



State of Utah

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DIVISION OF WASTE MANAGEMENT
AND RADIATION CONTROL
Scott T. Anderson
Director

December 7, 2018

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

RE: Final rule changes associated with RATS ID 2015-2 and RATS ID 2015-4

Dear Mr. Williams:

Enclosed are copies of the final revisions to R313-12 and R313-37 of the Utah Administrative Code (Radiation Control Rules) to incorporate regulations associated with RATS ID 2015-2 and RATS ID 2015-4.

The final rule changes are identified by highlighted text in the attached copies (Enclosure 1) of R313-12 and R313-37, Utah Administrative Code, August 1, 2018, and correspond to the following equivalent amendments to NRC's regulations.

<u>RATS ID</u>	<u>Title</u>	<u>State Sections</u>
2015-2	Safeguards Information - Modified Handling Categorization Change for Materials Facilities	R313-37-3
2015-4	Miscellaneous Corrections	R313-12-51 and R313-37-3

The above federal rulemaking actions were addressed by the Utah Waste Management and Radiation Control Board (Board) as follows:

RATS ID 2015-2

On July 12, 2018, the Board approved the final rule changes to R313-37-3 by updating the incorporation-by-reference date from 2014 to 2017 and set an effective date of July 13, 2018. This resulted in incorporating the federal regulatory changes published in the September 30, 2014 *Federal Register* (79 FR 58664). In accordance with Utah administrative rulemaking

DRC-2018-012572

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procedures, the notice of the effective date was published in the August 1, 2018 issue of the *Utah State Bulletin* (Vol. 2018, No. 15), Utah's analog to the *Federal Register*. A copy of the pertinent pages of the Bulletin is included as Enclosure 2. A rule adoption crosswalk identifying the specific rule changes for RATS ID 2015-2 is enclosed as Enclosure 3.

RATS ID 2015-4

October 12, 2017, the Board approved the final rule changes to R313-12-51(1)(b) concurrent with other changes to R313-12-51 and set an effective date of October 13, 2017. These rule changes were previously submitted to the NRC in a letter dated November 30, 2017 (ML17339A952). In a response letter dated January 16, 2018 (ML17360A106), the NRC had no comments.

On July 12, 2018, the Board approved the final rule changes to R313-37-3 by updating the incorporation-by-reference date from 2014 to 2017 and set an effective date of July 13, 2018. This resulted in incorporating the federal regulatory changes published in the August 3, 2015 *Federal Register* (80 FR 45841). In accordance with Utah administrative rulemaking procedures, the notice of the effective date was published in the August 1, 2018 issue of the *Utah State Bulletin*. As noted above, a copy of the pertinent pages of the Bulletin is included as Enclosure 2.

A rule adoption crosswalk identifying the specific rule changes for RATS ID 2015-4 is included as Enclosure 4.

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.

Sincerely,



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

STA/RL/al

Enclosures:

- Enclosure 1 – Final Rules: R313-12-51 and R313-37 (DRC-2018-012575)
- Enclosure 2 – Selected pages, Notice of Effective Date, *Utah State Bulletin* (Vol. 2018, No. 15) (DRC-2018-012578)
- Enclosure 3 – Rule Adoption Crosswalk, RATS ID 2015-2 (DRC-2018-012580)
- Enclosure 4 – Rule Adoption Crosswalk, RATS ID 2015-4 (DRC-2018-012581)

R313. Environmental Quality, Waste Management and Radiation Control, Radiation.

R313-37. Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material.

R313-37-1. Purpose and Authority.

(1) The rules in R313-37 prescribe requirements for the physical protection program for a licensee that possesses an aggregated category 1 or category 2 quantity of radioactive material.

(2) The rules set forth herein are adopted pursuant to the provisions of Subsections 19-3-104(4) and 19-3-104(7).

(3) The requirements of R313-37 are in addition to, and not in substitution for, the other requirements of these rules.

R313-37-2. Scope.

These requirements provide reasonable assurance of the security of category 1 and category 2 quantities of radioactive material by protecting these materials from theft or diversion. Specific requirements for access to material, and use, transfer, and transportation of material are included.

