



State of Utah

GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

Department of
Environmental Quality

Amanda Smith
Executive Director

DIVISION OF RADIATION CONTROL
Rusty Lundberg
Director

March 13, 2015

Pamela Henderson, Deputy Director
Division of Material Safety, State, Tribal, and Rulemaking Programs
Office of Nuclear Material Safety and Safeguards
U.S. Nuclear Regulatory Commission
T8-E24
Washington, D.C. 20555-0001

Dear Ms. Henderson:

Enclosed is a copy of the final revisions to the Utah Radiation Control Rules R313-19, *Requirements of General Applicability to Licensing of Radioactive Material*, and R313-37, *Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material*. The final regulations are identified by line-in/line-out text and correspond to the following equivalent amendments to NRC's regulations.

| <u>Rats ID</u> | <u>Title</u> | <u>State Section</u> |
|----------------|---|--------------------------------------|
| 2013-1 | Physical Protection of Byproduct Material | R313-19-2, 19-7, & 19-100 R313-37 |

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 Programs (FSME) Procedure SA-200.

The rules in R313-19-2, 19-7, & 19-100 have been made effective on February 17, 2015. No changes have been made to these rules from the proposed rules provided to the NRC with the Division's letter dated September 29, 2014. The NRC provided comments on the proposed rules in R313-37. The Division has incorporated these comments into the final rules, which have been published in the *Utah State Bulletin* on March 1, 2015. Following a 30-day public notice of a change in proposed rules (no public comments will be received), the Division will set an effective date for the rules of June 30, 2015. Copies of the final rules in R313-19-2, 19-7, 19-100, and R313-37 are enclosed with this letter.

195 North 1950 West • Salt Lake City, UT
Mailing Address: P.O. Box 144850 • Salt Lake City, UT 84114-4850
Telephone (801) 536-4250 • Fax (801) 533-4097 • T.D.D. (801) 536-4414
www.deq.utah.gov

Printed on 100% recycled paper

Pamela Henderson

March 13, 2015

Page 2

One Utah licensee has previously been issued a security Order from the NRC. With the effective date for R313-37 set for June 30, 2015, the NRC should rescind the Order for this licensee on June 30, 2015.

If you have any questions, please feel free to contact Philip Griffin of my staff at (801) 536-4250 or by email at pgriffin@utah.gov.

Sincerely,



Rusty Lundberg, Director

Enclosures: As referenced

R313. Environmental Quality, Radiation Control.

R313-19. Requirements of General Applicability to Licensing of Radioactive Material.

R313-19-2. General.

(1) A person shall not manufacture, produce, receive, possess, use, transfer, own or acquire radioactive material except as authorized in a specific or general license issued pursuant to Rules R313-21 or R313-22 or as otherwise provided in Rule R313-19.

(2) In addition to the requirements of Rules R313-19, R313-21 or R313-22, all licensees are subject to the requirements of Rules R313-12, R313-15, and R313-18. Licensees engaged in source material milling operations, authorized to possess byproduct material, as defined in Section R313-12-3 (see definition (b)) from source material milling operations, authorized to possess and maintain a source material milling facility in standby mode, authorized to receive byproduct material from other persons for disposal, or authorized to possess and dispose of byproduct material generated by source material milling operations are subject to the requirements of Rule R313-24. Licensees engaged in land disposal of radioactive material are subject to the requirements of Rule R313-25. Licensees using radioactive material in the healing arts are subject to the requirements of Rule R313-32. Licensees authorized to use sealed sources containing radioactive materials in panoramic irradiators with dry or wet storage of radioactive sealed sources, underwater irradiators, or irradiators with high dose rates from radioactive sealed sources are subject to the requirements of Rule R313-34. Licensees engaged in industrial radiographic operations are subject to the requirements of Rule R313-36. Licensees possessing category 1 or category 2 quantities of radioactive material, as defined in Section R313-37-3 (incorporating 10 CFR 37.5 by reference), are subject to the physical protection requirements of Rule R313-37. Licensees engaged in wireline and subsurface tracer studies are subject to the requirements of Rule R313-38. Licensees authorized to use sealed sources containing radioactive materials in panoramic irradiators with dry or wet storage of radioactive sealed sources, underwater irradiators, or irradiators with high dose rates from radioactive sealed sources are subject to the requirements of Rule R313-34, licensees engaged in industrial radiographic operations are subject to the requirements of Rule R313-36, licensees using radionuclides in the healing arts are subject to the requirements of Rule R313-32, licensees engaged in land disposal of radioactive material are subject to the requirements of Rule R313-25, and licensees engaged in wireline and subsurface tracer studies are subject to the requirements of Rule R313-38. Licensees engaged in source material milling operations, authorized to possess byproduct material, as defined in Section R313-12-3 (see definition

~~(b)) from source material milling operations, authorized to possess and maintain a source material milling facility in standby mode, authorized to receive byproduct material from other persons for disposal, or authorized to possess and dispose of byproduct material generated by source material milling operations are subject to the requirements of Rule R313-24.]~~

R313-19-7. Carriers.

