



State of Utah

SPENCER J. COX  
*Governor*

DEIDRE HENDERSON  
*Lieutenant Governor*

## Department of Environmental Quality

Kimberly D. Shelley  
*Executive Director*

### DIVISION OF WASTE MANAGEMENT AND RADIATION CONTROL

Douglas J. Hansen  
*Director*

A meeting of the Waste Management and Radiation Control Board has been scheduled for June 13, 2024 at 1:30 p.m. at the Utah Department of Environmental Quality, (Multi-Agency State Office Building) Conference Room #1015, 195 North 1950 West, SLC.

Board members and interested persons may participate electronically/telephonically.

Join via the Internet: [meet.google.com/gad-sxsd-uvs](https://meet.google.com/gad-sxsd-uvs)  
Join via the Phone: (US) +1 978-593-3748 PIN: 902 672 356#

## AGENDA

- I. Call to Order and Roll Call.
- II. Public Comments on Agenda Items.
- III. Declarations of Conflict of Interest.
- IV. Approval of the meeting minutes for the May 9, 2024 Board meeting (**Board Action Item**) ..... Tab 1
- V. Petroleum Storage Tanks Update ..... Tab 2
- VI. Administrative Rules ..... Tab 3
  - A. Proposed changes to the Utah Solid and Hazardous Waste Rules R315-321, Class VII Exploration and Production Waste Facility Requirements, and R315-322, Solid Waste Surface Impoundment Requirements, of the Utah Administrative Code (Information Item).
  - B. Approval from the Board to proceed with final adoption of proposed changes to Utah Solid and Hazardous Waste Rules R315-309 and R315-310 of the Utah Administrative Code to correct rule and statutory references and language, clarify rule language, remove requirements that are no longer necessary, add some new requirements to the rules, and add language and requirements to rules as required by legislation passed by the Utah State Legislature (**Board Action Item**).
  - C. Approval from the Board to proceed with formal rulemaking and public comment on proposed changes to R313-15, R313-22, R313-32, and R313-37, to incorporate federal regulatory changes made by the NRC to the federal radioactive materials regulations in 2021 (86 FR 43397, 47209, and 67839) and 2022 (87 FR 20693 and 68028). The changes are necessary to maintain regulatory compatibility with the NRC as required because Utah is an Agreement State with the NRC (**Board Action Item**).

(Over)

VII. X- Ray Program..... Tab 4

- A. Approval from the Board to proceed with final adoption of proposed changes to Radiation Control Rule R313-28 of the Utah Administrative Code to add the definition of "Healing Arts" (**Board Action Item**).
- B. Approval of Mammography Imaging Medical Physicists (MIMPs) in accordance with UCA 19-3-103.1 (2)(c) of the Utah Code Annotated (**Board Action Item**).

VIII. Low-Level Radioactive Waste ..... Tab 5

- A. *EnergySolutions* request for a site-specific treatment variance from the Utah Hazardous Waste Management Rules. *EnergySolutions* seeks authorization to receive an exemption from the treatment standards for uranium extraction process residues encased in cement for macroencapsulation (**Board Action Item**).
- B. *EnergySolutions* request for a site-specific treatment variance from the Utah Hazardous Waste Management Rules. *EnergySolutions* seeks authorization to receive an exemption for the direct macroencapsulation treatment of lithium and lithium-ion batteries (**Board Action Item**).

IX. Hazardous Waste Section ..... Tab 6

- A. Approval of Proposed Stipulation and Consent Order between the Director and Big West Oil LLC (**Board Action Item**).
- B. Clean Harbors Grassy Mountain, LLC request for a site-specific treatment variance from the Utah Hazardous Waste Management Rules to treat baghouse dust containing High Subcategory Mercury by stabilization instead of retort and recovery (**Board Action Item**).

X. Director's Report.

XI. Other Business.

- A. Miscellaneous Information Items.
- B. Scheduling of next Board meeting (July 11, 2024).

XII. Adjourn.

In compliance with the Americans with Disabilities Act, individuals with special needs (including auxiliary communicative aids and services) should contact LeAnn Johnson, Office of Human Resources at 385-226-4881, Telecommunications Relay Service 711, or by Email at [leannjohnson@utah.gov](mailto:leannjohnson@utah.gov)

Waste Management and Radiation Control Board Meeting Minutes  
Utah Department of Environmental Quality  
Multi-Agency State Office Building (Conf. Room #1015)  
195 North 1950 West, SLC  
May 9, 2024  
1:30 p.m.

**Board Members Participating at Anchor Location:** Brett Mickelson (Chair), Dennis Riding (Vice-Chair)  
Mark Franc, Jeremy Hawk, Dr. Steve McIff,  
Vern Rogers, Kim Shelley, Shane Whitney

**Board Members Participating Virtually:** Dr. Richard Codell, Nathan Rich, Scott Wardle

**Board Members Excused/Absent:** Danielle Endres

**UDEQ Staff Members Participating at Anchor Location:** Doug Hansen, Tom Ball, Brenden Catt,  
Tyler Hegburg, Avery Holyoak, Jalynn Knudsen, Arlene Lovato, Kari Lundeen, Judy Moran, Deborah Ng,  
Stevie Norcross, Bret Randall, Mike Pecorelli, Elisa Smith, Otis Willoughby, David Wilson, Rachel Winters,  
Raymond Wixom

**Others Attending at Anchor Location:** Steve Gurr, Mike Zody

**Other UDEQ employees and interested members of the public also participated either electronically or telephonically. This meeting was recorded.**

**I. Call to Order and Roll Call.**

Chairman Mickelson called the meeting to order at 1:30 p.m. Roll call of Board members was conducted; see above.

**II. Public Comments on Agenda Items.**

Mike Zody, legal counsel for Energy Fuels, provided a comment regarding Agenda Item IX.

Mr. Zody commented that Energy Fuels appreciates the staff's collaborative work on this rule and the extensive stakeholder involvement as they have done great work and have had several discussions. The company does have a few remaining concerns with some text and may file comments.

**III. Declaration of Conflict of Interest – None.**

**IV. Approval of the meeting minutes for the April 11, 2024, Board meeting (Board Action Item).**

**It was moved by Dr. Codell and seconded by Dennis Riding and UNANIMOUSLY CARRIED to approve the April 11, 2024, Board meeting minutes.**

**V. Petroleum Storage Tanks Update.**

Mike Pecorelli, Environmental Assurance Program Section Manager, Division of Environmental Response and Remediation (DERR), informed the Board that the estimated cash balance of the Petroleum Storage Tank (PST) Enterprise Fund for the end of April 2024, is \$34,113,643.00. The cash balance at the end of March 2024, was \$33,732,739.00. The DERR continues to watch the balance of the PST Enterprise Fund closely to ensure sufficient cash is available to cover qualified claims for releases.

## VI. Petroleum Storage Tanks Rules.

### A. Approval of proposed changes to Petroleum Storage Tanks Rules UAC R311 for initial publication and 30-day public comment period (Board Action Item).

Avery Holyoak, Leaking Underground Storage Tank Remedial Assistance Section Manager, DERR, informed the Board that the DERR is proposing changes to R311, the Utah PST Rules. This item was presented as an action item. The DERR is requesting Board approval to proceed with the initial publication and 30 day public comment period for these proposed changes.

In preparation for filing, the draft rule packet was submitted to the Division of Administrative Rules for pre-filing review. Some suggested edits were received to wording and templates but not to the actual rule changes.

The rules to be amended are:

R311-201. Petroleum Storage Tanks: Certification Programs and Underground Storage Tank (UST) Operator Training.

R311-203. Petroleum Storage Tanks: Technical Standards.

R311-204. Petroleum Storage Tanks: Closure and Remediation.

R311-206. Petroleum Storage Tanks: Certificate of Compliance and Financial Assurance Mechanisms.

The question was asked why some of the changes suggested by the Division of Administrative Rules were not made at this time. Ms. Holyoak explained that these changes were to formatting and did not change the meaning of the rule. It was felt that in the interest of time, formatting changes will be addressed in the future with further stakeholder involvement.

**It was moved by Jeremy Hawk and seconded by Shane Whitney and UNANIMOUSLY CARRIED to approve to proceed with formal rulemaking and public comment by publishing in the June 1, 2024, Utah State Bulletin and conducting a 30-day public comment period from June 1, 2024, to July 1, 2024, the proposed changes to UAC R311-201, R311-203, R311-204, and R311-206.**

## VII. Low-Level Radioactive Waste.

### A. *EnergySolutions* request for a site-specific treatment variance from the Utah Hazardous Waste Management Rules. *EnergySolutions* seeks authorization to receive an exemption from the treatment standards for uranium extraction process residues encased in cement for macroencapsulation (Information Item).

Tyler Hegburg, Environmental Scientist, Low-Level Radioactive Section, Division of Waste Management and Radiation Control, introduced Steve Gurr, *EnergySolutions* representative, who presented this site-specific treatment variance request to the Board. Mr. Gurr informed the Board that *EnergySolutions* seeks authorization to receive an exemption from the treatment standards for cemented uranium extraction process residues. This exemption request is for the purposes of safety, security, and transportation.

Mr. Gurr explained the packaging procedures include repackaging the 2 ½ gallon can into 16-gallon drums and filling the void spaces with cement; which is then placed within one of *EnergySolutions* macro vaults. Mr. Gurr commented that encasing enriched uranium within concrete is the preferred method of stabilization as recommended by the Nuclear Regulatory Commission (NRC). The generator has assessed other options, including treatment for the hazardous constituents; however, additional processing introduced unacceptable hazards from a health and safety and security viewpoint. Additionally, the generator confirms that the cans in their current form are safe. The leachability of the waste would be significantly reduced through

macroencapsulation, thereby protecting human health and environment. The RCRA constituents involved with this waste are primarily metals.

Mr. Gurr informed the Board that *EnergySolutions* has requested this same variance a total of 15 times in letters dating back to 2007; this request will be number 16. Since the last variance request, approximately 1,793 cubic feet have been received. This variance is being requested for approximately 2,000 cubic feet of cemented uranium extraction process residuals as part of uranium recovery processes at the generator's facility. This variance request is anticipated to continue into the future.

A notice for public comment was published in the *Salt Lake Tribune*, the *Deseret News*, and the *Tooele Transcript-Bulletin* on May 1, 2024. The comment period began May 2, 2024 and will end on May 31, 2024.

This is an informational item before the Board. The Director will provide a recommendation following the public comment period at the next Board meeting.

There were no comments or questions.

**B. *EnergySolutions* request for a site-specific treatment variance from the Utah Hazardous Waste Management Rules. *EnergySolutions* seeks authorization to receive an exemption for the direct macroencapsulation treatment of lithium and lithium-ion batteries (Information Item).**

Tyler Hegburg, Environmental Scientist, Low-Level Radioactive Section, Division of Waste Management and Radiation Control, introduced Steve Gurr, *EnergySolutions* representative, who presented this site-specific treatment variance request to the Board. Mr. Gurr informed the Board that *EnergySolutions* seeks authorization to receive an exemption for the direct macroencapsulation treatment of lithium and lithium-ion batteries.

Lithium and lithium-ion batteries typically exhibit the hazardous characteristics of ignitability (D001) and reactivity (D003). Regulations in Utah Admin. Code R315-268-40 require the removal of the characteristic codes prior to disposal. The U.S. Environmental Protection Agency (USEPA) has ruled that intact batteries are containers and not considered debris under the definition that would allow them to be normally macroencapsulated. In order for lithium batteries to meet the definition of debris they would need to be shredded and mixed with chemicals to deactivate them and then they could be macroencapsulated.

Mr. Gurr explained that for *EnergySolutions* to meet the regulatory standards, lithium and lithium-ion batteries would need to be shredded and mixed with chemicals to deactivate them; or punctured (and then considered debris) to macroencapsulate them. Both activities (shredding and puncturing) severely agitate the waste and would expose the reactive portion of the waste to open air which could cause an adverse reaction or explosion. Although this type of waste management is possible, from a safety and health standpoint, it is inappropriate.

Mr. Gurr informed the Board that *EnergySolutions* has requested this same variance three times previously dating back to 2021. Over the years 2021, 2022, and 2023, all requests have been reviewed and approved by the Board. The waste quantities have remained similar over this time period, with *EnergySolutions* receiving roughly 800 pounds per year and *EnergySolutions* anticipates receive similar waste volumes in the next 12 months under this current variance.

A notice for public comment was published in the *Salt Lake Tribune*, the *Deseret News*, and the *Tooele Transcript-Bulletin* on May 1, 2024. The comment period began May 2, 2024 and will end on May 31, 2024.

This is an informational item before the Board. The Director will provide a recommendation following the public comment period at the next Board meeting.

Nathan Rich questioned if the lithium ion batteries are also radioactive? Mr. Gurr answered yes, and stated that in order for EnergySolutions to accept the batteries, they have to be both radioactive and hazardous as well.

Nathan Rich asked the status of the batteries, i.e., have they been discharged or do they still have a charge. Mr. Gurr stated that the batteries could be both. However, he believes most facilities disposal of their batteries at the end of their life cycle; however, some are still active.

Nathan Rich said that if concrete is poured over them, the water in the concrete, would then allow those active to safely discharge. Mr. Gurr agreed with that statement and clarified that the two hazardous characteristics of ignitability and reactivity would then be removed at that point.

### **VIII. Hazardous Waste Section.**

#### **A. Proposed Stipulation and Consent Order between the Director and Big West Oil LLC (Information Item).**

Judy Moran, Environmental Scientist, Hazardous Waste Section, in the Division of Waste Management and Radiation Control, reviewed the Proposed Stipulation and Consent Order (SCO) No. 2207085 between the Director and Big West Oil LLC (Big West) to resolve Notice of Violation and Order to Comply (NOV/OC) No. 2107073 issued to Big West on January 5, 2022.

The NOV/OC was based on information documented during an inspection at the refinery on July 7, 2021. The violations noted in the NOV/OC have been resolved.

The SCO includes a total penalty of \$47,934.00, of which half (\$23,967.00) will be deferred and waived by the Director if Big West complies with the terms in the SCO.

A notice for public comment was published in the *Salt Lake Tribune* on April 28, 2024, the *Deseret News* on April 24, 2024, and the *Davis Journal* on April 25, 2024. The 30-day public comment period began on April 29, 2024 and will end on May 28, 2024.

This is an informational item before the Board. The Director will provide a recommendation following the public comment period at a future meeting.

Mark Franc stated that the inspection occurred on July 7, 2021, and asked if it was an annual inspection that occurred. Ms. Moran stated that it was not an annual inspection; large quantity generators are inspected every three to five years. Mr. Franc asked if there have been any other inspections since the July 7, 2021 inspection. Ms. Moran stated no, but she will be inspecting them during this fiscal year.

Mr. Franc commented on the timeframe it has taken to get to the point of resolving this matter and asked for an explanation of the process as the violations were noted in the July 7, 2021 inspection. Mr. Franc further commented that the Board has previously talked about these types of matters and the process involved, and reiterated how it would be advantageous for the Board to gain a better understanding of the entire process regarding these matters including how fines/violations are determined. Also, Mr. Franc stated he is curious as to why the process takes so long to get resolved and to the point of the issuance of this stipulation and consent order.

Director Hansen commented that these types of facilities are complicated and the compliance issues associated with them are often difficult. Director Hansen stated that even before a Notice of Violation

(NOV) is issued there is a process involving back and forth of addressing matters between the facility and the Division, so the Division can understand all the circumstances and if the violations are warranted, etc. Director Hansen stated that the back and forth process takes times, as the Division allows the facility every opportunity to provide clarification and any additional information that may be relevant, so a clear understanding of the full circumstances of the observations of violations are evaluated. Director Hansen further explained that once the Division issues an NOV, the facility has an opportunity to contest the NOV within 30 days. If the facility does not contest the NOV within the 30 days, it is considered final. At that point, the Division's options for resolution are either to enter into the process of negotiating a stipulation and consent order or to take the matter to the district court. Director Hansen stated that the Division's preference is to negotiate with the facility, spending the Division's resources to come to an agreeable resolution for the facility to achieve compliance with an appropriate penalty agreed upon, etc. Director Hansen stated that it is incumbent on the Division to make the first proposal on the stipulation and consent order, and once that is completed, the negotiations of back and forth between the parties begins to guarantee that the Division achieves its objectives as an agency, safeguarding and protecting the environment. Director Hansen further stated that part of the process is ensuring that all of the steps that the facility has taken to rectify the matter have been achieved, which is why there may be a variance in time. Director Hansen commented that most inspections are relatively straightforward and simple and the process to resolve any issues happens fairly quickly; however, larger facilities that have more violations/compliance issues tend to take a longer amount of time to resolve.

Mr. Franc thanked Director Hansen for his explanation and commented that the procedure described by Director Hansen is a fresh procedure compared to many states he has seen where you can go from an inspection directly to receiving a NOV. Mr. Franc stated that the desire for the State to look at all the regulated community issues is very beneficial and is worth the time it takes to complete these types of matters.

Mr. Franc stated that he is curious about the inspection frequency of these types of facilities and reviewed the inspection frequency of the facilities he is familiar with in the solid waste industry. Mr. Franc asked if it was a regulatory rule that mandates the three to five year inspection time frame for large quantity generators (LQGs). Mr. Franc commented that because these facilities are generators of hazardous waste, he thought inspections should occur more often. Ms. Moran informed the Board that the time frame for inspecting LQGs is not a mandated regulatory rule, instead it is based on the number of LQGs that need to be inspected and the availability of Division staff. The staff's goal is to inspect 25% of the LQGs each year and the Division has an agreement with the U.S. EPA to achieve this amount. Mr. Franc stated the frequency time frame is determined from the available staff to inspect the volume of LQGs, rather than any statute. Ms. Moran agreed.

Dennis Riding stated that he does not recall previously addressing any matters associated with Big West and asked if they are a repeat offender or is this a new situation for them.

Ms. Moran stated she does not have a complete compliance history for Big West in front of her but believes this is their first notice of violation being brought before the Board. Ms. Moran informed the Board that she has only been with the Division since 2020, so her familiarity before that date is reduced. Ms. Moran commented that she has verified that Big West is in compliance through documentation/photographs they provided after the inspection and Big West has also committed to completing other items that are over and above what the regulations require to ensure a better compliance path forward.

Mr. Riding asked if it is Ms. Moran's assignment to inspect Big West again or is that assignment spread out amongst all the inspectors. Ms. Moran stated that the inspection assignments are spread out amongst all the inspectors in the Hazardous Waste Section, but because of staff turnover, she anticipates she will be the one assigned to inspect them during their next inspection cycle.

Mr. Riding asked if any comments have been received during the public comment period. Ms. Moran stated that she not aware of any public comments received, but will confirm and report back.

Mr. Franc asked if the Division has any indication or feel regarding how well the facility has done in correcting the violations found during the inspection. Ms. Moran stated that the facility has provided documentation regarding their correcting the violations, and commented that this process is part of the back and forth that Director Hansen discussed previously. Ms. Moran informed the Board that even prior to the Division issuing the Notice of Violation, meetings occurred with Big West and they were working with her to obtain all the necessary documentation of their compliance including photographs and records. Ms. Moran informed the Board that Big West has also experienced some staff turnover that may have contributed to some of the violations identified. Ms. Moran further commented that the facility is currently in compliance and seems Big West is on the right track and is implementing best management practices going forward and she is optimistic things will improve.

Nathan Rich had specific concerns regarding Items 19 through Item 24 in the Stipulation and Consent Order (SCO) and asked if these were items that were not fully addressed in the requests for additional information or are these items that are mentioned as extra requirements. Mr. Rich reviewed the documents required within the SCO and questioned why these documents were included in the SCO rather than these being matters that the facility would not have already taking care of, etc. Specifically, Mr. Rich questioned if Items 19 through Item 24 are items that were not fully addressed in the requests for additional information or are these extra regulatory items that are needed to ensure that the facility is in compliance. (There are items that requires the facility to provide additional documentation within 120 days of the SCO.) Ms. Moran stated that those items mentioned in the SCO are extra regulatory items and explained that these items will make it clearer for inspectors as sometimes when staff conduct the inspections at these types of facilities it can be complicated. Ms. Moran stated that inspecting refineries is probably the most complicated type of facility to conduct. Therefore, these additional information items will make it clearer for the inspectors and for the facility to remain in compliance.

Director Hansen clarified that the additional items outlined in the SCO are included because at the time of the inspection it was very difficult for the inspectors to determine whether the facility staff was properly trained and whether the right people were doing the right jobs, etc. Director Hansen stated that often times some of the documentation obtained at larger facilities is either presented to the Division staff in either a large binder or just in a box of paperwork. So, this is the Division's attempt to gather the information in a more clear and concise way. By doing this, moving forward, the inspectors do not have to have a lengthy conversation at the time of inspection or after because inspectors did not see something because it could not be found in the facilities record keeping methods. Hence, that is why this was added to help Big West create a method of documentation where they are in a better situation to answer the questions required by the Division inspectors.

Mr. Rich stated that it does make sense to require these types of facilities to go through the type of exercise Director Hansen explained above, so the facility can understand and document what they are doing and can then explain it to the inspectors. Mr. Rich further commented that the information provided to the Board does indicate some failure with this facilities ability to understand and regulate their own operations and hopefully this will assist in that endeavor.

**B. Clean Harbors Grassy Mountain, LLC request for a site-specific treatment variance from the Utah Hazardous Waste Management Rules to treat baghouse dust containing High Subcategory Mercury by stabilization instead of retort and recovery (Information Item).**

Kari Lundeen, Environmental Scientist, Hazardous Waste Section, in the Division of Waste Management and Radiation Control, reviewed Clean Harbors Grassy Mountain, LLC request to the Director of the Division of Waste Management and Radiation Control for a site-specific treatment variance from Utah Hazardous Waste Management Rules. Clean Harbors Grassy Mountain, LLC has requested an exemption from the treatment

standards and proposes to use stabilization to treat baghouse dust from the Clean Harbors Aragonite, LLC incinerator.

The baghouse dust contains High Mercury Subcategory residue wastes that would normally be sent for retort and recovery. However, the baghouse dust carries waste treatment codes that the retort facilities are not permitted to accept. So, Clean Harbors Grassy Mountain, LLC has completed stabilization treatability studies on this waste and demonstrated that they can successfully treat it to the land disposal restriction standard for mercury of 0.025 mg/L TCLP. Clean Harbors Grassy Mountain, LLC will confirm that the treated waste meets land disposal restriction (LDR) standards prior to its final disposition.

The Board has previously granted this treatment variance for the same waste stream five separate times.

A notice for public comment was published in the *Salt Lake Tribune*, the *Deseret News*, and the *Tooele Transcript-Bulletin* on May 1, 2024. The comment period began on May 2, 2024, and will end on May 31, 2024.

This is an informational item before the Board. The Director will provide a recommendation following the public comment period at the June Board meeting.

There were no comments or questions.

## **IX. Administrative Rules.**

### **A. Approval from the Board to proceed with formal rulemaking and public comment on proposed changes to UAC R313-17 and UAC R313-24 of the Radiation Control Rules (Board Action Item).**

Stevie Norcross, PhD, Assistant Director, Division of Waste Management and Radiation Control, reviewed the request for approval from the Board to proceed with formal rulemaking and public comment on proposed changes to UAC R313-17 and UAC R313-24 of the Radiation Control Rules to provide clarity around the environmental assessment process and make updates that are consistent with the Conference of Radiation Control Program Directors (CRCPD) Suggested State Regulations (SSR). Dr. Norcross stated that neither of these rules have equivalents in the federal regulations. These proposed rule changes are specifically applicable to the uranium recovery program.

Dr. Norcross informed the Board that there has been significant effort that has gone into coming up with the proposed rule change language and through a PowerPoint presentation will provide some background on the Division's regulatory authority in regard to the uranium recovery program and the efforts made to get to this point. Dr. Norcross then presented the PowerPoint titled "Rule Updates to Clarify the Environmental Assessment (EA) Process" (see the PowerPoint presentation attached to the meeting minutes).

Dr. Codell thanked Dr. Norcross for the presentation and stated that, having worked at the NRC, his question refers to an environmental and safety analysis initiated as he questioned if there was anything that would be equivalent to an environmental standard review plan (ESRP) incorporated in the rules. Dr. Codell stated that these plans are very detailed plans about what is supposed to be in the environmental report that the user can follow and the regulator can check against. Dr. Codell stated he is familiar with this from a nuclear power plant construction scenario, but he is not sure what other parts of the agency did regarding this matter.

Dr. Norcross stated that something similar to what Dr. Codell is referring to has not been included, but that developing like an ESRP has come up, and that the Division is considering putting together a guidance that can also be provided to the regulated entities so they know more specifically what the expectations are.

Dr. Norcross commented that what Dr. Codell mentioned above would be a good reference to look into to see the structure of what may be included in a Division guidance. Dr. Codell informed Dr. Norcross that the NRC website could provide additional examples and information on ESRPs.

Dr. Codell asked if the State deals with environmental justice issues (i.e., building a waste dump in someone's backyard in a poor neighborhood). Dr. Norcross stated that a significant amount of outreach has been conducted with stakeholders, and one of the stakeholders is the Ute Mountain Ute Tribe, and they are potentially an environmental justice impacted community. Their feedback and input are sought for rulemaking, licensing actions, and anything that could potentially impact the Ute Mountain Ute reservation as it is in close proximity to one of the uranium mills. The Division is doing what is needed to ensure they are engaging them in the process. However, we do not have anything defined specifically around environmental justice, but both the NRC and the U.S. EPA (federal partners) are making suggestions on how to address environmental justice and have some guidance around this issue.

Vern Rogers had three questions. The first, Dr. Norcross indicated these rules give the Division or the Director specifically more flexibility in evaluating and considering things that may not have been evaluated previously in the licensing process and questioned why that is not already available in the current rules.

Mr. Rogers' second question is about the prohibition or the licensing to be denied prior to the start of construction. If construction is limited to removing vegetation, building the building, digging the holes, etc. but does not necessarily involve direct contact or management of the mill tailings, why would that prohibit granting that license?

Mr. Rogers' third question is that, as he understands the rules, there is a separate set of boundaries that the State has promulgated on establishing rules that are more stringent than most from the NRC. If the licensee is allowed to do something under the NRC equivalent rule, then this perhaps limits them or restricts them on what they can do and asked how the Division has evaluated this stringency requirement the State is under.

Dr. Norcross reviewed the rule language and stated that she would argue there is nothing in UAC R313-24 that is changing the processes as the proposed language is consistent with the suggested State regulations and consistent with the procedures. Dr. Norcross stated that it really deals with a lot of clarification around what expectations are and that would be the same feedback that we would give when we're going back and forth with an applicant when they submit an environmental report as the Division just wants to make sure that is very clearly defined in the rules so that our stakeholders and regulated entities have that information up front, but she stated that she thinks what Mr. Rogers is referring to is the language in UAC R313-17 where it states, "a change... that is likely to significantly impact public health, public safety or the environment as compared to impacts previously evaluated." Dr. Norcross explained that the whole substance of this rule is to identify changes that would potentially have a significant impact on public health, safety, or the environment, and the goal is to make it very clear that it is as compared to what was previously evaluated, so that we're not reevaluating the same thing if there's a record already available to make that decision off of. Dr. Norcross also stated that she would also argue that we're not changing anything that would trigger a major amendment or the environmental report process again. Instead, we are just providing greater clarity around what's there, which addresses Mr. Rogers' stringency question. Per our review, we are not doing anything that is more stringent than the NRC.

Dr. Norcross informed the Board that the NRC did approve our current rules that she presented during her presentation. Since becoming an agreement State, we are now incorporating more clarity into those rules based on CRCPD's Suggested State Regulations, which are compatible and consistent with NRC expectations.

Dr. Norcross stated after her review of the proposed rule changes, there is not a stringency issue. However, Mr. Rogers is correct that we have to make a very strong argument if we want to be more stringent than the federal government, and there is a process to follow that did not have to occur in this instance.

Mr. Rogers asked if he was correct in saying that the current rules would allow you to do all of this, but this is just making it clearer to a licensee or an applicant.

Director Hansen clarified that it also makes it clearer for other stakeholders as well because the Division gets a lot of questions about the Division's process and what our expectations are set around an application from a licensee and how does that play out in your review and how do you get to position where you can issue or deny a license. Director Hansen stated that it just puts everybody on the same page with expectations and clarity around what it is that is going to be looked at and what we have looked at and where they are ending up in the process.

Dr. Norcross stated that regarding the construction question, the current rule states, "commencement of construction prior to issuance is grounds for a denial" She mentioned it wasn't consistent with the CRCPD Suggested State Regulations and NRC expectations, but it essentially functions the same, though it is better to tell the applicant/licensee up front that it's prohibited rather than just to deny the application at the end of the process. Dr. Norcross stated that the current language states construction, but it does not define construction, but there is actually a definition for construction in the rules under UAC R313-12-3, and it is very specific as to what is and is not construction.

Mark Franc stated he did look up the rule UAC R313-12-3, and it does specifically state what construction is, and it is related to the regulated material and the term construction did not include the items referred to in the previous discussion. Dr. Norcross stated that is why the definition was added in the rule, as the intent is to be clearer on the definitions.

Mr. Franc stated that he finds 12 stakeholder meetings fairly impressive and so the stakeholder involvement clearly was good and is curious to the general tone/reasons/concerns of the stakeholders during those meetings. Mr. Franc stated that it has been pointed out several times that the rules seem to be very effective and not really changing regulations, and they are clarifying regulations. So he is curious as to the tone or reason for the concerns of the stakeholders that were related to the changes in the regulations.

Dr. Norcross commented that for the most part, the tone was really good, and a lot of positive feedback and appreciation was expressed for including stakeholders and engaging them up front. A number of times the meetings would go on where they were not necessarily directly addressing the substance of the rules, and it was more the stakeholders expressing their concerns with some of these facilities. The stakeholders wanted us to hear their concerns and so we listened and then we would get targeted feedback specifically about the rule. Overall, the stakeholders had a lot of questions about how this process works, and through those stakeholder meetings, we were better able to explain to them what the environmental assessment process looks like and that's again why there's some specific additions to this rule where if it's something we're already able to do, for example the Director could extend the public comment period but some of the stakeholders want to know that is the case and make it very clear. So, we made it clear in the rule language based on the fact that there was a poor understanding of it. Dr. Norcross commented that she actually enjoyed going through the stakeholder meetings because it was important for the Division staff to make better connections not only with our regulated entities, but people that have interests in this program and felt it was a successful process.

Director Hansen commented that the one thing that surprised him in this process is there were several times when entities that you might think have a different perspective that wouldn't align shared feedback that was actually the same feedback. So, the point of providing clarification of the rule changes was not lost on stakeholders representing varied perspectives and points of view and actually in some cases got the exact same feedback and quite frankly the rules were approved because of the feedback that we got.

Director Hansen stated that overall he felt it has been a good process as anytime you make a change, not everybody gets exactly what they want and that has been part of the process of balancing interests while meeting the overall objective, including clarifying the processes so that everybody understands and is on the same page when they undertake one of these licensing actions.

Mr. Franc stated that Director Hansen's above comments answered his follow-up question, which was more related to comment and impact of the community opposed to the regulator community and that the impacted community appears to have had just as much opportunity, and took the opportunity to comment, as much as the regulated community. Dr. Norcross reiterated that it was a really good process.

The Director recommends the Board approve proceeding with formal rulemaking and public comment by publishing in the June 1, 2024, *Utah State Bulletin* the proposed changes to UAC R313-17 and UAC R313-24 and conducting a public comment period from June 1, 2024, to July 1, 2024.

**It was moved by Vern Rogers and seconded by Mark Franc and UNANIMOULSY CARRIED to approve to proceed with formal rulemaking by publishing in the June 1, 2024, Utah State Bulletin and conducting a 30-day public comment period from June 1, 2024 to July 1, 2024, the proposed changes to UAC R313-17 and UAC R313-24 of the Radiation Control Rules.**

## **X. X-Ray Program.**

A. Approval from the Board for the Executive Secretary to extend the expiration date for certain Mammography Imaging Medical Physicists (**Board Action Item**).

Tom Ball, X-Ray and Technical Support Manager in the Division of Waste Management and Radiation Control, reviewed the request for approval from the Board for the Executive Secretary to extend the expiration date for certain Mammography Imaging Medical Physicists (MIMPS) whose certifications expire on May 31, 2024.

Mr. Ball explained that the Division has been working on modernizing the permit, licensing, registration, and certification processes moving them from paper-based systems to an online, electronic system. Due to some technical issues, the Division was not able to complete the transition of the process for the MIMPs Certifications and get those completed in the time-period anticipated, and so that affects those certifications that expire in May 2024, as the MIMPs were not able to submit their applications for renewal with the new process. The Divion anticipates being able to complete the transition in the next couple of weeks, but because the MIMPs certifications are a Board responsibility, the Director of the Division does not have the authority to issue them or extend the expiration dates. So, the Director cannot approve renewing the certifications after the Board meeting and those certifications would expire at the end of May before the June Board meeting. To prevent this from happening, the X-Ray program is seeking approval to extend the expiration dates from May 31, 2024 to June 30, 2024.

This is a Board action item. Board approval is for the Executive Secretary to extend the expiration date of MIMP certificates. The Director of the Division of Waste Management and Radiation Control recommends the Board approve extending the expiration date for Mammography Imaging Medical Physicists certificates that expire on May 31, 2024, to June 30, 2024.

Dennis Riding asked the terms of the MIMPs licenses. Mr. Ball stated it is a three year term.

**It was moved by Dennis Riding and seconded by Jeremy Hawk and UNANIMOULSY CARRIED for the Executive Secretary to receive the Board's approval to extend the expiration date for certain Mammography Imaging Medical Physicists.**

## **XI. Director's Report.**

Director Hansen updated the Board on Jeremy Hawk's status of reappointment to the Board as his term is set to expire in July. Director Hansen reported that the Governor has approved Mr. Hawk's renewal application and anticipates the Senate will meet to confirm Mr. Hawk's reappointment in June, and a virtual link will be available for all interested Board members to attend virtually.

Director Hansen also expressed his appreciation to the Board for their willingness to serve in this role as he recognizes that this responsibility takes them away from their normal job duties or other things they might prefer to be doing and thanked them for all their efforts.

Director Hansen also thanked Arlene Lovato for all her efforts in ensuring that the process required for reappointing Board members is handled accordingly.

**XII. Other Business.**

**A. Miscellaneous Information Items - None.**

**B. Scheduling of next Board meeting (June 13, 2024).**

The next meeting is scheduled for June 13, 2024, at the Utah Department of Environmental Quality, Multi-Agency State Office Building.

Interested parties can join via the Internet: [meet.google.com/gad-sxsd-uvs](https://meet.google.com/gad-sxsd-uvs)  
Or by phone: (US) +1 978-593-3748 PIN: 902 672 356#

**XIII. Adjourn.**

The meeting adjourned at 3:00 p.m.

**PST STATISTICAL SUMMARY**

**May 1, 2023 -- April 30, 2024**

**PROGRAM**

	May	June	July	August	September	October	November	December	January	February	March	April	(+/-) OR Total
<b>Regulated Tanks</b>	4,210	4,211	4,218	4,241	4,236	4,238	4,225	4,222	4,832	4,854	4,858	4,857	<b>647</b>
<b>Tanks with Certificate of Compliance</b>	4,105	4,110	4,122	4,117	4,111	4,117	4,116	4,126	4,507	4,529	4,547	4,565	<b>460</b>
<b>Tanks without COC</b>	105	101	96	124	125	121	109	96	325	325	311	292	<b>187</b>
<b>Cumulative Facilities with Registered A Operators</b>	1,279	1,282	1,289	1,288	1,282	1,283	1,278	1,282	1,280	1,280	1,284	1,284	<b>84.42%</b>
<b>Cumulative Facilities with Registered B Operators</b>	1,279	1,281	1,288	1,288	1,282	1,283	1,282	1,284	1,281	1,281	1,286	1,286	<b>84.55%</b>
<b>New LUST Sites</b>	9	6	5	5	13	5	4	4	5	6	6	5	<b>73</b>
<b>Closed LUST Sites</b>	11	4	7	8	14	6	9	7	3	9	6	9	<b>93</b>
<b>Cumulative Closed LUST Sites</b>	5542	5549	5556	5571	5578	5586	5592	5598	5635	5642	5648	5653	<b>111</b>
<b>FINANCIAL</b>													
	May	June	July	August	September	October	November	December	January	February	March	April	(+/-)
<b>Tanks on PST Fund</b>	2,617	2,618	2,621	2,617	2,611	2,618	2,625	2,638	2,954	2,967	2,985	2,997	<b>380</b>
<b>PST Claims (Cumulative)</b>	713	723	724	724	725	725	725	724	726	726	727	727	<b>14</b>
<b>Equity Balance</b>	\$1,933,855	\$2,514,097	\$3,265,812	\$4,455,502	\$3,271,204	\$3,527,017	\$3,623,404	\$3,538,013	\$4,280,066	\$4,638,541	\$4,512,702	\$4,893,606	<b>\$2,959,751</b>
<b>Cash Balance</b>	\$30,105,505	\$30,685,747	\$31,437,462	\$32,627,152	\$32,491,241	\$32,747,054	\$32,843,441	\$32,758,050	\$33,500,103	\$33,858,578	\$33,732,739	\$34,113,643	<b>\$4,008,138</b>
<b>Loans</b>	0	0	1	0	0	0	0	0	0	0	0	0	<b>0</b>
<b>Cumulative Loans</b>	128	128	129	129	129	129	129	129	129	129	129	129	<b>1</b>
<b>Cumulative Amount</b>	\$6,014,420	\$6,014,420	\$6,213,705	\$6,213,705	\$6,213,705	\$6,213,705	\$6,213,705	\$6,213,705	\$6,213,705	\$6,213,705	\$6,213,705	\$6,213,705	<b>\$199,285</b>
<b>Defaults/Amount</b>	0	0	0	0	0	0	0	0	0	0	3	3	<b>3</b>
	May	June	July	August	September	October	November	December	January	February	March	April	TOTAL
<b>Speed Memos</b>	61	102	62	103	69	122	105	38	82	65	84	84	<b>977</b>
<b>Compliance Letters</b>	5	17	4	7	7	16	9	5	9	5	7	2	<b>93</b>
<b>Notice of Intent to Revoke</b>	0	0	0	0	0	0	0	0	0	0	0	0	<b>0</b>
<b>Orders</b>	0	0	0	0	1	1	0	2	1	0	5	1	<b>11</b>

# Exploration & Production Waste

## Regulatory Change History

In 2019, the statutory definition of Solid Waste (SW) was changed after the U.S. Environmental Protection Agency (EPA) notified the Division of Waste Management and Radiation Control (DWMRC) that the SW program was out of compliance with the state-primacy requirements for Exploration and Production Waste (E&P). Prior to this change, E&P waste operations in Utah have been regulated by the Division of Oil Gas & Mining (DOGM).

