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 November 10, 2022, at 1:30 pm at the Utah Department of Environmental Quality, (Multi-Agency State Office Building) Conference Room #1015, 195 North 1950 West, SLC.

Board members and interested persons may participate electronically/telephonically.
Join via the Internet: meet.google.com/gad-sxsd-uvs
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 October 13, 2022, Board meeting..... Tab 1 (**Board Action Item**)

V. Petroleum Storage Tanks Update..... Tab 2

VI. Administrative Rules ..... Tab 3

A. Five Year Review of R315-301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, and 320 of the Utah Administrative Code (UAC) (Information Item).

B. Approval to proceed with formal rulemaking and public comment period on proposed changes to UAC R315-15, R315-260, R315-261, R315-262, R315-263, R315-264, and R315-265 of the hazardous waste rules in response to comments from U.S. EPA, Region 8 (**Board Action Item**).

C. Approval to proceed with formal rulemaking and public comment period on proposed changes to UAC R313-28-31 to amend the requirement for gonadal shielding (GS) during abdominal and pelvic radiography (**Board Action Item**).

195 North 1950 West • Salt Lake City, UT
Mailing Address: P.O. Box 144880 • Salt Lake City, UT 84114-4880
Telephone (801) 536-0200 • Fax (801) 536-0222 • T.D.D. (801) 536-4284
www.deq.utah.gov

D. Approval to proceed with formal rulemaking and public comment period on proposed changes to UAC R313-15-501, R313-34-3, R313-35-120, R313-36-3 and R313-38-3, to incorporate federal regulatory changes made by the NRC to the federal radioactive materials regulations in 2020 (85 FR 15347) (**Board Action Item**).

E. Final adoption of proposed rule changes to UAC R313-19-100, *Transportation*, to incorporate federal regulatory changes requested by the Nuclear Regulatory Commission (NRC) to maintain the compatibility of Utah radiation control rules with the federal regulations (**Board Action Item**).

VII. X-Ray Program ..... Tab 4

A. Approval of Mammography Imaging Medical Physicists (MIMPs) in accordance with UAC R313-28-140 (**Board Action Item**).

VIII. Hazardous Waste Section. ..... Tab 5

A. Proposed amendment to Stipulated Consent Order No. 2106050 between the Board and Clean Harbors Aragonite, LLC issued on February 8, 2022 (Information Item).

IX. Director's Report.

X. Other Business.

A. Miscellaneous Information Items.
B. Scheduling of next Board meeting (January 12, 2023).

XI. Adjourn.

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

Waste Management and Radiation Control Board Meeting Minutes
Utah Department of Environmental Quality
Multi-Agency State Office Building (Conf. Room #1015)
195 North 1950 West, SLC
October 13, 2022
1:30 p.m.

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

Board Members Participating Virtually: Nathan Rich, Vern Rogers, Scott Wardle

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

UDEQ Staff Members Participating at Anchor Location:
Doug Hansen, Therron Blatter, Avery Holyoak, Arlene Lovato, Stevie Norcross, Mike Pecorelli, Bret Randall, Elisa Smith, Otis Willoughby

Others Attending at Anchor Location: Steve Gurr and Tim Orton

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

I. Call to Order and Roll Call.
Chairman Mickelson called the meeting to order at 1:30 pm. Roll call of Board members was conducted, see above.

II. Public Comments on Agenda Items – None.

III. Declarations of Conflict of Interest.

Vern Rogers declared a conflict of interest and announced he will abstain from voting on Agenda Item VII. A.

IV. Approval of the meeting minutes for the September 8, 2022 Board meeting (Board Action Item).
It was moved by Dennis Riding and seconded by Shane Whitney and UNANIMOULSY CARRIED to approve the September 8, 2022 Board meeting minutes.

V. Petroleum Storage Tanks Update.
Therron Blatter, Petroleum Storage Tank (PST) Branch Manager with the Division of Environmental Response and Remediation (DERR), informed the Board that the cash balance of the Petroleum Storage Tank (PST) Fund at the end of August 2022, was $27,693,250.00. The preliminary estimate of the cash balance of the PST Fund for the end of September 2022, and the end of the fiscal year is $27,524,702.00. The DERR continues to watch the balance of the PST Fund closely to ensure sufficient cash is available to cover qualified claims for releases.

VI. FY2022 Petroleum Storage Tank Fund Actuarial Summary (Information Item).
Mike Pecorelli, Environmental Assurance Program Section Manager with the DERR, gave a presentation summarizing the annual PST Fund actuarial report. The Board members asked questions regarding the report. Based on current assumptions, the PST Fund is trending in a positive direction and the negative equity balance

of the fund continues to decrease. The DERR will continue to watch these trends closely as Aboveground Petroleum Storage Tanks are added to the PST Fund.

VII. Low-Level Radioactive Waste.

A. Energy*Solutions* request for a site-specific treatment variance from the Hazardous Waste Management Rules. Energy*Solutions* seeks authorization to receive and macroencapsulate ash contaminated with dioxins and furans (Board Action Item).

Otis Willoughby, Low-Level Radioactive Waste (LLRW) Section Manager, Division of Waste Management and Radiation Control (DWMRC), reviewed Energy*Solutions* LLC request to the Director of the DWMRC for a one-time site-specific treatment variance from the Utah Hazardous Waste Management Rules submitted on July 20, 2022. Energy*Solutions* seeks authorization to receive and macroencapsulate approximately 20 tons of ash contaminated with dioxins and furans for treatment and final disposal of the waste will occur in the Mixed Waste Disposal Cell at the Energy*Solutions* Mixed Waste Facility.

This agenda item was presented to the Board as an information item in the August 11, 2022 Board meeting. An Executive Summary and Energy*Solutions* request for a variance were provided to the Board in their October 13, 2022 Board packet.

Energy*Solutions* is requesting that this waste not require treatment for those dioxins and furans that are present as underlying hazardous constituents. This waste is analyzed, if it does not have hazardous waste constituents for toxic metals, then it can come in at whatever level for the dioxins and furans and be disposed in the facilities low-level radioactive waste disposal cell. If the waste comes in detecting toxic metals, then the rules are a little different in that those toxic metals need to be treated below the land disposal restriction levels, and it triggers that they need to be treated for the dioxins and furans.

The generator and the facility have attempted different methods to treat those underlying hazardous constituents and have been less than successful. So, they are claiming and requesting a variance for that portion of the treatment. Energy*Solutions* will continue to treat the metals only and then dispose it in the Mixed Waste Disposal Cell at the facility. Only the metals will be treated, not the dioxins and furans.

The Board has approved this type of variance request before, as Energy*Solutions* previously requested this variance in June 2021 for approximately 18 tons of dioxan furan waste (three shipments).

A notice for public comment was published in the *Salt Lake Tribune* on August 7, 2022, and the *Deseret-News* and the *Tooele County Transcript Bulletin on* August 10, 2022. The 30-day public comment period began August 11, 2022 and ended September 9, 2022. No public comments were received.

The Director recommends approval of this variance request. The Director's recommendation is based on the following findings: the proposed alternative treatment method meets the regulatory basis for a variance and will be as safe to human health and the environment as the required method.

There were no comments or questions.

It was moved by Scott Wardle and seconded by Richard Codell and UNANIMOULSY CARRIED to approve Energy*Solutions* request for a site-specific treatment variance from the Hazardous Waste Management Rules to receive and macroencapsulate ash contaminated with dioxins and furans. Vern Rogers abstained from voting.

VIII. Annual Open Meetings, Conflicts, Ethics and Records Training (Information Item).

(Training provided virtually by Raymond Wixom, Assistant Attorney General, Office of Utah Attorney General)

The Open Meetings, Conflicts, Ethics and Records Training was presented by Raymond Wixom, Assistant Attorney General, Utah Attorney General's Office. (A hard copy of Open Meetings, Conflicts, Ethics and Records Training presentation material was included with the official copy of the October 13, 2022 meeting minutes). Mr. Wixom thanked the Board for the opportunity to participate virtually. There were no comments or questions.

Chairman Mickelson thanked Mr. Wixom for the presentation as this information is needed to ensure the Board functions appropriately.

IX. Director's Report.

Doug Hansen, Director of the Division of Waste Management and Radiation Control, reminded the Board that the Board is down one member and has been so for quite some time and efforts are being made to possibly fill the position with the previous Board member who vacated his position due to active duty in the military. The Board will be kept updated on this endeavor as coordination efforts with the Director of Boards and Commissions are currently being pursued to reinstate this former Board member as he has expressed an interest in resuming his position on the Board.

Director Hansen provided an update on potential legislation. Director Hansen reported that about three weeks ago he had the opportunity to attend and present at an interim legislative committee meeting. The meeting was regarding tax and revenue, specifically tax incentives around recycling market development zones. Director Hansen's presentation provided an update on tax incentives the Division is involved with. Also, a good portion of the meeting was spent in conversation with Representative Christofferson, who last year, ran legislation to look at tax incentives and potentially eliminate those that are not being used or those that the legislature feels are not meeting their goals or are not productive. This specific interim committee has the obligation every three years to look at every single tax incentive in the State, which is why Director Hansen was requested to attend. Director Hansen wanted to give the Board a heads up that based on conversations during this meeting, a bill regarding this matter may be presented next year. Director Hansen asked the Board that if they know of or have parties that they represent who benefit from tax incentives, they may want to monitor this matter to see what comes of it.

Director Hansen stated that with the 2023 legislative session only three months away, if the Division is informed of any potential legislation it will be shared with the Board as appropriate and hopefully, Board members will be able to do the same as they receive information regarding potential legislation.

X. Other Business.

A. Miscellaneous Information Items – None.

B. Scheduling of the next Board meeting (November 10, 2022).

The next meeting is scheduled for November 10, 2022, at 1:30 pm at the Utah Department of Environmental Quality, Multi-Agency State Office Building.

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

XI. Adjourn.

The meeting adjourned at 2:20 p.m.

PST STATISTICAL SUMMARY
October 1, 2021 -- September 30, 2022

PROGRAM

	October	November	December	January	February	March	April	May	June	July	August	September	(+/-) OR Total
Regulated Tanks	4,136	4,142	4,136	4,132	4,150	4,157	4,178	4,176	4,182	4,178	4,188	4,184	**48**
Tanks with Certificate of Compliance	4,052	4,060	4,049	4,048	4,059	4,061	4,057	4,057	4,071	4,061	4,065	4,072	**20**
Tanks without COC	84	82	87	84	91	96	121	119	111	117	123	112	**28**
Cumulative Facilitlies with Registered A Operators	1,288	1,284	1,288	1,287	1,285	1,284	1,288	1,286	1,286	1,288	1,285	1,279	**97.86%**
Cumulative Facilitlies with Registered B Operators	1,289	1,285	1,288	1,288	1,285	1,285	1,289	1,287	1,287	1,289	1,287	1,280	**97.93%**
New LUST Sites	5	7	2	10	12	9	7	6	7	9	11	5	**90**
Closed LUST Sites	4	6	1	2	13	13	14	13	9	2	12	7	**96**
Cumulative Closed LUST Sites	5397	5398	5399	5405	5419	5431	5447	5454	5455	5463	5474	5474	**77**

FINANCIAL

	October	November	December	January	February	March	April	May	June	July	August	September	(+/-)
Tanks on PST Fund	2,642	2,646	2,635	2,629	2,631	2,628	2,619	2,609	2,613	2,651	2,655	2,645	**3**
PST Claims (Cumulative)	702	702	702	703	704	705	706	705	710	710	711	711	**9**
Equity Balance	-$3,921,878	-$2,867,569	-$2,900,167	-$2,363,604	-$1,761,847	-$1,826,879	-$1,634,540	-$986,270	-$639,953	-$646,753	-$295,722	-$127,174	**$3,794,704**
Cash Balance	$23,475,650	$24,529,959	$24,497,361	$25,033,924	$25,635,681	$25,570,649	$25,762,988	$26,411,258	$26,757,575	$26,750,775	$27,693,250	$27,524,702	**$4,049,052**
Loans	0	0	0	0	0	0	0	1	0	0	1	5	**5**
Cumulative Loans	121	121	121	121	121	121	121	122	122	122	123	128	**7**
Cumulative Amount	$4,738,367	$4,738,367	$4,738,367	$4,738,367	$4,738,367	$4,738,367	$4,738,367	$4,740,989	$4,740,989	$4,740,989	$5,040,989	$6,014,420	**$1,276,053**
Defaults/Amount	2	0	0	0	0	0	0	0	0	0	1	0	**-2**

	October	November	December	January	February	March	April	May	June	July	August	September	TOTAL
Speed Memos	100	77	61	41	50	76	59	78	65	32	47	77	**763**
Compliance Letters	8	21	16	11	18	16	15	9	6	8	8	7	**143**
Notice of Intent to Revoke	2	0	1	1	0	2	0	0	0	0	0	0	**6**
Orders	0	0	1	1	0	2	2	0	0	0	0	0	**6**

WASTE MANAGEMENT AND RADIATION CONTROL BOARD
Executive Summary
Five Year Review for Rules Utah Administrative Code (UAC) R315-301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, and 320

November 10, 2022

What is the issue before the Board?	The following UAC rules are due for a five-year review. All of these rules are Solid Waste rules. R315-301 Solid Waste Authority, Definitions, and General Requirements. R315-302. Solid Waste Facility Location Standards, General Facility Requirements, and Closure Requirements. R315-303. Landfilling Standards. R315-304. Industrial Solid Waste Landfill Requirements. R315-305. Class IV and VI Landfill Requirements. R315-306. Incinerator Standards. R315-307. Landtreatment Disposal Standards. R315-308. Ground Water Monitoring Requirements. R315-309. Financial Assurance R315-310. Permit Requirements for Solid Waste Facilities. R315-311. Permit Approval for Solid Waste Disposal, Waste Tire Storage, Energy Recovery, and Incinerator Facilities. R315-312. Recycling and Composting Facility Standards. R315-313. Transfer Stations and Drop Box Facilities. R315-314. Facility Standards for Piles Used for Storage and Treatment. R315-315. Special Waste Requirements. R315-316. Infectious Waste Requirements. R315-317. Other Processes, Variances, Violations, and Petition for Rule Change. R315-318. Permit by Rule. R315-320. Waste Tire Transporter and Recycler Requirements. If these rules are to continue, a Notice of Continuation (Five-Year Review) must be filed prior to the anniversary of the last five-year review. The anniversary date for these rules is January 12, 2023.
What is the historical background or context for this issue?	The Utah Administrative Rulemaking Act (Utah Code §63G-3-305) requires state agencies to review each of their administrative rules within five years of the rule's original effective date or the last five-year review. The purpose of the review is to provide agencies with an opportunity to evaluate the rules to assess if the rules should be continued. In performing a five-year review, an agency may consider the need to amend or repeal rules that are archaic in form, are no longer used, are not based on existing statutory authority or are otherwise unnecessary. If an agency determines that a rule needs to be amended or repealed this is done in a separate action.

	To retain a rule as part of the Utah Administrative Code, a "Five-Year Notice of Review and Statement of Continuation" must be filed with the Office of Administrative Rules, before the rule's five-year anniversary date. The form provided by the Office of Administrative Rules requires the following information: 1. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize the rule; 2. A summary of written comments received during and since the last five-year review of the rule from interested persons supporting or opposing the rule; and, 3. A reasoned justification for continuation of the rule, including reasons why the agency disagrees with comments in opposition to the rule, if any. Completing the form provided by the Office of Administrative Rules and filing it before the five-year review date satisfies the provisions of the Administrative Rulemaking Act with respect to a five-year review. The Division plans to submit the completed forms to the Office of Administrative Rules prior to the expiration date in January.
What is the governing statutory or regulatory citation?	Utah Code §63G-3-305 and Utah Code §19-6-105 and §19-6-106.
Is Board action required?	No. The Division is providing this information to keep the Board informed of Five-Year Reviews that have been conducted and are being submitted to the Office of Administrative Rules.
What is the Division Director's recommendation?	N/A
Where can more information be obtained?	Please contact Tom Ball by email at tball@utah.gov or by phone at (801) 536-0251.

WASTE MANAGEMENT AND RADIATION CONTROL BOARD
Executive Summary
Public Comment -- Proposed Rule Changes
UAC R315-15, R315-260, R315-261, R315-262, R315-263, R315-264, R315-265

November 10, 2022

What is the issue before the Board?	Approval from the Board to proceed with formal rulemaking and public comment on proposed changes to UAC R315-15, R315-260, R315-261, R315-262, R315-263, R315-264, and R315-265 of the hazardous waste rules in response to comments from U.S. EPA Region 8.
What is the historical background or context for this issue?	As required by the federal Resource Conservation and Recovery Act the State of Utah, as an authorized state, in order to maintain its status as an authorized state, must submit its rules for the management of hazardous waste to the Environmental Protection Agency (EPA) for their review. The Division is currently working on an authorization package and submitted a draft of the package to EPA for review. The EPA discovered several issues with Utah rules that need to be addressed by formal rulemaking before the official authorization package can be submitted to the EPA for review and approval. Based on comments from the EPA the following amendments are proposed: Correcting errors so that rules are clarified and made consistent with the federal regulations. The addition of several definitions of terms that exist in the rules, but the definitions were mistakenly left out of the rules. Some portions of the rules are being updated to remove references to rules that have not been adopted by Utah and to clarify which rules are incorporated by reference. Addresses to some EPA offices in Washington D.C. are being updated. References to a Utah rule that is non-delegable are being correct to reference the federal regulation. The Rule Analysis Forms with proposed changes for each of the rules listed above follow this Executive Summary.
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, identifying wastes, governing generators and transporters of hazardous wastes and owners and operators of hazardous waste treatment, storage, and disposal facilities.

	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 December 1, 2022, *Utah State Bulletin* the proposed changes to UAC R315-15, R315-260, R315-261, R315-262, R315-263, R315-264, and R315-265 and conducting a public comment period from December 1, 2022 to January 3, 2023.
Where can more information be obtained?	Please contact Tom Ball by email at tball@utah.gov by phone at (801) 536-0251.

State of Utah
Administrative Rule Analysis
Revised June 2022

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New ___; Amendment _X__; Repeal ___; Repeal and Reenact ___		
Title No. - Rule No. - Section No.		
Rule or Section Number:	**R315-15-5**	**Filing ID: Office Use Only**

Agency Information

1. Department:	Environmental Quality	
Agency:	Waste Management and Radiation Control	
Room number:	2nd Floor	
Building:	MASOB	
Street address:	195 N. 1950 W.	
City, state and zip:	Salt Lake City, Utah 84116	
Mailing address:	PO Box 144880	
City, state and zip:	Salt Lake City, Utah 84114-4880	
Contact persons:		
Name:	**Phone:**	**Email:**
Tom Ball	801-536-0251	tball@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:

R315-15-5. Standards for Used Oil Processors and Re-Refiners.

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**

Based on comments received from Region 8, U.S. EPA minor changes have been made to the rules to correct typographical errors and to provide clarity and consistency with the federal regulations.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**

Throughout the rule the terms “processors/re-refiners”, “processing/re-refining” have been amended to “processors or re-refiners” and “processing or re-refining”.
The phrase “At a minimum” has been added at the beginning of the second sentence in Subsection R315-15-5.6(a).
Additionally, the Division is correcting typographical and formatting errors that have been discovered in the rule.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

There is no cost or savings to the state budget because of this amendment because the amendment does not remove any existing requirements or add any new requirements.

B) Local governments:

There is no cost or savings to the budgets of any local government entities because of this amendment because the amendment does not remove any existing requirements or add any new requirements.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

There is no cost or savings to small businesses because of this amendment because the amendment does not remove any existing requirements or add any new requirements.

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

There is no cost or savings to non-small businesses because of this amendment because the amendment does not remove any existing requirements or add any new requirements.

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 is no cost or savings to persons other than small businesses, non-small businesses, state, or local government entities because of this amendment because the amendment does not remove any existing requirements or add any new requirements.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

The cost for affected persons to comply with this rule will not change from what it currently costs affected persons to comply because the amendment does not remove any existing requirements and does not add any new requirements.

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	**FY2023**	**FY2024**	**FY2025**
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	**FY2023**	**FY2024**	**FY2025**
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 head of the Department of Environmental Quality, Kimberly D. Shelley, has reviewed and approved this fiscal 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 19-6-704	Section 19-6-720	

Incorporations by Reference Information

7. Incorporations by Reference (if this rule incorporates more than two items by reference, please include additional tables)**:**

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

Official Title of Materials Incorporated (from title page)	
Publisher	
Issue Date	
Issue or Version	

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

Official Title of Materials Incorporated (from title page)	
Publisher	
Issue Date	
Issue or Version	

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:		01/03/2023
B) A public hearing (optional) will be held:		
On (mm/dd/yyyy)**:**	**At** (hh:mm AM/PM)**:**	**At** (place)**:**

9. This rule change MAY become effective on:	01/17/2023
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

To the agency: Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the *Utah State Bulletin* and delaying the first possible effective date.			
Agency head or designee and title:	Douglas J. Hansen, Division Director	**Date:**	mm/dd/yyyy

R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.
R315-15. Standards for the Management of Used Oil.

R315-15-5. Standards for Used Oil Processors and Re-Refiners.

5.1 APPLICABILITY

(a) The requirements of Section R315-15-5 apply to owners and operators of facilities that process used oil. Processing means chemical or physical operations designed to produce from used oil, or to make used oil more amenable for production of, fuel oils, lubricants, or other used oil-derived products. Processing includes[~~:~~] blending used oil with virgin petroleum products, blending used oils to meet the fuel specification, filtration, simple distillation, chemical or physical separation, and re-refining. The requirements of Section R315-15-5 do not apply to:

(1) transporters that conduct incidental processing operations that occur during the normal course of transportation as provided in Section R315-15-4.2; or

(2) burners that conduct incidental processing operations that occur during the normal course of used oil management before burning as provided in Subsection R315-15-6.2(b).

(b) Other applicable provisions. Used oil processors[~~/~~] or re-refiners who conduct the following activities are also subject to applicable requirements of Rule R315-15 as indicated in Subsections R315-15-5.1(b)(1) through R315-15-5.1(b)(7).

(1) Processors[~~/~~] or re-refiners who generate used oil shall also comply with Section R315-15-2.

(2) Processors[~~/~~] or re-refiners who transport used oil shall also comply with Section R315-15-4.

(3) Processor[~~/~~] or re-refiners who burn off-specification used oil for energy recovery shall also comply with Section R315-15-6 except where:

(i) the used oil is only burned in an on-site space heater that meets the requirements of Section R315-15-2.4; or

(ii) the used oil is only burned for purposes of processing used oil, which is considered burning incidentally to used oil processing.

(4) Processors[~~/~~] or re-refiners who direct shipments of off-specification used oil from their facility to a used oil burner or first claim that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in Section R315-15-1.2 shall also comply with Section R315-15-7.

(5) Processors[~~/~~] or re-refiners who dispose of used oil shall also comply with Section R315-15-8.

(6) Tanks, containers, and piping that contained hazardous waste. Unless tanks, containers, and piping that previously contained hazardous waste are emptied as described in Section R315-261-7 before storing or transferring used oil, the used oil is considered to have been mixed with the hazardous waste and shall be managed as hazardous waste unless, under Subsection R315-15-1.1(b), the hazardous waste and used oil mixture is determined not to be hazardous waste.

(7) Tanks, containers, and piping that previously contained PCB-contaminated material. Unless tanks, containers, and piping that previously contained PCB-contaminated material are decontaminated as described in 40 CFR 761 Subpart S before storing or transferring of used oil, the used oil is considered to have been mixed with the PCB-contaminated material and shall be managed in accordance with Section R315-15-18 and 40 CFR 761 Subpart S, as applicable.

(c) Processors[~~/~~] or re-refiners shall obtain a permit from the director before processing or re-refining used oil. An application for a permit shall contain the information required by Section R315-15-13.5.

5.2 NOTIFICATION

(a) Identification numbers. Used oil processors[~~/~~] or re-refiners who have not previously complied with the notification requirements of RCRA section 3010 shall comply with these requirements and obtain an EPA identification number.

(b) Mechanics of notification. A used oil processor or re-refiner who has not received an EPA identification number may obtain one by notifying the director of their used oil activity by submitting either:

(1) a completed EPA Form 8700-12; or

(2) a letter to the Division requesting an EPA identification number. The letter shall include the following information:

(i) processor or re-refiner company name;

(ii) owner of the processor or re-refiner company;

(iii) mailing address for the processor or re-refiner;

(iv) name and telephone number for the processor or re-refiner point of contact;

(v) type of used oil activity, such as, process only, process and re-refine; and

(vi) location of the processor or re-refiner facility.

5.3 GENERAL FACILITY STANDARDS

(a) Preparedness and prevention. Owners and operators of used oil processing[~~,~~] or re-refining facilities shall comply with the following requirements:

(1) Maintenance and operation of facility. Facilities shall be maintained and operated to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of used oil to air, soil, surface water, or groundwater that could threaten human health or the environment.

(2) Required equipment. Each facility shall be equipped with the following:

(i) an internal communications or alarm system capable of providing immediate emergency instruction, voice, and signal, to facility personnel;

(ii) a device, such as a telephone, immediately available at the scene of operations, or a handheld two-way radio, capable of summoning emergency assistance from local police departments, fire departments, or [~~S~~]state or local emergency response teams;

(iii) portable fire extinguishers, fire control equipment, including special extinguishing equipment, such as that using foam, inert gas, or dry chemicals, spill control equipment, and decontamination equipment; and

(iv) water at adequate volume and pressure to supply water hose streams, or foam producing equipment, or automatic sprinklers, or water spray systems.

(3) Testing and maintenance of equipment. Facility communications or alarm systems, fire protection equipment, spill control equipment, and decontamination equipment, where required, shall be tested and maintained as necessary to assure its proper operation in time of emergency. Records of testing and maintenance shall be kept for three years.

(4) Access to communications or alarm system.

(i) When used oil is being poured, mixed, spread, or otherwise handled, personnel involved in the operation shall have immediate access to an internal alarm or emergency communication device, either directly or through visual or voice contact with another employee, unless such a device is not required in Subsection R315-15-5.3(a)(2).

(ii) If there is ever just one employee on the premises while the facility is operating, the employee shall have immediate access to a device, such as a telephone, immediately available at the scene of operation, or a handheld two-way radio, capable of summoning external emergency assistance, unless such a device is not required in Subsection R315-15-5.3(a)(2).

(5) Required aisle space. The owner or operator shall maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of these purposes.

(6) Arrangements with local authorities.

(i) The owner or operator shall attempt to make the following arrangements, as appropriate for the type of used oil handled at the facility and the potential need for the services of these organizations:

(A) arrangements to familiarize police, fire departments, and emergency response teams with the layout of the facility, properties of used oil handled at the facility and associated hazards, places where facility personnel would normally be working, entrances to roads inside the facility, and possible evacuation routes;

(B) where more than one police and fire department might respond to an emergency, agreements designating primary emergency authority to a specific police and a specific fire department, and agreements with any others to provide support to the primary emergency authority;

(C) agreements with [~~S~~]state emergency response teams, emergency response contractors, and equipment suppliers; and

(D) arrangements to familiarize local hospitals with the properties of used oil handled at the facility and the types of injuries or illnesses that could result from fires, explosions, or releases at the facility.

(ii) Where [~~S~~]state or local authorities decline to enter into these arrangements, the owner or operator shall document the refusal in the facility's operating record.

(b) Contingency plan and emergency procedures. Owners and operators of used oil processing and re-refining facilities shall comply with the following requirements:

(1) Purpose and implementation of contingency plan.

(i) Each owner or operator shall have a contingency plan for the facility. The contingency plan shall be designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of used oil to air, soil, groundwater, or surface water.

(ii) The provisions of the plan shall be carried out immediately when there is a fire, explosion, or release of used oil that could threaten human health or the environment.

(2) Content of contingency plan.

(i) The contingency plan shall describe the actions facility personnel shall take to comply with Subsections R315-15-5.3(b)(1) and R315-15-5.3(b)(6) in response to fires, explosions, or any unplanned sudden or non-sudden release of used oil to air, soil, groundwater, or surface water at the facility.