R313-37-3. Clarifications or Exceptions.

For purposes of R313-37, 10 CFR 37.5, 37.11(c), 37.21 through 37.43(d)(8), 37.45 through 37.103, and Appendix A to 10 CFR 37 (2017), are incorporated by reference with the following clarifications or exceptions:

(1) The exclusion of the following:

(a) In 10 CFR 37.5, exclude definitions for "Act", "Agreement State", "Becquerel", "Byproduct Material", "Commission", "Curie", "Government Agency", "License", "License issuing authority", "Lost or missing licensed material", "Person", "State", and "United States";

(b) In 10 CFR 37.77(a)(1), exclude the wording "Notifications to the NRC must be to the NRC's Director, Division of Security Policy, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. The notification to the NRC may be made by email to RAMQC_SHIPMENTS@nrc.gov or by fax to 301-816-5151."; and

(c) In 10 CFR 37.81(g), exclude the wording "In addition, the licensee shall provide one copy of the written report addressed to the Director, Division of Security Policy, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.".

(2) The substitution of the following wording:

(a) "Utah Radiation Control Rule" for references to:

- (i) "Commission regulation" in 10 CFR 37.101; and
 - (ii) "regulation" in 10 CFR 37.103;
 - (b) "Utah Radiation Control Rules" for reference to:
 - (i) "regulations and laws" in 10 CFR 37.31(d);
 - (ii) "Commission requirements" in 10 CFR 37.43(a)(3) and 37.43(c)(1)(ii); and
 - (iii) "regulations in this part" in 10 CFR 37.103;
 - (c) "Director" for references to:
 - (i) "appropriate NRC regional office listed in Section 30.6(a)(2) of this Chapter" in 10 CFR 37.45(b);
 - (ii) "Commission" in 10 CFR 37.103;
 - (iii) "NRC" in 10 CFR 37.31(d), 37.43(c)(3)(iii), 37.57(a) (second instance of NRC) and (c), 37.77, and 37.77(a)(1) (first instance) and (3), and 37.81(g);
 - (iv) "NRC's Director, Division of Security Policy, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, DC 29555-0001" in 10 CFR 37.77(c)(2) and 37.77(d);
 - (v) "NRC's Director of Nuclear Security, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, DC 29555-0001" in 10 CFR 37.77(c)(1) (second instance);
 - (vi) "NRC's Operations Center" in 10 CFR 37.81(a) and (b);
 - (vii) "NRC's Operations Center (301-816-5100)" in 10 CFR 37.57(a) and (b) and 37.81(a) through (f);
 - (viii) "NRC regional office listed in section 30.6(a)(2) of this chapter" in 10 CFR 37.41.(a)(3); and
 - (ix) "NRC regional office specified in section 30.6 of this chapter" in 10 CFR 37.41(a)(3);
 - (d) "Director, the U.S. Nuclear Regulatory Commission, or an Agreement State" for references to "Commission or an Agreement State" in 10 CFR 37.71 and 37.71(a) and (b);
 - (e) "U.S. Nuclear Regulatory Commission's Security Orders or the legally binding requirement issued by Agreement States" for references to "Security Orders" in 10 CFR 37.21(a)(3), 37.25(b)(2), and 37.41(a)(3);
 - (f) "mail, hand delivery, or electronic submission" for references to "an appropriate method listed in section 37.7" in 10 CFR 37.57(c) and 37.81(g); and
 - (g) "shall, by mail, hand delivery, or electronic submission," for reference to "shall use an appropriate method listed in section 37.7 to" in 10 CFR 37.27(c).
- (3) The substitution of the following rule references:
- (a) "R313-19-41(4)" for reference to "section 30.41(d) of this

chapter." In 10 CFR 37.71;

(b) "R313-19-100 (incorporating 10 CFR 71.97 by reference)" for reference to "section 71.97 of this chapter" in 10 CFR 37.73(b);

(c) "R313-19-100 (incorporating 10 CFR 71.97(b) by reference)" for reference to "section 71.97(b) of this chapter" in 10 CFR 37.73(b); and

(d) "10 CFR 73" for references to "part 73 of this chapter" in 10 CFR 37.21(c) (4), 37.25(b)2), and 37.27(a) (4).

