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 April 11, 2024 at 1:30 p.m. 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
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 February 8, 2024 Board meeting ..... Tab 1 (**Board Action Item**)

V. Annual Open Meetings, Conflicts, Ethics and Records Training (Information Item). (Training provided virtually by Raymond Wixom, Assistant Attorney General, Office of Utah Attorney General)

VI. Petroleum Storage Tanks Update ..... Tab 2

VII. Petroleum Storage Tanks Rules ..... Tab 3

A. Proposed changes to R311 of the Petroleum Storage Tanks Rules (Information Item).

VIII. Administrative Rules ..... Tab 4

A. Approval from the Board to proceed with formal rulemaking and public comment on proposed changes to Utah Solid and Hazardous Waste Rules R315-309 and R315-310 of the Utah Administrative Code to correct rule and statutory references and language, clarify rule language, remove requirements that are no longer necessary, add some new requirements to the rules, and add language and requirements to rules as required by legislation passed by the Utah State Legislature (**Board Action Item**).

(Over)

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B. Approval from the Board to proceed with final adoption of proposed changes to the Utah Solid Waste Rules R315-320 of the Utah Administrative Code to correct rule and statutory references and language, clarify rule language, remove requirements that are no longer necessary, add some new requirements to the rules, and add language and requirements to rules as required by legislation passed by the Utah State Legislature (**Board Action Item**).

IX. X-Ray Program ..... Tab 5

A. Approval from the Board to procced with formal rulemaking and public comment on proposed changes to Radiation Control Rule R313-28 of the Utah Administrative Code to add the definition of "Healing Arts" (**Board Action Item**).

X. Director's Report.

XI. Election of Board Chair and Vice Chair (**Board Action Item**).

XII. Other Business.

A. Miscellaneous Information Items.
B. Scheduling of next Board meeting (May 9, 2024).

XIII. Adjourn.

In compliance with the Americans with Disabilities Act, individuals with special needs (including auxiliary communicative aids and services) should contact LeAnn Johnson, Office of Human Resources at 385-226-4881, Telecommunications Relay Service 711, or by Email at leannjohnson@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
February 8, 2024
1:30 p.m.

Board Members Participating at Anchor Location: Brett Mickelson (Chair), Mark Franc, Jeremy Hawk, Shane Whitney

Board Members Participating Virtually: Dr. Richard Codell, Danielle Endres, Dr. Steve McIff, Nathan Rich, Dennis Riding (Vice-Chair)

Board Members Excused/Absent: Vern Rogers, Kim Shelley, Scott Wardle

UDEQ Staff Members Participating at Anchor Location: Brent Everett, Doug Hansen, Morgan Atkinson, Tom Ball, Elizabeth Burns, Leo Calcagno, Brenden Catt, Jalynn Knudsen, Arlene Lovato, Deborah Ng, Bret Randall, Mike Pecorelli, Elisa Smith, Brian Speer, Bryan Woolf

Others Attending at Anchor Location: None

Other UDEQ employees and interested members of the public also participated either electronically or telephonically. This meeting was recorded.

I. Call to Order and Roll Call.

Chairman Mickelson called the meeting to order at 1:30 p.m. Roll call of Board members was conducted; see above.

II. Public Comments on Agenda Items – None.

III. Declaration of Conflict of Interest – None.

IV. Approval of the meeting minutes for the January 11, 2024, Board meeting (Board Action Item).

It was moved by Nathan Rich and seconded by Shane Whitney and UNANIMOUSLY CARRIED to approve the January 11, 2024, Board meeting minutes.

V. Petroleum Storage Tanks Update.

Brent Everett, Director, Division of Environmental Response and Remediation (DERR), informed the Board that the cash balance of the Petroleum Storage Tank (PST) Enterprise Fund for the end of January 2024, is $33,500,103.00. The DERR continues to watch the balance of the PST Enterprise Fund closely to ensure sufficient cash is available to cover qualified claims for releases. There were no comments or questions.

Dennis Riding asked what the upper limit of the PST Enterprise Fund is. Mr. Everett reported that there is a 50-million-dollar cap on the PST Enterprise Fund. If the PST Enterprise Fund reaches 50-million-dollars, the surcharge reverts back to a quarter cent. With the addition of aboveground petroleum storage tanks to the PST Enterprise Fund, it is possible these releases could cause fluctuations within the PST Enterprise Fund.

Mr. Everett informed the Board of a couple of bills that the department is tracking due to the potential impact of these bills on the department.

House Bill 373 Environmental Quality Amendments creates a legislative review commission that would be required to review all agency actions by the Utah Department of Environmental Quality (UDEQ). The bill requires a 45-day advance notice of agency actions to be reviewed by the commission before final approval can be made. This would include actions taken by the PST Program, such as certification of contractors,

one-time drops for setting tanks, certificates of compliance, etc. This bill is to go before the Natural Resources, Environmental and Agriculture Committee tomorrow.

The second bill the UDEQ is tracking is House Bill (HB) 230 State Agency Application Review Requirements. HB 230 is currently in the House Government Operations Committee. This HB 230 imposes a 180-day limit on 3 agencies: the UDEQ, the Department of Natural Resources, and the Department of Commerce for review of action on permits. The definition of permits is quite broad and covers most agency actions. If applications are not approved within the 180-day timeframe, the application is automatically approved. This would impact all permitting actions within the agency. Sometimes these actions can take years due to their complexity. The change could have some impact on the PST Program.

Mr. Everett also mentioned that last month he informed the board of a DERR budget request to transfer $4,000,000.00 from the PST Enterprise Fund to the PST Cleanup Fund to address legacy sites where the responsible party is unknown, unwilling, or unable to pay. It was discovered that the statutory language allowing this transfer had been removed. The DERR will work with the Legislative Fiscal Analyst to find the appropriate language to try to do this transfer during the next session.

Mr. Riding asked to have the bill numbers repeated.

VI. Administrative Rules.

A. Approval from the Board to proceed with formal rulemaking and public comment on proposed changes to the Utah Solid and Hazardous Waste Rules R315-320 of the Utah Administrative Code (Board Action Item).

Tom Ball, X-Ray and Technical Support Manger in the Division of Waste Management and Radiation Control, reviewed the request for approval from the Board to proceed with formal rulemaking and public comment on proposed rule changes to Utah Solid and Hazardous Waste Rules R315-320 of the Utah Administrative Code (UAC) to correct rule and statutory references and language, clarify rule language, remove requirements that are no longer necessary, add some new requirements to the rules, and add language and requirements to rules as required by legislation passed by the Utah Legislature.

Mr. Ball reminded the Board this proposed rule was presented to the Board during their January Board meeting as an information item.

Mr. Ball informed the Board that the solid waste rules have not been updated or amended for several years and this rulemaking is to bring the rules up-to-date and fix errors in the rules.

Mr. Ball reviewed the following changes occurring with this rulemaking: Language is being added to UAC R315-320-1(1) to make it clear that waste tire transporters and recyclers are defined in statute; Language is being added to UAC R315-320-1(3) to make it clear that the Director or an authorized representative may enter and inspect a site to verify compliance with UAC R315-320; Six definitions have been added to UAC R315-320-2; Language is being added to UAC R315-320-3 that changes the number of tires and the size of tires that an individual can bring to a landfill at one time as required by House Bill 27 that was passed during the 2020 session of the Utah Legislature; Language is being added that clarifies other requirements for the landfill management of waste tires and material derived from waste tires; The citation to Utah Code 19-6-804(4) found in UAC R315-320-3(5) is being corrected to Utah Code 19-6-804(5); UAC R315-320-6(2) is being added to provide clear language in the rules regarding what is required by statute; Language is being added and removed from UAC R315-320-7 to make it clear what is required by statute and as required by House Bill 236 that was passed during the 2021 session of the Utah Legislature, as these rules govern the reimbursement for removal of a tire pile at a landfill or transfer station owned by a government entity or an abandoned tire pile and address the information that must be submitted to the Director to determine reasonability of a bid.

Additionally, the Division is fixing typographical and formatting errors found in the rules as requested by the Governor's Office.

This is a Board action item and the Director of the Division of Waste Management and Radiation Control recommends the Board approve proceeding with formal rulemaking and public comment by publishing in the March 1, 2024, Utah State Bulletin the proposed changes to UAC R315-320 and conducting a 30-day public comment period from March 1, 2024 to April 1, 2024.

Danielle Endres stated during her review of the new definitions that she noticed a new definition was added for beneficial use and a variety of different ways to describe what beneficial use would be for regarding used tires and questioned where the new definitions came from. Specifically, what was the basis for coming up with the new definitions, and did the new definitions come from existing statutes?

Brian Speer, Solid Waste Section Manager in the Division of Waste Management and Radiation Control, informed the Boards that all the new definitions added to the rule came directly from statute and are being incorporated into the rule to help the reader understand.

There were no additional comments or questions.

It was moved by Mark Franc and seconded by Jeremy Hawk and UNANIMOUSLY CARRIED to approve to proceed with formal rulemaking by publishing in the March 1, 2024, Utah State Bulletin and conducting a 30-day public comment period from March 1, 2024 to April 1, 2024, the proposed changes to UAC R315-320.

VII. X-Ray Program.

A. Approval of a Mammography Imaging Medical Physicist (MIMP) in accordance with UAC 19-3-103.1 (2)(c) of the Utah Code Annotated (Board Action Item).

Tom Ball, X-Ray and Technical Support Manger in the Division of Waste Management and Radiation Control, reviewed the request for the Board to approve an application to be certified as a new Mammography Imaging Medical Physicists. Individuals referred to as Mammography Imaging Medical Physicists (MIMPs) must submit an application for review of qualifications to be certified by the Board as required by Utah Code §19-3-103.1. These physicists perform radiation surveys and evaluate the quality control programs of the facilities in Utah providing mammography examinations.

The Division has received a new application from Daniel Silvain, MS, DABR to be certified as a MIMP. Division staff have reviewed the applicant's qualifications and the applicant has met the requirements detailed in R313-28-140 of the Utah Administrative Code.

This is a Board action item. The Director of the Division of Waste Management and Radiation Control recommends the Board issue a certificate of approval for Daniel Silvain.

There were no additional comments or questions.

It was moved by Dennis Riding and seconded by Jeremy Hawk and UNANIMOULSY CARRIED to approve Daniel Silvain to be certified as a Mammography Imaging Physicist (MIMP) in accordance with UCA 19-3-103.1 (2) (c) of the Utah Code Annotated.

VIII. Hazardous Waste Section.

A. Approval of Proposed Stipulation and Consent Order between the Director and Tri State Oil Reclaimers, Inc. (UOP-0195) (Board Action Item).

Leo Calcagno, Environmental Scientist, Used Oil Section, in the Division of Waste Management and Radiation Control, reviewed the Proposed Stipulation and Consent Order (SCO) No. 2111118 between the

Director and Tri State Oil Reclaimers, Inc. (TSOR) to resolve Notice of Violation and Compliance Order (NOV/CO) No. 2111115 issued to TSOR on May 20, 2022.

The NOV/CO was based on findings documented by Division of Waste Management and Radiation Control inspectors regarding used oil storage and processing operations conducted at TSOR's used oil processor facility located in West Haven, Utah.

The SCO includes a total penalty of $48,626.00. TSOR will make a cash payment of $24,313.00 within 30 days of the effective date of the SCO. The remaining penalty amount of $24,313.00 will be deferred and waived by the Director if TSOR complies with the requirements set forth in the SCO for one year from the effective date of the SCO.

The Proposed SCO was presented to the Board as an information item during the January 11, 2024, Board meeting. The 30-day public comment period began on January 8, 2024, and ended on February 7, 2024. No comments were received. The Director recommends approval of the Proposed SCO.

Mark Franc had questions related to the reduction of the penalty. Mr. Franc reminded the Board of the discussions held at the last meeting regarding this matter that included the fact that the reduction of the penalty is intended to be an encouragement for the facility to continue in compliance and if the facility does not continue in compliance the deferred second half of that penalty will be imposed and asked if there are any other options.

Also, Mr. Franc complimented the staff on the thorough investigation and the completeness of the information provided regarding this matter, but he stated his concerns are in regards to the willfulness of non-compliance, enhancement of non-compliance for good-faith or lack of good-faith, economic benefit, and commented that as an upstanding member of the regulated community his company would not expect to receive violations with lack of good faith enhancements or willfulness enhancements as it is clear that this facility was operating outside of its regulatory requirements. So aside from cutting the penalty in half, and then assessing the other half of the penalty if they continue operating in non-compliance, what else can be done to encourage them to remain in compliance.?

Mr. Calcagno stated that the resolution is for the facility to submit documentation quarterly to prove they are on-track and in compliance for a year as well as the Division will closely monitor the facility to ensure they remain in compliance. These items should assist the facility to remain in compliance. Also, an inspection of the facility will occur within the year. Mr. Calcagno discussed the results of a recent inspection he conducted. Mr. Calcagno also stated that the Division is hopeful the facility will remain in compliance and that reduction in the penalty is incentive enough so the other half of the penalty will not have to be collected.

Doug Hansen, Director of the Division of Waste Management and Radiation Control (Director), reminded the Board that in addition to the penalty that has been deferred which can be collected immediately if the facility goes back into incompliance if the required changes/progress is not occurring, the Division has the ability to fine the facility with new violations. At that point, since the Division has been lenient, the Director would be less inclined to negotiate a settlement of this nature in the future. Specifically, if the facility continues toward and returns to non-compliance, each violation constitutes new violations and penalties associated with them would not receive the same sorts of deference that the Division has shown in negotiating this settlement agreement.

Mr. Franc asked at what point does the Division revoke the permit. Mr. Calcagno stated that decision is made by the Director, and it would be based on non-compliance of the facility. Director Hansen reiterated that the Division's goal is to help facilities get back into compliance and stay in compliance. Director Hansen stated that in this particular case, because there are limited number of companies in this industry, the State would be impacted if this company was completely out of business. However, compliance is expected, and so, if violations continue or reoccur, they will be addressed.

Brett Randall, Assistant Attorney General representing the Division of Waste Management and Radiation Control, commented and discussed a few other relevant remedies in response to the questions, including the Stipulated Compliance Order actions and other options, such as taking the matter to the District Court.

Mr. Franc stated that, in summary, he appreciates UDEQ's willingness to work through the regulations as the regulations can be very complicated and it is common for the regulated community to miss something. As facilities violate the regulation and then recognize the mistake or violation and inform the UDEQ, they will correct the violation immediately, and when that scenario occurs, the UDEQ's lenience and willingness to educate and willingness to teach the regulated community so a facility can come back in compliance is very useful. He expressed his gratitude on behalf of the regulated community for UDEQ's willingness to do that.

It was moved by Shane Whitney and seconded by Dr. Codell and CARRIED to approve the Proposed Stipulation and Consent Order No. 2111118 between the Director and Tri State Oil Reclaimers, Inc. UOP-0195. One Nay vote recorded by Mark Franc.

After the motion, Mr. Franc stated he felt it was again necessary to comment that he felt the UDEQ did do a great job in negotiating this settlement as the information provided was very detailed and very well sought out, etc. However, in this situation, he feels that on several occasions, the offending party has not made the necessary efforts to correct their actions and therefore may not qualify for the lenience they received.

B. Approval of Proposed Stipulation and Consent Order between the Director and Tri State Oil Reclaimers, Inc. (UOP-0135/UOR-0137) (Board Action Item).

Leo Calcagno, Environmental Scientist, Used Oil Section, in the Division of Waste Management and Radiation Control reviewed the Proposed Stipulation and Consent Order (SCO) No. 2111116 between the Director and Tri State Oil Reclaimers, Inc. (TSOR) to resolve Notice of Violation and Compliance Order (NOV/CO) No. 2111113 issued to TSOR on September 7, 2022.

The NOV/CO was based on findings documented by Division of Waste Management and Radiation Control inspectors regarding used oil transportation and marketing of on-specification used oil operations conducted by TSOR.

The SCO includes a total penalty of $111,601.00. TSOR will make a cash payment of $55,800.50 within 30 days of the effective date of the SCO. The remaining penalty amount of $55,800.50 will be deferred and waived by the Director if TSOR complies with the requirements set forth in the SCO for one year from the effective date of the SCO.

The Proposed SCO was presented to the Board as an information item during the January 11, 2024, Board meeting. The 30-day public comment period began on January 8, 2024,and ended on February 7, 2024. No comments were received. The Division Director recommends approval of the Proposed SCO.

No questions or comments were received.

It was moved by Jeremy Hawk and seconded by Steve McIff and CARRIED to approve the Proposed Stipulation and Consent Order No. 2111116 between the Director and Tri State Oil Reclaimers, Inc. UOP-0135/UOR-0137. One Nay vote recorded by Mark Franc.

C. Approval of Proposed Stipulation and Consent Order between the Director and Tri State Oil Reclaimers, Inc. (UOP-0172) (Board Action Item).

Leo Calcagno, Environmental Scientist, Used Oil Section, in the Division of Waste Management and Radiation Control, reviewed the Proposed Stipulation and Consent Order (SCO) 2111117 between the Director and Tri State Oil Reclaimers, Inc. (TSOR) to resolve Notice of Violation and Compliance Order (NOV/CO) No. 2111114 issued to TSOR on May 20, 2022.

The NOV/CO was based on findings documented by the Division of Waste Management and Radiation Control inspectors regarding used oil storage and processing operations conducted at TSOR's used oil processor facility in Genola, Utah.

The SCO includes a total penalty of $44,245.00. TSOR will make a cash payment of $22,122.50 within 30 days of the effective date of the SCO. The remaining penalty amount of $22,122.50 will be deferred and waived by the Director if TSOR complies with the requirements set forth in the SCO for one year from the effective date of the SCO.

The Proposed SCO was presented to the Board as an information item during the January 11, 2024, Board meeting. The 30-day public comment period began on January 8, 2024, and ended on February 7, 2024. No comments were received. The Division Director recommends approval of the Proposed SCO.

Dennis Riding questioned if this facility understands the magnitude of the threat; essentially, that they could lose their permit. Mr. Riding stated that he understands that the facility has not been very responsive, but he asked if it has been clearly communicated to the facility what they are facing.

Mr. Calcagno stated he hopes so, as the Division has been in communication with the facility, and the facility does have legal counsel involved in this matter. Mr. Calcagno further stated that the facility accepted this agreement and is aware that their permit can be revoked, and they are aware that they are required to comply moving forward to receive the UDEQ's penalty waiver and to avoid any more serious actions brought against them. Mr. Calcagno informed the Board that in his conversations with the facility's management discussing the need for compliance with the regulations, he thinks they understand, and hopefully they utilize that understanding to keep them in compliance to avoid more severe actions.

Danielle Endres stated that Mr. Calcagno stated previously that this was the agreement that the facility was willing to accept and as it applies to all three of SCOs, and asked if the approach is generally to try to find something this agreeable to the violating company or is it within UDEQ's authority to fine facilities without negotiating with the facility on what they would be willing to accept.

Director Hansen explained that the UDEQ does not have the authority to levy a fine and expect a facility to pay that fine; for that process to happen, the UDEQ would have to go to the District Court and explained the process of turning a matter over to the District Court.

Director Hansen explained that when the Division brings these types of matters to the Board, the Division has already negotiated a settlement agreement with the facility and gives them an opportunity to be in compliance that exacts a penalty and payment amount while avoiding the cost and process involved with litigating in the District Court. Director Hansen also discussed the lengthy timeframes involved with UDEQ settling these types of matters versus the District Court's timeframes, which are significantly longer.

Director Hansen recommended that at a future Board meeting, a presentation regarding the Division's enforcement process be conducted that will include information regarding settlement negotiations and remedies, as this may provide the Board with a clearer understanding of what UDEQ's options are and are not in enforcing penalties and brining facilities back into compliance, as the end goal is always compliance.

Ms. Endres stated she would welcome that type of presentation as it would assist the Board in making the best decisions on these types of matters brought before them.

It was moved by Dennis Riding and seconded by Jeremy Hawk and CARRIED to approve the Proposed Stipulation and Consent Order No. 2111117 between the Director and Tri State Oil Reclaimers, Inc. (TSOR) UOP-0172. One Nay vote recorded by Mark Franc.

IX. Director's Report.

Director Hansen reminded the Board that he previously informed them of the restructuring of the sections within the Division that included the hiring of two new section managers. Director Hansen announced that Adam Wingate has been selected as the new Uranium Mill Section Manger. Director Hansen stated that the Board may recognize Mr. Wingate's name as he previously served as an Engineer in the Hazardous Waste Section in the Division. Director Hansen welcomed Mr. Wingate into his new position.

Director Hansen informed those members who receive meeting compensation (per diem) that effective February 2024, the following statutory rate change occurred: $135 per diem allotted for each official meeting attended that lasts up to four hours and $200 per diem allotted for each official meeting attended that is longer than four hours. Also, the mileage rate has changed to a flat rate of 0.44 cents per mile.

Director Hansen provided additional comments on two legislative bills previously presented by Director Everett and informed the Board of other bills the Division is tracking that may impact the Division.

Director Hansen provided the following additional comments on House Bill 230, State Agency Application Review Requirements (this bill imposes a 180-day limit on UDEQ for review of action on permits). Director Hansen stated that it is important to remember that the vast majority of permits the Division issues are done within a reasonable timeframe of completion, and the permits that do take additional time usually involve other issues associated with them, and he discussed those scenarios. Director Hansen further stated that he feels it is a disservice to the applicant if the Division does not do a complete and thorough review of a permit as this may leave the permit approval open to the possibility of an appeal. Therefore, the Division is concerned about adhering to a specified timeline, which will not give the staff the opportunity to do the work required to ensure a permit issued can stand up against an appeal.

Director Hansen provided the following additional comments on House Bill 373, Environmental Quality Amendments (this bill creates a legislative review commission that would be required to review all agency actions by the UDEQ and requires a 45-day advance notice of agency actions to be reviewed by the commission before final approval can be made). Director Hansen informed the Board that as the bill is written, almost any of the Division's agency actions would be subject to advising by this new commission. Director Hansen explained how this bill would negatively impact the Division and explained how x-ray registration could be impacted, as a 45-day advance notification from this commission to review these registrations would have to occur instead of the minimal time it currently takes to issue these types of registrations. Director Hansen commented that this type of delay could cause customer service issues.

Director Hansen reported on House Bill 107, Recycling Facility Transparency Amendments, sponsored by Representative Welton. Director Hansen reminded the Board that coordination efforts took place on this bill with Nathan Rich. This bill requires that facilities that recycle and are paid for out of a collection through a municipality are to provide a report to their constituents twice a year to inform them of their recycling efforts. Since the Division already collects data, Director Hansen worked with the sponsor of the bill to, rather than having municipalities report this information directly to their constituents, instead require them to send the information collected to the Division of Waste Management and Radiation Control. This bill is anticipated to pass.

Director Hansen reported on Radioactive Waste Amendments; this bill addresses taxation related to radioactive waste facilities. Director Hansen stated this bill does not impact the Division.

Director Hansen reported on House Bill 335, State Grant Process Amendments, sponsored by Representative Peterson. This bill enacts provisions governing the administration of state grants. Director Hansen reported that this bill impacts the Used Oil Program in the Division. Director Hansen informed the Board that the Used Oil Program typically gives grants to local health departments to administer collection services, special events, education, and outreach activities, and this bill in its original language would have prevented the Division from issuing grants to another governmental entity by only allowing grants to be administered to nonprofits. However, a substitute bill has been drafted, and the

language now allows for the Used Oil Program to continue issuing grants to local health departments that assist in the endeavors of oil collected for the Used Oil Program.

