

From: Monica Orendi
To: Patricia McGrady-Finneran
Date: 01/30/2008 8:32:20 AM
Subject: Fwd: Utah Radiation Control Rules R313-19-100

>>> "Gwyn Galloway" <GGALLOWAY@utah.gov> 1/28/2008 12:30 PM >>>

Attached are the cover letter and the final version of R313-19-100. If you have any questions, please contact me by e-mail or at (801) 536-4250.

Gwyn Galloway, Health Physicist
<ggalloway@utah.gov>

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From: Monica Orendi

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R313-19-100 final version letter.pdf		74485	01/30/2008 8:32:08 AM
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R313-19-100 final.rtf	22717	01/30/2008 8:32:08 AM	

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GARY HERBERT
Lieutenant Governor

January 28, 2008

Robert Lewis, Deputy Director
Division of Materials Safety and State Agreements (DMSSA)
U.S. Nuclear Regulatory Commission
Electronic Mail: rx11@nrc.gov

Dear Mr. Lewis:

Enclosed is a copy of the final version of Utah Radiation Control Rules, R313-19-100, "Transportation." The final regulations correspond to the following equivalent amendments to NRC's regulations:

1. RATS ID # 2004-1

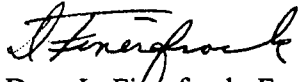
Through an Executive Order issued by the Governor, agencies in Utah are mandated to incorporate Federal Regulations by reference, when possible. The incorporation of revisions to 10 CFR 71 was challenging due to the manner in which it was written. The following items are areas where the State of Utah has deviated from the compatibility requirements set by the NRC:

1. 10 CFR 71.19 (a)-(c) were incorporated by reference, but were marked as "NRC" compatibility category. In 10 CFR 71.17(e), the requirement states that the general license is subject to the additional restrictions of 10 CFR 71.19. If the provisions of 10 CFR 71.19(a)-(c) were not incorporated, 10 CFR 71.17(e) would not be enforceable. Although 10 CFR 71.19(d) contains requirements that are only enforceable by the NRC, the requirements in 10 CFR 71.19(a)-(c) do not appear to be items that would only be enforceable by the NRC.
2. The requirements of 10 CFR 71.103 states in footnote /2/ that " (w)hile the term 'licensee' is used in these criteria, the requirements are applicable to whatever design, fabrication, assembly, and testing of the package is accomplished with respect to a package before the time a package approval is issued." Since the footnote stipulates that the requirements are only applicable to testing of packages before a package approval is issued and package testing and approvals are reserved for NRC enforcement, the State of Utah does not believe that these requirements can be enforced by State personnel.

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The proposed regulations are being submitted as final regulations without change. We believe that adoption of these revisions satisfies the compatibility and health and safety categories established in the Office of Federal and State Materials and Environmental Management (FSME) Programs Procedure SA-200. If you have any questions, please feel free to contact me at (801) 536-4250 or Gwyn Galloway of my staff at (801) 536-4258 or ggalloway@utah.gov.

Sincerely,



Dane L. Fierbrock, Executive Secretary
Utah Radiation Control Board

cc: Kathleen Schneider, Senior Project Manager
State Agreements and Industrial Safety Branch
U.S. Nuclear Regulatory Commission
Electronic Mail: kxs@nrc.gov