Moving forward, DWMRC will regulate the management and disposal of solid and hazardous wastes (discarded materials) generated from the exploration, development, or production of crude oil and gasses, including drilling fluids, muds, and other liquid wastes as required in the Solid and Hazardous Waste Act, under the EPA State primacy program.

Stakeholder outreach began in late 2021 when DWMRC and DOGM shared the first draft outline for the regulatory transition and have held multiple stakeholder meetings over the last few years.

### Proposed Rules

Proposed modifications to the Solid Waste Permitting and Management Rules have been drafted for the regulatory shift of Exploration & Production Waste (E&P) from the Division of Oil, Gas and Mining to the Division of Waste Management and Radiation Control.

#### R315-321 Class VII Landfills

#### R315-322 Class VII Solid Waste Surface Impoundments

#### Draft Rule Common Comments

- Management of E&P Waste, Definitions and Best Practices
- Existing vs, New Facility Requirements
- Transition Timeline / Temporary Permits
- Financial Assurance

### Proposed Timeline



April 17, 2024  
Industry Outreach

April -June, 2024  
Individual Facility  
Stakeholder Meetings



July 11, 2024  
Draft Rule Waste  
Management and  
Radiation Control Board

August 1, 2024  
45 Day Public  
Comment Begins



October 10, 2024  
Final Rule Adopted



# WASTE MANAGEMENT AND RADIATION CONTROL BOARD

## Executive Summary

### Information Item – Proposed Rule Changes

UAC R315-321 and UAC R315-322

June 13, 2024

<b>What is the issue before the Board?</b>	<p>In the coming months, the Division will be seeking approval from the Board to proceed with formal rulemaking and public comment on two new proposed rules, Utah Admin. Code (UAC) R315-321, Class VII Exploration and Production Waste Facility Requirements, and UAC R315-322, Solid Waste Surface Impoundment Requirements.</p> <p>These proposed rules are to clarify the necessary requirements and provide administrative processes under the Solid and Hazardous Waste Act for the management of wastes generated during the exploration, development, or production of oil, gas, or geothermal energy, and for the management of waste liquids from all industries disposed of into surface impoundments.</p>
	<p>Wastes such as drilling muds, produced water, and other waste associated with the exploration, development, or production of oil, gas, or geothermal energy are referred to as E&amp;P waste.</p> <p>E&amp;P waste has historically been regulated in Utah under rules made by the Board of Oil, Gas, and Mining according to its authorities in Part § 40-6-5 of the Utah Code. Because E&amp;P waste was regulated by the Division of Oil, Gas, and Mining, it was excluded from the definition of “solid waste” in the Utah Solid and Hazardous Waste Act until a definition change was made by House Bill 310 of the 2019 General Session of the Utah State Legislature. The definition change provides consistency with federal regulations.</p> <p>Draft Rule UAC R315-321, Class VII Exploration and Production Waste Facility Requirements, is proposed to regulate E&amp;P waste landfills.</p>
<b>What is the historical background or context for this issue?</b>	<p>Draft Rule UAC R315-322, Solid Waste Surface Impoundment Requirements, is proposed to regulate the management of waste liquids from all industries disposed of into surface impoundments. The Division of Oil, Gas, and Mining will continue to regulate waste that is injected into Class II underground injection control wells and has also drafted a new rule to regulate the reuse or recycling of E&amp;P materials.</p> <p>The Division has coordinated with the Division of Oil, Gas, and Mining, to engage stakeholders in multiple meetings to seek their input as the transition of regulatory oversight occurs.</p>

(Over)

	<p>From mid-March until the beginning of May 2024, the Division sought informal comments from E&amp;P waste facility owners and operators on the draft rules. The Division received numerous comments during the informal review period, covering approximately 20 different topics. At least six of the comments are likely to result in changes to the current draft rules.</p> <p>The Division intends to respond to all comments during the coming month and make additional changes to the draft rules before they are proposed to the Board with a request for public comment.</p> <p>The Division plans to share Draft Rule UAC R315-322 with all municipal solid waste landfill owners and operators before formal rulemaking begins regarding solid waste surface impoundments.</p> <p>In addition to UAC R315-321 and UAC R315-322, several minor changes will be proposed to the Board affecting many of the solid waste rules as a matter of including Class VII landfills and solid waste surface impoundments into appropriate sections of the rules.</p>
<b>What is the governing statutory or regulatory citation?</b>	<p>The Board is authorized under Subsection 19-6-105 of the Utah Code to make rules that establish minimum standards for protection of human health and the environment for the treatment and disposal of solid waste. The rule changes also meet existing Utah Department of Environmental Quality and state rulemaking procedures.</p>
<b>Is Board action required?</b>	<p>No. This is an informational item for the Board. Board action on this proposed rulemaking will be required at a future Board meeting.</p>
<b>What is the Division Director's recommendation?</b>	<p>Not applicable at this time.</p>
<b>Where can more information be obtained?</b>	<p>Please contact Brian Speer by email at <a href="mailto:bspeer@utah.gov">bspeer@utah.gov</a> or by phone at 385-499-0010.</p>

**WASTE MANAGEMENT AND RADIATION CONTROL BOARD**  
**Executive Summary**  
**Final Adoption of Changes**  
**UAC R315-309 and R315-310**  
**June 13, 2024**

<b>What is the issue before the Board?</b>	Approval from the Board to proceed with final adoption of proposed changes to Utah Admin. Code (UAC) R315-309 and UAC R315-310 to correct rule and statutory references and language, clarify rule language, remove requirements that are no longer necessary, add some new requirements to the rules, and add language and requirements to rules as required by legislation passed by the Utah State Legislature.
<b>What is the historical background or context for this issue?</b>	<p>At the Board meeting on April 11, 2024, the Board approved the proposed changes to UAC R315-309 and UAC R315-310 to be filed with the Office of Administrative Rules for publication in the Utah State Bulletin. The proposed changes were published in the May 1, 2024, issue of the bulletin.</p> <p>Selected pages from the May 1, 2024, Utah State Bulletin showing the publication of the proposed changes follow this Executive Summary.</p> <p>The public comment period for this rulemaking ended on May 31, 2024. No comments were received.</p>
<b>What is the governing statutory or regulatory citation?</b>	<p>The Board is authorized under Subsection 19-6-105 to make rules that establish minimum standards for protection of human health and the environment for the treatment and disposal of solid waste.</p> <p>The rule changes also meet existing DEQ and state rulemaking procedures.</p>
<b>Is Board action required?</b>	Yes. Board approval for final adoption of rule changes is necessary.
<b>What is the Division Director's recommendation?</b>	The Director recommends the Board approve final adoption of the proposed changes to UAC R315-309 and UAC R315-310 as published in the May 1, 2024, Utah State Bulletin and set an effective date of June 17, 2024.
<b>Where can more information be obtained?</b>	Please contact Tom Ball by email at <a href="mailto:tball@utah.gov">tball@utah.gov</a> or by phone at 385-454-5574.

# UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT  
Filed April 02, 2024, 12:00 a.m. through April 15, 2024, 11:59 p.m.

Number 2024-09  
May 01, 2024

Nancy L. Lancaster, Managing Editor

The *Utah State Bulletin (Bulletin)* is an official noticing publication of the executive branch of Utah state government. The Office of Administrative Rules, part of the Department of Government Operations, produces the *Bulletin* under authority of Section 63G-3-402.

The Portable Document Format (PDF) version of the *Bulletin* is the official version. The PDF version of this issue is available at <https://rules.utah.gov/>. Any discrepancy between the PDF version and other versions will be resolved in favor of the PDF version.

Inquiries concerning the substance or applicability of an administrative rule that appears in the *Bulletin* should be addressed to the contact person for the rule. Questions about the *Bulletin* or the rulemaking process may be addressed to: Office of Administrative Rules, PO Box 141007, Salt Lake City, Utah 84114-1007, telephone 801-957-7110. Additional rulemaking information and electronic versions of all administrative rule publications are available at <https://rules.utah.gov/>.

The information in this *Bulletin* is summarized in the *Utah State Digest (Digest)* of the same volume and issue number. The *Digest* is available by e-mail subscription or online. Visit <https://rules.utah.gov/> for additional information.

Office of Administrative Rules, Salt Lake City 84114

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## Utah state bulletin.

Semimonthly.

1. Delegated legislation--Utah--Periodicals. 2. Administrative procedure--Utah--Periodicals.  
I. Utah. Office of Administrative Rules.

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**KEY:** dental, X-rays, mammography, beam limitation  
**Date of Last Change:** 2024|January 17, 2023|  
**Notice of Continuation:** April 8, 2021  
**Authorizing, and Implemented or Interpreted Law:** 19-3-104; 19-6-107

#### NOTICE OF PROPOSED RULE

**TYPE OF FILING:** Amendment

<b>Rule or Section Number:</b>	R315-309	<b>Filing ID:</b> 56420
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#### Agency Information

<b>1. Department:</b>	Environmental Quality	
<b>Agency:</b>	Waste Management and Radiation Control, Waste Management	
<b>Room number:</b>	2nd Floor	
<b>Building:</b>	MASOB	
<b>Street address:</b>	195 N 1950 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 144880	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-4880	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Tom Ball	385-454-5574	tball@utah.gov

**Please address questions regarding information on this notice to the persons listed above.**

#### General Information

**2. Rule or section catchline:**

R315-309. Financial Assurance

**3. Purpose of the new rule or reason for the change:**

The Division of Waste Management and Radiation Control, Waste Management (Division) is amending this rule to correct rule references that have changed due to other rule and statute amendments and providing clarifying language.

The Division is also correcting typographical and rule formatting errors.

**4. Summary of the new rule or change:**

Clarifying language is being added in Subsection R315-309-1(1). The language makes it clear that financial assurance is required for any solid waste facility subject to the requirements of Subsection R315-310(1)(a). There are some approvals such as a plan of operation that are considered a permit by definition but are not routinely subject to financial assurance.

Additional language was added to this rule to give the director of the Division some discretion to require financial assurance for other facility types if necessary.

The rule citation to Subsections R315-309-3(6)(b) and (c) was corrected to Subsections R315-309-9(6)(b) and (c).

#### Fiscal Information

**5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:**

**A) State budget:**

There is no cost or savings to the state budget due to this rule amendment because it does not change any rule requirements, only clarifies existing requirements.

**B) Local governments:**

There is no cost or savings to local governments due to this rule amendment because it does not change any rule requirements, only clarifies existing requirements.

**C) Small businesses** ("small business" means a business employing 1-49 persons):

There is no cost or savings to small businesses due to this rule amendment because it does not change any rule requirements, only clarifies existing requirements.

**D) Non-small businesses** ("non-small business" means a business employing 50 or more persons):

There is no cost or savings to non-small businesses due to this rule amendment because it does not change any rule requirements, only clarifies existing requirements.

**E) Persons other than small businesses, non-small businesses, state, or local government entities** ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

There is no cost or savings to persons other than small businesses, non-small businesses, state or local government entities due to this rule amendment because it does not change any rule requirements, only clarifies existing requirements.

**F) Compliance costs for affected persons** (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs for affected persons.

The changes add clarification to existing requirements with no fiscal impact.

**G) Regulatory Impact Summary Table** (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in

this table. Inestimable impacts will be included in narratives above.)

**Regulatory Impact Table**

<b>Fiscal Cost</b>	<b>FY2024</b>	<b>FY2025</b>	<b>FY2026</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>FY2024</b>	<b>FY2025</b>	<b>FY2026</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**H) Department head comments on fiscal impact and approval of regulatory impact analysis:**

The Executive Director of the Department of Environmental Quality, Kim Shelley, has reviewed and approved this regulatory impact analysis.

**Citation Information**

**6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

Section 19-6-105

**Public Notice Information**

**8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)**

**A) Comments will be accepted** 05/31/2024  
**until:**

**9. This rule change MAY** 06/17/2024  
**become effective on:**

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Douglas J. Hansen, Division Director	<b>Date:</b>	04/11/2024
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**R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.**

**R315-309. Financial Assurance.**

**R315-309-1. Applicability.**

(1) The owner or operator of any solid waste disposal facility ~~[requiring a permit]~~ subject to the requirements for a permit under Subsection R315-310-1(a), or as otherwise required by the director, shall establish financial assurance sufficient to assure adequate closure, post-closure care, and corrective action, if required, of the facility by compliance with one or more financial assurance mechanisms acceptable to and approved by the [D]director.

(2) Financial assurance is not required for a solid waste disposal facility that is owned or operated by ~~[the State of Utah]~~ this state or the ~~[F]~~ federal government.

(3) Existing Facilities.

(a) An existing facility shall have the financial assurance mechanism in place and effective according to the compliance schedule as established for the facility by the ~~[D]~~director.

(b) In the case of corrective action, the financial assurance mechanism shall be in place and effective no later than 120 days after the corrective action remedy has been selected.

(4) A new facility or an existing facility seeking lateral expansion shall have the financial assurance mechanism in place and effective before the initial receipt of waste at the facility or the lateral expansion.

**R315-309-8. Local Government Financial Test.**

(1) The terms used in Section R315-309-8 are defined as follows.

(a) "Total revenues" means the revenues from ~~[all]~~ taxes and fees but does not include the proceeds from borrowing or asset sales, excluding revenue from funds managed by local government on behalf of a specific third party.

(b) "Total expenditures" means ~~[all]~~ expenditures excluding capital outlays and debt repayments.

(c) "Cash plus marketable securities" means ~~[all]~~ the cash plus marketable securities held by the local government on the last day of a fiscal year, excluding cash and marketable securities designated to satisfy past obligations such as pensions.

(d) "Debt service" means the amount of principal and interest due on a loan in a given time period, typically the current year.

(2) A local government owner or operator of a solid waste facility may demonstrate financial assurance up to the current cost estimate as required by Subsection R315-309-2(3) for closure and post-closure care and the cost estimate as required by Subsection R315-309-2(5) for corrective action, if required, or up to the amount specified in Subsection R315-309-8(6), ~~[which ever]~~ ~~whichever~~ is less, by meeting the following requirements.

(a) If the local government has outstanding, rated general obligation bonds that are not secured by insurance, a letter of credit, or other collateral or other guarantee, it ~~must~~shall have a current rating of Aaa, Aa, A, or Baa, as issued by Moody's or AAA, AA, A, or BBB, as issued by Standard and Poor's on ~~such~~the general obligation bonds.

(b) If the local government has no outstanding general obligation bonds, the local government shall satisfy each of the following financial ratios based on the local government's most recent audited annual financial statement:

(i) a ratio of cash plus marketable securities to total expenditures greater than or equal to 0.05; and

(ii) a ratio of annual debt service to total expenditures less than or equal to 0.20.

(c) The local government ~~must~~shall prepare its financial statements in conformity with Generally Accepted Accounting Principles for governments and have its financial statements audited by an independent certified public accountant.

(d) The local government ~~must~~shall place a reference to the closure and post-closure care costs assured through the financial test into the next comprehensive annual financial report and in ~~every~~each subsequent comprehensive annual financial report during the time ~~in which~~when closure and post-closure care costs are assured through the financial test. A reference to corrective action costs ~~must~~shall be placed in the comprehensive annual financial report ~~not later than~~before 120 days after the corrective action remedy has been selected. The reference to the closure and post-closure care costs shall contain:

(i) the nature and source of the closure and post-closure care requirements;

(ii) the reported liability at the balance sheet date;

(iii) the estimated total closure and post-closure care costs remaining to be recognized;

(iv) the percentage of landfill capacity used to date; and

(v) the estimated landfill life in years.

(3) A local government is not eligible to assure closure, post-closure care, or corrective action costs at its solid waste disposal facility through the financial test if it:

(a) is currently in default on any outstanding general obligation bonds~~s~~; or

(b) has any outstanding general obligation bonds rated lower than Baa as issued by Moody's or BBB as issued by Standard and Poor's; or

(c) has operated at a deficit equal to 5%, or more, of the total annual revenue in each of the past two fiscal years; or

(d) receives an adverse opinion, disclaimer of opinion, or other qualified opinion from the independent certified public accountant, or appropriate state agency auditing its financial statement. The ~~D~~director may evaluate qualified opinions on a case-by-case basis and allow use of the financial test in cases ~~where~~if the ~~D~~director ~~deems~~considers the qualification insufficient to warrant disallowance of use of the test.

(4) The local government owner or operator ~~must~~shall submit the following items to the ~~D~~director for approval and place a copy of these items in the operating record of the facility:

(a) a letter signed by the local government's chief financial officer that:

(i) lists ~~all~~the current cost estimates covered by a financial test; and

(ii) provides evidence and certifies that the local government meets the requirements of Subsections R315-309-8(2) and R315-309-8(6);

(b) the local government's independently audited year-end financial statements for the latest fiscal year including the unqualified opinion of the auditor, who ~~must~~shall be an independent certified public accountant;

(c) a report to the local government from the local government's independent certified public accountant stating the procedures performed and the findings relative to:

(i) the requirements of Subsections R315-309-8(2)(c), ~~and~~ R315-309-8(3)(c), and R315-309-8(3)(d); and

(ii) the financial ratios required by Subsection R315-309-8(2)(b), if applicable; and

(d) a copy of the comprehensive annual financial report used to comply with Subsection R315-309-8(2)(d).

(e) The items required by Subsection R315-309-8(4) are to be submitted to the ~~D~~director and copies placed in the facility's operating record as follows:

(i) in the case of closure and post-closure care, for a new facility or a lateral expansion of an existing facility, before the initial receipt of waste;

(ii) in the case of closure and post-closure care, for an existing facility, in accordance with the effective dates specified in Subsection R315-309-1(3)(a); and

(iii) in the case of corrective action, in accordance with the schedule specified in Subsection R315-309-1(3)(b).

(5) A local government ~~must~~shall satisfy the requirements of the financial test at the close of each fiscal year.

(a) The items required in Subsection R315-309-8(4) shall be submitted as part of the facility's annual report required by Subsection R315-302-2(4).

(b) If the local government no longer meets the requirements of the local government financial test it shall, within 210 days following the close of the local government's fiscal year:

(i) ~~obtain~~get alternative financial assurance that meets the requirements of Subsection R315-309-1(1); and

(ii) submit documentation of the alternative financial assurance to the ~~D~~director and place copies of the documentation in the facility's operating record.

(c) The ~~D~~director, based on a reasonable belief that the local government may no longer meet the requirements of the local government financial test, may require additional reports of financial condition from the local government at any time. If the ~~D~~director finds that the local government no longer meets the requirements of the local government financial test, the local government shall be required to provide alternative financial assurance on a schedule established by the ~~D~~director.

(6) The portion of the closure, post-closure, and corrective action costs for which a local government owner or operator may assume under the local government financial test is determined as follows:

(a) If the local government does not assure other environmental obligations through a financial test, it may assure closure, post-closure, and corrective action costs that equal up to 43% of the local government's total annual revenue.

(b) If the local government assures any other environmental obligation through a financial test, it ~~must~~shall add those costs to the closure, post-closure, and corrective action costs it seeks to assure by local government financial test. The total that may be assured ~~must~~may not exceed 43% of the local government's total annual revenue.

(c) The local government shall ~~obtain~~get an alternate financial assurance mechanism for those costs that exceed 43% of the local government's total annual revenue.

(7) Local Government Guarantee.

(a) An owner or operator of a solid waste facility may demonstrate financial assurance for closure, post-closure, and corrective action by [obtaining]getting a written guarantee provided by a local government. The local government providing the guarantee shall meet the requirements of the local government financial test in Section R315-309-8 and shall comply with the terms of the written guarantee as specified in Subsections R315-309-8(7)(b) and R315-309-8(7)(c).

(b) The guarantee [must]shall be effective for closure and post-closure care:

- (i) for a new facility or a lateral expansion of an existing facility, before the initial receipt of waste;
- (ii) for an existing facility, in accordance with the effective dates specified in Subsection R315-309-1(3)(a); and
- (iii) for corrective action, in accordance with the schedule specified in Subsection R315-309-1(3)(b).

(c) The guarantee shall provide that if the owner or operator fails to perform closure, post-closure care, or corrective action of a facility covered by the guarantee, the guarantor will:

- (i) perform, or pay a third party to perform, closure, post-closure, or corrective action as required; or
- (ii) establish a fully funded trust fund as specified in Section R315-309-4 in the name of the owner or operator.

(d) The guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and to the [D]director. Cancellation may not occur until 120 days after the date the notice is received by the [D]director.

(e) If the guarantee is canceled, the owner or operator shall, within 90 days following the receipt of the cancellation notice:

- (i) [obtain]get alternate financial assurance that meets the requirements of Subsection R315-309-1(1);
- (ii) submit documentation of the alternate financial assurance to the [D]director; and
- (iii) place copies of the documentation of the alternate financial assurance in the facility's operating record.

(iv) If the owner or operator fails to provide alternate financial assurance within the 90-[–]day period, the guarantor [must]shall provide the alternate financial assurance within 120 days following the guarantor's notice of cancellation, submit documentation of the alternate financial assurance to the [D]director for review and approval, and place copies of the documentation in the facility's operating record.

**R315-309-9. Corporate Financial Test.**

(1) The terms used specifically in Section R315-309-9 are defined as follows.

(a) "Assets" means [all]the existing and probable future economic benefits [obtained]received or controlled by a particular entity.

(b) "Current assets" means cash or other assets or resources commonly identified as those which are reasonably expected to be realized in cash or sold or consumed during the normal operating cycle of the business.

(c) "Current liabilities" means obligations whose liquidation is reasonably expected to require the use of existing resources properly classifiable as current assets or the creation of other current liabilities.

(d) "Current plugging and abandonment cost estimate" means the most recent of the estimates prepared in accordance with 40 CFR 144.62(a), (b), and (c) (2001) which is [adopted and]incorporated by reference.

(e) "Independently audited" means an audit performed by and independent certified public accountant in accordance with generally accepted auditing standards.

(f) "Liabilities" means probable future sacrifices of economic benefits arising from present obligations to transfer assets or provide services to other entities in the future as a result of past transactions or events.

(g) "Net working capital" means current assets minus current liabilities.

(h) "Net worth" means total assets minus total liabilities and is equivalent to owner's equity.

(i) "Tangible net worth" means the tangible assets that remain after deducting liabilities; [such]these assets would not include intangibles such as goodwill and rights to patents or royalties.

(2) A corporate owner or operator of a solid waste facility may demonstrate financial assurance up to the current cost estimate as required by Subsection R315-309-2(3) for closure and post-closure care and the cost estimate required by Subsection R315-309-2(5) for corrective action, if required, by meeting the following requirements.

(a) The owner or operator [must]shall satisfy one of the following three conditions:

- (i) a current rating for its senior unsubordinated debt of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A, or Baa as issued by Moody's; or
- (ii) a ratio of less than 1.5 comparing total liabilities to net worth[–]; or
- (iii) a ratio of greater than 0.10 comparing the sum of net income plus depreciation, depletion and amortization, minus \$10,000,000[–million], to total liabilities.

(b) The tangible net worth of the owner or operator [must]shall be greater than:

(i) the sum of the current closure, post-closure care, and corrective action cost estimates and any other environmental obligation, including guarantees, covered by a financial test plus \$10,000,000[–million] except as provided in Subsection R315-309-9(2)(b); or

(ii) \$10,000,000[–million] in net worth plus the amount of any guarantees that have not been recognized as liabilities on the financial statements provided [all of]the current closure, post-closure care, and corrective action costs and any other environmental obligations covered by a financial test are recognized as liabilities on the owner's or operator's audited financial statements, and subject to the approval of the [D]director.

(c) The owner or operator [must]shall have assets located in the United States amounting to at least the sum of current closure, post-closure care, corrective action cost estimates and any other environmental obligations covered by a financial test.

(3) The owner or operator [must]shall place the following items into the facility's operating record and submit a copy of these items to the [D]director for approval:

(a) a letter signed by the owner's or operator's chief financial officer that:

(i) lists [all]the current cost estimates for closure, post-closure care, corrective action, and any other environmental obligations covered by a financial test; and

(ii) provides evidence demonstrating that the firm meets the conditions of Subsection R315-309-9(2)(a)(i), [or]R315-309-9(2)(a)(ii), or R315-309-9(2)(a)(iii) and Subsections R315-309-9(2)(b) and R315-309-9(2)(c); and

(b) a copy of the independent certified public accountant's unqualified opinion of the owner's or operator's financial statements for the latest completed fiscal year.

(i) To be eligible to use the financial test, the owner's or operator's financial statements ~~[must]~~shall receive an unqualified opinion from the independent certified public accountant.

(ii) The ~~[D]~~director may evaluate qualified opinions on a case-by-case basis and allow use of the financial test ~~[where]~~if the ~~[D]~~director ~~[deems]~~considers the matters which form the basis for the qualification are insufficient to warrant disallowance of the test.

(c) If the chief financial officer's letter providing evidence of financial assurance includes financial data showing that the owner or operator satisfies Subsection R315-309-9(2)(a)(i) or R315-309-9(2)(a)(ii) that are different from data in the audited financial statements or data filed with the Securities and Exchange Commission, then a special report from the owner's or operator's independent certified public accountant is required. The special report shall:

(i) be based upon an agreed upon procedures engagement in accordance with professional auditing standards;

(ii) describe the procedures performed in comparing the data in the chief financial officer's letter derived from the independently audited, year-end financial statements;

(iii) describe the findings of that comparison; and

(iv) explain the reasons for any differences.

(d) If the chief financial officer's letter provides a demonstration that the firm has assured environmental obligations as provided in Subsection R315-309-9(2)(b)(ii), then the letter shall include a report from the independent certified public accountant that:

(i) verifies that ~~[all]~~each of the environmental obligations covered by a financial test have been recognized as liabilities on the audited financial statements;

(ii) explains how these obligations have been measured and reported; and

(iii) certifies that the tangible net worth of the firm is at least \$10,000,000~~[-million]~~ plus the amount of ~~[all]~~the guarantees provided.

(e) The items required by Subsection R315-309-9(3) are to be submitted to the ~~[D]~~director and copies placed in the facility's operating record as follows:

(i) in the case of closure and post-closure care, for a new facility or a lateral expansion of an existing facility, before the initial receipt of waste;

(ii) in the case of closure and post-closure care, for an existing facility, in accordance with the effective dates specified in Subsection R315-309-1(3)(a); and

(iii) in the case of corrective action, in accordance with the schedule specified in Subsection R315-309-1(3)(b).

(4) A firm ~~[must]~~shall satisfy the requirements of the financial test at the close of each fiscal year by submitting the items required in Subsection R315-309-9(3) as part of the facility's annual report required by Subsection R315-302-2(4).

(5) If the firm no longer meets the requirements of the corporate financial test it shall, within 120 days following the close of the firm's fiscal year:

(a) ~~[obtain]~~get alternative financial assurance that meets the requirements of Subsection R315-309-1(1); and

(b) submit documentation of the alternative financial assurance to the ~~[D]~~director and place copies of the documentation in the facility's operating record.

(c) The ~~[D]~~director, based on a reasonable belief that the firm may no longer meet the requirements of the corporate financial test, may require additional reports of financial condition from the firm at any time. If the ~~[D]~~director finds that the firm no longer meets the requirements of the corporate financial test, firm shall be required to provide alternative financial assurance on a schedule established by the ~~[D]~~director.

(6) Corporate Guarantee.

(a) A corporate owner or operator of a solid waste facility may demonstrate financial assurance for closure, post-closure care, and corrective action by ~~[obtaining]~~getting a written guarantee provided by a corporation.

(i) The guarantor ~~[must]~~shall be the direct or higher[-]tier parent corporation of the owner or operator, a firm whose parent corporation is also the parent corporation of the owner or operator, or a firm with a substantial business relationship with the owner or operator.

(ii) The firm shall meet the requirements of the corporate financial test in Section R315-309-9 and shall comply with the terms of the written guarantee as specified in Subsections R315-309-[3]9(6)(b) and R315-309-9(6)(c).

(A) A certified copy of the guarantee along with copies of the letter from the guarantor's chief financial officer and accountant's opinions ~~[must]~~shall be submitted to the ~~[D]~~director and placed in the facility's operating record.

(B) If the guarantor's parent corporation is also the parent corporation of the owner or operator, the letter from the guarantor's chief financial officer ~~[must]~~shall describe the value received in consideration of the guarantee.

(C) If the guarantor is a firm with a substantial business relationship with the owner or operator, the letter from the chief financial officer ~~[must]~~shall describe this substantial business relationship and the value received in consideration of the guarantee.

(b) The guarantee ~~[must]~~shall be effective for closure and post-closure care:

(i) for a new facility or a lateral expansion of an existing facility, before the initial receipt of waste;

(ii) for an existing facility, in accordance with the effective dates specified in Subsection R315-309-1(3)(a); and

(iii) for corrective action, in accordance with the schedule specified in Subsection R315-309-1(3)(b).

(c) The guarantee shall provide that if the owner or operator fails to perform closure, post-closure care, or corrective action of a facility covered by the guarantee, the guarantor will:

(i) perform, or pay a third party to perform, closure, post-closure, or corrective action as required; or

(ii) establish a fully funded trust fund as specified in Section R315-309-4 in the name of the owner or operator.

(d) The guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and to the ~~[D]~~director. Cancellation may not occur until 120 days after the date the notice is received by the ~~[D]~~director.

(e) If the guarantee is canceled, the owner or operator shall, within 90 days following the receipt of the cancellation notice:

(i) ~~[obtain]~~get alternate financial assurance that meets the requirements of Subsection R315-309-1(1);

(ii) submit documentation of the alternate financial assurance to the ~~[D]~~director; and

(iii) place copies of the documentation of the alternate financial assurance in the facility's operating record.

(iv) If the owner or operator fails to provide alternate financial assurance within the 90[-]-day period, the guarantor ~~must~~shall provide the alternate financial assurance within 120 days following the guarantor's notice of cancellation, submit documentation of the alternate financial assurance to the ~~D~~director for review and approval, and place copies of the documentation in the facility's operating record.

(f) If a corporate guarantor no longer meets the requirements of the corporate financial test as specified in Section R315-309-9:

(i) the owner or operator ~~must~~shall, within 90 days, ~~obtain~~get alternate financial assurance; and

(ii) submit documentation of the alternate financial assurance to the ~~D~~director and place copies of this documentation in the facility's operating record.

(iii) If the owner or operator fails to provide alternate financial assurance within the 90-day period, the guarantor ~~must~~shall provide that alternate assurance within the next 30 days.

**KEY:** solid waste management, waste disposal

**Date of Last Change:** 2024[April 25, 2013]

**Notice of Continuation:** November 30, 2022

**Authorizing, and Implemented or Interpreted Law:** 19-6-105; 40 CFR 258

#### NOTICE OF PROPOSED RULE

**TYPE OF FILING:** Amendment

<b>Rule or Section Number:</b>	R315-310	<b>Filing ID:</b> 56421
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#### Agency Information

<b>1. Department:</b>	Environmental Quality	
<b>Agency:</b>	Waste Management and Radiation Control, Waste Management	
<b>Room number:</b>	2nd Floor	
<b>Building:</b>	MASOB	
<b>Street address:</b>	195 N 1950 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 144880	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-4880	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Tom Ball	385-454-5574	tball@utah.gov

**Please address questions regarding information on this notice to the persons listed above.**

#### General Information

##### 2. Rule or section catchline:

R315-310. Permit Requirements for Solid Waste Facilities

#### 3. Purpose of the new rule or reason for the change:

The Division of Waste Management and Radiation Control, Waste Management (Division) is amending this rule to correct rule references that are incorrect, providing clarifying language, and amending rule language in accordance with legislation.

The Division is also correcting typographical and rule formatting errors.

#### 4. Summary of the new rule or change:

Language was added to Section R315-310-1 to clarify that facility types not addressed specifically in sections of Rule R315-310 and to also require permits as found in other applicable parts of the rules.

The amendment prevents disagreement between Section R315-310-1 and other parts of the rules, including the definition of "permit" in Subsection R315-301-2(55).

The change will require compost facilities, transfer stations, recycling facilities, and waste pile facilities to apply for renewal of their permit every 10 years.

The citations to Subsection R315-310-1(a) found in Subsection R315-310-1(5) are being changed to the correct citation to Subsection R315-310-1(1).

Language is being added to Section R315-310-3 as required by H.B. 357 that was passed during the 2013 General Session of the Utah Legislature. The language details the financial information that local governments must submit with a permit application for a new facility.

Language has been deleted from Subsection R315-310-2(2) which required two copies of a permit application to be submitted to the director. Permit applications are now being received electronically and duplicate copies are not needed.

Language has been added to Subsection R315-310-3(1)(b) that extends the exemption for engineer signatures on designs and drawings to facility types not listed in Subsection R315-310-1(1)(b).

The citation to Subsection R315-310-3(3)(a)(i) found in Subsection R315-310-3(2)(a)(ii) and Subsection R315-310-3(2)(b) is being changed to the correct citation to Subsection R315-310-3(2)(a)(i).

Language has been added to Subsection R315-310-3(3)(a) to clarify that information to demonstrate that the requirements of Subsection 19-6-108(11) have been satisfied must be included with the permit application for a Commercial Solid Waste Disposal facility.

The citation to Subsections R315-310-3(2)(a), (b), and (c) found in Subsection R315-310-3(3)(d) is being changed to the correct citation to Subsections R315-310-3(3)(a), (b), and (c).

Language is being added to Subsection R315-310-3(3)(e) as required by S.B. 68 that was passed during the 2011 General Session of the Utah Legislature. The language clarifies that the governor's and legislature's approvals may be automatically revoked in accordance with the Utah Code.

Language has been added to Subsection R315-310-10(1) that consolidates the information requirements for a post-closure care permit into one location to make it easier for applicants to locate the requirements. The language contains citations to the various sections of the solid waste rules where each of the requirements can be found.

A new requirement for operators of waste piles was added at Subsection R315-310-10(1)(e) that requires these operators to submit the information required by Subsection R315-314-2(2)(f).

## Fiscal Information

### 5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

#### A) State budget:

It is not anticipated that there will be any cost or savings to the state budget based on these amendments. The majority of the changes are clarifications and corrections.

New requirements that may have a cost impact include a permit renewal requirement for compost facilities, transfer stations, recycling facilities, and waste pile facilities. The state does not currently operate any of these and it is not anticipated that it will in the future so there are no costs to the state budget due to these requirements.

Additionally, the amendments include a requirement for certain types of waste pile facilities to provide information and any costs that may be associated with gathering the information would be minimal and not measurable. The state does not operate an affected waste pile facility.

#### B) Local governments:

The majority of the changes are clarifications and corrections.

However, there are 23 facilities operated by local governments that will now be required to apply for a permit renewal every 10 years. The facilities affected include compost facilities, transfer stations, recycling facilities, and waste pile facilities. It is typical for these facilities to make corrections or updates to their permits as needed. These facility types currently make changes to their plans of operation on an as-needed basis depending on changes to business practices, and occasional changes that improve compliance and implement best management practices. The efforts to make such changes are currently absorbed in the budgets of these facilities. It cannot be estimated whether the renewal of these plans of operation on a 10-year basis will increase costs.

Additionally, the amendments include a requirement for certain types of waste pile facilities to provide information and any costs that may be associated with gathering the information would be minimal and not measurable. No local governments currently operate an affected waste pile facility.

#### C) Small businesses ("small business" means a business employing 1-49 persons):

The majority of the changes are clarifications and corrections.

However, there are 13 facilities operated by small businesses that will now be required to apply for a permit renewal every 10 years. The facilities affected include compost facilities, transfer stations, recycling facilities, and waste pile facilities. These facility types currently make changes to their plans of operation on an as-needed basis depending on changes to business practices, and occasional changes that improve compliance and implement best management practices. The efforts to make such changes are currently absorbed in the budgets of these facilities. It cannot be estimated whether the renewal of these plans of operations on a 10-year basis will increase costs.

Additionally, the amendments include a requirement for certain types of waste pile facilities to provide information and any costs that may be associated with gathering the information would be minimal and not measurable.

#### D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

The majority of the changes are clarifications and corrections.

However, there are 10 facilities operated by non-small businesses that will now be required to apply for a permit renewal every 10 years. The facilities affected include compost facilities, transfer stations, recycling facilities, and waste pile facilities. These facility types currently make changes to their plans of operation on an as-needed basis depending on changes to business practices, and occasional changes that improve compliance and implement best management practices. The efforts to make such changes are currently absorbed in the budgets of these facilities. It cannot be estimated whether the renewal of these plans of operations on a 10-year basis will increase costs.

Additionally, the amendments include a requirement for certain types of waste pile facilities to provide information and any costs that may be associated with gathering the information would be minimal and not measurable.

#### E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):

The majority of the changes are clarifications and corrections.

However, there is 1 waste pile facility operated by a person other than a small business, non-small business, state, or local government that will now be required to apply for a permit renewal every 10 years. These facility types currently make changes to their plans of operation on an as-needed basis depending on changes to business practices, and occasional changes that improve compliance and implement best management practices. The efforts to make such changes are currently absorbed in the budgets of these facilities. It cannot be estimated whether the renewal of these plans of operations on a 10-year basis will increase costs.

Additionally, the amendments include a requirement for certain types of waste pile facilities to provide information and any costs that may be associated with gathering the information would be minimal and not measurable.

**F) Compliance costs for affected persons** (How much will it cost an impacted entity to adhere to this rule or its changes?):

The amendments include new requirements for compost facilities, transfer stations, recycling facilities, and waste pile facilities to apply for a permit renewal every 10 years. These facility types currently make changes to their plans of operation on an as-needed basis depending on changes to business practices, and occasional changes that improve compliance and implement best management practices. The efforts to make such changes are currently absorbed in the budgets of these facilities. It cannot be estimated whether the renewal of these plans of operations on a 10-year basis will increase costs.

