



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

Jalynn Knudsen
Interim Director

A meeting of the Waste Management and Radiation Control Board has been scheduled for
May 13, 2021 at 1:30 p.m.

This is an electronic/telephonic meeting. No Anchor Location.

All Board members and any interested persons will participate electronically or telephonically:

Via the Internet: meet.google.com/gad-sxsd-uvs

Join by phone: (US) +1 978-593-3748 PIN: 902 672 356#

This meeting is being held in accordance with House Bill 5002, effective July 1, 2020, which amended the Open and Public Meetings Act to address electronic meetings held without an anchor location. The Chair of the Waste Management and Radiation Control Board has determined that the presence of the COVID 19 virus in the community presents a substantial risk to the health and safety of those who might be present at an anchor location. Therefore, this meeting will be conducted without an anchor location. A member of the public may view this meeting and make comments via the electronic means outlined above.

AGENDA

- I. Call to Order.
- II. Public Comments on Agenda Items.
- III. Declarations of Conflict of Interest.
- IV. Approval of the Meeting Minutes for the April 8, 2021 Board Meeting (**Board Action Item**) Tab 1
- V. Underground Storage Tanks Update..... Tab 2
- VI. Underground Storage Tanks Rules Tab 3
 - A. Proposed changes to the following Underground Storage Tank Rules (Information Item Only).
 - R311-200, Underground Storage Tanks: Definitions.
 - R311-201, Underground Storage Tanks: Certification Programs and UST Operator Training.
 - R311-203, Underground Storage Tanks: Technical Standards.
 - R311-204, Underground Storage Tanks: Closure and Remediation.
 - R311-205, Underground Storage Tanks: Site Assessment Protocol.
 - R311-206, Underground Storage Tanks: Certificate of Compliance and Financial Assurance Mechanisms.
 - R311-207, Accessing the Petroleum Storage Tank Trust Fund for Leaking Petroleum Storage Tanks.
 - R311-208, Underground Storage Tank Penalty Guidance.
 - R311-209, Petroleum Storage Tank Cleanup Fund and State Cleanup Appropriation.
 - R311-212, Administration of the Petroleum Storage Tank Loan Program

(Over)

VII. Administrative Rules Tab 4

- A. Approval to proceed with formal rulemaking and a public comment period for proposed rule changes to R313-19-100 of the Radiation Control Rules to incorporate regulatory corrections requested by the Nuclear Regulatory Commission (NRC) to maintain the compatibility of Utah radiation control rules with the federal regulations (**Board Action Item**).

VIII. X-Ray Program Tab 5

- A. Approval of Mammography Imaging Medical Physicists (MIMPs) in accordance with UCA 19-6-104(2)(b) (**Board Action Item**).

IX. Low-Level Radioactive Waste Section..... Tab 6

- A. EnergySolutions’ request for a one-time site-specific treatment variance from the Utah Hazardous Waste Management Rules. EnergySolutions seeks authorization to receive lithium and lithium-ion batteries for treatment and disposal (**Board Action Item**).

X. Other Business.

- A. Miscellaneous Information Items.
- B. Scheduling of next Board meeting (June 10, 2021).

XI. Adjourn.

In compliance with the Americans with Disabilities Act, individuals with special needs (including auxiliary communicative aids and services) should contact Larene Wyss, Office of Human Resources at (801) 536-4284, Telecommunications Relay Service 711, or by email at “lwyss@utah.gov”.

Waste Management and Radiation Control Board Electronic/Telephonic Board Meeting Minutes
April 8, 2021
1:30 p.m.

No Anchor Location. All Board members participated electronically OR telephonically. UDEQ employees and others from the general public also participated either electronically or telephonically.

Board Members Participating (Electronically/Telephonically):

Brett Mickelson (Chair), Dennis Riding (Vice-Chair), Richard Codell, Danielle Endres, Mark Franc, Nathan Rich, Kim Shelley, Vern Rogers, Shane Whitney

Board Members Excused: Steve McIff

UDEQ Staff members participating (Electronically/Telephonically):

Tom Ball, Ty Howard, Doug Hansen, Arlene Lovato, Elisa Smith, Otis Willoughby

I. Call to Order.

Chairman Mickelson called the meeting to order at 1:30 pm; roll call of Board members was conducted (see above).

Chairman Mickelson announced this meeting is being held in accordance with House Bill 5002, effective July 1, 2020, which amended the Open and Public Meetings Act to address electronic meetings held without an anchor location. The Chair of the Waste Management and Radiation Control Board has determined that the presence of the COVID 19 virus in the community presents a substantial risk to the health and safety of those who might be present at an anchor location. Therefore, this meeting is being conducted without an anchor location. A member of the public may participate/view this meeting via an electronic platform Google Meet or by Telephone call-in number by utilizing the electronic link/telephone number provided in the public notice of this meeting. (Public notice of this meeting was posted on the DWMRC website and the Utah Public Notice website). Also, a member of the public may make a comment on any Agenda item during this Board meeting during the time allotted for "Public Comments on Agenda Items" listed on all Agendas.

II. Public Comments on Agenda Items. – None.

III. Declarations of Conflict of Interest.

Vern Rogers declared a conflict of interest and will not vote on Agenda Item VII. B. (EnergySolutions' request for a site-specific treatment variance to receive Cemented Uranium Extraction Process Residues for disposal).

IV. Approval of Meeting Minutes for the March 11, 2021 Board Meeting (Board Action Item).

It was moved by Dennis Riding and seconded by Danielle Endres and UNANIMOUSLY CARRIED to approve the March 11, 2021 Board meeting minutes.

V. Underground Storage Tanks Update.

Doug Hansen, Underground Storage Tank Section manager for 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 February 2021 was \$19,801,897.00. The preliminary estimate of the cash balance of the PST Trust Fund for the end of March 2021 is \$19,725,787.00. The DERR continues to watch the balance of the PST Trust Fund closely to ensure sufficient cash is available to provide coverage of covered releases.