(ii) If the owner or operator has already prepared a Spill Prevention, Control, and Countermeasures (SPCC) Plan in accordance with 40 CFR 112 or [~~some~~]another emergency or contingency plan, the owner or operator need only amend that plan to incorporate used oil management provisions necessary to comply with the requirements of Rule R315-15.

(iii) The plan shall describe arrangements agreed to by local police departments, fire departments, hospitals, contractors, and [~~S~~]state and local emergency response teams to coordinate emergency services, in accordance with Subsection R315-15-5.3(a)(6).

(iv) The plan shall list names, addresses, and phone numbers, of each person qualified to act as 24-hour emergency coordinator. This list shall be kept up to date. Where more than one person is listed, one shall be named as primary emergency coordinator and others shall be listed in the order in which they will assume responsibility as alternates. See also Subsection R315-15-5.3(b)(5).

(v) The plan shall include a list of each piece of emergency equipment at the facility, such as fire extinguishing systems, spill control equipment, communications and alarm systems, internal and external, and decontamination equipment, where this equipment is required. This list shall be kept up to date. In addition, the plan shall include the location and a physical description of each item on the list, and a brief outline of its capabilities.

(vi) The plan shall include an evacuation plan for facility personnel where there is a possibility that evacuation could be necessary. This plan shall describe signals to be used to begin evacuation, evacuation routes, and alternate evacuation routes, in cases where the primary routes could be blocked by releases of used oil or fires.

(3) Copies of contingency plan. A copy of the contingency plan and [~~all~~]any revisions to the plan shall be:

(i) maintained at the facility; and

(ii) submitted to any local police departments, fire departments, hospitals, and [~~S~~]state and local emergency response teams that may be called upon to provide emergency services.

(4) Amendment of contingency plan. The contingency plan shall be reviewed, and immediately amended, if necessary, when:

(i) applicable rules are revised;

(ii) the plan fails in an emergency;

(iii) the facility changes its design, construction, operation, maintenance, or other circumstances in a way that materially increases the potential for fires, explosions, or releases of used oil, or changes the response necessary in an emergency;

(iv) the list of emergency coordinators changes; or

(v) the list of emergency equipment changes.

(5) Emergency coordinator. At any time, there shall be at least one employee either on the facility premises or on call, meaning available to respond to an emergency by reaching the facility within a short period, with the responsibility for coordinating emergency response measures. This emergency coordinator shall be thoroughly familiar with each aspect of the facility's contingency plan, each operation and activity at the facility, the location and characteristic of used oil handled, the location of any records within the facility, and facility layout. In addition, this person shall have the authority to commit the resources needed to carry out the contingency plan.

(6) Emergency procedures.

(i) When there is an imminent or actual emergency situation, the emergency coordinator, or the designee when the emergency coordinator is on call, shall immediately:

(A) activate internal facility alarms or communication systems, where applicable, to notify facility personnel; and

(B) notify appropriate [~~S~~]state or local agencies with designated response roles if their help is needed.

(ii) When there is a release, fire, or explosion, the emergency coordinator shall immediately identify the character, exact source, amount, and areal extent of any released materials. The emergency coordinator may do this by observation or review of facility records or manifests and, if necessary, by chemical analyses.

(iii) Concurrently, the emergency coordinator shall assess possible hazards to human health and to the environment that may result from the release, fire, or explosion. This assessment shall consider both direct and indirect effects of the release, fire, or explosion, such as, the effects of any toxic, irritating, or asphyxiating gases that are generated, or the effects of any hazardous surface water run-offs from water or chemical agents used to control fire and heat-induced explosions.

(iv) If the emergency coordinator determines that the facility has had a release, fire, or explosion that could threaten human health, or the environment, outside the facility, the coordinator shall report the findings as follows:

(A) if the emergency coordinator assessment indicates that evacuation of local areas may be advisable, the emergency coordinator shall immediately notify appropriate local authorities. The coordinator shall be available to help appropriate officials decide whether local areas should be evacuated; and

(B) the emergency coordinator shall implement the actions as required in Section R315-15-9.

(v) During an emergency, the emergency coordinator shall take any reasonable measures necessary to ensure that fires, explosions, and releases do not occur, recur, or spread to other used oil or hazardous waste at the facility. These measures shall include, where applicable, stopping processes and operation, collecting and containing released used oil, and removing or isolating containers.

(vi) If the facility stops operation in response to a fire, explosion, or release, the emergency coordinator shall monitor for leaks, pressure buildup, gas generation, or ruptures in valves, pipes, or other equipment, wherever this is appropriate.

(vii) Immediately after an emergency, the emergency coordinator shall provide for recycling, storing, or disposing of recovered used oil, contaminated soil or surface water, or any other material that results from a release, fire, or explosion at the facility.

(viii) The emergency coordinator shall ensure that, in the affected areas of the facility:

(A) No waste or used oil that may be incompatible with the released material is recycled, treated, stored, or disposed of until cleanup procedures are completed.

(B) Emergency equipment listed in the contingency plan is cleaned and fit for its intended use before operations are resumed.

(C) The owner or operator shall notify the director, and appropriate local authorities that the facility is in compliance with Subsections R315-15-5.3(b)(6)(viii)(A) and (B) before operations are resumed in the affected areas of the facility.

(ix) The owner or operator shall note in the operating record the time, date, and details of any incident that requires implementing the contingency plan. Within 15 days after the incident, the owner or operator shall submit a written report on the incident to the director. The report shall include:

(A) name, address, and telephone number of the owner or operator;

(B) name, address, and telephone number of the facility;

(C) date, time, and type of incident, such as, fire, explosion;

(D) name and quantity of materials involved;

(E) the extent of injuries, if any;

(F) an assessment of actual or potential hazards to human health or the environment, where this applies; and

(G) estimated quantity and disposition of recovered material that resulted from the incident.

5.4 REBUTTABLE PRESUMPTION FOR USED OIL

(a) To ensure that used oil managed at a processing[~~/~~] or re-refining facility is not hazardous waste under the rebuttable presumption of Subsection R315-15-1.1(b)(1)(ii), the owner or operator of a used oil processing[~~/~~] or re-refining facility shall determine whether the total halogen content of used oil managed at the facility is above or below 1,000 ppm.

(b) The owner or operator shall make this determination by:

(1) testing the used oil; or

(2) applying and documenting generator knowledge of the halogen content of the used oil in light of the materials and processes used.

(c) If the used oil contains greater than or equal to 1,000 ppm total halogens, it is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in Sections R315-261-30 through R315-261-33 and R315-261-35. The owner or operator may rebut the presumption by demonstrating that the used oil does not contain hazardous waste, for example, by using an analytical method from EPA SW-846, Edition III, Update IV to show that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in Rule R315-261 Appendix VIII.

(1) The rebuttable presumption does not apply to metalworking oils or fluids containing chlorinated paraffins, if they are processed, through a tolling agreement, to reclaim metalworking oils or fluids. The presumption does apply to metalworking oils or fluids if these oils or fluids are recycled in any other manner, or disposed.

(2) The rebuttable presumption does not apply to used oils contaminated with chlorofluorocarbons (CFCs) removed from refrigeration units where the CFCs are destined for reclamation. The rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units.

5.5 USED OIL MANAGEMENT

Used oil processor[~~/~~] or re-refiners are subject to any applicable Spill Prevention, Control and Countermeasures, found in 40 CFR 112, in addition to the requirements of Section R315-15-5. Used oil processors[~~/~~] or re-refiners are also subject to the standards and requirements found in Rules R311-200 through R311-209, Underground Storage Tanks, for used oil stored in underground tanks whether or not the used oil exhibits any characteristics of hazardous waste, in addition to the requirements of Section R315-15-5.

(a) Management units. Used oil processors[~~/~~] or re-refiners may not store used oil in units other than tanks, containers, or units subject to Rule R315-264 or Rule R315-265.

(b) Condition of units. Containers and aboveground tanks including their associated pipes and valves used to store or process used oil at processing and re-refining facilities shall be:

(1) in good condition, with no severe rusting, apparent structural defects, or deterioration;

(2) not leaking; and

(3) closed during storage except when used oil is being added or removed.

(c) Secondary containment. Containers and aboveground tanks used to store or process used oil at processing and re-refining facilities including their pipe connections and valves shall be equipped with a secondary containment system.

(1) The secondary containment system shall consist of:

(i) dikes, berms, or retaining walls; and

(ii) a floor. The floor shall cover the entire area within the dike, berm, or retaining wall, except areas where existing portions of aboveground tanks meet the ground; or

(iii) an equivalent secondary containment system approved by the director.

(2) The entire containment system, including walls and floors, shall be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.

(3) The secondary containment system shall be of sufficient size and volume to prevent any used oil released from tanks and containers described in Subsection R315-15-5.5(a), from migrating out of the system to the soil, groundwater, or surface water.

(4) Water, used oil, or other liquids shall be removed from secondary containment within 24 hours of their discovery.

(5) Used oil shall not be stored or allowed to accumulate in sumps and similar water containment structures at the facility. Any used oil in sumps shall be removed within 24 hours of its discovery.

(d) Labels.

(1) Containers and aboveground tanks used to store or process used oil at processing and re-refining facilities shall be labeled or marked clearly with the words "Used Oil."

(2) Fill pipes used to transfer used oil into underground storage tanks at processing and re-refining facilities shall be labeled or marked clearly with the words "Used Oil."

(e) Response to releases. Upon detection of a release of used oil to the environment not subject to the requirements of Section R311-202-1, which incorporates by reference 40 CFR 280, Subpart F, an owner or operator shall comply with Section R315-15-9.

(f) Closure.

(1) Aboveground tanks. Owners and operators who store or process used oil in aboveground tanks shall comply with the following requirements:

(i) At closure of a tank system, the owner or operator shall remove or decontaminate used oil residues in tanks, contaminated containment system components, contaminated soils, and structures and equipment contaminated with used oil, and manage them as hazardous waste, unless the materials are not hazardous waste under Rules R315-260 through R315-266, R315-268, R315-270, and R315-273. Nonhazardous solid waste shall be managed in accordance with Section R315-301-4.

(ii) If the owner or operator demonstrates that contaminated soils cannot be practicably removed or decontaminated as required in Subsection R315-15-5.5(f)(1)(i), then the owner or operator shall close the tank system and perform post-closure care in accordance with the closure and post-closure care requirements that apply to hazardous waste landfills, 40 CFR 265.310 which is adopted by reference.

(2) Containers. Owners and operators who store used oil in containers shall comply with the following requirements:

(i) at closure, containers holding used oils or residues of used oil shall be removed from the site; and

(ii) the owner or operator shall remove or decontaminate used oil residues, contaminated containment system components, contaminated soils, and structures and equipment contaminated with used oil, and manage them as hazardous waste, unless the materials are not hazardous waste under Rule R315-261.

5.6 ANALYSIS PLAN

Owners or operators of used oil processing[~~/~~] or re-refining facilities shall develop and follow a written used oil analysis plan describing the procedures that will be used to comply with the analysis requirements of Sections R315-15-5.4, R315-15-18, and, if applicable, the marketer requirements in Section R315-15-7.3. The owner or operator shall keep the plan at the facility.

(a) Rebuttable presumption for used oil in Section R315-15-5.4. At a minimum t[~~T~~]he plan shall specify the following:

(1) Whether sample analyses documented generator knowledge of the halogen content of the used oil, or both, will be used to make this determination.

(2) If sample analyses are used to make this determination, the plan shall specify:

(i) the sampling method used to obtain representative samples to be analyzed. A representative sample may be obtained using either:
(A) one of the sampling methods in Rule R315-261 Appendix I; or
(B) a method shown to be equivalent under Section R315-260-21;
(ii) the frequency of sampling to be performed, and whether the analysis will be performed on-site or off-site; and
(iii) the methods used to analyze used oil for the parameters specified in Section R315-15-5.4; and
(3) the type of information that will be used to determine the halogen content of the used oil.
(b) On-specification used oil fuel in Section R315-15-7.3. At a minimum, the plan shall specify the following if Section R315-15-7.3 applies:
(1) whether sample analyses or other information will be used to make this determination;
(2) if sample analyses are used to make this determination:
(i) the sampling method used to obtain representative samples to be analyzed. A representative sample may be obtained using either:
(A) one of the sampling methods in Rule R315-261, Appendix I; or
(B) a method shown to be equivalent under Section R315-260-21;
(ii) whether used oil will be sampled and analyzed before or after any processing[~~/~~] or re-refining;
(iii) the frequency of sampling to be performed, and whether the analysis will be performed on-site or off-site; and
(iv) the methods used to analyze used oil for the parameters specified in Section R315-15-7.3.
(3) The type of information that will be used to make the on-specification used oil fuel determination.

5.7 TRACKING

(a) Acceptance. Used oil processors[~~/~~] or re-refiners shall keep a written record of each used oil shipment accepted for processing[~~/~~] or re-refining. These records shall take the form of a log, invoice, manifest, bill of lading, or other shipping documents. Records for each shipment shall include the following information:
(1) the name and address of the transporter who delivered the used oil to the processor[~~/~~] or re-refiner;
(2) the name and address of the generator or processor[~~/~~] or re-refiner from whom the used oil was sent for processing[~~/~~] or re-refining;
(3) the EPA identification number of the transporter who delivered the used oil to the processor[~~/~~] or re-refiner;
(4) the EPA identification number, if applicable, of the generator or processor[~~/~~] or re-refiner from whom the used oil was sent for processing[~~/~~] or re-refining;
(5) the quantity of used oil accepted;
(6) the date of acceptance; and
(7) written documentation that the processor[~~/~~] or re-refiner has met the rebuttable presumption requirements of Section R315-15-5.4 and the PCB testing requirements of Section R315-15-18.

(b) Delivery. Used oil processor[~~/~~] or re-refiners shall keep a written record of each shipment of used oil that is shipped to a used oil burner, processor[~~/~~] or re-refiner, or disposal facility. These records may take the form of a log, invoice, manifest, bill of lading, or other shipping documents. Records for each shipment shall include the following information:
(1) the name and address of the transporter who delivers the used oil to the burner, processor[~~/~~] or re-refiner, or disposal facility;
(2) the name and address of the burner, processor[~~/~~] or re-refiner, or disposal facility that will receive the used oil;
(3) the EPA identification number of the transporter who delivers the used oil to the burner, processor[~~/~~] or re-refiner, or disposal facility;
(4) the EPA identification number of the burner, processor[~~/~~] or re-refiner, or disposal facility that will receive the used oil;
(5) the quantity of used oil shipped; and
(6) the date of shipment.

(c) Record retention. The records described in Subsections R315-15-5.7(a) and (b) shall be maintained for at least three years at the permitted facility or other location approved by the director.

5.8 OPERATING RECORD AND REPORTING

(a) Operating record.
(1) The owner or operator of the processor[~~/~~] or re-refiner facility shall keep a written operating record at the facility.
(2) The following information shall be recorded, as it becomes available, and maintained in the operating record until closure of the facility:
(i) records and results of used oil analyses performed as described in the analysis plan required under Section R315-15-5.6;
(ii) summary reports and details of any incidents that require implementation of the contingency plan as specified in Subsection R315-15-5.3(b); and
(iii) records detailing the mass balance of wastewater entering and leaving the facility. This includes wastewater discharge records. This does not include water used in non-contact cooling processes.

(b) Reporting. A used oil processor[~~/~~] or re-refiner shall report annually March 1 to the director. The report shall be consistent with the requirements of Subsection R315-15-13.5(d).

5.9 OFF-SITE SHIPMENTS OF USED OIL

Used oil processors[~~/~~] or re-refiners who initiate shipments of used oil off-site shall ship the used oil using a used oil transporter who has obtained an EPA identification number, a permit, and current used oil handler certificate issued by the director.

5.10 ACCEPTANCE OF OFF-SITE USED OIL

Processors accepting used oil from off-site shall ensure that transporters delivering used oil to their facility have obtained a current used oil transporter permit and an EPA identification number.

5.11 MANAGEMENT OF RESIDUES

Owners and operators who generate residues from the storage, processing, or re-refining of used oil shall manage the residues as specified in Subsection R315-15-1.1(e).

KEY: grants, registration, recycling, used oil
Date of Last Change: May 27, 2022
Notice of Continuation: January 14, 2021
Authorizing, and Implemented or Interpreted Law: 19-6-704; 19-6-720

State of Utah
Administrative Rule Analysis
Revised June 2022

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New ___; Amendment _X__; Repeal ___; Repeal and Reenact ___		
Title No. - Rule No. - Section No.		
Rule or Section Number:	**R315-260-10**	**Filing ID: Office Use Only**

Agency Information

1. Department:	Environmental Quality	
Agency:	Waste Management and Radiation Control	
Room number:	2nd Floor	
Building:	MASOB	
Street address:	195 N. 1950 W.	
City, state and zip:	Salt Lake City, Utah 84116	
Mailing address:	PO Box 144880	
City, state and zip:	Salt Lake City, Utah 84114-4880	
Contact persons:		
Name:	**Phone:**	**Email:**
Tom Ball	801-536-0251	tball@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:

R315-260-10. Definitions.

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**

Based on comments received from Region 8, U.S. EPA several definitions are being added to the rule that were missing resulting in rules that were not consistent and less clear than the federal regulations. Adding these definitions will provide clarity and consistency with the federal regulations.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**

The following definitions are begin added to the rule: CRT exporter, Explosives or munitions emergency, Explosives or munitions emergency response, Explosives or munitions emergency response specialist, Military munitions.
A reference to Appendix V to Rule R315-264 and Rule R315-265 is being added to the definition of Incompatible waste.
The definition of Used oil is being updated to include the list of that is found in the definition found in Subsection R315-15-1.7(d).
Additionally, the Division is correcting typographical and formatting errors that have been discovered in the rule.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

There is no cost or savings to the state budget because of this amendment because the amendment does not remove any existing requirements or add any new requirements.

B) Local governments:

There is no cost or savings to the budgets of any local government entities because of this amendment because the amendment does not remove any existing requirements or add any new requirements.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

There is no cost or savings to small businesses because of this amendment because the amendment does not remove any existing requirements or add any new requirements.

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

There is no cost or savings to non-small businesses because of this amendment because the amendment does not remove any existing requirements or add any new requirements.

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 is no cost or savings to persons other than small businesses, non-small businesses, state, or local government entities because of this amendment because the amendment does not remove any existing requirements or add any new requirements.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

The cost for affected persons to comply with this rule will not change from what it currently costs affected persons to comply because the amendment does not remove any existing requirements and does not add any new requirements.

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	**FY2023**	**FY2024**	**FY2025**
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	**FY2023**	**FY2024**	**FY2025**
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 head of the Department of Environmental Quality, Kimberly D. Shelley, has reviewed and approved this fiscal 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 19-1-301	Section 19-6-105	Section 19-6-106

Incorporations by Reference Information

7. Incorporations by Reference (if this rule incorporates more than two items by reference, please include additional tables)**:**

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

Official Title of Materials Incorporated (from title page)	
Publisher	
Issue Date	
Issue or Version	

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

Official Title of Materials Incorporated (from title page)	
Publisher	

Issue Date	
Issue or Version	

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:		01/03/2023
B) A public hearing (optional) will be held:		
On (mm/dd/yyyy)**:**	**At** (hh:mm AM/PM)**:**	**At** (place)**:**

9. This rule change MAY become effective on:	01/17/2023
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

To the agency: Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the *Utah State Bulletin* and delaying the first possible effective date.			
Agency head or designee and title:	Douglas J. Hansen, Division Director	**Date:**	mm/dd/yyyy

R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.
R315-260. Hazardous Waste Management System.

R315-260-10. Definitions.

(a) Terms used in Rules R315-15, R315-260 through R315-266, R315-268, R315-270, R315-273, and Rule R315-101 are defined in Sections 19-1-103 and 19-6-102.

(b) Terms used in Rule R315-15 are also defined in Sections 19-6-703 and 19-6-706.

(c) Additional terms used in Rules R315-260 through R315-266, R315-268, R315-270, R315-273, and Rule R315-101 are defined as follows:

(1) "Above ground tank" means a device meeting the definition of "tank" in Section R315-260-10 and that is situated in a way that the entire surface area of the tank is completely above the plane of the adjacent surrounding surface and the entire surface area of the tank, including the tank bottom, is able to be visually inspected.

(2) "Acute hazardous waste" means hazardous wastes that meet the listing criteria in Subsection R315-261-11(a)(2) and therefore are either listed in Section R315-261-31 with the assigned hazard code of (H) or are listed in Subsection R315-261-33(e).

(3) "Active life" of a facility means the period from the initial receipt of hazardous waste at the facility until the Director receives certification of final closure.

(4) "Active portion" means that portion of a facility where treatment, storage, or disposal operations are being or have been conducted after November 19, 1980 and which is not a closed portion. See also "closed portion" and "inactive portion."

(5) "Aerosol can" means a non-refillable receptacle containing a gas compressed, liquefied or dissolved under pressure, the sole purpose of which is to expel a liquid, paste, or powder and fitted with a self-closing release device allowing the contents to be ejected by the gas.

(6) "AES filing compliance date" means the date that EPA announces in the Federal Register, on or after which exporters of hazardous waste and exporters of cathode ray tubes for recycling are required to file EPA information in the Automated Export System or its successor system, under the International Trade Data System (ITDS) platform.

(7) "Airbag waste" means any hazardous waste airbag modules or hazardous waste airbag inflators.

(8) "Airbag waste collection facility" means any facility that receives airbag waste from airbag handlers subject to regulation under Subsection R315-261-4(j), and accumulates the waste for more than ten days.

(9) "Airbag waste handler" means any person, by site, who generates airbag waste that is subject to regulation under Rules R315-260 through R315-266, R315-268, R315-270, and R315-273.

(10) "Approved hazardous waste management facility" or "approved facility" means a hazardous waste treatment, storage, or disposal facility which has received an EPA permit in accordance with federal requirements, has been approved under Section 19-6-108 and Rule R315-270, or has been permitted or approved under any other EPA authorized hazardous waste state program.

(11) "Ancillary equipment" means any device including [~~such~~]devices such as piping, fittings, flanges, valves, and pumps, that is used to distribute, meter, or control the flow of hazardous waste from its point of generation to storage or treatment tanks, between hazardous waste storage and treatment tanks to a point of disposal on-site, or to a point of shipment for disposal off-site.

(12) "Aquifer" means a geologic formation, group of formations, or part of a formation capable of yielding a significant amount of ground water to wells or springs.

(13) "Authorized representative" means the person responsible for the overall operation of a facility or an operational unit that is part of a facility, for example, the plant manager, superintendent or person of equivalent responsibility.

(14) "Battery" means a device consisting of one or more electrically connected electrochemical cells which is designed to receive, store, and deliver electric energy. An electrochemical cell is a system consisting of an anode, cathode, and an electrolyte, plus [~~such~~]any connections, electrical and mechanical, as may be needed to allow the cell to deliver or receive electrical energy. The term battery also includes an intact, unbroken battery from which the electrolyte has been removed.

(15) "Boiler" means an enclosed device using controlled flame combustion and having the following characteristics:

(i)(A) The unit shall have physical provisions for recovering and exporting thermal energy in the form of steam, heated fluids, or heated gases; and

(B) The unit's combustion chamber and primary energy recovery sections shall be of integral design. To be of integral design, the combustion chamber and the primary energy recovery sections, such as waterwalls and superheaters, shall be physically formed into one manufactured or assembled unit. A unit in which the combustion chamber and the primary energy recovery sections are joined only by ducts or connections carrying flue gas is not integrally designed; however, secondary energy recovery equipment, such as economizers or air preheaters, need not be physically formed into the same unit as the combustion chamber and the primary energy recovery section. The following units are not precluded from being boilers solely because they are not of integral design: process heaters, units that transfer energy directly to a process stream, and fluidized bed combustion units; and

(C) While in operation, the unit shall maintain a thermal energy recovery efficiency of at least 60 %, calculated in terms of the recovered energy compared with the thermal value of the fuel; and

(D) The unit shall export and utilize at least 75 % of the recovered energy, calculated on an annual basis. In this calculation, no credit shall be given for recovered heat used internally in the unit. Examples of internal use are the preheating of fuel or combustion air, and the driving of induced or forced draft fans or feedwater pumps; or

(ii) The unit is one which the Board has determined, on a case-by-case basis, to be a boiler, after considering the standards in Section R315-260-32.

(16) "Carbon dioxide stream" means carbon dioxide that has been captured from an emission source, for example a power plant, plus incidental associated substances derived from the source materials and the capture process, and any substances added to the stream to enable or improve the injection process.

(17) "Carbon regeneration unit" means any enclosed thermal treatment device used to regenerate spent activated carbon.

(18) "Cathode ray tube" or "CRT" means a vacuum tube, composed primarily of glass, which is the visual or video display component of an electronic device. A used, intact CRT means a CRT whose vacuum has not been released. A used, broken CRT means glass removed from its housing or casing whose vacuum has been released.

(19) "Central accumulation area" means any on-site hazardous waste accumulation area with hazardous waste accumulating in units subject to either Section R315-262-16, for small quantity generators, or Section R315-262-17, for large quantity generators. A central accumulation area at an eligible academic entity that chooses to operate under Sections R315-262-200 through R315-262-216 is also subject to Section R315-262-211 if accumulating unwanted material or hazardous waste, or both.

(20) "Certification" means a statement of professional opinion based upon knowledge and belief.

(21) "Closed portion" means that portion of a facility which an owner or operator has closed in accordance with the approved facility closure plan and any applicable closure requirements. See also "active portion" and "inactive portion".

(22) "Component" means either the tank or ancillary equipment of a tank system.

(23) "Confined aquifer" means an aquifer bounded above and below by impermeable beds or by beds of distinctly lower permeability than that of the aquifer itself; an aquifer containing confined ground water.

(24) "Contained" means held in a unit, including a land-based unit as defined in Section R315-260-10, that meets the following criteria:

(i) [~~T~~]the unit is in good condition, with no leaks or other continuing or intermittent unpermitted releases of the hazardous secondary materials to the environment, and is designed, as appropriate for the hazardous secondary materials, to prevent releases of hazardous secondary materials to the environment. Unpermitted releases are releases that are not covered by a permit, such as a permit to discharge to water or air, and may include; releases through surface transport by precipitation run-off, releases to soil and ground water, wind-blown dust, fugitive air emissions, and catastrophic unit failures;

(ii) [~~T~~]the unit is properly labeled or otherwise has a system, such as a log, to immediately identify the hazardous secondary materials in the unit; and

(iii) [~~T~~]the unit holds hazardous secondary materials that are compatible with other hazardous secondary materials placed in the unit and is compatible with the materials used to construct the unit and addresses any potential risks of fires or explosions.

(iv) Hazardous secondary materials in units that meet the applicable requirements of Rules R315-264 or R315-265 are presumptively contained.

(25) "Container" means any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.

(26) "Containment building" means a hazardous waste management unit that is used to store or treat hazardous waste under Sections R315-264-1100 through R315-264-1102 or Sections R315-265-1100 through R315-265-1102.

(27) "Contingency plan" means a document setting out an organized, planned, and coordinated course of action to be followed in case of a fire, explosion, or release of hazardous waste or hazardous waste constituents which could threaten human health or the environment.

(28) "Corrosion expert" means a person who, by reason of their knowledge of the physical sciences and the principles of engineering and mathematics, acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal tanks. Such a person shall be certified as being qualified by the National Association of Corrosion Engineers (NACE) or be a registered professional engineer who has certification or licensing that includes education and experience in corrosion control on buried or submerged metal piping systems and metal tanks.

(29) "CRT collector" means a person who receives used, intact CRTs for recycling, repair, resale, or donation.

(30) "CRT exporter" means any person in the United States who initiates a transaction to send used CRTs outside the United States or its territories for recycling or reuse, or any intermediary in the United States arranging for export.

([~~30~~]31) "CRT glass manufacturer" means an operation or part of an operation that uses a furnace to manufacture CRT glass.

([~~31~~]32) "CRT processing" means conducting each of the following activities:

(i) receiving broken or intact CRTs; and

(ii) intentionally breaking intact CRTs or further breaking or separating broken CRTs; and

(iii) sorting or otherwise managing glass removed from CRT monitors.