**G) Regulatory Impact Summary Table** (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

**Regulatory Impact Table**

Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>FY2024</b>	<b>FY2025</b>	<b>FY2026</b>

State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**H) Department head comments on fiscal impact and approval of regulatory impact analysis:**

The Executive Director of the Department of Environmental Quality, Kim Shelley, has reviewed and approved this regulatory impact analysis.

**Citation Information**

**6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

Section 19-6-105 | Section 19-6-108 | Section 19-6-109

**Public Notice Information**

**8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)**

**A) Comments will be accepted** 05/31/2024 until:

**9. This rule change MAY** 06/17/2024 become effective on:

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Douglas J. Hansen, Division Director	<b>Date:</b>	04/11/2024
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**R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.**

**R315-310. Permit Requirements for Solid Waste Facilities.**

**R315-310-1. Applicability.**

(1) [The following] Solid waste facilities subject to the requirements of Rules R315-301 through R315-320 require a permit as follows:

(a) The following solid waste facilities are subject to the requirements of Sections R315-310-2 through R315-310-12:

(i) New and existing Class I, II, III, IV, V, VI, and coal combustion residual (CCR) Landfills and coal combustion residual surface impoundments;

([b]ii) Class I, II, III, IV, V, and VI Landfills that have closed but have not met the requirements of Subsection R315-302-3(7);

([e]iii) incinerator facilities that are regulated by Rule R315-306;

([d]iv) land[-]treatment disposal facilities that are regulated by Rule R315-307; and

([d]v) waste tire storage facilities.

(b) Solid waste facilities not listed in Subsection R315-310-1(a) are subject to the permitting requirements of Sections R315-310-2, R315-310-3, R315-310-9, and R315-310-11.

(c) The following solid waste facilities are subject to Subsection R315-310-1(b) and the post-closure permit requirements of Section R315-310-10:

(i) compost facilities; and

(ii) waste piles, when post-closure monitoring is required under Subsection R315-314-2(f)(ii).

(2) Permits are not required for corrective actions at solid waste facilities performed by the state or in conjunction with the United States Environmental Protection Agency or in conjunction with actions to implement the Comprehensive Environmental Response Compensation and Liability Act of 1980 (CERCLA), or corrective actions taken by others to comply with a state or federal cleanup order.

(3) The requirements of Sections R315-310-2 through R315-310-12 apply to each existing and new solid waste facility as indicated.

(a) The [D]director may incorporate a compliance schedule for each existing facility to ensure that the owner or operator, or both, of each existing facility meet the requirements of Rule R315-310.

(b) The owner or operator, or both, where the owner and operator are not the same person, of each new facility or expansion at an existing solid waste facility, for which a permit is required, shall:

(i) apply for a permit according to the requirements of Rule R315-310;

(ii) not begin the construction or the expansion of the solid waste facility until a permit has been granted; and

(iii) not accept waste at the solid waste facility [prior to]before receiving the approval required by Subsection R315-301-5(1).

(4) A landfill may not change from its current class, or subclass, to any other class, or subclass, of landfill except by meeting [all]each requirement[s] for the desired class, or subclass, to include [obtaining]getting a new permit from the [D]director for the desired class, or subclass, of landfill.

(5) Any facility that is in operation [at the time that]when a permit is required for the facility by Subsection R315-310-1([a])(1) and has submitted a permit application within six months of the date the facility became subject to the permit requirements of Subsection R315-310-1([a])(1) may continue to operate during the permit review period but [must]shall meet [all]the applicable requirements of [f]Rules R315-301 through R315-320 unless an alternative requirement has been approved by the [D]director.

### R315-310-2. Procedures for Permits.

(1) Prospective applicants may request the [B]director to schedule a pre-application conference to discuss the proposed solid waste facility and application contents before the application is filed.

(2) Any owner or operator who intends to operate a facility subject to the permit requirements [must]shall apply for a permit with the [D]director. [Two copies of the application, signed by the owner or operator and received by the Director are required before permit review can begin.]

(3) Applications for a permit [must]shall be completed in the format prescribed by the [D]director.

(4) An application for a permit, [all]any reports required by a permit, and other information requested by the [D]director shall be signed as follows:

(a) for a corporation: by a principal executive officer of at least the level of vice[-]president;

(b) for a partnership or sole proprietorship: by a general partner or the proprietor;

(c) for a municipality, [S]state, [F]federal, or other public agency: by either a principal executive officer or ranking elected official; or

(d) by an [duly]authorized representative of the person [above]specified in Subsections R315-310-2(4)(a) through R315-310-2(4)(c), as appropriate.

(i) A person is an [duly]authorized representative only if the authorization is made in writing, to the [D]director, by a person described in Subsection[s] R315-310-2(4)(a), R315-310-2(4)(b), or R315-310-2(4)(c), as appropriate.

(ii) The authorization may specify either a named individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of facility manager, director, superintendent, or other position of equivalent responsibility.

(iii) If an authorization is no longer accurate and needs to be changed because a different individual or position has responsibility for the overall operation of the facility, a new authorization that meets the requirements of Subsections R315-310-2(4)(d)(i) and R315-310-2(4)(d)(ii) shall be submitted to the [D]director [prior to]before or together with any report, information, or application to be signed by the authorized representative.

#### (5) Filing Fee and Permit Review Fee.

(a) A filing fee, as required by the Annual Appropriations Act, shall accompany the filing of an application for a permit. The review of the application will not begin until the filing fee is received.

(b) A review fee, as established by the Annual Appropriations Act, shall be charged at an hourly rate for the review of an application. The review fee shall be billed quarterly and shall be due and payable quarterly.

(6) [All]Any content[s] and material[s] submitted as a permit application shall become part of the approved permit and shall be part of the operating record of the solid waste disposal facility.

(7) The owner or operator, or both, of a facility shall apply for renewal of the facility's permit every ten years.

### R315-310-3. General Contents of a Permit Application for a New Facility or a Facility Seeking Expansion.

(1) Each permit application for a new facility or a facility seeking expansion shall contain the following:

(a) the name and address of the applicant, property owner, and responsible [party]person for the site operation;

(b) a general description of the facility accompanied by facility plans and drawings and, except for Class IIIb, IVb, and Class VI Landfills, and facilities addressed in Subsection R315-310-1(1)(b) and, waste tire storage facilities, unless required by the [D]director, the facility plans and drawings shall be signed and sealed by a professional engineer registered in [the State of] Utah;

(c) a legal description and proof of ownership, lease agreement, or other mechanism approved by the [D]director of the proposed site, latitude and longitude map coordinates of the facility's front gate, and maps of the proposed facility site including land use and zoning of the surrounding area;

(d) the types of waste to be handled at the facility and area served by the facility;

(e) the plan of operation required by Subsection R315-302-2(2);

(f) the form used to record weights or volumes of wastes received required by Subsection R315-302-2(3)(a)(i);

(g) an inspection schedule and inspection log required by Subsection R315-302-2(5)(a);

(h) the closure and post-closure plans required by Section R315-302-3;

(i) documentation to show that any [waste water] wastewater treatment facility, such as a run-off or a leachate treatment system, is being reviewed or has been reviewed by the Division of Water Quality;

(j) a proposed financial assurance plan that meets the requirements of Rule R315-309; and

(k) [A] historical and archeological identification efforts, which may include an archaeological survey conducted by a person holding a valid license to conduct surveys issued under Rule R694-1.

(l) An application for a new facility that is owned or operated by a local government shall include financial information that discloses the costs of establishing and operating the facility, including:

(i) land acquisition and leasing;

(ii) construction;

(iii) estimated annual operation;

(iv) equipment;

(v) ancillary structures;

(vi) roads;

(vii) transfer stations; and

(viii) other operations not contiguous to the proposed facility that are necessary to support the facility's construction and operation.

(2) Public Participation Requirements.

(a) Each permit application shall provide:

(i) the name and address of [all] each owner[s] of property within 1,000 feet of the proposed solid waste facility; and

(ii) documentation that a notice of intent to apply for a permit for a solid waste facility has been sent to [all] each property owner[s] identified in Subsection R315-310-3[(3)](2)(a)(i)[-]; and

(iii) [the Director with] the name of the local government with jurisdiction over the site and the mailing address of that local government office.

(b) The [D]director shall send a letter to each person identified in Subsections R315-310-3[(3)](2)(a)(i) and R315-310-3(2)(a)(iii) requesting that [they] the person reply, in writing, if [they] the person desires [their name] to be placed on an interested [party] persons list to receive further public information concerning the proposed facility.

(3) Special Requirements for a Commercial Solid Waste Disposal Facility.

(a) The permit application for a commercial nonhazardous solid waste disposal facility shall contain the information required by Subsection[s] 19-6-108(9) and (10), including information to demonstrate that the requirements of Subsection 19-6-108(11) are satisfied.

(b) [Subsequent to] After the issuance of a solid waste permit by the [D]director, a commercial nonhazardous solid waste disposal facility shall meet the requirements of Subsection 19-6-108(3)(c) and provide documentation to the [D]director that the solid waste disposal facility is approved by the local government, the Legislature, and the governor.

(c) Construction of the commercial solid waste disposal facility may not begin until the requirements of Subsection[s] R315-310-3(2)(b) are met and approval to begin construction has been granted by the [D]director.

(d) Commercial solid waste disposal facilities solely under contract with a local government within the state to dispose of nonhazardous solid waste generated within the boundaries of the local government are not subject to Subsections R315-310-3[(2)](3)(a), R315-310-3(3)(b), and R315-310-3(3)(c).

(e) The governor's approval and legislative approval may be automatically revoked in accordance with Subsections 19-6-108(3)(c)(iv) and 19-6-108(3)(c)(v).

#### **R315-310-5. Contents of a Permit Application for a New or Expanding Class III, IV, or VI Landfill.**

(1) Each application for a permit for a new Class III, IV, or VI [L]andfill or for a permit to expand an existing Class III, IV, or VI Landfill shall contain the information required in Section R315-310-3.

(2) Each application shall also contain an engineering report, plans, specifications, and calculations that address:

(a) the information and maps required by Subsections R315-310-4(2)(a)(i) and R315-310-4(2)(a)(ii);

(b) the design and location of the run-on and run-off control systems;

(c) the information required by Subsections R315-310-4(2)(d) and R315-310-4(2)(e);

(d) the area to be served by the facility; and

(e) how the facility will meet the requirements of Rule R315-304, for a Class III Landfill, or Rule R315-305, for a Class IV or VI Landfill.

(3) Each application for a Class IIIa or Class IVa Landfill permit shall also contain the applicable information required in Subsections R315-310-4(2)(b) and R315-310-4(2)(c).

#### **R315-310-7. Contents of a Permit Application for a New or Expanding Incinerator Facility.**

(1) Each application for a new or expanding incinerator facility permit shall contain the information required in Section R315-310-3.

(2) Each application for a permit shall also contain:

(a) engineering report, plans, specifications, and calculations that address:

(i) the design of the storage and handling facilities on-site for incoming waste as well as fly ash, bottom ash, and any other wastes produced by air or water pollution controls; and

(ii) the design of the incinerator or thermal treater, including charging or feeding systems, combustion air systems, combustion or reaction chambers, including heat recovery systems,

ash handling systems, and air pollution and water pollution control systems. Instrumentation and monitoring systems design shall also be included[-];

(b) an operational plan that, in addition to the requirements of Section R315-302-2, addresses:

(i) cleaning of storage areas as required by Subsection R315-306-2(5);

(ii) alternative storage plans for breakdowns as required in Subsection R315-306-2(3);

(iii) inspections to [insure]ensure compliance with state and local air pollution laws and to comply with Subsection R315-302-2(5)(a). The inspection log or summary [must]shall be submitted with the application;

(iv) how and where the fly ash, bottom ash, and other solid waste will be disposed; and

(v) a program for excluding the receipt of hazardous waste equivalent to requirements specified in Subsection R315-303-4(7)[-];

(c) documentation to show that air pollution and water pollution control systems are being reviewed or have been reviewed by the Division of Air Quality and the Division of Water Quality[-];

(d) a closure plan to address:

(i) closure schedule;

(ii) closure costs and a financial assurance mechanism to cover the closure costs;

(iii) methods of closure and methods of removing wastes, equipment, and location of final disposal; and

(iv) final inspection by regulatory agencies.

#### **R315-310-9. Contents of an Application for a Permit Renewal.**

The owner or operator, or both, where the owner and operator are not the same person, of each existing facility who intend to have the facility continue to operate, shall apply for a renewal of the permit by submitting the applicable information and application specified in Section[s] R315-310-3, R315-310-4, R315-310-5, R315-310-6, R315-310-7, or R315-310-8, as appropriate. Applicable information, that was submitted to the [D]director as part of a previous permit application, may be copied and included in the permit renewal application so that [all]the required information is contained in one document. The information submitted shall reflect the current operation, monitoring, closure, post-closure, and [all]any other aspects of the facility as currently established at the time of the renewal application [submit]submittal.

#### **R315-310-10. Contents of an Application for a Permit for a Facility in Post-Closure Care.**

(1) The application for a Post-Closure Care permit shall contain the applicable information required in [Section R315-310-3 and documentation as to how the facility will meet the requirements of Section R315-302-3(5) and (6).]Subsections R315-310-3(1)(a) through R315-310-3(1)(c), and R315-310-3(1)(g) through R315-310-3(1)(j), and:

(a) for landfills, except CCR facilities:

(i) proof of recording with the county recorder as required by Subsection R315-302-2(6);

(ii) for Class I, II, IIIa, IVa, and V Landfills, demonstrate that the applicable requirements of Subsection R315-303-3(4) have been met;

(iii) for each Class III Landfill, the applicable requirements of Section R315-304-5;

(iv) for each Class IV or VI Landfill, the applicable requirements of Section R315-305-5;

(v) the applicable requirements for groundwater monitoring according to Rule R315-308; and

(vi) the financial assurance update requirements of Subsection R315-311-1(5);

(b) for incinerator facilities the required financial assurance for incinerators according to Section R315-306-2 or R315-306-3, as applicable;

(c) for landtreatment disposal facilities the applicable information required in Section R315-307-4;

(d) for composting facilities the applicable information required in Subsection R315-312-3(5);

(e) for waste piles subject to Rule R315-314 that are likely to produce leachate the applicable information required in Subsection R315-314-2(2)(f); and

(f) for CCR facilities the applicable information required in Sections R315-319-100 through R315-319-104.

#### **R315-310-11. Permit Transfer.**

(1) A permit may not be transferred without approval from the [D]director, nor shall a permit be transferred from one property to another.

(2) The new owner or operator shall submit to the [D]director:

(a) [A]a revised permit application no later than 60 days [prior to]before the scheduled change; and

(b) [A]a written agreement containing a specific date for transfer of permit responsibility between the current permittee and the new permittee[s].

(3) The new permittee shall:

(a) assume permit requirements and [all]financial responsibility;

(b) provide adequate documentation that the permittee has or shall have ownership or control of the facility for which the transfer of permit has been requested;

(c) demonstrate adequate knowledge and ability to operate the facility in accordance with the permit conditions; and

(d) demonstrate adequate financial assurance as required in the permit and Rule R315-309 for the operation of the facility.

(4) [When]If a transfer of ownership or operational control occurs, the old owner or operator shall comply with the requirements of Rule R315-309 until the new owner or operator has demonstrated that it is complying with the requirements of that rule.

(5) An application for permit transfer may be denied if the [D]director finds that the applicant has:

(a) knowingly misrepresented a material fact in the application;

(b) refused or failed to disclose any information requested by the [D]director;

(c) exhibited a history of willful disregard of any state or federal environmental law; or

(d) had any permit revoked or permanently suspended for cause under any state or federal environmental law.

**KEY: solid waste management, waste disposal**

**Date of Last Change: 2024|July 15, 2016|**

**Notice of Continuation: November 30, 2022**

**Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-108; 19-6-109; 40 CFR 258**

**WASTE MANAGEMENT AND RADIATION CONTROL BOARD**  
**Executive Summary**  
**Public Comment - Proposed Rule Changes**  
**UAC R313-15, UAC R313-22, UAC R313-32, and UAC R313-37**  
**June 13, 2023**

<b>What is the issue before the Board?</b>	<p>Approval from the Board to proceed with formal rulemaking and public comment on proposed changes to Utah Admin. Code (UAC) R313-15, UAC R313-22, UAC R313-32, and UAC R313-37, to incorporate federal regulatory changes made by the NRC to the federal radioactive materials regulations in 2021 (86 FR 43397, 47209, and 67839) and 2022 (87 FR 20693 and 68028). The changes are necessary to maintain regulatory compatibility with the NRC as required because Utah is an Agreement State with the NRC.</p>
<b>What is the historical background or context for this issue?</b>	<p>The NRC has amended its regulations to make miscellaneous corrections. These changes include correcting mailing addresses, typographical errors, grammatical errors, punctuation, references, spelling, agency names, office titles, removing outdated reporting requirements, removing obsolete language, clarifying language, adding metric units, correcting formatting, updating an authority citation, updating internal procedures, inserting missing language, updating the street address for the NRC's Region I office, and updating the phone number for the NRC's Region IV office.</p>
	<p>As an Agreement State with the NRC for the radioactive materials program, Utah is required to maintain regulatory compatibility with the corresponding NRC radioactive materials regulations. The Division is adopting the changes that the NRC designated as necessary for an Agreement State to adopt to maintain regulatory compatibility with the NRC.</p> <p>In addition to the proposed changes detailed above, the Division, at the request of the Governor's Office, is correcting typographical and formatting errors found in the rules.</p> <p>Copies of 86 FR 43397, 86 FR 47209, 86 FR 67839, 87 FR 20693, 87 FR 68028 and the proposed changes to UAC R313-15, UAC R313-22, UAC R313-32 and UAC R313-37 follow this Executive Summary.</p>
<b>What is the governing statutory or regulatory citation?</b>	<p>The Board is authorized under Subsections 19-3-103.1 and 19-3-104 to make rules to meet the requirements of federal law relating to radiation control to ensure the radiation control program is qualified to maintain primacy from the federal government and that are necessary to implement the provisions of the Radiation Control Act.</p> <p>The rule changes also meet existing DEQ and state rulemaking procedures.</p>

(Over)

<b>Is Board action required?</b>	Yes. Board approval is necessary to begin the formal rulemaking process by filing the appropriate documents with the Office of Administrative Rules for publishing the proposed rule changes in the <i>Utah State Bulletin</i> and conducting a public comment period.
<b>What is the Division Director's recommendation?</b>	The Director recommends the Board approve proceeding with formal rulemaking and public comment by publishing in the July 1, 2024, <i>Utah State Bulletin</i> the proposed changes to UAC R313-15, UAC R313-22, UAC R313-32 and UAC R313-37 and conducting a public comment period from July 1, 2024 to July 31, 2024.
<b>Where can more information be obtained?</b>	Please contact Tom Ball by email at <a href="mailto:tball@utah.gov">tball@utah.gov</a> by phone at 385-454-5574.

audited financial statements at least annually.

(2) The intermediary must allow the Agency or its representative to review the operations and financial condition of the intermediary upon the Agency's request. The intermediary and its agents must provide access to all pertinent information to allow the Agency, or any party authorized by the Agency, to conduct such reviews. The intermediary must submit financial or other information within 14 calendar days upon receipt of the Agency's request, unless the data requested is not available within that time frame. Failure to supply the requested information to the satisfaction of the Agency will constitute non-monetary default. The Agency may conduct reviews, including on-site reviews, of the intermediary's operations and the operations of any agent of the intermediary, for the purpose of verifying compliance with Agency regulations and guidelines. These reviews may include, but are not limited to, audits of case files; interviews with owners, managers, and staff; audits of collateral; and inspections of the intermediary's and its agents underwriting, servicing, and liquidation guidelines.

(g) *Annual monitoring reports.* Each intermediary will be monitored by the Agency through annual monitoring reports submitted by the intermediary. Annual monitoring reports must include a description of the use of loan funds, information regarding the acreage, the number of heirs both before and after loan was made, audit findings, disbursement transactions, and any other information required by the Agency, as necessary.

(h) *Unused loan funds.* If any part of the HPRP loan has not been used in accordance with the intermediary's relending plan within 3 years from the date of the HPRP loan agreement, the Agency may cancel the approval of any funds not delivered to the intermediary. The Agency may also direct the intermediary to return any funds delivered to the intermediary that have not been used by that intermediary in accordance with the intermediary's relending plan. The Agency may, at its sole discretion, allow the intermediary additional time to use the HPRP loan funds.

#### § 769.165 Loan servicing.

(a) *Payments.* The intermediary will make payments to the Agency as specified in the HPRP loan documents. All payments will be applied to interest first, any additional amount will be applied to principal.

(b) *Restructuring.* The Agency may restructure the intermediary's loan debt, if:

- (1) The loan objectives cannot be met unless the HPRP loan is restructured;
- (2) The Agency's interest will be protected; and

(3) The restructuring will be within the Agency's budget authority.

(c) *Default.* The Agency will work with the intermediary to correct any default, subject to the requirements of paragraph (b) of this section. In the event of monetary or non-monetary default, the Agency will take all appropriate actions to protect its interest, including, but not limited to, declaring the debt fully due and payable and may proceed to enforce its rights under the HPRP loan agreement, and any other loan instruments relating to the loan under applicable law and regulations, and commencement of legal action to protect the Agency's interest. Violation of any agreement with the Agency or failure to comply with reporting or other HPRP requirements will be considered non-monetary default.

#### § 769.166 Transfers and assumptions.

(a) All transfers and assumptions must be approved in advance by the Agency. The assuming entity must meet all eligibility criteria for HPRP.

(b) Available transfer and assumption options to eligible intermediaries include:

(1) The total indebtedness may be transferred to another eligible intermediary on the same rates and terms; or

(2) The total indebtedness may be transferred to another eligible intermediary on different terms not to exceed the term for which an initial loan can be made.

(c) The transferor must prepare the transfer document for the Agency's review prior to the transfer and assumption.

(d) The transferee must provide the Agency with information required in the application as specified in § 769.158.

(e) The Agency's approved form of the assumption agreement will formally authorize the transfer and assumption and will contain the Agency case number of the transferor and transferee.

(f) When the transferee makes a cash down-payment in connection with the transfer and assumption, any proceeds received by the transferor will be credited on the transferor's loan debt in order of maturity date.

#### § 769.167 Appeals.

Any appealable adverse decision made by the Agency may be appealed

upon written request of the intermediary as specified in 7 CFR part 11.

#### § 769.168 Exceptions.

The Agency may grant an exception to any of the requirements of this subpart if the proposed change is in the best financial interest of the Government and not inconsistent with the authorizing law or any other applicable law.

**Zach Ducheneaux,**

*Administrator, Farm Service Agency.*

[FR Doc. 2021-16459 Filed 8-5-21; 8:45 am]

**BILLING CODE 3410-05-P**

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Chapter I

[NRC-2021-0113]

RIN 3150-AK65

#### Miscellaneous Corrections

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Final rule.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is amending its regulations to make miscellaneous corrections. These changes include correcting mailing addresses, typographical errors, grammatical errors, references, spelling, agency names, and office titles; removing outdated reporting requirements; clarifying language; adding metric units; and inserting missing language. This document is necessary to inform the public of these non-substantive amendments to the NRC's regulations.

**DATES:** This final rule is effective on September 8, 2021.

**ADDRESSES:** Please refer to Docket ID NRC-2021-0113 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov> and search for Docket ID NRC-2021-0113. Address questions about NRC dockets to Dawn Forder; telephone: 301-415-3407; email: [Dawn.Forder@nrc.gov](mailto:Dawn.Forder@nrc.gov). For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the

ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “Begin Web-based ADAMS Search.” For problems with ADAMS, please contact the NRC’s Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by email to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov).

- **Attention:** The PDR, where you may examine and order copies of public documents, is currently closed. You may submit your request to the PDR via email at [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov) or call 1–800–397–4209 between 8:00 a.m. and 4:00 p.m. (EST), Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Dawn Forder, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–3407; email: [Dawn.Forder@nrc.gov](mailto:Dawn.Forder@nrc.gov).

**SUPPLEMENTARY INFORMATION:**

## I. Introduction

The NRC is amending its regulations in parts 2, 11, 20, 25, 32, 35, 37, 50, 52, 55, 70, 72, 73, 95, and 110 of title 10 of the *Code of Federal Regulations* (10 CFR). The NRC is making these amendments to correct mailing addresses, typographical errors, grammatical errors, references, spelling, agency names, and office titles; remove outdated reporting requirements; clarify language; add metric units; and insert missing language.

## II. Summary of Changes

### 10 CFR Part 2

**Correct Spelling.** This final rule amends §§ 2.911(a), 2.1023(b) introductory text, 2.1026(b)(1), and 2.1322(a) introductory text and appendix D to 10 CFR part 2 to correct the spelling of “preceeding” to “proceeding,” “respository” to “repository,” “unforseen” to “unforeseen,” “he” to “the, and “identifing” to “identifying”.

### 10 CFR Parts 11, 25, and 95 and Appendix A to 10 CFR Part 25

**Correct Office Title.** This final rule amends §§ 11.7, 11.15(e), 25.5, 25.17, and 95.5 and appendix A to 10 CFR part 25 to correct the office title from “Office of Personnel Management” in all its forms to “Defense Counterintelligence and Security Agency.”

### 10 CFR Part 20

**Remove Outdated Reporting Requirement.** This final rule amends § 20.2207(h) to remove an outdated reporting requirement.

### 10 CFR Part 32

**Insert Missing Language.** This final rule amends § 32.15(d) to insert missing introductory language.

### 10 CFR Part 35

**Correct Spelling.** This final rule amends § 35.50(c)(3) to correct a phrase from “master material license” to “master material licensee.”

**Correct Agency Name.** This final rule amends § 35.55(a)(1) to correct the title “American Council on Pharmaceutical Education (ACPE)” to “Accreditation Council for Pharmacy Education (ACPE) (previously named the American Council on Pharmaceutical Education).”

**Correct Phrase.** This final rule amends § 35.57(b)(2) to correct the phrase “or a permit issued by a Commission master material license of broad scope on or before October 25, 2005,” to “or a permit issued in accordance with a Commission master material broad scope license on or before October 25, 2005.”

### 10 CFR Part 37

**Correct Mailing Address.** This final rule amends § 37.27(c)(1) to revise the mail stop for the submission of the fingerprinting cards for background checks.

### 10 CFR Part 50

**Correct Typographical Error.** This final rule amends § 50.34(b)(6)(i) to correct “or” to “of.”

**Remove Outdated Reporting Requirements.** This final rule revises § 50.63(c)(1) introductory text and removes §§ 50.63(c)(4) and 50.71(e)(3)(ii) to remove outdated reporting requirements. It also amends sections IV.D.4 and VI.4 in appendix E to 10 CFR part 50 to remove outdated reporting requirements.

### 10 CFR Part 52

**Clarify Language.** This final rule amends § 52.98(b) and (d) introductory text to clarify duplicative language. It also amends section V.B.1 in appendix E to 10 CFR part 52 to remove the title of the section containing the exempted requirement and replace it with a short description. It also amends section III.D in appendix F to 10 CFR part 52 by removing the words “the NUREG,” and revises section V.A and removes and reserves section V.B to remove an exempted requirement.

### 10 CFR Part 55

**Correct Typographical Error.** This final rule amends § 55.31(b) to correct the spelling of “futher” to “further.”

### 10 CFR Part 70

**Correct Typographical Error.** This final rule amends § 70.22(g)(3) to correct the spelling of “discription” to “description.”

**Correct References.** This final rule amends § 70.32(a)(9)(i)(B) and (C) to update references to the United States Code.

### 10 CFR Part 72

**Correct Spelling.** This final rule amends § 72.218(a), to correct the spelling of “they” to “the.”

### 10 CFR Part 73

**Add Metric Units and Correct Phrase.** This final rule amends §§ 73.1(b)(5), 73.35, 73.37(a)(1), 73.50 introductory text, 73.60 introductory text, and 73.67(b)(1)(i) to make non-substantive changes to correct the terminology and units to ensure consistency with the performance objectives of the regulations, apply metric standards, and conform with existing NRC regulations (i.e., § 73.6(b)).

**Correct Typographical Error.** This final rule amends § 73.6(b) to correct the capitalization of “rad” and “gray.”

**Revise Mailing Address.** This final rule amends § 73.57(d) to revise the mail stop for the submission of the fingerprint cards for background checks.

### 10 CFR Part 110

**Correct Grammatical and Typographical Errors.** This final rule amends §§ 110.2, 110.8, and 110.50(c)(3) introductory text to correct grammatical and typographical errors.

**Correct Agency Name.** This final rule amends § 110.20 to correct the name of a Federal agency.

## III. Rulemaking Procedure

Under section 553(b) of the Administrative Procedure Act (5 U.S.C. 553(b)), an agency may waive publication in the **Federal Register** of a notice of proposed rulemaking and opportunity for comment requirements if it finds, for good cause, that it is impracticable, unnecessary, or contrary to the public interest. As authorized by 5 U.S.C. 553(b)(3)(B), the NRC finds good cause to waive notice and opportunity for comment on these amendments, because notice and opportunity for comment is unnecessary. The amendments will have no substantive impact and are of a minor and administrative nature dealing with corrections to certain CFR sections or are related only to management, organization, procedure, and practice. Specifically, the revisions correct mailing addresses, typographical errors, grammatical errors, references,

spelling, agency names, and office titles; remove outdated reporting requirements; clarify language; add metric units; and insert missing language. The Commission is exercising its authority under 5 U.S.C. 553(b) to publish these amendments as a final rule. The amendments are effective September 8, 2021. These amendments do not require action by any person or entity regulated by the NRC and do not change the substantive responsibilities of any person or entity regulated by the NRC.

#### IV. Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule is the type of action described in § 51.22(c)(2), which categorically excludes from environmental review rules that are corrective or of a minor, nonpolicy nature and do not substantially modify existing regulations. Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this rule.

#### V. Paperwork Reduction Act

This final rule does not contain a collection of information as defined in the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and, therefore, is not subject to the requirements of the Paperwork Reduction Act of 1995.

#### VI. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111–274) requires Federal agencies to write documents in a clear, concise, and well-organized manner. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, “Plain Language in Government Writing,” published June 10, 1998 (63 FR 31885).

#### VII. Backfitting and Issue Finality

The NRC has determined that the corrections in this final rule would not constitute backfitting as defined in § 50.109, “Backfitting,” and as described in NRC Management Directive (MD) 8.4, “Management of Backfitting, Forward Fitting, Issue Finality, and Information Requests.” It also would not constitute

forward fitting as that term is defined and described in MD 8.4 or affect the issue finality of any approval issued under 10 CFR part 52. The amendments are non-substantive in nature, including correcting mailing addresses, typographical errors, grammatical errors, references, spelling, agency names, and office titles; removing outdated reporting requirements; clarifying language; adding metric units; and inserting missing language. They impose no new requirements and make no substantive changes to the regulations. The corrections do not involve any provisions that would impose backfits as defined in 10 CFR chapter I, or that would be inconsistent with the issue finality provisions in 10 CFR part 52. For these reasons, the issuance of this final rule would not constitute backfitting or be inconsistent with any of the issue finality provisions in 10 CFR part 52. Therefore, the NRC has not prepared any additional documentation for this correction rulemaking addressing backfitting or issue finality.

#### VIII. Congressional Review Act

This final rule is not a rule as defined in the Congressional Review Act (5 U.S.C. 801–808).

#### IX. Agreement State Compatibility

Under the “Agreement State Program Policy Statement” approved by the Commission on October 2, 2017, and published in the **Federal Register** on October 18, 2017 (82 FR 48535), NRC program elements (including regulations) are placed into compatibility categories A, B, C, D, NRC, or adequacy category Health and Safety (H&S). Compatibility Category A program elements are those program elements that are basic radiation protection standards and scientific terms and definitions that are necessary to understand radiation protection concepts. An Agreement State should adopt Category A program elements in an essentially identical manner in order to provide uniformity in the regulation of agreement material on a nationwide basis. Compatibility Category B program

elements are those program elements that apply to activities that have direct and significant effects in multiple jurisdictions. An Agreement State should adopt Category B program elements in an essentially identical manner. Compatibility Category C program elements are those program elements that do not meet the criteria of Category A or B, but contain the essential objectives that an Agreement State should adopt to avoid conflict, duplication, gaps, or other conditions that would jeopardize an orderly pattern in the regulation of agreement material on a national basis. An Agreement State should adopt the essential objectives of the Category C program elements. Compatibility Category D program elements are those program elements that do not meet any of the criteria of Category A, B, or C and, therefore, do not need to be adopted by Agreement States for purposes of compatibility. Compatibility Category NRC program elements are those program elements that address areas of regulation that cannot be relinquished to the Agreement States under the Atomic Energy Act of 1954, as amended, or provisions of 10 CFR. These program elements should not be adopted by the Agreement States. Adequacy category H&S program elements are program elements that are required because of a particular health and safety role in the regulation of agreement material within the State and should be adopted in a manner that embodies the essential objectives of the NRC program.

The portions of this final rule that amend 10 CFR parts 32, 37, and 70 are a matter of compatibility between the NRC and the Agreement States, thereby providing consistency among Agreement State and NRC requirements, and are listed in the following table. The changes to 10 CFR parts 2, 11, 25, 50, 52, 55, 72, 73, 95, and 110 and appendix A to 10 CFR part 25, appendix E to 10 CFR part 50, and appendices E and F to 10 CFR part 52 categories are not subject to Agreement State jurisdiction and consequently are not required for compatibility.

#### COMPATIBILITY TABLE

Section	Change	Subject	Compatibility	
			Existing	New
<b>Part 20</b>				
§ 20.2207(h) .....	Amend .....	Reports of transactions involving nationally tracked sources .....	B	B

## COMPATIBILITY TABLE—Continued

Section	Change	Subject	Compatibility	
			Existing	New
<b>Part 32</b>				
§ 32.15(d) introductory text.	Amend .....	Same: Quality assurance, prohibition of transfer and labeling .....	NRC	NRC
<b>Part 35</b>				
§ 35.50(c)(3) .....	Amend .....	Training for Radiation Safety Officer and Associate Radiation Safety Officer	B	B
§ 35.57(b)(2) .....	Amend .....	Training for experienced Radiation Safety Officer, teletherapy or medical physicist, authorized medical physicist, authorized user, nuclear pharmacist, and authorized nuclear pharmacist.	B	B
§ 35.55(a)(1) .....	Amend .....	Training for an authorized nuclear pharmacist .....	B	B
<b>Part 37</b>				
§ 37.27(c)(1) .....	Amend .....	Requirements for criminal history records checks of individuals granted unescorted access to category 1 or category 2 quantities of radioactive material.	B	B
<b>Part 70</b>				
§ 70.22(g)(3) .....	Amend .....	Contents of application .....	NRC	NRC
§ 70.32(a)(9)(i)(B) .....	Amend .....	Conditions of licenses .....	H&S	H&S
§ 70.32(a)(9)(i)(C) .....	Amend .....	Conditions of licenses .....	H&S	H&S

**List of Subjects***10 CFR Part 2*

Administrative practice and procedure, Antitrust, Byproduct material, Classified information, Confidential business information; Freedom of information, Environmental protection, Hazardous waste, Nuclear energy, Nuclear materials, Nuclear power plants and reactors, Penalties, Reporting and recordkeeping requirements, Sex discrimination, Source material, Special nuclear material, Waste treatment and disposal.

*10 CFR Part 11*

Hazardous materials transportation, Investigations, Nuclear energy, Nuclear materials, Penalties, Reporting and recordkeeping requirements, Security measures, Special nuclear material.

*10 CFR Part 20*

Byproduct material, Criminal penalties, Hazardous waste, Licensed material, Nuclear energy, Nuclear materials, Nuclear power plants and reactors, Occupational safety and health, Packaging and containers, Penalties, Radiation protection, Reporting and recordkeeping requirements, Source material, Special nuclear material, Waste treatment and disposal.

*10 CFR Part 25*

Classified information, Criminal penalties, Investigations, Penalties,

Reporting and recordkeeping requirements, Security measures.

*10 CFR Part 32*

Byproduct material, Criminal penalties, Labeling, Nuclear energy, Nuclear materials, Radiation protection, Reporting and recordkeeping requirements.

*10 CFR Part 35*

Biologics, Byproduct material, Criminal penalties, Drugs, Health facilities, Health professions, Labeling, Medical devices, Nuclear energy, Nuclear materials, Occupational safety and health, Penalties, Radiation protection, Reporting and recordkeeping requirements.

*10 CFR Part 37*

Byproduct material, Criminal penalties, Exports, Hazardous materials transportation, Imports, Licensed material, Nuclear materials, Penalties, Radioactive materials, Reporting and recordkeeping requirements, Security measures.

*10 CFR Part 50*

Administrative practice and procedure, Antitrust, Backfitting, Classified information, Criminal penalties, Education, Emergency planning, Fire prevention, Fire protection, Incorporation by reference, Intergovernmental relations, Nuclear power plants and reactors, Penalties, Radiation protection, Reactor siting

criteria, Reporting and recordkeeping requirements, Whistleblowing.

*10 CFR Part 52*

Administrative practice and procedure, Antitrust, Combined license, Early site permit, Emergency planning, Fees, Incorporation by reference, Inspection, Issue finality, Limited work authorization, Nuclear power plants and reactors, Probabilistic risk assessment, Prototype, Reactor siting criteria, Redress of site, Penalties, Reporting and recordkeeping requirements, Standard design, Standard design certification.

*10 CFR Part 55*

Criminal penalties, Manpower training programs, Nuclear power plants and reactors, Penalties, Reporting and recordkeeping requirements.

*10 CFR Part 70*

Classified information, Criminal penalties, Emergency medical services, Hazardous materials transportation, Material control and accounting, Nuclear energy, Nuclear materials, Packaging and containers, Penalties, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment, Security measures, Special nuclear material, Whistleblowing.

*10 CFR Part 72*

Administrative practice and procedure, Hazardous waste, Indians, Intergovernmental relations, Nuclear energy, Penalties, Radiation protection, Reporting and recordkeeping

requirements, Security measures, Spent fuel, Whistleblowing.