Dennis Riding asked how long the balance of the PST Trust fund has been increasing. Mr. Hansen stated that he did not know the exact time frame but that it has in fact been increasing. This will be beneficial as more aboveground storage tanks could join the PST Trust Fund due to legislation passed this year.

VI. Administrative Rules.

A. Five-Year Review of R313-12, 14, 16, 17, 18, 19, 22, 25, 28, 32, 36, and 70 of the Utah Administrative Code (Information Item).

Tom Ball, Planning and Technical Support Manager of the Division of Waste Management and Radiation Control, informed the Board that the above rules are due for a five year review. All these rules are Radiation Control rules. If these rules are to continue, a Notice of Continuation (Five-Year Review) must be filed prior to the anniversary of the last five-year review.

The Utah Administrative Rulemaking Act (Utah Code §63G-3-305) requires state agencies to review each of their administrative rules within five years of the rule's original effective date or the last five-year review. The purpose of the review is to provide agencies with an opportunity to evaluate the rules to assess if the rules should be continued.

In performing a five-year review, an agency may consider the need to amend or repeal rules that are archaic in form, are no longer used, are not based on existing statutory authority or are otherwise unnecessary. If an agency determines that a rule needs to be amended or repealed, this is done in a separate action.

To retain a rule as part of the Utah Administrative Code, a "Five-Year Notice of Review and Statement of Continuation" must be filed with the Office of Administrative Rules, before the rule's five-year anniversary date. The anniversary date for these rules is July 1, 2021.

Completing the form provided by the Office of Administrative Rules and filing it before the five-year review date satisfies the provisions of the Utah Administrative Rulemaking Act with respect to a five-year review. Copies of the completed forms, the rules listed above along with an Executive Summary were included in the Board's April 8, 2021 Board packet.

The Division is providing this information to keep the Board informed of Five-Year Reviews that have been conducted and are being submitted to the Office of Administrative Rules. Board action is not required.

Mr. Ball clarified that if an agency determines that a rule needs to be amended or repealed during the five-year review process, this is completed in a separate rulemaking action.

VII. Low-Level Radioactive Waste Section.

A. EnergySolutions' request for a site-specific treatment variance from the Utah Hazardous Waste Management Rules. EnergySolutions seeks authorization to receive lithium and lithium-ion batteries for treatment and disposal (Information Item).

Otis Willoughby, Low-Level Radioactive Waste Section Manager, Division of Waste Management and Radiation Control, informed the Board that on March 17, 2021, 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 seeks authorization to receive lithium and lithium-ion batteries for treatment and disposal at their Mixed Waste Facility. EnergySolutions proposes to manage this waste by directly macroencapsulating the intact batteries as if they were debris.

A notice for public comment was published in the Salt Lake Tribune on April 4, 2021, the Deseret News on April 2, 2021, and the Tooele County Transcript Bulletin on April 1, 2021. The comment period began April 5, 2021 and will end May 4, 2021.

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

Tim Orton, EnergySolutions representative, reviewed the request for a variance. Mr. Orton clarified the Lithium and lithium-ion batteries to be disposed are usually 4-6 inches in size and are used typically in cell phones, computers, radios, (small electronic equipment, etc.). The specific issue is that lithium and lithium-ion batteries typically exhibit the hazardous characteristics of ignitability (D001) and reactivity (D003). This type of waste stream cannot be recycled because of the radioactive components and therefore must be treated and disposed of properly.

Regulations in UAC R315-268-40 require that these characteristic hazards be deactivated to remove the characteristic prior to land disposal. As an alternative, UAC R315-268-45 allows hazardous debris to be treated using an immobilization technology (e.g., macroencapsulation).

However, the Environmental Protection Agency (EPA) has ruled that intact batteries are containers and not considered debris. Furthermore, the definition of macroencapsulation in R315-268-42 states that “[M]acroencapsulation specifically does not include any material that would be classified as a tank or container.” In order to meet the regulatory standards described above, lithium and lithium-ion batteries would need to be shredded and mixed with reagents to deactivate them; or punctured (and then considered debris) to macroencapsulate them. Both of these 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.

EnergySolutions proposes to manage this waste by directly macroencapsulating the intact batteries as if they were debris. Macroencapsulation is a permitted treatment technology that isolates hazardous waste from the environment, eliminating the potential for harmful reactions from exposure to the environment. Final disposal of the waste will occur in the Mixed Waste Disposal Cell at the EnergySolutions Mixed Waste Facility.

Mr. Orton addressed the Board’s concerns regarding reactive pyrophoric types of wastes in EnergySolutions landfill and reviewed the statutes regarding this matter, specifically R315-15-1009.

Mr. Orton clarified that if the batteries are not reactive when being managed, this waste stream can be managed at their facility as long as they remain intact.

Mr. Orton clarified this waste stream contains both hazardous and radioactive waste codes. Specifically, because the batteries were located within a radioactive area and thus have radioactive contamination that has seeped onto them so they are classified as low-level radioactive waste.

Board members requested additional clarification on how the batteries are processed (utilization of the cement process, etc. for handling fully charged lithium batteries, etc.) and the status of previously disposed batteries and how they have held up (swollen batteries, blown-up batteries, reactive batteries, etc.). Mr. Orton explained how the batteries are processed in cement monoliths and addressed the status of previously disposed batteries and how they have held up. Specifically, the current method being utilized has been successful as no cracks in the monoliths have been discovered, etc.

Mr. Orton stated the batteries they receive are from various locations and are classified as low-level radioactive waste.

Board members questioned if special handling protocols for handling this waste stream is utilized, i.e., if batteries are not handled appropriately, they can break open and cause a fire, etc. Mr. Orton explained the safe

handling protocols and explained that the usual shipment of this waste stream received is approximately amounts equivalent to five 10-gallon buckets.

B. EnergySolutions' request for a site-specific treatment variance from the Utah Hazardous Waste Management Rules. EnergySolutions seeks authorization to receive Cemented Uranium Extraction Process Residues for disposal (Board Action Item)

Otis Willoughby reviewed EnergySolutions, LLC request submitted on January 11, 2021 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 seeks authorization to receive Cemented Uranium Extraction Process Residues for disposal. This agenda item was presented to the Board as an information item in the February 11, 2021 Board meeting. EnergySolutions has requested and received treatment variances for this waste stream every year from 2007 through 2020. Since the last variance was approved, approximately 894 cubic feet of this waste has been received. The Mixed Waste Facility proposes to receive up to 1,000 cubic feet of cemented uranium extraction process residuals.