KEY: radioactive materials, security, fingerprinting, transportation

Date of Enactment or Last Substantive Amendment: July 13, 2018

Notice of Continuation: January 17, 2017

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

**R313. Environmental Quality, Waste Management and Radiation Control,
Radiation.**

R313-12. General Provisions.

R313-12-51. Records.

(1) A person who receives source or byproduct material pursuant to a license issued pursuant to the regulations in this part shall keep records showing the receipt, transfer, and disposal of this source or byproduct material as follows:

(a) The licensee shall retain each record of receipt of source or byproduct material as long as the material is possessed and for three years following transfer or disposition of the source or byproduct material.

(b) The licensee who transferred the material shall retain each record of transfer of source or byproduct material until the Director terminates each license that authorizes the activity that is subject to the recordkeeping requirement.

(c) The licensee shall retain each record of disposal of source or byproduct material until the Director terminates each license that authorizes the activity that is subject to the recordkeeping requirement.

(d) If source or byproduct material is combined or mixed with other licensed material and subsequently treated in a manner that makes direct correlation of a receipt record with a transfer, export, or disposition record impossible, the licensee may use evaluative techniques, such as first-in-first-out, to make the records that are required by Section R313-12-51 account for 100 percent of the material received.

(2) The licensee shall retain each record that is required by Section R313-12-51 or by license condition for the period specified by the appropriate rule or license condition. If a retention period is not otherwise specified by rule or license condition, each record must be maintained until the Director terminates the license that authorizes the activity that is subject to the recordkeeping requirement.

(3) A licensee or registrant shall maintain records showing the receipt, transfer, and disposal of all sources of radiation.

(4) Prior to license termination, each licensee authorized to possess radioactive material with a half-life greater than 120 days, in an unsealed form, may forward the following records to the Director:

(a) records of disposal of licensed material made under

Sections R313-15-1002 (including burials authorized before January 28, 1981), R313-15-1003, R313-15-1004, and R313-15-1005; and

(b) records required by Subsection R313-15-1103(2)(d).

NOTE: 10 CFR 20.304 permitted burial of small quantities of licensed materials in soil before January 28, 1981, without specific U.S. Nuclear Regulatory Commission authorization. See 20.304 contained in the 10 CFR, parts 0 to 199, edition revised as of January 1, 1981.

(5) If licensed activities are transferred or assigned in accordance with Subsection R313-19-34(2), each licensee authorized to possess radioactive material, with a half-life greater than 120 days, in an unsealed form, shall transfer the following records to the new licensee and the new licensee will be responsible for maintaining these records until the license is terminated:

(a) records of disposal of licensed material made under Sections R313-15-1002 (including burials authorized before January 28, 1981), R313-15-1003, R313-15-1004, R313-15-1005, and R313-15-1008; and

(b) records required by Subsection R313-15-1103(2)(d).

(6) Prior to license termination, each licensee may forward the records required by Subsection R313-22-35(7) to the Director.

(7) Additional records requirements are specified elsewhere in these rules.

KEY: definitions, units, inspections, exemptions

Date of Enactment or Last Substantive Amendment: October 13, 2017

Notice of Continuation: July 1, 2016

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

UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
Filed July 03, 2018, 12:00 a.m. through July 16, 2018, 11:59 p.m.

Number 2018-15
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Nancy L. Lancaster, Managing Editor

The *Utah State Bulletin (Bulletin)* is an official noticing publication of the executive branch of Utah state government. The Office of Administrative Rules, part of the Department of Administrative Services, produces the *Bulletin* under authority of Section 63G-3-402.

The Portable Document Format (PDF) version of the *Bulletin* is the official version. The PDF version of this issue is available at <https://rules.utah.gov/>. Any discrepancy between the PDF version and other versions will be resolved in favor of the PDF version.