#### 10 CFR Part 73

Criminal penalties, Exports, Hazardous materials transportation, Incorporation by reference, Imports, Nuclear energy, Nuclear materials, Nuclear power plants and reactors, Penalties, Reporting and recordkeeping requirements, Security measures.

#### 10 CFR Part 95

Nuclear power plants and reactors, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

#### 10 CFR Part 110

Administrative practice and procedure, Classified information, Criminal penalties, Exports, Incorporation by reference, Imports, Intergovernmental relations, Nuclear energy, Nuclear materials, Nuclear power plants and reactors, Penalties, Reporting and recordkeeping requirements, Scientific equipment.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR Chapter I:

## PART 2—AGENCY RULES OF PRACTICE AND PROCEDURE

■ 1. The authority citation for part 2 continues to read as follows:

**Authority:** Atomic Energy Act of 1954, secs. 29, 53, 62, 63, 81, 102, 103, 104, 105, 161, 181, 182, 183, 184, 186, 189, 191, 234 (42 U.S.C. 2039, 2073, 2092, 2093, 2111, 2132, 2133, 2134, 2135, 2201, 2231, 2232, 2233, 2234, 2236, 2239, 2241, 2282); Energy Reorganization Act of 1974, secs. 201, 206 (42 U.S.C. 5841, 5846); Nuclear Waste Policy Act of 1982, secs. 114(f), 134, 135, 141 (42 U.S.C. 10134(f), 10154, 10155, 10161); Administrative Procedure Act (5 U.S.C. 552, 553, 554, 557, 558); National Environmental Policy Act of 1969 (42 U.S.C. 4332); 44 U.S.C. 3504 note.

Section 2.205(j) also issued under 28 U.S.C. 2461 note.

Section 2.205(j) also issued under Sec. 31001(s), Pub. L. 104-134, 110 Stat. 1321-373 (28 U.S.C. 2461 note).

#### § 2.911 [Amended]

■ 2. In § 2.911(a), remove the word “preceeding” and add in its place the word “proceeding”.

#### § 2.1023 [Amended]

■ 3. In § 2.1023(b) introductory text, remove the word “respository” and add in its place the word “repository”.

#### § 2.1026 [Amended]

■ 4. In § 2.1026(b)(1), remove the word “unforseen” and add in its place the word “unforeseen”.

## PART 11—CRITERIA AND PROCEDURES FOR DETERMINING ELIGIBILITY FOR ACCESS TO OR CONTROL OVER SPECIAL NUCLEAR MATERIAL

■ 5. The authority citation for part 11 continues to read as follows:

**Authority:** Atomic Energy Act of 1954, secs. 161, 223 (42 U.S.C. 2201, 2273); Energy Reorganization Act of 1974, sec. 201 (42 U.S.C. 5841); 44 U.S.C. 3504 note. Section 11.15(e) also issued under 31 U.S.C. 9701; 42 U.S.C. 2214.

#### § 11.7 [Amended]

■ 6. In § 11.7, in the definition for *NRC-“U” special nuclear material access authorization*, remove “Office of Personnel Management” and add in its place “Defense Counterintelligence and Security Agency”.

#### § 11.15 [Amended]

■ 7. In § 11.15:  
 ■ a. In paragraph (e) introductory text, remove “Office of Personnel Management (OPM)” and add in its place “Defense Counterintelligence and Security Agency (DCSA)”;  
 ■ b. In paragraph (e) introductory text and paragraphs (e)(1) through (3), wherever it appears, remove “OPM” and add in its place “DCSA”; and  
 ■ c. In paragraphs (e)(2) and (3), remove “OPM’s” and add in its place “DCSA’s”.

## PART 20—STANDARDS FOR PROTECTION AGAINST RADIATION

■ 8. The authority citation for part 20 continues to read as follows:

**Authority:** Atomic Energy Act of 1954, secs. 11, 53, 63, 65, 81, 103, 104, 161, 170H, 182, 186, 223, 234, 274, 1701 (42 U.S.C. 2014, 2073, 2093, 2095, 2111, 2133, 2134, 2201, 2210H, 2232, 2236, 2273, 2282, 2021, 2297f); Energy Reorganization Act of 1974, secs. 201, 202 (42 U.S.C. 5841, 5842); Low-Level Radioactive Waste Policy Amendments Act of 1985, sec. 2 (42 U.S.C. 2021b); 44 U.S.C. 3504 note.

#### § 20.2207 [Amended]

■ 9. In § 20.2207, remove paragraph (h).

## PART 25—ACCESS AUTHORIZATION

■ 10. The authority citation for part 25 continues to read as follows:

**Authority:** Atomic Energy Act of 1954, secs. 145, 161, 223, 234 (42 U.S.C. 2165, 2201, 2273, 2282); Energy Reorganization Act of 1974, sec. 201 (42 U.S.C. 5841); 44 U.S.C. 3504 note; E.O. 10865, 25 FR 1583, as amended, 3 CFR, 1959-1963 Comp., p. 398; E.O. 12829, 58 FR 3479, 3 CFR, 1993 Comp., p. 570; E.O. 13526, 75 FR 707, 3 CFR, 2009 Comp., p. 298; E.O. 12968, 60 FR 40245, 3 CFR, 1995 Comp., p. 391. Section 25.17(f) and Appendix A also issued under 31 U.S.C. 9701; 42 U.S.C. 2214.

#### § 25.5 [Amended]

■ 11. In § 25.5, in the definitions for “*L* access authorization” and “*Q* access authorization”, remove “Office of Personnel Management” and add in its place “Defense Counterintelligence and Security Agency”.

#### § 25.17 [Amended]

■ 12. In § 25.17:  
 ■ a. In paragraph (f) introductory text, remove “Office of Personnel Management (OPM)” and add in its place “Defense Counterintelligence and Security Agency (DCSA)”;  
 ■ b. In paragraph (f) introductory text and paragraphs (f)(1) and (2), wherever it appears, remove “OPM” and add in its place “DCSA”; and  
 ■ c. In paragraph (f)(2), remove “OPM’s” and add in its place “DCSA’s”.  
 ■ 13. In appendix A to 10 CFR part 25, revise the table headings to read as follows:

## APPENDIX A TO PART 25—FEES FOR NRC ACCESS AUTHORIZATION

The NRC application fee for an access authorization of type . . .	Is the sum of the current DCSA investigation billing rate charged for an investigation of type . . .	Plus the NRC’s processing fee (rounded to the nearest dollar), which is equal to the DCSA investigation billing rate for the type of investigation referenced multiplied by . . .
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## PART 32—SPECIFIC DOMESTIC LICENSES TO MANUFACTURE OR TRANSFER CERTAIN ITEMS CONTAINING BYPRODUCT MATERIAL

- 14. The authority citation for part 32 continues to read as follows:

**Authority:** Atomic Energy Act of 1954, secs. 81, 161, 181, 182, 183, 223, 234, 274 (42 U.S.C. 2111, 2201, 2231, 2232, 2233, 2273, 2282, 2021); Energy Reorganization Act of 1974, sec. 201 (42 U.S.C. 5841); 44 U.S.C. 3504 note.

- 15. In § 32.15, add paragraph (d) introductory text to read as follows:

### § 32.15 Same: Quality assurance, prohibition of transfer, and labeling.

\* \* \* \* \*

(d) Each person licensed under § 32.14 for products for which quality control procedures are required shall:

\* \* \* \* \*

## PART 35—MEDICAL USE OF BYPRODUCT MATERIAL

- 16. The authority citation for part 35 continues to read as follows:

**Authority:** Atomic Energy Act of 1954, secs. 81, 161, 181, 182, 183, 223, 234, 274 (42 U.S.C. 2111, 2201, 2231, 2232, 2233, 2273, 2282, 2021); Energy Reorganization Act of 1974, secs. 201, 206 (42 U.S.C. 5841, 5846); 44 U.S.C. 3504 note.

### § 35.50 [Amended]

- 17. In § 35.50(c)(3), remove the words “master material license” and add in their place the words “master material licensee”.

### § 35.55 [Amended]

- 18. In § 35.55(a)(1), remove the title “American Council on Pharmaceutical Education (ACPE)” and add in its place the title “Accreditation Council for Pharmacy Education (ACPE) (previously named the American Council on Pharmaceutical Education)”.

### § 35.57 [Amended]

- 19. In § 35.57(b)(2), remove the phrase “or a permit issued by a Commission master material license of broad scope on or before October 25, 2005,” and add in its place the phrase “or a permit issued in accordance with a Commission master material broad scope license on or before October 25, 2005.”.

## PART 37—PHYSICAL PROTECTION OF CATEGORY 1 AND CATEGORY 2 QUANTITIES OF RADIOACTIVE MATERIAL

- 20. The authority citation for part 37 continues to read as follows:

**Authority:** Atomic Energy Act of 1954, secs. 11, 53, 81, 103, 104, 147, 148, 149, 161, 182, 183, 223, 234, 274 (42 U.S.C. 2014, 2073, 2111, 2133, 2134, 2167, 2168, 2169, 2201, 2232, 2233, 2273, 2282, 2021); Energy Reorganization Act of 1974, secs. 201, 202 (42 U.S.C. 5841, 5842); 44 U.S.C. 3504 note.

### § 37.27 [Amended]

- 21. In § 37.27(c)(1), remove “T-8B20” and add in its place “T-07D04M”.

## PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

- 22. The authority citation for part 50 continues to read as follows:

**Authority:** Atomic Energy Act of 1954, secs. 11, 101, 102, 103, 104, 105, 108, 122, 147, 149, 161, 181, 182, 183, 184, 185, 186, 187, 189, 223, 234 (42 U.S.C. 2014, 2131, 2132, 2133, 2134, 2135, 2138, 2152, 2167, 2169, 2201, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2239, 2273, 2282); Energy Reorganization Act of 1974, secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); Nuclear Waste Policy Act of 1982, sec. 306 (42 U.S.C. 10226); National Environmental Policy Act of 1969 (42 U.S.C. 4332); 44 U.S.C. 3504 note; Sec. 109, Pub. L. 96–295, 94 Stat. 783.

### § 50.34 [Amended]

- 23. In § 50.34(b)(6)(i), remove the word “or” and add in its place the word “of”.
- 24. In § 50.63, revise paragraph (c)(1) introductory text to read as follows and remove paragraph (c)(4).

### § 50.63 Loss of all alternating current power.

\* \* \* \* \*

(c) \* \* \*

(1) *Information Submittal.* For each light-water-cooled nuclear power plant operating license application submitted after September 27, 2007, the applicant shall submit the information defined below in its final safety analysis report.

\* \* \* \* \*

### § 50.71 [Amended]

- 25. In § 50.71, remove and reserve paragraph (e)(3)(ii).

## Appendix E to 10 CFR Part 50 [Amended]

- 26. In appendix E to 10 CFR part 50, remove sections IV.D.4 and VI.4.

## PART 52—LICENSES, CERTIFICATIONS, AND APPROVALS FOR NUCLEAR POWER PLANTS

- 27. The authority citation for part 52 continues to read as follows:

**Authority:** Atomic Energy Act of 1954, secs. 103, 104, 147, 149, 161, 181, 182, 183, 185, 186, 189, 223, 234 (42 U.S.C. 2133, 2134,

2167, 2169, 2201, 2231, 2232, 2233, 2235, 2236, 2239, 2273, 2282); Energy Reorganization Act of 1974, secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); 44 U.S.C. 3504 note.

- 28. In § 52.98, revise paragraph (b) and paragraph (d) introductory text to read as follows:

### § 52.98 Finality of combined licenses; information requests.

\* \* \* \* \*

(b) If the combined license does not reference a design certification or a reactor manufactured under a manufacturing license issued under subpart F of this part, then a licensee may make changes in the facility as described in the final safety analysis report (as updated), make changes in the procedures as described in the final safety analysis report (as updated), and conduct tests or experiments not described in the final safety analysis report (as updated) under the applicable change processes in 10 CFR part 50 (e.g., § 50.54, § 50.59, or § 50.90 of this chapter).

\* \* \* \* \*

(d) If the combined license references a reactor manufactured under a manufacturing license issued under subpart F of this part, then—

\* \* \* \* \*

- 29. In appendix E to 10 CFR part 52, revise section V.B.1 to read as follows:

## Appendix E to Part 52—Design Certification Rule for the ESBWR Design

\* \* \* \* \*

V. \* \* \*

B. \* \* \*

1. *Paragraph (f)(2)(iv) of 10 CFR 50.34—Separate Plant Safety Parameter Display Console.*

\* \* \* \* \*

- 30. Amend appendix F to 10 CFR part 52 by:

- a. In section III.D removing the words “the NUREG,”;
- b. Revising section V.A; and
- c. Removing and reserving section V.B.

The revision reads as follows:

## Appendix F to Part 52—Design Certification Rule for the APR1400 Design

\* \* \* \* \*

V. \* \* \*

A. The regulations that apply to the APR1400 design are in 10 CFR parts 20, 50, 52, 73, and 100, codified as of September 19, 2019, that are applicable and technically relevant, as described in the final safety evaluation report.

B. [Reserved]  
 \* \* \* \* \*

## PART 55—OPERATORS' LICENSES

- 31. The authority citation for part 55 continues to read as follows:

**Authority:** Atomic Energy Act of 1954, secs. 107, 161, 181, 182, 183, 186, 187, 223, 234 (42 U.S.C. 2137, 2201, 2231, 2232, 2233, 2236, 2237, 2273, 2282); Energy Reorganization Act of 1974, secs. 201, 202 (42 U.S.C. 5841, 5842); Nuclear Waste Policy Act of 1982, sec. 306 (42 U.S.C. 10226); 44 U.S.C. 3504 note.

### § 55.31 [Amended]

- 32. In § 55.31(b), remove the word “futher” and add in its place the word “further”.

## PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

- 33. The authority citation for part 70 continues to read as follows:

**Authority:** Atomic Energy Act of 1954, secs. 51, 53, 57(d), 108, 122, 161, 182, 183, 184, 186, 187, 193, 223, 234, 274, 1701 (42 U.S.C. 2071, 2073, 2077(d), 2138, 2152, 2201, 2232, 2233, 2234, 2236, 2237, 2243, 2273, 2282, 2021, 2297f); Energy Reorganization Act of 1974, secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); Nuclear Waste Policy Act of 1982, secs. 135, 141 (42 U.S.C. 10155, 10161); 44 U.S.C. 3504 note.

### § 70.22 [Amended]

- 34. In § 70.22(g)(3), remove the word “description” and add in its place the word “description”.

### § 70.32 [Amended]

- 35. In § 70.32, amend paragraph (a)(9)(i)(B) by removing “11 U.S.C. 101(14)” and adding in its place “11 U.S.C. 101(15)”, and amend paragraph (a)(9)(i)(C) by removing “11 U.S.C. 101(a)” and adding in its place “11 U.S.C. 101(2)”.

## PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL, HIGH-LEVEL RADIOACTIVE WASTE, AND REACTOR-RELATED GREATER THAN CLASS C WASTE

- 36. The authority citation for part 72 continues to read as follows:

**Authority:** Atomic Energy Act of 1954, secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 223, 234, 274 (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2210e, 2232, 2233, 2234, 2236, 2237, 2238, 2273, 2282, 2021); Energy Reorganization Act of 1974, secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); National Environmental Policy Act of 1969 (42 U.S.C. 4332); Nuclear Waste Policy Act

of 1982, secs. 117(a), 132, 133, 134, 135, 137, 141, 145(g), 148, 218(a) (42 U.S.C. 10137(a), 10152, 10153, 10154, 10155, 10157, 10161, 10165(g), 10168, 10198(a)); 44 U.S.C. 3504 note.

### § 72.218 [Amended]

- 37. In § 72.218(a), remove the word “they” and add in its place the word “the”.

## PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

- 38. The authority citation for part 73 continues to read as follows:

**Authority:** Atomic Energy Act of 1954, secs. 53, 147, 149, 161, 170D, 170E, 170H, 170I, 223, 229, 234, 1701 (42 U.S.C. 2073, 2167, 2169, 2201, 2210d, 2210e, 2210h, 2210i, 2273, 2278a, 2282, 2297f); Energy Reorganization Act of 1974, secs. 201, 202 (42 U.S.C. 5841, 5842); Nuclear Waste Policy Act of 1982, secs. 135, 141 (42 U.S.C. 10155, 10161); 44 U.S.C. 3504 note. Section 73.37(b)(2) also issued under Sec. 301, Public Law 96–295, 94 Stat. 789 (42 U.S.C. 5841 note).

### § 73.1 [Amended]

- 39. In § 73.1(b)(5), remove the phrase “total radiation dose in excess of 100 rems per hour at a distance of 3 feet” and add in its place the phrase “total external radiation level in excess of 1 gray (100 rad) per hour at a distance of 1 meter (3.3 feet)”.

### § 73.6 [Amended]

- 40. In § 73.6(b), remove “Rad” and add in its place “rad” and remove “Gray” and add in its place “gray”.

### § 73.35 [Amended]

- 41. In § 73.35, remove the phrase “total external radiation dose rate” and add in its place the phrase “total external radiation level”.

### § 73.37 [Amended]

- 42. In § 73.37(a)(1), remove the phrase “total external radiation dose rate in excess of 1 Gy (100 rad) per hour at a distance of 1 meter (3.3 feet)” and add in its place the phrase “total external radiation level in excess of 1 gray (100 rad) per hour at a distance of 1 meter (3.3 feet)”.

### § 73.50 [Amended]

- 43. In § 73.50 introductory text, remove the phrase “total external radiation dose rates in excess of 100 rems per hour at a distance of 3 feet” and add in its place the phrase “a total external radiation level in excess of 1 gray (100 rad) per hour at a distance of 1 meter (3.3 feet)”.

### § 73.57 [Amended]

- 44. In § 73.57(d), remove “T-8B20” and add in its place “T-07D04M”.

### § 73.60 [Amended]

- 45. In § 73.60 introductory text, remove the phrase “a total external radiation dose rate in excess of 100 rems per hour at a distance of 3 feet” and add in its place the phrase “a total external radiation level in excess of 1 gray (100 rad) per hour at a distance of 1 meter (3.3 feet)”.

### § 73.67 [Amended]

- 46. In § 73.67(b)(1)(i), remove the phrase “a total external radiation dose rate in excess of 100 rems per hour at a distance of 3 feet” and add in its place the phrase “a total external radiation level in excess of 1 gray (100 rad) per hour at a distance of 1 meter (3.3 feet)”.

## PART 95—FACILITY SECURITY CLEARANCE AND SAFEGUARDING OF NATIONAL SECURITY INFORMATION AND RESTRICTED DATE

- 47. The authority citation for part 95 continues to read as follows:

**Authority:** Atomic Energy Act of 1954, secs. 145, 161, 223, 234 (42 U.S.C. 2165, 2201, 2273, 2282); Energy Reorganization Act of 1974, sec. 201 (42 U.S.C. 5841); 44 U.S.C. 3504 note; E.O. 10865, as amended, 25 FR 1583, 3 CFR, 1959–1963 Comp., p. 398; E.O. 12829, 58 FR 3479, 3 CFR, 1993 Comp., p. 570; E.O. 12968, 60 FR 40245, 3 CFR, 1995 Comp., p. 391; E.O. 13526, 75 FR 707, 3 CFR, 2009 Comp., p. 298.

### § 95.5 [Amended]

- 48. In § 95.5, in the definitions for *NRC “L” access authorization* and *NRC “Q” access authorization*, remove “Office of Personnel Management” and add in its place “Defense Counterintelligence and Security Agency”.

## PART 110—EXPORT AND IMPORT OF NUCLEAR EQUIPMENT AND MATERIAL

- 49. The authority citation for part 110 continues to read as follows:

**Authority:** Atomic Energy Act of 1954, secs. 11, 51, 53, 54, 57, 62, 63, 64, 65, 81, 82, 103, 104, 109, 111, 121, 122, 123, 124, 126, 127, 128, 129, 133, 134, 161, 170H, 181, 182, 183, 184, 186, 187, 189, 223, 234 (42 U.S.C. 2014, 2071, 2073, 2074, 2077, 2092, 2093, 2094, 2095, 2111, 2112, 2133, 2134, 2139, 2141, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2160c, 2160d, 2201, 2210h, 2231, 2232, 2233, 2234, 2236, 2237, 2239, 2273, 2282); Energy Reorganization Act of 1974, sec. 201 (42 U.S.C. 5841); Administrative Procedure Act (5 U.S.C. 552, 553); 42 U.S.C. 2139a, 2155a; 44 U.S.C. 3504

note. Section 110.1(b) also issued under 22 U.S.C. 2403; 22 U.S.C. 2778a; 50 App. U.S.C. 2401 *et seq.*

#### § 110.2 [Amended]

■ 50. In § 110.2, in the definition for *Special nuclear material*, add a comma after “uranium-233”.

#### § 110.8 [Amended]

■ 51. In § 110.8(h), remove “MWe” and add in its place “MW”.

#### § 110.20 [Amended]

■ 52. In § 110.20(e), remove “U.S. Customs Service’s” and add in its place “U.S. Customs and Border Protection’s”.

#### § 110.50 [Amended]

■ 53. In § 110.50(c)(3) introductory text, remove the word “stationary” and add in its place the word “stationery”.

Dated: July 30, 2021.

**Angella M. Love Blair,**

*Acting Chief, Regulatory Analysis and Rulemaking Support Branch, Division of Rulemaking, Environmental, and Financial Support, Office of Nuclear Material Safety and Safeguards.*

[FR Doc. 2021-16662 Filed 8-6-21; 8:45 am]

**BILLING CODE 7590-01-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2021-0614; Project Identifier AD-2021-00831-T; Amendment 39-21677; AD 2021-16-15]

**RIN 2120-AA64**

#### Airworthiness Directives; The Boeing Company Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for all The Boeing Company Model 737-8, 737-9, and 737-8200 (737 MAX) airplanes; and certain Model 737-800 and 737-900ER series airplanes. This AD was prompted by the determination that the aft cargo compartment fire suppression capability is reduced if the airplane is dispatched or released with failed electronic flow control of air conditioning packs, as is currently allowed by these airplane models' master minimum equipment lists (MMELs). This AD prohibits the carriage of cargo in the aft cargo compartment when the airplane is dispatched or released with failed

electronic flow control of air conditioning packs. The FAA is issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective August 9, 2021.

The FAA must receive comments on this AD by September 23, 2021.

**ADDRESSES:** You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to <https://www.regulations.gov>. Follow the instructions for submitting comments.

- *Fax:* 202-493-2251.

- *Mail:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

#### Examining the AD Docket

You may examine the AD docket at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2021-0614; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The street address for Docket Operations is listed above.

**FOR FURTHER INFORMATION CONTACT:** Sam Nalbandian, Aerospace Engineer, Cabin Safety and Environmental Systems Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206-231-3993; email: [Samuel.K.Nalbandian@faa.gov](mailto:Samuel.K.Nalbandian@faa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

The FAA was notified by Boeing in March 2021 of a potential concern that the aft cargo compartment fire suppression capability is reduced on affected airplanes if the airplane is dispatched or released with failed electronic flow control of air conditioning packs, as is currently allowed by the existing FAA-approved MMEL of the affected airplane models. This MMEL allowance can result in the inability to contain a fire in the aft cargo compartment due to increased air leakage that degrades the fire suppression performance. A failed electronic flow control of air conditioning packs would significantly increase the pack airflow and cargo compartment air leakage. In April 2021, Boeing advised the FAA that such increased leakage could result in

insufficient concentration of Halon fire suppressant in the aft cargo compartment, which can result in the inability to contain a fire for the time necessary to divert to a suitable airport.

The FAA is issuing this AD to address failed electronic flow control of air conditioning packs, which can result in an uncontained aft cargo compartment fire due to insufficient cargo fire suppression capability. The FAA is issuing this AD to address the unsafe condition on these products.

#### FAA's Determination

The FAA is issuing this AD because the agency has determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

#### AD Requirements

This AD prohibits dispatch or release of an airplane with cargo in the aft cargo compartment with failed electronic flow control of air conditioning packs. The AD specifically allows non-combustible and/or non-flammable empty cargo handling equipment, ballast, and/or fly-away kits in the aft cargo compartment.

#### MMEL Revisions

This AD refers to items in ATA System No. 21, Air Conditioning, of Boeing 737 (B-737-100/200/300/400/500/600/700/800/900/900ER) MMEL, Revision 61, dated July 8, 2020; and Boeing 737 MAX (B-737-8/-8200/-9) MMEL, Revision 3, dated April 12, 2021;<sup>1</sup> those items may also be included in an operator's FAA-approved minimum equipment list (MEL). This AD prohibits dispatch or release of the airplane under conditions currently allowed by those items in the MMEL. The FAA plans to revise the MMELs to modify those items; operators would then be required to also revise their applicable existing FAA-approved MEL accordingly.

#### Justification for Immediate Adoption and Determination of the Effective Date

Section 553(b)(3)(B) of the Administrative Procedure Act (APA) (5 U.S.C. 551 *et seq.*) authorizes agencies to dispense with notice and comment procedures for rules when the agency, for “good cause,” finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under this section, an agency, upon finding good cause, may issue a

<sup>1</sup> The MMEL items can be found in the applicable FAA-approved MMEL, which can be found on the Flight Standards Information Management System (FSIMS) website, <https://fsims.faa.gov/PICResults.aspx?mode=Publication&doctype=MMELByModel>.

# Rules and Regulations

This section of the **FEDERAL REGISTER** contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the **Code of Federal Regulations**, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The **Code of Federal Regulations** is sold by the Superintendent of Documents.

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Chapter I

[NRC-2021-0113]

RIN 3150-AK65

#### Miscellaneous Corrections; Correction

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Final rule; correction.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is correcting a final rule that was published in the **Federal Register** on August 9, 2021. The rule amended NRC's regulations to make miscellaneous corrections, remove outdated reporting requirements, clarify language, add metric units, and insert missing language. This action is necessary to correct inadvertent errors in the final rule.

**DATES:** The correction takes effect on August 24, 2021.

**ADDRESSES:** Please refer to Docket ID NRC-2021-0113 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- **Federal Rulemaking Website:** Go to <https://www.regulations.gov> and search for Docket ID NRC-2021-0113. Address questions about NRC dockets to Dawn Forder; telephone: 301-415-3407; email: [Dawn.Forder@nrc.gov](mailto:Dawn.Forder@nrc.gov).

- **NRC's Agencywide Documents Access and Management System (ADAMS):** You may obtain publicly-available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, at 301-415-4737, or by email to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov).

- **Attention:** The PDR, where you may examine and order copies of public documents, is currently closed. You may submit your request to the PDR via email at [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov) or call 1-800-397-4209 between 8:00 a.m. and 4:00 p.m. (EST), Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Dawn Forder, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-3407, email: [Dawn.Forder@nrc.gov](mailto:Dawn.Forder@nrc.gov).

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of August 9, 2021, in FR Doc. 2021-16662, the following corrections are made:

1. On page 43398, in the first column, in **SUPPLEMENTARY INFORMATION**, under the heading II. Summary of Changes, under 10 CFR Part 2, the paragraph is corrected to read "**Correct Spelling**. This final rule amends §§ 2.911(a), 2.1023(b)

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introductory text, and 2.1026(b)(1) to correct the spelling of "preceeding" to "proceeding," "respository" to "repository," and "unforseen" to "unforeseen."'"

2. On page 43398, in the second column, under 10 CFR Part 35, the third paragraph is corrected to read "**Correct Phrase**. This final rule amends § 35.57(b)(2) to correct the phrase "or a permit issued by a Commission master material license of broad scope on or before October 24, 2005," to "or a permit issued in accordance with a Commission master material broad scope license on or before October 24, 2005,"."

3. On page 43398, in the third column, under 10 CFR Part 70, the second paragraph is corrected to read "**Correct References**. This final rule amends § 70.32 to update references to the United States Code by amending paragraph (a)(9)(i)(B) by removing "11 U.S.C. 101(14)" and adding in its place "11 U.S.C. 101(15)", and amending paragraph (a)(9)(i)(C) by removing "11 U.S.C. 101(a)" and adding in its place "11 U.S.C. 101(2)".'"

4. On page 43399, under the heading IX. Agreement State Compatibility, in the third column, the last paragraph, the first sentence is corrected to read "The portions of this final rule that amend 10 CFR parts 20, 32, 35, 37, and 70 are a matter of compatibility between the NRC and the Agreement States, thereby providing consistency among Agreement State and NRC requirements, and are listed in the following table."

5. On page 43399, in the table, the first entry is corrected to read

## COMPATIBILITY TABLE

Section	Change	Subject	Compatibility	
			Existing	New
<b>Part 20</b>				
\$20.2207(h) .....	Remove ....	Reports of transactions involving nationally tracked sources .....	B	

6. On page 43401, in the third column, instruction 12c is corrected to read "c. In paragraphs (f)(2) and (3), remove "OPM's" and add in its place "DCSA's"."

7. On page 43402, in the first column, instruction 19 is corrected to read "19. In § 35.57(b)(2), remove the phrase "or

a permit issued by a Commission master material license of broad scope on or before October 24, 2005," and add in its place the phrase "or a permit issued in accordance with a Commission master material broad scope license on or before October 24, 2005,"."

Dated: August 19, 2021.

For the Nuclear Regulatory Commission.

**Cindy K. Bladéy,**

*Branch Chief, Regulatory Analysis and Rulemaking Support Branch, Division of Rulemaking, Environmental, and Financial Support, Office of Nuclear Material Safety and Safeguards.*

[FR Doc. 2021-18156 Filed 8-23-21; 8:45 am]

BILLING CODE 7590-01-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2021-0141; Project Identifier MCAI-2020-01162-T; Amendment 39-21669; AD 2021-16-07]

RIN 2120-AA64

#### Airworthiness Directives; Airbus Defense and Space S.A. (Formerly Known as Construcciones Aeronáuticas, S.A.) Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for certain Airbus Defense and Space S.A. Model C-212-CB, C-212-CC, C-212-CD, C-212-CE, C-212-CF, C-212-DE, and C-212-DF airplanes. This AD was prompted by a report of cracks on the left-hand (LH) and right-hand (RH) side fuselage skin and on a certain frame underneath the skin, near the leading edge of the wing. This AD requires repetitive inspections of the LH and RH side center wing fairings at a certain frame, around the wing leading edge for discrepancies (cracks), and repair if necessary, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective September 28, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of September 28, 2021.

**ADDRESSES:** For material incorporated by reference (IBR) in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email [ADs@easa.europa.eu](mailto:ADs@easa.europa.eu); internet [www.easa.europa.eu](http://www.easa.europa.eu). You may find this IBR material on the EASA website at <https://ad.easa.europa.eu>. You may view this IBR material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For

information on the availability of this material at the FAA, call 206-231-3195. It is also available in the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2021-0141.

#### Examining the AD Docket

You may examine the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2021-0141; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** Shahram Daneshmandi, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206-231-3220; email: [Shahram.Daneshmandi@faa.gov](mailto:Shahram.Daneshmandi@faa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

EASA, which is the Technical Agent for the Member States of the European Union, issued EASA AD 2020-0182, dated August 13, 2020 (EASA AD 2020-0182) (also referred to as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for certain Airbus Defense and Space S.A Model C-212-CB, C-212-CC, C-212-CD, C-212-CE, C-212-CF, C-212-DD, C-212-DE, C-212-DF, C-212-EE and C-212-VA airplanes. Model C-212-DD, C-212-EE, and C-212-VA airplanes are not certificated by the FAA and are not included on the U.S. type certificate data sheet; this AD therefore does not include those airplanes in the applicability.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Airbus Defense and Space S.A. Model C-212-CB, C-212-CC, C-212-CD, C-212-CE, C-212-CF, C-212-DE, and C-212-DF airplanes. The NPRM was published in the

**Federal Register** on March 11, 2021 (86 FR 13841). The NPRM was prompted by a report of cracks on the LH and RH side fuselage skin and on frame (FR) 5 underneath the skin, near the leading edge of the wing. The NPRM proposed to require repetitive inspections of the LH and RH side center wing fairings at

FR 5, around the wing leading edge for discrepancies (cracks), and repair if necessary, as specified in EASA AD 2020-0182.

The FAA is issuing this AD to address cracks on the LH and RH side fuselage skin and on FR 5 underneath the skin, near the leading edge of the wing, which could affect the structural integrity of the airplane. See the MCAI for additional background information.

#### Comments

The FAA gave the public the opportunity to participate in developing this final rule. The following presents the comments received on the NPRM and the FAA's response.

#### Request To Allow Special Flight Permits

Ryan Air reported that it began detecting and repairing fuselage skin cracks on its fleet in 2018, and no new cracks have since been detected in more than 10,000 flight hours. Assuming the cracking did not all occur at the same time, Ryan Air questioned why the proposed AD would require repair before further flight. Ryan Air recommended that the proposed AD be revised to allow flying the airplane to a location where repairs can be made after finding cracks in this area.

The FAA notes that 14 CFR 39.23 allows flight to a repair facility for every AD, if the operations specifications (ops specs) for a particular operator give that authority, unless they are specifically prohibited or limited in an AD. Any operator who does not have the authority in their ops specs may contact their local FAA Flight Standards District Office to receive a special flight permit. No change to the AD is necessary as a result of this comment.

#### Request To Allow Certain Approvals

Ryan Air recommended that the proposed AD be revised to allow repairs approved by a part 25 structures designated engineering representative (DER). Ryan Air stated that repair approvals from Airbus Engineering and the FAA have taken four weeks or longer. Ryan Air asserted that grounding an airplane for more than a month—for a four-day repair—would be an unreasonable economic burden on affected operators, who are mostly small business owners.

The FAA disagrees with this request. This AD allows required repairs to be approved only by the FAA, EASA, or Airbus Defense and Space S.A.'s EASA Design Organization Approval (DOA). For approval by a part 25 structures DER for the corrective repair required by this AD, an operator must first request

(1) 50 acres  $\times$  (115 bushel production guarantee  $\times$  \$4.58 projected price) = \$26,335.00 revenue protection guarantee  
 (3) 5,000 bushel production to count  $\times$  \$4.53 harvest price = \$22,650.00 value of the production to count  
 (5) \$26,335.00 – \$22,650.00 = \$3,685.00  
 (6) \$3,685.00  $\times$  1.000 share = \$3,685.00 indemnity.

\* \* \* \* \*

(d) \* \* \*  
 (1) Production will be reduced by 0.12 percent for each 0.1 percentage point of moisture in excess of:

(i) 15 percent for corn (If moisture exceeds 30 percent, production will be reduced 0.2 percent for each 0.1 percentage point above 30 percent);  
 (ii) 14 percent for grain sorghum; and  
 (iii) 13 percent for soybeans.

We may obtain samples of the production to determine the moisture content.

\* \* \* \* \*

■ 9. Amend § 457.150 as follows:  
 ■ a. In the introductory text, remove the word “follow” and add “follows:” in its place; and  
 ■ b. In section 2, revise paragraph (d). The revision reads as follows:

**§ 457.150 Dry bean crop insurance provisions.**

\* \* \* \* \*

**2. Unit Division**

\* \* \* \* \*

(d) Contract seed beans may qualify for a separate enterprise or optional unit only if the seed bean processor contract specifies the number of acres under contract and contract seed beans are listed as a separate type in the actuarial documents. Contract seed beans produced under a seed bean processor contract that specifies only an amount of production are not eligible for a separate enterprise or optional unit.

\* \* \* \* \*

**Richard H. Flournoy,**  
*Acting Manager, Federal Crop Insurance Corporation.*

[FR Doc. 2021-25925 Filed 11-29-21; 8:45 am]

**BILLING CODE 3410-08-P**

**NUCLEAR REGULATORY COMMISSION**

**10 CFR Chapter I**

**[NRC-2021-0169]**

**RIN 3150-AK70**

**Miscellaneous Corrections**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Final rule.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is amending its regulations to make miscellaneous corrections. These changes include correcting a grammatical error, punctuation, a reference, formatting, a mathematical formula, and spelling; clarify language; revising contact information; and updating an authority citation and internal procedures. This document is necessary to inform the public of these non-substantive amendments to the NRC's regulations.

**DATES:** This final rule is effective on December 30, 2021.

**ADDRESSES:** Please refer to Docket ID NRC-2021-0169 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- **Federal Rulemaking Website:** Go to <https://www.regulations.gov> and search for Docket ID NRC-2021-0169. Address questions about NRC dockets to Dawn Forder; telephone: 301-415-3407; email: [Dawn.Forder@nrc.gov](mailto:Dawn.Forder@nrc.gov).

- **NRC's Agencywide Documents Access and Management System (ADAMS):** You may obtain publicly-available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “Begin Web-based ADAMS Search.” For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by email to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov).

- **NRC's PDR:** You may examine and purchase copies of public documents, by appointment, at the PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov) or call 1-800-397-4209 or 301-415-4737, between 8:00 a.m. and 4:00 p.m. (ET), Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:**  
 Angella Love Blair, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-3453, email: [Angella.LoveBlair@nrc.gov](mailto:Angella.LoveBlair@nrc.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Introduction**

The NRC is amending its regulations in parts 9, 37, 40, 50, 51, 52, 55, 71, 73, and 110 of title 10 of the *Code of Federal Regulations* (10 CFR). The NRC

is making these amendments to correct a grammatical error, punctuation, a reference, formatting, a mathematical formula, and spelling; clarify language; revise contact information; and update an authority citation and internal procedures.

**II. Summary of Changes**

**10 CFR Part 9**

**Update Authority Citation.** This final rule updates the authority citation for 10 CFR part 9 to include the reference for the Social Security Number Fraud Prevention Act of 2017.

**10 CFR Parts 37 and 110**

**Correct Mathematical Formula.** This final rule revises appendix A to 10 CFR part 37 and appendix P to 10 CFR part 110 to correct a sum of fractions formula. The correction is necessary to make the expression mathematically reflect that an indefinite number of nuclides may be included in the calculation, consistent with the explanations in the respective rule texts. An ellipsis and a plus sign are added at the appropriate locations, and the summation sign (sigma) and brackets are deleted as unnecessary.

**10 CFR Parts 40 and 73**

**Update Internal Procedures.** This final rule revises §§ 40.23(b)(1), 40.66(a), 40.67(a), 73.73(a)(1), and 73.74(a)(1) to add the email address that has been used for submitting advance notices for shipments of radioactive material.