The residual waste from each of these processes is collected in small cans (~ 2 ½ gallons each) and stored at the generator's facility, and is then packaged in 16-gallon monolithic forms and is shipped to and received at the EnergySolutions Clive facility. This material retains hazardous waste codes for barium, cadmium, chromium, lead, and spent solvents. The generator has encapsulated the waste in concrete for safety and security reasons.

EnergySolutions proposes to receive this waste for macroencapsulation in the Mixed Waste Landfill Cell rather than chemical stabilization, as required. This request is based on the fact that the waste has already been encapsulated in concrete at the generator's site. Treating this waste by the required method would mean grinding the waste and potentially exposing workers to unnecessary contamination. The proposed treatment will further encapsulate the waste and protect it from contact with precipitation, thereby decreasing the potential of leaching.

A 30-day notice for public comment was published in the *Salt Lake Tribune*, the *Deseret News*, and the *Tooele County Transcript Bulletin*. The comment period began February 8, 2021 and ended March 9, 2021. No comments were received.

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.

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.

Mr. Willoughby further clarified this waste is generated as part of uranium recovery processes at the Paducah Gaseous Diffusion Plant -this plant is the only plant this type of waste is being received from. The plant also anticipates more of this waste stream to be generated in the future. The cemented uranium extraction process residues contain both hazardous and radioactive constituents. This is a Class A waste stream and processes are in place to ensure the waste meets the Class A requirements. EnergySolutions is licensed to receive Class A waste-this waste class is not in the same category of depleted uranium waste. Mr. Willoughby briefly described the Division's process of the "random sampling" of the waste stream being received at EnergySolutions. Mr. Willoughby and Mr. Orton described the physical process of handling the 16-gallon monoliths being received and the macroencapsulation process.

It was moved by Shane Whitney and seconded by Mark Franc and UNANIMOUSLY CARRIED to approve EnergySolutions' request for a one-time site-specific treatment variance from the Utah

Hazardous Waste Management Rules to receive Cemented Uranium Extraction Process Residues for disposal. Vern Rogers abstained from voting.

VIII. Other Business.

A. Miscellaneous Information Items.

Kim Shelley announced that Director Howard has been selected to serve as the Deputy Director for the Department and will begin his new position on April 19, 2021. Ms. Shelley informed the Board that a recruitment is currently underway to fill Director Howard's position.

Director Howard expressed his appreciation in working with the Board and stated he will miss his relations with the Board members. On behalf of the Board, Chairman Mickelson expressed appreciation to Director Howard and wished him success in his new position.

Director Howard reviewed the Board's vacancies: (1) Medical physicist or health physicist or professional employed in the field of radiation safety, vacated by the deployment of Jeremy Hawk, and (2) government representative who does not represent federal government, vacated by Commissioner Shawn Milne.

Director Howard stated the Board's website has gone through some upgrades, and those upgrades have been finalized and the above vacancies have been posted on the website. The Board can access the website at: <https://boards.governor.utah.gov/s/>

Director Howard provided an update on the status of the return to the office for employees and future Board meetings. Director Howard stated that as more people receive their vaccinations, he anticipates a "phased-approach" of staff members returning to the office. The Department anticipates receiving information from the Office of the Governor outlining a plan for a safe return to work.

B. Scheduling of next Board meeting.

The next meeting is scheduled for May 13, 2021.

IX. Adjourn.

The meeting adjourned at 2:20 p.m.

UST STATISTICAL SUMMARY

April 1, 2020 -- March 31, 2021

PROGRAM													
	April	May	June	July	August	September	October	November	December	January	February	March	(+/-) OR Total
Regulated Tanks	4,116	4,130	4,123	4,128	4,128	4,135	4,130	4,127	4,130	4,144	4,144	4,145	29
Tanks with Certificate of Compliance	4,000	4,006	4,009	4,033	4,029	4,027	4,027	4,039	4,044	4,051	4,051	4,053	53
Tanks without COC	116	124	114	95	99	108	103	88	86	93	93	92	(24)
Cumulative Facilities with Registered A Operators	1,290	1,289	1,289	1,255	1,250	1,084	1,104	1,108	1,111	1,252	1,252	1,256	95.01%
Cumulative Facilities with Registered B Operators	1,290	1,290	1,291	1,292	1,287	1,142	1,147	1,150	1,147	1,285	1,285	1,292	97.73%
New LUST Sites	2	6	4	3	11	5	8	8	8	5	5	10	75
Closed LUST Sites	5	3	4	2	6	3	7	2	6	4	4	16	62
Cumulative Closed LUST Sites	5285	5291	5292	5295	5301	5302	5310	5315	5323	5329	5329	5350	65
FINANCIAL													
	April	May	June	July	August	September	October	November	December	January	February	March	(+/-)
Tanks on PST Fund	2,637	2,637	2,642	2,662	2,661	2,657	2,654	2,666	2,667	2,666	2,666	2,666	29
PST Claims (Cumulative)	675	681	684	685	685	687	688	688	688	688	688	689	14
Equity Balance	-\$9,475,125	-\$9,022,705	-\$8,712,595	-\$7,717,022	-\$7,373,152	-\$7,311,417	-\$10,201,999	-\$9,462,843	-\$9,547,189	-\$8,950,746	\$8,633,383	-\$8,709,493	\$765,632
Cash Balance	\$16,643,155	\$17,095,575	\$17,405,685	\$18,401,258	\$18,745,128	\$18,806,863	\$18,233,281	\$18,972,437	\$18,888,091	\$19,484,534	\$19,801,897	\$19,725,787	\$3,082,632
Loans	0	0	0	0	0	0	0	0	0	0	0	0	0
Cumulative Loans	121	121	121	121	121	121	121	121	121	121	121	121	0
Cumulative Amount	\$4,738,367	\$4,738,367	\$4,738,367	\$4,738,367	\$4,738,367	\$4,738,367	\$4,738,367	\$4,738,367	\$4,738,367	\$4,738,367	\$4,738,367	\$4,738,367	\$0
Defaults/Amount	1	1	2	2	2	2	2	2	2	2	2	2	1
	April	May	June	July	August	September	October	November	December	January	February	March	TOTAL
Speed Memos	54	32	50	7	38	95	72	73	42	48	48	75	634
Compliance Letters	8	7	5	15	18	32	30	9	14	15	15	18	186
Notice of Intent to Revoke	0	0	0	0	0	0	0	0	0	0	0	0	0
Orders	0	0	2	3	2	1	2	1	0	0	0	1	12