(32) "Designated facility" means:

(i) A hazardous waste treatment, storage, or disposal facility which:

(A) [~~H~~]has received a permit, or interim status, in accordance with the requirements of Rules R315-270 and R315-124;

(B) [~~H~~]has received a permit, or interim status, from a [~~S~~]state authorized in accordance with 40 CFR 271; or

(C) [~~I~~]is regulated under Subsection R315-261-6(c)(2) or Section R315-266-70; and

(D) [~~T~~]that has been designated on the manifest by the generator pursuant to Section R315-262-20.

(ii) "Designated facility" also means a generator site designated on the manifest to receive its waste as a return shipment from a facility that has rejected the waste in accordance with Subsections R315-264-72(f) or R315-265-72(f).

(iii) If a waste is destined to a facility in an authorized state which has not yet obtained authorization to regulate that particular waste as hazardous, then the designated facility shall be a facility allowed by the receiving state to accept [~~such~~]the waste.

([~~33~~]34) "Destination facility" means a facility that treats, disposes of, or recycles a particular category of universal waste, except those management activities described in Subsections R315-273-13(a) and (c) and Section R315-273-33. A facility at which a particular category of universal waste is only accumulated, is not a destination facility for purposes of managing that category of universal waste.

([~~34~~]35) "Dike" means an embankment or ridge of either natural or man-made materials used to prevent the movement of liquids, sludges, solids, or other materials.

([~~35~~]36) "Dioxins and furans (D/F)" means tetra, penta, hexa, hepta, and octa-chlorinated dibenzo dioxins and furans.

([~~36~~]37) "Discharge" or "hazardous waste discharge" means the accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying, or dumping of hazardous waste into or on any land or water.

([~~37~~]38) "Disposal facility" means a facility or part of a facility at which hazardous waste is intentionally placed into or on any land or water, and at which waste will remain after closure. The term disposal facility does not include a corrective action management unit into which remediation wastes are placed.

([~~38~~]39) "Division" means the Division of Waste Management and Radiation Control.

([~~39~~]40) "Drip pad" is an engineered structure consisting of a curbed, free-draining base, constructed of non-earthen materials and designed to convey preservative kick-back or drippage from treated wood, precipitation, and surface water run-on to an associated collection system at wood preserving plants.

([~~40~~]41) "Electronic import-export reporting compliance date" means the date that EPA announces in the Federal Register, on or after which exporters, importers, and receiving facilities are required to submit certain export and import related documents to EPA using EPA's Waste Import Export Tracking System, or its successor system.

([~~41~~]42) "Elementary neutralization unit" means a device which:

(i) is used for neutralizing wastes that are hazardous only because they exhibit the corrosivity characteristic defined in Section R315-261-22, or they are listed in Sections R315-261-30 through R315-261-35 only for this reason; and

(ii) meets the definition of tank, tank system, container, transport vehicle, or vessel in Section R315-260-10.

([~~42~~]43) "Electronic manifest, or e-Manifest" means the electronic format of the hazardous waste manifest that is obtained from EPA's national e-Manifest system and transmitted electronically to the system, and that is the legal equivalent of EPA Forms 8700-22, Manifest, and 8700-22A, Continuation Sheet.

([~~43~~]44) "Electronic Manifest System, or e-Manifest System" means EPA's national information technology system through which the electronic manifest may be obtained, completed, transmitted, and distributed to users of the electronic manifest and to regulatory agencies.

([~~44~~]45) "EPA hazardous waste number" means the number assigned by EPA to each hazardous waste listed in Sections R315-261-30 through R315-261-35 and to each characteristic identified in Sections R315-261-20 through R315-261-24.

([~~45~~]46) "EPA identification number" means the number assigned by EPA to each generator, transporter, and treatment, storage, or disposal facility.

([~~46~~]47) "EPA region" means the states and territories found in any one of the following ten regions:

(i) Region I-Maine, Vermont, New Hampshire, Massachusetts, Connecticut, and Rhode Island.

(ii) Region II-New York, New Jersey, Commonwealth of Puerto Rico, and the U.S. Virgin Islands.

(iii) Region III-Pennsylvania, Delaware, Maryland, West Virginia, Virginia, and the District of Columbia.

(iv) Region IV-Kentucky, Tennessee, North Carolina, Mississippi, Alabama, Georgia, South Carolina, and Florida.

(v) Region V-Minnesota, Wisconsin, Illinois, Michigan, Indiana and Ohio.

(vi) Region VI-New Mexico, Oklahoma, Arkansas, Louisiana, and Texas.

(vii) Region VII-Nebraska, Kansas, Missouri, and Iowa.

(viii) Region VIII-Montana, Wyoming, North Dakota, South Dakota, Utah, and Colorado.

(ix) Region IX-California, Nevada, Arizona, Hawaii, Guam, American Samoa, Commonwealth of the Northern Mariana Islands.

(x) Region X-Washington, Oregon, Idaho, and Alaska.

([~~47~~]48) "Equivalent method" means any testing or analytical method approved by the Director under Sections R315-260-20 and R315-260-21.

([~~48~~]49) "Existing hazardous waste management (HWM) facility" or "existing facility" means a facility which was in operation or for which construction commenced on or before November 19, 1980. A facility has commenced construction if:

(i) the owner or operator has obtained the [~~F~~]~~f~~ederal, [~~S~~]state and local approvals or permits necessary to begin physical construction; and either

(ii)(A) a continuous on-site, physical construction program has begun; or

(B) the owner or operator has entered into contractual obligations-which cannot be cancelled or modified without substantial loss-for physical construction of the facility to be completed within a reasonable time.

([~~49~~]50) "Existing portion" means that land surface area of an existing waste management unit, included in the original Part A permit application, on which wastes have been placed prior to the issuance of a permit.

([~~50~~]51) "Existing tank system" or "existing component" means a tank system or component that is used for the storage or treatment of hazardous waste and that is in operation, or for which installation has commenced on or prior to July 14, 1986, or December 16, 1988 for purposes of implementing the non-HSWA requirements of the tank regulations as promulgated by EPA on July 14, 1986, 51 FR 25470, as they have been incorporated into the corresponding rules of Title R315. A non-HSWA existing tank system or non-HSWA tank component is one which does not implement any of the requirements of the federal Hazardous and Solid Waste Amendments of 1984 (HSWA) as identified in Table 1 of 40 CFR 271.1. Installation shall be considered to have commenced if the owner or operator has obtained any [~~F~~]federal, [~~S~~]state, and local approvals or permits necessary to begin physical construction of the site or installation of the tank system and if either:

(i) a continuous on-site physical construction or installation program has begun; or

(ii) the owner or operator has entered into contractual obligations, which cannot be cancelled or modified without substantial loss, for physical construction of the site or installation of the tank system to be completed within a reasonable time.

(52) "Explosives or munitions emergency" means a situation involving the suspected or detected presence of unexploded ordnance (UXO), damaged or deteriorated explosives or munitions, an improvised explosive device (IED), other potentially explosive material or device, or other potentially harmful military chemical munitions or device, that creates an actual or potential imminent threat to human health, including safety, or the environment,

including property, as determined by an explosives or munitions emergency response specialist. These situations may require immediate and expeditious action by an explosives or munitions emergency response specialist to control, mitigate, or eliminate the threat.

(53) "Explosives or munitions emergency response" means any immediate response activities by an explosives and munitions emergency response specialist to control, mitigate, or eliminate the actual or potential threat encountered during an explosives or munitions emergency. An explosives or munitions emergency response may include in-place render-safe procedures; treatment or destruction of the explosives or munitions or transporting those items to another location to be rendered safe, or both; treated, or destroyed. Any reasonable delay in the completion of an explosives or munitions emergency response caused by a necessary, unforeseen, or uncontrollable circumstance will not terminate the explosives or munitions emergency. Explosives and munitions emergency responses can occur on either public or private lands and are not limited to responses at RCRA facilities.

(54) "Explosives or munitions emergency response specialist" means an individual trained in chemical or conventional munitions or explosives handling, transportation, render-safe procedures, or destruction techniques. Explosives or munitions emergency response specialists include Department of Defense (DOD) emergency explosive ordnance disposal (EOD), technical escort unit (TEU), and DOD-certified civilian or contractor personnel; and other federal, state, or local government, or civilian personnel similarly trained in explosives or munitions emergency responses.

([~~51~~]55) "Facility" means:

(i) Any contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste, or for managing hazardous secondary materials prior to reclamation. A facility may consist of several treatment, storage, or disposal operational units, for example, one or more landfills, surface impoundments, or combinations of them.

(ii) For implementing corrective action under Section R315-264-101, any contiguous property under the control of the owner or operator seeking a permit under Section 19-6-108. This definition also applies to facilities implementing corrective action under Section R315-263-31 and Rule R315-101.

(iii) Notwithstanding Subsection R315-260-10(c)([~~48~~]55)(ii), a remediation waste management site is not a facility that is subject to Section R315-264-101, but is subject to corrective action requirements if the site is located within such a facility.

([~~52~~]56) "Federal agency" means any department, agency, or other instrumentality of the Federal Government, any independent agency or establishment of the Federal Government including any Government corporation, and the Government Printing Office.

([~~53~~]57) "Federal, State and local approvals or permits necessary to begin physical construction" means permits and approvals required under [~~F~~]federal, [~~S~~]state or local hazardous waste control statutes, rules, regulations or ordinances.

([~~54~~]58) "Final closure" means the closure of each hazardous waste management unit at the facility in accordance with any applicable closure requirements so that hazardous waste management activities under Rules R315-264 and R315-265 are no longer conducted at the facility unless subject to the provisions in Section R315-262-34.

([~~55~~]59) "Food-chain crops" means tobacco, crops grown for human consumption, and crops grown for feed for animals whose products are consumed by humans.

([~~56~~]60) "Free liquids" means liquids which readily separate from the solid portion of a waste under ambient temperature and pressure.

([~~57~~]61) "Freeboard" means the vertical distance between the top of a tank or surface impoundment dike, and the surface of the waste contained therein.

([~~58~~]62) "Generator" means any person, by site, whose act or process produces hazardous waste identified or listed in Rule R315-261 or whose act first causes a hazardous waste to become subject to regulation.

([~~59~~]63) "Ground water" means water below the land surface in a zone of saturation.

([~~60~~]64) "Hazard class" means:

(i) the DOT hazard class identified in 49 CFR 172; and

(ii) if the DOT hazard class is "OTHER REGULATED MATERIAL," ORM, the EPA hazardous waste characteristic exhibited by the waste and identified in Sections R315-261-20 through R315-261-24.

([~~61~~]65) "Hazardous secondary material" means a secondary material, for example, spent material, by-product, or sludge, which if discarded, would be identified as hazardous waste under Rule R315-261.

([~~62~~]66) "Hazardous secondary material generator" means any person whose act or process produces hazardous secondary materials at the generating facility. For purposes of Subsection R315-260-10(c)([~~59~~]66), "generating facility" means any contiguous property owned, leased, or otherwise controlled by the hazardous secondary material generator. For the purposes of Subsections R315-261-2(a)(2)(ii) and R315-261-4(a)(23), a facility that collects hazardous secondary materials from other persons is not the hazardous secondary material generator.

([~~63~~]67) "Hazardous waste constituent" means a constituent that caused the Board to list the hazardous waste in Sections R315-261-30 through R315-261-35, or a constituent listed in table 1 of Section R315-261-24.

([~~64~~]68) "Hazardous waste management unit" is a contiguous area of land on or in which hazardous waste is placed, or the largest area in which there is significant likelihood of mixing hazardous waste constituents in the area. Examples of hazardous waste management units include a surface impoundment, a waste pile, a land treatment area, a landfill cell, an incinerator, a tank and its associated piping and underlying containment system and a container storage area. A container alone does not constitute a unit; the unit includes containers and the land or pad upon which they are placed.

([~~65~~]69) "In operation" refers to a facility which is treating, storing, or disposing of hazardous waste.

([~~66~~]70) "Inactive portion" means that portion of a facility which is not operated after November 19, 1980. See also "active portion" and "closed portion".

([~~67~~]71) "Incinerator" means any enclosed device that:

(i) uses controlled flame combustion and neither meets the criteria for classification as a boiler, sludge dryer, or carbon regeneration unit, nor is listed as an industrial furnace; or

(ii) meets the definition of infrared incinerator or plasma arc incinerator.

([~~68~~]72) "Incompatible waste" means a hazardous waste which is unsuitable for:

(i) placement in a particular device or facility because it may cause corrosion or decay of containment materials, for example, container inner liners or tank walls; or

(ii) commingling with another waste or material under uncontrolled conditions because the commingling might produce heat or pressure, fire or explosion, violent reaction, toxic dusts, mists, fumes, or gases, or flammable fumes or gases.

(iii) See Appendix V to Rule R315-264 in Section R315-264-1105 and Appendix V to 40 CFR 265, which is adopted and incorporated by reference into Section R315-265-1, for examples.

([~~69~~]73) "Individual generation site" means the contiguous site at or on which one or more hazardous wastes are generated. An individual generation site, such as a large manufacturing plant, may have one or more sources of hazardous waste but is considered a single or individual generation site if the site or property is contiguous.

([~~70~~]74) "Industrial furnace" means any of the following enclosed devices that are integral components of manufacturing processes and that use thermal treatment to accomplish recovery of materials or energy:

(i) cement kilns;

(ii) lime kilns;

(iii) aggregate kilns;

(iv) phosphate kilns;

(v) coke ovens;

(vi) blast furnaces;

(vii) smelting, melting and refining furnaces, including pyrometallurgical devices such as cupolas, reverberator furnaces, sintering machine, roasters, and foundry furnaces;

(viii) titanium dioxide chloride process oxidation reactors;

(ix) methane reforming furnaces;

(x) pulping liquor recovery furnaces;

(xi) combustion devices used in the recovery of sulfur values from spent sulfuric acid;

(xii) halogen acid furnaces (HAFs) for the production of acid from halogenated hazardous waste generated by chemical production facilities where the furnace is located on the site of a chemical production facility, the acid product has a halogen acid content of at least 3%, the acid product is used in a manufacturing process, and, except for hazardous waste burned as fuel, hazardous waste fed to the furnace has a minimum halogen content of 20% as-generated; and

(xiii) other devices as the Board may, after notice and comment, add to this list on the basis of one or more of the following factors:

(A) the design and use of the device primarily to accomplish recovery of material products;

(B) the use of the device to burn or reduce raw materials to make a material product;

(C) the use of the device to burn or reduce secondary materials as effective substitutes for raw materials, in processes using raw materials as principal feedstocks;

(D) the use of the device to burn or reduce secondary materials as ingredients in an industrial process to make a material product;

(E) the use of the device in common industrial practice to produce a material product; and

(F) other factors, as appropriate.

([~~71~~]75) "Infrared incinerator" means any enclosed device that uses electric powered resistance heaters as a source of radiant heat followed by an afterburner using controlled flame combustion and which is not listed as an industrial furnace.

([~~72~~]76) "Inground tank" means a device meeting the definition of "tank" in Section R315-260-10 whereby a portion of the tank wall is situated to any degree within the ground, thereby preventing visual inspection of that external surface area of the tank that is in the ground.

([~~73~~]77) "Injection well" means a well into which fluids are injected. See also "underground injection".

([~~74~~]78) "Inner liner" means a continuous layer of material placed inside a tank or container which protects the construction materials of the tank or container from the contained waste or reagents used to treat the waste.

([~~75~~]79) "Installation inspector" means a person who, by reason of their knowledge of the physical sciences and the principles of engineering, acquired by a professional education and related practical experience, is qualified to supervise the installation of tank systems.

([~~76~~]80) "Intermediate facility" means any facility that stores hazardous secondary materials for more than 10 days, other than a hazardous secondary material generator or reclaimer of hazardous secondary material.

([~~77~~]81) "International shipment" means the transportation of hazardous waste into or out of the jurisdiction of the United States.

([~~78~~]82) "Lamp," also referred to as "universal waste lamp", is defined as the bulb or tube portion of an electric lighting device. A lamp is specifically designed to produce radiant energy, most often in the ultraviolet, visible, and infrared regions of the electromagnetic spectrum. Examples of common universal waste electric lamps include; fluorescent, high intensity discharge, neon, mercury vapor, high pressure sodium, and metal halide lamps.

([~~79~~]83) "Land-based unit" means an area where hazardous secondary materials are placed in or on the land before recycling. This definition does not include land-based production units.

([~~80~~]84) "Landfill" means a disposal facility or part of a facility where hazardous waste is placed in or on land and which is not a pile, a land treatment facility, a surface impoundment, an underground injection well, a salt dome formation, a salt bed formation, an underground mine, a cave, or a corrective action management unit.

([~~81~~]85) "Landfill cell" means a discrete volume of a hazardous waste landfill which uses a liner to provide isolation of wastes from adjacent cells or wastes. Examples of landfill cells are trenches and pits.

([~~82~~]86) "Land treatment facility" means a facility or part of a facility at which hazardous waste is applied onto or incorporated into the soil surface; these facilities are disposal facilities if the waste will remain after closure.

([~~83~~]87) "Large quantity generator" is a generator who generates any of the following amounts in a calendar month:

(i) greater than or equal to 1,000 kilograms, 2,200 lbs, of non-acute hazardous waste;

(ii) greater than one kilogram, 2.2 lbs, of acute hazardous waste listed in Section R315-261-31 or Subsection R315-261-33(e); or

(iii) greater than 100 kilograms, 220 lbs, of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in Section R315-261-31 or Subsection R315-261-33(e).

([~~84~~]88) "Leachate" means any liquid, including any suspended components in the liquid, that has percolated through or drained from hazardous waste.

([~~85~~]89) "Leak detection system" means a system capable of detecting the failure of either the primary or secondary containment structure or the presence of a release of hazardous waste or accumulated liquid in the secondary containment structure. Such a system shall employ operational controls, for example daily visual inspections for releases into the secondary containment system of aboveground tanks, or consist of an interstitial monitoring device designed to detect continuously and automatically the failure of the primary or secondary containment structure or the presence of a release of hazardous waste into the secondary containment structure.

([~~86~~]90) "Liner" means a continuous layer of natural or man-made materials, beneath or on the sides of a surface impoundment, landfill, or landfill cell, which restricts the downward or lateral escape of hazardous waste, hazardous waste constituents, or leachate.

([~~87~~]91) "Management" or "hazardous waste management" means the systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery, and disposal of hazardous waste.

([~~88~~]92) "Manifest" is defined in Subsection 19-6-102(14) and is further defined as[~~:~~] the shipping document EPA Form 8700-22, including, if necessary, EPA Form 8700-22A, or the electronic manifest, originated and signed in accordance with the applicable requirements of Rules R315-262 through R315-265.

([~~89~~]93) "Manifest tracking number" means[~~:~~] [~~T~~]~~t~~he alphanumeric identification number that is a unique three letter suffix preceded by nine numerical digits, which is pre-printed in Item 4 of the Manifest by a registered source.

([~~90~~]94) "Mercury-containing equipment" means a device or part of a device, including thermostats, but excluding batteries and lamps, that contains elemental mercury integral to its function.

(95) "Military munitions" means the ammunition products and components produced or used by or for the U.S. Department of Defense or the U.S. Armed Services for national defense and security, including military munitions under the control of the Department of Defense, the U.S. Coast Guard, the U.S. Department of Energy (DOE), and National Guard personnel. The term military munitions includes: confined gaseous, liquid, and solid propellants, explosives, pyrotechnics, chemical and riot control agents, smokes, and incendiaries used by DOD components, including bulk explosives and chemical warfare agents, chemical munitions, rockets, guided and ballistic missiles, bombs, warheads, mortar rounds, artillery ammunition, small arms ammunition, grenades, mines, torpedoes, depth charges, cluster munitions and dispensers, demolition charges, and devices and components. Military munitions do not include wholly inert items, improvised explosive devices, and nuclear weapons, nuclear devices, and nuclear components. However, the term does include non-nuclear components of nuclear devices, managed under DOE's nuclear weapons program after any required sanitization operations under the Atomic Energy Act of 1954, as amended, have been completed.

([~~91~~]96) "Mining overburden returned to the mine site" means any material overlying an economic mineral deposit which is removed to gain access to that deposit and is then used for reclamation of a surface mine.

([~~92~~]97) "Miscellaneous unit" means a hazardous waste management unit where hazardous waste is treated, stored, or disposed of and that is not a container, tank, surface impoundment, pile, land treatment unit, landfill, incinerator, boiler, industrial furnace, underground injection well with appropriate technical standards under 40 CFR 146, containment building, corrective action management unit, unit eligible for a research, development, and demonstration permit under Section R315-270-65, or staging pile.

([~~93~~]98) "Monitoring" means any procedures used to systematically inspect and collect data on operational parameters of the facility or on the quality of the air, ground water, surface water, or soils.

([~~94~~]99) "Movement" means that hazardous waste transported to a facility in an individual vehicle.

([~~95~~]100) "New hazardous waste management facility" or "new facility" means a facility which began operation, or for which construction commenced after November 19, 1980. See also "Existing hazardous waste management facility".

([~~96~~]101) "New tank system" or "new tank component" means a tank system or component that will be used for the storage or treatment of hazardous waste and for which installation has commenced after July 14, 1986; except, however, for purposes of Subsections R315-264-193(g)(2) and R315-265-193(g)(2), a new tank system is one for which construction commences after July 14, 1986, or December 16, 1988 for purposes of implementing the non-HSWA requirements of the tank regulations as promulgated by EPA on July 14, 1986, 51 FR 25470, as they have been incorporated into the corresponding rules of Title R315; except, however, for purposes of Subsection R315-265-193(g)(2) and Subsection R315-264-193(g)(2), a new tank system is one which construction commences after July 14, 1986. A non-HSWA new tank system or non-HSWA new tank component is one which does not implement any of the requirements of the federal Hazardous and Solid Waste Amendments of 1984 (HSWA) as identified in Table 1 of 40 CFR 271.1. See also "existing tank system."

([~~97~~]102) "No free liquids, as used in Subsections R315-261-4(a)(26) and R315-261-4(b)(18)", means that solvent-contaminated wipes may not contain free liquids as determined by Method 9095B, Paint Filter Liquids Test, included in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, and that there is no free liquid in the container holding the wipes. No free liquids may also be determined using another standard or test method as defined by the Director.

([~~98~~]103) "Non-acute hazardous waste" means any hazardous wastes that are not acute hazardous waste, as defined in Section R315-260-10.

([~~99~~]104) "On ground tank" means a device meeting the definition of "tank" in Section R315-260-10 and that is situated in such a way that the bottom of the tank is on the same level as the adjacent surrounding surface so that the external tank bottom cannot be visually inspected.

([~~100~~]105) "On-site" means the same or geographically contiguous property which may be divided by public or private right-of-way, provided the entrance and exit between the properties is at a cross-roads intersection, and access is by crossing as opposed to going along, the right-of-way. Non-contiguous properties owned by a person but connected by a right-of-way which the person controls and to which the public does not have access, is also considered on-site property.

([~~101~~]106) "Open burning" means the combustion of any material without the following characteristics:

(i) control of combustion air to maintain adequate temperature for efficient combustion;

(ii) containment of the combustion-reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion; and

(iii) control of emission of the gaseous combustion products. See also "incineration" and "thermal treatment".

([~~102~~]107) "Operator" means the person responsible for the overall operation of a facility.

([~~103~~]108) "Owner" means the person who owns a facility or part of a facility.

([~~104~~]109) "Partial closure" means the closure of a hazardous waste management unit in accordance with the applicable closure requirements of Rules R315-264 and R315-265 at a facility that contains other active hazardous waste management units. For example, partial closure may include the closure of a tank, including its associated piping and underlying containment systems, landfill cell, surface impoundment, waste pile, or other hazardous waste management unit, while other units of the facility continue to operate.

([~~105~~]110) "Polychlorinated biphenyl, PCB" and "PCBs" means any chemical substance that is limited to the biphenyl molecule that has been chlorinated to varying degrees or any combination of substances which contains the substance. PCB and PCBs as contained in PCB items are defined in Section R315-260-10. For any purposes under Rules R315-260 through R315-266, R315-268, R315-270, R315-273, R315-15, and R315-101, inadvertently generated non-Aroclor PCBs are defined as the total PCBs calculated following division of the quantity of monochlorinated biphenyls by 50 and dichlorinated biphenyls by 5.

([~~106~~]111) "PCB Item" means any PCB Article, PCB Article Container, PCB Container, PCB Equipment, or anything that deliberately or unintentionally contains or has as a part of it any PCB or PCBs.

([~~107~~]112) "Permit" means the plan approval as required by Subsection 19-6-108(3)(a), or equivalent control document issued by the Director to implement the requirements of the Utah Solid and Hazardous Waste Act;

([~~108~~]113) "Permittee" is defined in Subsection 19-6-102(18) and includes any person who has received an approval of a hazardous waste operation plan under Section 19-6-108 and Rule R315-262 or a [~~F~~]federal RCRA permit for a treatment, storage, or disposal facility.

([~~109~~]114) "Person" means an individual, trust, firm, joint stock company, Federal Agency, corporation, including a government corporation, partnership, association, [~~S~~]state, municipality, commission, political subdivision of a [~~S~~]state, or any interstate body.

([~~110~~]115) "Personnel" or "facility personnel" means any person who works at, or oversees the operations of, a hazardous waste facility, and whose actions or failure to act may result in noncompliance with the requirements of Rules R315-264 or R315-265.

([~~111~~]116) "Pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, or intended for use as a plant regulator, defoliant, or desiccant, other than any article that:

(i) is a new animal drug under FFDCA Section 201(w);

(ii) is an animal drug that has been determined by regulation of the Secretary of Health and Human Services not to be a new animal drug; or

(iii) is an animal feed under FFDCA Section 201(x) that bears or contains any substances described by Subsection R315-260-10(c)([~~108~~]116)(i) or (ii).

([~~112~~]117) "Pile" means any non-containerized accumulation of solid, non-flowing hazardous waste that is used for treatment or storage and that is not a containment building.

([~~113~~]118) "Plasma arc incinerator" means any enclosed device using a high intensity electrical discharge or arc as a source of heat followed by an afterburner using controlled flame combustion and which is not listed as an industrial furnace.

([~~114~~]119) "POHC's" means principle organic hazardous constituents.

([~~115~~]120) "Point source" means any discernible, confined, and discrete conveyance, including any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture.

([~~116~~]121) "Precipitation run-off" means water generated from naturally occurring storm events. If the precipitation run-off has been in contact with a waste defined in Sections R315-261-20 through R315-261-24, it qualifies as "precipitation run-off" if the water does not exhibit any of the characteristics identified in Sections R315-261-20 through R315-261-24. If the precipitation run-off has been in contact with a waste listed in Sections R315-261-30 through R315-261-35, then it qualifies as "precipitation run-off" when the water has been excluded under Section R315-260-22. Water containing any leachate does not qualify as "precipitation run-off".

([~~117~~]122) "Publicly owned treatment works" or "POTW" means any device or system used in the treatment, including recycling and reclamation, of municipal sewage or industrial wastes of a liquid nature which is owned by the [~~S~~]state or a political subdivision within the [~~S~~]state. This definition includes sewers, pipes, or other conveyances only if they convey wastewater to a POTW providing treatment.

([~~118~~]123) "Qualified Ground Water Scientist" means a scientist or engineer who has received a baccalaureate or post-graduate degree in the natural sciences or engineering, and has sufficient training and experience in ground water hydrology and related fields as may be demonstrated by state registration, professional certifications, or completion of accredited university courses that enable that individual to make sound professional judgements regarding ground water monitoring and contaminant fate and transport.

([~~119~~]124) "RCRA" means the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. Section 6901 et seq.

([~~120~~]125) "Recognized trader" means a person domiciled in the United States, by site of business, who acts to arrange and facilitate transboundary movements of wastes destined for recovery or disposal operations, either by purchasing from and subsequently selling to United States and foreign facilities, or by acting under arrangements with a United States waste facility to arrange for the export or import of the wastes.

([~~121~~]126) "Remanufacturing" means processing a higher-value hazardous secondary material to manufacture a product that serves a similar functional purpose as the original commercial-grade material. For this definition, a hazardous secondary material is considered higher-value if it was generated from the use of a commercial-grade material in a manufacturing process and can be remanufactured into a similar commercial-grade material.

([~~122~~]127) "Remediation waste" means any solid and hazardous wastes, and any media, including ground water, surface water, soils, and sediments, and debris, that are managed for implementing cleanup.