Common and contract carriers, freight forwarders, warehousemen, and the U.S. Postal Service are exempt from the regulations in Rules R313-19, R313-21, R313-22, R313-32, R313-34, R313-36, R313-37, and R313-38 and the requirements for a license set forth in Subsection 19-3-104(3) to the extent that they transport or store radioactive material in the regular course of carriage for another or storage incident thereto.

R313-19-100. Transportation.

For purposes of Section R313-19-100, 10 CFR 71.0(c), 71.1(a), 71.3, 71.4, 71.13, 71.14(a), 71.15, 71.17, 71.19(a), 71.19(b), 71.19(c), 71.20 through 71.23, 71.47, 71.83 through 71.89, 71.97, 71.101(a), 71.101(b), 71.101(c) (1), 71.101(g), 71.105, 71.127 through 71.137, and Appendix A to Part 71 (2014) [~~2010~~] are incorporated by reference with the following clarifications or exceptions:

- (1) The exclusion of the following:
 - (a) In 10 CFR 71.4 the following definitions:
 - (i) "close reflection by water";
 - (ii) "licensed material";
 - (iii) "optimum interspersed hydrogenous moderation";
 - (iv) "spent nuclear fuel or spent fuel"; and
 - (v) "state."
 - (2) The substitution of the following date reference:
 - (a) "October 1, 2011" for "October 1, 2008".
 - (3) The substitution of the following rule references:
 - (a) "R313-36 (incorporating 10 CFR 34.31(b) by reference)" for "Sec. 34.31(b) of this chapter" as found in 10 CFR 71.101(g);
 - (b) "R313-15-502" for reference to "10 CFR 20.1502";
 - (c) "R313-14" for reference to "10 CFR Part 2 Subpart B";
 - (d) "Rule R313-32, 10 CFR Part 35," for reference to "10 CFR part 35";
 - (e) "R313-15-906(5)" for reference to "10 CFR 20.1906(e)";
 - (f) "R313-19-100(5)" for "Sec. 71.5";
 - (g) "10 CFR 71.101(a), 71.101(b), 71.101(c) (1), 71.101(g), 71.105, and 71.127 through 71.137" for "subpart H of this part" or for "subpart H" except in 10 CFR 71.17(b), 71.20(b), 71.21(b), 71.22(b),

71.23(b);

(h) "10 CFR 71.0(c), 71.1(a), 71.3, 71.4, 71.17(c)(2), 71.20(c)(2), 71.21(d)(2), 71.83 through 71.89, 71.97, 71.101(a), 71.101(b), 71.101(c)(1), 71.101(g), 71.105, and 71.127 through 71.137" for "subparts A, G, and H of this part";

(i) "10 CFR 71.47" for "subparts E and F of this part"; and

(j) "10 CFR 71.101(a), 71.101(b), 71.101(c)(1), 71.101(g), 71.105, and 71.127 through 71.137" for "Sec. Sec. 71.101 through 71.137."

(4) The substitution of the following terms:

(a) "Director" for:

(i) "Commission" in 10 CFR 71.0(c), 71.17(a), 71.20(a), 71.21(a), 71.22(a), 71.23(a), and 71.101(c)(1);

(ii) "Director, Division of Nuclear Safety, Office of Nuclear Security and Incident Response" in 10 CFR 71.97(c)(1), and 71.97(f)(1);

(iii) "Director, Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001" in 10 CFR 71.97(c)(3)(iii);

(iv) "NRC" in 10 CFR 71.101(f);

(b) "Director, the U.S. Nuclear Regulatory Commission, or an Agreement State" for "Commission" in 10 CFR 71.3;

(c) "The Governor of Utah" for:

(i) "the governor of a State" in 71.97(a);

(ii) "each appropriate governor" in 10 CFR 71.97(c)(1);

(iii) "the governor" in 10 CFR 71.97(c)(3);

(iv) "the governor of the state" in 10 CFR 71.97(e);

(v) "the governor of each state" in 10 CFR 71.97(f)(1);

(vi) "a governor" in 10 CFR 71.97(e);

(d) "State of Utah" for "State" in 71.97(a), 71.97(b)(2), and 71.97(d)(4);

(e) "the Governor of Utah's" for:

(i) "the governor's" in 10 CFR 71.97(a), 71.97(c)(3), 71.97(c)(3)(iii), 71.97(e), and 71.97(f)(1);

(ii) "governor's" in 10 CFR 71.97(c)(1), and 71.97(e);

(f) "Specific or general" for "NRC" in 10 CFR 71.0(c);

(g) "The Director at the address specified in R313-12-110" for reference to "ATTN: Document Control Desk, Director, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards" in 10 CFR 71.101(c)(1);

(h) "Each" for "Using an appropriate method listed in Sec. 71.1(a), each" in 10 CFR 71.101(c)(1);

(i) "The material must be contained in a Type A package meeting the requirements of 49 CFR 173.417(a)." for "The fissile material need not be contained in a package which meets the standards of subparts

E and F of this part; however, the material must be contained in a Type A package. The Type A package must also meet the DOT requirements of 49 CFR 173.417(a)." as found in 10 CFR 71.22(a) and 71.23(a);

(j) "Licensee" for "licensee, certificate holder, and applicant for a COC"; and

(k) "Licensee is" for reference to "licensee, certificate holder, and applicant for a COC are."

(5) Transportation of licensed material

(a) Each licensee who transports licensed material outside the site of usage, as specified in the license issued by the Director, the U.S. Nuclear Regulatory Commission or an Agreement State, or where transport is on public highways, or who delivers licensed material to a carrier for transport, shall comply with the applicable requirements of the U.S. Department of Transportation regulations in 49 CFR parts 107, 171 through 180, and 390 through 397 (2009), appropriate to the mode of transport.

(i) The licensee shall particularly note DOT regulations in the following areas:

(A) Packaging--49 CFR part 173: subparts A (49 CFR 173.1 through 49 CFR 173.13), B (49 CFR 173.21 through 49 CFR 173.40), and I (49 CFR 173.401 through 49 CFR 173.477).

(B) Marking and labeling--49 CFR part 172: subpart D (49 CFR 172.300 through 49 CFR 172.338); and 49 CFR 172.400 through 49 CFR 172.407 and 49 CFR 172.436 through 49 CFR 172.441 of subpart E.

(C) Placarding--49 CFR part 172: subpart F (49 CFR 172.500 through 49 CFR 172.560), especially 49 CFR 172.500 through 49 CFR 172.519 and 49 CFR 172.556; and appendices B and C.

(D) Accident reporting--49 CFR part 171: 49 CFR 171.15 and 171.16.

(E) Shipping papers and emergency information--49 CFR part 172: subparts C (49 CFR 172.200 through 49 CFR 172.205) and G (49 CFR 172.600 through 49 CFR 172.606).

(F) Hazardous material employee training--49 CFR part 172: subpart H (49 CFR 172.700 through 49 CFR 172.704).

(G) Security plans--49 CFR part 172: subpart I (49 CFR 172.800 through 49 CFR 172.804).

(H) Hazardous material shipper/carrier registration--49 CFR part 107: subpart G (49 CFR 107.600 through 49 CFR 107.606).

(ii) The licensee shall also note DOT regulations pertaining to the following modes of transportation:

(A) Rail--49 CFR part 174: subparts A through D (49 CFR 174.1 through 49 CFR 174.86) and K (49 CFR 174.700 through 49 CFR 174.750).

(B) Air--49 CFR part 175.

(C) Vessel--49 CFR part 176: subparts A through F (49 CFR 176.1 through 49 CFR 176.99) and M (49 CFR 176.700 through 49 CFR 107.720).

R313. Environmental Quality, Radiation Control.

R313-37. Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material.

R313-37-1. Purpose and Authority.

(1) The rules in R313-37 prescribe requirements for the physical protection program for a licensee that possesses an aggregated category 1 or category 2 quantity of radioactive material.

(2) The rules set forth herein are adopted pursuant to the provisions of Subsections 19-3-104(4) and 19-3-104(8).

(3) The requirements of R313-37 are in addition to, and not in substitution for, the other requirements of these rules.

R313-37-2. Scope.

These requirements provide reasonable assurance of the security of category 1 and category 2 quantities of radioactive material by protecting these materials from theft or diversion. Specific requirements for access to material, and use, transfer, and transportation of material are included.

R313-37-3. Clarifications or Exceptions.