Board Information Item
Proposed changes to R311, Underground Storage Tank Rules

The Division of Environmental Response and Remediation (DERR) is proposing changes to R311, the Utah Underground Storage Tank (UST) rules. These changes are presented as an information item.

Background:

The Board and the Director of the DERR are tasked with making rules and administering the UST program. Several years ago, as legislation regarding the PST Fund was under consideration by the legislature, the Division received direction from the Legislature to review the Environmental Assurance Program reimbursement process. In 2018, the Division conducted an internal audit of several PST Fund claim reimbursement submissions. One major finding was that similar common tasks were being submitted for reimbursement from the Petroleum Storage Tank (PST) Trust Fund with high variability in hours, costs, and the level of personnel completing the tasks. Some task's variability ranged as high as four times that of other similar submissions. This audit led to the development of the "Cost Guidelines for Utah Underground Storage Tank Sites". This document establishes the framework for a standardized and consistent approach for work done by State Contractors and for PST Trust Fund reimbursements. In addition, PST Fund participants are no longer required to periodically test the interstice of tanks or piping to receive credit as double-walled for purposes of the environmental assurance fee rebate model. Other changes are proposed to simplify the state rules and remove wording that is redundant or no longer applicable. The proposed changes were presented to the UST Advisory Task Force on April 13, 2021.

The rules to be amended are:

- R311-200, Underground Storage Tanks: Definitions.
- R311-201, Underground Storage Tanks: Certification Programs and UST Operator Training.
- R311-203, Underground Storage Tanks: Technical Standards.
- R311-204, Underground Storage Tanks: Closure and Remediation.
- R311-205, Underground Storage Tanks: Site Assessment Protocol.
- R311-206, Underground Storage Tanks: Certificate of Compliance and Financial Assurance Mechanisms.
- R311-207, Accessing the Petroleum Storage Tank Trust Fund for Leaking Petroleum Storage Tanks.
- R311-208, Underground Storage Tank Penalty Guidance.
- R311-209, Petroleum Storage Tank Cleanup Fund and State Cleanup Appropriation.
- R311-212, Administration of the Petroleum Storage Tank Loan Program.

A summary of the proposed changes appears below, and the text of the changes can be found at <https://documents.deq.utah.gov/environmental-response-and-remediation/ust-lust/underground-storage-tanks/DERR-2021-007034.pdf>

In the rule text document, wording to be added is underlined, and wording to be removed is ~~struck out~~.

Summary of the Proposed Changes:

R311-200, Underground Storage Tanks: Definitions.

- R311-200-1(b). Remove definitions that are no longer needed, due to changes in the federal UST regulations or changes in the state UST rules.
- R311-200-1(b)(60). Modify the definition of UST Testing to include any testing requirements for exempt USTs or aboveground storage tanks that voluntarily participate in the Environmental Assurance Program.

R311-201, Underground Storage Tanks: Certification Programs and UST Operator Training.

- R311-201-2. Reword requirement for certification, for clarity.
- R311-201-2(a). Specify releases from hazardous substance USTs do not require a Certified UST Consultant.
- R311-201-2(b)(1). Add a limited certification restricting the type of UST inspections the applicant can perform may be issued by the director.
- R311-201-2(d). Change the name “groundwater and soil certification” to “certified sampler” to reflect the sampling of other media as well as groundwater and soil and change the words “groundwater and soil” to “environmental media”. Discussed in definitions 200-1.
- R311-201-3 and 201-4. Switch section position in rule for section on application for certification and section on eligibility for certification for process clarification.
- R311-201-6(3)(A) Allows the director to audit records which support eligibility for certification, or performance of work for which certification is granted.
- R311-201-12(k). For operator training and registration, incorporate by reference the updated document “UST and LUST Performance Definitions as of October 2018” for documenting compliance.

R311-203, Underground Storage Tanks: Technical Standards.

- R311-203-3 (e)(1) Clarification that the Installation Permit fee shall be increased based on additional number of tanks being installed.
- R311-203-4(f). Update assessment of higher registration fee based on the EPA Technical Compliance Rate.
- R-311-203-5(g) Certified individuals who test overflow, automatic tank gauges and line leak detectors must use the forms found in PEI RP1200 appendices or other forms approved by the director. Each of the rule’s references reporting forms to be used for the various tests. Additionally, allows for an alternative form approved by the director.
- R-311-203-8(a)(1) Changed responsible person to trained operator. Clarifies that it is the trained operator who is the responsible person on site.

R311-204, Underground Storage Tanks: Closure and Remediation.

- R311-204-3(a). Reword requirement for tank labeling for disposal.
- R311-204-2(h). Changed notification of closure activities from 72 hours to 3 business days. Clarification of what is meant by 72 hrs. Just clarifies existing language to specify that 72 hours means 3 business days.
- R311-204-3(a)(3). Changed “contained petroleum” to “substance contained” because it may have contained a non-petroleum product that would be regulated by the UST program,

R311-205, Underground Storage Tanks: Site Assessment Protocol.