Inquiries concerning the substance or applicability of an administrative rule that appears in the *Bulletin* should be addressed to the contact person for the rule. Questions about the *Bulletin* or the rulemaking process may be addressed to: Office of Administrative Rules, PO Box 141007, Salt Lake City, Utah 84114-1007, telephone 801-538-3003. Additional rulemaking information and electronic versions of all administrative rule publications are available at <https://rules.utah.gov/>.

The information in this *Bulletin* is summarized in the *Utah State Digest (Digest)* of the same volume and issue number. The *Digest* is available by e-mail subscription or online. Visit <https://rules.utah.gov/> for additional information.

Office of Administrative Rules, Salt Lake City 84114

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NOTICES OF RULE EFFECTIVE DATES

State law provides for agencies to make their administrative rules effective and enforceable after publication in the *Utah State Bulletin*. In the case of **PROPOSED RULES** or **CHANGES IN PROPOSED RULES** with a designated comment period, the law permits an agency to make a rule effective no fewer than seven calendar days after the close of the public comment period, nor more than 120 days after the publication date. In the case of **CHANGES IN PROPOSED RULES** with no designated comment period, the law permits an agency to make a rule effective on any date including or after the thirtieth day after the rule's publication date, but not more than 120 days after the publication date. If an agency fails to file a **NOTICE OF EFFECTIVE DATE** within 120 days from the publication of a **PROPOSED RULE** or a related **CHANGE IN PROPOSED RULE** the rule lapses.

Agencies have notified the Office of Administrative Rules that the rules listed below have been made effective.

NOTICES OF EFFECTIVE DATE are governed by Subsection 63G-3-301(12), Section 63G-3-303, and Sections R15-4-5a and R15-4-5b.

Abbreviations

AMD = Amendment
CPR = Change in Proposed Rule
NEW = New Rule
R&R = Repeal & Reenact
REP = Repeal

Agriculture and Food

Plant Industry

No. 42872 (AMD): R68-20. Utah Organic Standards
Published: 06/01/2018
Effective: 07/09/2018

Commerce

Real Estate

No. 42809 (AMD): R162-2c. Utah Residential Mortgage Practices and Licensing Rules
Published: 05/15/2018
Effective: 07/13/2018

Education

Administration

No. 42914 (AMD): R277-104. ADA Complaint Procedure
Published: 06/01/2018
Effective: 07/09/2018

No. 42915 (AMD): R277-107. Educational Services Outside of Educator's Regular Employment
Published: 06/01/2018
Effective: 07/09/2018

No. 42916 (AMD): R277-436. Gang Prevention and Intervention Programs in the Schools
Published: 06/01/2018
Effective: 07/09/2018

No. 42923 (NEW): R277-461. Elementary School Counselor Grant Program

Published: 06/01/2018
Effective: 07/09/2018

No. 42921 (R&R): R277-613. LEA Bullying, Cyber-bullying, Hazing and Harassment Policies and Training

Published: 06/01/2018
Effective: 07/09/2018

No. 42917 (AMD): R277-614. Athletes and Students with Head Injuries

Published: 06/01/2018
Effective: 07/09/2018

Environmental Quality

Waste Management and Radiation Control, Radiation

No. 42798 (AMD): R313-37-3. Clarifications or Exceptions
Published: 05/01/2018
Effective: 07/13/2018

Governor

Economic Development

No. 42922 (AMD): R357-5. Motion Picture Incentive
Published: 06/01/2018
Effective: 07/09/2018

Health

Administration

No. 42863 (AMD): R380-40. Local Health Department Minimum Performance Standards
Published: 05/15/2018
Effective: 07/03/2018



UTAH DIVISION OF WASTE MANAGEMENT AND RADIATION CONTROL

RATS ID 2015-2

(79 FR 58664, Published September 30, 2014 / 80 FR 3865, Confirmation of Effective Date Published January 26, 2015)

Safeguards Information - Modified Handling Categorization, Change for Materials Facilities

