

August 23, 2013

Charles W. Maguire, Director
Radioactive Materials Division
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, TX 78711-3087

Dear Mr. Maguire:

We have reviewed Texas House Bill (H.B.) 1079, on application for production area authorizations and Senate Bill (S.B.) 347, on the Texas Low-Level Radioactive Waste Disposal Compact received by our office on June 27, 2013. These final amendments to the legislation were reviewed by comparison to 10 CFR Part 40, "Domestic Licensing of Source Material"; 10 CFR Part 61, "Licensing Requirements for Land Disposal of Radioactive Waste"; and the Suggested State Legislation (SSL) on "Radiation Control," published 1983 by the Council of State Governments. We discussed our review of the legislation with Hans Weger 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 have determined that the changes to Texas' legislation 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."

The State Regulation Status (SRS) Data Sheet summarizes our knowledge of the status of other Texas 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>.

C. Maguire

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If you have any questions regarding this letter, please contact Kathleen Schneider, State Regulation Review Coordinator, at (301) 415-2320 (kathleen.schneider@nrc.gov) or Dennis Sollenberger at (301) 415-2819 (dennis.sollenberger@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:
TCEQ SRS Data Sheet

STATE REGULATION STATUS

State: Texas Commission on Environmental Quality
 [1 amendment(s) reviewed is identified by a *
 at the beginning of the equivalent NRC requirement.]

Tracking Ticket Number: 13-28
 Date: August 23, 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 | Not Applicable | Not Applicable | TX DSHS Responsibility |
| 1991-2 | ASNT Certification of Radiographers Part 34 56 FR 11504 (Superceded by 1997-5) | none | Not Applicable | Not Applicable | TX DSHS Responsibility |
| 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 11/06/1997 | |
| 1991-4 | Notification of Incidents Parts 20, 30, 31, 34, 39, 40, 70 56 FR 64980 | 10/15/1994 | Final | No Comments 01/07/1998 | |
| 1992-1 | Quality Management Program and Misadministrations Part 35 56 FR 34104 (Superceded by 2002-2) | 01/27/1995 | Not Applicable | Not Applicable | TX DSHS Responsibility |
| 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 01/07/1998 | |

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| 1993-2 | Licensing and Radiation Safety Requirements for Irradiators Part 36 58 FR 7715 | 07/01/1996 | Not Applicable | Not Applicable | TX DSHS Responsibility |
| 1993-3 | Definition of Land Disposal and Waste Site QA Program Part 61 58 FR 33886 | 07/22/1996 | Final | No Comments 01/07/1998 | |
| 1994-1 | Self-Guarantee as an Additional Financial Mechanism Parts 30, 40, 70 58 FR 68726; 59 FR 1618 | none | Final | No Comments 01/07/1998 | |
| 1994-2 | Uranium Mill Tailings Regulations: Conforming NRC Requirements to EPA Standards Part 40 59 FR 28220 | 07/01/1997 | Final | No Comments 01/07/1998 | |
| 1994-3 | Timeliness in Decommissioning Material Facilities Parts 30, 40, 70 59 FR 36026 | 08/15/1997 | Final | No Comments 01/07/1998 | |
| 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 | Not Applicable | Not Applicable | TX DSHS Responsibility |
| 1995-2 | Frequency of Medical Examinations for Use of Respiratory Protection Equipment Part 20 60 FR 7900 | 03/13/1998 | Final | No Comments 01/07/1998 | |
| 1995-3 | Low-Level Waste Shipment Manifest Information and Reporting Parts 20, 61 60 FR 15649; 60 FR 25983 | 03/01/1998 | Final | No Comments 01/07/1998 | |

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| 1995-4 | Performance Requirements for Radiography Equipment Part 34 60 FR 28323 (Superceded by 1997-5) | 06/30/1998 | Not Applicable | Not Applicable | TX DSHS Responsibility |
| 1995-5 | Radiation Protection Requirements: Amended Definitions and Criteria Parts 19, 20 60 FR 36038 | 08/14/1998 | Final | No Comments 01/07/1998 | |
| 1995-6 | Clarification of Decommissioning Funding Requirements Parts 30, 40, 70 60 FR 38235 | 11/24/1998 | Final | No Comments 01/07/1998 | |
| 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 Applicable | Not Applicable | TX DSHS Responsibility |
| 1996-1 | Compatibility with the International Atomic Energy Agency Part 71 60 FR 50248; 61 FR 28724 (Superceded by 2004-1) | 04/01/1999 | Not Applicable | Not Applicable | TX DSHS Responsibility |
| 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 01/07/1998 | |

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| 1997-1 | Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials; Clean Air Act Part 20 61 FR 65120 | 01/9/2000 | Final ML012610092 | No Comments 11/26/01 ML013330250 | |
| 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 | Not Applicable | Not Applicable | TX DSHS Responsibility |
| 1997-3 | Criteria for the Release of Individuals Administered Radioactive Material Parts 20, 35 62 FR 4120 | 05/29/2000 | Not Applicable | | TX DSHS Responsibility |
| 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 | Not Applicable | Not Applicable | TX DSHS Responsibility |
| 1997-6 | Radiological Criteria for License Termination Parts 20, 30, 40, 70 62 FR 39057 | 08/20/2000 | Final ML063450071 | No Comments 01/09/2007 ML070090204 | |
| 1997-7 | Exempt Distribution of a Radioactive Drug Containing One Micro curie of Carbon-14 Urea Part 30 62 FR 63634 | 01/02/2001 | Not Applicable | Not Applicable | TX DSHS Responsibility |