- R311-205-2. Update document for sampling environmental media incorporated by reference. “Utah Storage Tank Program Sampling Guide, dated MONTH, YEAR “

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

- R311-206-9(d). Add a requirement that for any facility that participates in the Environmental Assurance Program and is sold to a company with facilities that do not participate in the Environmental Assurance Program, the date of termination of coverage is the closing date for the real estate transaction. The purchaser shall provide documentation of the closing date to the director within 30 days of closing.
- R311-206-10(b)(1). Update compliance status determination using the EPA “UST and LUST Performance Definitions as of October 2018”.
- R311-206-11(c)(2)(C). Remove secondary containment interstitial space testing requirement for tanks for purpose of risk calculation.
- R311-206-11(d)(2)(B). Remove secondary containment interstitial space testing requirement for piping for purpose of risk calculation.
- R311-206-11(e)(2). Remove secondary containment interstitial space testing requirement for piping containment sumps and under-dispenser containment for purpose of risk calculation.

R311-207, Accessing the Petroleum Storage Tank Trust Fund for Leaking Petroleum Storage Tanks.

- R311-207-4(e)(1)(C). Remove yearly approval of competitive bid schedule for frequently used services.
- R311-207-4(h). Remove pay for performance reimbursement to claimants.
- R311-207-5(b). Replace Time and Material Reimbursement Standards document incorporated by reference with Cost Guidelines for Underground Storage Tank Sites dated February 25, 2020.
- R311-207-7. Reword consultant personnel classifications, requirements, rates, tasks, and responsibilities, for clarity.
- R311-207-7(a). Replace Consultant Personnel Qualifications and Task Descriptions document incorporated by reference with the Cost Guidelines document.
- R311-207-7(b) through (i). Remove consultant yearly filed maximum allowable reimbursement rates and fee schedules. Replace with materials, equipment, and services will be reimbursed in accordance with the Cost Guidelines.

- R311-207-9(a)(2). Remove requirement for approved PST Trust Fund labor rates and refer to Cost Guidelines.

R311-208, Underground Storage Tank Penalty Guidance

- All changes are punctuation, capitalization and format

R311-209, Petroleum Storage Tank Cleanup Fund and State Cleanup Appropriation.

- All changes are punctuation, capitalization and format

R311-212, Administration of the Petroleum Storage Tank Loan Program.

- R311-212—2(d). Delete “Petroleum Storage Tank Trust” and refer to it as just “Fund” because Fund is defined in R311-200-1(b)(36) as Petroleum Storage Tank Trust
- R311-212-3(d)(2). Clarifying that the replacement refers to Installing and replacing “petroleum” USTs. Change made so that the rule matches the statute.

The tentative adoption schedule for the proposed rule changes is:

Request for comments from UST Stakeholders	April and May 2021
Request for Board approval for publication and public comment	June 10, 2021
Publication in the Utah State Bulletin	July 1, 2021
Public comment period	July 1 – July 31, 2021
Public hearing (date tentative)	July 15, 2021
Board approval for final adoption	August 12, 2021
Final effective date of new rules	October 29, 2021

WASTE MANAGEMENT AND RADIATION CONTROL BOARD
 Executive Summary
 Public Comment - Proposed Rule Changes
 UAC R313-19-100
 May 13, 2021

<p>What is the issue before the Board?</p>	<p>Approval from the Board to proceed with formal rulemaking and public comment on the proposed changes to R313-19-100 of the Radiation Control Rules to incorporate changes requested by the Nuclear Regulatory Commission (NRC) to maintain the compatibility of Utah radiation control rules with the federal regulations. A copy of the NRC letter is included with this summary.</p>
<p>What is the historical background or context for this issue?</p>	<p>The Division of Waste Management and Radiation Control received a comment from the Nuclear Regulatory Commission (NRC) in March of 2021 indicating that they had discovered an incompatibility in our rules. The purpose of this amendment is to correct that incompatibility.</p> <p>Section R313-19-100 incorporates by reference 10 CFR 71.97. This federal regulation requires certain transportation notifications to be submitted to state and federal agencies. Subsections R313-19-100(4)(a)(ii) and (iii) substitute the Director of the Division of Waste Management and Radiation Control for the Directors of two different NRC offices. The NRC commented that the notifications need to be sent to the NRC as well as the state agency and indicated that to remain compatible with the federal program Utah needs to delete Subsections R313-19-100(4)(a)(ii) and (iii).</p> <p>Deleting these two subsections will not impact the Utah radiation control program because the federal regulations already require the notifications to be submitted to the states as well as the federal agencies.</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>The proposed changes to R313-19-100 follow this Executive Summary. Changes are highlighted in yellow.</p>
<p>What is the governing statutory or regulatory citation?</p>	<p>The Board is authorized under Subsection 19-3-103.1(1) to make rules that are necessary to implement the Radiation Control Act.</p> <p>The rule changes also meet existing DEQ and state rulemaking procedures and are necessary for the state to maintain compatibility with federal regulations for radioactive materials.</p>

Is Board action required?	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.
What is the Division Director's recommendation?	The Director recommends the Board authorize initiating the formal rulemaking process by filing the proposed rule changes with the Office of Administrative Rules for publication in the <i>Utah State Bulletin</i> and commence a public comment period. With the Board's approval and following a required review by the Governor's office, it is anticipated that the proposed rule changes will be published in the June 1, 2021 issue of the <i>Utah State Bulletin</i> with a public comment period beginning on June 1, 2021 and ending on July 1, 2021.
Where can more information be obtained?	Please contact Tom Ball by email at tball@utah.gov or by phone at (801) 536-0251.