Director Hansen reported on House Bill 470, Federal Agency Regulatory Review Amendments, sponsored by Representative Snider. This bill is also known as the Chevron deference. This bill addresses state agency review of federal regulations. "Chevron deference" means deference given to a federal agency's interpretation of a federal statute by a court because the court determined that, based on certain conditions, they are the subject matter experts. Director Hansen reported that before January 1st of next year, State agencies will have to do a thorough review of their regulations to see which regulations would have received deference under the Chevron deference and report all federal regulations impacted by Chevron deference to the Office of the Attorney General. Director Hansen stated that at this time it is unclear of the impacts of this bill.

Danielle Endres asked if the Division is following Senate Bill 57, Utah Constitutional Sovereignty Act, sponsored by Senator Sandall and asked if this would impact the Nuclear Regulatory Commission regulations that the State of Utah is required to follow. Director Hansen reported that the Governor has already signed this bill. Director Hansen commented that he feels the Division is okay with this bill as it essentially gives the legislature the opportunity and ability to push back when they feel there is Federal overreach. Director Hansen commented that as administrator of delegated programs from the U.S. EPA and NRC, the Division is concerned and hopes that before the Legislature does any push back conversations regarding the consequences would be held. He discussed current communications efforts occurring with an elected representative addressing the differences in the way the State administers programs compared to the federal government.

Mark Franc commented that House Bill 230, State Agency Application Review Requirements, in its original language, provided for only 30 days' timeline, which clearly would have a negative impact to the regulated community. However, with the language changed to 180 days' timeline, he asked if the Division still felt it was unacceptable. Director Hansen stated that for 95 percent of the permits the Division administers, the 180 days' timeline should not be an issue. However, for a handful of other complex permits that require more back and forth discussion and additional information, the 180 days' timeline may be an issue as they may exceed it. Director Hansen informed the Board that in the most recent substitute of the bill, there is a provision that if a statute exists with a different timeframe prescribed, the other statute overrides this bill. Therefore, if this bill passes as is, there is a remedy that the Division can identify in which of those licenses and permits might be problematic in meeting the 180 days' timeline, and the Division could then identify the different timelines within its statutes to address them. Director Hansen discussed the NRC timelines and the processes to evaluate licenses which take a considerable amount of time to complete. Mr. Franc commented that in his experience, he has not seen unreasonable delays in the permitting process and/or working with UDEQ. Mr Franc also commented that House Bill 373 could potentially conflict with House Bill 230 as it could add an additional 45 days to the process. Director Hansen stated that he is aware of this issue as well.

X. Other Business.

A. Miscellaneous Information Items – None.

B. Scheduling of next Board meeting.

The March 14, 2024, Board meeting was canceled. The next meeting is scheduled for April 11, 2024, at the Utah Department of Environmental Quality, Multi-Agency State Office Building.

Interested parties can join via the Internet: meet.google.com/gad-sxsd-uvs
Or by phone: (US) +1 978-593-3748 PIN: 902 672 356#

XI. Adjourn.

The meeting adjourned at 2:25 p.m.

PST STATISTICAL SUMMARY
March 1, 2023 -- February 29, 2024

PROGRAM

	March	April	May	June	July	August	September	October	November	December	January	February	(+/-) OR Total
Regulated Tanks	4,203	4,198	4,210	4,211	4,218	4,241	4,236	4,238	4,225	4,222	4,832	4,854	**651**
Tanks with Certificate of Compliance	4,093	4,103	4,105	4,110	4,122	4,117	4,111	4,117	4,116	4,126	4,507	4,529	**436**
Tanks without COC	110	95	105	101	96	124	125	121	109	96	325	325	**215**
Cumulative Facilitlies with Registered A Operators	1,276	1,279	1,279	1,282	1,289	1,288	1,282	1,283	1,278	1,282	1,280	1,280	**84.16%**
Cumulative Facilitlies with Registered B Operators	1,279	1,280	1,279	1,281	1,288	1,288	1,282	1,283	1,282	1,284	1,281	1,281	**84.22%**
New LUST Sites	4	2	9	6	5	5	13	5	4	4	5	6	**68**
Closed LUST Sites	17	6	11	4	7	8	14	6	9	7	3	9	**101**
Cumulative Closed LUST Sites	5531	5539	5542	5549	5556	5571	5578	5586	5592	5598	5635	5642	**111**

FINANCIAL

	March	April	May	June	July	August	September	October	November	December	January	February	(+/-)
Tanks on PST Fund	2,617	2,619	2,617	2,618	2,621	2,617	2,611	2,618	2,625	2,638	2,954	2,967	**350**
PST Claims (Cumulative)	710	711	713	723	724	724	725	725	725	724	726	726	**16**
Equity Balance	$1,223,767	$1,689,965	$1,933,855	$2,514,097	$3,265,812	$4,455,502	$3,271,204	$3,527,017	$3,623,404	$3,538,013	$4,280,066	$4,638,541	**$3,414,774**
Cash Balance	$29,395,417	$29,861,615	$30,105,505	$30,685,747	$31,437,462	$32,627,152	$32,491,241	$32,747,054	$32,843,441	$32,758,050	$33,500,103	$33,858,578	**$4,463,161**
Loans	0	0	0	0	1	0	0	0	0	0	0	0	**0**
Cumulative Loans	128	128	128	128	129	129	129	129	129	129	129	129	**1**
Cumulative Amount	$6,014,420	$6,014,420	$6,014,420	$6,014,420	$6,213,705	$6,213,705	$6,213,705	$6,213,705	$6,213,705	$6,213,705	$6,213,705	$6,213,705	**$199,285**
Defaults/Amount	0	0	0	0	0	0	0	0	0	0	0	0	**0**

	March	April	May	June	July	August	September	October	November	December	January	February	TOTAL
Speed Memos	79	40	61	102	62	103	69	122	105	38	82	65	**928**
Compliance Letters	7	27	5	17	4	7	7	16	9	5	9	5	**118**
Notice of Intent to Revoke	0	0	0	0	0	0	0	0	0	0	0	0	**0**
Orders	1	1	0	0	0	0	1	1	0	2	1	0	**7**

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

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

Background:

On July 14, 2022, the Waste Management and Radiation Control Board adopted changes to the Underground Storage Tank rules to address rulemaking requirements for Aboveground Petroleum Storage Tanks (APSTs) that were mandated by the passage of Senate Bill SB-40, Storage Tanks Amendments, in the 2021 legislative session. As the Division of Environmental Response and Remediation (DERR) has begun implementing the requirements of SB-40 and the recent changes to R311, the need for a few additional changes to R311 has become apparent. Several other changes to R311 not related to APSTs are also being proposed. These proposed changes address the following issues:

1. Require the same leak detection and testing requirements for all Aboveground Petroleum Storage Tanks (APSTs) whether they are participating in the Environmental Assurance Program (EAP) or have financial assurance by another method. Companies offering an alternate form of financial assurance may have their own Leak Detection and Testing requirements for APSTs but DERR wants to ensure that all APSTs meet certain requirements at a minimum.
2. Simplifying the complexity of required spill prevention testing that works for USTs but doesn't always fit for APSTs. This requires spill prevention equipment on APSTs to meet fire code only and not require integrity testing.
3. Allow a delivery prohibition tag to be placed on a PST that fails a tightness test or has evidence of a leak.
4. Other changes are proposed to fix minor errors and to clarify certain rules.

The rules to be amended are:

R311-201. Petroleum Storage Tanks: Certification Programs and UST Operator Training.
R311-203. Petroleum Storage Tanks: Technical Standards.
R311-204. Petroleum Storage Tanks: Closure and Remediation.
R311-206. Petroleum Storage Tanks: Certificate of Compliance and Financial Assurance Mechanisms.

A summary of the proposed changes appears in the Board Packet and the text of the changes can be found on here: https://documents.deq.utah.gov/environmental-response-and-remediation/laserfiche/DERR-2024-005424.pdf. In the rule text document, wording to be added is underlined, and wording to be removed is struck out. The proposed changes were presented to the UST Advisory Task Force on April 10, 2024.

This matter does not require Board action at this time. Upon completion of informal stakeholder comment the Division intends to return to the Board to initiate the formal rulemaking process.

Summary of the Proposed Changes:

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

- R311-201-2(1): Fix an error by changing 19-6-402(7)(b) to the correct reference 19-6-402(7)(a)

R311-203. Petroleum Storage Tanks: Technical Standards.

- R311-203-2(6): Change wording from "not in service" to "out of service" for clarity.
- R311-203-2(6)(f): Move to its own section R311-203-2(8) where it fits better in context of the rule.
- R311-203-5(10): Require the Leak Detection and Testing Requirements for all APSTs and not just those on the Environmental Assurance Program (EAP).
- R311-203-5(10)(b): Change rule to simplify the complexity of requiring spill prevention testing that works for USTs but doesn't always fit for APSTs.

R311-204. Petroleum Storage Tanks: Closure and Remediation.

- R311-204-3(3) add STI SP001 inspection criteria for smaller APSTs where API 653 does not apply.

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

- R311-206-3(1)(b)(i): Delete the requirement for only those on the EAP to meet certain leak detection requirements.
- R311-206-4(6): Delete this subpart that lists the leak detection requirements for APSTs on the EAP because they can already be found in R311-203-5(10).
- R311-206-8(3) Change wording to clarify meaning of rule.
- R311-206-8(4): Add a subpart R311-206-8(4) authorizing the placement of a delivery prohibition tag on PSTs that have a confirmed PST test failure or show physical evidence of a release of product.

The tentative adoption schedule for the proposed rule changes is:

Request for comments from PST Stakeholders	January 10 & April 10, 2024
Present to Board as informational item	April 11, 2024
Request for Board approval for publication and public comment	May 9, 2024
Publication in the Utah State Bulletin	June 15, 2024
Public comment period	June 15 – July 15, 2024
Public hearing (date tentative)	July 2, 2024
Board approval for final adoption	August 8, 2024
Final effective date of new rules	August 9, 2024

R311. Environmental Quality, Environmental Response and Remediation.
R311-201. Petroleum Storage Tanks: Certification Programs and UST Operator Training.
R311-201-1. Definitions.

Definitions are found in Rule R311-200.

R311-201-2. Requirement for Certification.

(1) a certified PST consultant is required as specified in Subsection 19-6-402(7)([~~b~~]a).

(a) no person shall provide or contract to provide the following services without having certification to conduct these activities:

(i) provide information, opinions, or advice relating to PST release management;

(ii) abatement;

(iii) investigation;

(iv) corrective action; or

(v) evaluation for a fee, or in connection with the services for which a fee is charged.

(A) except as outlined in Subsection R311-204-5(2); and

(B) except for releases from a hazardous substance PST system, as defined in 40 CFR 280.10.

(b) a certified PST consultant must:

(i) make pertinent project management decisions;

(ii) ensure all aspects of work related to PSTs containing petroleum are performed in an appropriate manner; and

(iii) sign required documentation to be submitted to the director for work performed.

(c) any PST release abatement, investigation, or corrective action work performed by a person who is not certified or who is not working under the direct supervision of a certified PST consultant, and is performed for compliance with Utah PST rules, may be rejected by the director.

(2) UST inspector. No person shall conduct a PST inspection as authorized in Subsection 19-6-404(2)(c) without having certification to conduct such activities.

(a) the director may issue a limited certification restricting the type of PST inspections the applicant can perform.

(3) UST tester. No owner or operator shall allow PST testing to be conducted on a PST under their ownership or operation unless the person conducting the PST testing is certified according to Rule R311-201.

(a) except as outlined in Section R311-201-3, no person shall conduct PST testing without having certification to conduct such activities.

(b) an individual certified under Rule R311-201 as a UST installer may:

(i) perform a test of spill prevention equipment and containment sumps used for interstitial monitoring of piping, to meet the requirements of 40 CFR 280.35(a)(1)(ii), if no equipment that requires training by the manufacturer is used;

(ii) perform an overfill device inspection to meet the requirements of 40 CFR 280.35(a)(2);

(iii) perform a test for proper operation of release detection components to meet the requirements of 40 CFR 280.40(a)(3)(i), 280.40(a)(3)(ii), 280.40(a)(3)(iv), and 280.40(a)(3)(v); and

(iv) perform a test of a piping containment sump or under-dispenser containment to meet the requirements of 40 CFR 280.35(a), if no equipment that requires training by the manufacturer is used.

(c) a PST owner or operator may:

(i) perform a hydrostatic test of spill prevention equipment and containment sumps used for interstitial monitoring of piping, to meet the requirements of 40 CFR 280.35(a)(1)(ii), if no equipment that requires training by the manufacturer is used; and

(ii) perform a test of a piping containment sump or under-dispenser containment to meet the requirements of 40 CFR 280.35(a), if no equipment that requires training by the manufacturer is used.

(d) certification by the director under this rule applies only to the specific PST testing equipment and procedures for which the UST tester has been successfully trained by the manufacturer of the equipment, or by equivalent training as determined by the director, for the following types of testing:

(i) tank, line, and leak detector testing;

(ii) interstitial tests of tanks and piping; and

(iii) spill prevention device and containment sump testing, if equipment that requires training by the manufacturer is used.

(e) the director may issue a limited certification restricting the type of PST testing the applicant can perform.

(4) Certified sampler. No person shall conduct environmental media sampling for determining levels of contamination which may have occurred from regulated PSTs without having certification to conduct these activities.

(a) no owner or operator shall allow any environmental media sampling for determining levels of contamination which may have occurred from regulated PSTs to be conducted on a tank under their ownership or operation unless the person conducting the environmental media sampling is certified according to Rule R311-201.

(5) UST installer. No person shall install a PST without having certification or the on-site supervision of an individual having certification to conduct these activities.

(a) no owner or operator shall allow the installation of a PST, or any component thereof, under their ownership or operation unless the person installing the PST is certified according to Rule R311-201.

(b) the director may issue a limited certification restricting the type of PST installation the applicant can perform.

(6) UST remover. No person shall remove a PST without having certification or the on-site supervision of an individual having certification to conduct these activities.

(a) no owner or operator shall allow the removal of a PST, or any component thereof, under their ownership or operation unless the person conducting the PST removal is certified according to Rule R311-201.

R311-201-3. Eligibility for Certification.

(1) Certified PST consultant.

(a) training. For initial and renewal certification, an applicant must meet:

(i) Occupational Safety and Health Agency safety training requirements in accordance with 29 CFR 1910.120 and any other applicable safety training, as required by federal and state law; and

(ii) within a six-month period before application, complete an approved training course or equivalent in a program approved by the director to provide training to include the following areas:

(A) state and federal statutes;

(B) rules and regulations;

(C) environmental media sampling; and

(D) department policies.

(b) experience. Each applicant must provide with the application a signed statement or other evidence demonstrating:

(i) three years, within the past seven years, of appropriately related experience in PST release abatement, investigation, and corrective action; or

(ii) an equivalent combination of appropriate education and experience, as determined by the director.

(c) education. Each applicant must provide with the application college transcripts or other evidence demonstrating the following:

(i) a bachelor's or advanced degree from an accredited college or university with major study in environmental health, engineering, biological, chemical, environmental, or physical science, or a specialized or related scientific field, or equivalent education or experience as determined by the director;

(ii) a professional engineering certificate licensed under Title 58, Chapter 22, of the Professional Engineers and Land Surveyors Licensing Act, or equivalent certification as determined by the director; or

(iii) a professional geologist certificate licensed under Title 58, Chapter 76 of the Professional Geologist Licensing Act, or equivalent certification as determined by the director.

(d) initial certification examination. Each applicant who is not certified pursuant to Section R311-201-4 must successfully pass an initial certification examination or equivalent, administered under the direction of the director.

(i) the director shall determine the content of the initial examination based on the training requirements as outlined in Subsection R311-201-3(1)(a).

(e) renewal certification examination. Certified PST consultants seeking to renew their certification pursuant to Section R311-201-5 must successfully pass a renewal certification examination, or equivalent administered under the direction of the director.

(i) the director shall determine the content of the renewal examination based on the training requirements as outlined in Subsection R311-201-3(1)(a).

(ii) the director may offer a renewal certification examination that is less comprehensive than the initial certification examination.

(f) examination for revoked or expired certification. Any applicant who is not a certified PST consultant on the date the renewal certification examination is given because the consultant's prior certification was revoked or expired before completing a renewal application, must successfully pass the initial certification examination administered under Subsection R311-201-3(1)(d).

(2) UST inspector.

(a) training. For initial certification, an applicant must have successfully completed a PST inspector training course or equivalent within the six-month period before application.

(i) the training course must be approved by the director and shall include instruction in the following areas:

(A) corrosion;

(B) geology;

(C) hydrology;

(D) tank handling;

(E) tank testing;

(F) product piping testing;

(G) disposal;

(H) safety;

(I) sampling methodology;

(J) state site inspection protocol;

(K) state and federal statutes; and

(L) Utah PST rules and regulations.

(ii) renewal certification training will be established by the director.

(iii) the applicant must provide documentation of training with the application.

(b) certification examination. An applicant must successfully pass a certification examination administered under the direction of the director.

(i) the director shall determine the content of the initial and renewal examinations, based on the training requirements as outlined in Subsection R311-201-3(2)(a), and the standards and criteria against which the applicant will be evaluated.

(ii) the director may offer a renewal certification examination that is less comprehensive than the initial certification examination.

(3) UST tester.

(a) financial assurance. An applicant or applicant's employer must have insurance, surety bonds, liquid company assets or other appropriate kinds of financial assurance which covers PST testing and which, in combination, represent an unencumbered value of the largest PST testing contract performed by the applicant or the applicant's employer, as appropriate, during the previous two years, or $50,000, whichever is greater.

(i) an applicant who uses their employer's financial assurance must also provide evidence of their employer's approval of the certification application.

(b) training. For initial certification, an applicant must complete a PST tester's training course within the six-month period before application, in a program approved by the director, to provide training to include applicable and related areas of state and federal statutes, rules, and regulations.

(i) renewal certification training will be established by the director.

(A) the applicant must provide documentation of training with the application.

(ii) for initial certification to perform the types of testing specified in Subsection R311-201-2(3), an applicant must have successfully passed a training course conducted by the manufacturer of the PST testing equipment that they will be using, or a training course determined by the director to be equivalent to the manufacturer training, in the correct use of the equipment and testing procedures required to operate the PST test system.

(iii) an applicant for renewal of certification must have successfully passed an appropriate refresher training course conducted by the manufacturer of the PST testing equipment that they will be using, or training as determined by the director to be equivalent to the manufacturer training, in the correct use of the equipment and testing procedures required to operate the PST test system.

(A) for renewal certification, refresher training, or equivalent must be completed within one year before the expiration date of the certificate.

(iv) cathodic protection testing. For initial and renewal of certification, the applicant must provide documentation of training as a "Cathodic protection tester" as defined in 40 CFR 280.12 with the application.

(c) performance standards of equipment. An applicant must submit documentation that demonstrates the PST testing equipment used by the applicant meets the performance standards specified in Subsection R311-200-1(2)(ss)(v).

(i) this documentation shall be obtained through an independent lab, professional engineering firm, or other independent organization or individual approved by the director and submitted at the time of application for certification.

(d) certification examination. An applicant must successfully pass a certification examination administered under the direction of the director.

(i) the director shall determine the content of the initial and renewal examinations, based on the training requirements as outlined in Subsection R311-201-3(3)(b), and the standards and criteria against which the applicant will be evaluated.

(ii) the director may offer a renewal certification examination that is less comprehensive than the initial certification examination.

(4) Certified sampler.

(a) training. For initial certification an applicant must successfully complete a petroleum storage tank environmental media sampler training course or equivalent within the six-month period before application.

(i) the training course must be approved by the director and shall include instruction in the following areas:

(A) chain of custody;

(B) decontamination;

(C) EPA testing methods;

(D) environmental media sampling protocol;

(E) preservation of samples during transportation;

(F) coordination with Utah certified laboratories; and

(G) state and federal statutes, rules, and regulations.

(ii) renewal certification training will be determined by the director.

(A) the applicant shall provide documentation of training with the application.

(b) certification examination. An applicant must successfully pass a certification examination administered under the direction of the director.

(i) the director shall determine the content of the initial and subsequent examinations, based on the training requirements as outlined in Subsection R311-201-3(4)(a), and the standards and criteria against which the applicant will be evaluated.

(ii) the director may offer a renewal certification examination that is less comprehensive than the initial certification examination.

(5) UST installer.

(a) financial assurance. An applicant or the applicant's employer must have insurance, surety bonds, liquid company assets, or other appropriate kinds of financial assurance which covers PST installation and which, in combination, represents an unencumbered value of not less than the largest PST installation contract performed by the applicant or the applicant's employer, as appropriate, during the previous two years, or $250,000, whichever is greater.

(i) evidence of financial assurance shall be provided with the application.

(ii) an applicant who uses their employer's financial assurance must also provide evidence of their employer's approval of the application.

(b) training. For initial certification, an applicant must have successfully completed a PST installer training course or equivalent within the six-month period before the application.

(i) the training course must be approved by the director, and shall include instruction in the following areas:

(A) tank installation;

(B) pre-installation tank testing;

(C) product piping testing;

(D) excavation;

(E) anchoring;

(F) backfilling;

(G) secondary containment;

(H) leak detection methods;

(I) piping;

(J) electrical; and

(K) state and federal statutes, rules, and regulations.

(ii) the applicant must provide documentation of training with the application.

(c) experience. Each applicant must provide with their application a sworn statement or other evidence that they have actively participated in a minimum of three PST installations.

(d) certification examination. An applicant must successfully pass a certification examination administered under the direction of the director.

(i) the director shall determine the content of the initial and renewal examinations, based on the training requirements as outlined in Subsection R311-201-3(5)(b), and the standards and criteria against which the applicant will be evaluated.

(ii) the director may offer a renewal certification examination that is less comprehensive than the initial certification examination.

(6) UST remover.

(a) financial assurance. An applicant or the applicant's employer must have insurance, surety bonds, liquid company assets or other appropriate kinds of financial assurance which covers PST removal and which, in combination, represents an unencumbered value of not less than the largest PST removal contract performed by the applicant or the applicant's employer, as appropriate, during the previous two years, or $250,000, whichever is greater.

(i) evidence of financial assurance shall be provided with the application.

(ii) an applicant who uses their employer's financial assurance must also provide evidence of their employer's approval of the application.

(b) training. For initial certification, an applicant must have successfully completed a PST remover approved training course or equivalent within the six-month period before the application.

(i) the training course must be approved by the director and shall include instruction in the following areas:

(A) tank removal;

(B) tank removal safety practices; and

(C) state and federal statutes, rules, and regulations.

(ii) the applicant must provide documentation of training with the application.

(c) experience. Each applicant must provide with their application a sworn statement or other evidence that they have actively participated in a minimum of three PST removals.

(d) certification examination. An applicant must successfully pass a certification examination administered under the direction of the director.

(i) the director shall determine the content of the initial and renewal examinations, based on the training requirements as outlined in Subsection R311-201-3(6)(b), and the standards and criteria against which the applicant will be evaluated.

(ii) the director may offer a renewal certification examination that is less comprehensive than the initial certification examination.

R311-201-4. Application for Certification.

(1) Any individual may apply for certification by paying any applicable fees and by submitting an application to the director to demonstrate that the applicant

(a) meets applicable eligibility requirements specified in Section R311-201-3; and

(b) will maintain the applicable performance standards specified in Section R311-201-6 after receiving a certificate.

(2) Applications submitted under Subsection R311-201-4(1) shall be reviewed by the director for determination of eligibility for certification.

(a) if the director determines that the applicant meets the applicable eligibility requirements described in Section R311-201-3 and meets the standards described in Section R311-201-6, the director shall issue to the applicant a certificate.

(3) Certification for certificate holders shall be effective for a period of two years from the date of issuance, unless revoked before the expiration date pursuant to Section R311-201-9 or inactivated pursuant to Section R311-201-8.

(a) certificates shall be subject to periodic renewal pursuant to Section R311-201-5.

R311-201-5. Renewal.