**10 CFR Part 50**

**Revise Contact Information.** This final rule amends the introductory text of § 50.74 to refer licensees to the appropriate contact information in § 55.5.

**Provide Clarity.** This final rule revises section IV.F.2.j of appendix E to 10 CFR part 50 to clarify the emergency preparedness exercise scenarios that must be performed within an 8-year exercise cycle. This revision does not change the regulations; it only clarifies the regulations by adding paragraph numbers and organization.

**10 CFR Part 51**

**Correct Spelling.** This final rule amends footnote 4 to § 51.52 to correct “apiled” to read “applied.” This final rule also amends § 51.10(b)(2) to correct “acitivity” to read “activity.”

**10 CFR Part 52**

**Correct Reference.** This final rule amends § 52.136 by removing the reference “10 CFR 50.33(a) through (d) and (j)” and adding in its place the

reference “10 CFR 50.33(a) through (c) and (j).”

#### **10 CFR Part 55**

*Correct Punctuation.* This final rule amends § 55.33(a)(1) to correct the word “applicants” to read “applicant’s.”

#### **10 CFR Part 71**

*Correct a Formatting Error.* This final rule corrects § 71.4 to italicize the term *licensed material*.

#### **10 CFR Part 110**

*Correct Grammatical Error.* This final rule amends the definition for *medical isotope* in § 110.2 to correct the phrase “radiopharmaceutical for diagnostic, therapeutic procedures or for research and development” to read “radiopharmaceutical for diagnostic or therapeutic procedures or for research and development.”

### **III. Rulemaking Procedure**

Under section 553(b) of the Administrative Procedure Act (5 U.S.C. 553(b)), an agency may waive publication in the **Federal Register** of a notice of proposed rulemaking and opportunity for comment requirements if it finds, for good cause, that it is impracticable, unnecessary, or contrary to the public interest. As authorized by 5 U.S.C. 553(b)(3)(B), the NRC finds good cause to waive notice and opportunity for comment on these amendments, because notice and opportunity for comment is unnecessary. The amendments will have no substantive impact and are of a minor and administrative nature dealing with corrections to certain CFR sections or are related only to management, organization, procedure, and practice. Specifically, the revisions correct a grammatical error, punctuation, a reference, formatting, a mathematical formula, and spelling; clarify language; revise contact information; and update an authority citation and internal procedures. The Commission is exercising its authority under 5 U.S.C. 553(b) to publish these amendments as a final rule. The amendments are effective December 30, 2021. These amendments do not require action by any person or entity regulated by the NRC and do not change the substantive responsibilities of any person or entity regulated by the NRC.

### **IV. Backfitting and Issue Finality**

The NRC has determined that the corrections in this final rule would not constitute backfitting as defined in § 50.109, “Backfitting,” and as described in NRC Management Directive (MD) 8.4, “Management of Backfitting, Forward

Fitting, Issue Finality, and Information Requests.” These corrections also would not constitute forward fitting as that term is defined and described in MD 8.4 or affect the issue finality of any approval issued under 10 CFR part 52. The amendments are non-substantive in nature, including correcting a grammatical error, punctuation, a reference, formatting, a mathematical formula, and spelling; clarifying language; revising contact information; and updating an authority citation and internal procedures. They impose no new requirements and make no substantive changes to the regulations. The corrections do not involve any provisions that would impose backfits as defined in 10 CFR chapter I, or that would be inconsistent with the issue finality provisions in 10 CFR part 52. For these reasons, the issuance of this final rule would not constitute backfitting or be inconsistent with any of the issue finality provisions in 10 CFR part 52. Therefore, the NRC has not prepared any additional documentation for this correction rulemaking addressing backfitting or issue finality.

### **V. Plain Writing**

The Plain Writing Act of 2010 (Pub. L. 111-274) requires Federal agencies to write documents in a clear, concise, and well-organized manner. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, “Plain Language in Government Writing,” published June 10, 1998 (63 FR 31885).

### **VI. National Environmental Policy Act**

The NRC has determined that this final rule is the type of action described in § 51.22(c)(2), which categorically excludes from environmental review rules that are corrective or of a minor, nonpolicy nature and do not substantially modify existing regulations. Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this rule.

### **VII. Paperwork Reduction Act**

This final rule does not contain a collection of information as defined in the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and, therefore, is not subject to the requirements of the Paperwork Reduction Act of 1995.

### **VIII. Congressional Review Act**

This final rule is not a rule as defined in the Congressional Review Act (5 U.S.C. 801–808).

### **IX. Compatibility of Agreement State Regulations**

Under the “Agreement State Program Policy Statement” approved by the Commission on October 2, 2017, and published in the **Federal Register** on October 18, 2017 (82 FR 48535), NRC program elements (including regulations) are placed into compatibility categories A, B, C, D, NRC, or adequacy category Health and Safety (H&S). Compatibility Category A program elements are those program elements that are basic radiation protection standards and scientific terms and definitions that are necessary to understand radiation protection concepts. An Agreement State should adopt Category A program elements in an essentially identical manner in order to provide uniformity in the regulation of agreement material on a nationwide basis. Compatibility Category B program elements are those program elements that apply to activities that have direct and significant effects in multiple jurisdictions. An Agreement State should adopt Category B program elements in an essentially identical manner. Compatibility Category C program elements are those program elements that do not meet the criteria of Category A or B, but contain the essential objectives that an Agreement State should adopt to avoid conflict, duplication, gaps, or other conditions that would jeopardize an orderly pattern in the regulation of agreement material on a national basis. An Agreement State should adopt the essential objectives of the Category C program elements. Compatibility Category D program elements are those program elements that do not meet any of the criteria of Category A, B, or C and, therefore, do not need to be adopted by Agreement States for purposes of compatibility. Compatibility Category NRC program elements are those program elements that address areas of regulation that cannot be relinquished to the Agreement States under the Atomic Energy Act of 1954, as amended, or provisions of 10 CFR. These program elements should not be adopted by the Agreement States. Compatibility Category H&S program elements are program elements that are required because of a particular health and safety role in the regulation of agreement material within the State and should be adopted in a manner that embodies the essential objectives of the NRC program. The portions of this final rule that amend 10 CFR parts 37, 40, and 71 are a matter of compatibility between the NRC and the Agreement States, thereby providing consistency among

Agreement State and NRC requirements, and are listed in the following table. The changes to 10 CFR parts 9, 50, 51, 52,

55, 73, and 110 categories are not subject to Agreement State jurisdiction

and consequently are not required for compatibility.

#### COMPATIBILITY TABLE

Section	Change	Subject	Compatibility	
			Existing	New
<b>Part 37</b>				
Appendix A to Part 37 .....	Amend .....	Category 1 and Category 2 Radioactive Materials .....	B	B
<b>Part 40</b>				
§ 40.23 .....	Amend .....	General license for carriers of transient shipments of natural uranium other than in the form of ore or ore residue.	NRC	NRC
§ 40.66 .....	Amend .....	Requirements for advance notice of export shipments of natural uranium.	NRC	NRC
§ 40.67 .....	Amend .....	Requirement for advance notice of importation of natural uranium from countries that are not party to the Convention on the Physical Protection of Nuclear Material.	NRC	NRC
<b>Part 71</b>				
§ 71.4 .....	Amend .....	Definitions (Licensed material) .....	D	D

#### List of Subjects

##### 10 CFR Part 9

Administrative practice and procedure, Courts, Criminal penalties, Freedom of information, Government employees, Privacy, Reporting and recordkeeping requirements, Sunshine Act.

##### 10 CFR Part 37

Byproduct material, Criminal penalties, Exports, Hazardous materials transportation, Imports, Licensed material, Nuclear materials, Penalties, Radioactive materials, Reporting and recordkeeping requirements, Security measures.

##### 10 CFR Part 40

Criminal penalties, Exports, Government contracts, Hazardous materials transportation, Hazardous waste, Nuclear energy, Nuclear materials, Penalties, Reporting and recordkeeping requirements, Source material, Uranium, Whistleblowing.

##### 10 CFR Part 50

Administrative practice and procedure, Antitrust, Backfitting, Classified information, Criminal penalties, Education, Emergency planning, Fire prevention, Fire protection, Incorporation by reference, Intergovernmental relations, Nuclear power plants and reactors, Penalties, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements, Whistleblowing.

##### 10 CFR Part 51

Administrative practice and procedure, Environmental impact statements, Hazardous waste, Nuclear energy, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements.

##### 10 CFR Part 52

Administrative practice and procedure, Antitrust, Combined license, Early site permit, Emergency planning, Fees, Incorporation by reference, Inspection, Issue finality, Limited work authorization, Nuclear power plants and reactors, Probabilistic risk assessment, Prototype, Reactor siting criteria, Redress of site, Penalties, Reporting and recordkeeping requirements, Standard design, Standard design certification.

##### 10 CFR Part 55

Criminal penalties, Manpower training programs, Nuclear power plants and reactors, Penalties, Reporting and recordkeeping requirements.

##### 10 CFR Part 71

Criminal penalties, Hazardous materials transportation, Incorporation by reference, Intergovernmental relations, Nuclear materials, Packaging and containers, Penalties, Radioactive materials, Reporting and recordkeeping requirements.

##### 10 CFR Part 73

Criminal penalties, Exports, Hazardous materials transportation, Incorporation by reference, Imports,

Nuclear energy, Nuclear materials, Nuclear power plants and reactors, Penalties, Reporting and recordkeeping requirements, Security measures.

##### 10 CFR Part 110

Administrative practice and procedure, Classified information, Criminal penalties, Exports, Incorporation by reference, Imports, Intergovernmental relations, Nuclear energy, Nuclear materials, Nuclear power plants and reactors, Penalties, Reporting and recordkeeping requirements, Scientific equipment.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR chapter I:

#### PART 9—PUBLIC RECORDS

- 1. The authority citation for part 9 is revised to read as follows:

**Authority:** Atomic Energy Act of 1954, sec. 161 (42 U.S.C. 2201); Energy Reorganization Act of 1974, sec. 201 (42 U.S.C. 5841); 44 U.S.C. 3504 note. Subpart A also issued under 31 U.S.C. 9701.

Subpart B also issued under 5 U.S.C. 552a. Subpart C also issued under 5 U.S.C. 552b. Subpart E also issued under 42 U.S.C. 405 note.

## PART 37—PHYSICAL PROTECTION OF CATEGORY 1 AND CATEGORY 2 QUANTITIES OF RADIOACTIVE MATERIAL

- 2. The authority citation for part 37 continues to read as follows:

**Authority:** Atomic Energy Act of 1954, secs. 11, 53, 81, 103, 104, 147, 148, 149, 161, 182, 183, 223, 234, 274 (42 U.S.C. 2014, 2073, 2111, 2133, 2134, 2167, 2168, 2169, 2201, 2232, 2233, 2273, 2282, 2021); Energy Reorganization Act of 1974, secs. 201, 202 (42 U.S.C. 5841, 5842); 44 U.S.C. 3504 note.

- 3. In appendix A to part 37, revise the mathematical formula to read as follows:

### Appendix A to Part 37—Category 1 and Category 2 Radioactive Materials

\* \* \* \* \*

$$\frac{R_1}{AR_1} + \frac{R_2}{AR_2} + \cdots + \frac{R_n}{AR_n} \geq 1.0$$

## PART 40—DOMESTIC LICENSING OF SOURCE MATERIAL

- 4. The authority citation for part 40 continues to read as follows:

**Authority:** Atomic Energy Act of 1954, secs. 62, 63, 64, 65, 69, 81, 83, 84, 122, 161, 181, 182, 183, 184, 186, 187, 193, 223, 234, 274, 275 (42 U.S.C. 2092, 2093, 2094, 2095, 2099, 2111, 2113, 2114, 2152, 2201, 2231, 2232, 2233, 2234, 2236, 2237, 2243, 2273, 2282, 2022); Energy Reorganization Act of 1974, secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); Uranium Mill Tailings Radiation Control Act of 1978, sec. 104 (42 U.S.C. 7914); 44 U.S.C. 3504 note.

- 5. In § 40.23, revise paragraph (b)(1) to read as follows:

### § 40.23 General license for carriers of transient shipments of natural uranium other than in the form of ore or ore residue.

\* \* \* \* \*

(b) \* \* \*

(1) Persons generally licensed under paragraph (a) of this section, who plan to carry a transient shipment with scheduled stops at a United States port, shall notify the Director Office of Nuclear Security and Incident Response, by email (preferred method) to *AdvanceNotifications.Resource@nrc.gov* or using an appropriate method listed in § 40.5. The notification must be in writing and must be received at least 10 days before transport of the shipment commences at the shipping facility.

\* \* \* \* \*

- 6. In § 40.66:

- a. Revise paragraph (a); and
- b. Remove the undesignated paragraph following paragraph (a).

The revision reads as follows:

### § 40.66 Requirements for advance notice of export shipments of natural uranium.

(a) Each licensee authorized to export natural uranium, other than in the form of ore or ore residue, in amounts exceeding 500 kilograms, shall notify the Director, Office of Nuclear Security and Incident Response, by email (preferred method) to *AdvanceNotifications.Resource@nrc.gov* or by an appropriate method listed in § 40.5. The notification must be in writing and must be received at least 10 days before transport of the shipment commences at the shipping facility.

\* \* \* \* \*

- 7. In § 40.67, revise paragraph (a) to read as follows:

### § 40.67 Requirement for advance notice for importation of natural uranium from countries that are not party to the Convention on the Physical Protection of Nuclear Material.

(a) Each licensee authorized to import natural uranium, other than in the form of ore or ore residue, in amounts exceeding 500 kilograms, from countries not party to the Convention on the Physical Protection of Nuclear Material (see appendix F to part 73 of this chapter) shall notify the Director, Office of Nuclear Security and Incident Response, by email (preferred method) to *AdvanceNotifications.Resource@nrc.gov* or using an appropriate method listed in § 40.5. The notification must be in writing and must be received at least 10 days before transport of the shipment commences at the shipping facility.

\* \* \* \* \*

## PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

- 8. The authority citation for part 50 continues to read as follows:

**Authority:** Atomic Energy Act of 1954, secs. 11, 101, 102, 103, 104, 105, 108, 122, 147, 149, 161, 181, 182, 183, 184, 185, 186, 187, 189, 223, 234 (42 U.S.C. 2014, 2131, 2132, 2133, 2134, 2135, 2138, 2152, 2167, 2169, 2201, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2239, 2273, 2282); Energy Reorganization Act of 1974, secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); Nuclear Waste Policy Act of 1982, sec. 306 (42 U.S.C. 10226); National Environmental Policy Act of 1969 (42 U.S.C. 4332); 44 U.S.C. 3504 note; Sec. 109, Pub. L. 96-295, 94 Stat. 783.

- 9. In § 50.74, revise the introductory text to read as follows:

### § 50.74 Notification of change in operator or senior operator status.

Each licensee shall notify the appropriate NRC contact, as described in § 55.5 of this chapter, within 30 days

of the following in regard to a licensed operator or senior operator:

\* \* \* \* \*

- 10. In appendix E to part 50, revise paragraph 2.j of section IV.F to read as follows:

### Appendix E to Part 50—Emergency Planning and Preparedness for Production and Utilization Facilities

\* \* \* \* \*

IV. \* \* \*

F. \* \* \*

2. \* \* \*

j. (i) The exercises conducted under paragraph 2 of this section by nuclear power reactor licensees must provide the opportunity for the ERO to demonstrate proficiency in the key skills necessary to implement the principal functional areas of emergency response identified in paragraph 2.b of this section.

(ii) Each exercise must provide the opportunity for the ERO to demonstrate key skills specific to emergency response duties in the control room, TSC, OSC, EOF, and joint information center.

(iii) In each 8-calendar-year exercise cycle, nuclear power reactor licensees shall vary the content of scenarios during exercises conducted under paragraph 2 of this section to provide the opportunity for the ERO to demonstrate proficiency in the key skills necessary to respond to the following scenario elements:

(1) Hostile action directed at the plant site;

(2) No radiological release or an unplanned minimal radiological release that does not require public protective actions;

(3) An initial classification of, or rapid escalation to, a Site Area Emergency or General Emergency;

(4) Implementation of strategies, procedures, and guidance under § 50.155(b)(2); and

(5) Integration of offsite resources with onsite response.

(iv) The licensee shall maintain a record of exercises conducted during each 8-year exercise cycle that documents the content of scenarios used to comply with the requirements of section IV.F.2.j of this appendix.

(v) Each licensee shall conduct a hostile action exercise for each of its sites no later than December 31, 2015.

(vi) The first 8-year exercise cycle for a site will begin in the calendar year in which the first hostile action exercise is conducted. For a site licensed under 10 CFR part 52, the first 8-year exercise cycle begins in the calendar year of the initial exercise required by section IV.F.2.a of this appendix.

\* \* \* \* \*

## PART 51—ENVIRONMENTAL PROTECTION REGULATIONS FOR DOMESTIC LICENSING AND RELATED REGULATORY FUNCTIONS

- 11. The authority citation for part 51 is revised to read as follows:

**Authority:** Atomic Energy Act of 1954, secs. 161, 193 (42 U.S.C. 2201, 2243); Energy

Reorganization Act of 1974, secs. 201, 202 (42 U.S.C. 5841, 5842); National Environmental Policy Act of 1969 (42 U.S.C. 4332, 4334, 4335); Nuclear Waste Policy Act of 1982, secs. 144(f), 121, 135, 141, 148 (42 U.S.C. 10134(f), 10141, 10155, 10161, 10168); 44 U.S.C. 3504 note.

#### § 51.10 [Amended]

- 12. In § 51.10, amend paragraph (b)(2) by removing “activity” and adding in its place “activity”.

#### § 51.52 [Amended]

- 13. In § 51.52, amend footnote 4 by removing “appiled” and adding in its place “applied”.

### PART 52—LICENSES, CERTIFICATIONS, AND APPROVALS FOR NUCLEAR POWER PLANTS

- 14. The authority citation for part 52 continues to read as follows:

**Authority:** Atomic Energy Act of 1954, secs. 103, 104, 147, 149, 161, 181, 182, 183, 185, 186, 189, 223, 234 (42 U.S.C. 2133, 2134, 2167, 2169, 2201, 2231, 2232, 2233, 2235, 2236, 2239, 2273, 2282); Energy Reorganization Act of 1974, secs. 201, 202 (42 U.S.C. 5841, 5842); Nuclear Waste Policy Act of 1982, secs. 135, 141 (42 U.S.C. 10155, 10161); 44 U.S.C. 3504 note.

#### § 52.136 [Amended]

- 15. In § 52.136, remove the reference “10 CFR 50.33(a) through (d) and (j)” and add in its place the reference “10 CFR 50.33(a) through (c) and (j)”.

### PART 55—OPERATORS’ LICENSES

- 16. The authority citation for part 55 is revised to read as follows:

**Authority:** Atomic Energy Act of 1954, secs. 107, 161, 181, 182, 183, 186, 187, 223, 234 (42 U.S.C. 2137, 2201, 2231, 2232, 2233, 2236, 2237, 2273, 2282); Energy Reorganization Act of 1974, secs. 201, 202 (42 U.S.C. 5841, 5842); Nuclear Waste Policy Act of 1982, sec. 306 (42 U.S.C. 10226); 44 U.S.C. 3504 note.

#### § 55.33 [Amended]

- 17. In § 55.33, amend paragraph (a)(1) by removing “applicants” and adding in its place “applicant’s”.

### PART 71—PACKAGING AND TRANSPORTATION OF RADIOACTIVE MATERIAL

- 18. The authority citation for part 71 continues to read as follows:

**Authority:** Atomic Energy Act of 1954, secs. 53, 57, 62, 63, 81, 161, 182, 183, 223, 234, 1701 (42 U.S.C. 2073, 2077, 2092, 2093, 2111, 2201, 2232, 2233, 2273, 2282, 2297f); Energy Reorganization Act of 1974, secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); Nuclear Waste Policy Act of 1982, sec. 180 (42 U.S.C. 10175); 44 U.S.C. 3504 note.

Section 71.97 also issued under Sec. 301, Pub. L. 96-295, 94 Stat. 789 (42 U.S.C. 5841 note).

#### § 71.4 [Amended]

- 19. In § 71.4, remove “Licensed material” and add in its place the term “Licensed material”.

### PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

- 20. The authority citation for part 73 is revised to read as follows:

**Authority:** Atomic Energy Act of 1954, secs. 53, 147, 149, 161, 170D, 170E, 170H, 170I, 223, 229, 234, 1701 (42 U.S.C. 2073, 2167, 2169, 2201, 2210d, 2210e, 2210h, 2210i, 2273, 2278a, 2282, 2297f); Energy Reorganization Act of 1974, secs. 201, 202 (42 U.S.C. 5841, 5842); Nuclear Waste Policy Act of 1982, secs. 135, 141 (42 U.S.C. 10155, 10161); 44 U.S.C. 3504 note.

Section 73.37(b)(2) also issued under sec. 301, Pub. L. 96-295, 94 Stat. 789 (42 U.S.C. 5841 note).

- 21. In § 73.73, revise paragraph (a)(1) to read as follows:

#### § 73.73 Requirement for advance notice and protection of export shipments of special nuclear material of low strategic significance.

(a) \* \* \*

(1) Notify in writing the Director, Office of Nuclear Security and Incident Response, by email (preferred method) to *AdvanceNotifications.Resource@nrc.gov* or by using any appropriate method listed in § 73.4;

\* \* \* \* \*

- 22. In § 73.74, revise paragraph (a)(1) to read as follows:

#### § 73.74 Requirement for advance notice and protection of import shipments of nuclear material from countries that are not party to the Convention on the Physical Protection of Nuclear Material.

(a) \* \* \*

(1) Notify in writing the Director, Office of Nuclear Security and Incident Response, by email (preferred method) to *AdvanceNotifications.Resource@nrc.gov* or by using any appropriate method listed in § 73.4;

\* \* \* \* \*

### PART 110—EXPORT AND IMPORT OF NUCLEAR EQUIPMENT AND MATERIAL

- 23. The authority citation for part 110 is revised to read as follows:

**Authority:** Atomic Energy Act of 1954, secs. 11, 51, 53, 54, 57, 62, 63, 64, 65, 81, 82, 103, 104, 109, 111, 121, 122, 123, 124, 126, 127, 128, 129, 133, 134, 161, 170H, 181, 182, 183, 184, 186, 187, 189, 223, 234 (42 U.S.C. 2014, 2071, 2073, 2074, 2077, 2092, 2093, 2094, 2095, 2111, 2112, 2133, 2134,

2139, 2141, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2160c, 2160d, 2201, 2210h, 2231, 2232, 2233, 2234, 2236, 2237, 2239, 2273, 2282); Energy Reorganization Act of 1974, sec. 201 (42 U.S.C. 5841); Administrative Procedure Act (5 U.S.C. 552, 553); 42 U.S.C. 2139a, 2155a; 44 U.S.C. 3504 note.

Section 110.1(b) also issued under 22 U.S.C. 2403; 22 U.S.C. 2778a; 50 App. U.S.C. 2401 *et seq.*

- 24. In § 110.2, amend the definition for *Medical isotope* by removing the phrase “radiopharmaceutical for diagnostic, therapeutic procedures or for research and development” and adding in its place the phrase “radiopharmaceutical for diagnostic or therapeutic procedures or for research and development.”

- 25. In appendix P to part 110, revise the mathematical formula to read as follows:

### Appendix P to Part 110—Category 1 and 2 Radioactive Material

\* \* \* \* \*

$$\frac{R_1}{AR_1} + \frac{R_2}{AR_2} + \dots + \frac{R_n}{AR_n} \geq 1.0$$

Dated: November 3, 2021.

For the Nuclear Regulatory Commission.

**Cindy K. Bladey,**

*Chief, Regulatory Analysis and Rulemaking Support Branch, Division of Rulemaking, Environmental, and Financial Support, Office of Nuclear Material Safety and Safeguards.*

[FR Doc. 2021-24472 Filed 11-29-21; 8:45 am]

**BILLING CODE 7590-01-P**

### DEPARTMENT OF THE TREASURY

#### Office of the Comptroller of the Currency

##### 12 CFR Part 34

[Docket No. OCC-2021-0019]

**RIN 1557-AF13**

### FEDERAL RESERVE SYSTEM

##### 12 CFR Part 226

[Docket No. R-1758]

**RIN 7100-AG21**

### BUREAU OF CONSUMER FINANCIAL PROTECTION

##### 12 CFR Part 1026

#### Appraisals for Higher-Priced Mortgage Loans Exemption Threshold

**AGENCY:** Office of the Comptroller of the Currency, Treasury (OCC); Board of Governors of the Federal Reserve

# Rules and Regulations

This section of the **FEDERAL REGISTER** contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the **Code of Federal Regulations**, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The **Code of Federal Regulations** is sold by the Superintendent of Documents.

## OFFICE OF MANAGEMENT AND BUDGET

### 2 CFR Part 200

#### Uniform Administrative Requirements, Cost Principles, and Audit Requirements

**AGENCY:** Office of Management and Budget.

**ACTION:** Guidance.

**SUMMARY:** This document provides a technical update for two programs that were included with the 2021 Compliance Supplement (issued on August 13, 2021) and Addendum 1 (issued on December 3, 2021). The two programs are the Department of Health and Human Services (HHS) Assistance Listing 93.498 Provider Relief Fund and Treasury Assistance Listing 21.027 Coronavirus State and Local Fiscal Recovery Funds. This document also offers interested parties an opportunity to comment on the 2021 Technical Update.

#### DATES:

*Effective date:* This technical update to the guidance is effective April 8, 2022.

*Applicability date:* The 2021 Technical Update provides an update to two programs included in the 2021 Compliance Supplement published on August 13, 2021 (86 FR 44573) and Addendum 1 published on December 3, 2021 (86 FR 68533) and applies to fiscal year audits beginning after June 30, 2020.

*Comments due:* All comments to the 2021 Technical Update must be in writing and received by May 9, 2022. Late comments will be considered to the extent practicable.

**ADDRESSES:** Comments will be reviewed and addressed, when appropriate, in the 2022 Compliance Supplement. Electronic mail comments may be submitted to: <http://www.regulations.gov>. Please include “2 CFR Part 200 Subpart F—Audit

Requirements, Appendix XI—Compliance Supplement—2021 Technical Update” in the subject line and the full body of your comments in the text of the electronic message and as an attachment. Please include your name, title, organization, postal address, telephone number, and email address in the text of the message. Comments may also be sent to: *GrantsTeam@omb.eop.gov*.

*Please note that all public comments received are subject to the Freedom of Information Act and will be posted in their entirety, including any personal and/or business confidential information provided. Do not include any information you would not like to be made publically available.*

The 2021 Technical Update to Part 4 of the two programs (described in the **SUPPLEMENTARY INFORMATION** section) is available online on the CFO home page at <https://www.cfo.gov/policies-and-guidance/>.

#### FOR FURTHER INFORMATION CONTACT:

Recipients and auditors should contact their cognizant or oversight agency for audit, or Federal awarding agency, as appropriate under the circumstances. The Federal agency contacts are listed in appendix III of the Supplement. Subrecipients should contact their pass-through entity. Federal agencies should contact Gil Tran at *Hai\_M.\_Tran@omb.eop.gov* or (202) 881-7830 or the OMB Grants team at *GrantsTeam@omb.eop.gov*.

**SUPPLEMENTARY INFORMATION:** The 2021 Technical Update (2 CFR part 200, subpart F, and appendix XI to part 200) provides the following update to these two programs:

- The Department of Health and Human Services (HHS) Assistance Listing 93.498 Provider Relief Fund—the update is to remove Part 4—Section III(N)(1) Special Test and Provisions: Out-of-Network Patient Out-of-Pocket Expenses. HHS has determined that the review requirements are no longer meaningful and applicable to the oversight of this program.

- Treasury Assistance Listing 21.027 Coronavirus State and Local Fiscal Recovery Funds (SLFRF)—the update is to provide in Part 4, Section IV—Other Information an alternative audit approach for eligible SLFRF recipients that would otherwise not be required to undergo an audit under 2 CFR part 200, subpart F, if it was not for the

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expenditures of SLFRF funds directly awarded by Treasury. This alternative is intended to reduce the burden of a full Single Audit or Program-Specific Audit on eligible recipients (estimated at more than 10,000 entities) and practitioners, as well as uphold Treasury’s responsibility to be good stewards of federal funds.

It also provides an update to the Supplement Part 8 Appendix VII to add the alternative compliance examination engagement in accordance with the Government Accountability Office’s Government Auditing Standards for eligible recipients of the SLFRF.

**Deidre A. Harrison,**

*Acting Controller.*

[FR Doc. 2022-07463 Filed 4-7-22; 8:45 am]

**BILLING CODE 3110-01-P**

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Parts 1, 2, 20, 30, 40, 50, 55, 70, 73, and 170

[NRC-2021-0171]

**RIN 3150-AK72**

#### Miscellaneous Corrections

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Final rule.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is amending its regulations to make miscellaneous corrections. These changes include correcting an office title, a reference, a misspelling, and two administrative errors, and updating the street address for the NRC’s Region I office. This document is necessary to inform the public of these non-substantive amendments to the NRC’s regulations.

**DATES:** This final rule is effective on May 9, 2022.

**ADDRESSES:** Please refer to Docket ID NRC-2021-0171 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov> and search for Docket ID NRC-2021-0171. Address questions about NRC dockets to Dawn Forder; telephone: 301-415-3407;

■ 3. Amend § 205.601 by revising the introductory text and paragraph (o) to read as follows:

**§ 205.601 Synthetic substances allowed for use in organic crop production.**

In accordance with restrictions specified in this section, the following synthetic substances may be used in organic crop production: *Provided*, That, use of such substances do not contribute to contamination of crops, soil, or water. Substances allowed by this section, except disinfectants and sanitizers in paragraph (a) and those substances in paragraphs (c), (j), (k), (l), and (o) of this section, may only be used when the provisions set forth in § 205.206(a) through (d) prove insufficient to prevent or control the target pest.

\* \* \* \* \*

(o) Production aids.

(1) Microcrystalline cheesewax (CAS #'s 64742-42-3, 8009-03-08, and 8002-74-2)—for use in log grown mushroom production. Must be made without either ethylene-propylene co-polymer or synthetic colors.

(2) Paper-based crop planting aids as defined in § 205.2. Virgin or recycled paper without glossy paper or colored inks.

\* \* \* \* \*

■ 4. Amend § 205.605 by:

■ a. In paragraph (a):  
 ■ i. In the heading, removing the colon and adding a period in its place.  
 ■ ii. Designating the entries as paragraphs (a)(1) through (30).  
 ■ iii. Revising newly designated paragraph (a)(29).  
 ■ b. In paragraph (b):  
 ■ i. In the heading, removing the colon and adding a period in its place.  
 ■ ii. Designating the entries as paragraphs (b)(1) through (36).  
 ■ iii. Further redesignating newly designated paragraphs (b)(12)i. through iv. as paragraphs (b)(12)(i) through (iv).  
 ■ iv. Redesignating newly designated paragraphs (b)(18) through (36) as paragraphs (b)(19) through (37).  
 ■ v. Adding new paragraph (b)(18).

The revision and addition read as follows:

**§ 205.605 Nonagricultural (nonorganic) substances allowed as ingredients in or on processed products labeled as “organic” or “made with organic (specified ingredients or food group(s)).”**

\* \* \* \* \*

(a) \* \* \*

(29) Waxes—nonsynthetic (Wood rosin).

\* \* \* \* \*

(b) \* \* \*

(18) Low-acyl gellan gum.

\* \* \* \* \*

**Erin Morris,**

*Associate Administrator, Agricultural Marketing Service.*

[FR Doc. 2022-24111 Filed 11-10-22; 8:45 am]

**BILLING CODE P**

**NUCLEAR REGULATORY COMMISSION**

**10 CFR Parts 20, 35, 50, 51, 52, 72, 73, 110, and 150**

**[NRC-2022-0100]**

**RIN 3150-AK81**

**Miscellaneous Corrections**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Final rule.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is amending its regulations to make miscellaneous corrections. These changes include correcting typographical errors, removing obsolete language, inserting missing language, and updating the telephone number for the NRC's Region IV office.

**DATES:** This final rule is effective on December 14, 2022.

**ADDRESSES:** Please refer to Docket ID NRC-2022-0100 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- **Federal Rulemaking Website:** Go to <https://www.regulations.gov> and search for Docket ID NRC-2022-0100. Address questions about NRC dockets to Dawn Forder; telephone: 301-415-3407; email: [Dawn.Forder@nrc.gov](mailto:Dawn.Forder@nrc.gov). For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- **NRC's Agencywide Documents Access and Management System (ADAMS):** You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “Begin Web-based ADAMS Search.” For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, at 301-415-4737, or by email to [PDR.Resource@nrc.gov](mailto:PDR.Resource@nrc.gov).

- **NRC's PDR:** You may examine and purchase copies of public documents, by appointment, at the PDR, Room P1

B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to [PDR.Resource@nrc.gov](mailto:PDR.Resource@nrc.gov) or call 1-800-397-4209 or 301-415-4737, between 8:00 a.m. and 4:00 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:**

Helen Chang, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington DC 20555-0001; telephone: 301-415-3228, email: [Helen.Chang@nrc.gov](mailto:Helen.Chang@nrc.gov).

**SUPPLEMENTARY INFORMATION:**

**Table of Contents**

- I. Introduction
- II. Summary of Changes
- III. Rulemaking Procedures
- IV. Backfitting and Issue Finality
- V. Plain Writing
- VI. National Environmental Policy Act
- VII. Paperwork Reduction Act
- VIII. Congressional Review Act
- IX. Compatibility of Agreement State Regulations

**I. Introduction**

The NRC is amending its regulations in parts 20, 35, 50, 51, 52, 72, 73, 110, and 150 of title 10 of the *Code of Federal Regulations* (10 CFR). The NRC is making these amendments to correct typographical errors, remove obsolete language, insert missing language, and update the telephone number for the NRC's Region IV office.

**II. Summary of Changes**

**10 CFR Parts 20 and 73**

**Update Telephone Number.** This final rule revises appendix D to 10 CFR part 20 and appendix A to 10 CFR part 73 to update the telephone number for the NRC's Region IV office.

**10 CFR Part 35**

**Insert Missing Language.** This final rule amends § 35.13 by restoring paragraphs (b)(4)(i) through (iv), which were incorrectly removed by the 2018 final rule “Medical Event Definitions, Training and Experience, and Clarifying Amendments” (83 FR 33046; July 16, 2018).

**10 CFR Part 50**

**Correct Typographical Error.** This final rule amends the second sentence in § 50.75(e)(1)(ii)(A) to remove the text “foregoing, that” and add in its place the text “foregoing, that”.

**10 CFR Part 51**

**Remove Obsolete Language.** This final rule amends the definition of “NRC staff director” in § 51.4 to update the title

“Director, Office of Governmental and Public Affairs” to “Director, Office of Public Affairs” to align with the current organization, and to update the definition to an inline format.

#### 10 CFR Part 52

*Correct Typographical Error.* This final rule amends footnote 2 to § 52.17 by correcting “an accidents” to read “an accident.” This correction aligns footnote 2 with footnotes 4, 6, 10, and 12 to other sections within the part.

#### 10 CFR Part 72

*Correct Typographical Error.* This final rule revises Certificate No. 1029 at § 72.214 by removing extra periods and aligning the text with other renewed certificates in this section.

#### 10 CFR Part 110

*Insert Missing Language.* This final rule amends § 110.22 by restoring the uranium heels provision that was incorrectly removed by the 2010 final rule “Export and Import of Nuclear Equipment and Material; Updates and Clarifications” (75 FR 44072; July 28, 2010). Uranium heels were added as a provision under the general license by the final rule “Export and Import of Nuclear Equipment and Materials” (65 FR 70287; November 22, 2000). This final rule also amends the provision by adding the United Kingdom to reflect the changes that resulted from the United Kingdom’s withdrawal from the European Union.

#### 10 CFR Part 150

*Insert Missing Language.* This final rule amends § 150.15 by adding “or part 52 of this chapter” to paragraphs (a)(7)(iii) and (a)(8) to reference licensees under 10 CFR part 52.

*Insert Missing Language.* This final rule amends § 150.15 by restoring paragraph (a)(9), which was incorrectly removed by the 2014 final rule “Safeguards Information-Modified Handling Categorization; Change for Materials Facilities” (79 FR 58664; September 30, 2014).

### III. Rulemaking Procedures

Under section 553(b) of the Administrative Procedure Act (5 U.S.C. 553(b)), an agency may waive publication in the **Federal Register** of a notice of proposed rulemaking and opportunity for comment requirements if it finds, for good cause, that it is impracticable, unnecessary, or contrary to the public interest. As authorized by 5 U.S.C. 553(b)(3)(B), the NRC finds good cause to waive notice and opportunity for comment on these amendments, because notice and

opportunity for comment is unnecessary. The amendments will have no substantive impact and are of a minor and administrative nature dealing with corrections to certain CFR sections or are related only to management, organization, procedure, and practice. Specifically, the revisions correct typographical errors, remove obsolete language, insert missing language, and update the telephone number for the NRC’s Region IV office. The Commission is exercising its authority under 5 U.S.C. 553(b) to publish these amendments as a final rule. The amendments are effective December 14, 2022. These amendments do not require action by any person or entity regulated by the NRC and do not change the substantive responsibilities of any person or entity regulated by the NRC.

### IV. Backfitting and Issue Finality

The NRC has determined that the corrections in this final rule would not constitute backfitting as defined in § 50.109, “Backfitting,” and as described in NRC Management Directive (MD) 8.4, “Management of Backfitting, Forward Fitting, Issue Finality, and Information Requests.” These corrections also would not constitute forward fitting as that term is defined and described in MD 8.4 or affect the issue finality of any approval issued under 10 CFR part 52. The amendments are non-substantive in nature, including correcting typographical errors, removing obsolete language, inserting missing language, and updating the telephone number for the NRC’s Region IV office. They impose no new requirements and make no substantive changes to the regulations. The corrections do not involve any provisions that would impose backfits as defined in 10 CFR chapter I, or that would be inconsistent with the issue finality provisions in 10 CFR part 52. For these reasons, the issuance of this final rule would not constitute backfitting or be inconsistent with any of the issue finality provisions in 10 CFR part 52. Therefore, the NRC has not prepared any additional documentation for this correction rulemaking addressing backfitting or issue finality.

