



State of Utah

SPENCER J. COX  
Governor

DEIDRE HENDERSON  
Lieutenant Governor

Department of  
Environmental Quality

Kimberly D. Shelley  
Executive Director

DIVISION OF WASTE MANAGEMENT  
AND RADIATION CONTROL

Douglas J. Hansen  
Director

A meeting of the Waste Management and Radiation Control Board has been scheduled for August 11, 2022, at 1:30 pm at the Utah Department of Environmental Quality, (Multi-Agency State Office Building) Conference Room #1015, 195 North 1950 West, SLC.

Board members and interested persons may participate electronically/telephonically.

Join via the Internet: [meet.google.com/gad-sxsd-uvs](https://meet.google.com/gad-sxsd-uvs)

Join via the Phone: (US) +1 978-593-3748 PIN: 902 672 356#

AGENDA

- I. Call to Order and Roll Call.
- II. Public Comments on Agenda Items.
- III. Declarations of Conflict of Interest.
- IV. Approval of the meeting minutes for the July 14, 2022, Board meeting..... Tab 1  
**(Board Action Item)**
- V. Petroleum Storage Tanks Update ..... Tab 2
- VI. Low-Level Radioactive Waste ..... Tab 3
  - A. EnergySolutions request for a site-specific treatment variance from the Hazardous Waste Management Rules. EnergySolutions seeks authorization to receive and macroencapsulate contaminated ash with dioxins and furans (Information Item).
- VII. Presentation on Utah Administrative Code Rule R315-101 of the Hazardous Waste Rules.
- VIII. Other Business.
  - A. Miscellaneous Information Items.
  - B. Scheduling of next Board meeting (September 8, 2022).
- IX. 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 Meeting Minutes  
Utah Department of Environmental Quality  
Multi-Agency State Office Building (Conf. Room #1015)  
195 North 1950 West, SLC  
July 14, 2022  
1:30 p.m.

**Board Members Participating at Anchor Location:** Brett Mickelson (Chair), Dennis Riding (Vice-Chair), Richard Codell, Mark Franc, Scott Wardle, Shane Whitney

**Board Members Participating Virtually:** Nathan Rich and Vern Rogers

**Board Members Absent/Excused:** Danielle Endres, Steve McIff, Kim Shelley

**UDEQ Staff Members Participating at Anchor Location:**

Brent Everett, Doug Hansen, Morgan Atkinson, Therron Blatter, Arlene Lovato, Mike Pecorelli, Elisa Smith, Avery Hollyoak, David Wilson

**Other UDEQ employees and interested members of the general public also participated either electronically or telephonically.**

**I. Call to Order.**

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

**II. Public Comments on Agenda Items – None.**

**III. Declarations of Conflict of Interest - None.**

**IV. Approval of the meeting minutes from the June 9, 2022 Board meeting (Board Action Item).**

**It was moved by Shane Whitney and seconded by Scott Wardle and UNANIMOUSLY CARRIED to approve the June 9, 2022 Board meeting minutes.**

**V. Petroleum 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) Fund at the end of May 2022, was \$26,411,258.00. The preliminary estimate of the cash balance of the PST Fund for the end of June 2022, and the end of the fiscal year is \$26,757,575.00. The DERR continues to watch the balance of the PST Trust Fund closely to ensure sufficient cash is available to cover qualified claims for releases. This is particularly important since the passage of HB 120 that increased coverage on the PST Fund from \$999,999.00 to \$1,999,999.00

The DERR is currently providing documentation to the company that conducts the annual actuarial report on the PST Fund. They will make projections regarding the health of the PST Fund. The report will be provided to the Board. There were no comments or questions.

**VI. Underground Storage Tank Rules.**

**A. Final adoption of proposed changes to Underground Storage Tank Rules R311-200, 201, 203, 204, 205, 206, 207, 208, 211, and 212 (Board Action Item).**

Morgan Atkinson, Section Manager for the PST Compliance and Enforcement Section of the DERR, reviewed the request for the Board to approve for final adoption the proposed rule changes to R311-200, 201, 203, 204, 205, 206, 207, 208, 211, and 212 of the Underground Storage Tank Rules to incorporate rules to facilitate regulation of aboveground petroleum storage tanks (APSTs) in addition to USTs. At the Board meeting on May 12, 2022, the Board approved the proposed changes to be filed with the Office of Administrative Rules for publication in the Utah State Bulletin and for public comment. Notice of the proposed changes and the public comment period was sent to PST owner/operators, certified individuals, and other persons interested in PST rule-making, and was published in major newspapers throughout the state. The proposed changes were published in the Utah State Bulletin on June 1, 2022. The public comment period was held June 1, 2022 to July 1, 2022, with a public hearing to receive comments on the proposed changes held on June 15, 2022. No comments were received at the hearing but three comments were received via email and have been included in the packet. The comments have been given due consideration. A summary of the comments was provided to the Board.

