

MEETING MINUTES APPROVED OCTOBER 10, 2019

Waste Management and Radiation Control Board Meeting
Utah Department of Environmental Quality
195 North 1950 West (Conference Room #1015) SLC, Utah
August 8, 2019
1:30 p.m.

Board Members Present: Dennis Riding (Vice-Chair), Danielle Endres, Scott Baird, Shawn Milne, Vern Rogers and Shane Whitney

Board Members Participating Telephonically: Richard Codell, Marc Franc, Jeremy Hawk and Nathan Rich

Board Members Absent/Excused: Brett Mickelson (Chair) and Steve McIff

Staff Members Present: Ty Howard, Brent Everett, Thomas Ball, Ed Costomiris, Gwyn Galloway, Deborah Ng, Arlene Lovato, Rusty Lundberg, Bret Randall, Elisa Smith, and Raymond Wixom

Other Phone Call Participants: David Cronshaw

Others Present: Masoud Britollahi, Rob Harmon, Gary Olsen, Tim Orton, Dan Shrum

I. Call to Order.

Dennis Riding (Vice-Chair) welcomed all in attendance and called the meeting to order at 1:30 p.m. Brett Mickelson (Chair) and Steve McIff were excused from the meeting. Richard Codell, Marc Franc, Jeremy Hawk and Nathan Rich participated telephonically.

II. Public Comments on Agenda Items. – None.

III. Declarations of Conflict of Interest. – None.

IV. Approval of Meeting Minutes for the June 13, 2019 Board Meeting (**Board Action Item**).

It was moved by Danielle Endres and seconded by Shane Whitney and UNANIMOUSLY CARRIED to approve the June 13, 2019 Board Meeting minutes.

V. Underground Storage Tanks Update.

Brent Everett, Director of the Division of Environmental Response and Remediation (DERR), informed the Board that the cash balance of the Petroleum Storage Tank (PST) Trust Fund at the end of June 2019 was \$14,261,804.00. The preliminary estimate for the cash balance of the PST Trust Fund for the end of July 2019 is \$15,035,161.00. The PST Trust Fund is managed on a cash balance basis to ensure sufficient coverage for known claims that have been reported. The balance of the PST Trust Fund is watched closely to ensure sufficient coverage for covered releases.

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Mr. Everett informed the Board that a five-year contract has been secured for actuarial services to perform the annual actuarial report of the PST Trust Fund. The actuarial report for fiscal year 2019 is anticipated by the end of September.

VI. Hazardous Waste Section.

- A. Approval to proceed with formal rulemaking and 30-day public comment period for proposed rule changes to Hazardous Waste Rules UAC R315-260, 261, 262, 263, 264, 265, 266, and 273 to incorporate changes promulgated by the Environmental Protection Agency (EPA) and published in the November 28, 2016 (81 FR 85696) and December 26, 2017 Federal Register (82 FR 60894) (Board Action Item).

Tom Ball, Planning and Technical Support Section Manager, reviewed the request for Board to initiate formal rulemaking and public comment on a proposed change to R315-260, R315-261, R315-262, R315-263, R315-264, R315-265, R315-266, R315-273 of the hazardous waste rules to incorporate federal regulatory changes promulgated by the Environmental Protection Agency (EPA) and published in the Federal Register in November of 2016 (81 FR 85696) and in December of 2017 (82 FR 60894). Copies of the Federal Registers were included in the August 8, 2019 Board packet.

Additionally, as part of the adoption of the revised import and export rules the following parts are being adopted into R315-265: R315-265-1, 265-4, 265-10 through 19, 265-30 through 35, 265-37, 265-50 through 56, 265-70 through 77, 265-90 through 94, 265-110 through 121, 265-140 through 148, 265-170 through 174, 265-176 through 178, 265-190 through 200, 265-202, 265-220 through 226, 265-228 through 231, 265-250 through 260.

In November of 2016 the EPA published final revisions to the Hazardous Waste Export-Import rules. Then in December of 2017 the EPA published additional final revisions to rules regarding Confidentiality Determinations for Hazardous Waste Export and Import Documents. Only the federal government, through the EPA, is authorized to administer the import and export of hazardous waste as part of the federal government's role in handling matters of foreign policy.

However; authorized State programs are still required to adopt export and import provisions into their rules in order to maintain equivalency with the Federal program. The purpose of the proposed changes is to adopt the appropriate revisions into R315 of the Utah Administrative Code. These rule changes became effective at the Federal level on December 31, 2016 and June 26, 2018. In the past, the rules for hazardous waste management in R315 relied heavily on incorporating the federal rules found in 40 Code of Federal Regulations (CFR) by reference.

In January of 2016, the rules for hazardous waste management were re-numbered and revised so that the numbering and content of the rules essentially matched that of 40 CFR. This was done so that regulated entities and the public in Utah would only have to go to one source to be able to read and understand the rules for management of hazardous waste instead of being referred from one source to another. Due to a misunderstanding, R315-265 was not included in this re-numbering and continued to incorporate by reference 40 CFR. It has been determined that certain sections of 40 CFR 265 need to be adopted into R315-265. This will be done in parts as other rules are revised that make reference to 40 CFR 265.