([~~123~~]128) "Remediation waste management site" means a facility where an owner or operator is or will be treating, storing or disposing of hazardous remediation wastes. A remediation waste management site is not a facility that is subject to corrective action under Section R315-264-101, but is subject to corrective action requirements if the site is located in such a facility.

([~~124~~]129)(i) "Replacement unit" means a landfill, surface impoundment, or waste pile unit:

(A) from which the waste or a substantial amount of the waste is removed; and

(B) that is subsequently reused to treat, store, or dispose of hazardous waste.

(ii) "Replacement unit" does not apply to a unit from which waste is removed during closure, if the subsequent reuse solely involves the disposal of waste from that unit and other closing units or corrective action areas at the facility, in accordance with a closure plan approved by the Director or a corrective action approved by the Director.

([~~125~~]130) "Representative sample" means a sample of a universe or whole, for example, waste pile, lagoon, ground water, which can be expected to exhibit the average properties of the universe or whole.

([~~126~~]131) "Run-off" means any rainwater, leachate, or other liquid that drains over land from any part of a facility.

([~~127~~]132) "Run-on" means any rainwater, leachate, or other liquid that drains over land onto any part of a facility.

([~~128~~]133) "Saturated zone" or "zone of saturation" means that part of the earth's crust in which each void is filled with water.

([~~129~~]134) "Sludge" means any solid, semi-solid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility exclusive of the treated effluent from a wastewater treatment plant.

([~~130~~]135) "Sludge dryer" means any enclosed thermal treatment device that is used to dehydrate sludge and that has a maximum total thermal input, excluding the heating value of the sludge itself, of 2,500 Btu per lb of sludge treated on a wet-weight basis.

([~~131~~]136) "Small Quantity Generator" is a generator who generates the following amounts in a calendar month:

(i) greater than 100 kilograms, 220 lbs, but less than 1,000 kilograms, 2,200 lbs, of non-acute hazardous waste; and

(ii) less than or equal to one kilogram, 2.2 lbs, of acute hazardous waste listed in Section R315-261-31 or Subsection R315-261-33(e); and

(iii) less than or equal to 100 kilograms, 220 lbs, of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in Section R315-261-31 or Subsection R315-261-33(e).

([~~132~~]137) "Solid Waste Management Unit" means any discernible unit at which solid wastes have been placed at any time, irrespective of whether the unit was intended for the management of solid or hazardous waste. These units include any area at a facility at which solid wastes have been routinely and systematically released.

([~~133~~]138) "Solvent-contaminated wipe" means:

(i) A wipe which, after use or after cleaning up a spill, meets one or more of the following criteria:

(A) Contains one or more of the F001 through F005 solvents listed in Section R315-261-31 or the corresponding P- or U- listed solvents found in Section R315-261-33.

(B) Exhibits a hazardous characteristic found in Sections R315-261-20 through R315-261-24 when that characteristic results from a solvent listed in Rule R315-261.

(C) Exhibits only the hazardous waste characteristic of ignitability found in Section R315-261-21 due to the presence of one or more solvents that are not listed in Rule R315-261.

(ii) Solvent-contaminated wipes that contain listed hazardous waste other than solvents, or exhibit the characteristic of toxicity, corrosivity, or reactivity due to contaminants other than solvents, are not eligible for the exclusions at Subsections R315-261-4(a)(26) and R315-261-4(b)(18).

([~~134~~]139) "Sorbent" means a material that is used to soak up free liquids by either adsorption or absorption, or both.

([~~135~~]140) "Sorb" means to either adsorb or absorb, or both.

([~~136~~]141) A "spent material" is any material that has been used and as a result of contamination can no longer serve the purpose for which it was produced without processing.

([~~137~~]142) "Spill" means the accidental discharging, spilling, leaking, pumping, pouring, emitting, emptying, releasing, or dumping of hazardous wastes or materials which, when spilled, become hazardous wastes, into or on any land or water.

([~~138~~]143) "Staging pile" means an accumulation of solid, non-flowing remediation waste, as defined in Section R315-260-10, that is not a containment building and that is used only during remedial operations for temporary storage at a facility. Staging piles shall be designated by the Director according to the requirements of Section R315-264-554.

([~~139~~]144) "State" means the state of Utah.

([~~140~~]145) "Storage" is defined in Subsection 19-6-102(20) and includes the holding of hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.

([~~141~~]146) "Sump" means any pit or reservoir that meets the definition of tank and those troughs or trenches connected to it that serve to collect hazardous waste for transport to hazardous waste storage, treatment, or disposal facilities; except that as used in the landfill, surface impoundment, and waste pile rules, "sump" means any lined pit or reservoir that serves to collect liquids drained from a leachate collection and removal system or leak detection system for subsequent removal from the system.

([~~142~~]147) "Surface impoundment" or "impoundment" means a facility or part of a facility which is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials, although it may be lined with man-made materials, which is designed to hold an accumulation of liquid wastes or wastes containing free liquids, and which is not an injection well. Examples of surface impoundments are holding, storage, settling, and aeration pits, ponds, and lagoons.

([~~143~~]148) "Tank" means a stationary device, designed to contain an accumulation of hazardous waste which is constructed primarily of non-earthen materials, for example, wood, concrete, steel, plastic, which provide structural support.

([~~144~~]149) "Tank system" means a hazardous waste storage or treatment tank and its associated ancillary equipment and containment system.

([~~145~~]150) "TEQ" means toxicity equivalence, the international method of relating the toxicity of various dioxin or furan congeners to the toxicity of 2,3,7,8-tetrachlorodibenzo-p-dioxin.

([~~146~~]151) "Thermal treatment" means the treatment of hazardous waste in a device which uses elevated temperatures as the primary means to change the chemical, physical, or biological character or composition of the hazardous waste. Examples of thermal treatment processes are incineration, molten salt, pyrolysis, calcination, wet air oxidation, and microwave discharge. See also "incinerator" and "open burning".

([~~147~~]152) "Thermostat" means a temperature control device that contains metallic mercury in an ampule attached to a bimetal sensing element, and mercury-containing ampules that have been removed from these temperature control devices in compliance with the requirements of Subsections R315-273-13(c)(2) or R315-273-33(c)(2).

([~~148~~]153) "Totally enclosed treatment facility" means a facility for the treatment of hazardous waste which is directly connected to an industrial production process and which is constructed and operated in a manner which prevents the release of any hazardous waste or any constituent thereof into the environment during treatment. An example is a pipe in which waste acid is neutralized.

([~~149~~]154) "Transfer facility" means any transportation-related facility, including loading docks, parking areas, storage areas and other similar areas where shipments of hazardous waste or hazardous secondary materials are held during the normal course of transportation.

([~~150~~]155) "Transport vehicle" means a motor vehicle or rail car used for the transportation of cargo by any mode. Each cargo-carrying body, for example, trailer or railroad freight car, is a separate transport vehicle.

([~~151~~]156) Transportation" is defined in Subsection 19-6-102([~~21~~]23) and includes the movement of hazardous waste by air, rail, highway, or water.

([~~152~~]157) "Transporter" means a person engaged in the off-site transportation of hazardous waste by air, rail, highway, or water.

([~~153~~]158)(i) "Treatability study" means a study in which a hazardous waste is subjected to a treatment process to determine:

(A) whether the waste is amenable to the treatment process;

(B) what pretreatment, if any, is required;

(C) the optimal process conditions needed to achieve the desired treatment;

(D) the efficiency of a treatment process for a specific waste or wastes; or

(E) the characteristics and volumes of residuals from a particular treatment process.

(ii) Also included in this definition for the Subsection R315-261-4(e) and (f) exemptions are liner compatibility, corrosion, and other material compatibility studies and toxicological and health effects studies.

(iii) A "treatability study" is not a means to commercially treat or dispose of hazardous waste.

([~~154~~]159) "Treatment" is defined in Subsection 19-6-102(22) and includes any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize the waste, or so as to recover energy or material resources from the waste, or so as to render the waste non-hazardous, or less hazardous; safer to transport, store, or dispose of; or amenable for recovery, amenable for storage, or reduced in volume.

([~~155~~]160) "Treatment zone" means a soil area of the unsaturated zone of a land treatment unit within which hazardous constituents are degraded, transformed, or immobilized.

([~~156~~]161) "Underground injection" means the subsurface emplacement of fluids through a bored, drilled or driven well; or through a dug well, where the depth of the dug well is greater than the largest surface dimension. See also "injection well".

([~~157~~]162) "Underground tank" means a device meeting the definition of "tank" in Section R315-260-10 whose entire surface area is totally below the surface of and covered by the ground.

([~~158~~]163) "Unfit-for use tank system" means a tank system that has been determined through an integrity assessment or other inspection to be no longer capable of storing or treating hazardous waste without posing a threat of release of hazardous waste to the environment.

([~~159~~]164) "United States" means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

([~~160~~]165) "Universal waste" means any of the following hazardous wastes that are managed under the universal waste requirements of Rule R315-273:

(i) batteries as described in Section R315-273-2;

(ii) pesticides as described in Section R315-273-3;

(iii) mercury-containing equipment as described in Section R315-273-4;

(iv) lamps as described in Section R315-273-5;

(v) aerosol cans as described in Section R315-273-6; and

(vi) antifreeze as described in Section R315-273-7.

([~~161~~]166)

(i) "Universal waste handler" means:

(A) a generator of universal waste; or

(B) the owner or operator of a facility, including any contiguous property, that receives universal waste from other universal waste handlers, accumulates universal waste, and sends universal waste to another universal waste handler, to a destination facility, or to a foreign destination.

(ii) "Universal waste handler" does not mean:

(A) a person who treats, except under Subsections R315-273-13(a) or (c), or R315-273-33(a) or (c), disposes of, or recycles, except under Subsection R315-273-13(f) or R315-273-33(f), universal waste; or

(B) a person engaged in the off-site transportation of universal waste by air, rail, highway, or water, including a universal waste transfer facility.

([~~162~~]167) "Universal waste transporter" means a person engaged in the off-site transportation of universal waste by air, rail, highway, or water.

([~~163~~]168) "Unsaturated zone" or "zone of aeration" means the zone between the land surface and the water table.

([~~164~~]169) "Uppermost aquifer" means the geologic formation nearest the natural ground surface that is an aquifer, as well as lower aquifers that are hydraulically interconnected with this aquifer within the facility's property boundary.

([~~165~~]170) Used oil is defined in Subsection 19-6-703(19). Used oil includes engine oil, transmission fluid, compressor oils, metalworking oils, hydraulic oil, brake fluid, oils used as buoyants, lubricating greases, electrical insulating, and dialectic oils.

([~~166~~]171) "User of the electronic manifest system" means a hazardous waste generator, a hazardous waste transporter, an owner or operator of a hazardous waste treatment, storage, recycling, or disposal facility, or any other person that:

(i) Is required to use a manifest to comply with:

(A) [~~A~~]any federal or state requirement to track the shipment, transportation, and receipt of hazardous waste or other waste material that is shipped from the site of generation to an off-site designated facility for treatment, storage, recycling, or disposal; or

(B) [~~A~~]any federal or state requirement to track the shipment, transportation, and receipt of rejected wastes or regulated container residues that are shipped from a designated facility to an alternative facility, or returned to the generator; and

(ii) [~~E~~]elects to use the system to obtain, complete and transmit an electronic manifest format supplied by the EPA electronic manifest system, or

(iii) [~~E~~]elects to use the paper manifest form and submits to the system for data processing purposes a paper copy of the manifest, or data from such a paper copy, in accordance with Subsections R315-264-71(a)(2)(v) or R315-265-71(a)(2)(v). These paper copies are submitted for data exchange purposes only and are not the official copies of record for legal purposes.

([~~167~~]172) "Very small quantity generator" is a generator who generates less than or equal to the following amounts in a calendar month:

(i) one hundred kilograms, 220 lbs, of non-acute hazardous waste;

(ii) one kilogram, 2.2 lbs, of acute hazardous waste listed in Section R315-261-31 or Subsection R315-261-33(e); and

(iii) one hundred kilograms, 220 lbs, of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in Section R315-261-31 or Subsection R315-261-33(e).

([~~168~~]173) "Vessel" includes any description of watercraft, used or capable of being used as a means of transportation on the water.

([~~169~~]174) "Waste management area" means the limit projected in the horizontal plane of the area on which waste will be placed during the active life of a regulated unit. The waste management area includes horizontal space taken up by any liner, dike, or other barrier designed to contain waste in a regulated unit. If the facility contains more than one regulated unit, the waste management area is described by an imaginary line circumscribing the several regulated units.

([~~170~~]175) "Wastewater treatment unit" means a device which:

(i) is part of a wastewater treatment facility that is subject to regulation under either Section 402 or Subsection 307(b) of the Clean Water Act;

(ii) receives and treats or stores an influent wastewater that is a hazardous waste as defined in Section R315-261-3, or that generates and accumulates a wastewater treatment sludge that is a hazardous waste as defined in Section R315-261-3, or treats or stores a wastewater treatment sludge which is a hazardous waste as defined in Section R315-261-3; and

(iii) meets the definition of tank or tank system in Section R315-260-10.

([~~171~~]176) "Water, bulk shipment" means the bulk transportation of hazardous waste which is loaded or carried on board a vessel without containers or labels.

([~~172~~]177) "Well" means any shaft or pit dug or bored into the earth, generally of a cylindrical form, and often walled with bricks or tubing to prevent the earth from caving in.

([~~173~~]178) "Well injection": See "underground injection"

([~~174~~]179) "Wipe" means a woven or non-woven shop towel, rag, pad, or swab made of wood pulp, fabric, cotton, polyester blends, or other material.

([~~175~~]180) "Zone of engineering control" means an area under the control of the owner or operator which, upon detection of a hazardous waste release, can be readily cleaned up prior to the release of hazardous waste or hazardous constituents to ground water or surface water.

KEY: hazardous waste
Date of Last Change: December 13, 2021
Notice of Continuation: January 14, 2021
Authorizing, and Implemented or Interpreted Law: 19-1-301; 19-6-105; 19-6-106

State of Utah
Administrative Rule Analysis
Revised June 2022

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New ___; Amendment _X__; Repeal ___; Repeal and Reenact ___		
Title No. - Rule No. - Section No.		
Rule or Section Number:	**R315-261**	**Filing ID: Office Use Only**

Agency Information

1. Department:	Environmental Quality	
Agency:	Waste Management and Radiation Control	
Room number:	2nd Floor	
Building:	MASOB	
Street address:	195 N. 1950 W.	
City, state and zip:	Salt Lake City, Utah 84116	
Mailing address:	PO Box 144880	
City, state and zip:	Salt Lake City, Utah 84114-4880	
Contact persons:		
Name:	**Phone:**	**Email:**
Tom Ball	801-536-0251	tball@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:

R315-261-6. Requirements for Recyclable Materials, R315-261-31. Lists of Hazardous Wastes – Hazardous Wastes from Non-Specific Sources, R315-261-39. Exclusions and Exemptions – Conditional Exclusion for Used, Broken Cathode Ray Tubes (CRTs) and Processed CRT Glass Undergoing Recycling, R315-261-41. Exclusions and Exemptions – Notification and Recordkeeping for Used, Intact Cathode Ray Tubes (CRTs) Exported for Reuse.

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**

Based on comments received from Region 8, U.S. EPA several rule references are being updated to remove references to rules that have not been adopted by Utah and clarify which rules are incorporated by reference. Addresses to some EPA offices in Washington D.C. are being updated.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**

Section R315-266-202 is being added to the list of rules referenced in Subsection R315-261-6(a)(2). Reference to Sections R315-370, 373, 375, 377, and 381 through 383 are being removed from Subsection R315-261-6(a)(2)(ii) because they were not adopted by Utah. A reference 40 CFR 265.340 through 369 being adopted and incorporated by reference is being added to Subsection R315-261-6(a)(2)(ii) because this reference was missing and needs to be in the rule to be consistent with the federal regulations.
The reference to Rule R315-260 appendix IX found in Subsection R315-261-31(a) is being corrected to reference Section R315-261-1093.
The addresses for filing of annual reports found in Subsection R315-261-39(a)(5)(xi) and for submitting notifications found in Subsection R315-261-41(a)(2) are being updated to the correct addresses.
Additionally, the Division is correcting typographical and formatting errors that have been discovered in the rule.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

There is no cost or savings to the state budget because of this amendment because the amendment does not remove any existing requirements or add any new requirements.

B) Local governments:

There is no cost or savings to the budgets of any local government entities because of this amendment because the amendment does not remove any existing requirements or add any new requirements.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

There is no cost or savings to small businesses because of this amendment because the amendment does not remove any existing requirements or add any new requirements.

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

There is no cost or savings to non-small businesses because of this amendment because the amendment does not remove any existing requirements or add any new requirements.

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 is no cost or savings to persons other than small businesses, non-small businesses, state, or local government entities because of this amendment because the amendment does not remove any existing requirements or add any new requirements.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

The cost for affected persons to comply with this rule will not change from what it currently costs affected persons to comply because the amendment does not remove any existing requirements and does not add any new requirements.

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	**FY2023**	**FY2024**	**FY2025**
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	**FY2023**	**FY2024**	**FY2025**
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 head of the Department of Environmental Quality, Kimberly D. Shelley, has reviewed and approved this fiscal 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 19-6-106	

Incorporations by Reference Information

7. Incorporations by Reference (if this rule incorporates more than two items by reference, please include additional tables)**:**

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

Official Title of Materials Incorporated (from title page)	
Publisher	
Issue Date	
Issue or Version	

B) This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; *if none, leave blank*):	
Official Title of Materials Incorporated (from title page)	
Publisher	
Issue Date	
Issue or Version	

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:		01/03/2023
B) A public hearing (optional) will be held:		
On (mm/dd/yyyy):	**At** (hh:mm AM/PM):	**At** (place):

9. This rule change MAY become effective on:	01/17/2023
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

To the agency: Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the *Utah State Bulletin* and delaying the first possible effective date.			
Agency head or designee and title:	Douglas J. Hansen, Division Director	**Date:**	mm/dd/yyyy

R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.
R315-261. General Requirements -- Identification and Listing of Hazardous Waste.

R315-261-6. Requirements for Recyclable Materials.

(a)(1) Hazardous wastes that are recycled are subject to the requirements for generators, transporters, and storage facilities of Subsections R315-261-6(b) and R315-261-6(c), except for the materials listed in Subsections R315-261-6(a)(2) and R315-261-6(a)(3). Hazardous wastes that are recycled shall be known as "recyclable materials."

(2) The following recyclable materials are not subject to the requirements of Section R315-261-6 but are regulated under Sections R315-266-20 through R315-266-23, Section R315-266-70, Section R315-266-80, Sections R315-266-100 through R315-266-112, Section R315-266-202, and Rules R315-268, R315-270, and R315-124[~~.~~]:

(i) [~~R~~]recyclable materials used in a manner constituting disposal, Sections R315-266-20 through R315-266-23;

(ii) [~~H~~]hazardous wastes burned, as defined in Subsection R315-266-100(a), in boilers and industrial furnaces that are not regulated under Sections R315-264-340 through R315-264-345, R315-264-347 and R315-264-351[~~, Sections R315-370, 373, 375, 377, and 381 through 383; and~~] or 40 CFR 265.340 through 40 CFR 265.369, which is adopted and incorporated by reference in R315-265-1, Section R315-266-100 through 112;

(iii) [~~R~~]recyclable materials from which precious metals are reclaimed, Section R315-266-70; and

(iv) [~~S~~]spent lead-acid batteries that are being reclaimed, Section R315-266-80.

(3) The following recyclable materials are not subject to regulation under Rules R315-262 through R315-268, R315-270, and R315-124, and are not subject to the notification requirements of section 3010 of RCRA:

(i) [~~I~~]industrial ethyl alcohol that is reclaimed except that exports and imports of [~~such~~]these recyclable materials shall comply with the requirements of Sections R315-262-80 through R315-262-84[~~.~~];

(ii) [~~S~~]scrap metal that is not excluded under Subsection R315-261-4(a)(13);

(iii) [~~F~~]fuels produced from the refining of oil-bearing hazardous waste along with normal process streams at a petroleum refining facility if [~~such~~]the wastes result from normal petroleum refining, production, and transportation practices, this exemption does not apply to fuels produced from oil recovered from oil-bearing hazardous waste, [~~where~~]if [~~such~~]the recovered oil is already excluded under Subsection R315-261-4(a)(12); and

(iv)(A) [~~H~~]hazardous waste fuel produced from oil-bearing hazardous wastes from petroleum refining, production, or transportation practices, or produced from oil reclaimed from [~~such~~]the hazardous wastes, [~~where~~]if [~~such~~]the hazardous wastes are reintroduced into a process that does not use distillation or does not produce products from crude oil so long as the resulting fuel meets the used oil specification under Subsection R315-15-1.2(c) and so long as no other hazardous wastes are used to produce the hazardous waste fuel;

(B) [~~H~~]hazardous waste fuel produced from oil-bearing hazardous waste from petroleum refining production, and transportation practices, [~~where~~]if [~~such~~]the hazardous wastes are reintroduced into a refining process after a point at which contaminants are removed, so long as the fuel meets the used oil fuel specification under Subsection R315-15-1.2(c); and

(C) [~~O~~]oil reclaimed from oil-bearing hazardous wastes from petroleum refining, production, and transportation practices, which reclaimed oil is burned as a fuel without reintroduction to a refining process, so long as the reclaimed oil meets the used oil fuel specification under Subsection R315-15-1.2(c).

(4) Used oil that is recycled and is also a hazardous waste solely because it exhibits a hazardous characteristic is not subject to the requirements of Rules R315-260 through R315-268, but is regulated under Rule R315-15. Used oil that is recycled includes any used oil [~~which~~]that is reused, following its original use, for any purpose, including the purpose for which the oil was originally used. [~~Such~~]This term includes, but is not limited to, oil [~~which~~]that is re-refined, reclaimed, burned for energy recovery, or reprocessed.

(5) Hazardous waste that is exported or imported for purpose of recovery is subject to the requirements of Sections R315-262-80 through R315-262-84.

(b) Generators and transporters of recyclable materials are subject to the applicable requirements of Rules R315-262 and R315-263 and the notification requirements under section 3010 of RCRA, except as provided in Subsection R315-261-6(a).

(c)(1) Owners and operators of facilities that store recyclable materials before they are recycled are regulated under Rules R315-264 and R315-265, and under Rules R315-266, R315-268, R315-270, and R315-124 and the notification requirements under section 3010 of RCRA, except as provided in Subsection R315-261-6(a). The recycling process itself is exempt from regulation except as provided in Subsection R315-261-6(d).

(2) Owners or operators of facilities that recycle recyclable materials without storing them before they are recycled are subject to the following requirements, except as provided in Subsection R315-261-6(a):

(i) [~~N~~]notification requirements under section 3010 of RCRA;

(ii) Sections R315-265-71 and R315-265-72 dealing with the use of the manifest and manifest discrepancies;

(iii) Subsection R315-261-6(d); and

(iv) Section R315-265-75, addressing biennial reporting requirements.

(d) Owners or operators of facilities subject to permitting requirements under Section 19-6-108 with hazardous waste management units that recycle hazardous wastes are subject to the requirements of Sections R315-264-1030 through R315-264-1036; and Sections R315-264-1050 through R315-264-1065; Sections R315-265-1030 through R315-265-1035; or 40 CFR 265.1050 through 1064, which are adopted and incorporated by reference in R315-265-1.

R315-261-31. Lists of Hazardous Wastes - Hazardous Wastes from Non-Specific Sources.

(a) The following solid wastes are listed hazardous wastes from non-specific sources unless they are excluded under Sections R315-260-20 and R315-260-22 and listed in [~~Rule~~]Section R315-[~~260 appendix IX~~]261-1093, which incorporates 40 CFR [~~260~~]261 appendix IX by reference.

TABLE 2
Hazardous Waste From Non-specific Sources

Industry and EPA hazardous waste No. Generic:	Hazardous Waste	Hazard Code
F001	The following spent halogenated solvents used in degreasing: Tetrachloroethylene, trichloroethylene, methylene chloride, 1,1,1-trichloroethane, carbon tetrachloride, and chlorinated fluorocarbons; any spent solvent mixtures or blends used in degreasing containing, before use, a total of 10% or more, by volume, of one or more of the above halogenated solvents or those solvents listed in F002, F004, and F005; and still bottoms from the recovery of these spent solvents and spent solvent mixtures	(T)
F002	The following spent halogenated solvents: Tetrachloroethylene, methylene chloride, trichloroethylene, 1,1,1-trichloroethane, chlorobenzene, 1,1,2-trichloro-1,2,2-trifluoroethane, ortho-dichlorobenzene, trichlorofluoromethane, and 1,1,2-trichloroethane; any spent solvent mixtures or blends containing, before use, a total of 10% or more, by volume, of one or more of the above	(T)

	halogenated solvents or those listed in F001, F004, or F005; and still bottoms from the recovery of these spent solvents and spent solvent mixtures	
F003	The following spent non-halogenated solvents: Xylene, acetone, ethyl acetate, ethyl benzene, methyl isobutyl ketone, n-butyl alcohol, cyclohexanone, and methanol; any spent solvent mixtures or blends containing, before use, only the above spent non-halogenated solvents; and any spent solvent mixtures or blends containing, before use, one or more of the above non-halogenated solvents, and, a total of 10% or more, by volume, of one or more of those solvents listed in F001, F002, F004, and F005; and still bottoms from the recovery of these spent solvents and spent solvent mixtures	(I)*
F004	The following spent non-halogenated solvents: Cresols and cresylic acid, and nitrobenzene; any spent solvent mixtures or blends containing, before use, a total of 10% or more, by volume, of one or more of the above non-halogenated solvents or those solvents listed in F001, F002, and F005; and still bottoms from the recovery of these spent solvents and spent solvent mixtures	(T)
F005	The following spent non-halogenated solvents: Toluene, methyl ethyl ketone, carbon disulfide, isobutanol, pyridine, benzene, 2-ethoxyethanol, and 2-nitropropane; any spent solvent mixtures or blends containing, before use, a total of 10% or more, by volume, of one or more of the above non- halogenated solvents or those solvents listed in F001, F002, or F004; and still bottoms from the recovery of these spent solvents and spent solvent mixtures	(I,T)
F006	Wastewater treatment sludges from electroplating operations except from the following processes: (1) Sulfuric acid anodizing of aluminum; (2) tin plating on carbon steel; (3) zinc plating, segregated basis, on carbon steel; (4) aluminum or zinc-aluminum plating on carbon steel; (5) cleaning or stripping associated with tin, zinc and aluminum plating on carbon steel; and (6) chemical etching and milling of aluminum	(T)
F007	Spent cyanide plating bath solutions from electroplating operations	(R,T)
F008	Plating bath residues from the bottom of plating baths from electroplating operations where cyanides are used in the process	(R,T)
F009	Spent stripping and cleaning bath solutions from electroplating	(R,T)

	operations where cyanides are used in the process	
F010	Quenching bath residues from oil baths from metal heat treating operations where cyanides are used in the process	(R,T)
F011	Spent cyanide solutions from salt bath pot cleaning from metal heat treating operations	(R,T)
F012	Quenching waste water treatment sludges from metal heat treating operations where cyanides are used in the process	(T)
F019	Wastewater treatment sludges from the chemical conversion coating of aluminum except from zirconium phosphating in aluminum can washing when [~~such~~]the phosphating is an exclusive conversion coating process. Wastewater treatment sludges from the manufacturing of motor vehicles using a zinc phosphating process will not be subject to this listing at the point of generation if the wastes are not placed outside on the land before shipment to a landfill for disposal and are either: disposed in a Subtitle D municipal or industrial landfill unit that is equipped with a single clay liner and is permitted, licensed or otherwise authorized by the state; or disposed in a landfill unit subject to, or otherwise meeting, the landfill requirements in Sections R315-258-40, R315-264-301 or 40 CFR 265.301, which is adopted by reference. For this listing, motor vehicle manufacturing is defined in Subsection R315-261-31(b)(4)(i) and Subsection R315-261-31(b)(4)(ii) describes the recordkeeping requirements for motor vehicle manufacturing facilities	(T)
F020	Wastes, except wastewater and spent carbon from hydrogen chloride purification, from the production or manufacturing use; as a reactant, chemical intermediate, or component in a formulating process, of tri- or tetrachlorophenol, or of intermediates used to produce their pesticide derivatives. This listing does not include wastes from the production of Hexachlorophene from highly purified 2,4,5-trichlorophenol	(H)
F021	Wastes, except wastewater and spent carbon from hydrogen chloride purification, from the production or manufacturing use; as a reactant, chemical intermediate, or component in a formulating process, of pentachlorophenol, or of intermediates used to produce its derivatives	(H)
F022	Wastes, except wastewater and spent carbon from hydrogen chloride purification, from the manufacturing	(H)

	use; as a reactant, chemical intermediate, or component in a formulating process; of tetra-, penta-, or hexachlorobenzenes under alkaline conditions	
F023	Wastes, except wastewater and spent carbon from hydrogen chloride purification, from the production of materials on equipment previously used for the production or manufacturing use; as a reactant, chemical intermediate, or component in a formulating process; of tri- and tetrachlorophenols. This listing does not include wastes from equipment used only for the production or use of Hexachlorophene from highly purified 2,4,5-trichlorophenol	(H)
F024	Process wastes, including but not limited to, distillation residues, heavy ends, tars, and reactor clean-out wastes, from the production of certain chlorinated aliphatic hydrocarbons by free radical catalyzed processes. These chlorinated aliphatic hydrocarbons are those having carbon chain lengths ranging from one to and including five, with varying amounts and positions of chlorine substitution. This listing does not include wastewaters, wastewater treatment sludges, spent catalysts, and wastes listed in Sections R315-261-31 or R315-261-32	(T)
F025	Condensed light ends, spent filters and filter aids, and spent desiccant wastes from the production of certain chlorinated aliphatic hydrocarbons, by free radical catalyzed processes. These chlorinated aliphatic hydrocarbons are those having carbon chain lengths ranging from one to and including five, with varying amounts and positions of chlorine substitution	(T)
F026	Wastes, except wastewater and spent carbon from hydrogen chloride purification, from the production of materials on equipment previously used for the manufacturing use, as a reactant, chemical intermediate, or component in a formulating process, of tetra-, penta-, or hexachlorobenzene under alkaline conditions	(H)
F027	Discarded unused formulations containing tri-, tetra-, or pentachlorophenol or discarded unused formulations containing compounds derived from these chlorophenols. This listing does not include formulations containing Hexachlorophene synthesized from prepurified 2,4,5-trichlorophenol as the sole component	(H)
F028	Residues resulting from the incineration or thermal treatment of soil contaminated with EPA	(T)

