



State of Utah

GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

Department of
Environmental Quality

Amanda Smith
Executive Director

DIVISION OF RADIATION CONTROL
Rusty Lundberg
Director

Radiation Control Board

Peter A. Jenkins, CHP, Ph.D. – *Chair*
Scott Bird – *Vice Chair*
Brady Bradford
Dick Codell, Ph.D.
Jerry Hurst, Tooele County Commissioner
Lindsey Christensen Nesbitt, Ph.D.
Ulrich Rassner, M.D.
Matt W. Rydalch
Amanda Smith – *Executive Director*
Rusty Lundberg, *Executive Secretary*

**MINUTES
OF
THE UTAH RADIATION CONTROL BOARD**

October 14, 2014

Department of Environmental Quality
Multi Agency State Office Building
Conference Room 1015, 195 North 1950 West, Salt Lake City, Utah

BOARD MEMBERS PRESENT

Peter Jenkins, CHP, Ph.D.
Scott Bird
Commissioner Jerry Hurst
Brady Bradford
Ulrich Rassner, M.D.
Lindsey Christensen Nesbitt, Ph.D.
(In person & via phone)
Amanda Smith, Executive Director DEQ
Rusty Lundberg, Executive Secretary

**BOARD MEMBERS
ABSENT/EXCUSED**

Richard Codell, Ph.D.
Matt Rydalch

**DRC STAFF/OTHER DEO MEMBERS
PRESENT**

Craig Jones, DRC Section Manager
Phil Goble, DRC Section Manager
Loren Morton, DRC Program Manager
Laura Lockhart, AG Staff
Philip Griffin, DRC Staff
Mike Givens, DRC Staff
Connie Rauen, DRC Staff
Eric Boone, DRC Staff
Spencer Wickham, DRC Staff

PUBLIC

Dan Shrum, EnergySolutions
Marc Burrow, Aribex, Inc.
Vern Rogers, EnergySolutions
Janet Jenson, Jenson & Guelker
Scott Kirk, WES
Gary Guelker, Jenson & Guelker
Robert Sobonscki, EnergySolutions
Autumn Szabo, University of Colorado

I. Welcome

Dr. Peter Jenkins, Chairman, called the meeting to order at 1:00 p.m. He welcomed the Board Members and the public.

II. Approval of the Minutes from the August 12, 2014 Board Meetings

Dr. Peter Jenkins, Chairman asked if any of the Board members had any corrections to the minutes. None were requested.

MOTION MADE BY MR. BRADY BRADFORD TO APPROVE THE MINUTES OF AUGUST 12, 2014.

SECONDED BY COMMISSIONER JERRY HURST

MOTION CARRIED AND PASSED UNANIMOUSLY

III. Administrative Rulemaking

a. Review of public comments

- i. Proposed changes to R313-26, *Generator Site Access Permit Requirements for Accessing Utah Radioactive Waste Disposal Facilities* - Mr. Rusty Lundberg, Director, discussed the status of the proposed changes to R313-26 and the steps the rule had gone through for approval; a subcommittee was formed to review the proposed changes to the rule, and the rule also went out for public comments. Typically at this point in the process, a motion with an effective date is made and published in the Utah State Bulletin; however, based on Representative Brad Dee's comments and request, the Division's recommendation to the Board was to honor Representative Dee's request and wait until after the 2015 General Session of the Legislature to act on the proposed changes to R313-26. After an in-depth discussion amongst the Board members, Ms. Laura Lockhart and Mr. Phil Goble, Dr. Peter Jenkins, Chairman, asked the Board if they had any comments or suggestions and wanted a motion to accept or reject the Division's recommendation.

MOTION MADE BY DR. ULRICH RASSNER TO REJECT THE DIVISION'S RECOMMENDATION TO TAKE NO ACTION ON R313-26.

MOTION WAS DENIED BASED ON A 3 to 2 MAJORITY VOTE BY BOARD MEMBERS.