For purposes of R313-37, 10 CFR 37.5, 37.11(c), 37.21 through 37.43(d)(8), 37.45 through 37.103, and Appendix A to 10 CFR 37 (2014), are incorporated by reference with the following clarifications or exceptions:

(1) The exclusion of the following:

(a) In 10 CFR 37.5, exclude definitions for "Act", "Agreement State", "Becquerel", "Byproduct Material", "Commission", "Curie", "Government Agency", "License", "License issuing authority", "Lost or missing licensed material", "Person", "State", and "United States";

(b) In 10 CFR 37.77, exclude the wording "Notifications to the NRC must be to the NRC's Director, Division of Security Policy, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. The notification to the NRC may be made by email to RAMQC SHIPMENTS@nrc.gov or by fax to 301-816-5151."; and

(c) In 10 CFR 37.81(g), exclude the wording "In addition, the licensee shall provide one copy of the written report addressed to the Director, Division of Security Policy, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001."

(2) The substitution of the following wording:

(a) "Utah Radiation Control Rule" for references to:

(i) "Commission regulation" in 10 CFR 37.101; and

- (ii) "regulation" in 10 CFR 37.103;
- (b) "Utah Radiation Control Rules" for reference to:
 - (i) "regulations and laws" in 10 CFR 37.31(d);
 - (ii) "Commission requirements" in 10 CFR 37.43(a)(3) and 37.43(c)(1)(ii); and
 - (iii) "regulations in this part" in 10 CFR 37.103;
- (c) "Director" for references to:
 - (i) "appropriate NRC regional office listed in Section 30.6(a)(2)" in 10 CFR 37.45(b);
 - (ii) "Commission" in 10 CFR 37.103;
 - (iii) "NRC" in 10 CFR 37.31(d), 37.43(c)(3)(iii), 37.57(a) and (c), 37.77, and 37.77(a)(1) [first instance] and (3);
 - (iv) "NRC's Director, Division of Security Policy, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, DC 29555-0001" in 10 CFR 37.77(c)(2) and 37.77(d);
 - (v) "NRC's Director of Nuclear Security, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, DC 29555-0001" in 10 CFR 37.77(c)(1);
 - (vi) "NRC's Operations Center" in 10 CFR 37.81(a) and (b);
 - (vii) "NRC's Operations Center (301-816-5100)" in 10 CFR 37.57(a) and (b) and 37.81(a) through (f);
 - (viii) "NRC regional office listed in section 30.6(a)(2) of this chapter" in 10 CFR 37.41.(a)(3); and
 - (ix) "NRC regional office specified in section 30.6 of this chapter" in 10 CFR 37.41(a)(3);
- (d) "Director, the U.S. Nuclear Regulatory Commission, or an Agreement State" for references to "Commission or an Agreement State" in 10 CFR 37.71 and 37.71(a) and (b);
- (e) "U.S. Nuclear Regulatory Commission's Security Orders or the legally binding requirement issued by Agreement States" for references to "Security Orders" in 10 CFR 37.21(a)(3), 37.25(b)(2), and 37.41(a)(3);
- (f) "mail, hand delivery, or electronic submission" for references to "an appropriate method listed in section 37.7" in 10 CFR 37.57(c) and 37.81(g); and
- (g) "shall, by mail, hand delivery, or electronic submission," for reference to "shall use an appropriate method listed in section 37.7 to" in 10 CFR 37.27(c).
- (3) The substitution of the following rule references:
 - (a) "R313-19-41(4)" for reference to "section 30.41(d) of this chapter.";
 - (b) "R313-19-100 [incorporating 10 CFR [37]71.97 by reference]" for reference to "section 71.97 of this chapter" in 10 CFR 37.73(b);

(c) "R313-19-100 [incorporating 10 CFR [37]71.97(b) by reference]" for reference to "section 71.97(b) of this chapter" in 10 CFR 37.73(b); and

(d) "10 CFR 73" for references to "part 73 of this chapter" in 10 CFR 37.21(c) (4), 37.25(b) 2), and 37.27(a) (4).

KEY: radioactive material, security, fingerprinting, transportation

Date of Enactment or Last Substantive Amendment: 2015

Notice of Continuation: None

Authorizing, and Implemented or Interpreted Law: 19-3-104; 19-3-108

(D) Public Highway--49 CFR part 177 and parts 390 through 397.

(b) If DOT regulations are not applicable to a shipment of licensed material, the licensee shall conform to the standards and requirements of the DOT specified in paragraph (a) of this section to the same extent as if the shipment or transportation were subject to DOT regulations. A request for modification, waiver, or exemption from those requirements, and any notification referred to in those requirements, must be filed with, or made to, the Director, P.O. Box 144850, Salt Lake City, Utah 84114-4850.

KEY: license, reciprocity, transportation, exemptions

Date of Enactment or Last Substantive Amendment: 2014 [March 19, 2013]

Notice of Continuation: September 23, 2011

Authorizing, and Implemented or Interpreted Law: 19-3-104; 19-3-108