Board approval for final adoption of the proposed rule changes is necessary. The DERR Director recommends the Board approve final adoption of the changes to R311-200, 201, 203, 204, 205, 206, 207, 208, 211, and 212 as published in the June 1, 2022, issue of the Utah State Bulletin and set an effective date of July 15, 2022.

Mark Franc asked about the second comment received and if the commenter was submitting comments as an individual or representing the company. Mr. Atkinson reported that the comment was provided by an individual, not representing the company he works for. The commenter has provided good information about APSTs and has been invited to participate in the PST Advisory Task Force to provide continued feedback to the DERR.

**It was moved by Dennis Riding and seconded by Mark Franc and UNANIMOUSLY CARRIED to approve for final adoption the proposed rule changes to Utah Administrative Code Rule 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), R311-211 (Corrective Action Cleanup Standards Policy-UST and CERCLA Sites), R311-212 (Administration of the Petroleum Storage Tank Loan Program), as published in the June 1, 2022, issue of the Utah State Bulletin and set an effective date of July 15, 2022.**

## **VII. Other Business.**

**A. Miscellaneous Information Items - None**

**B. Scheduling of next Board meeting (August 11, 2022).**

The next meeting is scheduled for August 11, 2022 at 1:30 p.m. at the Utah Department of Environmental Quality, Multi-Agency State Office Building.

Interested parties can join via the Internet at <https://meet.google.com/gad-sxsd-uvs>

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

## **VIII. Adjourn.**

The meeting adjourned at 1:45 pm.

**PST STATISTICAL SUMMARY**

**July 1, 2021 -- June 30, 2022**

**PROGRAM**

	July	August	September	October	November	December	January	February	March	April	May	June	(+/-) OR Total
<b>Regulated Tanks</b>	4,142	4,140	4,128	4,136	4,142	4,136	4,132	4,150	4,157	4,178	4,176	4,182	<b>40</b>
<b>Tanks with Certificate of Compliance</b>	4,065	4,056	4,050	4,052	4,060	4,049	4,048	4,059	4,061	4,057	4,057	4,071	<b>6</b>
<b>Tanks without COC</b>	77	84	78	84	82	87	84	91	96	121	119	111	<b>34</b>
<b>Cumulative Facilities with Registered A Operators</b>	1,294	1,290	1,291	1,288	1,284	1,288	1,287	1,285	1,284	1,288	1,286	1,286	<b>98.09%</b>
<b>Cumulative Facilities with Registered B Operators</b>	1,295	1,292	1,292	1,289	1,285	1,288	1,288	1,285	1,285	1,289	1,287	1,287	<b>98.17%</b>
<b>New LUST Sites</b>	8	3	8	5	7	2	10	12	9	7	6	7	<b>84</b>
<b>Closed LUST Sites</b>	6	0	9	4	6	1	2	13	13	14	13	9	<b>90</b>
<b>Cumulative Closed LUST Sites</b>	5378	5378	5390	5397	5398	5399	5405	5419	5431	5447	5454	5455	<b>77</b>
	<b>FINANCIAL</b>												
	July	August	September	October	November	December	January	February	March	April	May	June	(+/-)
<b>Tanks on PST Fund</b>	2,662	2,653	2,649	2,642	2,646	2,635	2,629	2,631	2,628	2,619	2,609	2,613	<b>(49)</b>
<b>PST Claims (Cumulative)</b>	701	701	702	702	702	702	703	704	705	706	705	710	<b>9</b>
<b>Equity Balance</b>	-\$6,684,027	-\$5,540,984	-\$4,033,695	-\$3,921,878	-\$2,867,569	-\$2,900,167	-\$2,363,604	-\$1,761,847	-\$1,826,879	-\$1,634,540	-\$986,270	-\$639,953	<b>\$6,044,074</b>
<b>Cash Balance</b>	\$21,751,253	\$22,894,296	\$23,363,833	\$23,475,650	\$24,529,959	\$24,497,361	\$25,033,924	\$25,635,681	\$25,570,649	\$25,762,988	\$26,411,258	\$26,757,575	<b>\$5,006,322</b>
<b>Loans</b>	0	0	0	0	0	0	0	0	0	0	1	0	<b>0</b>
<b>Cumulative Loans</b>	121	121	121	121	121	121	121	121	121	121	122	122	<b>1</b>
<b>Cumulative Amount</b>	\$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	\$4,740,989	\$4,740,989	<b>\$2,622</b>
<b>Defaults/Amount</b>	2	2	2	2	0	0	0	0	0	0	0	0	<b>-2</b>
	<b>TOTAL</b>												
	July	August	September	October	November	December	January	February	March	April	May	June	TOTAL
<b>Speed Memos</b>	82	51	78	100	77	61	41	50	76	59	78	65	<b>818</b>
<b>Compliance Letters</b>	15	16	21	8	21	16	11	18	16	15	9	6	<b>172</b>
<b>Notice of Intent to Revoke</b>	0	0	0	2	0	1	1	0	2	0	0	0	<b>6</b>
<b>Orders</b>	0	0	0	0	0	1	1	0	2	2	0	0	<b>6</b>

