reciting the existence of such emergency and requiring that such action be taken as is necessary to meet the emergency. Notwithstanding any provision of this act, such regulation or order shall be effective immediately. Any person to whom such regulation or order is directed shall comply therewith immediately, but on application to the agency shall be afforded a hearing within [] days. On the basis of such hearing, the emergency regulation or order shall be continued, modified or revoked within [30] days after such hearing.”</p> <p>Vermont–18 VSA §1655(b), “[W]henver the Department finds that an emergency exists requiring immediate action to protect the public health and safety, the Department may, without notice or hearing, issue an order reciting the existence of the emergency and requiring that such action be taken as is necessary to meet it. Notwithstanding any contrary provision of this chapter, the order shall be effective immediately. Any person to whom the order is directed shall comply with the order immediately, but on application to the Department shall be afforded a hearing within ten days. On the basis of the hearing, the emergency order shall be continued, modified, or revoked within ten days after the hearing.”</p> <p>Comment 28 stands from NRC letter dated March 17, 2021/ML21055A874, but is modified as follows</p> <p>CT will provide additional information after their discussion with the AG’s office regarding the procedure for issuing a cease-and-desist order under 22a-7 for NRC’s evaluation.</p>
6		Section 17	<p>Administrative Procedure and Judicial Review</p> <p>Connecticut omits Section 17 (g).</p> <p>Connecticut needs to provide an explanation or justification as to the reason for the omissions; or supply the missing information.</p>

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			<p>Connecticut needs to provide additional information to explain how final agency actions and orders are subject to judicial reviews or can adopt language consistent with either SSL Section 17(g) or Vermont 18 VSA §1655(c).</p> <p>SSL Section 17(g), “[A]ny final agency action or order entered in any proceedings under subsections (a), (b), (c) and (f) above shall be subject to judicial review by the [appropriate court] in the manner prescribed in [cite appropriate state act setting out procedure for appeal.]”</p> <p>Vermont–18 VSA §1655(c), [A]ny final order entered in any proceeding under subsections (a) and (b) of this section shall be subject to judicial review in the Civil Division of the Superior Court.”</p> <p>Comment 29 stands from NRC letter dated March 17, 2021/ML21055A874, but is modified as follows:</p> <p>CT will provide additional information identifying the statutory provision regarding juridical review of rules and regulations.</p>
7	--	Section 20	<p>Impounding</p> <p>Connecticut should be able to impound material quickly in an emergency. Connecticut can use the SSL Section 20 or the Vermont language to address this comment. Alternatively, Connecticut can identify a separate statute where the State has the capability to impound material quickly in an emergency.</p> <p>SSL Section 20 states, “[T]he agency shall have the authority in the event of an emergency to impound or order the impounding of sources of radiation in the possession of any person who is not equipped to observe or fails to observe the provisions of this act or any rules or regulations issued thereunder.”</p> <p>Vermont–18 VSA §1653(b)(7)(B), “[T]he Department shall have the authority in the event</p>

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			<p>of an emergency to impound or order the impounding of by-product, source, and special nuclear materials in the possession of any person who is not equipped to observe or fails to observe the provisions of this chapter or any rules adopted under this chapter.”</p> <p>Comment 31 stands from NRC letter dated March 17, 2021/ML21, but is modified as follows.</p> <p>CT will seek legislation to address this issue.</p>