(1) A certificate holder may apply for certificate renewal not more than six months before the expiration date of the certificate by:

(a) submitting a completed application form to demonstrate that the applicant meets the applicable eligibility requirements described in Section R311-201-3 and meets the applicable performance standards specified in Section R311-201-6;

(b) paying any applicable fees; and

(c) passing a certification renewal examination.

(2) If the director determines that the applicant meets the applicable eligibility requirements of Section R311-201-3 and the applicable performance standards of Section R311-201-6, the director shall reissue the certificate to the applicant.

(3) Renewal certificates shall be issued for a period equal to the initial certification period and shall be:

(a) subject to inactivation under Section R311-201-8; and

(b) subject to revocation under Section R311-201-9.

(4) Any applicant who has a certification which has been revoked or expired for more than two years before submitting a renewal application must successfully satisfy the training and certification examination requirements for initial certification under Section R311-201-3 for the applicable certificate before receiving the renewal certification.

(a) except as provided in Subsection R311-201-3(1)(f) for certified PST consultants.

R311-201-6. Standards of Performance.

(1) Individuals who are certified in accordance with Rule R311-201 must:

(a) display the certificate upon request;

(b) comply with all local, state, and federal laws, rules, and regulations regarding the PST activity for which certification is granted;

(c) report the discovery of any release caused by or encountered in the course of performing the PST activity for which certification is granted to the director, the local health district, and the local public safety office within 24 hours.

(i) certified PST consultants and certified samplers must report the discovery of any release caused by or encountered in the course of performing environmental media sampling for compliance with Utah PST rules, or report the results indicating that a release may have occurred, to the director, the local health district, and the local public safety office within 24 hours.

(d) not participate in fraudulent, unethical, deceitful, or dishonest activity with respect to a certificate application or performance of work for which certification is granted; and

(e) not participate in any other regulated certification program activities without meeting all requirements of that certification program.

(2) The director may audit or commission an audit of records which support eligibility for certification, or performance of work for which certification is granted, at any time.

(a) audits may be determined by random selection or for specific reasons, including suspicion or discovery of inaccuracies on an application for certification or performance of substandard work for which certification is granted, or deficiencies in complying with regulations.

(3) Certified individuals must, in addition to meeting the performance standards in Subsection R311-201-6(1), comply with the following:

(a) certified PST consultant. An individual who provides PST consulting services in the state must:

(i) provide, or shall associate appropriate personnel to provide a high level of experience and expertise in release abatement, investigation, or corrective action;

(ii) perform, or take steps to ensure that work is performed with skill, care, and diligence consistent with a high level of experience and expertise in release abatement, investigation, or corrective action;

(iii) perform work and submit documentation in a timely manner;

(iv) review and certify by signature any documentation submitted to the director in accordance with PST release-related compliance; and

(v) ensure and certify by signature pertinent release abatement, investigation, and corrective action work performed under the direct supervision of a certified PST consultant.

(b) UST inspector. An individual who performs PST inspecting for the Division of Environmental Response and Remediation shall:

(i) conduct inspections of PSTs and records to determine compliance with this rule only as authorized by the director.

(c) UST tester. An individual who performs PST testing in the state must:

(i) perform work in a manner that does not cause a release of the contents of the tank;

(ii) assure that operations of PST testing which are critical to the integrity of the system and to the protection of the environment are supervised by a certified person; and

(iii) perform work in a manner that the integrity of the PST system is maintained.

(d) UST installer. An individual who performs PST installation or repair in Utah must:

(i) be certified to assure the proper installation of all elements of PST systems which are critical to the integrity of the system and to the protection of the environment, including:

(A) pre-installation tank testing;

(B) tank site preparation including anchoring, tank placement, and backfilling;

(C) cathodic protection installation, service, or repair;

(D) vent and product piping assembly;

(E) fill tube attachment;

(F) installation of tank manholes;

(H) secondary containment construction; and

(ii) notify the director as required by Subsection R311-203-3(1) before installing or upgrading an PST.

(e) UST remover. An individual who performs PST removal in the state must:

(i) assure that operations of tank removal which are critical to safety and to the protection of the environment which includes:

(A) removal of soil adjacent to the tank;

(B) disassembly of pipe;

(C) final removal of product and sludges from the tank, cleaning of the tank, purging or inerting of the tank, removal of the tank from the ground, and removal of the tank from the site must be supervised by a certified person; and

(ii) not proceed to close a regulated PST without an approved closure plan, except as outlined in Subsection R311-204-2(2).

R311-201-7. Denial of Certification and Appeal of Denial.

(1) Any individual whose application or renewal application for certification or certification renewal is denied will be provided with a written documentation by the director specifying the reason or reasons for denial.

(a) an applicant may appeal the determination using the procedures specified in Section 19-1-301.5, et seq., and Rule R305-7.

R311-201-8. Inactivation of Certification.

(1) If an applicant was certified based upon their employer's financial assurance, certification is contingent upon the applicant's continued employment by that employer.

(2) If the employer loses their financial assurance or the applicant leaves the employer, their certification will automatically be deemed inactive and they will no longer be certified for purposes of this rule.

(3) Inactive certificates may be reactivated by submitting a supplemental application with new financial assurances and payment of any applicable fees.

(4) Reactivated certificates shall be effective for the remainder of their original term unless subsequently revoked or inactivated before the end of that term.

R311-201-9. Revocation of Certification.

(1) Upon receipt of evidence that a certificate holder does not meet one or more of the eligibility requirements specified in Section R311-201-3 or does not meet one or more of the performance standards specified in Section R311-201-6, the individual's certification may be revoked.

(a) procedures for revocation are specified in Rule R305-7.

R311-201-10. Reciprocity.

(1) If the director determines that another state's certification program is equivalent to the certification program referred to in this rule, the applicant successfully passes the Utah certification examination, and payment of any fees associated with this rule are made, the director may issue a Utah certificate.

(a) The certificate will be valid until the expiration date of the previous state's certificate or the expiration of the certification period described in Subsection R311-201-4(3), whichever occurs first.

R311-201-12. UST Operator Training and Registration.

(1) To meet the operator training requirement 42 USC Section 6991i of the Solid Waste Disposal Act as amended by the Energy Policy Act of 2005, each UST facility must have UST facility operators that are trained and registered according to the requirements of this section.

(2) Each facility must have three classes of operators: A, B, and C.

(a) a facility may have more than one person designated for each operator class.

(b) an individual acting as a Class A or B operator may do so for more than one facility.

(3) The UST owner or operator must provide documentation to the director to identify the Class A, B, and C operators for each facility.

(a) if an owner or operator does not register and identify Class A, B, and C operators for a facility, the certificate of compliance for the facility may be revoked for failure to demonstrate substantial compliance with all applicable state and federal statutes, rules, and regulations.

(4) New Class A and B operators must be trained and registered within 30 days of assuming responsibility for an UST facility.

(5) New Class C operators must be trained before assuming the responsibilities of a Class C operator.

(6) The Class A operator shall be an owner, operator, employee, or individual designated under Subsection R311-201-12(6)(b).

(a) the Class A operator has primary responsibility for the broader aspects of the statutory and regulatory requirements and standards necessary to operate and maintain the UST system. The Class A operator must:

(i) have a general knowledge of UST systems;

(ii) ensure that UST records are properly maintained according to 40 CFR 280;

(iii) ensure that yearly UST fees are paid;

(iv) ensure proper response to and reporting of emergencies caused by releases or spills from USTs;

(v) make financial responsibility documents available to the director as required; and

(vi) ensure that Class B and Class C operators are trained and registered.

(b) an owner or operator may designate a third-party Class B operator as a Class A operator if:

(i) the UST owner or operator is a financial institution or person who acquired ownership of an UST facility solely to protect a security interest in that property and has not operated the USTs at the facility;

(ii) all USTs at the facility are properly temporarily closed in accordance with 40 CFR 280.70 and Section R311-204-4; and

(iii) all USTs at the facility are empty in accordance with 40 CFR 280.70(a).

(7) The Class B operator must implement routine daily aspects of operation, maintenance, and recordkeeping for UST systems.

(a) the Class B operator shall be an owner, operator, employee, or third-party Class B operator. The Class B operator must:

(i) ensure that on-site UST operator inspections are conducted according to the requirements of Section R311-203-7;

(ii) ensure that UST release detection is performed according to 40 CFR 280 subpart D;

(iii) ensure that the status of the UST system is monitored for alarms and unusual operating conditions that may indicate a release;

(iv) document the reason for an alarm or unusual operating condition identified in Subsection R311-201-12(7)(iii), if it is not reported as a suspected release according to 40 CFR 280.50;

(v) ensure that appropriate release detection and other records are kept according to 40 CFR 280.34 and 280.45, and are made available for inspection;

(vi) ensure that spill prevention, overfill prevention, and corrosion protection requirements are met;

(vii) be on site for facility compliance inspections, or designate another individual to be on site for inspections;

(viii) ensure that suspected releases are reported according to the requirements of 40 CFR 280.50; and

(ix) ensure that Class C operators are trained and registered, and are on site during operating hours.

(8) Any individual providing services as a third-party Class B operator must be trained and registered in accordance with Subsection R311-201-12(10) and must:

(a) be certified in accordance with Rule R311-201 as:

(i) a UST tester; or

(ii) a UST installer as either a general installer or a service or repair technician; or

(b) meet the training requirements of a certified UST inspector and document comprehensive or general liability insurance with limits of $250,000 minimum per occurrence.

(9) The Class C operator is an employee and is generally the first line of response to events indicating emergency conditions. A Class C operator must:

(a) be present at the facility at all times during normal operating hours;

(b) monitor product transfer operations according to 40 CFR 280.30(a), to ensure that spills and overfills do not occur;

(c) properly respond to alarms, spills, and overfills;

(d) notify Class A operators, Class B operators, or both, and appropriate emergency responders when necessary; and

(e) act in response to emergencies and other situations caused by spills or releases from an UST system that pose an immediate danger or threat to the public or to the environment, and that require immediate action.

(10) Operator training and registration.

(a) training and testing.

(i) applicants for Class A and B operator registration must successfully complete an approved operator training course within the six-month period before application.

(ii) the training course must be approved by the director, and shall include instruction in the following:

(A) notification;

(B) temporary and permanent closure;

(C) installation permitting;

(D) UST requirements of the 2005 Energy Policy Act;

(E) Class A, B, and C operator responsibilities;

(F) spill prevention;

(G) overfill prevention;

(H) UST release detection;
(I) corrosion protection;
(J) recordkeeping requirements;
(K) emergency response;
(L) product compatibility;
(M) Utah PST rules and regulations;
(N) UST financial responsibility; and
(O) delivery prohibition.
(iii) applicants for Class A and B operator registration must successfully pass a registration examination authorized by the director.
(A) the director shall determine the content of the examination.
(iv) an individual applying for Class A or B operator registration may be exempted from meeting the requirements of Subsections R311-201-12(10)(a)(i) and R311-201-12(10)(a)(iii) by completing the following within the six-month period before application:
(A) successfully passing a nationally recognized UST operator examination approved by the director; and
(B) successfully passing a Utah PST rules and regulations examination authorized by the director.
(v) the director shall determine the content of the examination.
(vi) Class C operators shall receive instruction in product transfer procedures, emergency response, and initial response to alarms and releases.
(b) registration application.
(i) applicants for Class A and B operator registration must:
(A) submit a registration application to the director;
(B) document proper training; and
(C) pay any applicable fees.
(ii) Class C operators shall be designated by a Class B operator.
(iii) the Class B operator must maintain a list identifying the Class C operators for each PST facility. The list must identify:
(A) each Class C operator;
(B) the date of training; and
(C) the trainer.
(iv) identification on the list serves as the operator registration for Class C operators.
(v) a registered Class A or B operator may act as a Class C operator by meeting the training and registration requirements for a Class C operator.
(vi) Class A and B registration shall be effective for a period of three years, and shall not lapse or become inactive if the registered operator leaves the employment of the company under which the registration was obtained.
(c) renewal of registration.
(i) Class A and B operators shall apply for renewal of registration not more than six months before the expiration of the registration by:
(A) submitting a completed application form;
(B) paying any applicable fees; and
(C) documenting successful completion of any re-training required by Subsection R311-201-12(10)(d).
(ii) if the director determines that the operator meets the requirements for registration, the director shall renew the applicant's registration for a period equal to the initial registration.
(iii) any applicant for renewal who has a registration that has been expired for more than two years before submitting a renewal application must successfully satisfy the training and examination requirements for initial registration under Subsection R311-201-12(10)(a) before receiving the renewal registration.
(d) re-training.
(i) a Class A operator is subject to re-training requirements if any facility for which the Class A operator has oversight is found to be out of compliance due to:
(A) lapsing of certificate of compliance;
(B) failure to provide acceptable financial responsibility; or
(C) failure to ensure that Class B and C operators are trained and registered.
(ii) a Class B operator is subject to re-training requirements if a facility for which the Class B operator has oversight is found to be out of compliance due to:
(A) failure to document compliance, as determined by the Technical Compliance Rate;
(I) Technical Compliance Rate is determined using the EPA "UST and LUST Performance Definitions as of October 2018" and incorporated by reference.
(B) failure to perform UST operator inspections required by Section R311-203-7; or
(C) failure to ensure that Class C operators are trained and registered, and are on site during operating hours.
(iii) to be re-trained, Class A and Class B operators must successfully complete the appropriate Class A or B operator training course and examination, or must complete an equivalent re-training course and examination approved by the director.

(iv) Class A and B operators must be re-trained within 90 days of the date of the determination of non-compliance, and shall submit documentation showing successful completion of the re-training to the director within 30 days of the re-training.

(A) if the documentation is not received by the director within 120 days of the date of the determination of non-compliance, the Class A or B operator's registration shall lapse.

(B) to re-register, the operator shall meet the requirements of Subsections R311-201-12(10)(a) and R311-201-12(10)(b).

(v) if a facility for which a Class A or B operator has oversight is found to be out of compliance under Subsection R311-201-12(10)(d)(i) or R311-201-12(10)(d)(ii), re-training is not required if the Class A or B operator successfully completes and documents re-training under Subsection R311-201-12(10)(d) for a prior determination of non-compliance that occurred during the previous nine months.

(11) Reciprocity.

(a) if the director determines that another state's operator training program is equivalent to the operator training program provided in this rule, the director may accept an applicant's Class A or Class B registration application, provided that the applicant:

(i) submits a completed application form;

(ii) passes the Utah PST rules and regulations examination referenced in Subsection R311-201-12(10)(a)(iv)(B); and

(iii) submits payment of any applicable registration fees.

(b) the Class A or Class B registration is valid until the Utah registration expiration described in Subsection R311-201-12(10)(b)(vi).

KEY: hazardous substances, administrative proceedings, underground storage tanks, petroleum storage tanks, revocation procedures
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R311. Environmental Quality, Environmental Response and Remediation.
R311-203. Petroleum Storage Tanks: Technical Standards.
R311-203-1. Definitions.

Definitions are found in Rule R311-200.

R311-203-2. Notification.

(1) The owner or operator of an UST must notify the director when:

(a) new USTs are brought into use;

(b) the owner or operator changes;

(c) changes are made to the tank or piping system; and

(d) release detection, corrosion protection, or spill or overfill prevention systems are installed, changed, or upgraded.

(2) Notifications must be submitted on the current approved notification form.

(3) Notifications submitted to meet the requirements of Subsection R311-203-2(1) shall be submitted within 30 days of the completion of the work or the change of ownership.

(4) To satisfy the requirement of Section 19-6-407 the certified installer shall:

(a) complete the appropriate section of the form to be submitted by the owner or operator, and ensure that the notification form is submitted by the owner or operator within 30 days of completion of the installation; or

(b) provide separate notification to the director within 60 days of the completion of the installation.

(5) The owner or operator of an APST that is in service on or after May 5, 2021, must notify the director according to the requirements of Subsection 19-6-407(2).

(6) The owner or operator of an APST that [~~is~~]was [~~not in~~]out of service before May 5, 2021,

(a) must notify the director according to the requirements of Subsection 19-6-407(2)(a)(i);

(b) is subject to delivery prohibition requirements in Section R311-206-8;

(c) is subject to closure requirements under Subsections 19-6-407(2)(a)(iii) and (iv) and Section R311-204-2;

(d) must demonstrate the tank has been emptied of any regulated substance to the lowest discharge point on the tank;

(e) is subject to release reporting requirements as outlined in Subsection 19-6-407(2)(a)(iv); and

[~~(f) must notify local emergency responders of a spill or overfill exceeding 25 gallons within 24 hours.~~]

(7) The owner or operator of an APST that is not in service before May 5, 2021, is not subject to the requirements of Subsection 19-6-407(2)(c) and Section 19-6-412 unless the owner or operator elects to bring the APST back in service.

(8) The owner or operator of an APST must notify within 24 hours local emergency responders of a spill or overfill exceeding 25 gallons.

R311-203-3. New Installations, Permits.

(1) Certified UST installers must notify the director at least ten business days, or another time period approved by the director, before commencing any of the following activities:

(a) the installation of a full UST system or tank only;

(b) the installation of underground product piping for one or more tanks at a facility, separate from the installation of one or more tanks at a facility;

(c) the internal lining of a previously-existing tank;

(d) the installation of a cathodic protection system on one or more previously-existing tanks at a facility;

(e) the installation of a bladder in a tank;

(f) any retro-fit, replacement, or installation that requires the cutting of a manway into the tank;

(g) the installation of a spill prevention or overfill prevention device;

(h) the installation of a leak detection monitoring system; or

(i) the installation of a containment sump or under-dispenser containment.

(2) The UST installation company must submit to the director an UST installation permit fee of $200 when any of the activities listed in Subsections R311-203-3(1)(a) through R311-203-3(1)(f) is performed on an UST system that has not qualified for a certificate of compliance before the commencement of the work.

(3) The fees assessed under Subsection 19-6-411(2)(a)(i) will be determined based on the number of full UST installations performed by the installation company in the 12 months previous to the fee due date.

(a) installations for which the fee assessed under Subsections 19-6-411(2)(a)(ii) and R311-203-3(3) is charged shall count toward the total installations for the 12-month period.

(4) For the purposes of Subsections 19-6-411(2)(a)(ii), 19-6-407(1)(c), and R311-203-2(4), an installation is considered complete when:

(a) in the case of installation of a new UST system, tank only, or product piping only, the new installation first holds a regulated substance; or

(b) in the case of installation of the components listed in Subsections R311-203-3(1)(d) through R311-203-3(1)(f), the new installation is functional and the UST holds a regulated substance and is operational.

(5) If, before completion of an installation for which an UST installation permit fee is required, the owner or operator decides to install additional UST system components, the installer shall notify the director of the change.

(a) when additions are made, the UST installation permit fee shall be increased based on the additional number of tanks to be installed in accordance with Subsection 19-6-411(2)(a)(i) and the Department of Environmental Quality Fee Schedule, as approved annually by the Legislature.

(6) The number of UST installation companies performing work on a particular installation will not be a factor in determining the UST installation permit fee for that installation.

(a) each installation company must be identified on the UST installation permit.

(7) When a new UST system, tank only, product piping only, or new cathodic protection system is installed, the owner or operator must submit to the director an as-built drawing that meets the requirements of Subsection R311-200-1(2)(b).

R311-203-4. Petroleum Storage Tank Registration Fee.

(1) Registration fees will be assessed by the Department against tanks which are not permanently closed for the entire fiscal year, and will be billed per facility.

(2) Registration fees are due on July 1 of the fiscal year for which the assessment is made, or, for PSTs brought into use after the beginning of the fiscal year, registration fees are due when the tanks are brought into use, as a requirement for receiving a certificate of compliance.

(3) The director may waive all or part of the penalty assessed under Subsection 19-6-408(5) if no fuel has been dispensed from the tank on or after July 1, 1991 and if the tank has been properly closed according to Rules R311-204 and R311-205, or in other circumstances as approved by the director.

(4) The director shall issue a certificate of registration to owners or operators for individual PSTs at a facility if:

(a) the tanks are in use or are temporarily closed as outlined in 40 CFR Part 280 Subpart G; and

(b) the PST registration fee has been paid.

(5) Pursuant to Subsection 19-6-408(5)(c), past due PST registration fees, late payment penalties and interest must be paid before the director may issue or re-issue a certificate of compliance regardless of whether there is a new owner or operator at the facility.

(a) the director may decline active collection of past due registration fees, late payment penalties and interest if a certificate of compliance is not issued and the new owner or new operator properly closes the PSTs within one year of becoming the new owner or operator of the facility.

(6) A UST will be assessed the higher registration fee established under Section 63J-1-504 if it is found to be out of compliance with the EPA Technical Compliance Rate during an inspection, and remains out of compliance for six months or greater following the initial inspection.

(a) the higher registration fee is due July 1 following the documented six-month period of non-compliance.

(7) When the director is notified of the existence of a previously unregistered regulated PST, the director shall assess the applicable notification fee and PST registration fee for the current fiscal year.

(a) if the PST is properly permanently closed within 90 days of the notification of the existence of the PST, the director may decline active collection of pastdue registration fees, late payment penalties, and interest for previous fiscal years.

R311-203-5. PST Testing Requirements.

(1) Tank tightness testing. The testing method must be able to test the PST system at the maximum level that could contain regulated substances.

(a) tanks with overfill prevention devices that prevent product from entering the upper portion of the tank may be tested at the maximum level allowed by the overfill device.

(2) Spill prevention equipment. An individual who conducts a test of spill prevention equipment to meet the requirements of 40 CFR 280.35(a)(1)(ii) must report the test results using:

(a) the form "Utah Spill Prevention Test"; or

(b) the form "Appendix C-3 Spill Bucket Integrity Testing Hydrostatic Test Method Single and Double-Walled Vacuum Test Method," found in PEI RP1200, "Recommended Practices for the Testing and Verification of Spill, Overfill, Leak Detection and Secondary Containment Equipment at UST Facilities;" or

(c) another form approved by the director.

(3) Containment sump testing. An individual who conducts a test of a containment sump used for interstitial monitoring to meet the requirements of 40 CFR 280.35(a)(1)(ii) or a test of a piping containment sump or under-dispenser containment to meet the requirements of Section R311-206-11 must report the test results using:

(a) the form "Utah Containment Sump Test"; or

(b) the form "Appendix C-4 Containment Sump Integrity Testing Hydrostatic Testing Method," found in PEI RP1200; or

(c) another form approved by the director.

(4) When a sump sensor is used as an automatic line leak detector, the secondary containment sump must be tested for tightness annually according to the manufacturer's guidelines or standards, or by another method approved by the director.

(a) the sensor shall be located as close as is practicable to the lowest portion of the sump.

(5) Cathodic protection testing. Cathodic protection tests must meet the inspection criteria outlined in 40 CFR 280.31(b), or other criteria approved by the director. The tester who performs the test must provide the following information:

(a) location of at least three test points per tank;

(b) location of one remote test point for galvanic systems;

(c) test results in volts or millivolts;

(d) pass or fail determination for each tank, line, flex connector, or other UST system component tested;

(e) the criteria by which the pass or fail determination is made;

(f) a site plat showing locations of test points; and

(g) a re-test of any cathodic protection system is required within six months of any below-grade work that may harm the integrity of the system.

(6) UST testers performing tank and line tightness testing must include the following as part of the test report:

(a) pass or fail determination for each tank or line tested;

(b) measured leak rate;

(c) test duration;

(d) product level for tank tests;

(e) pressure used for pressure tests;

(f) type of test; and

(g) test equipment used.

(7) overfill prevention equipment inspection. An individual who conducts an inspection of overfill prevention equipment to meet the requirements of 40 CFR 280.35(a)(2) must report the results using:

(a) the form "Appendix C-5 UST Overfill Equipment Inspection Automatic Shutoff Device and Ball Float Valve," found in PEI RP1200, when the overfill prevention is provided by either an automatic shutoff device or a ball float valve;

(b) the form "Appendix C-6 Overfill Alarm Operation Inspection," found in PEI RP1200, when overfill prevention is provided by an overfill alarm; or

(c) another form approved by the director.