**WASTE MANAGEMENT AND RADIATION CONTROL BOARD**  
**Executive Summary**  
**REQUEST FOR A SITE-SPECIFIC TREATMENT VARIANCE**  
**EnergySolutions, LLC**  
**August 11, 2022**

<p>What is the issue before the Board?</p>	<p>On July 20, 2022, 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 and macroencapsulate approximately 20 tons of ash contaminated with dioxins and furans as Underlying Hazardous Constituents (UHCs) for treatment and disposal.</p>
<p>What is the historical background or context for this issue?</p>	<p>EnergySolutions requests approval to receive ash from incinerator and metal recycling processes that contains dibenzo-p-dioxin and dibenzofuran UHCs above their respective treatment standards denoted with the Universal Treatment Standards (UTS) in R315-268-48. All other required treatment standards associated with the waste will be met prior to disposal.</p> <p>Requiring the waste to meet the dioxin and furan treatment standards is inappropriate based on the processes that generate the waste. Because of the waste generation processes, all the ash waste contains dioxins and furans; however, in accordance with regulations, only a portion of the waste needs to be treated for those contaminants. The generator has previously analyzed each container of ash for metals contamination. If metals were below the toxicity characteristic concentrations described in 40 CFR 261.24 (R315-261-24), the waste would be shipped to the Clive facility as Low-Level Radioactive Waste (LLRW) and disposed in the Class A Embankment. If metals were above the Toxicity Characteristic concentrations, then the waste would need treated for those metals as well as all UHCs, including dioxins and furans. It is inappropriate to require treatment of dioxin and furan contaminants in instances where characteristic metals are found in the waste when treatment is not required if metals are below characteristic concentrations in the waste.</p> <p>Furthermore, the stabilized ash was re-incinerated in an attempt to reduce the concentration of dioxins and furans in the ash. Re-incineration resulted in very little reduction in the concentrations. It is inappropriate to require this additional incineration in order to attempt to meet the standards.</p> <p>EnergySolutions previously requested this variance in June, 2021 for approximately 18 tons of dioxan furan waste.</p> <p>Final disposal of the waste will occur in the Mixed Waste Disposal Cell at the EnergySolutions Mixed Waste Facility.</p>

	A notice for public comment was published in the <i>Salt Lake Tribune</i> , the <i>Deseret News</i> and the <i>Tooele County Transcript Bulletin</i> . The 30-day public comment period will begin August 11, 2022 and will end on September 9, 2022.
<b>What is the governing statutory or regulatory citation?</b>	Variances are provided for in 19-6-111 of the Utah Solid and Hazardous Waste Act. This is a one-time site-specific variance from an applicable treatment standard as allowed by R315-268.44 of the Utah Administrative Code.
<b>Is Board action required?</b>	No. This is an informational item before the Board.
<b>What is the Division/Director's recommendation?</b>	The Director will provide a recommendation following the public comment period at the next Board meeting.
<b>Where can more information be obtained?</b>	For technical questions, please contact Tyler Hegburg (801) 536-4271. For legal questions, please contact Bret Randall at (801) 536-0284.