	Hazardous Waste Nos. F020, F021, F022, F023, F026, and F027	
F032	Wastewaters, except those that have not come into contact with process contaminants, process residuals, preservative drippage, and spent formulations from wood preserving processes generated at plants that currently use or have previously used chlorophenolic formulations, except potentially cross-contaminated wastes that have had the F032 waste code deleted in accordance with Section R315-261-35 or potentially cross-contaminated wastes that are otherwise currently regulated as hazardous wastes, that is, F034 or F035, and where the generator does not resume or initiate use of chlorophenolic formulations. This listing does not include K001 bottom sediment sludge from the treatment of wastewater from wood preserving processes that use creosote or pentachlorophenol, or both	(T)
F034	Wastewaters, except those that have not come into contact with process contaminants, process residuals, preservative drippage, and spent formulations from wood preserving processes generated at plants that use creosote formulations. This listing does not include K001 bottom sediment sludge from the treatment of wastewater from wood preserving processes that use creosote or pentachlorophenol, or both	(T)
F035	Wastewaters, except those that have not come into contact with process contaminants, process residuals, preservative drippage, and spent formulations from wood preserving processes generated at plants that use inorganic preservatives containing arsenic or chromium. This listing does not include K001 bottom sediment sludge from the treatment of wastewater from wood preserving processes that use creosote or pentachlorophenol, or both	(T)
F037	Petroleum refinery primary oil or water or solids separation sludge- Any sludge generated from the gravitational separation of oil or water or solids during the storage or treatment of process wastewaters and oily cooling wastewaters from petroleum refineries. [~~Such~~]These sludges include those generated in oil or water or solids separators; tanks and impoundments; ditches and other conveyances; sumps; and stormwater units receiving dry weather flow. Sludge generated in stormwater units that do not receive dry weather flow, sludges generated from non-contact once-through cooling waters segregated for treatment from other process or oily cooling waters,	(T)

	sludges generated in aggressive biological treatment units as defined in Subsection R315-261-31(b)(2), including sludges generated in one or more additional units after wastewaters have been treated in aggressive biological treatment units, and K051 wastes are not included in this listing. This listing does include residuals generated from processing or recycling oil-bearing hazardous secondary materials excluded under Subsection R315-261-4(a)(12)(i), if those residuals are to be disposed of	
F038	Petroleum refinery secondary, emulsified, oil or water or solids separation sludge-Any sludge or float, or both generated from the physical or chemical separation, or both of oil or water or solids in process wastewaters and oily cooling wastewaters from petroleum refineries. [~~Such~~]These wastes include, any sludges and floats generated in: induced air flotation (IAF) units, tanks and impoundments, and any sludges generated in DAF units. Sludges generated in stormwater units that do not receive dry weather flow, sludges generated from non-contact once-through cooling waters segregated for treatment from other process or oily cooling waters, sludges and floats generated in aggressive biological treatment units as defined in Subsection R315-261-31(b)(2), including sludges and floats generated in one or more additional units after wastewaters have been treated in aggressive biological treatment units) and F037, K048, and K051 wastes are not included in this listing	(T)
F039	Leachate, liquids that have percolated through land disposed wastes, resulting from the disposal of more than one restricted waste classified as hazardous under Sections R316-261-30 through 35. Leachate resulting from the disposal of one or more of the following EPA Hazardous Wastes and no other Hazardous Wastes [~~retains~~]keeps its EPA Hazardous Waste Number or Numbers: F020, F021, F022, F026, F027, and F028	(T)
F999	Residues from demilitarization, treatment, and testing of nerve, military, and chemical agents CX, GA, GB, GD, H, HD, HL, HN-1, HN-2, HN-3, HT, L, T, and VX	(R, T, C, H)
*(I,T) should be used to specify mixtures that are ignitable and contain toxic constituents.		

(b) Listing Specific Definitions[~~:~~].

(1) For the F037 and F038 listings, oil or water or solids is defined as any combination of oil, water, or solids.

(2)(i) For the F037 and F038 listings, aggressive biological treatment units are defined as units [~~which~~]that employ one of the following four treatment methods: activated sludge; trickling filter; rotating biological contactor for the continuous accelerated biological oxidation of wastewaters;

or high-rate aeration. High-rate aeration is a system of surface impoundments or tanks, in which intense mechanical aeration is used to completely mix the wastes, enhance biological activity[~~,~~]; and

(A) the units employ a minimum of 6 hp per million gallons of treatment volume; and either

(B) the hydraulic retention time of the unit is no longer than 5 days; or

(C) the hydraulic retention time is no longer than 30 days and the unit does not generate a sludge that is a hazardous waste by the Toxicity Characteristic.

(ii) Generators and treatment, storage and disposal facilities have the burden of proving that their sludges are exempt from listing as F037 and F038 wastes under this definition. Generators and treatment, storage and disposal facilities shall maintain, in their operating or other onsite records, documents and data sufficient to prove that:

(A) the unit is an aggressive biological treatment unit as defined in this subsection; and

(B) the sludges sought to be exempted from the definitions of F037 and F038, or both were actually generated in the aggressive biological treatment unit.

(3)(i) For the F037 listing, sludges are considered to be generated at the moment of deposition in the unit, [~~where~~]if deposition is defined as at least a temporary cessation of lateral particle movement.

(ii) For the F038 listing:

(A) sludges are considered to be generated at the moment of deposition in the unit, [~~where~~]if deposition is defined as at least a temporary cessation of lateral particle movement; and

(B) floats are considered to be generated at the moment they are formed in the top of the unit.

(4) For the F019 listing, the following apply to wastewater treatment sludges from the manufacturing of motor vehicles using a zinc phosphating process.

(i) Motor vehicle manufacturing is defined to include the manufacture of automobiles and light trucks or utility vehicles, including light duty vans, pick-up trucks, minivans, and sport utility vehicles. Facilities shall be engaged in manufacturing complete vehicles, body and chassis or unibody, or chassis only.

(ii) Generators shall maintain in their on-site records documentation and information sufficient to prove that the wastewater treatment sludges to be exempted from the F019 listing meet the conditions of the listing. These records shall include: the volume of waste generated and disposed of off site; documentation showing when the waste volumes were generated and sent off site; the name and address of the receiving facility; and documentation confirming receipt of the waste by the receiving facility. Generators shall maintain these documents on site for no less than three years. The retention period for the documentation is automatically extended during [~~the course of~~]any enforcement action or as requested by the director.

R315-261-39. Exclusions and Exemptions - Conditional Exclusion for Used, Broken Cathode Ray Tubes (CRTs) and Processed CRT Glass Undergoing Recycling.

Used, broken CRTs are not solid wastes if they meet the following conditions:

(a) [~~Prior to~~]Before processing[~~:~~]. These materials are not solid wastes if they are destined for recycling and if they meet the following requirements:

(1) Storage. The broken CRTs shall be either:

(i) [~~S~~]stored in a building with a roof, floor, and walls, or

(ii) [~~P~~]placed in a container, [~~i.e.~~]for example, a package or a vehicle, that is constructed, filled, and closed to minimize releases to the environment of CRT glass, including fine solid materials.

(2) Labeling. Each container in which the used, broken CRT is contained shall be labeled or marked clearly with one of the following phrases: "Used cathode ray tube(s)-contains leaded glass " or "Leaded glass from televisions or computers." It shall also be labeled: "Do not mix with other glass materials."

(3) Transportation. The used, broken CRTs shall be transported in a container meeting the requirements of Subsections R315-261-39(a)(1)(ii) and R315-261-39(a)(2).

(4) Speculative accumulation and use constituting disposal. The used, broken CRTs are subject to the limitations on speculative accumulation as defined in Subsection R315-261-39(c)(8). If they are used in a manner constituting disposal, they shall comply with the applicable requirements of Sections R315-266-20 through R315-266-23 instead of the requirements of Section R315-261-39.

(5) Exports. In addition to the applicable conditions specified in Subsections R315-261-39(a)(1)through R315-261-39(a)(4), exporters of used, broken CRTs shall comply with the following requirements:

(i) Notify EPA of an intended export before the CRTs are scheduled to leave the United States. A complete notification should be submitted sixty days before the initial shipment is intended to be shipped off-site. This notification may cover export activities extending over a twelve month or lesser period. The notification shall be in writing, signed by the exporter, and include the following information:

(A) Name, mailing address, telephone number and EPA ID number, if applicable, of the exporter of the CRTs.

(B) The estimated frequency or rate at which the CRTs are to be exported and the period [~~of time~~]over which they are to be exported.

(C) The estimated total quantity of CRTs specified in kilograms.

(D) [~~All~~]The points of entry to and departure from each foreign country through which the CRTs will pass.

(E) A description of the means by which each shipment of the CRTs will be transported; [~~e.g.,~~]such as mode of transportation vehicle, air, highway, rail, water[~~, etc.~~]; type[~~(~~]s[~~)~~] of container, drums, boxes, tanks[~~, etc~~].

(F) The name and address of the recycler or recyclers and the estimated quantity of used CRTs to be sent to each facility, as well as the names of any alternate recyclers.

(G) A description of the manner in which the CRTs will be recycled in the foreign country that will be receiving the CRTs.

(H) The name of any transit country through which the CRTs will be sent and a description of the approximate length of time the CRTs will remain in [~~such~~]the transit country and the nature of their handling while there.

(ii) Notifications [~~must~~]shall be submitted electronically using EPA's Waste Import Export Tracking System (WIETS), or its successor system.

(iii) Upon request by EPA, the exporter shall furnish to EPA any additional information [~~which~~]that a receiving country requests [~~in order~~]to respond to a notification.

(iv) EPA shall provide a complete notification to the receiving country and any transit countries. A notification is complete when EPA receives a notification [~~which~~]that EPA determines satisfies the requirements of Subsection R315-261-39(a)(5)(i).

(v) The export of CRTs is prohibited unless [~~all~~]each of the following occur:

(A) The receiving country consents to the intended export. When the receiving country consents in writing to the receipt of the CRTs, EPA will forward an Acknowledgment of Consent to Export CRTs to the exporter. [~~Where~~]If the receiving country objects to receipt of the CRTs or withdraws a [~~prior~~]earlier consent, EPA will notify the exporter in writing. EPA will also notify the exporter of any responses from transit countries.

(B) On or after the AES filing compliance date, the exporter or a U.S. authorized agent [~~must~~]shall:

(I) Submit Electronic Export Information (EEI) for each shipment to the Automated Export System (AES) or its successor system, under the International Trade Data System (ITDS) platform, in accordance with 15 CFR 30.4(b).

(II) Include the following items in the EEI, along with the other information required under 15 CFR 30.6: EPA license code; Commodity classification code per 15 CFR 30.6(a)(12); EPA consent number; Country of ultimate destination per 15 CFR 30.6(a)(5); Date of export per 15 CFR 30.6(a)(2); Quantity of waste in shipment and units for reported quantity, if required reporting units established by value for the reported commodity classification number are in units of weight or volume per 15 CFR 30.6(a)(15); or EPA net quantity reported in units of kilograms, if required reporting units established by value for the reported commodity classification number are not in units of weight or volume.

(vi) [~~When~~]If the conditions specified on the original notification change, the exporter [~~must~~]shall provide EPA with a written renotification of the change using the allowable methods listed in Subsection R315-261-39(a)(5)(ii), except for changes to the telephone number in Subsection R315-261-39(a)(5)(i)(A) and decreases in the quantity indicated pursuant to Subsection R315-261-39(a)(5)(i)(C). The shipment cannot take place until consent of the receiving country to the changes has been [~~obtained~~]received, [~~,~~]except for changes to information about points of entry and departure and transit countries pursuant to Subsections R315-261-39(a)(5)(i)(D) and R315-261-39(a)(5)(i)(H) and the exporter of CRTs receives from EPA a copy of the Acknowledgment of Consent to Export CRTs reflecting the receiving country's consent to the changes.

(vii) A copy of the Acknowledgment of Consent to Export CRTs shall accompany the shipment of CRTs. The shipment shall conform to the terms of the Acknowledgment.

(viii) If a shipment of CRTs cannot be delivered for any reason to the recycler or the alternate recycler, the exporter of CRTs shall renotify EPA of a change in the conditions of the original notification to allow shipment to a new recycler in accordance with Subsection R315-261-39(a)(5)(vi) and [~~obtain~~]get another Acknowledgment of Consent to Export CRTs.

(ix) Exporters [~~must~~]shall keep copies of notifications and Acknowledgments of Consent to Export CRTs for a period of three years following receipt of the Acknowledgment. Exporters may satisfy this recordkeeping requirement by [~~retaining~~]keeping electronically submitted notifications or electronically generated Acknowledgements in the CRT exporter's account on EPA's Waste Import Export Tracking System (WIETS), or its successor system, [~~provided that such~~]if these copies are readily available for viewing and production if requested by any EPA or authorized state inspector. No CRT exporter may be held liable for the inability to produce a notification or Acknowledgement for inspection under Section R315-261-39 if the CRT exporter can demonstrate that the inability to produce[~~, such~~] copies [~~are~~]is due exclusively to technical difficulty with EPA's Waste Import Export Tracking System (WIETS), or its successor system for which the CRT exporter bears no responsibility.

(x) CRT exporters shall file with EPA no later than March 1 of each year, an annual report summarizing the quantities, in kilograms; frequency of shipment; and ultimate destination[~~(~~]s[~~)~~], [~~i.e.~~]for example, the facility or facilities where the recycling occurs, of [~~all~~]the used CRTs exported during the previous calendar year. [~~Such~~]Annual reports shall also include the following:

(A) [~~T~~]the name; EPA ID number, if applicable; and mailing and site address of the exporter;

(B) [~~T~~]the calendar year covered by the report; and

(C) [~~A~~]a certification signed by the CRT exporter that states:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents and that, based on my inquiry of those individuals immediately responsible for obtaining this information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

(xi) [~~Prior to~~]Before one year after the AES filing compliance date, annual reports [~~must~~]shall be sent to the following mailing address: [~~Office of Enforcement and Compliance Assurance, Office of Federal Activities~~]Office of Land and Emergency Management, Office of Resource Conservation and Recovery, Materials Recovery and Waste Management Division, International [~~Compliance Assurance Division~~]Branch, (Mail Code 225[~~4~~]5A), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460. Hand-delivered annual reports on used CRTs exported during 2016 should be sent to: [~~Office of Enforcement and Compliance Assurance, Office of Federal Activities~~]Office of Land and Emergency Management, Office of Resource Conservation and Recovery, Materials Recovery and Waste Management Division, International [~~Compliance Assurance Division~~]Branch, (Mail Code 225[~~4~~]5A), Environmental Protection Agency, [~~Ariel Rios Bldg.~~]William Jefferson Clinton South Building, Room 6144, 1200 Pennsylvania Ave. NW., Washington, DC 20004. Subsequently, annual reports [~~must~~]shall be submitted to the office listed using the allowable methods specified in Subsection R315-261-39(a)(5)(ii). Exporters [~~must~~]shall keep copies of each annual report for a period of at least three years from the due date of the report. Exporters may satisfy this recordkeeping requirement by [~~retaining~~]keeping electronically submitted annual reports in the CRT exporter's account on EPA's Waste Import Export Tracking System (WIETS), or its successor system, [~~provided that~~]if a copy is readily available for viewing and production if requested by any EPA or authorized Utah inspector. No CRT exporter may be held liable for the inability to produce an annual report for inspection under Section R315-261-39 if the CRT exporter can demonstrate that the inability to produce the annual report is due exclusively to technical difficulty with EPA's Waste Import Export Tracking System (WIETS), or its successor system for which the CRT Exporter bears no responsibility.

(b) Requirements for used CRT processing: Used, broken CRTs undergoing CRT processing as defined in Section R315-260-10 are not solid wastes if they meet the following requirements:

(1) Storage. Used, broken CRTs undergoing processing are subject to the requirement of Subsection R315-261-39(a)(4).

(2) Processing.

(i) [~~All~~]The activities specified in Subsections R315-260-10(32)(ii) and R315-260-10(32)(iii) of the definition of CRT Processing in Section R315-260-10 shall be performed within a building with a roof, floor, and walls; and

(ii) No activities may be performed that use temperatures high enough to volatilize lead from CRTs.

(c) Processed CRT glass sent to CRT glass making or lead smelting: Glass from used CRTs that is destined for recycling at a CRT glass manufacturer or a lead smelter after processing is not a solid waste unless it is speculatively accumulated as defined in Subsection R315-261-1(c)(8).

(d) Use constituting disposal[~~:~~]. Glass from used CRTs that is used in a manner constituting disposal shall comply with the requirements of Section R315-266-20 through R315-266-23 instead of the requirements of Section R315-261-39.

R315-261-41. Exclusions and Exemptions - Notification and Recordkeeping for Used, Intact Cathode Ray Tubes (CRTs) Exported for Reuse.

(a) CRT exporters who export used, intact CRTs for reuse shall send a notification to EPA. This notification may cover export activities extending over a 12 month or lesser period.

(1) The notification shall be in writing, signed by the exporter, and include the following information:

(i) [~~N~~]name, mailing address, telephone number, and EPA ID number, if applicable, of the exporter of the used, intact CRTs;

(ii) [~~T~~]the estimated frequency or rate at which the used, intact CRTs are to be exported for reuse and the period [~~of time~~]over which they are to be exported;

(iii) [~~T~~]the estimated total quantity of used, intact CRTs specified in kilograms;

(iv) [~~All~~]the points of entry to and departure from each transit country through which the used, intact CRTs will pass, a description of the approximate length of time the used, intact CRTs will remain in [~~such~~]the transit country, and the nature of their handling while there;

(v) [~~A~~]a description of the means by which each shipment of the used, intact CRTs will be transported; [~~e.g.,~~]such as mode of transportation vehicle, air, highway, rail, water[~~, etc.~~]; type[~~(~~]s[~~)~~] of container, drums, boxes, tanks[~~, etc.~~];

(vi) [~~T~~]the name and address of the ultimate destination facility or facilities where the used, intact CRTs will be reused, refurbished, distributed, or sold for reuse and the estimated quantity of used, intact CRTs to be sent to each facility, as well as the name of any alternate destination facility or facilities;

(vii) [~~A~~]a description of the manner in which the used, intact CRTs will be reused, including reuse after refurbishment, in the foreign country that will be receiving the used, intact CRTs; and

(viii) [~~A~~]a certification signed by the CRT exporter that states: "I certify under penalty of law that the CRTs described in this notice are intact and fully functioning or capable of being functional after refurbishment and that the used CRTs will be reused or refurbished and reused. I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

(2) Notifications submitted by mail should be sent to the following mailing address: [~~Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division~~]Office of Land and Emergency Management, Office of Resource Conservation and Recovery, Materials Recovery and Waste Management Division, International Branch, (Mail Code 225[4]5A), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460. Hand-delivered notifications should be sent to: [~~Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division~~]Office of Land and Emergency Management, Office of Resource Conservation and Recovery, Materials Recovery and Waste Management Division, International Branch, (Mail Code 225[4]5A), Environmental Protection Agency, William Jefferson Clinton South Building, Room 6144, 1200 Pennsylvania Ave. NW., Washington, DC 20004. In both cases, the following shall be prominently displayed on the front of the envelope: "Attention: Notification of Intent to Export CRTs."

(b) CRT exporters of used, intact CRTs sent for reuse shall keep copies of normal business records, such as contracts, demonstrating that each shipment of exported used, intact CRTs will be reused. This documentation shall be [~~retained~~]kept for a period of at least three years from the date the CRTs were exported. If the documents are written in a language other than English, CRT exporters of used, intact CRTs sent for reuse shall provide both the original, non-English version of the normal business records as well as a third-party translation of the normal business records into English within 30 days upon request by EPA.

KEY: hazardous waste
Date of Last Change: July 14, 2022
Notice of Continuation: January 14, 2021
Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-106

State of Utah
Administrative Rule Analysis
Revised June 2022

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New ___; Amendment _X__; Repeal ___; Repeal and Reenact ___		
Title No. - Rule No. - Section No.		
Rule or Section Number:	**R315-262-24**	**Filing ID: Office Use Only**

Agency Information

1. Department:	Environmental Quality	
Agency:	Waste Management and Radiation Control	
Room number:	2nd Floor	
Building:	MASOB	
Street address:	195 N. 1950 W.	
City, state and zip:	Salt Lake City, Utah 84116	
Mailing address:	PO Box 144880	
City, state and zip:	Salt Lake City, Utah 84114-4880	
Contact persons:		
Name:	**Phone:**	**Email:**
Tom Ball	801-536-0251	tball@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:

R315-262-24. Manifest Requirements Applicable to Small and Large Quantity Generators -- Use of the Electronic Manifest.

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**

Based comments received from Region 8, U.S. EPA an incorrect rule reference is being corrected in Subsection R315-262-24(a)(1).

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**

Subsection R315-262-24(a)(1) references Section R315-262-25. However, 40 CFR 262.25 is non-delegable, and states cannot be authorized for these provisions. States should still adopt the provisions but must reference 40 CFR 262.25 instead of the state rule. Subsection R315-262-24(a)(1) is being amended to reference 40 CFR 262.25
Additionally, the Division is correcting typographical and formatting errors that have been discovered in the rule.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

There is no cost or savings to the state budget because of this amendment because the amendment does not remove any existing requirements or add any new requirements.

B) Local governments:

There is no cost or savings to the budgets of any local government entities because of this amendment because the amendment does not remove any existing requirements or add any new requirements.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

There is no cost or savings to small businesses because of this amendment because the amendment does not remove any existing requirements or add any new requirements.

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

There is no cost or savings to non-small businesses because of this amendment because the amendment does not remove any existing requirements or add any new requirements.

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 is no cost or savings to persons other than small businesses, non-small businesses, state, or local government entities because of this amendment because the amendment does not remove any existing requirements or add any new requirements.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

The cost for affected persons to comply with this rule will not change from what it currently costs affected persons to comply because the amendment does not remove any existing requirements and does not add any new requirements.

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	**FY2023**	**FY2024**	**FY2025**
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	**FY2023**	**FY2024**	**FY2025**
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 head of the Department of Environmental Quality, Kimberly D. Shelley, has reviewed and approved this fiscal 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 19-6-106	

Incorporations by Reference Information

7. Incorporations by Reference (if this rule incorporates more than two items by reference, please include additional tables)**:**

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

Official Title of Materials Incorporated (from title page)	
Publisher	
Issue Date	
Issue or Version	

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

Official Title of Materials Incorporated (from title page)	
Publisher	
Issue Date	
Issue or Version	

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:		01/03/2023
B) A public hearing (optional) will be held:		
On (mm/dd/yyyy)**:**	**At** (hh:mm AM/PM)**:**	**At** (place)**:**

9. This rule change MAY become effective on:	01/17/2023
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

To the agency: Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the *Utah State Bulletin* and delaying the first possible effective date.			
Agency head or designee and title:	Douglas J. Hansen, Division Director	**Date:**	mm/dd/yyyy

R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.
R315-262. Hazardous Waste Generator Requirements.

R315-262-24. Manifest Requirements Applicable to Small and Large Quantity Generators -- Use of the Electronic Manifest.

(a) Legal equivalence to paper manifests. Electronic manifests that are [~~obtained~~]gotten, completed, and transmitted in accordance with Subsection R315-262-20(a)(3), and used in accordance with Section R315-262-24 in lieu of EPA Forms 8700-22 and 8700-22A are the legal equivalent of paper manifest forms bearing handwritten signatures, and satisfy [~~for all purposes~~]any requirement in these [~~regulations~~]rules to [~~obtain~~]get, complete, sign, provide, use, or [~~retain~~]keep a manifest.

(1) Any requirement in these [~~regulations~~]rules to sign a manifest or manifest certification by hand, or to [~~obtain~~]get a handwritten signature, is satisfied by signing with or [~~obtaining~~]getting a valid and enforceable electronic signature within the meaning of [~~Section R315-262-25~~]40 CFR 262.25.

(2) Any requirement in these [~~regulations~~]rules to give, provide, send, forward, or return to another person a copy of the manifest is satisfied when an electronic manifest is transmitted to the other person by submission to the system.

(3) Any requirement in these [~~regulations~~]rules for a generator to keep or [~~retain~~]keep a copy of each manifest is satisfied by retention of a signed electronic manifest in the generator's account on the national e-Manifest system, [~~provided that such~~]if these copies are readily available for viewing and production if requested by any EPA or Utah inspector.

(4) No generator may be held liable for the inability to produce an electronic manifest for inspection under Section R315-262-24 if the generator can demonstrate that the inability to produce the electronic manifest is due exclusively to a technical difficulty with the electronic manifest system for which the generator bears no responsibility.

(b) A generator may participate in the electronic manifest system either by accessing the electronic manifest system from its own electronic equipment, or by accessing the electronic manifest system from portable equipment brought to the generator's site by the transporter who accepts the hazardous waste shipment from the generator for off-site transportation.

(c) Restriction on use of electronic manifests. A generator may use an electronic manifest for the tracking of hazardous waste shipments involving any RCRA hazardous waste only if it is known at the time the manifest is originated that [~~all~~]each waste handler[~~s~~] named on the manifest participates in the use of the electronic manifest.

(1) Except that a generator may sign by hand and [~~retain~~]keep a paper copy of the electronic manifest signed by hand by the initial transporter, in lieu of executing the generator copy electronically, thereby enabling the transporter and subsequent waste handlers to execute the remainder of the manifest copies electronically.

(d) Requirement for one printed copy. To the extent the Hazardous Materials regulation on shipping papers for carriage by public highway requires shippers of hazardous materials to supply a paper document for compliance with 49 CFR 177.817, a generator originating an electronic manifest shall also provide the initial transporter with one printed copy of the electronic manifest.