State of Utah
Administrative Rule Analysis
 Revised May 2020

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New ___; Amendment <u>X</u> ; Repeal ___; Repeal and Reenact ___		
Title No. - Rule No. - Section No.		
Utah Admin. Code Ref (R no.):	R313-19-100	Filing No. (Office Use Only)
Changed to Admin. Code Ref. (R no.):	R	

Agency Information

1. Department:	Environmental Quality	
Agency:	Waste Management and Radiation Control	
Room no.:		
Building:	MASOB	
Street address:	195 N. 1950 W.	
City, state:	Salt Lake City, Utah	
Mailing address:	P.O. Box 144880	
City, state, zip:	Salt Lake City, Utah 84114-4880	
Contact person(s):		
Name:	Phone:	Email:
Thomas Ball	801-536-0251	tball@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
Transportation
3. Purpose of the new rule or reason for the change (If this is a new rule, what is the purpose of the rule? If this is an amendment, repeal, or repeal and reenact, what is the reason for the filing?):
The Division of Waste Management and Radiation Control received a comment from the Nuclear Regulatory Commission (NRC) in March of 2021 indicating that they had discovered an incompatibility in our rules. The purpose of this amendment is to correct that incompatibility.
4. Summary of the new rule or change:
Section R313-19-100 incorporates by reference 10 CFR 71.97. This federal regulation requires certain transportation notifications to be submitted to state and federal agencies. Subsections R313-19-100(4)(a)(ii) and (iii) substitute "Director" for "Director, Division of Nuclear Safety, Office of Nuclear Security and Incident Response" and for "Director, Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001". The NRC commented that the notifications need to be sent to the NRC as well as the state agency and indicated that to remain compatible with the federal program Utah needs to delete Subsections R313-19-100(4)(a)(ii) and (iii). Deleting these two subsections will not impact the Utah program because the federal regulations require the notifications to be submitted to the states as well as the federal agencies. This amendment deletes Subsections R313-19-100(4)(a)(ii) and (iii). Additionally, the Division has made minor formatting changes in the rule to correct formatting that does not conform to proper rule writing format.

Fiscal Information

5. 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 due to this change because the change does not result in any changes to state agency operations.
B) Local governments:
It is not anticipated that there will be any cost or savings to local governments due to this change because the change does not result in any changes to local government agency operations.
C) Small businesses ("small business" means a business employing 1-49 persons):
It is not anticipated that there will be any cost or savings to small businesses due to this change because the change does not

require any small businesses that are required to comply with this rule to do anything different than they are currently doing.

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

It is not anticipated that there will be any cost or savings to non-small businesses due to this change because the change does not require any non-small businesses that are required to comply with this rule to do anything different than they are currently doing.

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**):

It is not anticipated that there will be any cost or savings to any other persons due to this change because the change does not require any persons that are required to comply with this rule to do anything different than they are currently doing.

F) Compliance costs for affected persons:

It is not anticipated that there will be any additional compliance costs for affected persons due to the amendment to this rule because the amended rule does not require any affected persons to do anything different than they are currently doing.

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	FY2021	FY2022	FY2023
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
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
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
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head approval of regulatory impact analysis:

The head of the Department of Environmental Quality, Kimberly D. Shelley, has reviewed and approved this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

It is not anticipated that this rule change will have a fiscal impact on anyone who is required to comply with the rule. The change is being made in accordance with comments from the Nuclear Regulatory Commission and is necessary for the radiation control program in the State of Utah to maintain compatibility with the federal regulations.

B) Name and title of department head commenting on the fiscal impacts:

Kimberly D. Shelley, Executive Director

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

19-3-104		

Incorporations by Reference Information

(If this rule incorporates more than two items by reference, please include additional tables.)

8. A) This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; *if none, leave blank*):

	First Incorporation
Official Title of Materials Incorporated	

(from title page)	
Publisher	
Date Issued	
Issue, or version	

B) This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; *if none, leave blank*):

	Second Incorporation
Official Title of Materials Incorporated (from title page)	
Publisher	
Date Issued	
Issue, or version	

Public Notice Information

9. 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. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until (mm/dd/yyyy): 07/01/2021

B) A public hearing (optional) will be held:

On (mm/dd/yyyy):	At (hh:mm AM/PM):	At (place):

10. This rule change MAY become effective on (mm/dd/yyyy): 07/09/2021

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

To the agency: Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the *Utah State Bulletin*, and delaying the first possible effective date.

Agency head or designee, and title:	Jalynn Knudsen, Interim Director	Date (mm/dd/yyyy):	
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R313. Environmental Quality, Waste Management and Radiation Control, Radiation.

R313-19. Requirements of General Applicability to Licensing of Radioactive Material.

R313-19-100. Transportation.

For purposes of Section R313-19-100, 10 CFR 71.0(c), 71.1(a), 71.3, 71.4, 71.13, 71.14(a), 71.15, 71.17, 71.19(a), 71.19(b), 71.19(c), 71.20 through 71.23, 71.47, 71.83 through 71.89, 71.97, 71.101(a), 71.101(b), 71.101(c)(1), 71.101(g), 71.105, 71.127 through 71.137, and Appendix A to Part 71 (2019) are incorporated by reference with the following clarifications or exceptions:

- (1) The exclusion of the following:
 - (a) In 10 CFR 71.4 the following definitions:
 - (i) "close reflection by water";
 - (ii) "licensed material";
 - (iii) "optimum interspersed hydrogenous moderation";
 - (iv) "spent nuclear fuel or spent fuel"; and
 - (v) "state."
 - (2) The substitution of the [following] date reference[~~is~~]:
 - ~~(a)~~ "October 1, 2011" for "October 1, 2008".
 - (3) The substitution of the following rule references:
 - (a) "Rule R313-36 (incorporating 10 CFR 34.31(b) by reference)" for "Sec. 34.31(b) of this chapter" as found in 10 CFR 71.101(g);
 - (b) "Section R313-15-502" for reference to "10 CFR 20.1502";
 - (c) "Rule R313-14" for reference to "10 CFR Part 2 Subpart B";
 - (d) "Rule R313-32, 10 CFR Part 35," for reference to "10 CFR part 35";
 - (e) "Subsection R313-15-906(5)" for reference to "10 CFR 20.1906(e)";
 - (f) "Subsection R313-19-100(5)" for "Sec. 71.5";
 - (g) "10 CFR 71.101(a), 71.101(b), 71.101(c)(1), 71.101(g), 71.105, and 71.127 through 71.137" for "subpart H of this part" or for "subpart H" except in 10 CFR 71.17(b), 71.20(b), 71.21(b), 71.22(b), 71.23(b);
 - (h) "10 CFR 71.0(c), 71.1(a), 71.3, 71.4, 71.17(c)(2), 71.20(c)(2), 71.21(d)(2), 71.83 through 71.89, 71.97, 71.101(a), 71.101(b), 71.101(c)(1), 71.101(g), 71.105, and 71.127 through 71.137" for "subparts A, G, and H of this part";
 - (i) "10 CFR 71.47" for "subparts E and F of this part"; and
 - (j) "10 CFR 71.101(a), 71.101(b), 71.101(c)(1), 71.101(g), 71.105, and 71.127 through 71.137" for "Sec. Sec. 71.101 through 71.137."
 - (4) The substitution of the following terms:
 - (a) "Director" for:
 - (i) "Commission" in 10 CFR 71.0(c), 71.17(a), 71.20(a), 71.21(a), 71.22(a), 71.23(a), and 71.101(c)(1);
 - (ii) [~~"Director, Division of Nuclear Safety, Office of Nuclear Security and Incident Response" in 10 CFR 71.97(c)(1), and 71.97(f)(1);~~]
 - (iii) [~~"Director, Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001" in 10 CFR 71.97(c)(3)(iii);~~]
 - (iv)]"NRC" in 10 CFR 71.101(f);
 - (b) "Director, the U.S. Nuclear Regulatory Commission, or an Agreement State" for "Commission" in 10 CFR 71.3;
 - (c) "The Governor of Utah" for:
 - (i) "the governor of a State" in 71.97(a);
 - (ii) "each appropriate governor" in 10 CFR 71.97(c)(1);
 - (iii) "the governor" in 10 CFR 71.97(c)(3);
 - (iv) "the governor of the state" in 10 CFR 71.97(e);
 - (v) "the governor of each state" in 10 CFR 71.97(f)(1);
 - (vi) "a governor" in 10 CFR 71.97(e);
 - (d) "State of Utah" for "State" in 71.97(a), 71.97(b)(2), and 71.97(d)(4);
 - (e) "the Governor of Utah's" for:
 - (i) "the governor's" in 10 CFR 71.97(a), 71.97(c)(3), 71.97(c)(3)(iii), 71.97(e), and 71.97(f)(1);
 - (ii) "governor's" in 10 CFR 71.97(c)(1), and 71.97(e);
 - (f) "Specific or general" for "NRC" in 10 CFR 71.0(c);
 - (g) "The Director at the address specified in SecR313-12-110" for reference to "ATTN: Document Control Desk, Director, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards" in 10 CFR 71.101(c)(1);
 - (h) "Each" for "Using an appropriate method listed in Sec. 71.1(a), each" in 10 CFR 71.101(c)(1);
 - (i) "The material must be contained in a Type A package meeting the requirements of 49 CFR 173.417(a)." for "The fissile material need not be contained in a package which meets the standards of subparts E and F of this part; however, the material must be contained in a Type A package. The Type A package must also meet the DOT requirements of 49 CFR 173.417(a)." as found in 10 CFR 71.22(a) and 71.23(a);
 - (j) "Licensee" for "licensee, certificate holder, and applicant for a COC"; and
 - (k) "Licensee is" for reference to "licensee, certificate holder, and applicant for a COC are."

(5) Transportation of licensed material

(a) Each licensee who transports licensed material outside the site of usage, as specified in the license issued by the Director, the U.S. Nuclear Regulatory Commission or an Agreement State, or where transport is on public highways, or who delivers licensed material to a carrier for transport, shall comply with the applicable requirements of the U.S. Department of Transportation regulations in 49 CFR parts 107, 171 through 180, and 390 through 397 (2009), appropriate to the mode of transport.

(i) The licensee shall particularly note DOT regulations in the following areas:

(A) Packaging--49 CFR part 173: subparts A (49 CFR 173.1 through 49 CFR 173.13), B (49 CFR 173.21 through 49 CFR 173.40), and I (49 CFR 173.401 through 49 CFR 173.477).

(B) Marking and labeling--49 CFR part 172: subpart D (49 CFR 172.300 through 49 CFR 172.338); and 49 CFR 172.400 through 49 CFR 172.407 and 49 CFR 172.436 through 49 CFR 172.441 of subpart E.

(C) Placarding--49 CFR part 172: subpart F (49 CFR 172.500 through 49 CFR 172.560), especially 49 CFR 172.500 through 49 CFR 172.519 and 49 CFR 172.556; and appendices B and C.

(D) Accident reporting--49 CFR part 171: 49 CFR 171.15 and 171.16.

(E) Shipping papers and emergency information--49 CFR part 172: subparts C (49 CFR 172.200 through 49 CFR 172.205) and G (49 CFR 172.600 through 49 CFR 172.606).

(F) Hazardous material employee training--49 CFR part 172: subpart H (49 CFR 172.700 through 49 CFR 172.704).

(G) Security plans--49 CFR part 172: subpart I (49 CFR 172.800 through 49 CFR 172.804).

(H) Hazardous material shipper^[f] or carrier registration--49 CFR part 107: subpart G (49 CFR 107.600 through 49 CFR 107.606).

(ii) The licensee shall also note DOT regulations pertaining to the following modes of transportation:

(A) Rail--49 CFR part 174: subparts A through D (49 CFR 174.1 through 49 CFR 174.86) and K (49 CFR 174.700 through 49 CFR 174.750).

(B) Air--49 CFR part 175.

(C) Vessel--49 CFR part 176: subparts A through F (49 CFR 176.1 through 49 CFR 176.99) and M (49 CFR 176.700 through 49 CFR 107.720).

(D) Public Highway--49 CFR part 177 and parts 390 through 397.

(b) If DOT regulations are not applicable to a shipment of licensed material, the licensee shall conform to the standards and requirements of the DOT specified in Subsection R313-19-100(5)(a)~~[paragraph (a) of this section]~~ to the same extent as if the shipment or transportation were subject to DOT regulations. A request for modification, waiver, or exemption from those requirements, and any notification referred to in those requirements, must be filed with, or made to, the Director, P.O. Box 144850, Salt Lake City, Utah 84114-4850.