(8) Automatic tank gauge inspection. An individual who conducts an inspection of automatic tank gauges to meet the requirements of 40 CFR 280.40(a)(3) must report the results using:

(a) the form "Appendix C-7 Automatic Tank Gauge Operation Inspection," found in PEI RP1200, and if the PST system or any portion thereof is interstitially monitored, "Appendix C-8: Liquid Sensor Functionality Testing," found in PEI RP1200; or

(b) another form approved by the director.

(9) Automatic line leak detector testing. An individual who conducts a test of automatic line leak detectors to meet the requirements of 40 CFR 280.40(a)(3) must report the results using:

(a) the form "Appendix C-9 Mechanical and Electronic Line Leak Detector Performance Tests," found in PEI RP1200; or

(b) another form approved by the director.

(10) Leak Detection and Testing Requirements for APSTs[~~ using the EAP for financial responsibility~~]:

(a) line tightness testing or monthly monitoring is required for underground piping associated with APSTs.

(i) an individual who conducts a tightness test of product lines must perform the test as set forth in 40 CFR 280.44(b).

(ii) when pressurized underground product piping is connected to an APST that is not double-walled, sensor equipped, and monitored monthly, the product piping must be tested for tightness annually. The test must meet the requirements of Subsection R311-203-5(6).

(b) spill prevention equipment associated with an APST must meet the standards set forth in International Fire Code (IFC) 2306.6.2.6 referenced in the Utah State Fire Code adopted pursuant to Section 15A-5-103[~~and be double-walled and monitored monthly; or have an integrity test performed every three years. The test must meet the requirements of Subsection R311-203-5(2)~~].

(c) beginning July 1, 2026, an APST resting on the ground must perform monthly interstitial monitoring, a monthly 0.2 gallon per hour release detection test, or a tank tightness test every 5 years. The test must meet the requirements of Subsection R311-203-5(1).

(d) beginning July 1, 2026, if applicable, APSTs and associated piping are required to have cathodic protection that meets the standards set forth in IFC 5704.2.7.9 and National Fire Protection Agency (NFPA) 30.23.3.5 and must have a passing cathodic protection test every 3 years. The test must meet the requirements of Subsection R311-203-5(5).

(e) beginning July 1, 2026, an APST shall have an overfill prevention device that meets the standards set forth in IFC 2306.6.2.3, 5704.2.7.5.8 and 5704.2.927.5 and must have an overfill prevention equipment inspection performed every three years. The overfill prevention equipment inspection must meet the requirements of Subsection R311-203-5(7).

(f) beginning July 1, 2026, an APST with pressurized underground product piping shall have an automatic line leak detector that meets the standards set forth in IFC 2306.7.7.1 and must have an automatic line leak detector test performed annually. The test must meet the requirements of Subsection R311-203-5(9).

R311-203-6. Secondary Containment and Under-Dispenser Containment.

(1) Secondary containment for tanks and piping.

(a) to meet the requirements of Subsection 42 USC 6991b(i) of the Solid Waste Disposal Act, tanks and product piping that are installed as part of an UST system after October 1, 2008 and before January 1, 2017 must have secondary containment if the installation is located 1,000 feet or less from an existing community water system or an existing potable drinking water well.

(b) the secondary containment installed under Subsection R311-203-6(1) must meet the requirements of 40 CFR 280.42(b), and shall be monitored monthly for releases from the tank and piping.

(i) monthly monitoring must meet the requirements of 40 CFR 280.43(g).

(c) containment sumps for piping installed under Subsection R311-203-6(1) are required:

(i) at the submersible pump or other location where the piping connects to the tank;

(ii) where the piping connects to a dispenser, or otherwise goes aboveground; and

(iii) where double-walled piping that is required under Subsection R311-203-6(1) connects with existing piping.

(d) containment sumps for piping that is installed under Subsection R311-203-6(1) must:

(i) contain submersible pumps, check valves, unburied risers, flexible connectors, and other transitional components that connect the piping to the tank, dispenser, or existing piping; and

(ii) meet the requirements of Subsection R311-203-6(2)(b).

(e) in the case of a replacement of tank or piping, only the portion of the UST system being replaced is subject to the requirements of Subsection R311-203-6(1).

(i) if less than 100% of the piping from a tank to a dispenser is replaced, the requirements of Subsection R311-203-6(1) applies to new product piping that is installed.

(ii) the closure requirements of Rule R311-205 apply to product piping that is taken out of service.

(iii) when new piping is connected to existing piping that is not taken out of service, the connection between the new and existing piping must be secondarily contained, and monitored for releases according to 40 CFR 280.43(g).

(f) the requirements of Subsection R311-203-6(1) do not apply to:

(i) piping that meets the requirements for "safe suction" piping in 40 CFR 280.41(b)(2); or

(ii) piping that connects two or more tanks to create a siphon system.

(g) the requirements of Subsection R311-203-6(1) apply to emergency generator USTs installed after October 1, 2008.

(2) Under-dispenser containment.

(a) to meet the requirements of Subsection 42 USC 6991b(i) of the Solid Waste Disposal Act, new motor fuel dispenser systems installed after October 1, 2008 and before January 1, 2017, and connected to an UST, must have under-dispenser containment if the installation is located 1,000 feet or less from an existing community water system or an existing potable drinking water well.

(b) the under-dispenser containment must:

(i) be liquid-tight on its sides, bottom, and at penetrations;

(ii) be compatible with the substance conveyed by the piping; and

(iii) allow for visual inspection and access to the components in the containment system, or be continuously monitored for the presence of liquids.

(c) if an existing dispenser is replaced, the requirements of Subsection R311-203-6(2) apply to the new dispenser if any equipment used to connect the dispenser to the PST system is replaced.

(i) this equipment includes unburied flexible connectors, risers, and other transitional components that are beneath the dispenser and connect the dispenser to the product piping.

(3) The requirements of Subsections R311-203-6(1) and R311-203-6(2) do not apply if the installation is located more than 1,000 feet from an existing community water system or an existing potable drinking water well.

(a) the PST owner or operator must provide to the director documentation to show that the requirements of Subsections R311-203-6(1) and R311-203-6(2) do not apply to the installation.

(b) the documentation shall be provided at least 60 days before the beginning of the installation, and shall include:

(i) a detailed to-scale map of the proposed installation that demonstrates that no part of the installation is within 1,000 feet of any community water system, potable drinking water well, or any well the owner or operator plans to install at the facility; and

(ii) a certified statement by the owner or operator explaining who researched the existence of a community water system or potable drinking water well, how the research was conducted, and how the proposed installation qualifies for an exemption from the requirements of Subsections R311-203-6(1) and R311-203-6(2).

(4) To determine whether the requirements of Subsections R311-203-6(1) and R311-203-6(2) apply, the distance from the UST installation to an existing community water system or existing potable drinking water well shall be measured from the closest part of the new UST, piping, or motor fuel dispenser system to:

(a) the closest part of the nearest community water system, including:

(i) the location of the wellheads for groundwater and the location of the intake points for surface water;

(ii) water lines, processing tanks, and water storage tanks; and

(iii) water distribution/ and service lines under the control of the community water system operator, or

(b) the wellhead of the nearest existing potable drinking water well.

(5) If a new UST facility is installed, and is not within 1,000 feet of an existing community water system or an existing potable drinking water well, the requirements of Subsections R311-203-6(1) and R311-203-6(2) apply if the owner or operator installs a potable drinking water well at the facility that is within 1,000 feet of the UST, piping, or motor fuel dispenser system, regardless of the sequence of installation of the UST system, dispenser system, and well.

(6) To meet the requirements of 40 CFR 280.20, tanks and product piping that are installed or replaced as part of an UST system on or after January 1, 2017 must be secondarily contained and use interstitial monitoring in accordance with 40 CFR 280.43(g).

R311-203-7. Operator Inspections.

(1) Owners and operators must perform periodic inspections in accordance with 40 CFR 280.36.

(a) inspections must be conducted by or under the direction of the designated Class B operator.

(b) the Class B operator must ensure that documentation of each inspection is kept and made available for review by the director.

(2) The individual who conducts inspections to meet the requirements of 40 CFR 280.36(a)(1) or 208.36(a)(3) shall use the form "UST Operator Inspection- Utah" or another form approved by the director.

(3) An UST facility whose tanks are properly temporarily closed according to 40 CFR 280.70 and Section R311-204-4 must have an annual operator inspection.

(4) An owner or operator who conducts visual checks of tank top containment sumps and under-dispenser containment sumps for compliance with piping leak detection in accordance with 40 CFR 280.43(g) must conduct the visual checks monthly and report the results on the operator inspection form.

R311-203-8. Unattended Facilities.

(1) An UST facility that:

(a) normally has no employee on site or is open to dispense fuel at times when no employee or trained operator is on site must have:

(i) a sign posted in a conspicuous place, giving the name and telephone number of the facility owner, operator, or local emergency responders; and

(ii) an emergency shutoff device in a readily accessible location, if the facility dispenses fuel.

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R311. Environmental Quality, Environmental Response and Remediation.
R311-204. Petroleum Storage Tanks: Closure and Remediation.
R311-204-1. Definitions.

Definitions are found in Rule R311-200.

R311-204-2. Petroleum Storage Tank Closure Plan.

(1) Owners or operators of PSTs or any portion thereof which are to be permanently closed or undergo change-in-service must submit a permanent closure plan to the director.

(a) the permanent closure plan shall be submitted by the owner or operator as fulfillment of the 30-day permanent closure notification requirement in accordance with Subsection 19-6-407(2)(a)(iii) for APSTs and 40 CFR 280 Subpart G for USTs.

(2) If a tank is to be removed as part of corrective action as allowed by 40 CFR 280 Subpart G, the owner or operator is not required to submit a closure plan, but must meet the requirements of 40 CFR 280.66(d) before any removal activity takes place, and must submit a corrective action plan as required by 40 CFR 280.66.

(3) The closure plan shall address applicable issues involved with permanent closure, change-in-service, or reuse of APSTs, including:

(a) product removal;
(b) sludge disposal;
(c) vapor purging or inerting;
(d) removing or securing and capping product piping;
(e) removing vent lines or securing vent lines open;
(f) tank cleaning;
(g) environmental sampling;
(h) contaminated soil and water management;
(i) in-place tank disposal or tank removal;
(j) transportation of tank;
(k) permanent disposal; and
(l) other disposal activities which may affect human health, human safety, or the environment.

(4) No PST shall be permanently closed or undergo change-in-service before the owner or operator receiving final approval of the submitted permanent tank closure plan by the director, except as outlined in Subsection R311-204-2(2).

(a) closure plan approval is effective for a period of one year.

(b) if the PST has not been permanently closed or undergone change-in-service as proposed within one year following approval from the director, the plan must be re-submitted for approval, unless otherwise approved by the director.

(5) Permanent closure plans shall be prepared using the current approved form according to guidance furnished by the director.

(6) The owner or operator shall ensure that the approved permanent closure plan and approval letter are on site during closure activities.

(7) Any deviation from or modification to an approved closure plan must be approved by the director before implementation, and must be submitted in writing to the director.

(8) The director must be notified at least three business days before the start of closure activities.

R311-204-3. Disposal.

(1) Tank labeling. Immediately after being removed, tanks which are permanently closed by removal must be labeled with the following in letters at least two inches high:

(a) the facility identification number;
(b) the substance contained; and
(c) the date removed: "month/day/year."

(2) Removed tanks shall be expeditiously disposed of as regulated PSTs by the following methods:

(a) the tank may be cut up after the interior atmosphere is first purged or inerted.
(b) the tank may be crushed after the interior atmosphere is first purged or inerted.
(c) the tank may not be used to store food or liquid intended for human or animal consumption.
(d) the tank may be disposed of in a manner approved by the director.

(3) Any removed APST that is to be reused as an APST must be recertified by the manufacturer of the tank or undergo a tank inspection, conducted by a qualified contractor, using a nationally recognized standard such as STI SP001 orAPI 653.

(4) Tank transportation. Used tanks which are transported on roads of the state must be cleaned inside the tank before transportation, and be free of product, free of vapors, or made inert during transport.

R311-204-4. Closure Notice.

(1) Owners or operators of USTs which were permanently closed or had a change-in-service before December 22, 1988 must submit a completed closure notice, unless the tanks were properly closed on or before January 1, 1974.

(2) Owners or operators of USTs which are permanently closed after December 22, 1988, and APSTs closed or having a change-in-service as defined in 40 CFR 280 Subpart G after May 5, 2021 must submit a completed closure notice form and the following information within 90 days after tank closure:

(a) results from the closure site assessment conducted in accordance with Rule R311-205, including analytical laboratory results and chain of custody forms; and

(b) a site plat displaying depths and distances such that the sample locations can be determined solely from the site plat. The site plat shall include:

(i) scale;

(ii) north arrow;

(iii) streets;

(iv) property boundaries;

(v) building structures;

(vi) utilities;

(vii) PST system location;

(viii) location of any contamination observed or suspected during sampling;

(ix) location and volume of any stockpiled soil;

(x) the extent of the excavation zone; and

(xi) any other relevant features.

(c) sample identification numbers used on the site plat shall correspond to the chain of custody form and the lab analysis report.

(3) Owners and operators of PSTs that are temporarily closed for a period greater than three months must submit a completed temporary closure notice within 120 days after the beginning of the temporary closure.

(4) Closure notices for permanent and temporary closure shall be submitted on the current approved forms.

R311-204-5. Remediation.

(1) Any PST release management, abatement, investigation, corrective action or evaluation activities performed for a fee, or in connection with services for which a fee is charged, must be performed under the supervision of a certified PST consultant, except as outlined in Subsections 19-6-402(6)(b), R311-201-2(1), and R311-204-5(2).

(2) At the time of PST closure, a certified UST remover may over-excavate and properly dispose of up to 50 cubic yards of contaminated soil per facility, or another volume approved by the director, in addition to the minimum amount required for closure of the PST.

(a) this over-excavation may be performed without the supervision of a certified PST consultant.

(b) appropriate confirmation samples must be taken by a certified sampler in accordance with Rule R311-201 to determine the extent and degree of contamination.

KEY: hazardous substances, petroleum, underground storage tanks
Date of Last Change: July 15, 2022
Notice of Continuation: March 8, 2022
Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-402; 19-6-403

R311. Environmental Quality, Environmental Response and Remediation.
R311-206. Petroleum Storage Tanks: Certificate of Compliance and Financial Assurance Mechanisms.
R311-206-1. Definitions.

Definitions are found in Rule R311-200.

R311-206-2. Declaration of Financial Assurance Mechanism.

(1) To demonstrate financial assurance, as required by Section 19-6-412 and Subsection 19-6-407(2)(c), owners or operators of petroleum storage tanks must:

(a) declare they will participate in the EAP and meet the requirements for participation in the EAP under Sections 19-6-410.5, 19-6-428 and R311-206-4; or

(b) demonstrate financial assurance that meets the coverage amounts specified in 40 CFR 280.93, by an allowable method specified in Section R311-206-5.

(2) For the purposes of Subsection 19-6-412(6), tanks at a facility must be covered by the same financial assurance mechanism, and must be considered to be in one area, unless the director determines there is sufficient information so that releases from different tanks at the facility could be accurately differentiated.

R311-206-3. Requirements for Issuance of Certificates of Compliance.

(1) The director shall issue a certificate of compliance to an owner or operator for individual petroleum storage tanks at a facility if:

(a) the owner or operator has a certificate of registration;

(b) the owner or operator must certify that the PST is in substantial compliance with state and federal statutes, rules, and regulations applicable to PST systems;

[~~(i) APSTs using the EAP for financial responsibility, the owner or operator may meet the requirements outlined in Subsection R311-206-4(6).~~]

(c) the tank tightness test, as required by Section 19-6-413 conducted within six months before the tank was registered or within 60 days after the date the tank was registered, indicates that each individual PST is not leaking;

(d) the owner or operator has submitted a letter to the director stating that based on customary business inventory practices standards there has been no release from the tank;

(e) the owner or operator has submitted a completed application according to a form provided and approved by the director, and participates in the EAP or demonstrates that the financial assurance that will be used meets the requirements of Subsection R311-206-2(1)(b) and Section R311-206-5;

(f) the owner or operator has met the requirements for the financial assurance mechanism chosen, including payment of applicable fees;

(g) the owner or operator has submitted an as-built drawing, for newly-installed systems, that meets the requirements of Subsection R311-200-1(2)(d) or a site plat, for existing systems, that meets the requirements of Subsection R311-200-1(2)(ccc); and

(h) the owner or operator has, for newly-installed tanks, submitted the completed tank manufacturer's installation checklist.

R311-206-4. Requirements for Environmental Assurance Program Participants.

(1) In accordance with Subsection 19-6-411(1)(a), the annual facility throughput rate, if reported, shall be reported to the director as a specific number of gallons, based on the throughput for the previous calendar year.

(2) In accordance with Subsection 19-6-411(1)(b), when a petroleum storage tank is initially registered with the director, any petroleum storage tank fee for that tank for the current fiscal year is due when the tank is brought into use, as a requirement for receiving a certificate of compliance.

(3) In accordance with Subsection 19-6-411(2)(a)(i), if an installation company receives its annual permit after the beginning of the fiscal year, the annual fee must be paid for the entire year.

(4) Auditing of PST facility throughput records.

(a) owners and operators must retain for seven years the monthly tank throughput records of the facility.

(b) tank throughput records shall include financial and product documentation for receipts, deliveries, transfers, and inventories.

(c) the director may audit or commission an audit, by an independent auditor, of records which support the amount of throughput, for each tank at a participant's facility.

(i) records must be made available at the department for inspection within 30 calendar days after receiving notice from the director.

(ii) audits may be determined by random selection or for particular reasons, including suspicion or discovery of inaccuracies in throughput reports, aggregating throughput reports, having a release, or filing a claim.

(iii) auditing tank throughput may be accomplished by any method approved by the director.

(iv) costs of an independent audit shall be paid by the owner or operator.

(5) Owners or operators eligible for participation in the EAP must demonstrate financial assurance for the difference between coverage provided by the EAP and coverage amounts required by 40 CFR 280 Subpart H.

(a) if the owner or operator chooses self-insurance as the mechanism for demonstrating financial assurance for the difference, they must document a tangible net worth of $10,000 upon request and to the satisfaction of the director.

(i) the director may require the owner or operator to submit an independent audit to demonstrate new worth for self-insurance.

(A) the owner or operator will bear the expense for the audit.

(B) the criteria for an audit are the same as set forth in Subsection R311-206-4(4)(b).

(b) an owner or operator may also select and document another mechanism specified in 40 CFR 280.94 to demonstrate financial assurance for the difference.

(c) the processing fee requirement referenced in Subsection R311-206-5(2) is not applicable because the administrative cost is covered by the EAP fee.

[~~(6) For a facility with an APST using the EAP for financial responsibility, the director shall issue a certificate of compliance to an owner or operator for individual APSTs, if:~~

~~(a) before July 1, 2026, the owner or operator:~~

~~(i) documents compliance with spill prevention equipment requirements and submits a spill prevention equipment test; and~~

~~(ii) documents compliance with applicable leak detection and testing requirements outlined in Section R311-203-5.~~

~~(b) on or after July 1, 2026, the owner or operator:~~

~~(i) if applicable, documents compliance with cathodic protection requirements and submits a cathodic protection test, if required by Subsection R311-203-5(10)(d) indicating that the cathodic protection system is functioning properly;~~

~~(ii) documents compliance with overfill prevention requirements and submits an overfill prevention equipment inspection per Subsection R311-203-5(10)(e);~~

~~(iii) documents compliance with automatic line leak detector and submits an automatic line leak detector test, if required by Subsection R311-203-5(10)(f), indicating that each individual automatic line leak detector is functioning properly; and~~

~~(iv) documents compliance with APST secondary containment requirements as outlined in International Fire Code 2306.5 & 5704.2.10 referenced in the Utah State Fire Code pursuant to Section 15A-5-103.~~]

R311-206-5. Requirements for Owners and Operators Demonstrating Financial Assurance by Other Methods.

(1) Owners and operators who elect to utilize an alternate form of financial assurance must meet the minimum coverage amounts using one or a combination of mechanisms as outlined in 40 CFR 280.94.

(a) owners and operators must submit to the director the documents required by 40 CFR 280.111 to be kept and maintained for the mechanism used.

(b) formats, calculations, letters, reporting, and record keeping shall be done in accordance with each applicable financial assurance mechanism specified in 40 CFR 280 subpart H.

(c) if the financial assurance documentation submitted to the director is not in accordance with 40 CFR 280 subpart H, it shall be rejected and shall be invalid.

(2) The processing fee established in Subsection 19-6-408(2) for each new or changed financial assurance document submitted for approval shall be included with the financial assurance document and shall be payable to the Department.

(a) processing fees for subsequent reviews of financial assurance documents are due on July 1 of the fiscal year for which the review is required.

(b) pursuant to 40 CFR 280.97, if the financial assurance mechanism is an insurance policy, the insurer is liable for payment of amounts within any deductible applicable to the policy to the provider of corrective action or a damaged third party, with right of reimbursement by the insured for such payment made by the insurer.

(i) this provision does not apply with respect to that amount of any deductible for which coverage is demonstrated under another mechanism or combination of mechanisms as specified in 40 CFR 280.95 through 280.102 and 280.104 through 280.107.

(ii) a showing of financial assurance for the deductible, if such a showing is made, shall be treated as a separate financial assurance mechanism subject to the processing fee requirement referenced in Subsection R311-206-5(2).

(c) if an owner or operator desires to make any material change to the financial assurance document, the change shall be approved by the director, and an additional processing fee shall be paid in circumstances as determined by the director.

(3) Evidence of a current and approved financial assurance mechanism must be reported to the director as follows:

(a) owners and operators using the financial test of self-insurance must submit the "Letter from Chief Financial Officer" to the director within the maximum 120-day period specified in 40 CFR 280.95.

(b) owners and operators using insurance and risk retention group coverage for financial assurance must submit the coverage policy in its entirety, with the current Certificate of Insurance or Endorsement specified in 40 CFR 280.97(b), to the director within 30 days of acceptance of such policy by the insurer or risk retention group.

(i) if the insurance policy or risk retention group coverage is canceled, the insurer or risk retention group shall provide written notice of cancellation or other termination of coverage required by 40 CFR 280.97(b)(1)2.d. and 280.97(b)(2)2.d. to the director as well as the insured.

(ii) the insurer must have a rating of A- or greater by A.M. Best Co.

(c) owners and operators using an irrevocable letter of credit must submit proof of the letter of credit, standby trust fund, and formal certification of acknowledgement to the director within 30 days of issuance from the issuing institution.

(d) owners and operators using a fully funded trust fund for financial assurance must submit proof of the trust fund and formal certification of acknowledgement to the director within 30 days after implementation of the trust fund.

(e) owners and operators using a guarantee for financial assurance shall submit the Guarantee document, standby trust fund, and certification of acknowledgement to the director within 30 days of issuance.

(i) the owner or operator must also submit the guarantor's letter from the chief financial officer within the 120-day period specified in 40 CFR 280.95.

(f) owners and operators using a surety bond for financial assurance must submit the surety bond document, standby trust fund, and certification of acknowledgement to the director within 30 days of issuance.

(g) guarantees and surety bonds may be used as financial assurance mechanisms in Utah only if the requirement of 40 CFR Part 280.94(b) is met.

(h) owners and operators using one of the local government methods specified in 40 CFR 280.104 through 280.107 must submit the letter from the chief financial officer and associated documents to the director within 120 days of the end of the owner, operator, or guarantor's fiscal year.

(4) The director may require reports of financial condition or any other information relative to justification of the financial assurance mechanism from the owner or operator at any time.