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|---------|--|-----------------------------|-------------------------------|--|---|
| 1998-1 | Deliberate Misconduct by Unlicensed Persons Parts 30, 40, 61, 70, 71, 150 63 FR 1890; 63 FR 13773 | 02/12/2001 | Final ML063450071 | No comments 1/09/07 ML070090204 | |
| 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) |
| 1998-4 | Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiographic Operations Part 34 63 FR 37059 | 07/09/2001 | Not Applicable | Not Applicable | TX DSHS Responsibility |
| 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 ML012610092 | No Comments 11/26/2001 ML013330250 | |
| 1998-6 | Transfer for Disposal and Manifests: Minor Technical Conforming Amendment Part 20 63 FR 50127 | 11/20/2001 | Final ML063450071 | No Comments 01/09/2007 ML070090204 | |
| 1999-1 | Radiological Criteria for License Termination of Uranium Recovery Facilities Part 40 64 FR 17506 | 06/11/2002 | R ¹ ML13184A122 | Comments 08/13/2013 ML12152A150 | |

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| 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 ML012610092 | No Comments 11/26/2001 ML013330250 | |
| 2000-1 | Energy Compensation Sources for Well Logging and Other Regulatory Clarifications Part 39 65 FR 20337 | 05/17/2003 | Not Applicable | Not Applicable | TX DSHS Responsibility |
| 2000-2 | New Dosimetry Technology Parts 34, 36, 39 65 FR 63750 | 01/08/2004 | Not Applicable | Not Applicable | TX DSHS Responsibility |
| 2001-1 | Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material Parts 30, 31, 32 65 FR 79162 | 02/16/2004 | Not Applicable | Not Applicable | TX DSHS Responsibility |
| 2002-1 | Revision of the Skin Dose Limit Part 20 67 FR 16298 | 04/05/2005 | Final ML063450071 | No Comments 01/09/2007 ML070090204 | |
| 2002-2 | Medical Use of Byproduct Material Parts 20, 32, 35 67 FR 20249 | 10/24/2005 | Not Applicable | Not Applicable | TX DSHS Responsibility |
| 2003-1 | Financial Assurance for Materials Licensees Parts 30, 40, 70 68 FR 57327 | 12/03/2006 | Final ML063450071 | No Comments 01/09/2007 ML070090204 | |

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| 2004-1 | Compatibility With IAEA Transportation Safety Standards and Other Transportation Safety Amendments Part 71 69 FR 3697 | 10/01/2007 | Not Applicable | Not Applicable | TX DSHS Responsibility |
| 2005-1 | Security Requirements for Portable Gauges Containing Byproduct Material Part 30 70 FR 2001 | 07/11/2008 | Not Applicable | Not Applicable | TX DSHS Responsibility |
| 2005-2 | Medical Use of Byproduct Material - Recognition of Specialty Boards Part 35 70 FR 16336; 71 FR 1926 | 04/29/2008 | Not Applicable | Not Applicable | TX DSHS Responsibility |
| 2005-3 | Increased Controls for Risk-Significant Radioactive Sources (NRC Order EA-05-090) 70 FR 72128 | 12/01/2005 | Proposed ML111880217 License Condition ML052240226 | Comments 08/18/2011 ML112060277 No Comments 12/12/2005 ML053420404 | |
| 2006-1 | Minor Amendments Parts 20, 30, 32, 35, 40 and 70 71 FR 15005 | 03/27/2009 | | | |
| 2006-2 | National Source Tracking System - Serialization Requirements Part 32 with reference to Part 20 Appendix E 71 FR 65685 | 02/06/2007 | Not Applicable | Not Applicable | TX DSHS Responsibility |
| 2006-3 | National Source Tracking System Part 20 71 FR 65685, 72 FR 59162 | 01/31/2009 | Proposed ML111880217 | Comments 08/18/2011 ML112060277 | Note: Because of the upcoming licensee for a LLW site, TCEQ is adopting this provision prior to the LLW site becoming operational and receiving waste. |

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| 2007-1 | Medical Use of Byproduct Material - Minor Corrections and Clarifications Parts 32 and 35 72 FR 45147, 54207 | 10/29/2010 | Not Applicable | Not Applicable | TX DSHS Responsibility |
| 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 | Not Applicable | Not Applicable | TX DSHS Responsibility |
| 2007-3 | Requirements for Expanded Definition of Byproduct Material Parts 20, 30, 31, 32, 33, 35, 61, 150 72 FR 55864 | 11/30/2010 | Proposed ML111880217 | Comments 08/18/2011 ML112060277 | |
| 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 ML082100350 | No Comments 09/11/2008 ML082410019 | |
| 2008-1 | Occupational Dose Records, Labeling Containers, and Total Effective Dose Equivalent Parts 19, 20 72 FR 68043 | 02/15/2011 | Proposed ML111880217 | No Comments 08/18/2011 ML112060277 | |
| 2009-1 | Medical Use of Byproduct Material – Authorized User Clarification Part 35 74 FR 33901 | 09/28/2012 | | | TX DSHS Responsibility |
| 2011-1 | Decommissioning Planning Parts 20, 30, 40, 70 76 FR 35512 | 12/17/2015 | | | |

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| 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 | | | TX DSHS Responsibility |
| 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 | Compact Waste Disposal Facility and Commingling of Waste Part 61 | N/A | Final ML121230326 | No Comments 06/29/2012 ML12152A150 | |
| N/A | 10 CFR Part 40 | N/A | R ¹ ML13184A122 | Comments 08/13/2013 ML12152A150 | |

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| N/A | Exemption for Radioactive Substances from Disposal Requirements | N/A | Final ML13176A107 | No Comments 08/15/2013 ML13176A104 | |
| *N/A | Legislation on Production Area Authorizations and Compact Waste | N/A | Final ML13178A064 | No Comments 08/23/2013 ML13178A059 | |