KEY: licenses, reciprocity, transportation, exemptions

Date of Enactment or Last Substantive Amendment: February 14, 2020

Notice of Continuation: July 1, 2016

Authorizing, and Implemented or Interpreted Law: 19-3-104; 19-6-104

WASTE MANAGEMENT AND RADIATION CONTROL BOARD

Executive Summary

Approval of Mammography Imaging Medical Physicists

May 13, 2021

What is the issue before the Board?	Approval of qualified Mammography Imaging Medical Physicists.
What is the historical background or context for this issue?	<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>In April 2021, 19 individuals filed applications to be recertified as a MIMP. Two new applications were also received.</p> <p>Division staff has reviewed the applicant's qualifications and all applicants meet the requirements detailed in R313-28-140.</p> <p>A list of the applicants is included with this Executive Summary</p>
What is the governing statutory or regulatory citation?	In accordance with Subsection 19-6-104(2)(b) 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.
Is Board action required?	Yes.
What is the Division Director's recommendation?	The Interim Director of the Division of Waste Management and Radiation Control recommends the Board issue a certificate of approval effective from June 1, 2021 to May 31, 2022 for the applicants reviewed and presented to the Board.
Where can more information be obtained?	Please contact Lisa Mechem, DVM, at (801) 536-4286.

MAMMOGRAPHY IMAGING MEDICAL PHYSICISTS

(Individuals to be certified by the Waste Management and Radiation Control Board)

Robert Allman, MS
4133 Hanover Dr.
DeForest, WI 53532

Adam Arndt, M.S.
542 Mingo Park Drive
Sandy, UT 84070

Lisa M. Bosworth, M.S.
1849 Mortimer Drive
Boise, ID 83712

Adam Davis, M.S.
Health Physics Northwest
7525 SE Lake Rd.
Milwaukie, OR 97267

Dan Dugan, M.S.
Health Physics Northwest
7525 SE Lake Rd.
Milwaukie, OR 97267

Ryan Dzanbazoff, M.S. **
11576 Maxfield Blvd.
Hartland, MI 48353

Byron Lynn Hardy, Ph.D., DABR
8013 Stream View Drive
Sandy, UT 84093

Nicole Hable, M.S.
119306 North Street
Stratford, WI 54484

Jeremy Hawk, M.S., CHP
2512 East 1580 South
Spanish Fork, UT 84660

Stephen P. Henry, M.S.
8043 Galaxy Drive
Neenah, WI 54956

Warren Scott Helms, M.S.
19470 Sage Lane
Fenton, MI 48430

Peter A. Jenkins, Ph.D., CHP, DABR
P.O. Box 782
Kaysville, UT 84037

Ann M. Jones, M.S.
649 Rock Garden Ln.
Dammeron Valley, UT 84783

Jeremy Mangum, M.S., DABSNM
2608 Morning Cloud Ln.
Las Vegas, NV 89142

Joseph McDonald, Ph.D., CHP, MP
531 104th LN SE
Olympia, WA 98501

Joel Rogers, M.S.
Health Physics Northwest
7525 SE Lake Rd.
Milwaukie, OR 97267

David Ross, M.S. **
675 South Shore Dr.
Portage, MI 49002

Charles Spencer, MS
1417 Marbella Ridge Ct.
Las Vegas, NV 89117

Kelli Silverstrim, Ph.D.
1701 E. Atkin Ave.
Salt Lake City, UT 84106

Seth Streitmatter, Ph.D.
32 Q St.
Salt Lake City, UT 84103

Gene L. Wollan, M.S.
Health Physics Northwest
7525 SE Lake Rd.
Milwaukie, OR 97267

** New applicant

EFFECTIVE JUNE 1, 2021 THROUGH MAY 31, 2022

WASTE MANAGEMENT AND RADIATION CONTROL BOARD
 Executive Summary
 REQUEST FOR A SITE-SPECIFIC TREATMENT VARIANCE
 EnergySolutions, LLC
 May 13, 2021

<p>What is the issue before the Board?</p>	<p>On March 17, 2021, 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 seeks authorization to receive lithium and lithium-ion batteries for treatment and disposal.</p>
<p>What is the historical background or context for this issue?</p>	<p>The Mixed Waste Facility proposes to receive lithium and lithium-ion batteries for treatment and disposal at the Mixed Waste Facility.</p> <p>Lithium and lithium-ion batteries typically exhibit the hazardous characteristics of ignitability (D001) and reactivity (D003). Regulations in UAC R315-268-40 require that these characteristic hazards be deactivated to remove the characteristic prior to land disposal. As an alternative, UAC R315-268-45 allows hazardous debris to be treated using an immobilization technology (e.g., macroencapsulation). However, the Environmental Protection Agency (EPA) has ruled that intact batteries are containers and not considered debris. Furthermore, the definition of macroencapsulation in R315-268-42 states that “[M]acroencapsulation specifically does not include any material that would be classified as a tank or container.”</p> <p>In order to meet the regulatory standards described above, lithium and lithium-ion batteries would need to be shredded and mixed with reagents to deactivate them; or punctured (and then considered debris) to macroencapsulate them. Both of these 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.</p> <p>EnergySolutions proposes to manage this waste by directly macroencapsulating the intact batteries as if they were debris. Macroencapsulation is a permitted treatment technology that isolates hazardous waste from the environment, eliminating the potential for harmful reactions from exposure to the environment.</p> <p>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 Salt Lake Tribune on April 4, 2021, the Deseret News on April 2, 2021, and the Tooele County Transcript Bulletin on April 1, 2021. The 30-day public comment period began April 5, 2021 and ended May 4, 2021. No comments were received.</p>

<p>What is the governing statutory or regulatory citation?</p>	<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>
<p>Is Board action required?</p>	<p>Yes, this is an action item before the Board.</p>
<p>What is the Division/Director's recommendation?</p>	<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>
<p>Where can more information be obtained?</p>	<p>For technical questions, please contact Otis Willoughby (801) 536-0220. For legal questions, please contact Bret Randall at (801) 536-0284.</p> <p>EnergySolutions request for a site-specific treatment variance for the macroencapsulation of Lithium Lithium-Ion Batteries and was provided in the April 8, 2021 Board's packet (DSHW-2021-004648).</p>

DSHW-2021-006702