### V. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111-274) requires Federal agencies to write documents in a clear, concise, and well-organized manner. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum “Plain Language in Government Writing,” published June 10, 1998 (63 FR 31885).

### VI. National Environmental Policy Act

The NRC has determined that this final rule is the type of action described in § 51.22(c)(2), which categorically excludes from environmental review rules that are corrective or of a minor, nonpolicy nature and do not substantially modify existing regulations. Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this rule.

### VII. Paperwork Reduction Act

This final rule does not contain a collection of information as defined in the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and, therefore, is not subject to the requirements of the Paperwork Reduction Act of 1995.

### VIII. Congressional Review Act

This final rule is not a rule as defined in the Congressional Review Act (5 U.S.C. 801–808).

### IX. Compatibility of Agreement State Regulations

Under the “Agreement State Program Policy Statement,” approved by the Commission on October 2, 2017, and published in the **Federal Register** on October 18, 2017 (82 FR 48535), NRC program elements (including regulations) are placed into compatibility categories A, B, C, D, NRC, or adequacy category Health and Safety (H&S). Compatibility Category A program elements are those program elements that are basic radiation protection standards and scientific terms and definitions that are necessary to understand radiation protection concepts. An Agreement State should adopt Category A program elements in an essentially identical manner in order to provide uniformity in the regulation of agreement material on a nationwide basis. Compatibility Category B program elements are those program elements that apply to activities that have direct and significant effects in multiple jurisdictions. An Agreement State should adopt Category B program elements in an essentially identical manner. Compatibility Category C program elements are those program elements that do not meet the criteria of Category A or B but contain the essential objectives that an Agreement State should adopt to avoid conflict, duplication, gaps, or other conditions that would jeopardize an orderly pattern in the regulation of agreement material on a national basis. An Agreement State should adopt the essential objectives of the Category C program elements. Compatibility Category D program elements are those program elements

that do not meet any of the criteria of Category A, B, or C and, therefore, do not need to be adopted by Agreement States for purposes of compatibility. Compatibility Category NRC program elements are those program elements that address areas of regulation that cannot be relinquished to the Agreement States under the Atomic Energy Act of 1954, as amended, or provisions of 10 CFR. These program

elements should not be adopted by the Agreement States. Compatibility Category H&S program elements are program elements that are required because of a particular health and safety role in the regulation of agreement material within the State and should be adopted in a manner that embodies the essential objectives of the NRC program. The portions of this final rule that amend 10 CFR parts 20, 35, and 150 are

a matter of compatibility between the NRC and the Agreement States, thereby providing consistency among Agreement State and NRC requirements, and are listed in the following table. The changes to 10 CFR parts 50, 51, 52, 72, 73, and 110 categories are not subject to Agreement State jurisdiction and consequently are not required for compatibility.

COMPATIBILITY TABLE

Section	Change	Subject	Compatibility	
			Existing	New
Part 20.				
Appendix D .....	Amend .....	United States Regulatory Commission Offices .....	D	D
Part 35.				
10 CFR 35.13(b) .....	Amend .....	License amendments .....	D	D
Part 150.				
10 CFR 150.15 .....	Amend .....	Persons not exempt .....	NRC	NRC

## List of Subjects

### 10 CFR Part 20

Byproduct material, Criminal penalties, Hazardous waste, Licensed material, Nuclear energy, Nuclear materials, Nuclear power plants and reactors, Occupational safety and health, Packaging and containers, Penalties, Radiation protection, Reporting and recordkeeping requirements, Source material, Special nuclear material, Waste treatment and disposal.

### 10 CFR Part 35

Biologics, Byproduct material, Criminal penalties, Drugs, Health facilities, Health professions, Labeling, Medical devices, Nuclear energy, Nuclear materials, Occupational safety and health, Penalties, Radiation protection, Reporting and recordkeeping requirements.

### 10 CFR Part 50

Administrative practice and procedure, Antitrust, Backfitting, Classified information, Criminal penalties, Education, Emergency planning, Fire prevention, Fire protection, Incorporation by reference, Intergovernmental relations, Nuclear power plants and reactors, Penalties, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements, Whistleblowing.

### 10 CFR Part 51

Administrative practice and procedure, Environmental impact statements, Hazardous waste, Nuclear energy, Nuclear materials, Nuclear

power plants and reactors, Reporting and recordkeeping requirements.

### 10 CFR Part 52

Administrative practice and procedure, Antitrust, Combined license, Early site permit, Emergency planning, Fees, Incorporation by reference, Inspection, Issue finality, Limited work authorization, Manufacturing license, Nuclear power plants and reactors, Probabilistic risk assessment, Prototype, Reactor siting criteria, Redress of site, Penalties, Reporting and recordkeeping requirements, Standard design, Standard design certification.

### 10 CFR Part 72

Administrative practice and procedure, Hazardous waste, Indians, Intergovernmental relations, Nuclear energy, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

### 10 CFR Part 73

Criminal penalties, Exports, Hazardous materials transportation, Imports, Nuclear energy, Nuclear materials, Nuclear power plants and reactors, Penalties, Reporting and recordkeeping requirements, Security measures.

### 10 CFR Part 110

Administrative practice and procedure, Classified information, Criminal penalties, Exports, Imports, Intergovernmental relations, Nuclear energy, Nuclear materials, Nuclear power plants and reactors, Penalties, Reporting and recordkeeping requirements, Scientific equipment.

### 10 CFR Part 150

Criminal penalties, Hazardous materials transportation, Intergovernmental relations, Nuclear energy, Nuclear materials, Penalties, Reporting and recordkeeping requirements, Security measures, Source material, Special nuclear material.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR parts 20, 35, 50, 51, 52, 72, 73, 110, and 150:

## PART 20—STANDARDS FOR PROTECTION AGAINST RADIATION

- 1. The authority citation for part 20 continues to read as follows:

**Authority:** Atomic Energy Act of 1954, secs. 11, 53, 63, 65, 81, 103, 104, 161, 170H, 182, 186, 223, 234, 274, 1701 (42 U.S.C. 2014, 2073, 2093, 2095, 2111, 2133, 2134, 2201, 2210H, 2232, 2236, 2273, 2282, 2021, 2297f); Energy Reorganization Act of 1974, secs. 201, 202 (42 U.S.C. 5841, 5842); Low-Level Radioactive Waste Policy Amendments Act of 1985, sec. 2 (42 U.S.C. 2021b); 44 U.S.C. 3504 note.

- 2. In appendix D to part 20, revise the fifth entry in the table to read as follows:

## Appendix D to Part 20—United States Nuclear Regulatory Commission Regional Offices

	Address	Telephone (24 hour)	Email
* * *	Region IV: Alaska, Arizona, Arkansas, California, Colorado, Hawaii, Idaho, Kansas, Louisiana, Mississippi, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wyoming, and the U.S. territories and possessions in the Pacific.	US NRC, Region IV, 1600 E Lamar Blvd., Arlington, TX 76011-4511. * * * (817) 200-1100, (800) 952-9677, TDD: (301) 415-5575.	* * * RidsRgn4MailCenter@nrc.gov.

## PART 35—MEDICAL USE OF BYPRODUCT MATERIAL

- 3. The authority citation for part 35 continues to read as follows:

**Authority:** Atomic Energy Act of 1954, secs. 81, 161, 181, 182, 183, 223, 234, 274 (42 U.S.C. 2111, 2201, 2231, 2232, 2233, 2273, 2282, 2021); Energy Reorganization Act of 1974, secs. 201, 206 (42 U.S.C. 5841, 5846); 44 U.S.C. 3504 note.

- 4. In § 35.13, revise paragraph (b)(4) to read as follows:

### § 35.13 License amendments.

\* \* \* \*

(b) \* \* \*

(4) An individual who is identified as an authorized user, an authorized nuclear pharmacist, authorized medical physicist, or an ophthalmic physicist—

(i) On a Commission or Agreement State license or other equivalent permit or license recognized by NRC that authorizes the use of byproduct material in medical use or in the practice of nuclear pharmacy;

(ii) On a permit issued by a Commission or Agreement State specific license of broad scope that is authorized to permit the use of byproduct material in medical use or in the practice of nuclear pharmacy;

(iii) On a permit issued by a Commission master material licensee that is authorized to permit the use of byproduct material in medical use or in the practice of nuclear pharmacy; or

(iv) By a commercial nuclear pharmacy that has been authorized to identify authorized nuclear pharmacists;

\* \* \* \*

## PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

- 5. The authority citation for part 50 continues to read as follows:

**Authority:** Atomic Energy Act of 1954, secs. 11, 101, 102, 103, 104, 105, 108, 122, 147, 149, 161, 181, 182, 183, 184, 185, 186, 187, 189, 223, 234 (42 U.S.C. 2014, 2131, 2132, 2133, 2134, 2135, 2138, 2152, 2167, 2169, 2201, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2239, 2273, 2282); Energy Reorganization Act of 1974, secs. 201, 202,

206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); Nuclear Waste Policy Act of 1982, sec. 306 (42 U.S.C. 10226); National Environmental Policy Act of 1969 (42 U.S.C. 4332); 44 U.S.C. 3504 note; Sec. 109, Pub. L. 96-295, 94 Stat. 783.

### § 50.75 [Amended]

- 6. In § 50.75, amend paragraph (e)(1)(ii)(A) by removing the text “foregoing, that” and adding in its place the text “foregoing, that”.

## PART 51—ENVIRONMENTAL PROTECTION REGULATIONS FOR DOMESTIC LICENSING AND RELATED REGULATORY FUNCTIONS

- 7. The authority citation for part 51 continues to read in part as follows:

**Authority:** Atomic Energy Act of 1954, secs. 161, 193 (42 U.S.C. 2201, 2243); Energy Reorganization Act of 1974, secs. 201, 202 (42 U.S.C. 5841, 5842); National Environmental Policy Act of 1969 (42 U.S.C. 4332, 4334, 4335); Nuclear Waste Policy Act of 1982, secs. 144(f), 121, 135, 141, 148 (42 U.S.C. 10134(f), 10141, 10155, 10161, 10168); 44 U.S.C. 3504 note.

\* \* \* \*

- 8. In § 51.4, remove the definition of *NRC Staff Director* and add the definition *NRC staff director* in its place to read as follows:

### § 51.4 Definitions.

\* \* \* \*

*NRC staff director* means the Executive Director for Operations; the Director, Office of Nuclear Reactor Regulation; the Director, Office of Nuclear Material Safety and Safeguards; the Director, Office of Nuclear Regulatory Research; the Director, Office of Public Affairs; and the designee of any NRC staff director.

## PART 52—LICENSES, CERTIFICATIONS, AND APPROVALS FOR NUCLEAR POWER PLANTS

- 9. The authority citation for part 52 continues to read as follows:

**Authority:** Atomic Energy Act of 1954, secs. 103, 104, 147, 149, 161, 181, 182, 183, 185, 186, 187, 189, 223, 234 (42 U.S.C. 2133, 2134, 2167, 2169, 2201, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2239, 2273, 2282); Energy Reorganization Act of 1974, secs. 201, 202,

Reorganization Act of 1974, secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); 44 U.S.C. 3504 note.

### § 52.17 [Amended]

- 10. In footnote 2 to § 52.17, remove the text “an accidents” and add in its place the text “an accident”.

## PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL, HIGH-LEVEL RADIOACTIVE WASTE, AND REACTOR-RELATED GREATER THAN CLASS C WASTE

- 11. The authority citation for part 72 continues to read as follows:

**Authority:** Atomic Energy Act of 1954, secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 223, 234, 274 (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2210e, 2232, 2233, 2234, 2236, 2237, 2238, 2273, 2282, 2021); Energy Reorganization Act of 1974, secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); National Environmental Policy Act of 1969 (42 U.S.C. 4332); Nuclear Waste Policy Act of 1982, secs. 117(a), 132, 133, 134, 135, 137, 141, 145(g), 148, 218(a) (42 U.S.C. 10137(a), 10152, 10153, 10154, 10155, 10157, 10161, 10165(g), 10168, 10198(a)); 44 U.S.C. 3504 note.

- 12. In § 72.214, revise Certificate of Compliance No. 1029 to read as follows:

### § 72.214 List of approved spent fuel storage casks.

\* \* \* \*

Certificate Number: 1029.  
Initial Certificate Effective Date: February 5, 2003, superseded by Renewed Initial Certificate on October 27, 2021.

Amendment Number 1 Effective Date: May 16, 2005, superseded by Renewed Amendment Number 1 on October 27, 2021.

Amendment Number 2 Effective Date: Amendment not issued by the NRC.

Amendment Number 3 Effective Date: February 23, 2015, superseded by Renewed Amendment Number 3 on October 27, 2021.

Amendment Number 4 Effective Date: March 12, 2019, superseded by Renewed Amendment Number 4 on October 27, 2021.

SAR Submitted by: Transnuclear, Inc., now TN Americas, LLC.

Renewal SAR Submitted by: TN Americas, LLC.

SAR Title: Final Safety Analysis Report for the Standardized Advanced NUHOMS® Horizontal Modular Storage System for Irradiated Nuclear Fuel.

Docket Number: 72-1029.

Certificate Expiration Date: February 5, 2023.

Renewed Certificate Expiration Date: February 5, 2063.

Model Number: Standardized Advanced NUHOMS®-24PT1, -24PT4, and -32PTH2.

\* \* \* \* \*

## PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

- 13. The authority citation for part 73 continues to read as follows:

**Authority:** Atomic Energy Act of 1954, secs. 53, 147, 149, 161, 170D, 170E, 170H, 170I, 223, 229, 234, 1701 (42 U.S.C. 2073, 2167, 2169, 2201, 2210d, 2210e, 2210h,

2210i, 2273, 2278a, 2282, 2297f); Energy Reorganization Act of 1974, secs. 201, 202 (42 U.S.C. 5841, 5842); Nuclear Waste Policy Act of 1982, secs. 135, 141 (42 U.S.C. 10155, 10161); 44 U.S.C. 3504 note.

Section 73.37(b)(2) also issued under sec. 301, Pub. L. 96-295, 94 Stat. 789 (42 U.S.C. 5841 note).

- 14. In appendix A to part 73, revise the fifth entry in the first table to read as follows:

Appendix A to Part 73—U.S. Nuclear Regulatory Commission Offices and Classified Mailing Addresses

	Address	Telephone (24 hour)	Email
*	*	*	*
Region IV: Alaska, Arizona, Arkansas, California, Colorado, Hawaii, Idaho, Kansas, Louisiana, Mississippi, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wyoming, and the U.S. territories and possessions in the Pacific.	US NRC, Region IV, 1600 E Lamar Blvd., Arlington, TX 76011-4511.	(817) 200-1100, (800) 952-9677, TDD: (301) 415-5575.	RidsRgn4MailCenter@nrc.gov.

\* \* \* \* \*

## PART 110—EXPORT AND IMPORT OF NUCLEAR EQUIPMENT AND MATERIAL

- 15. The authority citation for part 110 continues to read as follows:

**Authority:** Atomic Energy Act of 1954, secs. 11, 51, 53, 54, 57, 62, 63, 64, 65, 81, 82, 103, 104, 109, 111, 121, 122, 123, 124, 126, 127, 128, 129, 133, 134, 161, 170H, 181, 182, 183, 184, 186, 187, 189, 223, 234 (42 U.S.C. 2014, 2071, 2073, 2074, 2077, 2092, 2093, 2094, 2095, 2111, 2112, 2133, 2134, 2139, 2141, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2160c, 2160d, 2201, 2210h, 2231, 2232, 2233, 2234, 2236, 2237, 2239, 2273, 2282); Energy Reorganization Act of 1974, sec. 201 (42 U.S.C. 5841); Administrative Procedure Act (5 U.S.C. 552, 553); 42 U.S.C. 2139a, 2155a; 44 U.S.C. 3504 note.

Section 110.1(b) also issued under 22 U.S.C. 2403; 22 U.S.C. 2778a; 50 App. U.S.C. 2401 *et seq.*

- 16. In § 110.22, add paragraph (a)(4) to read as follows:

### **§ 110.22 General license for the export of source material.**

(a) \* \* \*

(4) A general license is issued to any person to export uranium, enriched to less than 20 percent in U-235, in the form of UF6 heels in cylinders being returned to suppliers in EURATOM or the United Kingdom.

\* \* \* \* \*

## PART 150—EXEMPTIONS AND CONTINUED REGULATORY AUTHORITY IN AGREEMENT STATES AND IN OFFSHORE WATERS UNDER SECTION 274

- 17. The authority citation for part 150 continues to read in part as follows:

**Authority:** Atomic Energy Act of 1954, secs. 11, 53, 81, 83, 84, 122, 161, 181, 223, 234, 274 (42 U.S.C. 2014, 2201, 2231, 2273, 2282, 2021); Energy Reorganization Act of 1974, sec. 201 (42 U.S.C. 5841); Nuclear Waste Policy Act of 1982, secs. 135, 141 (42 U.S.C. 10155, 10161); 44 U.S.C. 3504 note.

\* \* \* \* \*

- 18. In § 150.15:
  - a. Amend paragraphs (a)(7)(iii) and (a)(8) by removing the text “under part 50 of this chapter” and adding in its place the text “under part 50 or 52 of this chapter”; and
  - b. Add paragraph (a)(9). The addition reads as follows:

### **§ 150.15 Persons not exempt.**

- (a) \* \* \*
- (9) The requirements for the protection of Safeguards information in § 73.21 of this chapter and the requirements in § 73.22 or § 73.23 of this chapter, as applicable.

\* \* \* \* \*

Dated: November 7, 2022.  
For the Nuclear Regulatory Commission.

**Cindy K. Bladey,**

*Chief, Regulatory Analysis and Rulemaking Support Branch, Division of Rulemaking, Environmental, and Financial Support, Office of Nuclear Material Safety and Safeguards.*

[FR Doc. 2022-24614 Filed 11-10-22; 8:45 am]

**BILLING CODE 7590-01-P**

## CONSUMER PRODUCT SAFETY COMMISSION

### 16 CFR Part 1239

[Docket No. CPSC-2019-0014]

### Safety Standard for Gates and Enclosures

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Direct final rule.

**SUMMARY:** Consistent with the CPSIA’s process for updating mandatory standards for durable infant or toddler products that are based on a voluntary standard, this direct final rule updates the mandatory standard for gates and enclosures to incorporate by reference to ASTM F1004-22.

**DATES:** The rule is effective on January 21, 2023, unless CPSC receives a significant adverse comment by December 14, 2022. If CPSC receives such a comment, it will publish a notification in the **Federal Register**, withdrawing this direct final rule before its effective date. The incorporation by reference of the publication listed in this rule is approved by the Director of the Federal Register as of January 21, 2023.

**ADDRESSES:** You can submit comments, identified by Docket No. CPSC-2019-0014, by any of the following methods:

**Electronic Submissions:** Submit electronic comments to the Federal eRulemaking Portal at: [www.regulations.gov](http://www.regulations.gov). Follow the instructions for submitting comments.

**R313. Environmental Quality, Waste Management and Radiation Control, Radiation.**

**R313-15. Standards for Protection Against Radiation.**

**R313-15-1206. Reports of Transactions Involving Nationally Tracked Sources.**

Each licensee who manufactures, transfers, receives, disassembles, or disposes of a nationally tracked source shall complete and submit a National Source Tracking Transaction Report as specified in Subsections R313-15-1206[paragraphs] (1) through R313-15-1206(5) [of this section] for each type of transaction.

(1) Each licensee who manufactures a nationally tracked source shall complete and submit a National Source Tracking Transaction Report. The report must shall include the following information:

- (a) [T]the name, address, and license number of the reporting licensee;
- (b) [T]the name of the individual preparing the report;
- (c) [T]the manufacturer, model, and serial number of the source;
- (d) [T]the radioactive material in the source;
- (e) [T]the initial source strength in becquerels, [curies]; at the time of manufacture; and
- (f) [T]the manufacture date of the source.

(2) Each licensee that transfers a nationally tracked source to another person shall complete and submit a National Source Tracking Transaction Report. The report must shall include the following information:

- (a) [T]the name, address, and license number of the reporting licensee;
- (b) [T]the name of the individual preparing the report;
- (c) [T]the name and license number of the recipient facility and the shipping address;
- (d) [T]the manufacturer, model, and serial number of the source or, if not available, other information to uniquely identify the source;

- (e) [T]the radioactive material in the source;
- (f) [T]the initial or current source strength in becquerels, [curies];
- (g) [T]the date for which the source strength is reported;
- (h) [T]the shipping date;
- (i) [T]the estimated arrival date; and

(j) [T]for nationally tracked sources transferred as waste under a Uniform Low-Level Radioactive Waste Manifest, the waste manifest number and the container identification of the container with the nationally tracked source.

(3) Each licensee that receives a nationally tracked source shall complete and submit a National Source Tracking Transaction Report. The report must shall include the following information:

- (a) [T]the name, address, and license number of the reporting licensee;
- (b) [T]the name of the individual preparing the report;
- (c) [T]the name, address, and license number of the person that provided the source;
- (d) [T]the manufacturer, model, and serial number of the source or, if not available, other information to uniquely identify the source;

- (e) [T]the radioactive material in the source;
- (f) [T]the initial or current source strength in becquerels, [curies];
- (g) [T]the date for which the source strength is reported;
- (h) [T]the date of receipt; and

(i) [T]for material received under a Uniform Low-Level Radioactive Waste Manifest, the waste manifest number and the container identification with the nationally tracked source.

(4) Each licensee that disassembles a nationally tracked source shall complete and submit a National Source Tracking Transaction Report. The report must shall include the following information:

- (a) [T]the name, address, and license number of the reporting licensee;
- (b) [T]the name of the individual preparing the report;
- (c) [T]the manufacturer, model, and serial number of the source or, if not available, other information to uniquely identify the source;
- (d) [T]the radioactive material in the source;
- (e) [T]the initial or current source strength in becquerels, [curies];
- (f) [T]the date for which the source strength is reported; and
- (g) [T]the disassemble date of the source.

(5) Each licensee who disposes of a nationally tracked source shall complete and submit a National Source Tracking Transaction Report. The report must shall include the following information:

- (a) [T]the name, address, and license number of the reporting licensee;
- (b) [T]the name of the individual preparing the report;
- (c) [T]the waste manifest number;
- (d) [T]the container identification with the nationally tracked source[-];
- (e) [T]the date of disposal; and
- (f) [T]the method of disposal.

(6) The reports discussed in Subsections R313-15-1206[paragraphs-](1) through R313-15-1206(5) [~~of this section must~~]shall be submitted by the close of the next business day after the transaction. A single report may be submitted for multiple sources and transactions. The reports [~~must~~]shall be submitted to the National Source Tracking System by using:

- (a) [~~F~~]the on-line National Source Tracking System;
- (b) [~~E~~]electronically using a computer-readable format;
- (c) [~~B~~]by facsimile;
- (d) [~~B~~]by mail to the address on the National Source Tracking Transaction Report Form, [~~f~~]NRC Form 748[~~f~~]; or
- (e) [~~B~~]by telephone with followup by facsimile or mail.

(7) Each licensee shall correct any error in previously filed reports or file a new report for any missed transaction within [§]five business days of the discovery of the error or missed transaction. [~~Such~~These errors may be detected by a variety of methods such as administrative reviews or by physical inventories required by regulation. In addition, each licensee shall reconcile the inventory of nationally tracked sources possessed by the licensee against that licensee's data in the National Source Tracking System. The reconciliation [~~must~~]shall be conducted during the month of January in each year. The reconciliation process [~~must~~]shall include resolving any discrepancies between the National Source Tracking System and the actual inventory by filing the reports identified by Subsections R313-15-1206[paragraphs-](1) through R313-15-1206(5)[~~of this section~~]. By January 31 of each year, each licensee [~~must~~]shall submit to the National Source Tracking System confirmation that the data in the National Source Tracking System is correct.]

(8) Each licensee that possesses Category 1 nationally tracked sources shall report its initial inventory of Category 1 nationally tracked sources to the National Source Tracking System by November 15, 2007. Each licensee that possesses Category 2 nationally tracked sources shall report its initial inventory of Category 2 nationally tracked sources to the National Source Tracking System by November 30, 2007. The information may be submitted by using any of the methods identified by paragraph (6)(a) through (6)(d) of this section. The initial inventory report must include the following information:

- (a) The name, address, and license number of the reporting licensee;
- (b) The name of the individual preparing the report;
- (c) The manufacturer, model, and serial number of each nationally tracked source or, if not available, other information to uniquely identify the source;
- (d) The radioactive material in the sealed source;
- (e) The initial or current source strength in becquerels (curies); and
- (f) The date for which the source strength is reported.]

**KEY:** radioactive materials, contamination, waste disposal, safety

**Date of Last Change:** January 17, 2023

**Notice of Continuation:** October 19, 2021

**Authorizing, and Implemented or Interpreted Law:** 19-3-104; 19-6-104

**R313. Environmental Quality, Waste Management and Radiation Control, Radiation.**

**R313-22. Specific Licenses.**

**R313-22-75. Special Requirements for a Specific License to Manufacture, Assemble, Repair, or Distribute Commodities, Products, or Devices That Contain Radioactive Material.**

(1) Licensing the introduction of radioactive material in exempt concentrations into products or materials, and transfer of ownership or possession of the products and materials.

(a) The authority to introduce radioactive material in exempt concentrations into equipment, devices, commodities or other products may be received only from the Nuclear Regulatory Commission, Washington, D.C. 20555; and

(b) The manufacturer, processor or producer of equipment, devices, commodities or other products containing exempt concentrations of radioactive materials may get the authority to transfer possession or control of the equipment, devices, commodities, or other products containing exempt concentrations to a person who is exempt from regulatory requirements only from the Nuclear Regulatory Commission, Washington, D.C. 20555.

(2) Licensing the distribution of radioactive material in exempt quantities. Authority to transfer possession or control by the manufacturer, processor or producer of equipment, devices, commodities or other products containing byproduct material whose subsequent possession, use, transfer, and disposal by another person who is exempted from regulatory requirements may be received only from the Nuclear Regulatory Commission, Washington, D.C. 20555.

(3) Reserved

(4) Licensing the manufacture and distribution of devices to a person generally licensed under Subsection R313-21-22(4).

(a) An application for a specific license to manufacture or distribute devices containing radioactive material, excluding special nuclear material, to a person generally licensed under Subsection R313-21-22(4) or equivalent regulations of the Nuclear Regulatory Commission, an Agreement State or a Licensing State will be approved if:

(i) the applicant satisfies the general requirements of Section R313-22-33;

(ii) the applicant submits sufficient information relating to the design, manufacture, prototype testing, quality control, labels, proposed uses, installation, servicing, leak testing, operating and safety instructions, and potential hazards of the device to provide reasonable assurance that:

(A) the device can be safely operated by a person not having training in radiological protection;

(B) under ordinary conditions of handling, storage and use of the device, the radioactive material contained in the device will not be released or inadvertently removed from the device, and it is unlikely that a person will receive in one year, a dose in excess of ten percent of the annual limits specified in Subsection R313-15-201(1); and

(C) under accident conditions, such as fire and explosion, associated with handling, storage and use of the device, it is unlikely that a person would receive an external radiation dose or dose commitment in excess of the organ doses shown in Table 2;

TABLE 2

Whole body, head and truck, active blood forming organs, gonads, or lens of the eye	150.0mSv, 15 rems
Hands and forearms, feet and ankles, localized areas of skin averaged over areas no larger than one square centimeter	2.0 Sv, 200 rems
Other organs	500.0 mSv, 50 rems

(iii) each device bears a durable, legible, clearly visible label or labels approved by the director, which contain in a clearly identified and separate statement:

(A) instructions and precautions necessary to assure safe installation, operation and servicing of the device; documents such as operating and service manuals may be identified in the label and used to provide this information;

(B) the requirement, or lack of requirement, for leak testing, or for testing an "on-off" mechanism and indicator, including the maximum time interval for testing, and the identification of radioactive material by radionuclide, quantity of radioactivity, and date of determination of the quantity; and

(C) the information called for in one of the statements in either Subsection R313-22-75(4)(a)(iii)(C)(I) or R313-22-75(4)(a)(iii)(C)(II), as appropriate, in this or substantially similar form:

(I) "The receipt, possession, use and transfer of this device, Model No. ...., Serial No. ...., are subject to a general license or the equivalent, and the regulations of the Nuclear Regulatory Commission or a state with which the Nuclear Regulatory Commission has entered into an agreement for the exercise of regulatory authority. This label shall be maintained on the device in a legible condition. Removal of this label is prohibited." The label shall be printed with the words "CAUTION - RADIOACTIVE MATERIAL" and the name of the manufacturer or distributor shall appear on the label. The model, serial number, and name of the manufacturer or distributor may be omitted from this label provided the information is elsewhere specified in labeling affixed to the device; or

(II) "The receipt, possession, use and transfer of this device, Model No. ...., Serial No. ...., are subject to a general license or the equivalent, and the regulations of a Licensing State. This label shall be maintained on the device in a legible condition. Removal of this label is prohibited." The label shall be printed with the words "CAUTION - RADIOACTIVE MATERIAL" and the name of the manufacturer or distributor shall appear on the label. The model, serial number, and name of the manufacturer or distributor may be omitted from this label provided the information is elsewhere specified in labeling affixed to the device;

(iv) each device having a separable source housing that provides the primary shielding for the source also bears, on the source housing, a durable label containing the device model number and serial number, the isotope and quantity, the words, "Caution-Radioactive Material," the radiation symbol described in Section R313-15-901, and the name of the manufacturer or initial distributor;

(v) each device meeting the criteria of Subsection R313-21-22(4)(c)(xiii)(A), bears a permanent label, for example, embossed, etched, stamped, or engraved, affixed to the source housing if separable, or the device if the source housing is not separable, that includes the words, "Caution-Radioactive Material," and, if practicable, the radiation symbol described in Section R313-15-901; and

(vi) the device has been registered in the Sealed Source and Device Registry.

(b) In the event the applicant desires that the device be required to be tested at intervals longer than six months, either for proper operation of the "on-off" mechanism and indicator, if any, or for leakage of radioactive material or for both, the applicant shall include in the application sufficient information to demonstrate that a longer interval is justified by performance characteristics of the device or similar devices and by design features that have a significant bearing on the probability or consequences of leakage of radioactive material from the device or failure of the "on-off" mechanism and indicator. In determining the acceptable interval for the test for leakage of radioactive material, the director will consider information that includes:

- (i) primary containment, or source capsule;
- (ii) protection of primary containment;
- (iii) method of sealing containment;
- (iv) containment construction materials;
- (v) form of contained radioactive material;
- (vi) maximum temperature withstood during prototype tests;
- (vii) maximum pressure withstood during prototype tests;
- (viii) maximum quantity of contained radioactive material;
- (ix) radiotoxicity of contained radioactive material; and
- (x) operating experience with identical devices or similarly designed and constructed devices.

(c) In the event the applicant desires that the general licensee under Subsection R313-21-22(4), or under equivalent regulations of the Nuclear Regulatory Commission, an Agreement State or a Licensing State be authorized to install the device, collect the sample to be analyzed by a specific licensee for leakage of radioactive material, service the device, test the "on-off" mechanism and indicator, or remove the device from installation, the applicant shall include in the application written instructions to be followed by the general licensee, estimated calendar quarter doses associated with this activity or activities, and basis for these estimates. The submitted information shall demonstrate that performance of this activity or activities by an individual untrained in radiological protection, in addition to other handling, storage, and use of devices under the general license, is unlikely to cause that individual to receive a dose in excess of ten percent of the annual limits specified in Subsection R313-15-201(1).

(d)(i) If a device containing radioactive material is to be transferred for use under the general license contained in Subsection R313-21-22(4), each person that is licensed under Subsection R313-22-75(4) shall provide the information specified in Subsections R313-22-75(4)(d)(i)(A) through R313-22-75(4)(d)(i)(E) to each person to whom a device is to be transferred. This information shall be provided before the device may be transferred. In the case of a transfer through an intermediate person, the information shall also be provided to the intended user before initial transfer to the intermediate person. The required information includes:

- (A) a copy of the general license contained in Subsection R313-21-22(4). If Subsections R313-21-22(4)(c)(ii) through R313-21-22(4)(c)(iv) or R313-21-22(4)(c)(xiii) do not apply to the particular device, those paragraphs may be omitted;
- (B) a copy of Sections R313-12-51, R313-15-1201, and R313-15-1202;
- (C) a list of services that can only be performed by a specific licensee;
- (D) information on acceptable disposal options including estimated costs of disposal; and
- (E) an indication that the director's policy is to issue civil penalties for improper disposal.

(ii) If radioactive material is to be transferred in a device for use under an equivalent general license of the Nuclear Regulatory Commission, an Agreement State, or Licensing State, each person that is licensed under Subsection R313-22-75(4) shall provide the information specified in Subsections R313-22-75(4)(d)(ii)(A) through R313-22-75(4)(d)(ii)(D) to each person to whom a device is to be transferred. This information shall be provided before the device may be transferred. In the case of a transfer through an intermediate person, the information shall also be provided to the intended user before initial transfer to the intermediate person. The required information includes:

- (A) a copy of an Agreement State's or Licensing State's regulations equivalent to Sections R313-12-51, R313-15-1201, R313-15-1202, and Subsection R313-21-22(4) or a copy of 10 CFR 31.5, 10 CFR 31.2, 10 CFR 30.51, 10 CFR 20.2201, and 10 CFR 20.2202. If a copy of the Nuclear Regulatory Commission regulations is provided to a prospective general licensee

in lieu of the Agreement State's or Licensing State's regulations, it shall be accompanied by a note explaining that use of the device is regulated by the Agreement State or Licensing State. If certain paragraphs of the regulations do not apply to the particular device, those paragraphs may be omitted;

- (B) a list of services that can only be performed by a specific licensee;
- (C) information on acceptable disposal options including estimated costs of disposal; and
- (D) the name or title, address, and phone number of the contact at the Nuclear Regulatory Commission, Agreement State, or Licensing State where additional information may be received.

- (iii) An alternative approach to informing customers may be proposed by the licensee for approval by the director.
- (iv) Each device that is transferred after February 19, 2002, shall meet the labeling requirements in Subsection R313-22-75(4)(a)(iii).
- (v) If a notification of bankruptcy has been made under Section R313-19-34 or the license is to be terminated, each person licensed under Subsection R313-22-75(4) shall provide, upon request, to the Director, the Nuclear Regulatory Commission, or an appropriate Agreement State or Licensing State, records of final disposition required under Subsection R313-22-75(4)(d)(vii)(H).
- (vi) Each person licensed under Subsection R313-22-75(4) to initially transfer devices to a generally licensed person shall comply with the requirements of Subsections R313-22-75(4)(d)(vi) and R313-22-75(4)(d)(vii).
- (A) The person shall report each transfer of devices to a person for use under the general license under Subsection R313-21-22(4) and each receipt of devices from a person licensed under Subsection R313-21-22(4) to the director. The report shall be submitted on a quarterly basis on Form 653, "Transfers of Industrial Devices Report" as prescribed by the Nuclear Regulatory Commission, or in a clear and legible report containing the data required by the form.
- (B) The required information for transfers to general licensees includes:
  - (I) the identity of each general licensee by name and mailing address for the location of use. If there is no mailing address for the location of use, an alternative address for the general licensee shall be submitted along with information on the actual location of use.
  - (II) the name, title, and phone number of the person identified by the general licensee as having knowledge of and authority to take required actions to ensure compliance with the appropriate rules, regulations and requirements;
  - (III) the date of transfer;
  - (IV) the type, model number, and serial number of device transferred; and
  - (V) the quantity and type of radioactive material contained in the device.
- (C) If one or more intermediate persons will temporarily possess the device at the intended place of use before its possession by the user, the report shall include the information required by Subsection R313-22-74(4)(d)(vi)(B) for both the intended user and each intermediate person, and clearly designate the intermediate person.
- (D) For devices received from a Subsection R313-21-22(4) general licensee, the report shall include the identity of the general licensee by name and address, the type, model number, and serial number of the device received, the date of receipt, and, in the case of devices not initially transferred by the reporting licensee, the name of the manufacturer or initial transferor.
- (E) If the licensee makes changes to a device possessed by a Subsection R313-21-22(4) general licensee that would require the label to be changed to update required information, the report shall identify the general licensee, the device, and the changes to information on the device label.
- (F) The report shall cover each calendar quarter, shall be filed within 30 days of the end of the calendar quarter, and shall clearly state the period covered by the report.
- (G) The report shall clearly identify the specific licensee submitting the report and include the license number of the specific licensee.
- (H) If no transfers have been made to or from a person generally licensed under Subsection R313-21-22(4) during the reporting period, the report shall so state.

- (vii) The person shall report each transfer of devices to a person for use under a general license in the Nuclear Regulatory Commission's, an Agreement State's, or Licensing State's regulations that are equivalent to Subsection R313-21-22(4) and each receipt of devices from general licensees in the Nuclear Regulatory Commission's, Agreement State's, or Licensing State's jurisdiction to the Nuclear Regulatory Commission, or to the responsible Agreement State or Licensing State agency. The report shall be submitted on Form 653, "Transfers of Industrial Devices Report" as prescribed by the Nuclear Regulatory Commission, or in a clear and legible report containing the data required by the form.

- (A) The required information for transfers to general licensee includes:
  - (I) the identity of each general licensee by name and mailing address for the location of use. If there is no mailing address for the location of use, an alternative address for the general licensee shall be submitted along with information on the actual location of use.
  - (II) the name, title, and phone number of the person identified by the general licensee as having knowledge of and authority to take required actions to ensure compliance with the appropriate rules, regulations and requirements;
  - (III) the date of transfer;
  - (IV) the type, model number, and serial number of the device transferred; and
  - (V) the quantity and type of radioactive material contained in the device.
- (B) If one or more intermediate persons will temporarily possess the device at the intended place of use before its possession by the user, the report shall include the information required by Subsection R313-22-75(4)(d)(vii)(A) for both the intended user and each intermediate person, and clearly designate the intermediate person.

(C) For devices received from a general licensee, the report shall include the identity of the general licensee by name and address, the type, model number, and serial number of the device received, the date of receipt, and, in the case of devices not initially transferred by the reporting licensee, the name of the manufacturer or initial transferor.