(a) information requested must be reported to the director within 30 calendar days after receiving the request.

(b) owners and operators must maintain evidence of all financial assurance mechanisms as specified in 40 CFR 280.111.

(c) owners and operators must keep records of all financial assurance mechanisms in accordance with 40 CFR 280.111 and 280.113.

(d) the director may audit or commission an audit of records supporting the financial assurance mechanism at any time.

(i) audits may be determined by random selection or for specific reasons, including the occurrence of a release or suspected release, deficiencies in complying with regulations or orders, or the suspicion or discovery of inaccuracies.

(ii) auditing of financial assurance methods may be accomplished by any method approved by the director.

(5) Any costs of securing a selected financial assurance mechanism and generating and providing the necessary reporting evidence of an assurance mechanism to the director is the sole responsibility of the owner or operator.

(6) Processing of the alternate financial assurance mechanism documents may be accomplished utilizing any method approved by the director.

R311-206-6. Voluntary Admission of Eligible Exempt Underground Petroleum Storage Tanks and Eligible Exempt Aboveground Storage Tanks Containing Petroleum to the Environmental Assurance Program.

(1) Owners or operators of eligible exempt USTs specified in Subsection 19-6-415(1)(a) may voluntarily participate in the EAP by:

(a) performing a site check in accordance with Rule R311-205;

(b) meeting the requirements of Subsections 19-6-428(3)(a), 19-6-415(1) and R311-206-3(1);

(c) properly performing release detection according to the requirements of 40 CFR Part 280 Subpart D; and

(d) meeting the upgrade requirements in 40 CFR 280.21 or the new tank requirements in 40 CFR 280.20, as applicable.

(2) Owners or operators of eligible exempt aboveground storage tanks containing petroleum may voluntarily participate in the EAP by

(a) performing a site check in accordance with Rule R311-205; and

(b) meeting the requirements of Subsections 19-6-415(2) and 19-6-428(3)(a), and Sections R311-206-3 and R311-206-4.

R311-206-7. Revocation and Lapsing of Certificates.

(1) The director shall revoke a certificate of compliance or registration if the director determines that the owner or operator has willfully submitted a fraudulent application or is not in compliance with any requirement pertaining to the certificate.

(2) A PST owner or operator who has had a certificate of compliance revoked under Section 19-6-414 or Subsection R311-206-7(1) may have the certificate reissued by the director after the owner or operator demonstrates compliance with Subsections 19-6-412(2), 19-6-428(3), and Section R311-206-3.

(3) A PST owner or operator who has had a certificate of compliance lapse under Subsection 19-6-408(5)(c) may have the certificate reissued by the director after the owner or operator demonstrates compliance with Sections 19-6-412 and R311-206-3.

(4) A PST owner or operator who has had eligibility to receive payments for claims against the fund lapse under Subsection 19-6-411(3)(c)(ii) must:

(a) meet the requirements of Subsection 19-6-428(3); and

(b) pay fees, interest, and penalties due to reinstate eligibility.

(5) Upon permanent closure of a tank which is covered by the Petroleum Storage Tank Fund, the eligibility to make a claim against the Petroleum Storage Tank Fund will terminate as specified in Section R311-207-2.

(a) permanently closed tanks are not eligible to be reissued a certificate of compliance.

(6) In accordance with Section 19-6-414, the director may revoke a certificate of compliance for the owner's or operator's failure to comply with the following requirements as outlined in 40 CFR 280:

(a) release reporting;
(b) abatement;
(c) investigation;
(d) corrective action; or
(e) other measures to bring the release site under control.

R311-206-8. Delivery Prohibition.

(1) In accordance with Subsections 19-6-411(7) and 19-6-407(2)(d)(ii), the director shall authorize the placement of a delivery prohibition tag identifying a tank:

(a) for which the certificate of compliance has been revoked in accordance with Section 19-6-414;

(b) for which the certificate of compliance has lapsed for non-payment of fees in accordance with Subsection 19-6-408(5);

(c) that has never qualified for a certificate of compliance, and is not a new installation under Subsection R311-206-8(1)(d); or

(d) that is a new installation, and has not been issued a certificate of compliance.

(2) For USTs, in accordance with Subsection 19-6-403(1)(b)(i), the director shall authorize the placement of a delivery prohibition tag to be placed on the UST as soon as practicable after the determination is made that a tank does not have:

(a) spill prevention equipment required under 40 CFR 280.20(c) or 280.21(d);

(b) overfill prevention equipment required under 40 CFR 280.20(c) or 280.21(d);

(c) equipment required for tank or piping leak detection in accordance with 40 CFR 280 Subpart D; or

(d) equipment required for tank or piping corrosion protection in accordance with 40 CFR 280 Subpart B or C.

(3) For APSTs, out of service after May 5, 2021, the director shall authorize the placement of a delivery prohibition tag [~~to be placed on the APST~~] as soon as practicable[~~after the determination that the APST was not in service after May 5, 2021~~].

(4) For PSTs, the director shall authorize the placement of a delivery prohibition tag to be placed on the PST as soon as practicable after the determination that a release from a PST is ongoing. The determination may be made by:

(a) failed tests as defined by "PST Testing" in R311-200-1(ss); or

(b) visual presence, odors, inventory loss, or otherwise apparent contamination of environmental media.

([4]5) The delivery prohibition tag shall be placed on the tank fill or in a visible location near the tank fill.

([~~5~~]6) A person who delivers or accepts delivery of a regulated substance or petroleum into a tank marked with a delivery prohibition tag shall be subject to the penalties outlined in Section 19-6-416, unless authorized under Subsection R311-206-8([~~5~~]8).

([~~6~~]7) The director may issue written approval for a delivery of petroleum to:

(a) provide ballast for a new tank during installation, or

(b) allow for the tank tightness test required under Section 19-6-413.

([~~7~~]8) The delivery prohibition tag must remain in place until the director issues:

(a) for tanks that have a tag in place in accordance with Subsection R311-206-8(1):

(i) a new certificate of compliance for the tank; and

(ii) written authorization to remove the delivery prohibition tag; or

(b) for tanks that have a tag in place in accordance with Subsection R311-206-8(2):

(i) written authorization to remove the delivery prohibition tag.

([~~8~~]9) If a delivery prohibition tag is removed without the authorization specified in Subsection R311-206-8([~~6~~]8)(a)(ii) or R311-206-8([~~6~~]8)(b)(i), the PST owner or operator is subject to:

(a) a re-inspection and any applicable fees; and

(b) placement of a new delivery prohibition tag on the tank.

R311-206-9. Removing Participating Tanks from the Environmental Assurance Program.

(1) Owners and operators of PSTs who have voluntarily elected to participate in the EAP may cease participation in the EAP and be exempted from the requirements described in Section R311-206-4 by:

(a) permanently closing tanks as outlined in 40 CFR 280, subpart G and Rules R311-204 and R311-205; or

(b) meeting the following requirements:

(i) demonstrating compliance with Section R311-206-5; and

(ii) notifying the director in writing at least 30 days before the date of cessation of participation in the EAP, and specifying the date of cessation.

(A) the director may waive the 30-day requirement if the owner or operator has already documented current financial assurance under Section R311-206-5 for other petroleum storage tanks owned or operated by the owner or operator.

(B) the date of cessation of participation in the EAP may occur after the date designated in Subsection R311-206-9(1)(b)(ii) if the owner or operator does not document compliance with Section R311-206-5 by the date originally designated.

(2) prorata refunds will not be given.

(3) For tanks being removed voluntarily from the EAP, the date of cessation of participation in the EAP shall be the date on which coverage under the EAP ends.

(a) subsequent claims for payments from the Petroleum Storage Tank Fund must be made in accordance with Sections 19-6-424 and R311-207-2.

(4) For any facility that participates in the EAP and is sold to a company with facilities that do not participate in the EAP, the date of termination of coverage is the closing date for the real estate transaction.

(a) the purchaser shall provide documentation of the closing date to the director within 30 days of closing.

R311-206-10. Participation in the Environmental Assurance Program After a Period of Non-participation.

(1) Owners and operators not participating in the EAP must, before any subsequent participation in the EAP, meet the following requirements:

(a) notify the director of the intent to participate in the EAP;

(b) comply with the requirements of Subsection 19-6-428(3); and

(c) meet the requirements of Section R311-206-3 to qualify for a new certificate of compliance.

R311-206-11. Environmental Assurance Fee Rebate.

(1) To meet the requirements of Subsection 19-6-410.5(5)(d), for each UST Facility participating in the EAP, a risk value will be calculated according to the "Environmental Assurance Program Risk Factor Table and Calculation," which is incorporated by reference.

(a) the table, dated June 2, 2014, contains risk factors and the formula for risk value calculation.

(2) The risk value for each facility participating in the EAP shall be:

(a) calculated on a facility basis;

(b) valid for the calendar year;

(c) based on the facility characteristics as of December 15 of the prior calendar year; and

(d) determined, at sites with mixed equipment, by considering the highest risk-valued petroleum storage tank system component for each risk factor.

(3) To qualify as secondarily contained for purposes of risk calculation, tanks shall:

(a) meet the requirements for secondary containment in 40 CFR 280.20; and

(b) meet one of the following:

(i) use an interstitial sensor and documentation of monthly interstitial monitoring; or

(ii) documentation of monthly visual checks of a brine-filled interstitial space.

(4) To qualify as secondarily contained for purposes of risk calculation, piping shall:

(a) meet the requirements for secondary containment outlined in 40 CFR 280.20; and

(b) meet one of the following:

(i) maintain monthly records of monitoring of the interstice by vacuum, pressure, or liquid filled interstitial space, or

(ii) use an interstitial monitoring method not listed in Subsection R311-206-11(4)(b)(i).

(5) To qualify as secondarily contained for purposes of risk calculation, piping containment sumps, and under-dispenser containment shall be double-walled with monthly documentation of monitoring of the space between the walls.

(6) Each facility that participates in the EAP may be eligible for a rebate of a portion of the Environmental Assurance Fee according to the rebate schedule in "Environmental Assurance Fee Rebate Table," dated June 2, 2014, which is incorporated by reference.

(7) A facility that begins participation in the EAP after January 1 of a calendar year shall have its risk value calculated for that year based on the risk factors in place at the facility on the date the facility begins participation in the EAP.

(8) The Environmental Assurance Fee rebate does not apply to APSTs until July 1, 2026 as per Subsections 19-6-410.5(5)(d) and 19-6-410.5(5)(e).

KEY: petroleum, underground storage tanks
Date of Last Change: April 14, 2023
Notice of Continuation: March 8, 2022
Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-403; 19-6-410.5; 19-6-428

WASTE MANAGEMENT AND RADIATION CONTROL BOARD
Executive Summary
Proposed Rule Changes
UAC R315-309 and UAC R315-310
April 11, 2024

What is the issue before the Board?	Approval from the Board to proceed with formal rulemaking and public comment on proposed changes to Utah Administrative Code (UAC) R315-309 and UAC R315-310 to correct rule and statutory references and language, clarify rule language, remove requirements that are no longer necessary, add some new requirements to the rules, and add language and requirements to rules as required by legislation passed by the Utah State Legislature.
What is the historical background or context for this issue?	The solid waste rules have not been updated or amended for several years. The purpose of this rulemaking is to bring the rules up-to-date and fix errors in the rules. UAC R315-309(1) is being amended to clarify which facilities are required to have financial assurance. A rule reference in UAC R315-309-9(6)(a)(ii) to UAC R315-309-3(6)(b) and (c) is being corrected to UAC R315-309-9(6)(b) and (c). UAC R315-310-1 is being amended to clarify which types of solid waste facilities are subject to the permit requirements. The requirement for submitting two copies of a permit application for review found in UAC R315-310-2(2) is being deleted because the division has an online electronic permit application process. UAC R315-310-3(1)(b) is being amended to clarify which facilities are exempt from having plans and drawings signed and sealed by a professional engineer. New requirements are being added in UAC R315-310-3(1)(l) in accordance with House Bill 357 passed by the Utah State Legislature in 2013. Language is being added in UAC R315-310-3(3)(a) to clarify that the permit applicants must meet the requirements of 19-6-108(11) of the Utah Code. The word “commercial” is being added in UAC R315-310-3(c) to clarify that the rule applies to commercial solid waste disposal facilities.

DSHW-2024-005496
Attachments:
DSHW-2024-005497
DSHW-2024-005498

	A new requirement is being added as UAC R315-310-3(e) as required by Senate Bill 68 passed by the Utah State Legislature in 2011. The rule language added under UAC R315-310-10(1) does not add any new requirements. This language is added to assist permit applicants by directing them to requirements found in other parts of the rules that they must include in their permit applications. Additionally, the Division is fixing typographical and formatting errors found in the rules as requested by the Governor's Office.
What is the governing statutory or regulatory citation?	The Board is authorized under Subsection 19-6-105 to make rules that establish minimum standards for protection of human health and the environment for the treatment and disposal of solid waste. The rule changes also meet existing DEQ and state rulemaking procedures.
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 Utah State Bulletin and conducting a public comment period.
What is the Division Director's recommendation?	The Director recommends the Board approve proceeding with formal rulemaking and public comment by publishing in the May 1, 2024, Utah State Bulletin the proposed changes to UAC R315-309 and UAC R315-310 and conducting a public comment period from May 1, 2024 to May 31, 2024.
Where can more information be obtained?	Please contact Tom Ball by email at tball@utah.gov or by phone at 385-454-5574.

DSHW-2024-005496
Attachments:
DSHW-2024-005497
DSHW-2024-005498

R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.
R315-309. Financial Assurance.
R315-309-1. Applicability.

(1) The owner or operator of any solid waste disposal facility [~~requiring a permit~~]subject to the requirements for a permit under Subsection R315-310-1(a), or as otherwise required by the director, shall establish financial assurance sufficient to assure adequate closure, post-closure care, and corrective action, if required, of the facility by compliance with one or more financial assurance mechanisms acceptable to and approved by the [~~D~~]director.

(2) Financial assurance is not required for a solid waste disposal facility that is owned or operated by [~~the State of Utah~~]this state or the [~~F~~]federal government.

(3) Existing Facilities.

(a) An existing facility shall have the financial assurance mechanism in place and effective according to the compliance schedule as established for the facility by the [~~D~~]director.

(b) In the case of corrective action, the financial assurance mechanism shall be in place and effective no later than 120 days after the corrective action remedy has been selected.

(4) A new facility or an existing facility seeking lateral expansion shall have the financial assurance mechanism in place and effective before the initial receipt of waste at the facility or the lateral expansion.

R315-309-8. Local Government Financial Test.

(1) The terms used in Section R315-309-8 are defined as follows.

(a) "Total revenues" means the revenues from [~~all~~]taxes and fees but does not include the proceeds from borrowing or asset sales, excluding revenue form funds managed by local government on behalf of a specific third party.

(b) "Total expenditures" means [~~all~~]expenditures excluding capital outlays and debt repayments.

(c) "Cash plus marketable securities" means [~~all~~]the cash plus marketable securities held by the local government on the last day of a fiscal year, excluding cash and marketable securities designated to satisfy past obligations such as pensions.

(d) "Debt service" means the amount of principal and interest due on a loan in a given time period, typically the current year.

(2) A local government owner or operator of a solid waste facility may demonstrate financial assurance up to the current cost estimate as required by Subsection R315-309-2(3) for closure and post-closure care and the cost estimate as required by Subsection R315-309-2(5) for corrective action, if required, or up to the amount specified in Subsection R315-309-8(6), [~~which ever~~]whichever is less, by meeting the following requirements.

(a) If the local government has outstanding, rated general obligation bonds that are not secured by insurance, a letter of credit, or other collateral or other guarantee, it [~~must~~]shall have a current rating of Aaa, Aa, A, or Baa, as issued by Moody's or AAA, AA, A, or BBB, as issued by Standard and Poor's on [~~such~~]the general obligation bonds.

(b) If the local government has no outstanding general obligation bonds, the local government shall satisfy each of the following financial ratios based on the local government's most recent audited annual financial statement:

(i) a ratio of cash plus marketable securities to total expenditures greater than or equal to 0.05; and

(ii) a ratio of annual debt service to total expenditures less than or equal to 0.20.

(c) The local government [~~must~~]shall prepare its financial statements in conformity with Generally Accepted Accounting Principles for governments and have its financial statements audited by an independent certified public accountant.

(d) The local government [~~must~~]shall place a reference to the closure and post-closure care costs assured through the financial test into the next comprehensive annual financial report and in [~~every~~]each subsequent comprehensive annual financial report during the time [~~in which~~]when closure and post-closure care costs are assured through the financial test. A reference to corrective action costs [~~must~~]shall be placed in the comprehensive annual financial report [~~not later than~~]before 120 days after the corrective action remedy has been selected. The reference to the closure and post-closure care costs shall contain:

(i) the nature and source of the closure and post-closure care requirements;

(ii) the reported liability at the balance sheet date;

(iii) the estimated total closure and post-closure care costs remaining to be recognized;

(iv) the percentage of landfill capacity used to date; and

(v) the estimated landfill life in years.

(3) A local government is not eligible to assure closure, post-closure care, or corrective action costs at its solid waste disposal facility through the financial test if it:

(a) is currently in default on any outstanding general obligation bonds[~~,~~]; or

(b) has any outstanding general obligation bonds rated lower than Baa as issued by Moody's or BBB as issued by Standard and Poor's; or

(c) has operated at a deficit equal to 5%, or more, of the total annual revenue in each of the past two fiscal years; or

(d) receives an adverse opinion, disclaimer of opinion, or other qualified opinion from the independent certified public accountant, or appropriate state agency auditing its financial statement. The [~~D~~]director may evaluate qualified opinions on a case-by-case basis and allow use of the financial test in cases [~~where~~]if the [~~D~~]director [~~deems~~]considers the qualification insufficient to warrant disallowance of use of the test.

(4) The local government owner or operator [~~must~~]shall submit the following items to the [~~D~~]director for approval and place a copy of these items in the operating record of the facility:

(a) a letter signed by the local government's chief financial officer that:

(i) lists [~~all~~]the current cost estimates covered by a financial test; and

(ii) provides evidence and certifies that the local government meets the requirements of Subsections R315-309-8(2) and R315-309-8(6);

(b) the local government's independently audited year-end financial statements for the latest fiscal year including the unqualified opinion of the auditor, who [~~must~~]shall be an independent certified public accountant;

(c) a report to the local government from the local government's independent certified public accountant stating the procedures performed and the findings relative to:

(i) the requirements of Subsections R315-309-8(2)(c),[~~-and~~] R315-309-8(3)(c), and R315-309-8(3)(d); and

(ii) the financial ratios required by Subsection R315-309-8(2)(b), if applicable; and

(d) a copy of the comprehensive annual financial report used to comply with Subsection R315-309-8(2)(d).

(e) The items required by Subsection R315-309-8(4) are to be submitted to the [~~D~~]director and copies placed in the facility's operating record as follows:

(i) in the case of closure and post-closure care, for a new facility or a lateral expansion of an existing facility, before the initial receipt of waste;

(ii) in the case of closure and post-closure care, for an existing facility, in accordance with the effective dates specified in Subsection R315-309-1(3)(a); and

(iii) in the case of corrective action, in accordance with the schedule specified in Subsection R315-309-1(3)(b).

(5) A local government [~~must~~]shall satisfy the requirements of the financial test at the close of each fiscal year.

(a) The items required in Subsection R315-309-8(4) shall be submitted as part of the facility's annual report required by Subsection R315-302-2(4).

(b) If the local government no longer meets the requirements of the local government financial test it shall, within 210 days following the close of the local government's fiscal year:

(i) [~~obtain~~]get alternative financial assurance that meets the requirements of Subsection R315-309-1(1); and

(ii) submit documentation of the alternative financial assurance to the [~~D~~]director and place copies of the documentation in the facility's operating record.

(c) The [~~D~~]director, based on a reasonable belief that the local government may no longer meet the requirements of the local government financial test, may require additional reports of financial condition from the local government at any time. If the [~~D~~]director finds that the local government no longer meets the requirements of the local government financial test, the local government shall be required to provide alternative financial assurance on a schedule established by the [~~D~~]director.

(6) The portion of the closure, post-closure, and corrective action costs for which a local government owner or operator may assume under the local government financial test is determined as follows:

(a) If the local government does not assure other environmental obligations through a financial test, it may assure closure, post-closure, and corrective action costs that equal up to 43% of the local government's total annual revenue.

(b) If the local government assures any other environmental obligation through a financial test, it [~~must~~]shall add those costs to the closure, post-closure, and corrective action costs it seeks to assure by local government financial test. The total that may be assured [~~must~~]may not exceed 43% of the local government's total annual revenue.

(c) The local government shall [~~obtain~~]get an alternate financial assurance mechanism for those costs that exceed 43% of the local government's total annual revenue.

(7) Local Government Guarantee.

(a) An owner or operator of a solid waste facility may demonstrate financial assurance for closure, post-closure, and corrective action by [~~obtaining~~]getting a written guarantee provided by a local government. The local government providing the guarantee shall meet the requirements of the local government financial test in Section R315-309-8 and shall comply with the terms of the written guarantee as specified in Subsections R315-309-8(7)(b) and R315-309-8(7)(c).

(b) The guarantee [~~must~~]shall be effective for closure and post-closure care:

(i) for a new facility or a lateral expansion of an existing facility, before the initial receipt of waste;

(ii) for an existing facility, in accordance with the effective dates specified in Subsection R315-309-1(3)(a); and

(iii) for corrective action, in accordance with the schedule specified in Subsection R315-309-1(3)(b).

(c) The guarantee shall provide that if the owner or operator fails to perform closure, post-closure care, or corrective action of a facility covered by the guarantee, the guarantor will:

(i) perform, or pay a third party to perform, closure, post-closure, or corrective action as required; or

(ii) establish a fully funded trust fund as specified in Section R315-309-4 in the name of the owner or operator.

(d) The guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and to the [~~D~~]director. Cancellation may not occur until 120 days after the date the notice is received by the [~~D~~]director.

(e) If the guarantee is canceled, the owner or operator shall, within 90 days following the receipt of the cancellation notice:

(i) [~~obtain~~]get alternate financial assurance that meets the requirements of Subsection R315-309-1(1);

(ii) submit documentation of the alternate financial assurance to the [~~D~~]director; and

(iii) place copies of the documentation of the alternate financial assurance in the facility's operating record.

(iv) If the owner or operator fails to provide alternate financial assurance within the 90-[-]day period, the guarantor [~~must~~]shall provide the alternate financial assurance within 120 days following the guarantor's notice of cancellation, submit

documentation of the alternate financial assurance to the [~~D~~]director for review and approval, and place copies of the documentation in the facility's operating record.

R315-309-9. Corporate Financial Test.

(1) The terms used specifically in Section R315-309-9 are defined as follows.

(a) "Assets" means [~~all~~]the existing and probable future economic benefits [~~obtained~~]received or controlled by a particular entity.

(b) "Current assets" means cash or other assets or resources commonly identified as those which are reasonably expected to be realized in cash or sold or consumed during the normal operating cycle of the business.

(c) "Current liabilities" means obligations whose liquidation is reasonably expected to require the use of existing resources properly classifiable as current assets or the creation of other current liabilities.

(d) "Current plugging and abandonment cost estimate" means the most recent of the estimates prepared in accordance with 40 CFR 144.62(a), (b), and (c) (2001) which is [~~adopted and~~]incorporated by reference.

(e) "Independently audited" means an audit performed by and independent certified public accountant in accordance with generally accepted auditing standards.

(f) "Liabilities" means probable future sacrifices of economic benefits arising from present obligations to transfer assets or provide services to other entities in the future as a result of past transactions or events.

(g) "Net working capital" means current assets minus current liabilities.

(h) "Net worth" means total assets minus total liabilities and is equivalent to owner's equity.