The proposed changes to UAC R315-260, 261, 262, 263, 264, 265, 266, and 273 were included in the August 8, 2019 Board packet.

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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 Utah State Bulletin and conducting a public comment period. The Director recommended the Board approve proceeding with formal rulemaking and public comment by publishing in the September 1, 2019, Utah State Bulletin the proposed changes to UAC R315-260, 261, 262, 263, 264, 265, 266, and 273 and conducting a public comment period from September 1, 2019 to October 1, 2019.

A. Approval to proceed with formal rulemaking and 30-day public comment period

It was moved by Shawn Milne and seconded by Danielle Endres and UNANIMOUSLY CARRIED to proceed with formal rulemaking and 30-day public comment period on proposed rule changes to the Hazardous Waste Rules UAC R315-260, 261, 262, 263, 264, 265, 266, and 273.

VII. Radioactive Materials.

A. Approval of final adoption of proposed rule changes to R313-19-34, R313-22-75, and R313-32 of the Radiation Control Rules to incorporate changes promulgated by the Nuclear Regulatory Commission and published in the July 16, 2018 Federal Register (83 FR 33046) with an additional proposed change to R313-32-2(5) (**Board Action Item**).

Phil Goble, Uranium Mills and Radioactive Materials Section Manager and Gwyn Galloway, Environmental Scientist in the Uranium Mills and Radioactive Materials Section Manager presented the request for the Board consideration and approval for the final adoption of proposed rule changes to R313-19-34, Terms and Conditions of Licenses, R313-22-75, Special Requirements for a Specific License to Manufacture, Assemble, Repair, or Distribute Commodities, Products, or Devices Which Contain Radioactive Material, and R313-32, Medical Use of Radioactive Material, of the Radiation Control Rules to incorporate federal regulatory changes promulgated by the Nuclear Regulatory Commission (NRC) and published in the Federal Register on July 16, 2018 (83 FR 33046) with an additional proposed change to R313-32-2(5).

At the Board meeting on June 13, 2019, the Board approved to proceed with formal rulemaking and 30-day public comment period on proposed rule changes to the Radiation Control Rules R313-19-34, R313-22-75, and R313-32 to incorporate changes promulgated by the Nuclear Regulatory Commission and published in the July 16, 2018 Federal Register (83 FR 33046) with an additional proposed change to R313-32-2(5).

In addition to the adoption of the NRC revisions as stated above, Board approval was requested to add a requirement for an issue not currently addressed by the NRC. The requirements in 10 CFR 35.92 include specific requirements for holding radioactive waste for "decay-in-storage" (DIS) if the radioactive materials have half-lives of 120 days or less. Radioactive waste containing materials with longer half-lives is required to be disposed as low-level radioactive waste (LLRW) unless a variance to hold the waste for DIS is requested and granted. NRC has granted variances for waste with longer half-lives to be held for DIS on a case-by-case basis in the past.

The public comment period for this rulemaking ended on July 31, 2019. No comments were received. The Director recommended the Board approve final adoption of the rule changes to R313-19-34, R313-22-75, and R313-32 as published in the July 1, 2019 issue of the Utah State Bulletin and set an effective date of August 9, 2019.

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Gwyn Galloway further stated that the Department is required to stay compatible with the Nuclear Regulatory Commission (NRC) Rules. The NRC has modified their medical rules fairly extensively, as they had not made any revision since 2002. Therefore, with this changes will make the Department compatible with the rules that the NRC has modified. Basically, the proposed rule changes effects the training and experience for authorized users that utilize radioactive materials and some modifications for nuclear pharmacies; those entities providing radioactive materials to medical facilities. As well as the special requirement for the Lutetium-177; to allow that isotope to be used more easily for the medical community.

It was moved by Vern Rogers and seconded by Shane Whitney and UNANIMOUSLY CARRIED to approve for final adoption the proposed rule changes to R313-19-34, R313-22-75, and R313-32 of the Radiation Control Rules as published in the July 1, 2019 issue of the Utah State Bulletin and set an effective date of August 9, 2019.

VIII. Director's Report.

Ty Howard informed the Board that the Governor has made recommendations to the Senate for the reappointment of the Board members terms that are set to expire that include: Brett Mickelson, Shane Whitney, Vern Rogers, Richard Codell, Jeremy Hawk, Danielle Endres and Nathan Rich. The Senate will address their confirmation in their meeting scheduled on August 21, 2019 at 4:00 pm.

Ty Howard reminded the Board that the Division provided to them a presentation on the Waste Tire Recycling Act that was scheduled to sunset in the near future. That same presentation has been provided to the Interim Legislative Committee and they have voted to approve reauthorization of the Waste Tire Recycling Act for an additional ten years. The committee did recommend a few minor changes to the Act.

IX. Other Business.

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

(The September 12, 2019 Board meeting was cancelled.) The next Board meeting is scheduled for October 10, 2019 at 1:30 p.m. at the Utah Department of Environmental Quality, located at 195 North 1950 West, SLC.

X. Adjourn.

The meeting adjourned at 1:55 p.m.

Due to the inclement weather, the tour of the new DEQ Technical Support Center was cancelled and will be rescheduled to be conducted at a future Board meeting.