(D) If the licensee makes changes to a device possessed by a general licensee that would require the label to be changed to update required information, the report shall identify the general licensee, the device, and the changes to information on the device label.

(E) The report shall cover each calendar quarter, shall be filed within 30 days of the end of the calendar quarter, and shall clearly state the period covered by the report.

(F) The report shall clearly identify the specific licensee submitting the report and shall include the license number of the specific licensee.

(G) If no transfers have been made to or from a Nuclear Regulatory Commission licensee, or to or from a particular Agreement State or Licensing State licensee during the reporting period, this information shall be reported to the Nuclear Regulatory Commission or the responsible Agreement State or Licensing State agency upon request of the agency.

(H) The person shall maintain any information concerning transfers and receipts of devices that supports the reports required by Subsection R313-22-75(4)(d)(vii). Records required by Subsection R313-22-75(4)(d)(vii)(H) shall be maintained for a period of three years following the date of the recorded event.

(5) Special requirements for the manufacture, assembly or repair of luminous safety devices for use in aircraft. An application for a specific license to manufacture, assemble or repair luminous safety devices containing tritium or promethium-147 for use in aircraft for distribution to a person generally licensed under Subsection R313-21-22(5) will be approved if:

(a) the applicant satisfies the general requirements of Section R313-22-33; and

(b) the applicant satisfies the requirements of 10 CFR 32.53 through 32.56 (2015) or their equivalent.

(6) Special requirements for license to manufacture or initially transfer calibration sources containing americium-241, plutonium or radium-226 for distribution to a person generally licensed under Subsection R313-21-22(7). An application for a specific license to manufacture calibration and reference sources containing americium-241, plutonium or radium-226 to a person generally licensed under Subsection R313-21-22(7) will be approved if:

(a) the applicant satisfies the general requirements of Section R313-22-33; and

(b) the applicant satisfies the requirements of 10 CFR 32.57 through 32.59, and 10 CFR 70.39 (2015), or their equivalent.

(7) Manufacture and distribution of radioactive material for certain in vitro clinical or laboratory testing under general license. An application for a specific license to manufacture or distribute radioactive material for use under the general license of Subsection R313-21-22(9) will be approved if:

(a) the applicant satisfies the general requirements specified in Section R313-22-33;

(b) the radioactive material is to be prepared for distribution in prepackaged units of:

(i) iodine-125 in units not exceeding 370 kilobecquerel, ten uCi, each;

(ii) iodine-131 in units not exceeding 370 kilobecquerel, ten uCi, each;

(iii) carbon-14 in units not exceeding 370 kilobecquerel, ten uCi, each;

(iv) hydrogen-3 (tritium) in units not exceeding 1.85 megabecquerel, 50 uCi, each;

(v) iron-59 in units not exceeding 740.0 kilobecquerel, 20 uCi, each;

(vi) cobalt-57 in units not exceeding 370 kilobecquerel, ten uCi, each;

(vii) selenium-75 in units not exceeding 370 kilobecquerel, ten uCi, each; or

(viii) mock iodine-125 in units not exceeding 1.85 kilobecquerel, 0.05 uCi, of iodine-129 and 1.85 kilobecquerel, 0.05 uCi, of americium-241 each; and

(c) prepackaged units bear a durable, clearly visible label:

(i) identifying the radioactive contents as to chemical form and radionuclide, and indicating that the amount of radioactivity does not exceed 370 kilobecquerel, ten uCi, of iodine-125, iodine-131, carbon-14, cobalt-57, or selenium-75; 1.85 megabecquerel, 50 uCi, of hydrogen-3 (tritium); 740.0 kilobecquerel, 20 uCi, of iron-59; or Mock Iodine-125 in units not exceeding 1.85 kilobecquerel, 0.05 uCi, of iodine-129 and 1.85 kilobecquerel, 0.05 uCi, of americium-241 each; and

(ii) displaying the radiation caution symbol described in Section R313-15-901 and the words, "CAUTION, RADIOACTIVE MATERIAL", and "Not for Internal or External Use in Humans or Animals";

(d) one of the statements in either Subsection R313-22-75(7)(d)(i) or R313-22-75(7)(d)(ii), as appropriate, or a substantially similar statement that contains the information called for in one of the statements in either Subsection R313-22-75(7)(d)(i) or R313-22-75(7)(d)(ii), appears on a label affixed to each prepackaged unit or appears in a leaflet or brochure that accompanies the package:

(i) "This radioactive material shall be received, acquired, possessed and used only by physicians, veterinarians, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use and transfer are subject to the regulations and a general license of the Nuclear Regulatory Commission or of a state that the Nuclear Regulatory Commission has entered into an agreement for the exercise of regulatory authority.

.....

Name of Manufacturer"; or

(ii) "This radioactive material shall be received, acquired, possessed and used only by physicians, veterinarians, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration

of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use and transfer are subject to the regulations and a general license of a Licensing State.

.....

Name of Manufacturer"; and

(e) the label affixed to the unit, or the leaflet or brochure that accompanies the package, contains adequate information as to the precautions to be observed in handling and storing radioactive material. In the case of the Mock Iodine-125 reference or calibration source, the information accompanying the source shall also contain directions to the licensee regarding the waste disposal requirements set out in Section R313-15-1001.

(8) Licensing the manufacture and distribution of ice detection devices. An application for a specific license to manufacture and distribute ice detection devices to a person generally licensed under Subsection R313-21-22(10) will be approved if:

- (a) the applicant satisfies the general requirements of Section R313-22-33; and
- (b) the criteria of 10 CFR 32.61, 32.62, 2015 ed. are met.

(9) Manufacture, preparation, or transfer for commercial distribution of radioactive drugs containing radioactive material for medical use under Rule R313-32.

(a) An application for a specific license to manufacture and distribute radiopharmaceuticals containing radioactive material for use by a person licensed pursuant to Rule R313-32 will be approved if:

- (i) the applicant satisfies the general requirements specified in Section R313-22-33;
- (ii) the applicant submits evidence that the applicant is at least registered, licensed or operating as one of the entities listed in Subsections R313-22-75(9)(a)(ii)(A) through R313-22-75(9)(a)(ii)(E):

(A) registered with the U.S. Food and Drug Administration (FDA) as the owner or operator of a drug establishment that engages in the manufacture, preparation, propagation, compounding, or processing of a drug under 21 CFR 207.17(a);

(B) registered or licensed with a state agency as a drug manufacturer;

(C) licensed as a pharmacy by a state board of pharmacy;

(D) operating as a nuclear pharmacy within a federal medical institution; or

(E) registered with a state agency as a Positron Emission Tomography (PET) drug production facility;

(iii) the applicant submits information on the radionuclide; the chemical and physical form; the maximum activity per vial, syringe, generator, or other container of the radioactive drug; and the shielding provided by the packaging to show it is appropriate for the safe handling and storage of the radioactive drugs by medical use licensees; and

(iv) the applicant commits to the labeling requirements in either Subsection R313-22-75(9)(a)(iv)(A) or R313-22-75(9)(a)(iv)(B):

(A) A label is affixed to each transport radiation shield, whether it is constructed of lead, glass, plastic, or other material, of a radioactive drug to be transferred for commercial distribution. The label shall include the radiation symbol and the words "CAUTION, RADIOACTIVE MATERIAL" or "DANGER, RADIOACTIVE MATERIAL", the name of the radioactive drug or its abbreviation, and the quantity of radioactivity at a specified date and time. For radioactive drugs with a half life greater than 100 days, the time may be omitted.

(B) A label is affixed to each syringe, vial, or other container used to hold a radioactive drug to be transferred for commercial distribution. The label shall include the radiation symbol and the words "CAUTION, RADIOACTIVE MATERIAL" or "DANGER, RADIOACTIVE MATERIAL" and an identifier that ensures that the syringe, vial, or other container can be correlated with the information on the transport radiation shield label.

(b) A licensee described by Subsections R313-22-75(9)(a)(ii)(C) or R313-22-75(9)(a)(ii)(D):

(i) may have either an authorized nuclear pharmacist, as specified in Subsections R313-22-75(9)(b)(ii) and R313-22-75(9)(b)(iv), or an individual under the supervision of an authorized nuclear pharmacist as specified in Rule R313-32, which incorporates 10 CFR 35.27 by reference prepare radioactive drugs for medical use, as defined in Rule R313-32, which incorporates 10 CFR 35.2 by reference;

(ii) may allow a pharmacist to work as an authorized nuclear pharmacist if:

(A) this individual qualifies as an authorized nuclear pharmacist as defined in Rule R313-32, which incorporates 10 CFR 35.2 by reference;

(B) this individual meets the requirements specified in Rule R313-32, which incorporates 10 CFR 35.55(b) and 10 CFR 35.59 by reference and the licensee has received an approved license amendment identifying this individual as an authorized nuclear pharmacist; or

(C) this individual is designated as an authorized nuclear pharmacist in accordance with Subsection R313-22-75(9)(b)(iv);

(iii) the actions authorized in Subsections R313-22-75(9)(b)(i) and R313-22-75(9)(b)(ii) are permitted in spite of more restrictive language in license conditions;

(iv) may designate a pharmacist, as defined in Rule R313-32, which incorporates 10 CFR 35.2 by reference, as an authorized nuclear pharmacist if:

(A) the individual was a nuclear pharmacist preparing only radioactive drugs containing accelerator produced radioactive material, and

(B) the individual practiced at a pharmacy at a government agency or federally recognized Indian Tribe before November 30, 2007, or at any other pharmacies before August 8, 2009, or an earlier date as noticed by the NRC; and

(v) shall provide to the director:

(A) a copy of each individual's certification by a specialty board whose certification process has been recognized by the Nuclear Regulatory Commission or Agreement State as specified in Rule R313-32, which incorporates 10 CFR 35.55(a) (2021) by reference; or

(B) the Nuclear Regulatory Commission or Agreement State license; or

(C) the permit issued by a licensee or Commission master materials permittee of broad scope or the authorization from a commercial nuclear pharmacy authorized to list its own authorized nuclear pharmacist; or

(D) the permit issued by a U.S. Nuclear Commission master materials licensee; or

(E) documentation that only accelerator produced radioactive materials were used in the practice of nuclear pharmacy at a government agency or federally recognized Indian Tribe before November 30, 2007 or at any other locations of use before August 8, 2009, or an earlier date as noticed by the NRC; and

(F) a copy of the state pharmacy licensure or registration, no later than 30 days after the date that the licensee allows, pursuant to Subsections R313-22-75(9)(b)(ii)(A) and R313-22-75(9)(b)(ii)(C), the individual to work as an authorized nuclear pharmacist.

(c) A licensee shall possess and use instrumentation to measure the radioactivity of radioactive drugs. The licensee shall have procedures for use of the instrumentation. The licensee shall measure, by direct measurement or by combination of measurements and calculations, the amount of radioactivity in dosages of alpha-, beta-, or photon-emitting radioactive drugs before transfer for commercial distribution. In addition, the licensee shall:

(i) perform tests before initial use, periodically, and following repair, on each instrument for accuracy, linearity, and geometry dependence, as appropriate for the use of the instrument, and make adjustments if necessary; and

(ii) check each instrument for constancy and proper operation at the beginning of each day of use.

(d) A licensee shall satisfy the labeling requirements in Subsection R313-22-75(9)(a)(iv).

(e) Nothing in Subsection R313-22-75(9) relieves the licensee from complying with applicable FDA, or federal, and state requirements governing radioactive drugs.

(10) Manufacture and distribution of sources or devices containing radioactive material for medical use. An application for a specific license to manufacture and distribute sources and devices containing radioactive material to a person licensed under Rule R313-32 for use as a calibration, transmission, or reference source or for the uses listed in Rule R313-32, which incorporates 10 CFR 35.400, 10 CFR 35.500, 10 CFR 35.600, and 35.1000 by reference, will be approved if:

(a) the applicant satisfies the general requirements in Section R313-22-33;

(b) the applicant submits sufficient information regarding each type of source or device pertinent to an evaluation of its radiation safety, including:

(i) the radioactive material contained, its chemical and physical form and amount;

(ii) details of design and construction of the source or device; and

(iii) procedures for, and results of, prototype tests to demonstrate that the source or device will maintain its integrity under stresses likely to be encountered in normal use and accidents;

(iv) for devices containing radioactive material, the radiation profile of a prototype device;

(v) details of quality control procedures to assure that production sources and devices meet the standards of the design and prototype tests;

(vi) procedures and standards for calibrating sources and devices;

(vii) legend and methods for labeling sources and devices as to their radioactive content; and

(viii) instructions for handling and storing the source or device from the radiation safety standpoint, these instructions are to be included on a durable label attached to the source or device or attached to a permanent storage container for the source or device. Instructions that are too lengthy for a label may be summarized on the label and printed in detail on a brochure that is referenced on the label;

(c) the label affixed to the source or device, or to the permanent storage container for the source or device, contains information on the radionuclide, quantity and date of assay, and a statement that the source or device is licensed by the director for distribution to a person licensed pursuant to Rule R313-32, which incorporates 10 CFR 35.18, 10 CFR 35.400, 10 CFR 35.500, and 10 CFR 35.600 by reference, or under equivalent regulations of the Nuclear Regulatory Commission, an Agreement State or a Licensing State. Labeling for sources that do not require long term storage may be on a leaflet or brochure that accompanies the source;

(d) the source or device has been registered in the Sealed Source and Device Registry.

(e) In the event the applicant desires that the source or device be required to be tested for leakage of radioactive material at intervals longer than six months, the applicant shall include in the application sufficient information to demonstrate that a longer interval is justified by performance characteristics of the source or device or similar sources or devices and by design features that have a significant bearing on the probability or consequences of leakage of radioactive material from the source.

(f) In determining the acceptable interval for test of leakage of radioactive material, the director shall consider information that includes:

(i) primary containment or source capsule,

(ii) protection of primary containment,

(iii) method of sealing containment,

(iv) containment construction materials,

(v) form of contained radioactive material,

- (vi) maximum temperature withstood during prototype tests,
- (vii) maximum pressure withstood during prototype tests,
- (viii) maximum quantity of contained radioactive material,
- (ix) radiotoxicity of contained radioactive material, and
- (x) operating experience with identical sources or devices or similarly designed and constructed sources or devices.

(11) Requirements for license to manufacture and distribute industrial products containing depleted uranium for mass-volume applications.

- (a) An application for a specific license to manufacture industrial products and devices containing depleted uranium for use pursuant to Subsection R313-21-21(7) or equivalent regulations of the Nuclear Regulatory Commission or an Agreement State will be approved if:
  - (i) the applicant satisfies the general requirements specified in Section R313-22-33;
  - (ii) the applicant submits sufficient information relating to the design, manufacture, prototype testing, quality control procedures, labeling or marking, proposed uses and potential hazards of the industrial product or device to provide reasonable assurance that possession, use or transfer of the depleted uranium in the product or device is not likely to cause an individual to receive a radiation dose in excess of ten percent of the annual limits specified in Subsection R313-15-201(1); and
  - (iii) the applicant submits sufficient information regarding the industrial product or device and the presence of depleted uranium for a mass-volume application in the product or device to provide reasonable assurance that unique benefits will accrue to the public because of the usefulness of the product or device.
- (b) In the case of an industrial product or device whose unique benefits are questionable, the director will approve an application for a specific license under Subsection R313-22-75(11) only if the product or device is found to combine a high degree of utility and low probability of uncontrolled disposal and dispersal of significant quantities of depleted uranium into the environment.
- (c) The director may deny an application for a specific license under Subsection R313-22-75(11) if the end use of the industrial product or device cannot be reasonably foreseen.
- (d) A person licensed pursuant to Subsection R313-22-75(11)(a) shall:
  - (i) maintain the level of quality control required by the license in the manufacture of the industrial product or device, and in the installation of the depleted uranium into the product or device;
  - (ii) label or mark each unit to:
    - (A) identify the manufacturer of the product or device and the number of the license where the product or device was manufactured, the fact that the product or device contains depleted uranium, and the quantity of depleted uranium in each product or device; and
    - (B) state that the receipt, possession, use and transfer of the product or device are subject to a general license or the equivalent and the regulations of the Nuclear Regulatory Commission or an Agreement State;
  - (iii) assure that the uranium before being installed in each product or device has been impressed with the legend "Depleted Uranium" clearly legible through a plating or other covering;
  - (iv) furnish to each person to whom depleted uranium in a product or device is transferred for use pursuant to the general license contained in Subsection R313-21-21(5) or its equivalent:
    - (A) a copy of the general license contained in Subsection R313-21-21(7) and a copy of form DWMRC-12; or
    - (B) a copy of the general license contained in the Nuclear Regulatory Commission's or Agreement State's regulation equivalent to Subsection R313-21-21(7) and a copy of the Nuclear Regulatory Commission's or Agreement State's certificate, or alternatively, furnish a copy of the general license contained in Subsection R313-21-21(7) and a copy of form DWMRC-12 with a note explaining that use of the product or device is regulated by the Nuclear Regulatory Commission or an Agreement State under requirements substantially equivalent to those in Subsection R313-21-21(7);
  - (v) report to the director each transfer of industrial products or devices to a person for use under the general license in Subsection R313-21-21(7). The report shall identify each general licensee by name and address, an individual by name or position who may constitute a point of contact between the director and the general licensee, the type and model number of device transferred, and the quantity of depleted uranium contained in the product or device. The report shall be submitted within thirty days after the end of the calendar quarter when the product or device is transferred to the generally licensed person. If no transfers have been made to a person generally licensed under Subsection R313-21-21(7) during the reporting period, the report shall so state;
  - (vi) provide certain other reports as follows:
    - (A) report to the Nuclear Regulatory Commission each transfer of industrial products or devices to a person for use under the Nuclear Regulatory Commission general license in 10 CFR 40.25 (2010);
    - (B) report to the responsible state agency each transfer of devices manufactured and distributed pursuant to Subsection R313-22-75(11) for use under a general license in that state's regulations equivalent to Subsection R313-21-21(7),
    - (C) reports shall identify each general licensee by name and address, an individual by name or position who may constitute a point of contact between the agency and the general licensee, the type and model number of the device transferred, and the quantity of depleted uranium contained in the product or device. The report shall be submitted within thirty days after the end of each calendar quarter when a product or device is transferred to the generally licensed person;
    - (D) if no transfers have been made to Nuclear Regulatory Commission licensees during the reporting period, this information shall be reported to the Nuclear Regulatory Commission, and

(E) if no transfers have been made to general licensees within a particular Agreement State during the reporting period, this information shall be reported to the responsible Agreement State agency upon the request of that agency; and

(vii) records shall be kept showing the name, address and point of contact for each general licensee to whom the person transfers depleted uranium in industrial products or devices for use pursuant to the general license provided in Subsection R313-21-21(7) or equivalent regulations of the Nuclear Regulatory Commission or an Agreement State. The records shall be maintained for a period of two years and shall show the date of each transfer, the quantity of depleted uranium in the product or device transferred, and compliance with the report requirements of Subsection R313-22-75(11).

**KEY: specific licenses, decommissioning, broad scope, radioactive materials**

**Date of Last Change: February 1, 2024**

**Notice of Continuation: April 8, 2021**

**Authorizing, and Implemented or Interpreted Law: 19-3-104; 19-6-104**

**R313. Environmental Quality, Waste Management and Radiation Control, Radiation.**

**R313-32. Medical Use of Radioactive Material.**

**R313-32-2. Clarifications or Exceptions.**

For [the purposes of ]Rule R313-32, 10 CFR 35.2 through 35.7; 35.10(d) through 35.10(f); 35.11(a) through 35.11(b); 35.12; and 35.13(b) through 35.3204 (2022[4]) are incorporated by reference with the following clarifications or exceptions:

- (1) The exclusion of the following:
  - (a) [H]in 10 CFR 35.2, exclude definitions for "Address of Use," "Agreement State," "Area of Use," "Dentist," "Pharmacist," "Physician," "Podiatrist," and "Sealed Source";
  - (b) [H]in 10 CFR 35.19, exclude "or the common defense and security";
  - (c) [H]in 10 CFR 35.3067, exclude ", with a copy to the Director, Office of Nuclear Material Safety and Safeguards"; and
- (d) [H]in 10 CFR 35.3045(d), 10 CFR 3047(d), 10 CFR 35.3067, and 10 CFR 35.3204(b), exclude "By an appropriate method listed in Sec. 30.6(a) of this chapter".
- (2) The substitution of the following date references:
  - (a) "May 13, 2005" for "October 24, 2002"; and
  - (b) "December 31, 2019" for "January 14, 2019".
- (3) The substitution of the following rule references:
  - (a) "Rules R313-32 and R313-15" for reference to "this part and 10 CFR Part 20" in 10 CFR 35.61(a);
  - (b) "Rule R313-15" for reference to "Part 20 of this chapter" in 10 CFR 35.70(a) and 10 CFR 35.80(a)(4);
  - (c) "Rules R313-19 and R313-22" for reference to "Part 30 of this chapter" in 10 CFR 35.18(a)(4);
  - (d) "Rules R313-19 and R313-22 or equivalent Nuclear Regulatory Commission or Agreement State requirements" for reference to "10 CFR Part 30 or the equivalent requirements of an Agreement State" in 10 CFR 35.49(c);
  - (e) "10 CFR Part 30" for reference to "Part 30 of this chapter" as found in 10 CFR 35.65(a)(4);
  - (f) "Rules R313-15, R313-19, and R313-22" for reference to "parts 20 and 30 of this chapter" as found in 10 CFR 35.63(e)(1);
  - (g) "Section R313-12-110" for reference to "Sec. 30.6 of this chapter" as found in 10 CFR 35.14(c);
  - (h) "Section R313-15-101" for reference to "Sec. 20.1101 of this chapter" as found in 10 CFR 35.24(a);
  - (i) "Subsection R313-15-301(1)(a)" for reference to "Sec. 20.1301(a)(1) of this chapter" as found in 10 CFR 35.310(a)(2)(i) and 10 CFR 35.410(a)(4)(i);
  - (j) "Subsection R313-15-301(1)(c)" for reference to "Sec. 20.1301(c) of this chapter" as found in 10 CFR 35.310(a)(2)(ii) and 10 CFR 35.410(a)(4)(ii);
  - (k) "Section R313-15-501" for reference to "Sec. 20.1501 of this chapter" as found in 10 CFR 35.652(a);
  - (l) "Section R313-18-12" for reference to "Sec. 19.12 of this chapter" as found in 10 CFR 35.27(a)(1), 10 CFR 35.27(b)(1), 10 CFR 35.310, and 10 CFR 35.410;
  - (m) "Rules R313-19, R313-22 and Subsection R313-22-75(10) or equivalent U.S. Nuclear Regulatory Commission or Agreement State requirements" for reference to "10 CFR Part 30 and Sec. 32.74 of this chapter or equivalent requirements of an Agreement State" as found in 10 CFR 35.49(a);
  - (n) "Subsection R313-22-75(10) or equivalent Nuclear Regulatory Commission or Agreement State requirements" for references to "Sec. 32.74 of this chapter or equivalent Agreement State regulations" found in 10 CFR 35.65(a)(1) and 10 CFR 35.65(a)(2);
  - (o) "Rule R313-70" for reference to "Part 170 of this chapter";
  - (p) "Subsection R313-19-34(2)" for reference to "Sec. 30.34(b) of this chapter" as found in 10 CFR 35.14(b)(4);
  - (q) "Section R313-22-50" for reference to "Part 33 of this chapter" in 10 CFR 35.15;
  - (r) "Subsection R313-22-50(2)" for reference to "Sec. 33.13 of this chapter" in 10 CFR 35.12(e);
  - (s) "Subsection R313-22-75(9)(b)(iv)" for reference to "Sec. 32.72(b)(4)" in 10 CFR 35.2 for the definition of Authorized Nuclear Pharmacist;
  - (t) "Subsection R313-22-75(9) or equivalent Nuclear Regulatory Commission or Agreement State requirements" for reference to "Sec. 32.72 of this chapter or equivalent Agreement State requirements" as found in 10 CFR 35.63(b)(2)(i), 10 CFR 35.63(c)(3)(i), 10 CFR 35.100(a)(1), 10 CFR 35.200(a)(1), and 10 CFR 35.300(a)(1); and
  - (u) "Subsection R313-22-32(9) or equivalent Nuclear Regulatory Commission or Agreement State requirements" for reference to "Sec. 30.32(j) of this chapter or equivalent Agreement State requirements" as found in 10 CFR 35.63(b)(2)(iii), 10 CFR 35.63(c)(3)(ii), 10 CFR 35.100(a)(2), 10 CFR 35.200(a)(2), or 10 CFR 35.300(a)(2).
- (4) The substitution of the following terms:
  - (a) "radioactive material" for reference to "byproduct material";
  - (b) "a director, a Nuclear Regulatory Commission, or Agreement State" for reference to "an NRC or Agreement State" in 10 CFR 35.63(b)(2)(ii), 10 CFR 35.100(c), 10 CFR 35.200(c), or 10 CFR 35.300(c);
  - (c) "director is (801) 536-0200 or after hours, (801) 536-4123" for "NRC Operations Center is (301) 816-5100" as found in the footnote included for 10 CFR 35.3045(c);
  - (d) "Form DWMRC-01, 'Application for Radioactive Material License'" for reference to "NRC Form 313, 'Application for Material License'" as found in 10 CFR 35.12(b)(1), 10 CFR 35.12(c)(1)(i) and 10 CFR 35.18(a)(1);
  - (e) "Form DWMRC-01" for reference to "NRC Form 313" as found in 10 CFR 35.12(c)(1)(ii);

(f) "medical use license issued by the director" for reference to "NRC medical use license" in 10 CFR 35.6(c);

(g) "director, the U.S. Nuclear Regulatory Commission, or an Agreement State" for reference to "Commission or Agreement State" in 10 CFR 35.2 for the definitions of Authorized Medical Physicist (2)(i), Authorized Nuclear Pharmacist (2)(iii) and Radiation Safety Officer (2)(i), in 10 CFR 35.57(b)(1), [f]first instance[], 10 CFR 35.57(b)(2), [f]first instance[], 10 CFR 35.433(a)(2)(i); or for references to "Commission or an Agreement State" in 10 CFR 35.2 for the definitions of Associate Radiation Safety Officer (2)(i) and Ophthalmic Physicist (2)(i), 10 CFR 35.11(a), in 10 CFR 35.50(a), 10 CFR 35.50(a)(2)(ii)(A), 10 CFR 35.50(c)(1), 10 CFR 35.51(a), 10 CFR 35.51(a)(2)(i), 10 CFR 35.55(a), 10 CFR 35.190(a), 10 CFR 35.290(a), 10 CFR 35.390(a), 10 CFR 35.392(a), 10 CFR 35.394(a), 10 CFR 35.396(a)(3), 10 CFR 35.433(a)(2)(i), 10 CFR 35.490(a), 10 CFR 35.590(a), 10 CFR 35.605(a), 110 CFR 35.605(b), 10 CFR 35.605(c), 10 CFR 35.655(b) and 10 CFR 35.690(a);

(h) "director, a U.S. Nuclear Regulatory Commission, or an Agreement State" for references to "Commission or Agreement State" in 10 CFR 35.2 for the definitions of Authorized Medical Physicist (2)(iii), Authorized Nuclear Pharmacist (2)(i), Authorized User (2)(i), Authorized User (2)(iii) and Ophthalmic Physicist (2)(ii), in 10 CFR 13(b)(4)(ii), 10 CFR 35.14(a)(2), [f]second instance[], 10 CFR 35.57(a)(1), [f]second instance[], 10 CFR 35.57(b)(1), [f]second instance[], 10 CFR 35.57(b)(2), [f]second instance[]; or for references to "Commission or an Agreement State" in 10 CFR 35.50(c)(2), [f]second instance[];

(i) "license issued by the director, the Nuclear Regulatory Commission, or the Agreement State" for reference to "Commission or Agreement State license" in 10 CFR 35.14(a)(2), [f]first instance[];

(j) "director" for reference to "NRC Operations Center" in 10 CFR 35.3045(c), 10 CFR 35.3047(c), and 10 CFR 35.3204(a);

(k) "license issued by the director, the Nuclear Regulatory Commission or an Agreement State" for reference to "Commission or Agreement State license" in 10 CFR 35.13(b)(4)(i), 10 CFR 35.14(a)(2), [f]first instance[], 10 CFR 35.50(b)(1)(ii) or for reference to "Commission or an Agreement State license" in 10 CFR 35.50(b)(1)(ii), 10 CFR 35.50(c)(2), and 10 CFR 35.57(a)(2);

(l) "director at the address specified in Section R313-12-110" for reference to "appropriate NRC Regional Office listed in Sec. 30.6 of this chapter" in 10 CFR 35.3045(d), 10 CFR 35.3047(d), 10 CFR 35.3067, and 10 CFR 35.3204(b);

(m) "board" for reference to "Commission" in 10 CFR 35.18(a)(3), [f]second instance[], and 10 CFR 35.19;

(n) "director" for reference to "Commission" in 10 CFR 35.12(d)(4), 10 CFR 35.14(a), 10 CFR 35.14(b), 10 CFR 35.18(a), 10 CFR 35.18(a)(3), [f]first instance[], 10 CFR 35.18(b), 10 CFR 35.24(a)(1), 10 CFR 35.24(c), 10 CFR 35.26(a), and 10 CFR 35.1000(b);

(o) "director" for reference to "NRC" in 10 CFR 35.3045(g)(1), 10 CFR 35.3047(f)(1), and 10 CFR 35.3204(a), [f]second instance[];

(p) "Nuclear Regulatory Commission" for reference to "Commission" in 10 CFR 35.67(b)(2);

(q) "the director" for reference to "NRC" in 10 CFR 35.13(b)(4)(i);

(r) "licenses issued by the director" for reference to "NRC licenses" in 10 CFR 35.57(c);

(s) "director, the Nuclear Regulatory Commission, or an Agreement State" for reference to "NRC" in 10 CFR 35.13(b)(5), 10 CFR 35.14(a)(2), 10 CFR 35.57(b)(3), and 10 CFR 35.57(a)(4); and

(t) "(c)" for reference to "(b)" in 10 CFR 35.92.

(5) The addition of the following to 10 CFR 35.92:

(a) Reserved.

(b) The director may approve a radioactive material with a physical half-life of greater than 120 days but less than 175 days for decay-in-storage before disposal without regard to its radioactivity on a case by case basis if the licensee:

([+]i) requests an amendment to the licensee's radioactive materials license for the approval;

([+]ii) can demonstrate that the radioactive waste will be safely stored, and accounted for during the decay-in-storage period and that the additional radioactive waste will not exceed the licensee's radioactive waste storage capacity; and

([+]iii) commits to monitor the waste before disposal as stated in [paragraphs] 10 CFR 35.92(a)(1) and 10 CFR 35.92(a)(2) [ef this seetion] before the waste is disposed.["-"]

**KEY: radioactive materials, radiopharmaceutical, brachytherapy, nuclear medicine**

**Date of Last Change: February 1, 2024**

**Notice of Continuation: April 8, 2021**

**Authorizing, and Implemented or Interpreted Law: 19-3-104; 19-6-107**

**R313. Environmental Quality, Waste Management and Radiation Control, Radiation.**

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

**R313-37-3. Clarifications or Exceptions.**

For [purposes of] Rule 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 (2021[9]), 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".

(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) "[D]director" for references to:

(i) "appropriate NRC regional office listed in Section 30.6(b)(2) of this Chapter" 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), [f]second instance of NRC[9], and (c), 37.77, and 37.77(a)(1), [f]first instance[9], and (3), and 37.81(g);

(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 specified in section 30.6 of this chapter" in 10 CFR 37.41(a)(3); and

(ix) "Director, Office of Nuclear Material Safety and Safeguards in 10 CFR 37.23(b)(2)"[9];

(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) "Subsection R313-19-41(4)" for reference to "section 30.41(d) of this chapter." In 10 CFR 37.71;

(b) "Section R313-19-100, [f]incorporating 10 CFR 71.97 by reference[9]," for reference to "section 71.97 of this chapter" in 10 CFR 37.73(b);

(c) "Section R313-19-100, [f]incorporating 10 CFR 71.97(b) by reference[9]," 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 materials, security, fingerprinting, transportation**

**Date of Last Change: January 15, 2021**

**Notice of Continuation: October 19, 2021**

**Authorizing, and Implemented or Interpreted Law: 19-3-103; 19-3-104**

**WASTE MANAGEMENT AND RADIATION CONTROL BOARD**  
**Executive Summary**  
**Final Adoption of Proposed Rule Changes**  
**UAC R313-28**  
**June 13, 2024**

<b>What is the issue before the Board?</b>	Approval from the Board to proceed with final adoption of proposed changes to Utah Admin. Code (UAC) R313-28-20 of the radiation control rules to add the definition of “Healing Arts”.
<b>What is the historical background or context for this issue?</b>	<p>At the Board meeting on April 11, 2024, the Board approved the proposed changes to UAC R313-28-20 to be filed with the Office of Administrative Rules for publication in the Utah State Bulletin. The proposed changes were published in the May 1, 2024, issue of the Utah State Bulletin.</p> <p>Selected pages from the May 1, 2024, Utah State Bulletin showing the publication of the proposed changes follow this Executive Summary.</p> <p>The public comment period for this rulemaking ended on May 31, 2024. No comments were received.</p>
<b>What is the governing statutory or regulatory citation?</b>	<p>The Board is authorized under Subsections 19-3-103.1 and 19-3-104 to make rules to meet the requirements of federal law relating to radiation control to ensure the radiation control program is qualified to maintain primacy from the federal government and that are necessary to implement the provisions of the Radiation Control Act.</p> <p>The rule changes also meet existing DEQ and state rulemaking procedures.</p>
<b>Is Board action required?</b>	Yes. Board approval for final adoption of rule changes is necessary.
<b>What is the Division Director’s recommendation?</b>	The Director recommends the Board approve final adoption of the proposed changes to UAC R313-28-20 as published in the May 1, 2024, Utah State Bulletin and set an effective date of June 17, 2024.
<b>Where can more information be obtained?</b>	Please contact Tom Ball by email at <a href="mailto:tball@utah.gov">tball@utah.gov</a> or by phone at 385-454-5574.

# UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT  
Filed April 02, 2024, 12:00 a.m. through April 15, 2024, 11:59 p.m.

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Nancy L. Lancaster, Managing Editor

The *Utah State Bulletin (Bulletin)* is an official noticing publication of the executive branch of Utah state government. The Office of Administrative Rules, part of the Department of Government Operations, produces the *Bulletin* under authority of Section 63G-3-402.

The Portable Document Format (PDF) version of the *Bulletin* is the official version. The PDF version of this issue is available at <https://rules.utah.gov/>. Any discrepancy between the PDF version and other versions will be resolved in favor of the PDF version.

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The information in this *Bulletin* is summarized in the *Utah State Digest (Digest)* of the same volume and issue number. The *Digest* is available by e-mail subscription or online. Visit <https://rules.utah.gov/> for additional information.

Office of Administrative Rules, Salt Lake City 84114

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## Utah state bulletin.

Semimonthly.

1. Delegated legislation--Utah--Periodicals. 2. Administrative procedure--Utah--Periodicals.
- I. Utah. Office of Administrative Rules.

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- (i) a public school student who graduates on or after January 1, 2016; or
- (ii) a student enrolled in an adult education program who receives an adult education secondary diploma on or after January 1, 2016.
- (b) "Basic civics test" means the same as that term is defined in Subsection 53E-4-205(1)(b).
- (2) Except as provided in Subsection (3), an LEA shall:
  - (a) administer a basic civics test in accordance with the requirements of Section 53E-4-205; and
  - (b) require a student to pass the basic civics test as a condition of receiving:
    - (i) a high school diploma; or
    - (ii) an adult education secondary diploma.
- (3) An LEA may require a student to pass an alternate assessment if:
  - (a)(i) the student has a disability; and
  - (ii) the alternate assessment is consistent with the student's IEP; or
  - (b) the student is within six months of intended graduation.
- (4) Except as provided in Subsection (5), the alternate assessment shall be given:
  - (a) in the same manner as an exam given to an unnaturalized citizen; and
  - (b) in accordance with 8 C.F.R. Sec. 312.2.
- (5) An LEA may modify the manner of the administration of an alternate assessment for a student with a disability in accordance with the student's IEP.
- (6) If a student passes a basic civics test or an alternate assessment described in this section, an LEA shall report to the Superintendent that the student passed the basic civics test or alternate assessment.
- (7) If a student who passes a basic civics test or an alternate assessment transfers to another LEA, the LEA may not require the student to re-take the basic civics test or alternate assessment.

#### **R277-700-9. College and Career Readiness Mathematics Competency.**

- (1) For purposes of this section, "senior student with a special circumstance" means a student who:
  - (a) is pursuing a college degree after graduation; and
  - (b) has not met one of criteria described in Subsection (2)(a) before the beginning of the student's senior year of high school.
- (2) Except as provided in Subsection (4), in addition to the graduation requirements described in Section R277-700-6, beginning with the 2016-17 school year, a student pursuing a college degree after graduation shall:
  - (a) receive one of the following:
    - (i) a score of 3 or higher on an Advanced Placement (AP) calculus AB or BC exam;
    - (ii) a score of 3 or higher on an Advanced Placement (AP) statistics exam;
    - (iii) a score of 5 or higher on an International Baccalaureate (IB) higher level math exam;
    - (iv) a score of 50 or higher on a College Level Exam Program (CLEP) pre-calculus or calculus exam;
    - (v) a score of 26 or higher on the mathematics portion of the American College Test (ACT) exam;
    - (vi) a score of 640 or higher on the mathematics portion of the Scholastic Aptitude Test (SAT) exam; or

(vii) a "C" grade in a concurrent enrollment mathematics course that satisfies a state system of higher education quantitative literacy requirement; or

(b) if the student is a senior student with a special circumstance, take a full year mathematics course during the student's senior year of high school.

(3) Except as provided in Subsection (4), in addition to the graduation requirements described in Section R277-700-6, beginning with the 2016-17 school year, a non-college and degree-seeking student shall complete appropriate math competencies for the student's career goals as described in the student's Plan for College and Career Readiness.