MOTION MADE BY MR. SCOTT BIRD TO ACCEPT THE DIVISION'S RECOMMENDATION TO TAKE NO ACTION ON R313-26.

SECONDED BY COMMISSIONER JERRY HURST.

MOTION CARRIED AND PASSED BASED ON MAJORITY VOTES FROM BOARD MEMBERS.

- ii. Proposed changes to R313-17, *Administrative Procedures*, R313-24, *Uranium Mills and Source Material Mill Tailings Disposal Facility Requirements* - Ms. Laura Lockhart reviewed the administrative procedures being proposed to ensure there is opportunity for questions and answers at proceedings required by Federal law for 11e.(2) licensing actions. New rules are required and R313-17 has gone out for formal comments where comments were received from Uranium Watch and EnergySolutions. Ms. Lockhart is in the process of addressing the comments and expects to present a change in proposed rule for the November Board Meeting. Dr. Peter Jenkins, Chairman, asked the Board if they had any comments or suggestions. None were offered. No motion was required at this time.
- b. Approve for final adoption:
 - i. Mr. Craig Jones reviewed proposed changes to R313-70 (Payments, Categories, and Types of Fees) that were discussed during the August 2014 meeting. Changes proposed addressed technical corrections in the rule, were meant to provide clarity, or specify circumstances whereby the director may renew an expired license. In the August 2014 Board Meeting, the Board approved the proposed revision for R313-70 to go out for public comment. No comments were received and it was the Director's recommendation to the Board to approve R313-70 for final adoption with the changes that were proposed with the effective date of October 21, 2014. Dr. Peter Jenkins, Chairman, asked the Board if they had any comments or suggestions. None were offered.

MOTION MADE BY COMMISSIONER JERRY HURST TO ACCEPT THE DIVISION'S RECOMMENDATION TO APPROVE CHANGES TO R313-70 FOR THE FINAL ADOPTION WITH THE EFFECTIVE DATE OF OCTOBER 21, 2014.

SECONDED BY DR. ULRICH RASSNER

MOTION CARRIED AND PASSED UNANIMOUSLY

- ii. Mr. Mike Givens reviewed the proposed changes and requested approval for final adoption to R313-12-3, Definitions; R313-22-33, General Requirements for the Issuance of Specific Licenses; and R313-25-2, Definitions. Changes involved implementation and revision of definitions regarding "construction" that had been made by the NRC. The rules discussed by Mr. Givens also went out for public comment and no comments were received by the Division. Mr. Givens requested that the Board approve changes with an effective date of October 21, 2014. Dr. Peter Jenkins, Chairman, asked the Board if they had any comments or suggestions. None were offered.

MOTION MADE BY MR. BRADY BRADFORD TO ACCEPT THE DIVISION'S RECOMMENDATION TO APPROVE CHANGES TO THE R313-12-33, R313-22-33, AND R313-25-2 FOR FINAL ADOPTION WITH THE EFFECTIVE DATE OF OCTOBER 21, 2014.

SECONDED BY MR. SCOTT BIRD.

MOTION CARRIED AND PASSED UNANIMOUSLY

- c. Approve for rulemaking and public comment:
 - i. Mr. Phil Griffin reviewed proposed changes to R313-19 and R313-37. The NRC published its final rule in March 2013 regarding increased controls and the rulemaking action created a new Part 37 in 10 CFR. The new 10 CFR 37 required changes in Parts 20, 30, 32, 33, 34, 35, 36, 39, 51, 71 and 73. The NRC has established compatibility categories for each of the rules adopted. As a result, Division staff determined that changes need to be made to R313-19 and a new rule R313-37 needs to be created. The Director recommends that the Board approve the proposed rule and instruct the Division to initiate the rulemaking process and a 30-day public comment period by filing the proposed rule changes with the Division of Administrative Rules for publication in the Utah State Bulletin and, in turn, notifying stakeholders and the public of the proposed changes. Dr. Peter Jenkins, Chairman, asked the Board if they had any comments or suggestions. None were offered.

