



State of Utah

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DIVISION OF WASTE MANAGEMENT  
AND RADIATION CONTROL

Scott T. Anderson  
Director

November 30, 2017

Kevin Williams, Deputy Director  
Division Material Safety, State, Tribal, and Rulemaking Programs  
Office of Nuclear Material Safety and Safeguards  
U.S. Nuclear Regulatory Commission  
T8-E18  
Washington, D.C. 20555-0001

RE: Final rule changes to adopt regulations und RATS ID 2013-2 and other changes not directly associated with a RATS ID

Dear Mr. Williams:

Enclosed is a copy of the final revisions to the following Utah Radiation Control Rules, R313-12, R313-19, R313-21 and R313-22 of the Utah Administrative Code, which incorporate both regulations associated with RATS ID 2013-2 and those not associated with any RATS ID. The final revisions were adopted by the Utah Waste Management and Radiation Control Board on October 12, 2017 with an effective date of October 13, 2017. Under Utah law, this Board is authorized to perform all rulemaking actions for the Radiation Control Program. A copy of the official notice of the effective date that was published in the November 1, 2017 issue of the *Utah State Bulletin*, Utah's analog to the *Federal Register*, is enclosed as Attachment 1.

The final rules are identified by line-in/line-out text and correspond to the following equivalent amendments to NRC's regulations. A copy is of each rule is enclosed.

<u>RATS ID</u>	<u>Title</u>	<u>State Sections</u>
2013-2	Distribution of Source Material to Exempt Persons and to General Licensees and Revision of General License and Exemptions	R313-12, General Provisions R313-19, Requirements of General Applicability to Licensing of Radioactive Material R313-21, General Licenses R313-22, Specific Licenses

DRC-2017-009627

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The final revisions also incorporate the comments from the NRC staff's review of the proposed rule revisions, as noted in a letter dated March 7, 2017 (ML17017A278). Specifically, NRC's comment and our response are provided below:

**NRC comment on proposed changes to incorporate the revisions made by RATS IS 2013-2:**

*Utah needs to replace R313-21-21(2)(c);*

“Is subject to the provisions in 40.41(a) through (e), 40.46, 40.51, 40.60 through 40.61, which are incorporated by reference in Section R313-24-4, Section R313-19-5, Section R313-19-34, Section R313-19-41, R313-19-50, R313-12-51 through R313-12-53, Section R313-19-61, and Rule R313-14.”

Utah omits equivalent references to those stated in 10 CFR 40.22(b)(3), Utah needs to correct the references in R313-21-21-2(c) to read:

“Is subject to the provisions in §§ 40.1 through 40.10, 40.41(a) through (e), 40.46, 40.51, 40.56, 40.60 through 40.63, 40.71, and 40.81”.

Utah needs to make the above changes in order to meet the Compatibility Category B designation assigned to 10 CFR 40.22(b)(1)-(3).

**Utah Response to NRC's comment:**

Although 10 CFR 40.22(b) is designated Compatibility Category B, some of the rules referenced in that paragraph are designated as Compatibility Category D or NRC and therefore are either not required to be adopted or cannot be adopted by an Agreement State. However, in direct response to NRC's comment, additional revisions to R313-21-21(2)(c) were made and are highlighted in yellow below. Please note that the references to 10 CFR Part 40 added at the end of the paragraph are designated as Compatibility Category NRC. Adding references to regulations an Agreement State cannot adopt can lead to an incorrect inference that an Agreement State has regulatory jurisdiction for such regulations. Perhaps NRC should weigh the need for an Agreement State to adopt references to federal regulations exclusively reserved for the NRC given the potential regulatory misunderstanding over the appropriate jurisdictional authority.

(c) Is subject to the provisions in Sections 10 CFR 40.2a through 40.4, 10 CFR 40.41(c), 10 CFR 40.46, and 10 CFR 40.61(a) and (b), which are incorporated by reference in Section R313-24-4, Section R313-12-3, Section R313-19-5, Section R313-19-34, Subsection R313-22-34(2), Section R313-19-41, Section R313-19-50, Section R313-15-1111, Sections R313-12-51 through R313-12-53, Section R313-19-61, Rule R313-14, 10 CFR 40.41(d), 10 CFR 40.41(e)(1) and (e)(3), 10 CFR 40.51(b)(6), and 10 CFR 40.56.

Additionally, a rule adoption crosswalk matching the regulatory changes under RATS ID 2013-2 to 10 CFR Parts 30, 40, and 70 with the corresponding rules in the Utah Radiation Control Rules, including final revisions made not associated with RATS ID 2013-2 or any other RATS ID, is enclosed as Attachment 2.

We believe that adoption of these final revisions satisfies the compatibility and health and safety categories established in the Office of Nuclear Material Safety and Safeguards (NMSS) Procedure SA-200.

If you have any questions, please contact Rusty Lundberg at (801) 536-4257 or by email at [rlundberg@utah.gov](mailto:rlundberg@utah.gov).

Sincerely,



Scott T. Anderson, Director  
Division of Waste Management and Radiation Control

STA/RL/al

Enclosures: Attachment 1 – Select Pages of *Utah State Bulletin*, Vol. 2017, No. 21  
(DRC-2017-009628)  
Attachment 2 – Rule Adoption Crosswalk (DRC-2017-009629)  
Final Rules Effective October 13, 2017, Utah Admin. Code,  
R313-12 (DRC-2017-009630)  
R313-19 (DRC-2017-009631)  
R313-21 (DRC-2017-009632)  
R313-22 (DRC-2017-009633)

c: Binesh Tharakan, NRC Region IV, RSAO (Email)  
Michelle Beardsley, NRC (Email)  
Kevin Williams, NRC (Email)