

Waste Management and Radiation Control Board Meeting
Utah Department of Environmental Quality
195 North 1950 West (Board Conference Room #1015), SLC
July 13, 2017
1:30 p.m.

Board Members Present: Brett Mickelson (Chair), Dennis Riding (Vice-Chair), Richard Codell, Mark Franc, Alan Matheson, Steve McIff, Nathan Rich, Vern Rogers and Shane Whitney

Board Members Absent: Danielle Endres, Jeremy Hawk and Shawn Milne

Staff Members Present: Scott Anderson, Brent Everett, Arlene Lovato, Rusty Lundberg, Allan Moore, Deborah Ng, Rick Page, Elisa Smith, Jerry Rogers, Brett Randall, Don Verbica and Raymond Wixom

Others Present: Dan Shrum, Tina Milne, Brittany Lavender, Allan Mooz, Joe Ozimek, Ashley Soltysiak, Jason Adler

I. Call to Order.

Brett Mickelson (Chair) welcomed all in attendance and called the meeting to order at 1:30 p.m. Shawn Milne and Danielle Endres were excused from the meeting.

II. Approval of the Meeting Minutes for the May 11, 2017 Board Meeting.

It was moved by Shane Whitney and seconded by Richard Codell and UNANIMOUSLY CARRIED to approve the May 11, 2017 Board Meeting minutes.

III. Underground Storage Tanks Update.

Brent Everett, Director of the Division of Environmental Response and Remediation, informed the Board that the cash balance of the Petroleum Storage Tank (PST) Trust Fund at the end of May 2017 was \$15,900,294.00. The preliminary estimate for the cash balance of the PST Trust Fund for the end of June 2017 is \$16,235,084.00. The PST Trust Fund is managed on a cash balance basis to ensure sufficient coverage for known claims that have been reported. The balance is watched closely to ensure claims for PST Trust Fund covered releases are covered.

Mr. Everett informed the Board that the DERR is gathering data that will be provided to an actuary for the completion of the annual PST Trust Fund actuarial report. The actuarial report is no longer required by statute but the DERR has continued to have it performed. The report will be valuable this year as the PST program is up for reauthorization with the Utah Legislature. There were no questions or comments on the PST Trust Fund balance or actuarial report.

IV. Administrative Rules.

A. Solid Waste Rules: Final adoption of Solid Waste Rules Section R315-302-1, Location Standards for Disposal Facilities. This change removes paragraph R315-302-1(2)(a)(iii), which prohibits a new solid waste facility from being located within certain farmland classified by the U.S. Dept. of Agriculture (**Board Action Item**).

Allan Moore, Solid Waste Section Manager, reviewed the recommendation for final approval by the Board to adopt a change to the Solid Waste Management and Permitting Rules that removes R315-302-1(2)(a)(iii) from the Rules. The Board approved these rules to go out for public comment in the April 13, 2017 Board meeting.

R315-302-1(2)(a)(iii) prohibits a solid waste landfill from being located on farmland classified or evaluated as prime, unique or of statewide importance under the Prime Farmland Protection Act. The Division recommends removing this language because it is a standard overseen by the U.S. Department of Agriculture under the Farmland Protection Policy Act (FPPA) (7 U.S.C. §§ 4201 – 4209), which is the official title of the act rather than the title referenced in the rule, and is essentially outside the regulatory purview of the Division. The FPPA was designed, in part, to ensure federal programs are compatible with state and local farmland protection programs.

The proposed rule change and the associated rule analysis information were published in the May 1, 2017 issue of the Utah State Bulletin (Vol 2017, No. 9). The July 13, 2017 Board packet included pertinent pages from the Utah State Bulletin with the Executive Summary on this matter.

A public comment period began on May 1, 2017 and concluded on May 31, 2017. No comments were received. The Director recommends that the Board approve final adoption of the change to R315-302-1(2)(a)(iii), as published in the May 1, 2017 issue of the Utah State Bulletin with an effective date of August 1, 2017.

It was moved by Mark Franc and seconded by Dennis Riding and UNANIMOUSLY CARRIED to approve for final adoption Solid Waste Rules, Section R315-302-1, Location Standards for Disposal Facilities, with an effective date of August 1, 2017. This change removes paragraph R315-302-1(2)(a)(iii), which prohibits a new solid waste facility from being located within certain farmland classified by the U.S. Dept. of Agriculture.

B. Radiation Control Rules: Approval to proceed with formal rulemaking and public comment to amend the appropriate sections of R313-12, General Provisions, R313-19, Requirements of General Applicability to Licensing of Radioactive Material, R313-21, General Licenses, and R313-22, Specific Licenses, by incorporating the federal regulatory changes promulgated by the Nuclear Regulatory Commission (NRC) in the Federal Register on May 29, 2013 (78 FR 32310) and updating selected rule citations and references (**Board Action Item**).

Rusty Lundberg, Deputy Director, Division of Waste Management and Radiation Control, reviewed the request for Board approval to file with the Office of Administrative Rules for public comment, proposed rule changes to amend the appropriate sections of R313-12, General Provisions, R313-19, Requirements of General Applicability to Licensing of Radioactive Material, R313-21, General Licenses, and R313-22, Specific Licenses, by incorporating the federal regulatory changes promulgated by the Nuclear Regulatory Commission (NRC) in the Federal Register on May 29, 2013 (78 FR32310).

