



State of Utah

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DIVISION OF WASTE MANAGEMENT
AND RADIATION CONTROL
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Director

August 5, 2015

Pamela J. 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-E18
Washington, DC 20555-0001

RE: State Regulation Status Tracking Sheet
Tracking Ticket Number: 15-28

Dear Ms. Henderson:

During the Utah IMPEP review the week of July 27, 2015, we reviewed the State Regulation Status (SRS) Tracking Ticket Number, 15-28, dated May 7, 2015 for the State of Utah. There were a couple of items that needed correction based on presented information.

RATS ID # 1991-4: **Needs correction on the SRS sheet only. No action necessary from the State of Utah.** The State previously sent information demonstrating that the previous comments sent by the Nuclear Regulatory Commission (NRC) had been addressed for this item and the NRC had corrected the SRS Sheet. See enclosed letter dated December 3, 2014 and December 2014 SRS Sheet (ML14314A065). The sheet was corrected at that time. However, the May 2015 SRS sheet has reverted to stating that there are open comments for this item. Please revise the sheet to reflect the correct status.

RATS ID # 2012-2: **Needs correction on the SRS sheet only. No action necessary from the State of Utah.** Requirements in 10 CFR 71.4 and 10 CFR 71.97 (2014 edition) have been adopted by reference into R313-19-100 of the Utah Administrative Code (Utah Radiation Control Rules). The SRS Sheet shows that the Division of Radiation Control (DRC) provided the proposed rules in a letter dated March 13, 2015 (ML15098A613). However, the first line of this letter states, "This letter is to advise the NRC of the **final revisions** to the Utah Radiation Control Rules R313-19, *Requirements of General Applicability to Licensing of Radioactive*

DRC-2015-004467

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Material.” A copy of R313-19 of the Utah Administrative Code was included with the letter. The letter explained that R313-19 was updated to incorporate the requirements of the 2014 edition of 10 CFR 71.4 and 10 CFR 71.97. Since these were the only two requirements RATS ID # 2012-2 required Agreement States to adopt, the DRC believed that the adoption of R313-19-100 that became effective on February 17, 2014 addressed the requirements for RATS ID # 2012-2. Another copy of the applicable portion of R313-19-100 and the notice of the effective date in the March 1, 2015 Utah Bulletin is enclosed. Please revise the sheet to reflect the correct status.

RATS ID # 2012-3 This rulemaking action is in process. There was an error in the initial processing of this rulemaking action and the proposed version of the rules was not transmitted to the NRC. The final version of the rules to address RATS ID # 2012-3 was transmitted to the NRC in a letter dated July 7, 2015.

RATS ID # 2012-4 This rulemaking action is in process. There was an error in the initial processing of this rulemaking action and the proposed version of the rules was not transmitted to the NRC. The final version of the rules to address a portion of RATS ID # 2012-4 was transmitted to the NRC in a letter dated July 7, 2015. A few corrections were required for the remaining portions of the rules adopted to address RATS ID # 2012-4. Therefore, the remaining portions of the rules that were not submitted in the letter dated July 7, 2015 will be adopted as final rules toward the end of August. The remaining rules will be transmitted to NRC at that time.

RATS ID # 2013-1 The State of Utah adopted the requirements of 10 CFR Part 37 by reference in R313-37 of the Utah Administrative Code. R313-37 was made effective on June 29, 2015. During the recent IMPEP review in the State of Utah, it was brought to Division’s attention that there was now a potential conflict between R313-37 and the NRC Order sent to certain licensees in the State of Utah. The Division was informed that NRC should be contacted to coordinate a rescission letter from the NRC to Utah licensees for removal of the NRC Order. NRC has been contacted to verify that the rescission letters have been sent. The Division received notification on August 3, 2015 that the NRC Order had been rescinded.

The remaining requirements which need to be addressed are not associated with a specific RATS ID # and will be referenced as designated on the SRS Sheet.

10 CFR Part 34, not associated with a specific RATS ID:

NRC sent comments regarding this rulemaking in a letter dated April 17, 2012 (ML120930319). The SRS Sheet indicates that comments regarding this rulemaking were not addressed. Research by Division staff confirms that the comments were not addressed in the final version of the rules. Therefore, the Division will address these comments as soon as possible after the new Waste Management and Radiation Control Board is appointed and begins to meet.

10 CFR Parts 30, 39, and 61 not associated with a specific RATS ID:

Comments regarding this rulemaking action were sent in an NRC letter dated July 24, 2014 (ML14197A194). The comments indicated that Utah had a reference in R313-15-1208 to R313-15-1401 which no longer existed in the Utah Administrative Code. Additionally, the license condition that was sent to assist in addressing the comment also cited R313-15-1208. The comment indicated that Utah needed to revise R313-15-1208 to replace the incorrect reference to R313-15-1401. Utah deleted the requirements in R313-15-1208 effective March 17, 2015. Additionally, the general standard license condition for leak tests was modified to remove all references to R313-15-1208. For well logging licenses, the requirements of 10 CFR 39.35 have been adopted by reference in R313-38. If there is a need to emphasize the leak test condition in a well logging license, a specialized license condition may be added to the license. Leak tests are now either required by an incorporated Federal requirement or by a license condition if no specific Federal requirement exists for the license category in question.

10 CFR 150.31 not associated with a specific RATS:

During Utah's recent IMPEP review, it was noted that ML14232A322 is dated, October 10, 2014, on the SRS Sheet. When ML14232A322 was located, the date on the letter was actually October 15, 2014. Please correct this date so that it may be easier to locate the letter when searching in ADAMS. Additionally, the SRS Sheet indicates that this rulemaking has not been completed and has comments for the proposed rules. Enclosed are copies of changes that were made to the proposed rules and the final rules for your review.

Amendments to Legislation regarding the Regulatory Control Agency:

The changes made during the 2015 General Session for the Utah Legislature were reviewed and comments were made by NRC in a letter dated March 18, 2015 (ML15058A256). The IMPEP Team pointed out that a response to this letter had not been received at the time of the IMPEP review. A response to the NRC comments addressing Utah's Senate Bill 244 from the 2015 General Session is forthcoming. However, due to an administrative appeal addressing matters associated with financial surety for low-level radioactive waste disposal facilities, Utah is still evaluating a response to the NRC's comments related to Senate Bill 173. Even so, the changes to Utah's statutes were discussed during the IMPEP review. Given the recent changes to Utah's Radiation Control Program and the ongoing administrative appeal, a response to this item will be sent at a later date.

If you have any questions, please call Gwyn Galloway at (801) 536-4258.

Sincerely,



Scott T. Anderson, Director
Division of Waste Management and Radiation Control

STA/geg

Enclosures

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