(i) "Tangible net worth" means the tangible assets that remain after deducting liabilities; [~~such~~]these assets would not include intangibles such as goodwill and rights to patents or royalties.

(2) A corporate owner or operator of a solid waste facility may demonstrate financial assurance up to the current cost estimate as required by Subsection R315-309-2(3) for closure and post-closure care and the cost estimate required by Subsection R315-309-2(5) for corrective action, if required, by meeting the following requirements.

(a) The owner or operator [~~must~~]shall satisfy one of the following three conditions:

(i) a current rating for its senior unsubordinated debt of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A, or Baa as issued by Moody's; or

(ii) a ratio of less than 1.5 comparing total liabilities to net worth[~~:~~]; or

(iii) a ratio of greater than 0.10 comparing the sum of net income plus depreciation, depletion and amortization, minus $10,000,000[~~million~~], to total liabilities.

(b) The tangible net worth of the owner or operator [~~must~~]shall be greater than:

(i) the sum of the current closure, post-closure care, and corrective action cost estimates and any other environmental obligation, including guarantees, covered by a financial test plus $10,000,000[~~million~~] except as provided in Subsection R315-309-9(2)(b)(ii); or

(ii) $10,000,000[~~million~~] in net worth plus the amount of any guarantees that have not been recognized as liabilities on the financial statements provided [~~all of~~]the current closure, post-closure care, and corrective action costs and any other environmental obligations covered by a financial test are recognized as liabilities on the owner's or operator's audited financial statements, and subject to the approval of the [~~D~~]director.

(c) The owner or operator [~~must~~]shall have assets located in the United States amounting to at least the sum of current closure, post-closure care, corrective action cost estimates and any other environmental obligations covered by a financial test.

(3) The owner or operator [~~must~~]shall place the following items into the facility's operating record and submit a copy of these items to the [~~D~~]director for approval:

(a) a letter signed by the owner's or operator's chief financial officer that:

(i) lists [~~all~~]the current cost estimates for closure, post-closure care, corrective action, and any other environmental obligations covered by a financial test; and

(ii) provides evidence demonstrating that the firm meets the conditions of Subsection R315-309-9(2)(a)(i), [~~or~~]R315-309-9(2)(a)(ii), or R315-309-9(2)(a)(iii) and Subsections R315-309-9(2)(b) and R315-309-9(2)(c); and

(b) a copy of the independent certified public accountant's unqualified opinion of the owner's or operator's financial statements for the latest completed fiscal year.

(i) To be eligible to use the financial test, the owner's or operator's financial statements [~~must~~]shall receive an unqualified opinion from the independent certified public accountant.

(ii) The [~~D~~]director may evaluate qualified opinions on a case-by-case basis and allow use of the financial test [~~where~~]if the [~~D~~]director [~~deems~~]considers the matters which form the basis for the qualification are insufficient to warrant disallowance of the test.

(c) If the chief financial officer's letter providing evidence of financial assurance includes financial data showing that the owner or operator satisfies Subsection R315-309-9(2)(a)(i) or R315-309-9(2)(a)(ii) that are different from data in the audited financial statements or data filed with the Securities and Exchange Commission, then a special report from the owner's or operator's independent certified public accountant is required. The special report shall:

(i) be based upon an agreed upon procedures engagement in accordance with professional auditing standards;

(ii) describe the procedures performed in comparing the data in the chief financial officer's letter derived from the independently audited, year-end financial statements;

(iii) describe the findings of that comparison; and

(iv) explain the reasons for any differences.

(d) If the chief financial officer's letter provides a demonstration that the firm has assured environmental obligations as provided in Subsection R315-309-9(2)(b)(ii), then the letter shall include a report from the independent certified public accountant that:

(i) verifies that [~~all~~]each of the environmental obligations covered by a financial test have been recognized as liabilities on the audited financial statements;

(ii) explains how these obligations have been measured and reported; and

(iii) certifies that the tangible net worth of the firm is at least $10,000,000[~~million~~] plus the amount of [~~all~~]the guarantees provided.

(e) The items required by Subsection R315-309-9(3) are to be submitted to the [~~D~~]director and copies placed in the facility's operating record as follows:

(i) in the case of closure and post-closure care, for a new facility or a lateral expansion of an existing facility, before the initial receipt of waste;

(ii) in the case of closure and post-closure care, for an existing facility, in accordance with the effective dates specified in Subsection R315-309-1(3)(a); and

(iii) in the case of corrective action, in accordance with the schedule specified in Subsection R315-309-1(3)(b).

(4) A firm [~~must~~]shall satisfy the requirements of the financial test at the close of each fiscal year by submitting the items required in Subsection R315-309-9(3) as part of the facility's annual report required by Subsection R315-302-2(4).

(5) If the firm no longer meets the requirements of the corporate financial test it shall, within 120 days following the close of the firm's fiscal year:

(a) [~~obtain~~]get alternative financial assurance that meets the requirements of Subsection R315-309-1(1); and

(b) submit documentation of the alternative financial assurance to the [~~D~~]director and place copies of the documentation in the facility's operating record.

(c) The [~~D~~]director, based on a reasonable belief that the firm may no longer meet the requirements of the corporate financial test, may require additional reports of financial condition from the firm at any time. If the [~~D~~]director finds that the firm no longer meets the requirements of the corporate financial test, firm shall be required to provide alternative financial assurance on a schedule established by the [~~D~~]director.

(6) Corporate Guarantee.

(a) A corporate owner or operator of a solid waste facility may demonstrate financial assurance for closure, post-closure care, and corrective action by [~~obtaining~~]getting a written guarantee provided by a corporation.

(i) The guarantor [~~must~~]shall be the direct or higher[-] tier parent corporation of the owner or operator, a firm whose parent corporation is also the parent corporation of the owner or operator, or a firm with a substantial business relationship with the owner or operator.

(ii) The firm shall meet the requirements of the corporate financial test in Section R315-309-9 and shall comply with the terms of the written guarantee as specified in Subsections R315-309-[~~3~~]9(6)(b) and R315-309-9(6)(c).

(A) A certified copy of the guarantee along with copies of the letter from the guarantor's chief financial officer and accountant's opinions [~~must~~]shall be submitted to the [~~D~~]director and placed in the facility's operating record.

(B) If the guarantor's parent corporation is also the parent corporation of the owner or operator, the letter from the guarantor's chief financial officer [~~must~~]shall describe the value received in consideration of the guarantee.

(C) If the guarantor is a firm with a substantial business relationship with the owner or operator, the letter from the chief financial officer [~~must~~]shall describe this substantial business relationship and the value received in consideration of the guarantee.

(b) The guarantee [~~must~~]shall be effective for closure and post-closure care:

(i) for a new facility or a lateral expansion of an existing facility, before the initial receipt of waste;

(ii) for an existing facility, in accordance with the effective dates specified in Subsection R315-309-1(3)(a); and

(iii) for corrective action, in accordance with the schedule specified in Subsection R315-309-1(3)(b).

(c) The guarantee shall provide that if the owner or operator fails to perform closure, post-closure care, or corrective action of a facility covered by the guarantee, the guarantor will:

(i) perform, or pay a third party to perform, closure, post-closure, or corrective action as required; or

(ii) establish a fully funded trust fund as specified in Section R315-309-4 in the name of the owner or operator.

(d) The guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and to the [~~D~~]director. Cancellation may not occur until 120 days after the date the notice is received by the [~~D~~]director.

(e) If the guarantee is canceled, the owner or operator shall, within 90 days following the receipt of the cancellation notice:

(i) [~~obtain~~]get alternate financial assurance that meets the requirements of Subsection R315-309-1(1);

(ii) submit documentation of the alternate financial assurance to the [~~D~~]director; and

(iii) place copies of the documentation of the alternate financial assurance in the facility's operating record.

(iv) If the owner or operator fails to provide alternate financial assurance within the 90[-]-day period, the guarantor [~~must~~]shall provide the alternate financial assurance within 120 days following the guarantor's notice of cancellation, submit documentation of the alternate financial assurance to the [~~D~~]director for review and approval, and place copies of the documentation in the facility's operating record.

(f) If a corporate guarantor no longer meets the requirements of the corporate financial test as specified in Section R315-309-9:

(i) the owner or operator [~~must~~]shall, within 90 days, [~~obtain~~]get alternate financial assurance; and

(ii) submit documentation of the alternate financial assurance to the [~~D~~]director and place copies of this documentation in the facility's operating record.

(iii) If the owner or operator fails to provide alternate financial assurance within the 90-day period, the guarantor [~~must~~]shall provide that alternate assurance within the next 30 days.

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R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.
R315-310. Permit Requirements for Solid Waste Facilities.
R315-310-1. Applicability.

(1) [~~The following s~~]Solid waste facilities subject to the requirements of Rules R315-301 through R315-320 require a permit as follows:

(a) The following solid waste facilities are subject to the requirements of Sections R315-310-2 through R315-310-12:

(i) New and existing Class I, II, III, IV, V, VI, and coal combustion residual (CCR) Landfills and coal combustion residual surface impoundments;

([~~b~~]ii) Class I, II, III, IV, V, and VI Landfills that have closed but have not met the requirements of Subsection R315-302-3(7);

([~~c~~]iii) incinerator facilities that are regulated by Rule R315-306;

([~~d~~]iv) land[-]treatment disposal facilities that are regulated by Rule R315-307; and

([~~d~~]v) waste tire storage facilities.

(b) Solid waste facilities not listed in Subsection R315-310-1(1)(a) are subject to the permitting requirements of Sections R315-310-2, R315-310-3, R315-310-9, R315-310-11.

(c) The following solid waste facilities are subject to Subsection R315-310-1(b) and the post-closure permit requirements of Section R315-310-10:

(i) compost facilities; and

(ii) waste piles, when post-closure monitoring is required under Subsection R315-314-2(f)(ii).

(2) Permits are not required for corrective actions at solid waste facilities performed by the state or in conjunction with the United States Environmental Protection Agency or in conjunction with actions to implement the Comprehensive Environmental Response Compensation and Liability Act of 1980 (CERCLA), or corrective actions taken by others to comply with a state or federal cleanup order.

(3) The requirements of Sections R315-310-2 through R315-310-12 apply to each existing and new solid waste facility as indicated.

(a) The [~~D~~]director may incorporate a compliance schedule for each existing facility to ensure that the owner or operator, or both, of each existing facility meet the requirements of Rule R315-310.

(b) The owner or operator, or both, where the owner and operator are not the same person, of each new facility or expansion at an existing solid waste facility, for which a permit is required, shall:

(i) apply for a permit according to the requirements of Rule R315-310;

(ii) not begin the construction or the expansion of the solid waste facility until a permit has been granted; and

(iii) not accept waste at the solid waste facility [~~prior to~~]before receiving the approval required by Subsection R315-301-5(1).

(4) A landfill may not change from its current class, or subclass, to any other class, or subclass, of landfill except by meeting [~~all~~]each requirement[~~s~~] for the desired class, or subclass, to include [~~obtaining~~]getting a new permit from the [~~D~~]director for the desired class, or subclass, of landfill.

(5) Any facility that is in operation [~~at the time that~~]when a permit is required for the facility by Subsection R315-310-1[~~(a)~~](1) and has submitted a permit application within six months of the date the facility became subject to the permit requirements of Subsection R315-310-1[~~(a)~~](1) may continue to operate during the permit review period but [~~must~~]shall meet [~~all~~]the applicable requirements of [~~r~~]Rules R315-301 through R315-320 unless an alternative requirement has been approved by the [~~D~~]director.

R315-310-2. Procedures for Permits.

(1) Prospective applicants may request the [~~D~~]director to schedule a pre-application conference to discuss the proposed solid waste facility and application contents before the application is filed.

(2) Any owner or operator who intends to operate a facility subject to the permit requirements [~~must~~]shall apply for a permit with the [~~D~~]director.[~~ Two copies of the application, signed by the owner or operator and received by the Director are required before permit review can begin.~~]

(3) Applications for a permit [~~must~~]shall be completed in the format prescribed by the [~~D~~]director.

(4) An application for a permit, [~~all~~]any reports required by a permit, and other information requested by the [~~D~~]director shall be signed as follows:

(a) for a corporation: by a principal executive officer of at least the level of vice[-] president;

(b) for a partnership or sole proprietorship: by a general partner or the proprietor;

(c) for a municipality, [~~S~~]state, [~~F~~]federal, or other public agency: by either a principal executive officer or ranking elected official; or

(d) by an [~~duly~~]authorized representative of the person [~~above~~]specified in Subsections R315-310-2(4)(a) through R315-310-2(4)(c), as appropriate.

(i) A person is an [~~duly~~]authorized representative only if the authorization is made in writing, to the [~~D~~]director, by a person described in Subsection[~~s~~] R315-310-2(4)(a), R315-310-2(4)(b), or R315-310-2(4)(c), as appropriate.

(ii) The authorization may specify either a named individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of facility manager, director, superintendent, or other position of equivalent responsibility.

(iii) If an authorization is no longer accurate and needs to be changed because a different individual or position has responsibility for the overall operation of the facility, a new authorization that meets the requirements of Subsections R315-310-2(4)(d)(i) and R315-310-2(4)(d)(ii) shall be submitted to the [~~D~~]director [~~prior to~~]before or together with any report, information, or application to be signed by the authorized representative.

(5) Filing Fee and Permit Review Fee.

(a) A filing fee, as required by the Annual Appropriations Act, shall accompany the filing of an application for a permit. The review of the application will not begin until the filing fee is received.

(b) A review fee, as established by the Annual Appropriations Act, shall be charged at an hourly rate for the review of an application. The review fee shall be billed quarterly and shall be due and payable quarterly.

(6) [~~All~~]Any content[~~s~~] and material[~~s~~] submitted as a permit application shall become part of the approved permit and shall be part of the operating record of the solid waste disposal facility.

(7) The owner or operator, or both, of a facility shall apply for renewal of the facility's permit [~~every~~]each ten years.

R315-310-3. General Contents of a Permit Application for a New Facility or a Facility Seeking Expansion.

(1) Each permit application for a new facility or a facility seeking expansion shall contain the following:

(a) the name and address of the applicant, property owner, and responsible [~~party~~]person for the site operation;

(b) a general description of the facility accompanied by facility plans and drawings and, except for Class IIIb, IVb, and Class VI Landfills, [~~and~~] facilities addressed in Subsection R315-310-1(1)(b) and, waste tire storage facilities, unless required by the [~~D~~]director, the facility plans and drawings shall be signed and sealed by a professional engineer registered in [~~the State of~~]Utah;

(c) a legal description and proof of ownership, lease agreement, or other mechanism approved by the [~~D~~]director of the proposed site, latitude and longitude map coordinates of the facility's front gate, and maps of the proposed facility site including land use and zoning of the surrounding area;

(d) the types of waste to be handled at the facility and area served by the facility;

(e) the plan of operation required by Subsection R315-302-2(2);

(f) the form used to record weights or volumes of wastes received required by Subsection R315-302-2(3)(a)(i);

(g) an inspection schedule and inspection log required by Subsection R315-302-2(5)(a);

(h) the closure and post-closure plans required by Section R315-302-3;

(i) documentation to show that any [~~waste water~~]wastewater treatment facility, such as a run-off or a leachate treatment system, is being reviewed or has been reviewed by the Division of Water Quality;

(j) a proposed financial assurance plan that meets the requirements of Rule R315-309; and

(k) [~~A~~]a historical and archeological identification efforts, which may include an archaeological survey conducted by a person holding a valid license to conduct surveys issued under Rule R694-1.

(l) An application for a new facility that is owned or operated by a local government shall include financial information that discloses the costs of establishing and operating the facility, including:

(i) land acquisition and leasing;

(ii) construction;

(iii) estimated annual operation;

(iv) equipment;

(v) ancillary structures;

(vi) roads;

(vii) transfer stations; and

(viii) other operations not contiguous to the proposed facility that are necessary to support the facility's construction and operation.

(2) Public Participation Requirements.

(a) Each permit application shall provide:

(i) the name and address of [~~all~~]each owner[~~s~~] of property within 1,000 feet of the proposed solid waste facility; and

(ii) documentation that a notice of intent to apply for a permit for a solid waste facility has been sent to [all]each property owner[~~s~~] identified in Subsection R315-310-3[~~(3)~~](2)(a)(i)[~~.~~]; and

(iii) [~~the Director with~~]the name of the local government with jurisdiction over the site and the mailing address of that local government office.

(b) The [~~D~~]director shall send a letter to each person identified in Subsections R315-310-3[~~(3)~~](2)(a)(i) and R315-310-3(2)(a)(iii) requesting that [~~they~~]the person reply, in writing, if [~~they~~]the person desires [~~their name~~]to be placed on an interested [~~party~~]persons list to receive further public information concerning the proposed facility.

(3) Special Requirements for a Commercial Solid Waste Disposal Facility.

(a) The permit application for a commercial nonhazardous solid waste disposal facility shall contain the information required by Subsection[~~s~~] 19-6-108[~~(9) and~~](10), including information to demonstrate that the requirements of Subsection 19-6-108(11) are satisfied.

(b) [~~Subsequent to~~]After the issuance of a solid waste permit by the [~~D~~]director, a commercial nonhazardous solid waste disposal facility shall meet the requirements of Subsection 19-6-108(3)(c) and provide documentation to the [~~D~~]director that the solid waste disposal facility is approved by the local government, the Legislature, and the governor.

(c) Construction of the commercial solid waste disposal facility may not begin until the requirements of Subsection[~~s~~] R315-310-3(2)(b) are met and approval to begin construction has been granted by the [~~D~~]director.

(d) Commercial solid waste disposal facilities solely under contract with a local government within the state to dispose of nonhazardous solid waste generated within the boundaries of the local government are not subject to Subsections R315-310-3[~~(2)~~](3)(a), R315-310-3(3)(b), and R315-310-3(3)(c).

(e) The governor's approval and legislative approval may be automatically revoked in accordance with Subsections 19-6-108(3)(c)(iv) and 19-6-108(3)(c)(v).

R315-310-5. Contents of a Permit Application for a New or Expanding Class III, IV, or VI Landfill.

(1) Each application for a permit for a new Class III, IV, or VI [~~l~~]Landfill or for a permit to expand an existing Class III, IV, or VI Landfill shall contain the information required in Section R315-310-3.

(2) Each application shall also contain an engineering report, plans, specifications, and calculations that address:

(a) the information and maps required by Subsections R315-310-4(2)(a)(i) and R315-310-4(2)(a)(ii);

(b) the design and location of the run-on and run-off control systems;

(c) the information required by Subsections R315-310-4(2)(d) and R315-310-4(2)(e);

(d) the area to be served by the facility; and

(e) how the facility will meet the requirements of Rule R315-304, for a Class III Landfill, or Rule R315-305, for a Class IV or VI Landfill.

(3) Each application for a Class IIIa or Class IVa Landfill permit shall also contain the applicable information required in Subsections R315-310-4(2)(b) and R315-310-4(2)(c).

R315-310-7. Contents of a Permit Application for a New or Expanding Incinerator Facility.

(1) Each application for a new or expanding incinerator facility permit shall contain the information required in Section R315-310-3.

(2) Each application for a permit shall also contain:

(a) engineering report, plans, specifications, and calculations that address:

(i) the design of the storage and handling facilities on-site for incoming waste as well as fly ash, bottom ash, and any other wastes produced by air or water pollution controls; and

(ii) the design of the incinerator or thermal treater, including charging or feeding systems, combustion air systems, combustion or reaction chambers, including heat recovery systems, ash handling systems, and air pollution and water pollution control systems. Instrumentation and monitoring systems design shall also be included[~~.~~];

(b) an operational plan that, in addition to the requirements of Section R315-302-2, addresses:

(i) cleaning of storage areas as required by Subsection R315-306-2(5);

(ii) alternative storage plans for breakdowns as required in Subsection R315-306-2(3);

(iii) inspections to [~~insure~~]ensure compliance with state and local air pollution laws and to comply with Subsection R315-302-2(5)(a). The inspection log or summary [~~must~~]shall be submitted with the application;

(iv) how and where the fly ash, bottom ash, and other solid waste will be disposed; and

(v) a program for excluding the receipt of hazardous waste equivalent to requirements specified in Subsection R315-303-4(7)[~~.~~];

(c) documentation to show that air pollution and water pollution control systems are being reviewed or have been reviewed by the Division of Air Quality and the Division of Water Quality[~~.~~];

(d) a closure plan to address:

(i) closure schedule;

(ii) closure costs and a financial assurance mechanism to cover the closure costs;

(iii) methods of closure and methods of removing wastes, equipment, and location of final disposal; and

(iv) final inspection by regulatory agencies.

R315-310-9. Contents of an Application for a Permit Renewal.

The owner or operator, or both, where the owner and operator are not the same person, of each existing facility who intend to have the facility continue to operate, shall apply for a renewal of the permit by submitting the applicable information and application specified in Section[~~s~~] R315-310-3, R315-310-4, R315-310-5, R315-310-6, R315-310-7, or R315-310-8, as appropriate. Applicable information, that was submitted to the [~~D~~]director as part of a previous permit application, may be copied and included in the permit renewal application so that [~~all~~]the required information is contained in one document. The information submitted shall reflect the current operation, monitoring, closure, post-closure, and [~~all~~]any other aspects of the facility as currently established at the time of the renewal application [~~submittle~~]submittal.

R315-310-10. Contents of an Application for a Permit for a Facility in Post-Closure Care.

(1) The application for a Post-Closure Care permit shall contain the applicable information required in [~~Section R315-310-3 and documentation as to how the facility will meet the requirements of Section R315-302-3(5) and (6).~~]Subsections R315-310-3(1)(a) through R315-310-3(1)(c), and R315-310-3(1)(g) through R315-310-3(1)(j), and:

(a) for landfills, except CCR facilities:

(i) proof of recording with the county recorder as required by Subsection R315-302-2(6);

(ii) for Class I, II, IIIa, IVa, and V Landfills, demonstrate that the applicable requirements of Subsection R315-303-3(4) have been met;
(iii) for each Class III Landfill, the applicable requirements of Section R315-304-5;
(iv) for each Class IV or VI Landfill, the applicable requirements of Section R315-305-5;
(v) the applicable requirements for groundwater monitoring according to Rule R315-308; and
(vi) the financial assurance update requirements of Subsection R315-311-1(5);
(b) for incinerator facilities the required financial assurance for incinerators according to Section R315-306-2 or R315-306-3, as applicable;
(c) for landtreatment disposal facilities the applicable information required in Section R315-307-4;
(d) for composting facilities the applicable information required in Subsection R315-312-3(5);
(e) for waste piles subject to Rule R315-314 that are likely to produce leachate the applicable information required in Subsection R315-314-2(2)(f); and
(f) for CCR facilities the applicable information required in Sections R315-319-100 through R315-319-104.

R315-310-11. Permit Transfer.

(1) A permit may not be transferred without approval from the [~~D~~]director, nor shall a permit be transferred from one property to another.

(2) The new owner or operator shall submit to the [~~D~~]director:

(a) [~~A~~]a revised permit application no later than 60 days [~~prior to~~]before the scheduled change; and

(b) [~~A~~]a written agreement containing a specific date for transfer of permit responsibility between the current permittee and the new permittee[~~s~~].

(3) The new permittee shall:

(a) assume permit requirements and [~~all~~]financial responsibility;

(b) provide adequate documentation that the permittee has or shall have ownership or control of the facility for which the transfer of permit has been requested;

(c) demonstrate adequate knowledge and ability to operate the facility in accordance with the permit conditions; and

(d) demonstrate adequate financial assurance as required in the permit and Rule R315-309 for the operation of the facility.

(4) [~~When~~]If a transfer of ownership or operational control occurs, the old owner or operator shall comply with the requirements of Rule R315-309 until the new owner or operator has demonstrated that it is complying with the requirements of that rule.