Additional proposed changes not directly associated with NRC's final rule are being made to the above referenced rules to update references and citations.

This rule updates the requirements that the NRC published in 2013. On May 29, 2013, the NRC adopted changes to 10 CFR Parts 30, 40, and 70. The rule changes address the distribution of source material, which includes radioactive materials that contain uranium or thorium or a mixture of those two elements as part of their make-up and use. These rule changes require the initial distribution of source material to exempt persons or to general licensees to be explicitly authorized by a specific license,

including new reporting requirements. The rule is intended to provide timely information on the types and quantities of source material distributed for use either under exemption or by general licensees. In addition, the rule modifies the existing possession and use requirements of the general license for small quantities of source material to better align the requirements with current health and safety standards. Also, the rule revises, clarifies or deletes certain source material exemptions from licensing to make the exemptions more risk informed. This rule affects manufacturers and distributors of certain products and materials containing source material and certain persons using source material under general license and under exemptions from licensing.

Changes to corresponding Utah radiation control rules are required to maintain regulatory compatibility with NRC rules and our status as an Agreement State with the NRC. The July 13, 2017 Board packet included an Executive Summary and a comparative crosswalk table between the Utah rules and the corresponding federal regulations for the proposed changes.

Richard Codell asked if anyone in Utah was selling or utilizing thorium mantles or uranium in pottery, and/or utilized in smoke detectors, etc. Rusty Lundberg stated that smoke detectors are utilizing other radioactive materials. However, current gas lantern mantles are manufactured under the threshold for regulatory concern as well as pottery or dinnerware, etc. As rules are developed, the current changes are more reflective of what is produced today.

Rusty Lundberg clarified that when the NRC publishes a final rule, an agreement state has three years from the effective date to adopt the rule. This rule is a little behind the three-year timeframe.

It was moved by Vern Rogers and seconded by Richard Codell and UNANIMOUSLY CARRIED to approval to proceed with formal rulemaking and 30 day public comment to amend the appropriate sections of R313-12, General Provisions, R313-19, Requirements of General Applicability to Licensing of Radioactive Material, R313-21, General Licenses, and R313-22, Specific Licenses, by incorporating the federal regulatory changes promulgated by the Nuclear Regulatory Commission (NRC) in the Federal Register on May 29, 2013 (78 FR 32310) and updating selected rule citations and references, to be published in the August 15, 2017 Utah State Bulletin.

V. Director's Report.

Scott Anderson updated the Board on the activities that are currently taking place within the various programs in the Division.

Mr. Anderson gave an update to the Board regarding the proposed changes to the solid waste fees required by HB 115. This bill directs the Division to establish a "fair and equitable" fee to be paid by the solid waste management facilities that pose a regulatory burden to the Division. The fee needs to cover the Division's costs to administer the solid waste program. Seven stakeholders meetings were conducted in various parts of the State to explain the changes required by HB 115 and to solicit input on possible ways a new fee could be established. Individuals attending the meetings included elected officials, members of local health departments, owners/operators of solid waste management facilities and other interested parties. The proposed fee will be included in the Department's fee schedule, which is the annual document the Department prepares as part of its budget request submitted to the Governor and Legislature for approval. New fees become effective July 1, 2018. However, payment of the new fee will not be required until January 1, 2019. The fee schedule is subject to public comment and public input will be sought on all the fees.

Mr. Anderson updated the Board on activities that have taken place (April – June 2017). Staff completed 53 compliance evaluation inspections at hazardous waste, solid waste, low-level radioactive waste and used oil management facilities; 36 compliance assistance visits at small businesses; 620 x-ray tube inspections at 172 facilities; 16 radioactive materials licensees inspections; 10 uranium mill inspections; 16 emergency permits issued (these permits include dynamite, unexploded ordinances, etc. and are issued for waste that needs to be treated/stored/disposed of in an expedited timeframe. These permits are issued orally and followed up with a written permit and a public notice); 6 used oil permits issued/renewed; several hazardous waste permits under review for renewal including, Dugway, Clean Harbors Clive, Nexeo and ATK Promontory; and two outreach presentations with 40 participants conducted.

Mr. Anderson also provided an update on the Division's corrective action program/sites. These projects include the cleanup of legacy sites. Facility owners are required to identify the nature and extent of contamination that exists on their property and conduct corrective action. These facilities/activities include: 12 No Further Action determinations at ATK Bacchus; approval of three correction action reports (ATK Bacchus and Tooele Army Depot); excavation of waste from landfill at UTTR (long-term project); remedial action construction complete at Dowell Schlumberger; vapor extraction system approved at site in Park City; and completion of GW monitoring at Autoliv site in Ogden.

VI. Other Business.

- A. Misc. Information Items. – None to Report.**
- B. Scheduling of next Board meeting.**

The next Board meeting is scheduled for August 10, 2017 at 1:30 p.m. Due to upgrades occurring in the UDEQ Board conference room, the next Board meeting will be held at the Utah State Blind Center/State Library, located at 250 North 1950 West, Salt Lake City, Utah.

VII. Adjourn.

The meeting adjourned at 2:05 p.m.