(e) Special procedures [~~when~~]if electronic manifest is unavailable. If a generator has prepared an electronic manifest for a hazardous waste shipment, but the electronic manifest system becomes unavailable for any reason [~~prior to~~]before the time that the initial transporter has signed electronically to acknowledge the receipt of the hazardous waste from the generator, then the generator shall [~~obtain~~]get and complete a paper manifest and if necessary, a continuation sheet (EPA Forms 8700-22 and 8700-22A) in accordance with the manifest instructions, and use these paper forms from this point forward in accordance with the requirements of Section R315-262-23.

(f) Special procedures for electronic signature methods undergoing tests. If a generator has prepared an electronic manifest for a hazardous waste shipment, and signs this manifest electronically using an electronic signature method [~~which~~]that is undergoing pilot or demonstration tests aimed at demonstrating the practicality or legal dependability of the signature method, then the generator shall also sign with an ink signature the generator[~~,~~] or offeror certification on the printed copy of the manifest provided under Subsection R315-262-24(d).

(g) Reserved.[~~-~~]

(h) Post-receipt manifest data corrections. After facilities have certified to the receipt of hazardous wastes by signing Item 20 of the manifest, any post-receipt data corrections may be submitted at any time by any interested person, such as the waste handler, named on the manifest. Generators may participate electronically in the post-receipt data corrections process by following the process described in Subsection R315-264-71(l), which applies to corrections made to either paper or electronic manifest records.

KEY: hazardous waste, generators
Date of Last Change: July 14, 2022
Notice of Continuation: January 14, 2021
Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-106

State of Utah
Administrative Rule Analysis
Revised June 2022

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New ___; Amendment _X__; Repeal ___; Repeal and Reenact ___		
Title No. - Rule No. - Section No.		
Rule or Section Number:	**R315-263**	**Filing ID: Office Use Only**

Agency Information

1. Department:	Environmental Quality	
Agency:	Waste Management and Radiation Control	
Room number:	2nd Floor	
Building:	MASOB	
Street address:	195 N. 1950 W.	
City, state and zip:	Salt Lake City, Utah 84116	
Mailing address:	PO Box 144880	
City, state and zip:	Salt Lake City, Utah 84114-4880	
Contact persons:		
Name:	**Phone:**	**Email:**
Tom Ball	801-536-0251	tball@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:

R315-263-20. The Manifest System, R315-263-25. Electronic Manifest Signatures.

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**

Based comments received from Region 8, U.S. EPA an incorrect rule reference is being corrected.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**

Subsections R315-263-20(a)(1), R315-263-20(a)(4)(i) and R315-263-25 (a) references Section R315-262-25. However, 40 CFR 262.25 is non-delegable, and states cannot be authorized for these provisions. States should still adopt the provisions but must reference 40 CFR 262.25 instead of the state rule. The subsections listed above are being amended to reference 40 CFR 262.25
Additionally, the Division is correcting typographical and formatting errors that have been discovered in the rule.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

There is no cost or savings to the state budget because of this amendment because the amendment does not remove any existing requirements or add any new requirements.

B) Local governments:

There is no cost or savings to the budgets of any local government entities because of this amendment because the amendment does not remove any existing requirements or add any new requirements.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

There is no cost or savings to small businesses because of this amendment because the amendment does not remove any existing requirements or add any new requirements.

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

There is no cost or savings to non-small businesses because of this amendment because the amendment does not remove any existing requirements or add any new requirements.

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 is no cost or savings to persons other than small businesses, non-small businesses, state, or local government entities because of this amendment because the amendment does not remove any existing requirements or add any new requirements.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

The cost for affected persons to comply with this rule will not change from what it currently costs affected persons to comply because the amendment does not remove any existing requirements and does not add any new requirements.

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	**FY2023**	**FY2024**	**FY2025**
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	**FY2023**	**FY2024**	**FY2025**
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 head of the Department of Environmental Quality, Kimberly D. Shelley, has reviewed and approved this fiscal 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 19-6-106	

Incorporations by Reference Information

7. Incorporations by Reference (if this rule incorporates more than two items by reference, please include additional tables)**:**

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

Official Title of Materials Incorporated (from title page)	
Publisher	
Issue Date	
Issue or Version	

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

Official Title of Materials Incorporated (from title page)	
Publisher	
Issue Date	
Issue or Version	

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:		01/03/2023
B) A public hearing (optional) will be held:		
On (mm/dd/yyyy)**:**	**At** (hh:mm AM/PM)**:**	**At** (place)**:**

9. This rule change MAY become effective on:	01/17/2023
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

To the agency: Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the *Utah State Bulletin* and delaying the first possible effective date.			
Agency head or designee and title:	Douglas J. Hansen, Division Director	**Date:**	mm/dd/yyyy

R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.
R315-263. Standards Applicable to Transporters of Hazardous Waste and Standards Applicable to Emergency Control of Spills for [~~All~~]Any Hazardous Waste Handlers.

R315-263-20. The Manifest System.

(a)(1) Manifest requirement. A transporter may not accept hazardous waste from a generator unless the transporter is also provided with a manifest form; EPA Form 8700-22, and if necessary, EPA Form 8700-22A; signed in accordance with the requirement of Section R315-262-23, or is provided with an electronic manifest that is [~~obtained~~]gotten, completed, and transmitted in accordance with Subsection R315-262-20(a)(3), and signed with a valid and enforceable electronic signature as described in [~~Section R315-262-25~~]40 CFR 262.25.

(2) Exports. For exports of hazardous waste subject to the requirements of Sections R315-262-80 through R315-262-84, a transporter may not accept hazardous waste without a manifest signed by the generator in accordance with Section R315-263-20, as appropriate, and for exports occurring under the terms of consent issued by EPA on or after December 31, 2016, a movement document that includes [~~all~~]the information require by Subsection R315-262-83(d).

(3) Compliance date for form revisions. The revised Manifest form and procedures in Sections R315-260-10, R315-261-7, R315-263-20, and R315-263-21, had an effective date of September 5, 2006.

(4) Use of electronic manifest[~~-~~] legal equivalence to paper forms for participating transporters. Electronic manifests that are [~~obtained~~]gotten, completed, and transmitted in accordance with Subsection R315-262-20(a)(3), and used in accordance with Section R315-263-20 in lieu of EPA Forms 8700-22 and 8700-22A, are the legal equivalent of paper manifest forms bearing handwritten signatures, and satisfy [~~for all purposes~~]any requirement in these [~~regulations~~]rules to [~~obtain~~]get, complete, sign, carry, provide, give, use, or [~~retain~~]keep a manifest.

(i) Any requirement in these [~~regulations~~]rules to sign a manifest or manifest certification by hand, or to [~~obtain~~]get a handwritten signature, is satisfied by signing with or [~~obtaining~~]getting a valid and enforceable electronic signature within the meaning of [~~Section R315-262-25~~]40 CFR 262.25.

(ii) Any requirement in these [~~regulations~~]rules to give, provide, send, forward, or return to another person a copy of the manifest is satisfied when a copy of an electronic manifest is transmitted to the other person by submission to the system.

(iii) Any requirement in these [~~regulations~~]rules for a manifest to accompany a hazardous waste shipment is satisfied when a copy of an electronic manifest is accessible during transportation and forwarded to the person or persons who are scheduled to receive delivery of the waste shipment, except that to the extent that the Hazardous Materials regulation on shipping papers for carriage by public highway requires transporters of hazardous materials to carry a paper document to comply with 49 CFR 177.817, a hazardous waste transporter shall carry one printed copy of the electronic manifest on the transport vehicle.

(iv) Any requirement in these [~~regulations~~]rules for a transporter to keep [~~or retain~~]a copy of a manifest is satisfied by the retention of an electronic manifest in the transporter's account on the e-Manifest system, [~~provided that such~~]if the copies are readily available for viewing and production if requested by any EPA or Utah inspector.

(v) No transporter may be held liable for the inability to produce an electronic manifest for inspection under Section R315-263-20 if that transporter can demonstrate that the inability to produce the electronic manifest is exclusively due to a technical difficulty with the EPA system for which the transporter bears no responsibility.

(5) A transporter may participate in the electronic manifest system either by accessing the electronic manifest system from the transporter's own electronic equipment, or by accessing the electronic manifest system from the equipment provided by a participating generator, by another transporter, or by a designated facility.

(6) Special procedures [~~when~~]if electronic manifest is not available. If after a manifest has been originated electronically and signed electronically by the initial transporter, and the electronic manifest system should become unavailable for any reason, then:

(i) The transporter in possession of the hazardous waste when the electronic manifest becomes unavailable shall reproduce sufficient copies of the printed manifest that is carried on the transport vehicle pursuant to Subsection R315-263-20(a)(4)(iii)(A), or [~~obtain~~]get and complete another paper manifest

for this purpose. The transporter shall reproduce sufficient copies to provide the transporter and [~~all~~]each subsequent waste handler[~~s~~] with a copy for their files, plus two additional copies that will be delivered to the designated facility with the hazardous waste.

(ii) On each printed copy, the transporter shall include a notation in the Special Handling and Additional Description space, Item 14, that the paper manifest is a replacement manifest for a manifest originated in the electronic manifest system, shall include, if not pre-printed on the replacement manifest, the manifest tracking number of the electronic manifest that is replaced by the paper manifest, and shall also include a brief explanation why the electronic manifest was not available for completing the tracking of the shipment electronically.

(iii) A transporter signing a replacement manifest to acknowledge receipt of the hazardous waste shall ensure that each paper copy is individually signed and that a legible handwritten signature appears on each copy.

(iv) From the point [~~at which~~]that the electronic manifest is no longer available for tracking the waste shipment, the paper replacement manifest copies shall be carried, signed, [~~retained~~]kept as records, and given to a subsequent transporter or to the designated facility, following the instructions, procedures, and requirements that apply to the use of [~~all other~~]paper manifests.

(7) Special procedures for electronic signature methods undergoing tests. If a transporter using an electronic manifest signs this manifest electronically using an electronic signature method [~~which~~]that is undergoing pilot or demonstration tests aimed at demonstrating the practicality or legal dependability of the signature method, then the transporter shall sign the electronic manifest electronically and also sign with an ink signature the transporter acknowledgement of receipt of materials on the printed copy of the manifest that is carried on the vehicle in accordance with Subsection R315-263-20(a)(4)(iii)(A). This printed copy bearing the generator's and transporter's ink signatures shall also be presented by the transporter to the designated facility to sign in ink to indicate the receipt of the waste materials or to indicate discrepancies. After the owner[~~/~~] or operator of the designated facility has signed this printed manifest copy with its ink signature, the printed manifest copy shall be delivered to the designated facility with the waste materials.

(8) Reserved.

(9) Post-receipt manifest data corrections. After facilities have certified to the receipt of hazardous wastes by signing Item 20 of the manifest, any post-receipt data corrections may be submitted at any time by any interested person, such as the waste handler, named on the manifest. Transporters may participate electronically in the post-receipt data corrections process by following the process described in Subsection R315-264-71(l), which applies to corrections made to either paper or electronic manifest records.

(b) Before transporting the hazardous waste, the transporter shall sign and date the manifest acknowledging acceptance of the hazardous waste from the generator. The transporter shall return a signed copy to the generator before leaving the generator's property.

(c) The transporter shall ensure that the manifest accompanies the hazardous waste. In the case of exports occurring under the terms of a consent issued by EPA to the exporter on or after December 31, 2016, the transporter shall ensure that a movement document that includes [~~all~~]the information required by Subsection R315-262-83(d) also accompanies the hazardous waste. In the case of imports occurring under the terms of a consent issued by EPA to the country of export or the importer on or after December 31, 2016, the transporter shall ensure that a movement document that includes [~~all~~]the information required by Subsection R315-262-84(d) also accompanies the hazardous waste.

(d) A transporter who delivers a hazardous waste to another transporter or to the designated facility shall:

(1) [~~Obtain~~]get the date of delivery and the handwritten signature of that transporter or of the owner or operator of the designated facility on the manifest; and

(2) [~~Retain~~]keep one copy of the manifest in accordance with Section R315-263-22; and

(3) [~~G~~]give the remaining copies of the manifest to the accepting transporter or designated facility.

(e) The requirements of Subsections R315-263-20(c), (d) and (f) do not apply to water, bulk shipment, transporters if:

(1) [~~T~~]the hazardous waste is delivered by water, bulk shipment, to the designated facility; and

(2) [~~A~~]a shipping paper containing [~~all~~]the information required on the manifest; excluding the EPA identification numbers, generator certification, and signatures; and, for exports or imports occurring under the terms of a consent issued by EPA on or after December 31, 2016, a movement document that includes [~~all~~]the information required by Subsections R315-262-83(d) or R315-262-84(d) accompanies the hazardous waste; and

(3) [~~T~~]the delivering transporter [~~obtains~~]gets the date of delivery and handwritten signature of the owner or operator of the designated facility on either the manifest or the shipping paper; and

(4) [~~T~~]the person delivering the hazardous waste to the initial water, bulk shipment, transporter [~~obtains~~]gets the date of delivery and signature of the water, bulk shipment, transporter on the manifest and forwards it to the designated facility; and

(5) [~~A~~]a copy of the shipping paper or manifest is [~~retained~~]kept by each water, bulk shipment, transporter in accordance with Section R315-263-22.

(f) For shipments involving rail transportation, the requirements of Subsections R315-263-20(c), (d) and (e) do not apply and the following requirements do apply:

(1) When accepting hazardous waste from a non-rail transporter, the initial rail transporter shall:

(i) [~~S~~]sign and date the manifest acknowledging acceptance of the hazardous waste;

(ii) [~~R~~]return a signed copy of the manifest to the non-rail transporter;

(iii) [~~F~~]forward at least three copies of the manifest to:

(A) [~~T~~]the next non-rail transporter, if any; or

(B) [~~T~~]the designated facility, if the shipment is delivered to that facility by rail; or

(C) [~~T~~]the last rail transporter designated to handle the waste in the United States; and

(iv) [~~Retain~~]keep one copy of the manifest and rail shipping paper in accordance with Section R315-263-22.

(2) Rail transporters shall ensure that a shipping paper containing [~~all~~]the information required on the manifest; excluding the EPA identification numbers, generator certification, and signatures; and, for exports or imports occurring under the terms of a consent issued by EPA on or after December 31, 2016, a movement document that includes [~~all~~]the information required by Subsections R315-262-83(d) or R315-262-84(d) always accompanies the hazardous waste[~~ at all times~~].

Note to Subsection R315-263-20(f)(2): Intermediate rail transporters are not required to sign the manifest, movement document, or shipping paper.

(3) When delivering hazardous waste to the designated facility, a rail transporter shall:

(i) [~~Obtain~~]get the date of delivery and handwritten signature of the owner or operator of the designated facility on the manifest or the shipping paper, if the manifest has not been received by the facility; and

(ii) [~~Retain~~]keep a copy of the manifest or signed shipping paper in accordance with Section R315-263-22.

(4) When delivering hazardous waste to a non-rail transporter a rail transporter shall:

(i) [~~Obtain~~]get the date of delivery and the handwritten signature of the next non-rail transporter on the manifest; and

(ii) [~~Retain~~]keep a copy of the manifest in accordance with Section R315-263-22.

(5) Before accepting hazardous waste from a rail transporter, a non-rail transporter shall sign and date the manifest and provide a copy to the rail transporter.

(g) Transporters who transport hazardous waste out of the United States shall:

(1) [~~S~~]sign and date the manifest in the International Shipments block to indicate the date that the shipment left the United States;

(2) [~~Retain~~]keep one copy in accordance with Subsection R315-263-22(d);

(3) [~~R~~]return a signed copy of the manifest to the generator; and

(4) [~~F~~]for paper manifest only,

(i) [~~S~~]send a copy of the manifest to the e-Manifest system in accordance with the allowable methods specified in Subsection R315-264-71(a)(2)(v); and

(ii) [~~F~~]for shipments initiated [~~prior to~~]before the AES filing compliance date, when instructed by the exporter to do so, give a copy of the manifest to a U.S. Customs official at the point of departure from the United States.

(h) A transporter transporting hazardous waste from a generator who generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month need not comply with the requirements of Section 315-263-20 or those of Section R315-263-22 [~~provided that~~]if:

(1) [~~T~~]the waste is being transported pursuant to a reclamation agreement as provided for in Subsection R315-262-20(e);

(2) [~~T~~]the transporter records, on a log or shipping paper, the following information for each shipment:

(i) [~~T~~]the name, address, and U.S. EPA Identification Number of the generator of the waste;

(ii) [~~T~~]the quantity of waste accepted;

(iii) [~~All~~]any DOT[~~-~~] required shipping information; and

(iv) [~~T~~]the date the waste is accepted;[~~ and~~]

(3) [~~T~~]the transporter carries this record when transporting waste to the reclamation facility; and

(4) [~~T~~]the transporter [~~retains~~]keeps these records for a period of at least three years after termination or expiration of the agreement.

R315-263-25. Electronic Manifest Signatures.

(a) Electronic manifest signatures shall meet the criteria described in [~~Section R315-262-25~~]40 CFR 262.25.

KEY: hazardous waste
Date of Last Change: July 14, 2022
Notice of Continuation: January 14, 2021
Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-106

State of Utah
Administrative Rule Analysis
Revised June 2022

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New ___; Amendment _X__; Repeal ___; Repeal and Reenact ___		
Title No. - Rule No. - Section No.		
Rule or Section Number:	**R315-264-71**	**Filing ID: Office Use Only**

Agency Information

1. Department:	Environmental Quality	
Agency:	Waste Management and Radiation Control	
Room number:	2nd Floor	
Building:	MASOB	
Street address:	195 N. 1950 W.	
City, state and zip:	Salt Lake City, Utah 84116	
Mailing address:	PO Box 144880	
City, state and zip:	Salt Lake City, Utah 84114-4880	
Contact persons:		
Name:	**Phone:**	**Email:**
Tom Ball	801-536-0251	tball@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:

R315-264-71. Manifest System, Recordkeeping, and Reporting -- Use of Manifest System.

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**

Based comments received from Region 8, U.S. EPA an incorrect rule reference is being corrected.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**

Subsections R315-264-71(f)(1) and R315-264-71(k) reference Section R315-262-25. However, 40 CFR 262.25 is non-delegable, and states cannot be authorized for these provisions. States should still adopt the provisions but must reference 40 CFR 262.25 instead of the state rule. The subsections listed above are being amended to reference 40 CFR 262.25 Additionally, the Division is correcting typographical and formatting errors that have been discovered in the rule.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

There is no cost or savings to the state budget because of this amendment because the amendment does not remove any existing requirements or add any new requirements.

B) Local governments:

There is no cost or savings to the budgets of any local government entities because of this amendment because the amendment does not remove any existing requirements or add any new requirements.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

There is no cost or savings to small businesses because of this amendment because the amendment does not remove any existing requirements or add any new requirements.

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

There is no cost or savings to non-small businesses because of this amendment because the amendment does not remove any existing requirements or add any new requirements.

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 is no cost or savings to persons other than small businesses, non-small businesses, state, or local government entities because of this amendment because the amendment does not remove any existing requirements or add any new requirements.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

The cost for affected persons to comply with this rule will not change from what it currently costs affected persons to comply because the amendment does not remove any existing requirements and does not add any new requirements.

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	**FY2023**	**FY2024**	**FY2025**
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	**FY2023**	**FY2024**	**FY2025**
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 head of the Department of Environmental Quality, Kimberly D. Shelley, has reviewed and approved this fiscal 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 19-6-106	

Incorporations by Reference Information

7. Incorporations by Reference (if this rule incorporates more than two items by reference, please include additional tables)**:**

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

Official Title of Materials Incorporated (from title page)	
Publisher	
Issue Date	
Issue or Version	

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

Official Title of Materials Incorporated (from title page)	
Publisher	
Issue Date	
Issue or Version	

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:		01/03/2023
B) A public hearing (optional) will be held:		
On (mm/dd/yyyy)**:**	**At** (hh:mm AM/PM)**:**	**At** (place)**:**

9. This rule change MAY become effective on:	01/17/2023
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

To the agency: Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the *Utah State Bulletin* and delaying the first possible effective date.			
Agency head or designee and title:	Douglas J. Hansen, Division Director	**Date:**	mm/dd/yyyy

R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.
R315-264. Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities.

R315-264-71. Manifest System, Recordkeeping, and Reporting -- Use of Manifest System.

(a)(1) If a facility receives hazardous waste accompanied by a manifest, the owner, operator or [~~his/her~~]the owner or operator's agent shall sign and date the manifest as indicated in Subsection R315-264-71(a)(2) to certify that the hazardous waste covered by the manifest was received, that the hazardous waste was received except as noted in the discrepancy space of the manifest, or that the hazardous waste was rejected as noted in the manifest discrepancy space.

(2) If the facility receives a hazardous waste shipment accompanied by a manifest, the owner, operator, or his agent shall:

(i) [~~S~~]sign and date each copy of the manifest;

(ii) [~~N~~]note any discrepancies, as defined in Subsection R315-264-72(a), on each copy of the manifest;

(iii) [~~I~~]immediately give the transporter at least one copy of the manifest;

(iv) [~~W~~]within 30 days of delivery, send a copy, Page 2, of the manifest to the generator[~~,~~];

(v) [~~P~~]paper manifest submission requirements are:

(A) Options for compliance on June 30, 2018. Beginning on June 30, 2018, send the top copy, Page 1, of any paper manifest and any paper continuation sheet to the e-Manifest system for [~~purposes of~~]data entry and processing, or in lieu of submitting the paper copy to EPA, the owner or operator may transmit to the EPA system an image file of Page 1 of the manifest and any continuation sheet, or both a data file and the image file corresponding to Page 1 of the manifest and any continuation sheet, within 30 days of the date of delivery. Submissions of copies to the e-Manifest system shall be made at the mailing address or electronic mail[~~,~~] or submission address specified at the e-Manifest program website's directory of services. Beginning on June 30, 2021, EPA will not accept mailed paper manifests from facilities for processing in e-Manifest.

(B) Options for compliance on June 30, 2021. Beginning on June 30, 2021, the requirement to submit the top copy, Page 1, of the paper manifest and any paper continuation sheet to the e-Manifest system for [~~purposes of~~]data entry and processing may be met by the owner or operator only by transmitting to the EPA system an image file of Page 1 of the manifest and any continuation sheet, or by transmitting to the EPA system both a data file and the image file corresponding to Page 1 of the manifest and any continuation sheet, within 30 days of the date of delivery. Submissions of copies to the e-Manifest system shall be made to the electronic mail[~~,~~] or submission address specified at the e-Manifest program website's directory of services; and

(vi) [~~Retain~~]keep at the facility a copy of each manifest for at least three years from the date of delivery.

(3) The owner or operator of a facility receiving hazardous waste subject to Sections R315-262-80 through R315-262-84 from a foreign source shall:

(i) [~~A~~]additionally list the relevant consent number from consent documentation supplied by EPA to the facility for each waste listed on the manifest, matched to the relevant list number for the waste from block 9b. If additional space is needed, the owner or operator should use a Continuation Sheet[~~(s)~~]or sheets, EPA Form 8700-22A; and

(ii) [~~S~~]send a copy of the manifest within 30 days of delivery to EPA using the addresses listed in Subsection R315-262-82(e) until the facility can submit [~~such~~]a copy to the e-Manifest system per Subsection R315-264-71(a)(2)(v).

(b) If a facility receives, from a rail or water, [~~(~~]bulk shipment[~~)~~], transporter, hazardous waste [~~which~~]that is accompanied by a shipping paper containing [~~all~~]the information required on the manifest; excluding the EPA identification numbers, generator's certification, and signatures; the owner or operator, or his agent, shall:

(1) [~~S~~]sign and date each copy of the manifest or shipping paper, if the manifest has not been received, to certify that the hazardous waste covered by the manifest or shipping paper was received;

(2) [~~N~~]note any significant discrepancies, as defined in Subsection R315-264-72(a), in the manifest or shipping paper, if the manifest has not been received, on each copy of the manifest or shipping paper. The [~~D~~]director does not intend that the owner or operator of a facility whose procedures under

Subsection R315-264-13(c) include waste analysis shall perform that analysis before signing the shipping paper and giving it to the transporter. Subsection R315-264-72(b), however, requires reporting an unreconciled discrepancy discovered during later analysis.

(3) [~~I~~]immediately give the rail or water, [~~(~~]bulk shipment[~~)~~], transporter at least one copy of the manifest or shipping paper, if the manifest has not been received;

(4) [~~W~~]within 30 days after the delivery, send a copy of the signed and dated manifest or a signed and dated copy of the shipping paper, if the manifest has not been received within 30 days after delivery, to the generator; and

Comment: Subsection R315-262-23(c) requires the generator to send three copies of the manifest to the facility when hazardous waste is sent by rail or water, [~~(~~]bulk shipment[~~)~~].

(5) [~~Retain~~]keep at the facility a copy of the manifest and shipping paper, if signed in lieu of the manifest [~~at the time of delivery~~]when delivered, for at least three years from the date of delivery.

(c) Whenever a shipment of hazardous waste is initiated from a facility, the owner or operator of that facility shall comply with the requirements of Rule R315-262. [~~The provisions of~~]Sections R315-262-15, R315-262-16, and R315-262-17 are applicable to the on-site accumulation of hazardous wastes by generators. Therefore, [~~the provisions of~~]Sections R315-262-15, R315-262-16, and R315-262-17 only apply to owners or operators who are shipping hazardous waste [~~which~~]that they generated at that facility or operating as a large quantity generator consolidating hazardous waste from very small quantity generators under Subsection R315-262-17(f).

(d) As per Subsection R315-262-84(d)(2)(xv), within three working days of the receipt of a shipment subject to Sections R315-262-80 through R315-262-84 the owner or operator of a facility shall provide a copy of the movement document bearing [~~all~~]the required signatures to the foreign exporter; to the competent authorities of the countries of export and transit that control the shipment as an export and transit of hazardous waste respectively; and on or after the electronic import-export reporting compliance date, to EPA electronically using EPA's Waste Import Export Tracking System (WIETS), or its successor system. The original copy of the movement document shall be maintained at the facility for at least three years from the date of signature. The owner or operator of a facility may satisfy this recordkeeping requirement by [~~retaining~~]keeping electronically submitted documents in the facility's account on EPA's Waste Import Export Tracking System (WIETS), or its successor system, [~~provided that~~]if the copies are readily available for viewing and production if requested by any EPA or Utah inspector. No owner or operator of a facility may be held liable for the inability to produce the documents for inspection under Section R315-264-71 if the owner or operator of a facility can demonstrate that the inability to produce the document is due exclusively to technical difficulty with EPA's Waste Import Export Tracking System (WIETS), or its successor system, for which the owner or operator of a facility bears no responsibility.

(e) A facility shall determine whether the consignment state for a shipment regulates any additional wastes, beyond those regulated [~~F~~]federally, as hazardous wastes under its state hazardous waste program. Facilities shall also determine whether the consignment state or generator state requires the facility to submit any copies of the manifest to these states.

(f) Legal equivalence to paper manifests. Electronic manifests that are [~~obtained~~]gotten, completed, and transmitted in accordance with Subsection R315-262-20(a)(3), and used in accordance with Section R315-264-71 in lieu of the paper manifest form are the legal equivalent of paper manifest forms bearing handwritten signatures, and satisfy [~~for all purposes~~]any requirement in these [~~regulations~~]rules to [~~obtain~~]get, complete, sign, provide, use, or [~~retain~~]keep a manifest.

(1) Any requirement in these [~~regulations~~]rules for the owner or operator of a facility to sign a manifest or manifest certification by hand, or to [~~obtain~~]get a handwritten signature, is satisfied by signing with or [~~obtaining~~]getting a valid and enforceable electronic signature within the meaning of [~~Section R315-262-25~~]40 CFR 262.25.

(2) Any requirement in these [~~regulations~~]rules to give, provide, send, forward, or to return to another person a copy of the manifest is satisfied when a copy of an electronic manifest is transmitted to the other person.

(3) Any requirement in these [~~regulations~~]rules for a manifest to accompany a hazardous waste shipment is satisfied when a copy of an electronic manifest is accessible during transportation and forwarded to the person or persons who are scheduled to receive delivery of the waste shipment.

(4) Any requirement in these [~~regulations~~]rules for an owner or operator to keep [~~or retain~~]a copy of each manifest is satisfied by the retention of the facility's electronic manifest copies in its account on the e-Manifest system, [~~provided that such~~]if the copies are readily available for viewing and production if requested by any EPA or Division of Waste Management and Radiation Control inspector.