MOTION MADE BY MR. SCOTT BIRD TO ACCEPT THE RECOMMENDATION OF THE DIVISION STAFF AND TO INITIATE RULEMAKING PROCESS AND PUBLISH R313-19 AND R313-37 ON NOVEMBER 1, 2014 WITH A 30-DAY COMMENT PERIOD.

SECONDED BY MR BRADY BRADFORD

MOTION CARRIED AND PASSED UNANIMOUSLY

- d. Petition for rulemaking:
 - i. Mr. Marc Burrows from Aribex presented the Aribex Portable hand-held NOMAD MD X-Ray Unit and requested the Board amend R313-28-31 and R313-28-52 to allow the use of portable hand -held medical radiography X-ray units. Dr. Peter Jenkins, Chairman, asked for further clarification on their request. Aribex clarified their request asking the Board to consider the language in their letter for rulemaking and if the Board accepts their request the Division staff would present a rule to the Board for approval to go out for public comment. Dr. Peter Jenkins, Chairman asked the Board to consider the use of hand-held x-ray devices and the rules that apply to them in general for Utah by forming a subcommittee to initiate a rule making process. Dr. Peter Jenkins, Chairman, asked the Board if they had any comments or suggestions, none were offered. A subcommittee was formed with Dr. Jenkins, Dr. Rassner, and Dr. Nesbitt to consider the request.

MOTION MADE BY DR.ULRICH RASSNER TO ACCEPT ARIBEX PETITION TO INITIATE RULEMAKING FOR HAND HELD DEVICES IN UTAH.

SECONDED BY MR SCOTT BIRD.

MOTION CARRIED AND PASSED UNANIMOUSLY

IV. Information Items

a. Nuclear Regulatory Commission – activity update – Mr. Rusty Lundberg informed the Board that there are now two new Commissioners that have been confirmed, Steven Burns and Jeffery Baran bringing the Commission to its full five members. Also, effective October 5, 2014 there has been reorganization in NRC to manage the work load; a new office has been formed. A organization chart of the reorganization was provided to the Board.

b. Uranium Mills

i. White Mesa Mill—Energy Fuels Resources – status update - Mr. Phil Goble updated the Board on the license and permit renewal. Public comment is anticipated to begin in January 2015 for both actions. The Division is also planning to go out for public comment on the Chloroform Corrective Action Plan later this fall after meeting with the Ute Mountain Tribe.

ii. Shootaring Canyon Mill—Uranium One /Anfield Resources - Mr. Phil Goble updated the Board on Anfield Resources interest in the Shootaring Canyon Uranium Mill. On October 17, 2014, the Director concurred with the change of control and ownership of the Mill from Uranium One Americas, Inc to Anfield Resources Holding Corp.

c. Low-level Radioactive Waste—*EnergySolutions*

i. Sealed Source Variance – Mr. Rusty Lundberg informed the Board of the request and response to extend the Variance to receive and dispose sealed sources through the end of the year.

ii. *ResinSolutions* (Erwin, TN) - Mr. Dan Schrum, presented and gave an update on the existing SEMPRASAFE/ Erwin *ResinSolutions* operations, and the performance assessment submitted to DRC for review.

iii. Depleted Uranium Performance Assessment- Mr. Rusty Lundberg informed the Board of the of the request received from *EnergySolutions* to delay the comment period to avoid the holiday season; therefore, the public comment period is anticipated to begin in January.

d. Other Items

i. 3rd Quarter Activity Report - Activity report was included in the Board packet. Dr. Peter Jenkins, Chairman, asked the Board if they had any comments or suggestions. None were offered.

ii. Introduction of new staff – Mr. Eric Boone, a new engineer with the DRC, introduced himself to the Board and gave personal and professional background information.

V.Public Comment

Adjourned 3:28 PM

Next Scheduled Board Meeting: Monday, November 10, 2014, 1:00 p.m.

Multi Agency State Office Building, Board Conference Room #1015
195 North 1950 West
Salt Lake City, Utah