(5) An application for permit transfer may be denied if the [~~D~~]director finds that the applicant has:

(a) knowingly misrepresented a material fact in the application;

(b) refused or failed to disclose any information requested by the [~~D~~]director;

(c) exhibited a history of willful disregard of any state or federal environmental law; or

(d) had any permit revoked or permanently suspended for cause under any state or federal environmental law.

KEY: solid waste management, waste disposal
Date of Last Change: July 15, 2016
Notice of Continuation: November 30, 2022
Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-108; 19-6-109; 40 CFR 258

WASTE MANAGEMENT AND RADIATION CONTROL BOARD
Executive Summary
Final Adoption
UAC R315-320
April 11, 2024

What is the issue before the Board?	Approval from the Board to proceed with final adoption of proposed changes to Utah Administrative Code (UAC) R315-320 to correct rule and statutory references and language, clarify rule language, remove requirements that are no longer necessary, add some new requirements to the rules, and add language and requirements to rules as required by legislation passed by the Utah State Legislature.
What is the historical background or context for this issue?	At the Board meeting on February 8, 2024, the Board approved the proposed changes to UAC R315-320 to be filed with the Office of Administrative Rules for publication in the Utah State Bulletin. The proposed changes were published in the March 1, 2024, issue of the bulletin. Selected pages from the March 1, 2024, Utah State Bulletin showing the publication of the proposed changes follow this Executive Summary. The public comment period for this rulemaking ended on April 1, 2024. No comments were received.
What is the governing statutory or regulatory citation?	The Board is authorized under Subsection 19-6-105 to make rules that establish minimum standards for protection of human health and the environment for the treatment and disposal of solid waste. The rule changes also meet existing DEQ and state rulemaking procedures.
Is Board action required?	Yes. Board approval for final adoption of the rule changes is necessary.
What is the Division Director's recommendation?	The Director recommends the Board approve final adoption of the changes to UAC R315-320 as published in the March 1, 2024, Utah State Bulletin and set an effective date of April 15, 2024.
Where can more information be obtained?	Please contact Tom Ball by email at tball@utah.gov or by phone at 385-454-5574.

DSHW-2024-005539
Attachment: DSHW-2024-005538

UTAH STATE BULLETIN

Bulletin, March 1, 2024, Vol. 2024, No. 05

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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 Government Operations, 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 801-957-7110. 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

Utah state bulletin.
Semimonthly.
1. Delegated legislation--Utah--Periodicals. 2. Administrative procedure--Utah--Periodicals.
I. Utah. Office of Administrative Rules.

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(2) An LEA shall collect the data in a form agreed upon by the Superintendent and the relevant law enforcement agencies.

(3) An LEA shall report the data required to the Superintendent in a timely manner;

(4) [~~Beginning in the 2022-2023 school year, a~~]An LEA shall report the data compiled for each school year to the Superintendent on or before September 1st of the year in which the school year ended.

(5) An LEA shall report the data to the Superintendent as prescribed by the Superintendent.

R277-912-3. Annual Report Content and Access.

(1) The Superintendent shall compile the data to form an aggregated report consistent with the requirements of Subsections 53E-3-516(3), (4) and (5).

(2) The report shall exclude all identifiable student information and data.

(3) The report shall be compiled no later than November 1st of each year in which the school year ended and provided to the board.

(4) An external entity may request access to the data used to compile the report consistent with [~~Utah Code~~]Title 63G, Chapter 2, Government Records Access Management Act.

(5) The Superintendent shall respond to the request within 15 business days and provide the report within 30 business days of the request by providing the most recent data set available at the time of the request, so long as the data set is aggregated and no student identifiable information is included in the data set.

(6) If the request is for the data being used for an upcoming report that is more than 30 days from being compiled, the Superintendent may wait longer than 30 days to provide the requested report.

KEY: incident reporting; law enforcement
Date of Last Change: 2024[~~September 24, 2020~~]
Notice of Continuation: February 5, 2024
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(3); 53E-3-516

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Amendment		
Rule or Section Number:	**R315-320**	**Filing ID: 56319**

Agency Information

1. Department:	Environmental Quality
Agency:	Waste Management and Radiation Control, Waste Management
Room number:	2nd Floor
Building:	MASOB
Street address:	195 N 1950 W
City, state and zip:	Salt Lake City, UT 84116
Mailing address:	PO Box 144880
City, state and zip:	Salt Lake City, UT 84114-4880

Contact persons:		
Name:	**Phone:**	**Email:**
Tom Ball	385-454-5574	tball@utah.gov

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule or section catchline:

R315-320. Waste Tire Transporter and Recycler Requirements

3. Purpose of the new rule or reason for the change:

The Division of Waste Management and Radiation Control, Waste Management (Division) is amending this rule to correct rule and statutory references, to provide clarifying language, and to amend rule language in accordance with legislation.

The Division is also correcting typographical and rule formatting errors.

4. Summary of the new rule or change:

Language is being added to Subsection R315-320-1(1) to make it clear that waste tire transporters and recyclers are defined in statute.

Language is being added to Subsection R315-320-1(3) to make it clear that the director or an authorized representative may enter and inspect a site to verify compliance with Rule R315-320.

Definitions have been added to Section R315-320-2.

Language is being added to Section R315-320-3 as required by H.B. 27 that was passed during the 2020 General Session of the Utah Legislature. The language changes the number of tires and the size of the tires that an individual can bring to a landfill at one time and clarifies other requirements for the landfill management of waste tires and material derived from waste tires.

The citation to Subsection 19-6-804(4) found in Subsection R315-320-3(5) is being corrected to Subsection 19-6-804(5).

Subsection R315-320-6(2) is being added to provide clear language in the rules regarding what is required by statute. Language is being added and removed from Section R315-320-7 to make it clear what is required by statute and as required by H.B. 236 that was passed during the 2021 General Session of the Utah Legislature. These rules govern the reimbursement for removal of a tire pile at a landfill or transfer station owned by a government entity or an abandoned tire pile and address the information that must be submitted to the Director to determine reasonability of a bid.

Additionally, formatting and typographical errors are being corrected.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

There are no anticipated costs or savings to the state budget.

The amended rule is clarifying administrative processes for waste tire recycling and transportation.

The amendment does not add any new requirements. Reimbursement of costs is funded by the Waste Tire Recycling Fund and a revenue review associated with the statutory change was conducted as part of the legislative process and indicated that the fund would sustain the changes.

B) Local governments:

There are no anticipated costs or savings to local governments due to this amendment.

The amended rule is clarifying administrative processes for waste tire recycling and transportation. The amendment does not add any new requirements.

Reimbursement of costs is funded by the Waste Tire Recycling Fund and a revenue review associated with the statutory change was conducted as part of the legislative process and indicated that the fund would sustain the changes.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

There are no anticipated costs or savings to small businesses due to this amendment.

The amended rule is clarifying administrative processes for waste tire recycling and transportation. The amendment does not add any new requirements.

Reimbursement of costs is funded by the Waste Tire Recycling Fund and a revenue review associated with the statutory change was conducted as part of the legislative process and indicated that the fund would sustain the changes.

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

There are no anticipated costs or savings to non-small businesses due to this amendment.

The amended rule is clarifying administrative processes for waste tire recycling and transportation. The amendment does not add any new requirements.

Reimbursement of costs is funded by the Waste Tire Recycling Fund and a revenue review associated with the statutory change was conducted as part of the legislative process and indicated that the fund would sustain the changes.

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***)**:**

There are no anticipated costs or savings to persons other than small businesses, non-small businesses, state, or local government entities due to this amendment.

The amended rule is clarifying administrative processes for waste tire recycling and transportation. The amendment does not add any new requirements.

Reimbursement of costs is funded by the Waste Tire Recycling Fund and a revenue review associated with the statutory change was conducted as part of the legislative process and indicated that the fund would sustain the changes.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

There are no compliance costs for affected persons.

The changes add clarification to requirements and policy with no fiscal impact on other entities.

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	**FY2024**	**FY2025**	**FY2026**
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	**FY2024**	**FY2025**	**FY2026**
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 comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Environmental Quality, Kim Shelley, has reviewed and approved this regulatory impact analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
Section 19-6-105	Section 19-6-819	

Public Notice Information

8. 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. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	04/01/2024

9. This rule change MAY become effective on:	04/15/2024

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Douglas J. Hansen, Division Director	**Date:**	02/08/2024

R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.

R315-320. Waste Tire Transporter and Recycler Requirements.

R315-320-1. Authority, Purpose, and Inspection.

(1) [~~The~~]Requirements for waste tire transporters and recyclers, as defined by Section 19-6-803,[~~requirements~~] are promulgated under the authority of the Waste Tire Recycling Act, Title 19, Chapter 6, and the Solid and Hazardous Waste Act Title 19, Chapter 6, to protect human health; to prevent land, air and water pollution; to conserve the state's natural, economic, and energy resources; and to promote recycling of waste tires.

(2) Except for Subsections R315-320-4(7) and R315-320-5(7), which apply to the application fees for the registration of a waste tire transporter and a waste tire recycler throughout the state, Rule R315-320 does not supersede any ordinance or regulation adopted by the governing body of a political subdivision or local health department if the ordinance or regulation is at least as stringent as Rule R315-320, nor does Rule R315-320 relieve a tire transporter or recycler from the requirement to meet [~~all~~]any applicable local ordinances or regulations.

(3) The [~~D~~]director or an authorized representative may enter and inspect the site of a waste tire transporter or a waste tire recycler [~~as specified in Subsection R315-302-2(5)(b)~~]to verify compliance with Rule R315-320.

R315-320-2. Definitions.

Terms used in Rule R315-320 are defined in Sections R315-301-2 and 19-6-803. In addition, for [~~the purpose of~~]Rule R315-320, the following definitions apply:

(1) "Abandoned waste tire pile" means a waste tire pile that the local department of health has not been able to:

(a) locate the persons responsible for the tire pile; or

(b) cause the persons responsible for the tire pile to remove the tire pile.

(2) "Beneficial use" means the use of chipped tires in a manner that is not recycling, storage, or disposal, but that serves as a replacement for another product or material for specific purposes.

(a) "Beneficial use" includes the use of chipped tires:

(i) as daily landfill cover;

(ii) for civil engineering purposes;

(iii) as low density, light weight aggregate fill; or

(iv) for septic or drain field construction.

(b) "Beneficial use" does not include the use of waste tires for material derived from waste tires:

(i) in the construction of fences; or

(ii) as fill, other than low density, light weight aggregate fill.

(3) "Chip" or "chipped tire" means a two-inch square or smaller piece of a waste tire.

[~~(1)~~](4) "Demonstrated market" or "market" means the legal transfer of ownership of material derived from waste tires between a willing seller and a willing buyer meeting the following conditions:

(a) total control of the material derived from waste tires is transferred from the seller to the buyer;

(b) the transfer of ownership and control is an "arms length transaction" between a seller and a buyer who have no other business relationship or responsibility to each other;

(c) the transaction is done under contract [~~which~~]that is documented and verified by orders, invoices, and payments; and

(d) the transaction is at a price dictated by current economic conditions.

(e) the possibility or potential of sale does not constitute a demonstrated market.

(5) "Shredded waste tires" means waste tires or material derived from waste tires that has been reduced to a six-inch square or smaller.

(6) "Waste tire" means:

(a) a tire that is no longer suitable for the tire's original intended purpose because of wear, damage, or defect; or

(b) a tire that a tire retailer removes from a vehicle for replacement with a new or used tire.

[~~(2)~~](7) "Waste tire generator" means a person, an individual, or an entity that may cause waste tires to enter the waste stream. A waste tire generator may include:

(a) a tire dealer, a car dealer, a trucking company, an owner or operator of an auto salvage yard, or other person, individual, or entity that removes or replaces tires on a vehicle; or

(b) a tire dealer, a car dealer, a trucking company, an owner or operator of an auto salvage yard, a waste tire transporter, a waste tire recycler, a waste tire processor, a waste tire storage facility, or a disposal facility that receives waste tires from a person, an individual, or an entity.

(8) "Waste tire pile" means a pile of 200 or more waste tires at one location.

R315-320-3. Landfill[~~ing~~] Management of Waste Tires and Material Derived from Waste Tires.

(1) Disposal of waste tires or material derived from waste tires is prohibited except as allowed by Subsection R315-320-3(2) or R315-320-3(3).

(2) Landfill[~~ing~~] Management of Whole Waste Tires. A landfill may not receive whole waste tires for disposal except as follows:

(a) [~~waste tires delivered to a landfill~~]no more than [~~four~~]12 whole tires with a rim diameter up to and including 24.5 inches may be received at one time [~~by~~]from an individual, including a waste tire transporter, and shall be temporarily stored according to Subsection R315-320-3(3)(b);[~~or~~]

(b) waste tires from devices moved exclusively by human power may be disposed of in a landfill; [~~or~~]and

(c) waste tires with a rim diameter greater than 24.5 inches may be disposed of in a landfill.

(3) Landfilling of Waste Tires and Material Derived from Waste Tires.

(a) A landfill, which has a permit issued by the [~~D~~]director, may receive material derived from waste tires for disposal, and whole waste tires for disposal according to Subsection R315-320-3(2).

(b) Except for the beneficial use of material derived from waste tires at a landfill, whole waste tires and material derived from waste tires shall be [~~disposed~~]stored in a separate landfill cell or other area that is designed and constructed[~~, as approved by the Director,~~] to keep the material in a clean and accessible condition so that it can reasonably be retrieved from the cell for future recycling.

(4) Reimbursement for Landfill[~~ing~~] Management of Shredded Tires.

(a) The owner or operator of a permitted landfill may apply for reimbursement for landfill[~~ing~~] management of shredded tires as specified in [~~Subsection R315-320-6(1)~~]Section 19-6-812 of the Waste Tire Recycling Act.

(b) To receive the reimbursement, the owner or operator of the landfill [~~must~~]may complete an application in accordance with Subsection 19-6-812(2) and shall meet the following conditions:

(i) the waste tires shall be shredded;

(ii) the shredded tires shall be stored in a [~~segregated~~]separate cell or other [~~landfill facility~~]area that ensures the shredded tires are in a clean and accessible condition so that they can be reasonably retrieved and recycled at a future time;[~~and~~]

(iii) the waste tires are generated from within the state; and

[~~(iii) the design and operation of~~](iv) the landfill [~~cell or other landfill facility has been reviewed and approved by the Director prior to the acceptance of shredded tires~~]is operated in compliance with the Solid and Hazardous Waste Act and the applicable requirements of Rules R315-301 through R315-320.

(5) Violation of Subsection R315-320-3(1), R315-320-3(2), or R315-320-3(3) is subject to enforcement proceedings and a civil penalty as specified in Subsection 19-6-804[~~(4)~~](5).

R315-320-4. Waste Tire Transporter Requirements.

(1) Each waste tire transporter who transports waste tires within [~~the state of~~]Utah [~~must~~]shall apply for, receive and maintain a current waste tire transporter registration certificate from the [~~D~~]director.

(2) Each applicant for registration as a waste tire transporter shall complete a waste tire transporter application form provided by the [~~D~~]director and provide the following information:

(a) business name;

(b) address to include:

(i) mailing address; and

(ii) site address if different from mailing address;

(c) telephone number;

(d) list of vehicles used, including the following:

(i) description of vehicle;

(ii) license number of vehicle;

(iii) vehicle identification number; and

(iv) name of registered owner;

(e) name of business owner;

(f) name of business operator;

(g) list of sites [~~to which~~]where waste tires are to be transported;

(h) liability insurance information as follows:

(i) name of company issuing policy;

(ii) amount of liability insurance coverage; and

(iii) term of policy[~~.~~]; and

(i) meet the requirements of Subsections R315-320-4(3)(b) and R315-320-4(3)(c).

(3) A waste tire transporter shall:

(a) demonstrate financial responsibility for bodily injury and property damage, including bodily injury and property damage to third parties caused by sudden or nonsudden accidental occurrences arising [~~form~~]from transporting waste tires. The waste tire transporter shall have and maintain liability coverage for sudden or nonsudden accidental occurrences in the amount of $300,000;

(b) for the initial application for a waste tire transporter registration or for any subsequent application for registration at a site not previously registered, demonstrate to the [~~D~~]director that [~~all~~]the local government requirements for a waste tire transporter have been met, including [~~obtaining~~]getting [~~all~~]any necessary permits or approvals where required; and

(c) demonstrate to the [~~D~~]director that the waste tires transported by the transporter are taken to a registered waste tire recycler or that the waste tires are placed in a permitted waste tire storage facility that is in full compliance with the requirements of Rule R315-314. [~~Filling~~]Filing [~~of~~]a complete report as required in Subsection R315-320-4(9) shall constitute compliance with this requirement.

(4) A waste tire transporter shall notify the [~~D~~]director of:

(a) any change in liability insurance coverage within [~~5~~]five working days of the change; and

(b) any other change in the information provided in Subsection R315-320-4(2) within 20 days of the change.

(5) A registration certificate will be issued to an applicant following the:

(a) completion of the application required by Subsection R315-320-4(2);

(b) presentation of proof of liability coverage as required by Subsection R315-320-4(3); and

(c) payment of the fee as established by the Annual Appropriations Act.

(6) A waste tire transporter registration certificate is not transferable and shall be issued for the term of one year.

(7) If a waste tire transporter is required to be registered by a local government or a local health department:

(a) the waste tire transporter may be assessed an annual registration fee by the local government or the local health department not to exceed to the following schedule:

(i) for one through five trucks, $50; and

(ii) $10 for each additional truck;

(b) the [~~D~~]director shall issue a non-transferable registration certificate upon the applicant meeting the requirements of Subsections R315-320-4(2) and R315-320-4(3) and [~~shall~~]may not require the payment of the fee specified in Subsection R315-320-4(5)(c), if the fee allowed in Subsection R315-320-4(7)(a) is paid; and

(c) the registration certificate shall be valid for one year.

(8) Waste tire transporters storing tires in piles [~~must~~]shall meet the requirements of Rule R315-314.

(9) Reporting Requirements.

(a) Each waste tire transporter shall submit a quarterly activity report to the [~~D~~]director. The activity report shall be submitted on or before the 30th of the month following the end of each quarter.

(b) The activity report shall contain the following information:

(i) the number of waste tires collected at each waste tire generator, including the name, address, and telephone number of the waste tire generator;

(ii) the number of tires shall be listed by the type of tire based on the following:

(A) passenger[~~,~~] or light truck tires or tires with a rim diameter of 19.5 inches or less;

(B) truck tires or tires ranging in size from 7.50x20 to 12R24.5; and

(C) other tires such as farm tractor, earth mover, motorcycle, golf cart, and ATV[~~, etc.~~];

(iii) the number or tons of waste tires shipped to each waste tire recycler or processor for a waste tire recycler, including the name, address, and telephone number of each recycler or processor;

(iv) the number of tires shipped as used tires to be resold;

(v) the number of waste tires placed in a permitted waste tire storage facility; and

(vi) the number of tires disposed in a permitted landfill, or put to other legal use.

(c) The activity report may be submitted in electronic format.

(10) Revocation of Registration.

(a) The registration of a waste tire transporter may be revoked upon the [~~D~~]director finding that:

(i) the activities of the waste tire transporter that are regulated under Section R315-320-4 have been or are being conducted in a way that endangers human health or the environment;

(ii) the waste tire transporter has made a material misstatement of fact in applying for or [~~obtaining~~]getting a registration as a waste tire transporter or in the quarterly activity report required by Subsection R315-320-4(9);

(iii) the waste tire transporter has provided a recycler with a material misstatement of fact [~~which~~]that the recycler subsequently used as documentation in a request for partial reimbursement under Section 19-6-813;

(iv) the waste tire transporter has violated [~~any provision of~~]the Waste Tire Recycling Act, Title 19 Chapter 6, or any order, approval, or rule issued or adopter under the Waste Tire Recycling Act;

(v) the waste tire transporter failed to meet or no longer meets the requirements of Section R315-320-4;

(vi) the waste tire transporter has been convicted under [~~Subs~~]Section 19-6-822; or

(vii) the waste tire transporter has had the registration from a local government or a local health department revoked.

(b) Registration will not be revoked for submittal of incomplete information required for registration or a reimbursement request if the error was not a material misstatement.

(c) For purposes of Subsection R315-320-4(10)(a), the statements, actions, or failure to act of a waste tire transporter shall include the statements, actions, or failure to act of any officer, director, agent or employee of the waste tire transporter.

(d) The administrative procedures set forth in [~~Section~~]Rule R305-7 shall govern revocation of registration.

R315-320-5. Waste Tire Recycler Requirements.

(1) Each waste tire recycler [~~requesting the reimbursement allowed by Subsection 19-6-809(1), must~~]shall apply for, receive, and maintain a current waste tire recycler registration certificate from the [~~D~~]director.

(2) Each applicant for registration as a waste tire recycler shall complete a waste tire recycler application form provided by the [~~D~~]director and provide the following information:

(a) business name;

(b) address to include:

(i) mailing address; and

(ii) site address if different from mailing address;

(c) telephone number;

(d) owner name;

(e) operator name;

(f) description of the recycling process;

(g) proof that the recycling process described in Subsection R315-320-5(2)(f)~~.~~:

(i) is being conducted at the site; or

(ii) for the initial application for a recycler registration, that the recycler has the equipment in place and the ability to conduct the process at the site;

(h) estimated number of tires to be recycled each year;

(i) liability insurance information as follows:

(i) name of company issuing policy;

(ii) proof of the amount of liability insurance coverage; and

(iii) term of policy; and

(j) meet the requirements of Subsection R315-320-5(3)(b).

(3) A waste tire recycler shall:

(a) demonstrate financial responsibility for bodily injury and property damage, including bodily injury and property damage to third parties caused by sudden or nonsudden accidental occurrences arising from storing and recycling waste tires. The waste tire recycler shall have and maintain liability coverage for sudden or nonsudden accidental occurrences in the amount of $300,000; and

(b) for the initial application for a recycler registration or for any subsequent application for registration at a site not previously registered, demonstrate to the [~~D~~]director that [~~all~~]the local requirements for a waste tire recycler have been met, including

[~~obtaining~~]getting [~~all~~]any necessary permits or approvals where required.

(4) A waste tire recycler shall notify the [~~D~~]director of:

(a) any change in liability insurance coverage within [~~5~~]five working days of the change; and

(b) any other change in the information provided in Subsection R315-320-5(2) within 20 days of the change.

(5) A registration certificate will be issued to an applicant following the:

(a) completion of the application required by Subsection R315-320-5(2);

(b) presentation of proof of liability coverage as required by Subsection R315-320-5(3); and

(c) payment of the fee as established by the Annual Appropriations Act.

(6) A waste tire recycler registration certificate is not transferable and shall be issued for a term of one year.

(7) If a waste tire recycler is required to be registered by a local government or a local health department:

(a) the waste tire recycler may be assessed an annual registration fee by the local government or local health department according to the following schedule:

(i) if up to 200 tons of waste tires are recycled per day, the fee [~~shall~~]may not exceed $300;

(ii) if 201 to 700 tons of waste tires are recycled per day, the fee [~~shall~~]may not exceed $400; or

(iii) if over 700 tons of waste tires are recycled per day, the fee [~~shall~~]may not exceed $500.

(b) The [~~D~~]director shall issue a non-transferable registration certificate upon the applicant meeting the requirements of Subsections R315-320-5(2) and R315-320-5(3) and [~~shall~~]may not require the payment of the fee specified in Subsection R315-320-5(5)(c), if the fee allowed by Subsection R315-320-5(7)(a) is paid.

(c) The registration certificate shall be valid for one year.

(8) Waste tire recyclers [~~must~~]shall meet the requirements of Rule R315-314 for waste tires stored in piles.

(9) Revocation of Registration.