(5) No owner or operator may be held liable for the inability to produce an electronic manifest for inspection under Section R315-264-71 if the owner or operator can demonstrate that the inability to produce the electronic manifest is due exclusively to a technical difficulty with the electronic manifest system for which the owner or operator bears no responsibility.

(g) An owner or operator may participate in the electronic manifest system either by accessing the electronic manifest system from the owner's or operator's electronic equipment, or by accessing the electronic manifest system from portable equipment brought to the owner's or operator's site by the transporter who delivers the waste shipment to the facility.

(h) Special procedures applicable to replacement manifests. If a facility receives hazardous waste that is accompanied by a paper replacement manifest for a manifest that was originated electronically, the following procedures apply to the delivery of the hazardous waste by the final transporter:

(1) Upon delivery of the hazardous waste to the designated facility, the owner or operator shall sign and date each copy of the paper replacement manifest by hand in Item 20, Designated Facility Certification of Receipt, and note any discrepancies in Item 18, Discrepancy Indication Space, of the paper replacement manifest[~~,~~].

(2) The owner or operator of the facility shall give back to the final transporter one copy of the paper replacement manifest[~~,~~].

(3) Within 30 days of delivery of the waste to the designated facility, the owner or operator of the facility shall send one signed and dated copy of the paper replacement manifest to the generator, and send an additional signed and dated copy of the paper replacement manifest to the electronic manifest system[~~, and~~].

(4) The owner or operator of the facility shall [~~retain~~]keep at the facility one copy of the paper replacement manifest for at least three years from the date of delivery.

(i) Special procedures applicable to electronic signature methods undergoing tests. If an owner or operator using an electronic manifest signs this manifest electronically using an electronic signature method [~~which~~]that is undergoing pilot or demonstration tests aimed at demonstrating the practicality or legal dependability of the signature method, then the owner or operator shall also sign with an ink signature the facility's certification of receipt or discrepancies on the printed copy of the manifest provided by the transporter. Upon executing its ink signature on this printed copy, the owner or operator shall [~~retain~~]keep this original copy among its records for at least 3 years from the date of delivery of the waste.

(j) Imposition of user fee for manifest submissions.

(1) As prescribed in 40 CFR 264.1311, and determined in 40 CFR 264.1312, which are adopted and incorporated by reference, an owner or operator who is a user of the electronic manifest system shall be assessed a user fee by EPA for the submission and processing of each electronic and paper

manifest. EPA shall update the schedule of user fees and publish them to the user community, as provided in 40 CFR 264.1313, which is adopted and incorporated by reference.

(2) An owner or operator subject to user fees under Section R315-264-71 shall make user fee payments in accordance with the requirements of 40 CFR 264.1314, which is adopted and incorporated by reference, subject to the informal fee dispute resolution process of 40 CFR 264.1316, which is adopted and incorporated by reference, and subject to the sanctions for delinquent payments under 40 CFR 264.1315, which is adopted and incorporated by reference.

(k) Electronic manifest signatures. Electronic manifest signatures shall meet the criteria described in [~~Section R315-262-25~~]40 CFR 262.25.

(l) Post-receipt manifest data corrections. After facilities have certified to the receipt of hazardous wastes by signing Item 20 of the manifest, any post-receipt data corrections may be submitted at any time by any interested person, such as the waste handler, shown on the manifest.

(1) Interested persons shall make [~~all~~]each correction[~~s~~] to manifest data by electronic submission, either by directly entering corrected data to the web based service provided in e-Manifest for [~~such~~]the corrections, or by an upload of a data file containing data corrections relating to one or more previously submitted manifests.

(2) Each correction submission shall include the following information:

(i) [~~T~~]the Manifest Tracking Number and date of receipt by the facility of the original manifests for which data are being corrected;

(ii) [~~T~~]the item numbers of the original manifest that is the subject of the submitted corrections; and

(iii) [~~F~~]for each item number with corrected data, the data previously entered and the corresponding data as corrected by the correction submission.

(3) Each correction submission shall include a statement that the person submitting the corrections certifies that to the best of their knowledge or belief, the corrections that are included in the submission will cause the information reported about the previously received hazardous wastes to be true, accurate, and complete[~~:~~].

(i) The certification statement shall be executed with a valid electronic signature; and

(ii) A batch upload of data corrections may be submitted under one certification statement.

(4) Upon receipt by the system of any correction submission, other interested persons shown on the manifest will be provided electronic notice of the submitter's corrections.

(5) Other interested persons shown on the manifest may respond to the submitter's corrections with comments to the submitter, or by submitting another correction to the system, certified by the respondent as specified in Subsection R315-264-71(l)(3), and with notice of the corrections to other interested persons shown on the manifest.

KEY: hazardous waste, TSD facilities
Date of Last Change: July 14, 2022
Notice of Continuation: January 14, 2021
Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-106

State of Utah
Administrative Rule Analysis
Revised June 2022

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New ___; Amendment _X__; Repeal ___; Repeal and Reenact ___		
Title No. - Rule No. - Section No.		
Rule or Section Number:	**R315-265**	**Filing ID: Office Use Only**

Agency Information

1. Department:	Environmental Quality	
Agency:	Waste Management and Radiation Control	
Room number:	2nd Floor	
Building:	MASOB	
Street address:	195 N. 1950 W.	
City, state and zip:	Salt Lake City, Utah 84116	
Mailing address:	PO Box 144880	
City, state and zip:	Salt Lake City, Utah 84114-4880	
Contact persons:		
Name:	**Phone:**	**Email:**
Tom Ball	801-536-0251	tball@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:

R315-265-1. Incorporation, General -- Purpose, Scope, and Applicability, R315-265-71. Manifest System, Recordkeeping, and Reporting --Use of Manifest System.

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**

Based comments received from Region 8, U.S. EPA an incorrect rule reference is being corrected and a paragraph that was mistakenly left out of the rule is being inserted.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**

Subsections R315-265-71(f)(1) and R315-265-71(k)(1) reference Section R315-262-25. However, 40 CFR 262.25 is non-delegable, and states cannot be authorized for these provisions. States should still adopt the provisions but must reference 40 CFR 262.25 instead of the state rule. The subsections listed above are being amended to reference 40 CFR 262.25.
Subsection R315-265-1(c)(11)(iv) is being inserted into the rule. This paragraph was mistakenly left out of the rule when it should have been added during a previous amendment. Identical language exists in Subsection R315-264-1(g)(8)(iv) and needs to be in Subsection R315-265-1 to ensure equivalency with the federal regulations.
Additionally, the Division is correcting typographical and formatting errors that have been discovered in the rule.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

There is no cost or savings to the state budget because of this amendment because the amendment does not remove any existing requirements or add any new requirements.

B) Local governments:

There is no cost or savings to the budgets of any local government entities because of this amendment because the amendment does not remove any existing requirements or add any new requirements.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

There is no cost or savings to small businesses because of this amendment because the amendment does not remove any existing requirements or add any new requirements.

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

There is no cost or savings to non-small businesses because of this amendment because the amendment does not remove any existing requirements or add any new requirements.

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 is no cost or savings to persons other than small businesses, non-small businesses, state, or local government entities because of this amendment because the amendment does not remove any existing requirements or add any new requirements.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

The cost for affected persons to comply with this rule will not change from what it currently costs affected persons to comply because the amendment does not remove any existing requirements and does not add any new requirements.

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	**FY2023**	**FY2024**	**FY2025**
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	**FY2023**	**FY2024**	**FY2025**
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 head of the Department of Environmental Quality, Kimberly D. Shelley, has reviewed and approved this fiscal 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 19-6-106	

Incorporations by Reference Information

7. Incorporations by Reference (if this rule incorporates more than two items by reference, please include additional tables)**:**

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

Official Title of Materials Incorporated (from title page)	
Publisher	
Issue Date	
Issue or Version	

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

Official Title of Materials Incorporated (from title page)	

Publisher	
Issue Date	
Issue or Version	

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:		01/03/2023
B) A public hearing (optional) will be held:		
On (mm/dd/yyyy)**:**	**At** (hh:mm AM/PM)**:**	**At** (place)**:**

9. This rule change MAY become effective on:	01/17/2023
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

To the agency: Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the *Utah State Bulletin* and delaying the first possible effective date.			
Agency head or designee and title:	Douglas J. Hansen, Division Director	**Date:**	mm/dd/yyyy

R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.
R315-265. Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities.
R315-265-1. Incorporation, General -- Purpose, Scope, and Applicability.

40 CFR 265.270 through 265.282, 265.300 through 265.316, 265.340 through 265.352, 265.370 through 265.383, 265.400 through 265.406, 265.430, 265.440 through 265.445, 265.1050 through 265.1064, 265.1200 through 265.1202, 265.1300 through 265.1316 and Appendices I and III through VI of 40 CFR 265, 2015 edition, as amended by 81 FR 85827, are adopted and incorporated by reference except that "[~~D~~]director" is substituted for references to "Regional Administrator", and for references to "EPA" or "Environmental Protection Agency" except for references to "EPA identification number" and when EPA is used in reference to actions under Subsection R315-268-42(b) and in Subsection R315-265-71(a)(3).

(a) The purpose of Rule R315-265 is to establish minimum standards that define the acceptable management of hazardous waste during the period of interim status and until certification of final closure or, if the facility is subject to post-closure requirements, until post-closure responsibilities are fulfilled.

(b) Except as provided in Subsection R315-265-1080(b), the standards of Rule R315-265, and of Sections R315-264-552, R315-264-553, and R315-264-554, apply to owners and operators of facilities that treat, store or dispose of hazardous waste who have fully complied with the requirements for interim status under Section 3005(e) of RCRA and Section R315-270-10 until either a permit is issued under Rule R315-270 or until applicable Rule R315-265 closure and post-closure responsibilities are fulfilled, and to those owners and operators of facilities in existence on November 19, 1980 who have failed to provide timely notification as required by Section 3010(a) of RCRA, failed to file Part A of the permit application as required by Subsections R315-270-10 (e) and R315-270-10(g), or both. These standards apply to treatment, storage and disposal of hazardous waste at these facilities after the effective date of these rules, except as specifically provided otherwise in Rule R315-265 or Rule R315-261.

Comment: As stated in Section 3005(a) of RCRA, after the effective date of regulations under that section, which are Rules R315-270 and R315-124, the treatment, storage and disposal of hazardous waste is prohibited except in accordance with a permit. Section 3005(e) of RCRA provides for the continued operation of an existing facility that meets certain conditions, until final administrative disposition of the owner's and operator's permit application is made.

(c) The requirements of Rule R315-265 do not apply to the following:

(1) A person disposing of hazardous waste by means of ocean disposal subject to a permit issued under the Marine Protection, Research, and Sanctuaries Act.

Comment: Rule R315-265 does apply to the treatment or storage of hazardous waste before it is loaded onto an ocean vessel for incineration or disposal at sea, as provided in Subsection R315-265-1(b).

(2) Reserved.

(3) The owner or operator of a POTW that treats, stores, or disposes of hazardous waste.

Comment: The owner or operator of a facility under Subsections R315-265-1(c)(1) through R315-265-1(c)(3) is subject to the requirements of Rule R315-264 to the extent they are included in a permit by rule granted to [~~such a person~~]the owner or operator under 40 CFR 122, or are required by 40 CFR 144.14.

(4) Reserved.

(5) The owner or operator of a facility permitted under Rules R315-301 through R315-320 to manage municipal or industrial solid waste, if the only hazardous waste the facility treats, stores, or disposes of is excluded from regulation under Rule R315-265 by Section R315-262-14.

(6) The owner or operator of a facility managing recyclable materials described in Subsections R315-261-6(a)(2), R315-261-6(a)(3), and R315-261-6(a)(4), except to the extent they are referred to in Rule R315-15 or Sections R315-266-20 through R315-266-23, R315-266-70, R315-266-80, or R315-266-100 through R315-266-112.

(7) A generator accumulating waste on-site in compliance with applicable conditions for exemption in Sections R315-262-14 through R315-262-17 and Sections R315-262-200 through R315-262-216 and R315-262-230 through R315-262-233, except to the extent the requirements of Rule R315-265 are included in those sections.

(8) A farmer disposing of waste pesticides from the farmer's own use in compliance with Section R315-262-70.

(9) The owner or operator of a totally enclosed treatment facility, as defined in Section R315-260-10.

(10) The owner or operator of an elementary neutralization unit or a wastewater treatment unit as defined in Section R315-260-10, [~~provided~~]except that if the owner or operator is diluting hazardous ignitable (D001) wastes, other than the D001 High TOC Subcategory defined in Section R315-268-40, Table Treatment Standards for Hazardous Wastes, or reactive (D003) waste, to remove the characteristic before land disposal, the owner or operator shall comply with the requirements set out in Subsection R315-265-17(b).

(11)(i) Except as provided in Subsection R315-265-1(c)(11)(ii), a person engaged in treatment or containment activities during immediate response to any of the following situations:

(A) a discharge of a hazardous waste;

(B) an imminent and substantial threat of a discharge of a hazardous waste; or

(C) a discharge of a material that, if discharged, becomes a hazardous waste.

(ii) An owner or operator of a facility otherwise regulated by this Rule R315-265 shall comply with the applicable requirements of Sections R315-265-30 through R315-265-37 and Sections R315-265-50 through R315-265-56.

(iii) Any person who is covered by Subsection R315-265-1(c)(11)(i) and who continues or initiates hazardous waste treatment or containment activities after the immediate response is over is subject to the applicable requirements of Rule R315-265 and Rule R315-124 for those activities.

(iv) In the case of an explosives or munitions emergency response, if a federal, state, tribal or local official acting within the scope of their official responsibilities, or an explosives or munitions emergency response specialist, determines that immediate removal of the material or waste is necessary to protect human health or the environment, that official or specialist may authorize the removal of the material or waste by transporters who do not have EPA identification numbers and without the preparation of a manifest. In the case of emergencies involving military munitions, the responding military emergency response specialist's organizational unit shall keep records for three years identifying the dates of the response, the responsible persons responding, the type and description of material addressed, and its disposition.

(12) A transporter storing manifested shipments of hazardous waste in containers meeting the requirements of Section R315-262-30 at a transfer facility for a period of ten days or less.

(13) The addition of absorbent material to waste in a container, as defined in Section R315-260-10, or the addition of waste to the absorbent material in a container [~~provided that~~]if these actions occur [~~at the time~~]when waste is first placed in the containers; and Subsection R315-265-17(b) and Sections R315-265-171 and R315-265-172 are complied with.

(14) Universal waste handlers and universal waste transporters, as defined in Section R315-260-10, handling the wastes listed in Subsections R315-265-1(c)(14) (i) through (vi). These handlers are subject to regulation under Rule R315-273, if handling the following universal wastes:

(i) batteries as described in Section R315-273-2;

(ii) pesticides as described in Section R315-273-3;

(iii) mercury-containing equipment as described in Section R315-273-4;

(iv) lamps as described in Section R315-273-5;

(v) aerosol cans as described in Subsection R315-273-6; and

(vi) antifreeze as described in Subsection R315-273-7.

(15) Reserved

(16) Reverse distributors accumulating potentially creditable hazardous waste pharmaceuticals and evaluated hazardous waste pharmaceuticals, as defined in Section R315-266-500. Reverse distributors are subject to regulation under Sections R315-266-500 through R315-266-510 in lieu of Rule R315-265 for the accumulation of potentially creditable hazardous waste pharmaceuticals and evaluated hazardous waste pharmaceuticals.

(d) The following hazardous wastes shall not be managed at facilities subject to regulation under Rule R315-265.

(1) EPA Hazardous Waste Nos. F020, F021, F022, F023, F026, or F027 unless:

(i) the wastewater treatment sludge is generated in a surface impoundment as part of the plant's wastewater treatment system;

(ii) the waste is stored in tanks or containers;

(iii) the waste is stored or treated in waste piles that meet the requirements of Subsection R315-264-250(c) as well as other applicable requirements of Sections R315-265-250 through R315-265-260;

(iv) the waste is burned in incinerators that are certified pursuant to the standards and procedures in 40 CFR 265.352, which is incorporated by reference; or

(v) the waste is burned in facilities that thermally treat the waste in a device other than an incinerator and that are certified pursuant to the standards and procedures in 40 CFR 265.383, which is adopted and incorporated by reference.

(e) The requirements of Rule R315-265 apply to owners or operators of facilities [~~which~~]that treat, store or dispose of hazardous waste referred to in Rule R315-268, and the Rule R315-268 standards are considered material conditions or requirements of the Rule R315-265 interim status standards.

R315-265-71. Manifest System, Recordkeeping, and Reporting --Use of Manifest System.

(a)(1) If a facility receives hazardous waste accompanied by a manifest, the owner, operator or [~~his/her~~]the owner or operator's agent shall sign and date the manifest as indicated in Subsection R315-265-71(a)(2) to certify that the hazardous waste covered by the manifest was received, that the hazardous waste was received except as noted in the discrepancy space of the manifest, or that the hazardous waste was rejected as noted in the manifest discrepancy space.

(2) If the facility receives a hazardous waste shipment accompanied by a manifest, the owner, operator, or his agent shall:

(i) [~~S~~]sign and date each copy of the manifest;

(ii) [~~N~~]note any discrepancies, as defined in Subsection R315-265-72(a), on each copy of the manifest;

(iii) [~~I~~]immediately give the transporter at least one copy of the manifest;

(iv) [~~W~~]within 30 days of delivery, send a copy, Page 2, of the manifest to the generator;

(v) [~~P~~]paper manifest submission requirements are:

(A) Options for compliance on June 30, 2018. Beginning on June 30, 2018, send the top copy, Page 1, of any paper manifest and any paper continuation sheet to the e-Manifest system for [~~purposes of~~]data entry and processing, or in lieu of submitting the paper copy to EPA, the owner or operator may transmit to the EPA system an image file of Page 1 of the manifest and any continuation sheet, or both a data file and image file corresponding to Page 1 of the manifest and any continuation sheet, within 30 days of the date of delivery. Submissions of copies to the e-Manifest system shall be made at the mailing address or electronic mail[~~,~~] or submission address specified at the e-Manifest program website's directory of services. Beginning on June 30, 2021, EPA will not accept mailed paper manifests from facilities for processing in e-Manifest.

(B) Options for compliance on June 30, 2021. Beginning on June 30, 2021, the requirement to submit the top copy, Page1, of the paper manifest and any paper continuation sheet to the e-Manifest system for [~~purposes of~~]data entry and processing may be met by the owner or operator only by transmitting to the EPA system an image file of Page 1 of the manifest and any continuation sheet, or by transmitting to the EPA system both a data file and the image file corresponding to Page 1 of the manifest and any continuation sheet, within 30 days of the date of delivery. Submissions of copies to the e-Manifest system shall be made to the electronic mail[~~,~~] or submission address specified at the e-Manifest program website's directory of services; and

(vi) [~~Retain~~]keep at the facility a copy of each manifest for at least three years from the date of delivery.

(3) The owner or operator of a facility that receives hazardous waste subject to Sections R315-262-80 through R315-265-84 from a foreign source shall:

(i) [~~A~~]additionally list the relevant consent number from consent documentation supplied by EPA to the facility for each waste listed on the manifest, matched to the relevant list number for the waste from block 9b. If additional space is needed, the owner or operator should use a Continuation Sheet[~~(s)~~]or sheets, EPA Form 8700-22A; and

(ii) [~~S~~]send a copy of the manifest to EPA using the addresses listed in Subsection R315-262-82(e) within 30 days of delivery until the facility can submit [~~such~~]a copy to the e-Manifest system per Subsection R315-265-71(a)(2)(v).

(b) If a facility receives, from a rail or water, [~~(~~]bulk shipment[~~)~~], transporter, hazardous waste [~~which~~]that is accompanied by a shipping paper containing [~~all~~]the information required on the manifest, excluding the EPA identification numbers, generator's certification, and signatures, the owner or operator, or his agent, shall:

(1) [~~S~~]sign and date each copy of the manifest or shipping paper, if the manifest has not been received, to certify that the hazardous waste covered by the manifest or shipping paper was received;

(2) [~~N~~]note any significant discrepancies, as defined in Subsection R315-265-72(a), in the manifest or shipping paper, if the manifest has not been received, on each copy of the manifest or shipping paper;

Comment: The [~~D~~]director does not intend that the owner or operator of a facility whose procedures under Subsection R315-265-13(c) include waste analysis shall perform that analysis before signing the shipping paper and giving it to the transporter. Subsection R315-265-72(b), however, requires reporting an unreconciled discrepancy discovered during later analysis.

(3) [~~I~~]immediately give the rail or water, [~~(~~]bulk shipment[~~)~~], transporter at least one copy of the manifest or shipping paper, if the manifest has not been received;

(4) [~~W~~]within 30 days after the delivery, send a copy of the signed and dated manifest or a signed and dated copy of the shipping paper, if the manifest has not been received within 30 days after delivery, to the generator; and

Comment: Subsection R315-262-23(c) requires the generator to send three copies of the manifest to the facility when hazardous waste is sent by rail or water, [~~(~~]bulk shipment[~~)~~].

(5) [~~Retain~~]keep at the facility a copy of the manifest and shipping paper, if signed in lieu of the manifest [~~at the time of delivery~~]when delivered, for at least three years from the date of delivery.

(c) Whenever a shipment of hazardous waste is initiated from a facility, the owner or operator of that facility shall comply with the requirements of Rule R315-262. [~~The provisions of~~]Sections R315-262-15, R315-262-16, and R315-262-17 are applicable to the on-site accumulation of hazardous wastes by generators. Therefore, [~~the provisions of~~]Sections R315-262-15, R315-262-16, and R315-262-17 only apply to owners or operators who are shipping hazardous waste [~~which~~]that they generated at that facility or operating as a large quantity generator consolidating hazardous waste from very small quantity generators under Subsection R315-262-17(f).

Comment: [~~The provisions of~~]Section R315-262-34 are applicable to the on-site accumulation of hazardous wastes by generators. Therefore, [~~the provisions of~~]Section R315-262-34 only apply to owners or operators who are shipping hazardous waste [~~which~~]that they generated at that facility.

(d) As per Subsection R315-262-84(d)(2)(xv), within three working days of the receipt of a shipment subject to Sections R315-262-80 through R315-262-84, the owner or operator of a facility shall provide a copy of the movement document bearing [~~all~~]the required signatures to the foreign exporter; to the competent authorities of the countries of export and transit that control the shipment as an export and transit shipment of hazardous waste respectively; and on or after the electronic import-export reporting compliance date, to EPA electronically using EPA's Waste Import Export Tracking System (WIETS), or its successor system. The original copy of the movement document shall be maintained at the facility for at least three years from the date of signature. The owner or operator of a facility may satisfy this recordkeeping requirement by retaining electronically submitted documents in the facility's account on EPA's Waste Import Export Tracking System (WIETS), or its successor system, [~~provided that~~]if the copies are readily available for viewing and production if requested by any EPA or Utah inspector. No owner or operator of a facility may be held liable for the inability to produce the documents for inspection under this section if the owner or operator of a facility can demonstrate that the inability to produce the document is due exclusively to technical difficulty with EPA's Waste Import Export Tracking System (WIETS), or its successor system, for which the owner or operator of a facility bears no responsibility.

(e) A facility shall determine whether the consignment state for a shipment regulates any additional wastes, beyond those regulated [~~F~~]federally, as hazardous wastes under its state hazardous waste program. Facilities shall also determine whether the consignment state or generator state requires the facility to submit any copies of the manifest to these states.

(f) Legal equivalence to paper manifests. Electronic manifests that are [~~obtained~~]gotten, completed, and transmitted in accordance with Subsection R315-262-20(a)(3), and used in accordance with this Section R315-265-71 in lieu of the paper manifest form are the legal equivalent of paper manifest forms bearing handwritten signatures, and satisfy [~~for all purposes~~]any requirement in these [~~regulations~~]rules to [~~obtain~~]get, complete, sign, provide, use, or retain a manifest.

(1) Any requirement in these [~~regulations~~]rules for the owner or operator of a facility to sign a manifest or manifest certification by hand, or to [~~obtain~~]get a handwritten signature, is satisfied by signing with or [~~obtaining~~]getting a valid and enforceable electronic signature within the meaning of [~~Section R315-262-25~~]40 CFR 262.25.

(2) Any requirement in these [~~regulations~~]rules to give, provide, send, forward, or to return to another person a copy of the manifest is satisfied when a copy of an electronic manifest is transmitted to the other person.

(3) Any requirement in these [~~regulations~~]rules for a manifest to accompany a hazardous waste shipment is satisfied when a copy of an electronic manifest is accessible during transportation and forwarded to the person or persons who are scheduled to receive delivery of the hazardous waste shipment.

(4) Any requirement in these [~~regulations~~]rules for an owner or operator to keep or retain a copy of each manifest is satisfied by the retention of the facility's electronic manifest copies in its account on the e-Manifest system, [~~provided that such~~]if the copies are readily available for viewing and production if requested by any EPA or Utah inspector.

(5) No owner or operator may be held liable for the inability to produce an electronic manifest for inspection under this Section R315-265-71 if the owner or operator can demonstrate that the inability to produce the electronic manifest is due exclusively to a technical difficulty with the EPA system for which the owner or operator bears no responsibility.

(g) An owner or operator may participate in the electronic manifest system either by accessing the electronic manifest system from the owner's or operator's electronic equipment, or by accessing the electronic manifest system from portable equipment brought to the owner's or operator's site by the transporter who delivers the waste shipment to the facility

(h) Special procedures applicable to replacement manifests. If a facility receives hazardous waste that is accompanied by a paper replacement manifest for a manifest that was originated electronically, the following procedures apply to the delivery of the hazardous waste by the final transporter:

(1) Upon delivery of the hazardous waste to the designated facility, the owner or operator shall sign and date each copy of the paper replacement manifest by hand in Item 20, Designated Facility Certification of Receipt, and note any discrepancies in Item 18, Discrepancy Indication Space, of the replacement manifest[~~,~~].

(2) The owner or operator of the facility shall give back to the final transporter one copy of the paper replacement manifest[~~,~~].

(3) Within 30 days of delivery of the hazardous waste to the designated facility, the owner or operator of the facility shall send one signed and dated copy of the paper replacement manifest to the generator, and send an additional signed and dated copy of the paper replacement manifest to the EPA e-Manifest system[~~, and~~].

(4) The owner or operator of the facility shall retain at the facility one copy of the paper replacement manifest for at least three years from the date of delivery.

(i) Special procedures applicable to electronic signature methods undergoing tests. If an owner or operator using an electronic manifest signs this manifest electronically using an electronic signature method [~~which~~]that is undergoing pilot or demonstration tests aimed at demonstrating the practicality or legal dependability of the signature method, then the owner or operator shall also sign with an ink signature the facility's certification of receipt or discrepancies on the printed copy of the manifest provided by the transporter. Upon executing its ink signature on this printed copy, the owner or operator shall retain this original copy among its records for at least three years from the date of delivery of the waste.

(j) Imposition of user fee for electronic manifest use.

(1) As prescribed in 40 CFR 265.1311, and determined in 40 CFR 265.1312, which are adopted and incorporated by reference, an owner or operator who is a user of the electronic manifest system shall be assessed a user fee by EPA for the submission and processing of each electronic and paper manifest. EPA shall update the schedule of user fees and publish them to the user community, as provided in 40 CFR 265.1313, which is adopted and incorporated by reference.

(2) An owner or operator subject to user fees under Section R315-265-71 shall make user fee payments in accordance with the requirements of 40 CFR 265.1314, subject to the informal fee dispute resolution process of 40 CFR 265.1316, and subject to the sanctions for delinquent payments under 40 CFR 265.1315, which are adopted and incorporated by reference.

(k) Electronic manifest signatures.

(1) Electronic manifest signatures shall meet the criteria described in [~~Section R315-262-25~~]40 CFR 262.25.

(l) Post-receipt manifest data corrections. After facilities have certified to the receipt of hazardous wastes by signing Item 20 of the manifest, any post-receipt data corrections may be submitted at any time by any interested person, for example, waste handler, shown on the manifest.