(4) An LEA may modify a student's college or career readiness mathematics competency requirement under this section if:

(a) the student has a disability; and

(b) the modification to the student's college or career readiness mathematics competency requirement is made through the student's IEP.

(5)(a) An LEA shall report annually to the LEA's board the number of students within the LEA who:

(i) meet the criteria described in Subsection (2)(a);

(ii) take a full year of mathematics as described in Subsection (2)(b);

(iii) meet appropriate math competencies as established in the students' career goals as described in Subsection (3); and

(iv) meet the college or career readiness mathematics competency requirement established in the students' IEP as described in Subsection (4).

(b) An LEA shall provide the information described in Subsection (5)(a) to the Superintendent by October 1 of each year.

**KEY: graduation requirements, standards**

**Date of Last Change: [January 10,] 2024**

**Notice of Continuation: June 4, 2021**

**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-501(1)(b); 53E-4-202; 53E-3-401(4)**

#### **NOTICE OF PROPOSED RULE**

**TYPE OF FILING:** Amendment

<b>Rule or Section Number:</b>	<b>R313-28-20</b>	<b>Filing ID:</b>
		<b>56419</b>

#### **Agency Information**

<b>1. Department:</b>	Environmental Quality
<b>Agency:</b>	Waste Management and Radiation Control, Radiation
<b>Room number:</b>	2nd Floor
<b>Building:</b>	MASOB
<b>Street address:</b>	195 N 1950 W
<b>City, state and zip:</b>	Salt Lake City, UT 84116
<b>Mailing address:</b>	PO Box 144880
<b>City, state and zip:</b>	Salt Lake City, UT 84114-4880

<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Tom Ball	385-454-5574	tball@utah.gov

**Please address questions regarding information on this notice to the persons listed above.**

#### General Information

##### 2. Rule or section catchline:

R313-28-20. Definitions

##### 3. Purpose of the new rule or reason for the change:

During recent discussions with an x-ray registrant, it was suggested that a definition of the term "Healing Arts" was needed in the x-ray rules to assist the regulated community in understanding what is covered under the rules for use of x-rays in the healing arts.

##### 4. Summary of the new rule or change:

This amendment adds a definition of the term "Healing Arts" to the definitions contained in Section R313-28-20.

#### Fiscal Information

##### 5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

###### A) State budget:

There is no anticipated cost or savings to the state budget, as this rule amendment adds a definition to this rule to clarify a term and does not add, remove, or change any requirements found in this rule. The amendment will have no impact on how the Division of Waste Management and Radiation Control, Radiation functions.

###### B) Local governments:

This rule amendment is not expected to have a fiscal impact on local governments because it only clarifies pre-existing requirements for entities regulated by this rule and does not add, remove, or change any requirements.

###### C) Small businesses ("small business" means a business employing 1-49 persons):

This rule amendment is not expected to have a fiscal impact on small businesses because it only clarifies pre-existing requirements for entities regulated by this rule and does not add, remove, or change any requirements.

###### D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

This rule amendment is not expected to have a fiscal impact on non-small businesses because it only clarifies pre-existing requirements for entities regulated by this rule and does not add, remove, or change any requirements.

**E) Persons other than small businesses, non-small businesses, state, or local government entities** ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

This rule amendment is not expected to have a fiscal impact on persons other than small businesses, non-small businesses, state or local governments because it only clarifies pre-existing requirements for entities regulated by this rule and does not add, remove, or change any requirements.

**F) Compliance costs for affected persons** (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs for affected persons with this rule amendment. The amendment clarifies pre-existing requirements for entities regulated by this rule and does not add, remove, or change any requirements.

**G) Regulatory Impact Summary Table** (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

#### Regulatory Impact Table

Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>Net Benefits</b>	\$0	\$0
<b>H) Department head comments on fiscal impact and approval of regulatory impact analysis:</b>		
The Executive Director of the Department of Environmental Quality, Kimberly Shelley, has reviewed and approved this regulatory impact analysis.		

#### Citation Information

**6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

Section 19-3-104 | Section 19-6-107

#### Public Notice Information

**8. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted** 05/31/2024  
until:

**9. This rule change MAY** 06/17/2024  
become effective on:

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

#### Agency Authorization Information

<b>Agency head or designee and title:</b>	Douglas J. Hansen, Director	<b>Date:</b>	04/11/2024
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#### R313. Environmental Quality, Waste Management and Radiation Control, Radiation.

##### R313-28. Use of X-Rays in the Healing Arts.

###### R313-28-20. Definitions.

As used in Rule R313-28, the following definitions apply:

"Accessible surface" means the external surface of the enclosure or housing provided by the manufacturer.

"Actual focal spot" refer to "Focal spot."

"Aluminum equivalent" means the thickness of aluminum, type 1100 alloy, affording the same attenuation, under specified conditions, as the material in question. The nominal chemical composition of type 1100 aluminum alloy is 99.00% ~~percent~~ minimum aluminum, 0.12% ~~percent~~ copper.

"Assembler" means individuals engaged in the business of assembling, replacing, or installing one or more components into an x-ray system or subsystem. The term includes the owner of an x-ray system or ~~his or her~~ an employee or agent if they assemble components into an x-ray system that is subsequently used to provide professional or commercial services.

"Attenuation block" means a block or stack, having appropriate dimensions 20 cm by 20 cm by 3.8 cm, of type 1100 aluminum alloy or other materials having equivalent attenuation.

"Automatic EXPOSURE control" means a device ~~which~~ that automatically controls one or more technique factors ~~in~~ order to obtain ~~to get~~, at a preselected location, a required quantity of radiation. Phototimer and ion chamber devices are included in this category.

"Barrier" refer to "Protective barrier".

"Beam axis" means a line from the source through the centers of the x-ray fields.

"Beam-limiting device" means a device ~~which~~ that provides a means to restrict the dimensions of the x-ray field.

"Certified components" means components of x-ray systems ~~which~~ that are subject to regulations promulgated under Public Law 90-602, the Radiation Control for Health and Safety Act of 1968.

"Certified system" means an x-ray system ~~which~~ that has one or more certified components.

"Changeable filters" means filters designed to be removed by the operator.

"Coefficient of variation (C)" means the ratio of the standard deviation to the mean value of a population of observations.

"Computed tomography" means the production of a tomogram by the acquisition and computer processing of x-ray transmission data.

"Control panel" means that part of the x-ray control ~~upon~~ ~~which are mounted~~ where the switches, knobs, push buttons, and other hardware necessary for setting the technique factors ~~are mounted~~.

"Cooling curve" means the graphical relationship between heat units stored and cooling time.

"CT" means computed tomography.

"CT gantry" means the tube housing assemblies, beam-limiting devices, detectors, and the supporting structures and frames ~~which~~ that house these components.

"Dead-man switch" means a switch so constructed that a circuit closing contact can be maintained only by continuous pressure on the switch by the operator.

"Diagnostic source assembly" means the tube housing assembly with a beam-limiting device attached.

"Diagnostic x-ray system" means an x-ray system designed for irradiation of part of the human body for ~~the purpose of~~ recording or visualization for diagnostic purposes.

"Entrance EXPOSURE rate" means the EXPOSURE free in air per unit time at the point where the useful beam enters the patient.

"Equipment" refer to "X-ray equipment".

"Field emission equipment" means equipment ~~which~~ that uses an x-ray tube ~~in which~~ where electron emission from the cathode is due solely to the action of an electric field.

"Filter" means material placed in the useful beam to absorb preferentially selected radiations.

"Fluoroscopic imaging assembly" means a subsystem ~~in~~ ~~which~~ where x-ray photons produce a fluoroscopic image. It includes equipment housing, electrical interlocks, the primary protective barrier, and structural material providing linkage between the image receptor and the diagnostic source assembly.

"Focal spot" means the area on the anode of the x-ray tube bombarded by the electrons accelerated from the cathode and ~~from~~ ~~which~~ where the useful beam originates. Also referred to as "Actual focal spot."

"Gonad shield" means a protective barrier for the testes or ovaries.

"Half-value layer or HVL" means the thickness of specified material [which]that attenuates the beam of radiation to an extent that the EXPOSURE rate is reduced to one-half of its original value. In this definition, the contribution of scatter radiation, other than scatter radiation that [which]might be present initially in the beam concerned, is [deemed]considered to be excluded.

"Healing arts" means any system, treatment, operation, diagnosis, prescription, or practice for ascertaining cure, relief, palliation, adjustment, or correction of any health indications, human disease, ailment, deformity, injury, or unhealthy or abnormal physical or mental condition.

"Healing arts screening" means the use of x-ray equipment to examine individuals who are asymptomatic for the disease [for which]that is the reason the screening is being performed and the use of x-rays are not specifically and individually ordered by a licensed practitioner of the healing arts legally authorized to order x-ray tests for the [purpose of] diagnosis.

"Heat unit" means a unit of energy equal to the product of the peak kilovoltage, milliamperes, and seconds[‡] for example, kVp times mA times seconds.

"HVL" refers to "half[-]value layer."

"Image intensifier" means a device installed in its housing [which]that instantaneously converts an x-ray pattern into a light image of higher energy density.

"Image receptor" means a device, for example, a fluorescent screen radiographic film, solid state detector, or gaseous detector, [which]that transforms incident x-ray photons to produce a visible image or stores the information in a form [which]that can be made into a visible image. [In those cases where]When means are provided to preselect a portion of the image receptor, the term "image receptor" shall mean the preselected portion of the device.

"Irradiation" means the exposure of matter to ionizing radiation.

"Kilovolts peak" refer to "Peak tube potential".

"kV" means kilovolts.

"kVp" refer to "Peak tube potential."

"Lead equivalent" means the thickness of lead affording the same attenuation, under specified conditions, as the material in question.

"Leakage radiation" means radiation emanating from the diagnostic source assembly except for:

(a) the useful beam[‡]; and

(b) radiation produced when the exposure switch or timer is not activated.

"Leakage technique factors" means the technique factors associated with the diagnostic source assembly [which]that are used in measuring leakage radiation. They are defined as follows:

(a) For diagnostic source assemblies intended for capacitor energy storage equipment, the maximum-rated peak tube potential and the maximum-rated number of exposures in an hour for operation at the maximum-rated peak tube potential with the quantity of charge per exposure being ten millicoulombs, ten milliampere seconds, or the minimum obtainable from the unit, whichever is larger.

(b) For diagnostic source assemblies intended for field emission equipment rated for pulsed operation, the maximum-rated peak tube potential and the maximum-rated number of x-ray pulses in an hour for operation at the maximum-rated peak tube potential.

(c) For other diagnostic source assemblies, the maximum-rated peak tube potential and the maximum-rated continuous tube current for the maximum-rated peak tube potential.

"Light field" means that area of the intersection of the light beam from the beam-limiting device and one of the set of planes parallel to and including the plane of the image receptor, whose perimeter is the locus of points [at which]where the illumination is one-fourth of the maximum in the intersection.

"mA" means tube current in milliamperes.

"mAs" means milliampere second or the product of the tube current in milliamperes and the time of exposure in seconds.

"Mammography imaging medical physicist" means an individual who conducts mammography surveys of mammography facilities.

"Mammography survey" means an evaluation of x-ray imaging equipment and oversight of a mammography facility's quality control program.

"Mobile x-ray equipment" [refer to "X-ray equipment"]means x-ray equipment mounted on a permanent base with wheels or casters for moving while completely assembled.

"Multiple scan average dose" means the average dose at the center of a series of scans, specified at the center of the axis of rotation of a CT x-ray system.

"New installation" means change, modification or relocation of new or existing shielding or equipment.

"Operator of diagnostic x-ray equipment" means either[‡]

- (a) [T]the individual responsible for insuring that the appropriate technique factors are set on the x-ray equipment[‡] or
- (b) [T]the individual who makes the radiation exposure.

"Patient" means an individual subjected to healing arts examination, diagnosis, or treatment.

"PBL" refer to "Positive beam limitation."

"Peak tube potential" means the maximum value of the potential difference across the x-ray tube during an exposure.

"Phantom" means a volume of material behaving in a manner similar to tissue with respect to the attenuation and scattering of radiation.

"PID" refer to "Position indicating device."

"Portable x-ray equipment" [refer to "X-ray equipment"]means x-ray equipment designed to be hand-carried.

"Position indicating device (PID)" means a device, on dental x-ray equipment [which]that [indicates]shows the beam position and establishes a definite source-surface, [‡]skin], distance. The device may or may not incorporate or serve as a beam-limiting device.

"Positive beam limitation" means the automatic or semi-automatic adjustment of an x-ray beam to the size of the selected image receptor, whereby exposures cannot be made without [such]the adjustment.

"Primary beam scatter" means scattered radiation [which]that has been deviated in direction or energy by materials irradiated by the primary beam.

"Primary protective barrier" refer to "Protective barrier".

"Protective apron" means an apron made of radiation absorbing materials, used to reduce radiation exposure.

"Protective barrier" means a barrier of radiation absorbing material used to reduce radiation exposure.

(a) "Primary protective barrier" means the material, excluding filters, placed in the useful beam to reduce the radiation exposure for protection purposes.

(b) "Secondary protective barrier" means the material [which]that attenuates stray radiation.

"Protective glove" means a glove made of radiation absorbing materials used to reduce radiation exposure.

"Radiation therapy simulation system" means a radiographic or fluoroscopic x-ray system intended for localizing the volume to be exposed during radiation therapy and for confirming the position and size of the therapeutic irradiation field.

"Radiograph" means an image receptor [on which] that the image is created directly or indirectly on by an x-ray pattern and results in a permanent record.

"Rating" means the operating limits of an x-ray system or subsystem as specified by the component manufacturer.

"Recording" means producing a permanent form of an image resulting from x-ray photons.

"Reference plane" means a plane [which] that is displaced from and parallel to the tomographic plane.

"Scan" means the complete process of collecting x-ray transmission data for the production of a tomogram. Data can be collected simultaneously during a single scan for the production of one or more tomograms.

"Scan increment" means the amount of relative displacement of the patient with respect to the computer tomographic x-ray system between successive scans measured along the direction of [such] the displacement.

"Scattered radiation" means radiation that, during passage through matter, has been deviated in direction, energy or both direction and energy. Also refer to "Primary Beam Scatter".

"Shutter" means a device attached to the tube housing assembly [which] that can intercept the entire cross sectional area of the useful beam and [which] that has a lead equivalency at least that of the tube housing assembly.

"SID" refer to "Source-image receptor distance".

"Source" means the focal spot of the x-ray tube.

"Source to image receptor distance" means the distance from the source to the center of the input surface of the image receptor.

"Special purpose x-ray system" means [that which] a system that is designed for irradiation of specific body parts.

"Spot film" means a radiograph [which] that is made during a fluoroscopic examination to permanently record conditions [which] that exist during that fluoroscopic procedure.

"Spot film device" means a device intended to transport or position a radiographic image receptor between the x-ray source and fluoroscopic image receptor, including a device intended to hold a cassette over the input end of an image intensifier [for the purpose of] to make a radiograph.

"SSD" means the distance between the source and the skin entrance plane of the patient.

"Stationary x-ray equipment" [refer to "X-ray equipment"] means x-ray equipment that is installed in a fixed location.

"Stray radiation" means the sum of leakage and scattered radiation.

"Technique factors" means the following conditions of operation[.]:

(a) For capacitor energy storage equipment, peak tube potential in kV and quantity of charge in mAs.

(b) For field emission equipment rated for pulsed operation, peak tube potential in kV and number of x-ray pulses.

(c) For other equipment, peak tube potential in kV and either;

(i) the tube current in mA and exposure time in seconds[-]; or

(ii) the product of tube current and exposure time in mAs.

"Termination of irradiation" means the stopping of irradiation in a fashion [which] that will not permit continuance of irradiation without the resetting of operating conditions at the control panel.

"Tomogram" means the depiction of the x-ray attenuation properties of a section through the body.

"Tomographic plane" means that geometric plane [which] that is identified as corresponding to the output tomogram.

"Tomographic section" means the volume of an object whose x-ray attenuation properties are imaged in a tomogram.

"Tube" means an x-ray tube, unless otherwise specified.

"Tube housing assembly" means the tube housing with tube installed. It includes high-voltage or filament transformers and other appropriate elements [when] if they are contained within the tube housing.

"Tube rating chart" means the set of curves [which] that specify the rated limits of operation of the tube in terms of the technique factors.

"Useful beam" means the radiation emanating from the tube housing port or the radiation head and passing through the aperture of the beam[-]-limiting device when the switch or timer is activated.

"Visible area" means that portion of the input surface of the image receptor [ever which] where incident x-ray photons are producing a visible image.

"X-ray exposure control" means a device, switch, button, or other similar means [by which] that an operator uses to initiate[s] or terminate[s] the radiation exposure. The x-ray exposure control may include associated equipment, for example, timers and back-up timers.

"X-ray equipment" means an x-ray system, subsystem, or component thereof. See definitions for "Mobile x-ray equipment", "Portable x-ray equipment", and "Stationary x-ray equipment". [Types of x-ray equipment are as follows:

(a) "Mobile" means x-ray equipment mounted on a permanent base with wheels or casters for moving while completely assembled.

(b) "Portable" means x-ray equipment designed to be hand-carried.

(c) "Stationary" means x-ray equipment which is installed in a fixed location.]

"X-ray field" means that area of the intersection of the useful beam and one of the sets of planes parallel to and including the plane of the image receptor, whose perimeter is the locus of points [at which] where the EXPOSURE rate is one-fourth of the maximum in the intersection.

"X-ray high-voltage generator" means a device [which] that transforms electrical energy from the potential supplied by the x-ray control to the tube operating potential. The device may also include means for transforming alternating current to direct current, filament transformers for the x-ray tube high-voltage switches, electrical protective devices, and other appropriate elements.

"X-ray system" means an assemblage of components for the controlled production of x-rays. It includes minimally an x-ray high-voltage generator, an x-ray control, a tube housing assembly, a beam-limiting device, and the necessary supporting structures. Additional components [which] that function with the system are considered integral parts of the system.

"X-ray tube" means an electron tube [which] that is designed to be used primarily for the production of x-rays.

**KEY:** dental, X-rays, mammography, beam limitation  
**Date of Last Change:** 2024|January 17, 2023|  
**Notice of Continuation:** April 8, 2021  
**Authorizing, and Implemented or Interpreted Law:** 19-3-104; 19-6-107

#### NOTICE OF PROPOSED RULE

**TYPE OF FILING:** Amendment

<b>Rule or Section Number:</b>	R315-309	<b>Filing ID:</b> 56420
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#### Agency Information

<b>1. Department:</b>	Environmental Quality	
<b>Agency:</b>	Waste Management and Radiation Control, Waste Management	
<b>Room number:</b>	2nd Floor	
<b>Building:</b>	MASOB	
<b>Street address:</b>	195 N 1950 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 144880	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-4880	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Tom Ball	385-454-5574	tball@utah.gov

**Please address questions regarding information on this notice to the persons listed above.**

#### General Information

**2. Rule or section catchline:**

R315-309. Financial Assurance

**3. Purpose of the new rule or reason for the change:**

The Division of Waste Management and Radiation Control, Waste Management (Division) is amending this rule to correct rule references that have changed due to other rule and statute amendments and providing clarifying language.

The Division is also correcting typographical and rule formatting errors.

**4. Summary of the new rule or change:**

Clarifying language is being added in Subsection R315-309-1(1). The language makes it clear that financial assurance is required for any solid waste facility subject to the requirements of Subsection R315-310(1)(a). There are some approvals such as a plan of operation that are considered a permit by definition but are not routinely subject to financial assurance.

Additional language was added to this rule to give the director of the Division some discretion to require financial assurance for other facility types if necessary.

The rule citation to Subsections R315-309-3(6)(b) and (c) was corrected to Subsections R315-309-9(6)(b) and (c).

#### Fiscal Information

**5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:**

**A) State budget:**

There is no cost or savings to the state budget due to this rule amendment because it does not change any rule requirements, only clarifies existing requirements.

**B) Local governments:**

There is no cost or savings to local governments due to this rule amendment because it does not change any rule requirements, only clarifies existing requirements.

**C) Small businesses** ("small business" means a business employing 1-49 persons):

There is no cost or savings to small businesses due to this rule amendment because it does not change any rule requirements, only clarifies existing requirements.

**D) Non-small businesses** ("non-small business" means a business employing 50 or more persons):

There is no cost or savings to non-small businesses due to this rule amendment because it does not change any rule requirements, only clarifies existing requirements.

**E) Persons other than small businesses, non-small businesses, state, or local government entities** ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

There is no cost or savings to persons other than small businesses, non-small businesses, state or local government entities due to this rule amendment because it does not change any rule requirements, only clarifies existing requirements.

**F) Compliance costs for affected persons** (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs for affected persons.

The changes add clarification to existing requirements with no fiscal impact.

**G) Regulatory Impact Summary Table** (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in

**WASTE MANAGEMENT AND RADIATION CONTROL BOARD**  
**Executive Summary**  
**Approval of Mammography Imaging Medical Physicists**  
**June 13, 2024**

<b>What is the issue before the Board?</b>	Approval of Mammography Imaging Medical Physicists.
<b>What is the historical background or context for this issue?</b>	<p>Individuals referred to as Mammography Imaging Medical Physicists (MIMPs) must submit an application for review of qualifications to be certified by the Board. These physicists perform radiation surveys and evaluate the quality control programs of the facilities in Utah providing mammography examinations.</p> <p>Nineteen individuals whose certifications expired at the end of May 2024, have filed applications to be recertified. The Division of Waste Management and Radiation Control (Division) has also received one new application.</p> <p>Division staff have reviewed the qualifications of each applicant and they have met the requirements detailed in Utah Admin. Code R313-28-140.</p> <p>A list of the applicants is included with this Executive Summary.</p>
<b>What is the governing statutory or regulatory citation?</b>	<p>In accordance with Subsection 19-3-103.1(2)(c) of the Utah Code Annotated, the Board shall review the qualifications of, and issue certificates of approval to, individuals who: (i) survey mammography equipment; or (ii) oversee quality assurance practices at mammography facilities.</p> <p>This statutory requirement was effective May 8, 2012.</p>
<b>Is Board action required?</b>	Yes.
<b>What is the Division Director's recommendation?</b>	The Director of the Division of Waste Management and Radiation Control recommends the Board issue a certificate of approval for the applicants reviewed and presented to the Board.
<b>Where can more information be obtained?</b>	Please contact Krystal Thomas, RT (R)(M), at (385) 454-5309.

Recertified

- Peter Jenkins, PhD, CHP, DABR
- Warren S. Helms, M.S.
- Ryan Dzambazoff, M.S.
- Jeffery Tays, M.S., DABR
- Aaron Kelley, M.S., ABSNM
- Meredith S. Barbaloh, M.S.
- Robert Allman, M.S.
- Ann Jones, M.S.
- Adam Arndt, M.S.
- Matthew Fitzmaurice, PhD, DABR, CHP
- Lisa Bosworth, M.S.
- Byron Hardy, PhD, DABR
- Kelli Silverstrim, PhD
- Stephen B. Henry, M.S.
- Seth Streitmatter, PhD, DABR
- William G. Fisher, M.S.
- Jeremy Hawk, M.S.
- Nicole Hable, M.S.
- Jeremy Mangum, M.S., DABSNM

New Application

- Olaolu Osunbayo, PhD

**WASTE MANAGEMENT AND RADIATION CONTROL BOARD**  
**Executive Summary**  
**REQUEST FOR A SITE-SPECIFIC TREATMENT VARIANCE**  
**EnergySolutions, LLC**  
**June 13, 2024**

<b>What is the issue before the Board?</b>	<p>On April 16, 2024, EnergySolutions, LLC submitted a request to the Director of the Division of Waste Management and Radiation Control for a one-time site-specific treatment variance from the Utah Hazardous Waste Management Rules. EnergySolutions presented this request to the Board as an informational item on May 9, 2024. Their request seeks authorization to receive a variance from the treatment standards described in Utah Administrative Code (UAC) R315-268-40(a)(2) for uranium extraction process residuals encased in cement for macroencapsulation.</p>
	<p>This variance is for uranium extraction process residuals encased in cement that retain hazardous waste codes D004 (arsenic); D005 (barium); D006 (cadmium); D007 (chromium) D008 (Lead); D010 (Selenium); D011 (Silver); D030 (2,4-dinitrotoluene); D032 (hexachlorobenzene); D033 (hexachlorobutadiene) and F001, F002, and F005 (spent solvents) for macroencapsulation. All other required treatment standards associated with the waste will be met prior to disposal.</p>
<b>What is the historical background or context for this issue?</b>	<p>This variance is being requested for approximately 2,000 cubic feet of cemented uranium extraction process residuals as part of uranium recovery processes at the generator's facility. The residual waste from each of these processes is collected in small cans (~ 2 ½ gallons each) and stored at the generator's facility. The process residuals within the cans have been characterized through a random sampling and analysis process. At the beginning of this campaign, approximately 2,000 cans of process residues were collected and stored by the generator. The process is ongoing and additional cans are being generated every year. Furthermore, due to safety concerns, some of the cans are being split prior to the repackaging process described below; thereby generating more total material for disposal.</p> <p>The generator has three distinct points of generation for this material including (1) an enriched uranium contaminated ash that has been thermally processed and the recovered through an organic solvent extraction process; (2) oxide powders and dried sludges associated with this enriched uranium-thorium fuels; and (3) sludge residue from the bottom of salt baths used in the processing of the uranium.</p> <p>F-listed solvent codes within this waste are derived from rags that are burned in a furnace in order to recover the uranium present within them. None of the F-listed constituents were present above their respective treatment standard concentrations within the random characterization</p>

samples of the process residues. The random characterization samples were also analyzed for metals using the Toxicity Characteristic Leaching Procedure (TCLP). These samples detected elevated concentrations of barium (up to 6,740 mg/L TCLP), cadmium (up to 16.4 mg/L TCLP), chromium (up to 15.2 mg/L TCLP), and lead (up to 10.5 mg/L TCLP). Based on these elevated metal concentrations, the characteristic waste codes D005, D006, D007, and D008 were applied to the process residues. Slightly elevated concentrations of arsenic (D004), selenium (D010), silver (D011), 2,4-dinitrotoluene (D030), hexachlorobenzene (D032) and hexachlorobutadiene (D033) were also detected in separate analyses. The residue may potentially contain these codes also.

The uranium content within the process residues is enriched. From a health and safety standpoint, the enrichment makes the waste more hazardous to employees managing the waste. Further, the enriched material has increased security concerns and must be managed appropriately. To ensure the enriched uranium concentration limits required for worker safety, security, and transportation of this waste are met, appropriate packaging procedures were created and are currently being utilized at the generator's facility. These packaging procedures include repackaging the cans into 16-gallon drums and filling the void spaces with cement; formal treatment for the elevated metals concentrations is not performed during this process. The generator has assessed other options, including treatment for the hazardous constituents; however, additional processing introduced unacceptable hazards from a health and safety and security viewpoint. Additionally, the waste within the cans is inherently safe from a criticality aspect and the generator concluded that it is unwise to perform extra processing that could potentially change this aspect. Furthermore, encasing enriched uranium within concrete is the preferred method of stabilization as recommended by the Nuclear Regulatory Commission (NRC). The waste material packaged in these 16-gallon monolithic forms is inherently safe and is the form that will be shipped and received at the *EnergySolutions* Clive facility. The characteristic hazardous waste codes associated with the process residues have numerical concentration-based treatment standards based upon the leachability of the contaminants. Treatment of the monolithic form for these concentration-based treatment standards would entail a process that includes shredding of the monolith followed by mixing with a stabilizing reagent in a permitted mixer. Both steps could mobilize the enriched uranium and possibly cause airborne contamination, increasing the potential for releases to the environment as well as the potential for personnel exposure; thereby violating radiation protection (ALARA – As Low as Reasonably Achievable) principles. Also, the shredding of the solidified uranium ash results in a more accessible form of enriched uranium with potential security ramifications.

*EnergySolutions*' proposes to macroencapsulate the waste, thereby isolating the waste from potential leaching media. Macroencapsulation

	<p>is a permitted process utilized at the Clive facility that significantly reduces the potential for migration (leaching) of waste. Macroencapsulation requires less handling of the waste and creates a waste form for disposal that is protective of human health and the environment. Macroencapsulation also adds a further level of security restricting access to the enriched uranium.</p> <p>EnergySolutions will manage this waste as debris and final disposal of the waste will occur in the Mixed Waste Disposal Cell at the EnergySolutions Mixed Waste Facility.</p> <p>A notice for public comment was published in the <i>Salt Lake Tribune</i>, the <i>Deseret News</i> and the <i>Tooele County Transcript Bulletin</i> on May 1, 2024. The comment period began May 2, 2024 and ended May 31, 2024. No public comment were received.</p>
<b>What is the governing statutory or regulatory citation?</b>	<p>Variances are provided for in 19-6-111 of the Utah Solid and Hazardous Waste Act. This is a one-time site-specific variance from an applicable treatment standard as allowed by R315-268-44 of the Utah Administrative Code.</p>
<b>Is Board action required?</b>	<p>Yes, this is an action item before the Board. The variance request was presented to the Board as an information item on May 9, 2024.</p>
<b>What is the Division/Director's recommendation?</b>	<p>The Director recommends approval of this variance request. The Director's recommendation is based on the following findings: the proposed alternative treatment method meets the regulatory basis for a variance and will be as safe to human health and the environment as the required method.</p>
<b>Where can more information be obtained?</b>	<p>For technical questions, please contact Tyler Hegburg (385) 622-1875. For legal questions, please contact Bret Randall at (801) 536-0284.</p> <p><b>The variance request and supporting documentation was provided in the May 9, 2024 Board packet.</b></p>

**WASTE MANAGEMENT AND RADIATION CONTROL BOARD**  
**Executive Summary**  
**REQUEST FOR A SITE-SPECIFIC TREATMENT VARIANCE**  
**EnergySolutions, LLC**  
**June 13, 2024**

<b>What is the issue before the Board?</b>	<p>On April 16, 2024, EnergySolutions, LLC submitted a request to the Director of the Division of Waste Management and Radiation Control for a one-time site-specific treatment variance from the Utah Hazardous Waste Management Rules. EnergySolutions presented this request to the Board as an informational item on May 9, 2024. Their request seeks authorization to receive a variance from Utah Administrative Code (UAC) R315-268-40 and R315-268-45 for the direct macroencapsulation treatment of approximately 1000 lbs. of lithium and lithium-ion batteries that are secondarily radiologically contaminated.</p>
	<p>Lithium and lithium-ion batteries typically exhibit the hazardous characteristics of ignitability (D001) and reactivity (D003). Regulations in UAC R315-268-40 (40 CFR 268.40, 2015 Edition, incorporated by reference) require that these characteristic hazards be deactivated to remove the characteristic prior to land disposal.</p> <p>As an alternative, UAC R315-268-45 allows hazardous debris to be treated using an immobilization technology (e.g., macroencapsulation). However, the U.S. Environmental Protection Agency (EPA) has ruled that intact batteries are containers and not considered debris. Furthermore, the definition of macroencapsulation in UAC R315-268-42 states that “Macroencapsulation specifically does not include any material that would be classified as a tank or container.”</p>
<b>What is the historical background or context for this issue?</b>	<p>For EnergySolutions to meet the regulatory standards described above, lithium and lithium-ion batteries would need to be shredded and mixed with chemicals to deactivate them; or punctured (and then considered debris) to macroencapsulate them. Both activities (shredding and puncturing) severely agitate the waste and would expose the reactive portion of the waste to open air which could cause an adverse reaction or explosion. Although this type of waste management is possible, from a safety and health standpoint, it is inappropriate.</p> <p>EnergySolutions proposes to manage this waste by directly macroencapsulating the intact batteries. Macroencapsulation is a permitted treatment technology that isolates hazardous waste from the environment, eliminating the potential for harmful reactions from exposure to the environment. Macroencapsulation requires less handling of the waste and creates a waste form for disposal that is protective of human health and the environment.</p> <p>Final disposal of the waste will occur in the Mixed Waste Disposal Cell at the EnergySolutions Mixed Waste Facility.</p>

(Over)

	<p>A notice for public comment was published in the <i>Salt Lake Tribune</i>, the <i>Deseret News</i> and the <i>Tooele Transcript-Bulletin</i> on May 1, 2024. The comment period began May 2, 2024 and ended May 31, 2024. No public comments were received.</p> <p>EnergySolutions has requested this same variance three times previously dating back to 2021. Over the years all three previous requests have been reviewed and approved by the Board.</p>
<b>What is the governing statutory or regulatory citation?</b>	Variances are provided for in 19-6-111 of the Utah Solid and Hazardous Waste Act. This is a one-time site-specific variance from an applicable treatment standard as allowed by R315-268-44 of the Utah Administrative Code.
<b>Is Board action required?</b>	Yes, this is a Board action item. The variance request was presented to the Board as an information item on May 9, 2024.
<b>What is the Division/Director's recommendation?</b>	The Director recommends approval of this variance request. The Director's recommendation is based on the following findings: the proposed alternative treatment method meets the regulatory basis for a variance and will be as safe to human health and the environment as the required method.
<b>Where can more information be obtained?</b>	<p>For technical questions, please contact Tyler Hegburg (385) 622-1875. For legal questions, please contact Bret Randall at (801) 536-0284.</p> <p><b>The variance request and supporting documentation was provided in the May 9, 2024 Board packet.</b></p>

**WASTE MANAGEMENT AND RADIATION CONTROL BOARD**  
**Executive Summary**  
**Proposed Stipulation and Consent Order**  
**Big West Oil LLC**

<b>What is the issue before the Board?</b>	This is a Proposed Stipulation and Consent Order (SCO) No. 2207085 to resolve Notice of Violation and Order of Compliance (NOV/OC) No. 2107073 issued to Big West Oil LLC (BWO) on January 5, 2022.
<b>What is the historical background or context for this issue?</b>	<p>The NOV/OC was based on information documented during an inspection at the refinery on July 7, 2021. The violations noted in the NOV/OC have been resolved.</p> <p>The Proposed SCO includes a total penalty of \$47,934.00, of which half (\$23,967.00) will be deferred and waived by the Director if BWO complies with the terms in paragraphs 19 through 24 in the SCO which include training for emergency response personnel, management of API separator wastes, waste streams and waste determinations, decontamination of the heat exchanger bundle wash pad, and operator control of satellite accumulation areas.</p> <p>A notice for public comment was published in the <i>Salt Lake Tribune</i> on April 28, 2024, the <i>Deseret News</i> on April 24, 2024, and the <i>Davis Journal</i> on April 25, 2024.</p> <p>The 30-day public comment period began on April 29, 2024, and ended on May 28, 2024. No comments were received.</p>
<b>What is the governing statutory or regulatory citation?</b>	§19-6-104 of the Utah Solid and Hazardous Waste Act authorizes the Board to issue orders and approve or disapprove settlements negotiated by the Director with a civil penalty over \$25,000.
<b>Is Board action required?</b>	<p>Yes. This is a Board action item.</p> <p>The Proposed SCO was presented to the Board as an information item on May 9, 2024.</p>
<b>What is the Division Director's recommendation?</b>	The Director recommends the Board approve this Proposed SCO.
<b>Where can more information be obtained?</b>	<p>For technical information, please contact Judy Moran at 385-499-0184. For legal information, please contact Haley Sousa at 385-977-4857.</p> <p><b>The Proposed SCO and the supporting documentation was provided to the Board in their May 9, 2024 Board packet.</b></p>

**WASTE MANAGEMENT AND RADIATION CONTROL BOARD**  
**Executive Summary**  
**REQUEST FOR A SITE-SPECIFIC TREATMENT VARIANCE**  
**Clean Harbors Grassy Mountain, LLC**  
**June 13, 2024**

<b>What is the issue before the Board?</b>	<p>On October 4, 2023, Clean Harbors Grassy Mountain, LLC (CHGM) submitted a request to the Director of the Division of Waste Management and Radiation Control for a site-specific treatment variance from Utah Hazardous Waste Management Rule R315-260-19. The Director requested additional information, which CHGM submitted March 6, 2024. CHGM proposes to treat baghouse dust containing High Subcategory Mercury by stabilization instead of retort and recovery. Waste will be stabilized to meet the Universal Treatment Standard (UTS) of 0.025 mg/L TCLP. CHGM has conducted treatability studies to demonstrate that they can meet the UTS and will dispose of the treated waste in a hazardous waste disposal cell at the facility.</p>
<b>What is the historical background or context for this issue?</b>	<p>CHGM proposes to treat, using stabilization technologies, High-Mercury Subcategory residue wastes (baghouse dust) from the Clean Harbors Aragonite, LLC (CHA) incinerator instead of sending it for retort and recovery. The listed treatment technology for the D009 High Mercury-Inorganic Subcategory is RMERC. The need and justification for this action are as follows:</p> <p>The intent of the RMERC treatment process is to recover elemental mercury for recycling. However, this waste stream carries numerous EPA codes the mercury retort facilities are not permitted to accept and does not meet their variance under the Boiler and Industrial Furnace exemption. CHGM provided the Division with correspondence from the retort facilities that document the unacceptability of the waste for retorting. CHGM conducted stabilization treatability studies on this waste stream and demonstrated to the Division that this waste can be successfully treated to the 0.025 mg/L TCLP standard in Utah Admin. Code R315-268-48. CHGM will confirm that the treated waste meets LDR standards prior to its final disposal in the landfill.</p> <p>The Board previously granted CHGM a treatment variance for the same waste stream, profile AGGM912669HIHGB (now called GM91-2669HIHGBB), on 3/12/2009, 11/23/2010, 6/20/2013, 2/18/2015, and 10/18/2017.</p> <p>The comment period began May 2, 2024 and ended May 31, 2024. No public comments were received.</p>
<b>What is the governing statutory or regulatory citation?</b>	<p>Variances are provided for in Utah Code 19-6-111 and Utah Admin. Code R315-260-19.</p>

<b>Is Board action required?</b>	Yes, this is an action item before the Board.  The variance request was presented to the Board as an information item on May 9, 2024.
<b>What is the Division Director's recommendation?</b>	The Director recommends approval of this variance request.
<b>Where can more information be obtained?</b>	For technical questions, please contact Kari Lundein (385) 499-4923. For legal questions, please contact Raymond Wixom (385) 414-0664.  <b>The variance request and supporting documentation was provided in the May 9, 2024 Board packet.</b>