10 CFR Parts 30, 37, 73, and 150

Rule Adoption Crosswalk

Code of Federal Regulations		Utah Administrative Code		
TITLE	10 CFR	R313-	COMPATIBILITY	NOTES
Definitions	§30.4	N/A	NRC	
Application for Specific Licenses	§30.32(k)	N/A	NRC	
Terms and Conditions of Licenses	§30.34(l)	N/A	NRC	
Relief from Fingerprinting, ...	§37.29(a)(10)	37-3 Introductory paragraph -- Incorporation by reference	B	Incorporation by reference date updated to 2017. This results in incorporating the changes published in the 9/30/2014 <i>Federal Register</i> .
General Security Program Requirements	§37.43(d)(1)	37-3 Introductory paragraph -- Incorporation by reference	C	Incorporation by reference date updated to 2017. This results in incorporating the changes published in the 9/30/2014 <i>Federal Register</i> .
	§37.43(d)(9)	N/A	NRC	
Advance Notification of Shipment of Category 1 Quantities	§37.77(f)	37-3 Introductory paragraph -- Incorporation by reference	C	Incorporation by reference date updated to 2017. This results in incorporating the changes published in the 9/30/2014 <i>Federal Register</i> .
Definitions	§73.2	N/A	NRC	
Protection of Safeguards Information	§73.21	N/A	NRC	
...	§73.23	N/A	NRC	
Category 1 and Category 2 RAM	Appendix I, Part 73	N/A	NRC	
Persons not Exempt	§150.15(a)(9)	N/A	NRC	

Utah Waste Management and Radiation Control Board Rulemaking Actions:

Proposed Rule Change	4/12/2018	<i>Utah State Bulletin</i> , Vol. 2018, No. 9 (5/1/2018)
Final Adoption	7/12/2018	N/A
Effective Date	7/13/2018	<i>Utah State Bulletin</i> , Vol. 2018, No. 15 (8/1/2018)
("Notices of Rule Effective Dates" Section)		

Utah State Bulletin available online at <https://rules.utah.gov/publications/utah-state-bull>

NOTE: The Utah Administrative Code is available online at <https://rules.utah.gov/publications/utah-adm-code/>.



UTAH DIVISION OF WASTE MANAGEMENT AND RADIATION CONTROL
RATS ID 2015-4
(80 FR 45841, Published August 3, 2015 / Effective September 2, 2015)
Miscellaneous Corrections
10 CFR Parts 37 and 40
Rule Adoption Crosswalk

Code of Federal Regulations		Utah Administrative Code		
TITLE	10 CFR	R313-	COMPATIBILITY*	NOTES
Access Authorization Program Requirements	§37.23(b)(2)	37-3 Introductory Paragraph	B	Incorporation by reference date updated from 2014 to 2017. This results in incorporating the change published in the 8/3/2015 <i>Federal Register</i> (80 FR 45841).
Records	§40.61(a)(2)	12-51(1)(b)	C	Change incorporated with final rule changes approved by the Waste Management and Radiation Control Board on 10/12/2017, with an effective date of 10/13/2017, and submitted to the NRC in a letter dated November 30, 2017 (ML17 339A952). NRC response letter (ML17360A106) had no comment on the final changes to this subsection. Consequently, this change has already been incorporated into Utah rules with an effective date of 10/13/2017.

Utah Waste Management and Radiation Control Board Rulemaking Actions:

R313-37-3

Proposed Rule Change	4/12/2018	<i>Utah State Bulletin</i> , Vol. 2018, No. 9 (5/1/2018)
Final Adoption	7/12/2018	N/A
Effective Date	7/13/2018	<i>Utah State Bulletin</i> , Vol. 2018, No. 15 (8/1/2018) ("Notices of Rule Effective Dates" Section)

R313-12-51(1)(b)

Proposed Rule Change	7/13/2017	<i>Utah State Bulletin</i> , Vol. 2017, No. 16 (8/15/2017)
Final Adoption	10/12/2017	N/A
Effective Date	10/13/2017	<i>Utah State Bulletin</i> , Vol. 2017, No. 21 (11/1/2017) ("Notices of Rule Effective Dates" Section)

Utah State Bulletin available online at <https://rules.utah.gov/publications/utah-state-bull>

NOTE: The Utah Administrative Code is available online at <https://rules.utah.gov/publications/utah-adm-code/>.