(a) The registration of a waste tire recycler may be revoked upon the [~~D~~]director finding that:

(i) the activities of the waste tire recycler that are regulated under Section R315-320-5 have been or are being conducted in a way that endangers human health or the environment;

(ii) the waste tire recycler has made a material misstatement of fact in applying for or [~~obtaining~~]getting a registration as a waste tire recycler;

(iii) the waste tire recycler has made a material misstatement of fact in applying for partial reimbursement under Section 19-6-813;

(iv) the waste tire recycler has violated [~~any provision of~~]the Waste Tire Recycling Act, Title 19 Chapter 6, or any order, approval, or rule issued or adopted under the Waste Tire Recycling Act;

(v) the waste tire recycler has failed to meet or no longer meets the requirements of Subsection R315-320-5(1);

(vi) the waste tire recycler has been convicted under [~~Subs~~]Section 19-6-822; or

(vii) the waste tire recycler has had the registration from a local government or a local health department revoked.

(b) Registration will not be revoked for submittal of incomplete information required for registration or a reimbursement request if the error was not a material misstatement.

(c) For purposes of Subsection R315-320-5(9)(a), the statements, action, or failure to act of a waste tire recycler shall include the statements, actions, or failure to act of any officer, director, agent, or employee of the waste tire recycler.

(d) The administrative procedures set forth in [~~Section~~]Rule R305-7 shall govern revocation of registration.

R315-320-6. Reimbursement for Recycling Waste Tires.

(1) No partial reimbursement request submitted by a waste tire recycler for the first time, or the first time a specific recycling process or a beneficial use activity is used, shall be approved by a local health department under Section 19-6-813 until the local health department has received from the [~~D~~]director a written certification that the [~~D~~]director has determined the processing of the waste tires is recycling or a beneficial use. If the reimbursement request contains sufficient information, the [~~D~~]director shall make the recycling or beneficial use determination and notify the local health department in writing within 15 days of receiving the request for determination.

(2) Requests for partial reimbursement by a waste tire recycler, including first time requests according to Subsection R315-320-6(1), and subsequent requests, should follow the procedures of Sections 19-6-809, 19-6-813, 19-6-814, and 19-6-815.

[~~(2)~~](3) No partial reimbursement may be requested or paid for waste tires that were generated in Utah and recycled at an out-of-state location except as allowed by Subsection 19-6-809(1)(a)(ii)(C) or 19-6-809(1)(a)(ii)(D).

[~~(3)~~](4) In addition to any other penalty imposed by law, any person who knowingly or intentionally provides false information required by Section R315-320-5 or Section R315-320-6 shall be ineligible to receive any reimbursement and shall return to the Division of Finance any reimbursement previously received that was [~~obtained~~]received through the use of false information.

R315-320-7. Reimbursement for the Removal of a Tire Pile at a Landfill or Transfer Station Owned by a Governmental Entity or an Abandoned Tire Pile[~~ or a Tire Pile at a Landfill Owned by a Governmental Entity~~].

(1) A county or municipality applying for payment for removal of an abandoned tire pile or a tire pile at a county or municipal owned landfill or transfer station shall meet the requirements of Section 19-6-811.

(2) Determination of Reasonability of a Bid.

(a) The following items shall be submitted to the [~~D~~]director when requesting a determination of reasonability of a bid as specified in Subsections 19-6-811(1), 19-6-811(3), and 19-6-811(4):

(i) a copy of the bid or bids;

(ii) the location and approximate size of the waste tire pile;

(iii) for waste tire removal from a landfill or transfer station owned by a county or municipality, a statement:

(A) confirming that the waste tires were received at the landfill or transfer station;

(B) confirming that the waste tire pile consists solely of waste tires diverted from the landfill or transfer station waste stream; and

(C) landfill or transfer station waste receipt records indicating the origin of the waste tires;

(iv) for waste tire removal from an abandoned waste tire pile [~~(ii) ~~]a letter from the local health department stating that the tire pile is abandoned[~~ or that the tire pile is at a landfill owned or operated by a governmental entity~~]; and

[~~(iii)~~](v) a written statement from the county or municipality that the bidding was conducted according to the legal requirements for competitive bidding.

(b) The [~~D~~]director will review the submitted documentation in accordance with Subsection 19-6-811(4) and will inform the county or municipality if the bid is reasonable.

(c) A determination of reasonability of the bid will be made and the county or municipality notified within 30 days of receipt of the request by the [~~D~~]director.

(d) A bid determined to be unreasonable [~~shall~~]may not be [~~deemed~~]considered eligible for reimbursement.

(3) If the [~~D~~]director determines that the bid to remove waste tires from a landfill owned or operated by a government entity or from an abandoned waste tire pile [~~or from a waste tire pile at a landfill owned or operated by a governmental entity~~]is reasonable[~~and that there are sufficient monies in the trust fund to pay the expected reimbursements for the transportation, recycling, or beneficial use under Section 19-6-809 during the next quarter~~], the [~~D~~]director may authorize reimbursement of a waste tire transporter's or recycler's costs to remove waste tires and deliver the waste tires to a recycler according to Subsection R315-320-7(6).[~~a maximum reimbursement of:~~

~~(a) 100% of a waste tire transporter's or recycler's costs allowed under Subsection 19-6-811(2) to remove the waste tires from the waste tire pile and deliver the waste tires to a recycler if no waste tires have been added to the waste tire pile after June 30, 2001; or~~

~~(b) 60% of a waste tire transporter's or recycler's costs allowed under Subsection 19-6-811(2) to remove the waste tires from the waste tire pile and deliver the waste tires to a recycler if waste tires have been added to the waste tire pile after June 30, 2001.~~]

(4) An operator of a state or local government landfill or transfer station shall submit to the director an application for reimbursement, including:

(a) the number of tons of waste tires removed from the landfill or transfer station;

(b) the location that the waste tires were removed from;

(c) the recycler where the waste tires were delivered; and

(d) if applicable, the amount charged by a third party waste tire transporter or recycler to transport the waste tires to the recycler.

(5) The recycler or waste tire transporter that removed the abandoned waste tires pursuant to the bid shall submit to the director an application for reimbursement, including:

(a) the number of tons of waste tires transported;

(b) the location they were removed from;

(c) the recycler where the waste tires were delivered; and

(d) the amount charged by the transporter or recycler.

(6) Upon receipt of the information required under Subsection R315-320-7(4) or R315-320-7(5), and determination that the information is complete, the director shall, within 30 days after receipt, authorize the Division of Finance to reimburse the waste tire transporter or recycler.

(7) A person reimbursed for the removal of a waste tire pile under Section R315-320-7 may not be reimbursed for storage of those waste tires under Section R315-320-3 or recycling of those waste tires under Section R315-320-6.

KEY: solid waste management, waste disposal
Date of Last Change: 2024[~~April 25, 2013~~]
Notice of Continuation: November 30, 2022
Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-819

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Amendment		
Rule or Section Number:	**R337-5**	**Filing ID: 56311**

Agency Information

1. Department:	Financial Institutions
Agency:	Credit Unions
Street address:	324 S. State Street
City, state and zip:	Salt Lake City, UT 84110
Mailing address:	PO Box 89
City, state and zip:	Salt Lake City, UT 84111-2923

Contact persons:

Name:	**Phone:**	**Email:**
Paul Allred	801-538-8837	pallred@utah.gov

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule or section catchline:

R337-5. Allowance for Loan and Lease Losses - Credit Unions

3. Reason for this change:

The current expected credit loss (CECL) model under Accounting Standards Update (ASU) 2016-13 has been implemented to simplify US GAAP and provide for more timely recognition of credit losses.

As a result, CECL was adopted for all federally insured credit unions by the NCUA. The NCUA created an exception to CECL for credit unions under $10,000, 000 in assets.

This amendment is necessary to allow state-charted credit unions with assets less than $10,000,000 to continue to use the incurred loss model.

4. Summary of this change:

The rule is amended to make it applicable for state-chartered credit unions with assets less than $10,000,000.

This amendment maintains the current methodology to determine the amounts needed in the allowance account for all state-chartered credit unions with assets less than $10,000,000 under the jurisdiction of the Department of Financial Institutions in accordance with changes in the industry and federal law.

WASTE MANAGEMENT AND RADIATION CONTROL BOARD
Executive Summary
Proposed Rule Changes
UAC R313-28
April 11, 2024

What is the issue before the Board?	Approval from the Board to proceed with formal rulemaking and public comment on proposed changes to Utah Administrative Code (UAC) R313-28-20 of the Radiation Control Rules to add the definition of "Healing Arts".
What is the historical background or context for this issue?	During recent discussions with an x-ray registrant, it was suggested that a definition of the term "Healing Arts" was needed in the x-ray rules to assist the regulated community in understanding what is covered under the rules for use of x-rays in the healing arts. Division staff researched the issue and found several states that have definitions of the term in their rules. The definition being proposed for the Utah rules is essentially identical to those contained in the rules of other states. Additionally, the Division is fixing typographical and formatting errors found in the rules as requested by the Governor's Office. For the convenience of the Board the proposed amendment to the rules has been highlighted in yellow.
What is the governing statutory or regulatory citation?	The Board is authorized under Subsections 19-3-103.1 and 19-3-104 to make rules to meet the requirements of federal law relating to radiation control to ensure the radiation control program is qualified to maintain primacy from the federal government and that are necessary to implement the provisions of the Radiation Control Act. The rule changes also meet existing DEQ and state rulemaking procedures.
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 Utah State Bulletin and conducting a public comment period.
What is the Division Director's recommendation?	The Director recommends the Board approve proceeding with formal rulemaking and public comment by publishing in the May 1, 2024, Utah State Bulletin the proposed changes to UAC R313-28-20 and conducting a public comment period from May 1, 2024 to May 31, 2024.
Where can more information be obtained?	Please contact Tom Ball by email at tball@utah.gov or by phone at 385-454-5574.

R313. Environmental Quality, Waste Management and Radiation Control, Radiation.
R313-28. Use of X-Rays in the Healing Arts.

R313-28-20. Definitions.

As used in Rule R313-28, the following definitions apply:

"Accessible surface" means the external surface of the enclosure or housing provided by the manufacturer.

"Actual focal spot" refer to "Focal spot."

"Aluminum equivalent" means the thickness of aluminum, type 1100 alloy, affording the same attenuation, under specified conditions, as the material in question. The nominal chemical composition of type 1100 aluminum alloy is 99.00 percent minimum aluminum, 0.12 percent copper.

"Assembler" means individuals engaged in the business of assembling, replacing, or installing one or more components into an x-ray system or subsystem. The term includes the owner of an x-ray system or his or her employee or agent if they assemble components into an x-ray system that is subsequently used to provide professional or commercial services.

"Attenuation block" means a block or stack, having appropriate dimensions 20 cm by 20 cm by 3.8 cm, of type 1100 aluminum alloy or other materials having equivalent attenuation.

"Automatic EXPOSURE control" means a device [~~which~~]that automatically controls one or more technique factors [~~in order to obtain~~]to get, at a preselected location, a required quantity of radiation. Phototimer and ion chamber devices are included in this category.

"Barrier" refer to "Protective barrier".

"Beam axis" means a line from the source through the centers of the x-ray fields.

"Beam-limiting device" means a device [~~which~~]that provides a means to restrict the dimensions of the x-ray field.

"Certified components" means components of x-ray systems [~~which~~]that are subject to regulations promulgated under Public Law 90-602, the Radiation Control for Health and Safety Act of 1968.

"Certified system" means an x-ray system [~~which~~]that has one or more certified components.

"Changeable filters" means filters designed to be removed by the operator.

"Coefficient of variation (C)" means the ratio of the standard deviation to the mean value of a population of observations.

"Computed tomography" means the production of a tomogram by the acquisition and computer processing of x-ray transmission data.

"Control panel" means that part of the x-ray control [~~upon which are mounted~~]where the switches, knobs, push buttons, and other hardware necessary for setting the technique factors are mounted.

"Cooling curve" means the graphical relationship between heat units stored and cooling time.

"CT" means computed tomography.

"CT gantry" means the tube housing assemblies, beam-limiting devices, detectors, and the supporting structures and frames [~~which~~]that house these components.

"Dead-man switch" means a switch so constructed that a circuit closing contact can be maintained only by continuous pressure on the switch by the operator.

"Diagnostic source assembly" means the tube housing assembly with a beam-limiting device attached.

"Diagnostic x-ray system" means an x-ray system designed for irradiation of part of the human body for[~~the purpose of~~] recording or visualization for diagnostic purposes.

"Entrance EXPOSURE rate" means the EXPOSURE free in air per unit time at the point where the useful beam enters the patient.

"Equipment" refer to "X-ray equipment".

"Field emission equipment" means equipment [~~which~~]that uses an x-ray tube [~~in which~~]where electron emission from the cathode is due solely to the action of an electric field.

"Filter" means material placed in the useful beam to absorb preferentially selected radiations.

"Fluoroscopic imaging assembly" means a subsystem [~~in which~~]where x-ray photons produce a fluoroscopic image. It includes equipment housing, electrical interlocks, the primary protective barrier, and structural material providing linkage between the image receptor and the diagnostic source assembly.

"Focal spot" means the area on the anode of the x-ray tube bombarded by the electrons accelerated from the cathode and [~~from which~~]where the useful beam originates. Also referred to as "Actual focal spot."

"Gonad shield" means a protective barrier for the testes or ovaries.

"Half-value layer or HVL" means the thickness of specified material [~~which~~]that attenuates the beam of radiation to an extent that the EXPOSURE rate is reduced to one-half of its original value. In this definition, the contribution of scatter radiation, other than scatter radiation that [~~which~~]might be present initially in the beam concerned, is [~~deemed~~]considered to be excluded.

"Healing arts" means any system, treatment, operation, diagnosis, prescription, or practice for ascertaining cure, relief, palliation, adjustment, or correction of any health indications, human disease, ailment, deformity, injury, or unhealthy or abnormal physical or mental condition.

"Healing arts screening" means the use of x-ray equipment to examine individuals who are asymptomatic for the disease [~~for which~~]that is the reason the screening is being performed and the use of x-rays are not specifically and individually ordered by a licensed practitioner of the healing arts legally authorized to order x-ray tests for the [~~purpose of~~]diagnosis.

"Heat unit" means a unit of energy equal to the product of the peak kilovoltage, milliamperes, and seconds[~~:~~], for example, kVp times mA times seconds.

"HVL" refer to "half value layer."

"Image intensifier" means a device installed in its housing [~~which~~]that instantaneously converts an x-ray pattern into a light image of higher energy density.

"Image receptor" means a device, for example, a fluorescent screen radiographic film, solid state detector, or gaseous detector, [~~which~~]that transforms incident x-ray photons to produce a visible image or stores the information in a form [~~which~~]that can be made into a visible image. [~~In those cases where~~]When means are provided to preselect a portion of the image receptor, the term "image receptor" shall mean the preselected portion of the device.

"Irradiation" means the exposure of matter to ionizing radiation.

"Kilovolts peak" refer to "Peak tube potential".

"kV" means kilovolts.

"kVp" refer to "Peak tube potential."

"Lead equivalent" means the thickness of lead affording the same attenuation, under specified conditions, as the material in question.

"Leakage radiation" means radiation emanating from the diagnostic source assembly except for:

(a) the useful beam, and

(b) radiation produced when the exposure switch or timer is not activated.

"Leakage technique factors" means the technique factors associated with the diagnostic source assembly [~~which~~]that are used in measuring leakage radiation. They are defined as follows:

(a) For diagnostic source assemblies intended for capacitor energy storage equipment, the maximum-rated peak tube potential and the maximum-rated number of exposures in an hour for operation at the maximum-rated peak tube potential with the quantity of charge per exposure being ten millicoulombs, ten milliampere seconds, or the minimum obtainable from the unit, whichever is larger.

(b) For diagnostic source assemblies intended for field emission equipment rated for pulsed operation, the maximum-rated peak tube potential and the maximum-rated number of x-ray pulses in an hour for operation at the maximum-rated peak tube potential.

(c) For other diagnostic source assemblies, the maximum-rated peak tube potential and the maximum-rated continuous tube current for the maximum-rated peak tube potential.

"Light field" means that area of the intersection of the light beam from the beam-limiting device and one of the set of planes parallel to and including the plane of the image receptor, whose perimeter is the locus of points [~~at which~~]where the illumination is one-fourth of the maximum in the intersection.

"mA" means tube current in milliamperes.

"mAs" means milliampere second or the product of the tube current in milliamperes and the time of exposure in seconds.

"Mammography imaging medical physicist" means an individual who conducts mammography surveys of mammography facilities.

"Mammography survey" means an evaluation of x-ray imaging equipment and oversight of a mammography facility's quality control program.

"Mobile x-ray equipment" [~~refer to "X-ray equipment"~~]means x-ray equipment mounted on a permanent base with wheels or casters for moving while completely assembled.

"Multiple scan average dose" means the average dose at the center of a series of scans, specified at the center of the axis of rotation of a CT x-ray system.

"New installation" means change, modification or relocation of new or existing shielding or equipment.

"Operator of diagnostic x-ray equipment" means either[~~:~~

~~(a) T~~] the individual responsible for insuring that the appropriate technique factors are set on the x-ray equipment[~~;~~] or[

~~(b) T~~] the individual who makes the radiation exposure.

"Patient" means an individual subjected to healing arts examination, diagnosis, or treatment.

"PBL" refer to "Positive beam limitation."

"Peak tube potential" means the maximum value of the potential difference across the x-ray tube during an exposure.

"Phantom" means a volume of material behaving in a manner similar to tissue with respect to the attenuation and scattering of radiation.

"PID" refer to "Position indicating device."

"Portable x-ray equipment" [~~refer to "X-ray equipment"~~]means x-ray equipment designed to be hand-carried.

"Position indicating device (PID)" means a device, on dental x-ray equipment [~~which~~]that [~~indicates~~]shows the beam position and establishes a definite source-surface, [~~(~~]skin[~~)~~], distance. The device may or may not incorporate or serve as a beam-limiting device.

"Positive beam limitation" means the automatic or semi-automatic adjustment of an x-ray beam to the size of the selected image receptor, whereby exposures cannot be made without [~~such~~]the adjustment.

"Primary beam scatter" means scattered radiation [~~which~~]that has been deviated in direction or energy by materials irradiated by the primary beam.

"Primary protective barrier" refer to "Protective barrier".

"Protective apron" means an apron made of radiation absorbing materials, used to reduce radiation exposure.

"Protective barrier" means a barrier of radiation absorbing material used to reduce radiation exposure.

(a) "Primary protective barrier" means the material, excluding filters, placed in the useful beam to reduce the radiation exposure for protection purposes.

(b) "Secondary protective barrier" means the material [~~which~~]that attenuates stray radiation.

"Protective glove" means a glove made of radiation absorbing materials used to reduce radiation exposure.

"Radiation therapy simulation system" means a radiographic or fluoroscopic x-ray system intended for localizing the volume to be exposed during radiation therapy and for confirming the position and size of the therapeutic irradiation field.

"Radiograph" means an image receptor [~~on which~~]that the image is created directly or indirectly on by an x-ray pattern and results in a permanent record.

"Rating" means the operating limits of an x-ray system or subsystem as specified by the component manufacturer.

"Recording" means producing a permanent form of an image resulting from x-ray photons.

"Reference plane" means a plane [~~which~~]that is displaced from and parallel to the tomographic plane.

"Scan" means the complete process of collecting x-ray transmission data for the production of a tomogram. Data can be collected simultaneously during a single scan for the production of one or more tomograms.

"Scan increment" means the amount of relative displacement of the patient with respect to the computer tomographic x-ray system between successive scans measured along the direction of [~~such~~]the displacement.

"Scattered radiation" means radiation that, during passage through matter, has been deviated in direction, energy or both direction and energy. Also refer to "Primary Beam Scatter".

"Shutter" means a device attached to the tube housing assembly [~~which~~]that can intercept the entire cross sectional area of the useful beam and [~~which~~]that has a lead equivalency at least that of the tube housing assembly.

"SID" refer to "Source-image receptor distance".

"Source" means the focal spot of the x-ray tube.

"Source to image receptor distance" means the distance from the source to the center of the input surface of the image receptor.

"Special purpose x-ray system" means [~~that which~~]a system that is designed for irradiation of specific body parts.

"Spot film" means a radiograph [~~which~~]that is made during a fluoroscopic examination to permanently record conditions [~~which~~]that exist during that fluoroscopic procedure.

"Spot film device" means a device intended to transport or position a radiographic image receptor between the x-ray source and fluoroscopic image receptor, including a device intended to hold a cassette over the input end of an image intensifier [~~for the purpose of~~]to mak[~~ing~~]e a radiograph.

"SSD" means the distance between the source and the skin entrance plane of the patient.

"Stationary x-ray equipment" [~~refer to "X-ray equipment"~~]means x-ray equipment that is installed in a fixed location.

"Stray radiation" means the sum of leakage and scattered radiation.

"Technique factors" means the following conditions of operation[~~.~~]:

(a) For capacitor energy storage equipment, peak tube potential in kV and quantity of charge in mAs.

(b) For field emission equipment rated for pulsed operation, peak tube potential in kV and number of x-ray pulses.

(c) For other equipment, peak tube potential in kV and either;

(i) the tube current in mA and exposure time in seconds, or

(ii) the product of tube current and exposure time in mAs.

"Termination of irradiation" means the stopping of irradiation in a fashion [~~which~~]that will not permit continuance of irradiation without the resetting of operating conditions at the control panel.

"Tomogram" means the depiction of the x-ray attenuation properties of a section through the body.

"Tomographic plane" means that geometric plane [~~which~~]that is identified as corresponding to the output tomogram.

"Tomographic section" means the volume of an object whose x-ray attenuation properties are imaged in a tomogram.

"Tube" means an x-ray tube, unless otherwise specified.

"Tube housing assembly" means the tube housing with tube installed. It includes high-voltage or filament transformers and other appropriate elements [~~when~~]if they are contained within the tube housing.

"Tube rating chart" means the set of curves [~~which~~]that specify the rated limits of operation of the tube in terms of the technique factors.

"Useful beam" means the radiation emanating from the tube housing port or the radiation head and passing through the aperture of the beam limiting device when the switch or timer is activated.

"Visible area" means that portion of the input surface of the image receptor [~~over which~~]where incident x-ray photons are producing a visible image.

"X-ray exposure control" means a device, switch, button, or other similar means [~~by which~~]that an operator uses to initiate[~~s~~] or terminate[~~s~~] the radiation exposure. The x-ray exposure control may include associated equipment, for example, timers and back-up timers.

"X-ray equipment" means an x-ray system, subsystem, or component thereof. See definitions for “Mobile x-ray equipment”, “Portable x-ray equipment”, and “Stationary x-ray equipment”.[~~Types of x-ray equipment are as follows:~~

~~(a) "Mobile" means x-ray equipment mounted on a permanent base with wheels or casters for moving while completely assembled.~~

~~(b) "Portable" means x-ray equipment designed to be hand-carried.~~

~~(c) "Stationary" means x-ray equipment which is installed in a fixed location.~~]

"X-ray field" means that area of the intersection of the useful beam and one of the sets of planes parallel to and including the plane of the image receptor, whose perimeter is the locus of points [~~at which~~]where the EXPOSURE rate is one-fourth of the maximum in the intersection.

"X-ray high-voltage generator" means a device [~~which~~]that transforms electrical energy from the potential supplied by the x-ray control to the tube operating potential. The device may also include means for transforming alternating current to direct current, filament transformers for the x-ray tube high-voltage switches, electrical protective devices, and other appropriate elements.

"X-ray system" means an assemblage of components for the controlled production of x-rays. It includes minimally an x-ray high-voltage generator, an x-ray control, a tube housing assembly, a beam-limiting device, and the necessary supporting structures. Additional components [~~which~~]that function with the system are considered integral parts of the system.

"X-ray tube" means an electron tube [~~which~~]that is designed to be used primarily for the production of x-rays.

KEY: dental, X-rays, mammography, beam limitation
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