DSHW-2022-021801  
Attachment: DSHW-2022-021742

July 20, 2022

CD-2022-131

Mr. Doug Hansen  
Director  
Division of Waste Management and Radiation Control  
195 North 1950 West  
Salt Lake City, UT 84114-4880

Subject: EPA ID Number UTD982598898 – Request for a Site-Specific Treatment  
Variance for Ash with Dioxin/Furan Contamination

Dear Mr. Hansen,

EnergySolutions hereby requests a variance from Utah Administrative Code (UAC) R315-268-40(a)(3) for an incinerator ash waste that meets all treatment standards except those for dioxins and furans as Underlying Hazardous Constituents (UHCs). This request is submitted in accordance with the requirements of UAC R315-260-19.

The regulatory requirement authorizing this request is found in UAC R315-268-44 which allows a site-specific variance from an applicable treatment standard provided that the following condition is met:

*UAC R315-268-44268.44(h)(2) It is inappropriate to require the waste to be treated to the level specified in the treatment standard or by the method specified as the treatment standard, even though such treatment is technically possible.*

EnergySolutions requests approval to receive ash from incinerator and metal recycling processes that contains dibenzo-p-dioxin and dibenzofuran UHCs above their respective treatment standards denoted with the Universal Treatment Standards (UTS) in R315-268-48. All other required treatment standards associated with the waste will be met prior to disposal.

Requiring the waste to meet the dioxin and furan treatment standards is inappropriate based on the processes that generate the waste. Because of the waste generation processes, all of the ash waste contains dioxins and furans; however, in accordance with regulations, only a portion of the waste needs to be treated for those contaminants. The generator has previously analyzed each container of ash for metals contamination. If metals were below the toxicity characteristic concentrations described in 40 CFR 261.24 (R315-261-24), the waste would be shipped to the Clive facility as Low-Level Radioactive Waste (LLRW) and disposed in the Class A Embankment. If metals were above the Toxicity Characteristic concentrations, then the waste would need treated for those metals as well as all UHCs, including dioxins and furans. It is inappropriate to require treatment of dioxin and furan contaminants in instances where characteristic metals are found in the waste when treatment is not required if metals are below characteristic concentrations in the waste.

Furthermore, prior to receiving this variance, the stabilized ash was re-incinerated in an attempt to reduce the concentration of dioxins and furans in the ash. Re-incineration results in very little



Mr. Doug Hansen  
CD-2022-131  
July 20, 2022  
Page 2 of 2

intrinsic value. It is inappropriate to require this additional incineration in order to attempt to meet the standards.

EnergySolutions proposes to confirm the waste meets all required treatment standards with the exception of the dioxin and furan UHC standards and then to macroencapsulate the residue in MACRO Vaults using requirements approved in the state-issued Part B Permit. This will provide additional isolation of the waste from the environment (relative to direct disposal in the Class A Embankment) and will avoid unnecessary additional incineration of the waste.

EnergySolutions requested this same variance for this generator in letters dated June 27, 2018 (CD18-0120), August 23, 2019 (CD19-0179) and June 16, 2021 (CD-2021-072). The previous requests were approved by the Waste Management and Radiation Control Board on September 13, 2018, November 14, 2019, and September 9, 2021 respectively. Over the previous year this variance was in effect, the EnergySolutions Clive facility received approximately 18 tons (three shipments) of this ash for treatment. EnergySolutions forecasts similar amounts of this waste over the next year.

This variance is being requested for approximately 20 tons of ash that will contain elevated concentrations of dioxins and furans.

EnergySolutions requests that a variance be granted to macroencapsulate ash waste that meets all required treatment standards except those for dioxin and furan UHCs.

The name, phone number, and address of the person who should be contacted to notify EnergySolutions of decisions by the Director is:

Mr. Vern Rogers  
Director of Regulatory Affairs  
EnergySolutions LLC  
299 South Main Street, Suite 1700  
Salt Lake City, UT 84111  
(801) 649-2000

Should there be any questions to this request, please contact me at (801) 649-2043.

Sincerely,

Steve D. Gurr  
2022.07.20 11:30:26 -06'00'

Steve D. Gurr  
Environmental Engineer

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.