(1) Interested persons shall make [~~all~~]each correction[~~s~~] to manifest data by electronic submission, either by directly entering corrected data to the web based service provided in e-Manifest for [~~such~~]corrections, or by an upload of a data file containing data corrections relating to one or more previously submitted manifests.

(2) Each correction submission shall include the following information:

(i) [~~T~~]the Manifest Tracking Number and date of receipt by the facility of the original manifest[~~(s)~~]or manifests for which data are being corrected;

(ii) [~~T~~]the Item Number[~~(~~]s[~~)~~] of the original manifest that is the subject of the submitted correction[~~(~~]s[~~)~~]; and

(iii) [~~F~~]for each Item Number with corrected data, the data previously entered and the corresponding data as corrected by the correction submission.

(3) Each correction submission shall include a statement that the person submitting the corrections certifies that to the best of his or her knowledge or belief, the corrections that are included in the submission will cause the information reported about the previously received hazardous wastes to be true, accurate, and complete.

(i) The certification statement shall be executed with a valid electronic signature; and

(ii) A batch upload of data corrections may be submitted under one certification statement.

(4) Upon receipt by the system of any correction submission, other interested persons shown on the manifest will be provided electronic notice of the submitter's corrections.

(5) Other interested persons shown on the manifest may respond to the submitter's corrections with comments to the submitter, or by submitting another correction to the system, certified by the respondent as specified in Subsection R315-265-71(l)(3), and with notice of the corrections to other interested persons shown on the manifest.

KEY: hazardous waste, TSD facilities, interim status
Date of Last Change: July 14, 2022
Notice of Continuation: January 14, 2021
Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-106

WASTE MANAGEMENT AND RADIATION CONTROL BOARD
Executive Summary
Public Comment -- Proposed Rule Changes
Utah Administrative Code(UAC) R313-28-31
November 10, 2022

What is the issue before the Board?	Approval from the Board to proceed with formal rulemaking and public comment on a proposed changes to UAC R313-28-31 to amend the requirement for gonadal shielding (GS) during abdominal and pelvic radiography.
What is the historical background or context for this issue?	In January of 2021, the National Council on Radiation Protection and Measurements released NCRP Statement No. 13 entitled, *NCRP Recommendations for Ending Routine Gonadal Shielding During Abdominal and Pelvic Radiography*. In the statement the NCRP states that they have reached the conclusion that in most circumstances gonadal shielding (GS) does not contribute significantly to reducing risks from exposure and may have unintended consequences of increased exposure and loss of valuable diagnostic information and therefore is not justified as a routine part of radiological protection. They further recommend that federal, state, and local regulations and guidance be revised to remove any actual or implied requirement for routine GS. The statement lists the following factors as reasons for the recommendation: • The risks of heritable genetic effects are now considered to be much less than previously estimated. • Improvements in technology since the 1950s have resulted in up to a 95% reduction in the absorbed dose to pelvic organs from radiography. • GS can interfere with the use of automatic exposure control (AEC) and thereby cause an increase in dose to other pelvic and abdominal organs that may be more radiosensitive. • GS obscures portions of pelvic anatomy and may obscure important findings on radiographs. This limits the practical dimensions and area of the shield. • Despite adherence to practice guidelines by technologists, GS may not completely shield the gonads in the majority of patients due to the limited area of the shield and the normal variations in patient anatomy. • A substantial portion of gonadal dose to the ovaries is delivered by scattered x rays that are not attenuated by GS. The NCRP is a nongovernmental, not-for-profit, public service organization with a charter from the U.S. Congress stating that one of the objectives of the council is to collect, analyze, develop, and disseminate in the public interest information and recommendations about protection against radiation.

DSHW-2022-025557
Attachment 1 DSHW-2022-025535
Attachment 2 DSHW-2022-025534

	The statement is supported by the following organizations: • American Association of Physicists in Medicine • American Board of Radiology • American College of Radiology • American Society of Radiologic Technologists • Society for Pediatric Radiology The Conference of Radiation Control Program Directors has endorsed the statement and has incorporated the guidance into the current version of Suggested State Regulations, Part F: Medical Diagnostic & Interventional X-Ray & Imaging Systems. Currently UAC R313-28-31(1)(e) states that gonad shielding shall be used during radiographic procedures. This amendment changes the rule to state that gonad shielding may be used. In addition to the proposed changes detailed above the Division, at the request of the Governor's Office, is correcting typographical and formatting errors found in the rules. A copy of NCRP Statement No. 13 and the proposed changes to UAC R313-28-31 follow this Executive Summary.
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 that are necessary to implement the provision 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 December 1, 2022, *Utah State Bulletin* the proposed changes to UAC R313-28-31 and conducting a public comment period from December 1, 2022 to January 3, 2023.
Where can more information be obtained?	Please contact Tom Ball by email at tball@utah.gov or by phone at (801) 536-0251.

National Council on Radiation Protection and Measurements
7910 Woodmont Avenue / Suite 400 / Bethesda, MD 20814-3095
http://ncrponline.org

NCRP Recommendations for Ending Routine Gonadal Shielding During Abdominal and Pelvic Radiography

NCRP Statement No. 13, January 12, 2021

Executive Summary

The purpose of radiological protection, including recommendations for shielding, is to reduce the likelihood of possible harm. For medical exposures, the goal is to keep exposures as low as reasonably achievable while simultaneously ensuring that the needed information is obtained. Gonadal shielding (GS) was introduced and widely recommended in the 1950s with the intent of minimizing the potential for heritable genetic effects from medical exposures. Scientific evidence has led the National Council on Radiation Protection and Measurements (NCRP) to reconsider the recommendation for GS. Several factors contribute to NCRP's new recommendation.

- The risks of heritable genetic effects are now considered to be much less than previously estimated.
- Improvements in technology since the 1950s have resulted in up to a 95 % reduction in the absorbed dose to pelvic organs from radiography.
- GS can interfere with the use of automatic exposure control (AEC) and thereby cause an increase in dose to other pelvic and abdominal organs that may be more radiosensitive.
- GS obscures portions of pelvic anatomy and may obscure important findings on radiographs. This limits the practical dimensions and area of the shield.
- Despite adherence to practice guidelines by technologists, GS may not completely shield the gonads in the majority of patients due to the limited area of the shield and the normal variations in patient anatomy.
- A substantial portion of gonadal dose to the ovaries is delivered by scattered x rays that are not attenuated by GS.

As a result, NCRP has concluded that in most circumstances GS use does not contribute significantly to reducing risks from exposure and may have the unintended consequences of increased exposure and loss of valuable diagnostic information, and therefore use of GS is not justified as a routine part of radiological protection.

NCRP now recommends that GS not be used routinely during abdominal and pelvic radiography, and that federal, state, and local regulations and guidance should be revised to remove any actual or implied requirement for routine GS. GS use may remain appropriate in some limited circumstances. The recommendations in this Statement are limited to patient GS during abdominal and pelvic radiography. NCRP recognizes that adoption of these new recommendations requires addressing the impact of this substantial change on ingrained medical practice.

Introduction

Medical imaging frequently uses ionizing radiation to provide information necessary for patient care. The goal of radiation protection in medical settings is to manage the radiation dose to the patient to be commensurate with the medical purpose. Scientific understanding in the 1950s included the possibility of radiation-induced heritable effects. Consequently, the use of radioprotective shields placed over the expected location of the gonads was recommended or required in guidelines and regulatory standards. This Statement reevaluates the effectiveness of GS in light of technological advancements in medical imaging and current scientific evidence, including gonadal radiosensitivity, in order to provide updated recommendations regarding GS.

Historical Rationale for the Use of Gonadal Shielding

The widespread practice of radioprotective (more familiarly "lead") shielding of the male and female gonads from the primary x-ray beam began in the 1950s (Magnusson 1952; ICRP 1955; Ardran and Kemp

1957; Abram et al. 1958), with evidence of a reduction in male gonadal dose of up to 98 % (Ardran and Kemp 1957; Feldman et al. 1958). In 1976, the U.S. Food and Drug Administration (FDA) introduced a recommendation in the U.S. Code of Federal Regulations (FDA 2019) that shielding should be used to protect the gonads from radiation exposure that may have genetic effects through mutations in germ cells (FDA 1976). The FDA recommendation was based on then-current scientific understanding that "exposure to ionizing radiation causes mutations in germinal tissue, which may adversely affect future generations," and the assumption that GS substantially limited the amount of ionizing radiation reaching the gonads during radiography (FDA 1976). Current U.S. state regulations vary but are most often derived from the 1976 FDA recommendation. This includes a requirement for GS during abdominal and pelvic radiography, with the exception that GS need not be used for cases in which it would obscure anatomy of interest in the diagnostic examination.

Reduction of Patient Doses During Radiography

In the first half of the 1950s, when beam filtration was typically <2.5 mm aluminum equivalence (Stanford and Vance 1955), the entrance air kerma for an anterior-posterior radiograph of the abdomen and pelvis was 11 to 12 mGy for an adult patient (Handloser and Love 1951) and 1.4 mGy for an infant (Billings et al. 1957). This corresponded to estimated gonadal doses for unshielded patients of 10 to 11 mGy and 4 mGy for adult males and females, respectively (Somasundaram et al. 2020). Three developments since the 1950s have dramatically reduced patient dose during diagnostic radiographic examinations (Huda et al. 2008): increased x-ray beam filtration (Ardran 1956; Nickoloff and Berman 1993), improvements in x-ray generators (Sobol 2002; Matsumoto et al. 1991), and faster image receptors (Rossi et al. 1976; Haus and Cullinan 1989). These advances have reduced current typical gonadal dose delivered by up to 95 % as compared to the doses delivered in the 1950s (Jeukens et al. 2020).

Factors Impacting the Radiation-Reduction from Gonadal Shielding

"Ideal" GS follows manually centered shields placed between the gonads and the x-ray source. Levels of gonadal radiation dose reductions can differ when comparing ovaries and testes and can be substantial with ideal shielding. However, shield placement is seldom ideal and can increase the radiation dose when used in conjunction with AEC.

Estimations of radiation dose to the testes and ovaries based on ideal shielding are listed in Table 1 (Somasundaram et al. 2020). Monte Carlo simulations for standardized adult, 5 y old, and newborn anthropomorphic phantoms with and without the use of GS were conducted. The simulations included clinically appropriate shield sizes, positioning, and collimation. AEC was not used. The percent reduction in absorbed dose to the testes and ovaries with GS compared to no shielding was 85 to 90 % and 57 to 72 %, respectively, with the highest percent reductions occurring for the youngest, smallest patients.

Impact of Primary and Scattered X Rays

Prior to interaction with the patient, the x-ray beam consists only of primary x rays (assuming negligible interactions with air). As the x-ray beam travels through the patient's body, attenuation removes some primary x rays and creates scattered x rays. As a result, the scatter-to-primary ratio (SPR) (the ratio of the number of scattered x rays to the number of primary x rays) increases with depth of penetration in the body. The SPR is low near the surface of the body where the x-ray beam enters (*e.g.*, at the expected location of the testes), intermediate at the depth of the ovaries, and maximum where the x-ray beam exits the body (Table 1). SPR also increases with an increase in patient size.

A 0.5 mm lead equivalent GS attenuates more than 99 % of the incident Bremsstrahlung x-ray energy (NCRP 2004) from a typical diagnostic x-ray beam (85 kV and a minimum of 2.5 mm aluminum filtration). Provided the shield covers the gonads completely, GS spares the gonads from essentially the entire radiation dose from primary x rays. As shown in the Table, for the unshielded case, the SPR is substantially <1 for the testes regardless of patient size. Since the dose to the testes is due principally to primary x rays as relatively few scattered x rays are present at the depth of the testes, ideal GS effectively reduces the radiation dose to the testes.

At the depth of the ovaries in an unshielded patient, scattered x rays substantially outnumber primary x rays. The SPR of the ovaries is >1 for the adult and 5 y old and ~1 for the newborn (Table 1). A primary x ray with the most prevalent energy in the Bremsstrahlung beam that has undergone a single 60 degree scattering event retains more than 97 % of its original energy (Bushberg et al. 2012), so the dose to the ovaries from a single scattered x ray is similar to the dose from one primary x ray. Since more scattered x rays are present at

TABLE 1—*Organ doses with and without ideal GS, percent dose reduction, and SPR for abdominopelvic radiographs obtained using standard filtration (Somasundaram et al. 2020).*[a]

	Adult			5 y Old			Newborn		
Location	Testes	Ovaries	Exit	Testes	Ovaries	Exit	Testes	Ovaries	Exit
No GS (mGy)	1.81	0.54		0.45	0.16		0.16	0.090	
With GS (mGy)	0.28	0.23		0.044	0.055		0.016	0.025	
Percent reduction[b]	85	57		90	66		90	72	
SPR	0.68	1.47	6.86	0.71	1.61	1.78	0.52	0.92	1.03

[a]Validation of Monte-Carlo calculations results in an accuracy of the estimated doses of ±8 %
[b]Gonadal dose reduction did not occur with misalignments of the shield and gonads of 4 cm horizontal displacement or more, with the exception of the testes in the adult phantom, where GS did not become totally ineffective until the misalignment was ≥6 cm.

the ovaries than primary x rays (SPR > 1), the ovarian dose from scattered x rays is substantially greater than ovarian dose from primary x rays. Since ideal GS reduces primary x rays present in the shadow of the shield, GS reduces the ovarian dose delivered by those blocked primary x rays as well as the associated dose that would have been delivered by x rays scattered from the blocked primary radiation. GS does not, however, remove the substantial amount of scattered x rays from the unshielded imaged regions.

Impact of Automatic Exposure Control

While AEC is a standard of care to ensure consistent image quality, it can lead to an increased dose to the gonads and surrounding region if shielding covers the AEC detectors. AEC detectors between the patient and the imaging receptor monitor the radiation transmitted through the patient. When the dose measured by the detectors reaches a designated level, the exposure ends. In adults and larger children, AEC is the standard of care, as it prevents errors that may result from use of manual techniques. AEC is usually not used in small children with an anterior-posterior thickness <12 cm [average age 3 y old (Kleinman et al. 2010), average weight 14 kg (CDC 2010)] because a small child's body may not adequately cover the AEC detector, resulting in an incorrect exposure.

If GS is used with AEC, to have the desired effect the AEC detectors must remain completely uncovered by the shield in the primary x-ray beam. If the AEC detector is partially or completely covered by GS, the AEC system will extend the exposure time, increasing radiation dose to the remainder of the anatomy within the imaged area. One phantom study showed that a covered AEC detector increased the dose to the unshielded organs surrounding the gonads by up to 51 % and 100 % in phantoms of a 5 y old and adult, respectively (Kaplan et al. 2018). Another study demonstrated a dose increase to unshielded surrounding organs of 25 % when an AEC detector was covered (Kaplan et al. 2020). Importantly, some of the surrounding abdominal organs receiving increased doses are more sensitive to the carcinogenic potential of radiation than are the gonads (ICRP 2007).

A number of professional organizations, including the American Association of Physicists in Medicine (AAPM 2019), the Image Gently® Alliance (Goske et al. 2011), the Health Physics Society (Goldin 2020), the American Society of Radiologic Technologists (DeMaio et al. 2019), the American College of Radiology (ACR 2019), and the Canadian Organization of Medical Physicists (COMP 2019) recommend against the use of GS in conjunction with AEC.

Difficulty with Gonadal Shielding Accounting for Normal Variation in Gonadal Location

The location of the gonads within the body varies considerably among patients. Shielding the ovaries is challenging because the ovaries are not visible and may be located anywhere in a large area within (Featherston et al. 1999; Bardo et al. 2009) (Figure 1) and occasionally outside of the pelvis (Featherston et al. 1999). Fawcett and colleagues evaluated 306 female patients and concluded that a GS positioned appropriately based on practice guidelines, including using external landmarks, will not protect the ovaries in more than one-third of children (Fawcett et al. 2012). Given the typical location of the testes within the scrotum, it is reasonable to assume that accurate positioning of GS should occur substantially more frequently for males than for females. However, difficulties in gonadal coverage are more frequent in younger than older males due to the relatively high location of the testes in the smaller prepubertal scrotum as well as the occurrence of

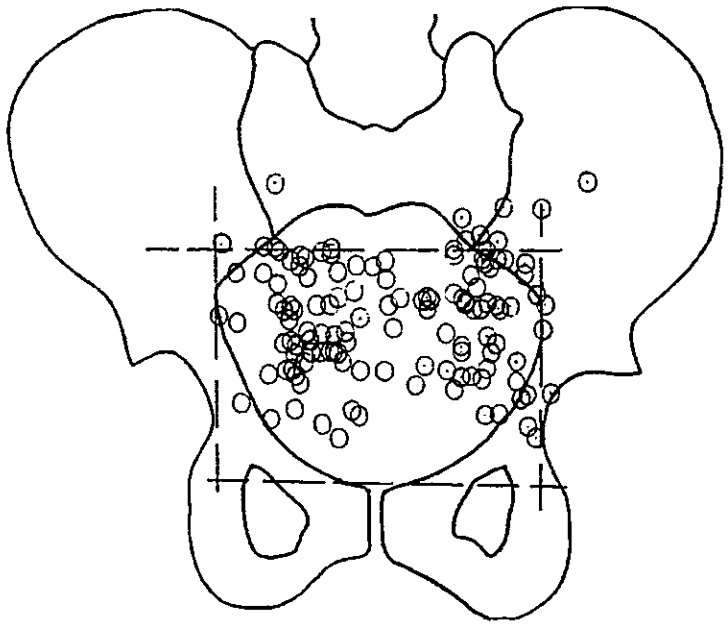

Fig. 1. The estimated position of 128 ovaries in pelvis in 70 adult patients using ultrasound. The variation in position demonstrates the challenge of locating and shielding the gonads without imaging assistance (Featherstone et al. 1999).

retractile, inguinal testes and undescended testes; these conditions are often unrecognized. In addition, active children are more likely to move and displace the GS between placement and exposure (Fawcett and Barter 2009). A meta-analysis of 18 studies provides an overall summary that GS failed to fully cover the gonads 52 % of the time for males and 85 % of the time for females (Karami et al. 2017). Monte Carlo simulations demonstrate the progressive ineffectiveness of inaccurately placed shielding (Somasundaram et al. 2020).

Summary of the Radiation-Reduction Impact of Gonadal Shielding

Ideal GS effectively attenuates primary, unscattered x rays. While GS prevents attenuated primary x rays from generating scattered x rays in the shadow region underneath the shield, it does not attenuate scattered x rays generated by x-ray interactions outside the shadow of the shielded area. Since primary x rays deliver the majority of dose to the testes, ideal GS substantially reduces the dose to testes. Since a substantial portion of ovarian dose is delivered by scattered x rays created by x-ray interactions outside the shadow region of the shield, ideal GS is less effective at reducing ovarian dose when compared to the reduction in testicular dose. Ideal GS is often not achievable for either male or, more commonly, female patients despite accurate placement relative to surface landmarks of the patient. While the scrotum is visible, anatomic differences in younger males make testes location difficult. Also, GS may be displaced due to patient movement. If GS partially or completely blocks the AEC detector, the radiation dose to all abdominal organs in the primary x-ray beam may increase by up to 25 % (Kaplan et al. 2020). This negates any dose reduction provided by GS and also increases the radiation dose to the remainder of the imaged portion of the abdomen and pelvis.

Current Understanding of Gonadal Radiosensitivity

The discovery in the early twentieth century that x rays could rearrange and damage the heritable genetic material of the cell in the fruit fly and mouse raised concerns about the possible consequences of x-ray exposure on reproduction in the human population (NA/NRC 2006). The potential heritable effects of radiation on the gene pool of the population from widespread use of human-made radiation became an even more urgent and serious concern after the detonation of atomic bombs in World War II and subsequent aboveground atmospheric testing of nuclear weapons (NA/NRC 2006). Historically, GS was believed to be a method of protecting the gonads and thus reduce the likelihood of any heritable genetic damage occurring among the offspring of patients undergoing medical x-ray examinations.

The current scientific understanding of gonadal radiosensitivity no longer supports the use of GS in most circumstances (NCRP 2013, 2018). First, the heritable effects observed in progeny induced by radiation are now recognized to be induced by other causes — they are not specific to radiation. In addition, the number of radiation-induced gene mutations and chromosomal aberrations in cells is linearly related to absorbed dose

with no evidence of a threshold when doses are low to moderate in magnitude (ICRP 2007). After the initial x-ray interaction event and damage, various biological processes become active, which may repair the damage, eliminate the cell from viability, etc. Such mechanisms are highly effective in eliminating damage but may not completely eliminate the damage in all cases. For doses delivered to multiple generations of insects and mice that are well in excess of those from all diagnostic uses of x rays, there is a statistically significant occurrence of heritable radiation-induced genetic effects. While heritable genetic effects have been observed in experimental studies of fruit flies and mice, there is little to no convincing or consistent evidence for heritable genetic effects in humans. Furthermore, the use of radiation in medicine has occurred for many years although human epidemiology studies of exposures have been for only one or two generations. Studies of human descendants of individuals exposed to high levels of radiation (*e.g.*, atomic bomb survivors and individuals exposed to therapeutic medical radiation) have not demonstrated with statistical significance the occurrence of heritable genetic effects (Schull et al. 1981; NA/NRC 2006). Current evidence continues to indicate the possibility of genetic effects, but not at the magnitude that was previously estimated.

Many patients are concerned about the potential heritable genetic effects from medical radiation. When compared to the frequency of heritable genetic effects occurring naturally in the population, heritable genetic effects from exposures to human-made radiation have never been observed in large-scale and comprehensive human epidemiologic studies. Available evidence suggests strongly that any potential for a detriment induced by medical radiography is exceedingly remote and insignificant when compared with the health benefits derived from a justified examination.

Managing potential detriment from radiation exposure includes managing both the risk of potential heritable genetic effects and the risk of radiation-induced cancer. Both of these risks are included in the concept of health detriment. The relative health detriment of an organ or tissue resulting from uniform irradiation of the body is indicated by its tissue weighting factor (w_T), with greater detriment indicated by a greater w_T. Current understanding has resulted in a substantial decrease in the assigned detriment to the gonads from ionizing radiation from 0.20 to 0.08, while the assigned detriment to other abdominal and pelvic organs has remained essentially unchanged or minimally decreased (ICRP 2007). The gonads currently have a lower assigned w_T than the bone marrow, colon, lung, or stomach, (0.12). A shielding practice that may spare a less sensitive organ a fraction of its unshielded dose is generally not appropriate from a risk perspective.

Obscured Anatomy from Gonadal Shielding

When GS is used, it inherently hides a portion of the pelvic anatomy. The impact of this undesirable outcome depends on the nature of the clinical question. For example, shielding of the ovaries may not affect the ability to identify the location of a nasogastric tube in a patient, but the potential exists that a contributory or unexpected finding may be missed due to obscured anatomy. The status of the obscured portions of the anatomy remains unknown unless a second image is completed without GS that essentially doubles the dose to the abdomen-pelvis. These concerns limit the clinically acceptable shield size; the shielded area is smaller than the area in which the ovaries commonly occur (Somasundaram et al. 2020). GS may also be displaced due to movement of patients, especially in young children, obscuring anatomy that was originally intended to be visible. Depending upon the reasons for examination, a decision must be made about whether GS may reduce or impede the diagnostic yield of the examination.

Situations in Which Gonadal Shielding May Be Used

Radiologic technologists should be supported as they carry out their professional responsibilities and tasks, including their interactions with patients (Marsh and Silosky 2019). This includes establishing procedures for circumstances where a patient, parent or caregiver requests that GS be used. Such requests for use of GS should be discussed to facilitate informed and mutual decision making, providing information that will help to answer the patient's questions and understand the risks and benefits. GS may be permissible when it will not interfere with the purpose of the examination. If consent for the examination cannot be obtained without use of GS, GS use should adhere to institutional or practice guidelines or policies that minimize or eliminate the negative impact on diagnostic potential.

Recent Regulatory Changes in Recommendations Regarding Gonadal Shielding

In April 2019, FDA proposed amending its regulations to repeal 21 Code of Federal Regulations (CFR) 1000.50 in its entirety (FDA 2019). This included removal of the recommendation that shielding should be used to protect the gonads during abdominal and pelvic radiography. The Conference of Radiation Control Program Directors provides Suggested State Regulations for Radiation Control Programs within each state to consider to promote and foster uniformity of radiation control laws and regulations. The requirement for

routine use of GS during abdominal and pelvic radiography, present in the 2009 Suggested State Regulations, was removed from the 2015 revision (CRCPD 2015). In 2019, The American Association of Physicists in Medicine stated that GS provides negligible or no benefit to patients' health, and may be detrimental under certain circumstances (AAPM 2019).

NCRP Recommendations for Gonadal Shielding During Abdominopelvic Radiography

- State and local regulations and guidance should be revised guided by NCRP recommendations for routine GS of patients during abdominal and pelvic radiography.
- Medical facilities should develop policies and procedures that address specific situations in which GS may be indicated.
- Professional societies and other pertinent organizations should assist in the development of model policies and procedures for GS.
- Professional organizations should review and, as necessary, modify their guidelines, requirements, bylaws, certification requirements, statements and other sanctioned communications, and training to be consistent with current recommended practice for GS of patients.
- Implementation of these recommendations by healthcare facilities should include providing pertinent educational materials to relevant medical practitioners, especially radiologic technologists.
- Discussion of GS should be part of an open dialogue with the patient, etc., responding to any question in a transparent manner, that also strives to foster a clear understanding of the implications of the shield and promotes informed and mutual decision making.
- In conjunction with medical physicists, health physicists and technologists, imaging practitioners should provide information explaining changes to GS protocols to referring healthcare providers, especially pediatric healthcare practitioners. This may include guidance on how best to discuss these recommendations with patients and caregivers.
- GS may be permissible when it will not interfere with the purpose of the examination. If consent for the examination cannot be obtained without its use, GS should adhere to institutional or practice guidelines or policies that minimize or eliminate the negative impact on diagnostic potential.
- AEC should not be used in conjunction with GS if the GS is within the x-ray field-of-view.

Important Considerations in Adoption of NCRP Recommendations

For several decades, GS has been a fundamental and familiar component of medical imaging practice with an expectation by patients, caregivers, the public and medical practitioners that it will be used routinely. Any change in this embedded clinical practice requires effective communication with these and other groups before and during the implementation process as well as intermittently once practice changes are made (Marsh and Silosky 2019; BIR 2020). A separate document on strategies for communication of changes in practice for GS during radiography is available at:

https://ncrponline.org/wp-content/themes/ncrp/PDFs/Stat13_Companion_Comm.pdf.

References

AAPM. 2019. AAPM position statement on the use of patient gonadal and fetal shielding. Alexandria (VA): American Association of Physicists in Medicine; [updated Apr 2; accessed Dec 4, 2020]. https://www.aapm.org/org/policies/details.asp?id=468&type=PP.

Abram E, Wilkinson DM, Hodson CJ. 1958. Gonadal protection from x radiation for the female. Br J Radiol. 31(366):335–336.

ACR. 2019. ACR endorses AAPM position on patient gonadal and fetal shielding. Reston (VA): American College of Radiology; [accessed Dec 4, 2020]. https://www.acr.org/Advocacy-and-Economics/Advocacy-News/Advocacy-News-Issues/In-the-June-8-2019-Issue/ACR-Endorses-AAPM-Position-on-Patient-Gonadal-and-Fetal-Shielding.

Ardran GM. 1956. II. The dose to operator and patient in x-ray diagnostic procedures. Br J Radiol. 29(341): 266–269.

Ardran GM, Kemp FH. 1957. Protection of the male gonads in diagnostic procedures. Br J Radiol. 30(353): 280.

Bardo DM, Black M, Schenk K, Zaritzky MF. 2009. Location of the ovaries in girls from newborn to 18 years of age: reconsidering ovarian shielding. Pediatr Radiol. 39(3):253–259.

Billings MS, Norman A, Greenfield MA. 1957. Gonad dose during routine roentgenography. Radiology. 69(1):37–41.
[BIR] British Institute of Radiology. 2020. Guidance on using shielding on patients for diagnostic radiology applications. London.
Bushberg JT, Seibert JA, Leidholdt EM, Boone JM. 2012. The essential physics of medical imaging. 3rd ed. Philadelphia (PA): Lippincott Williams and Wilkins.
CDC. 2010. Growth charts. Atlanta (GA): Centers for Disease Control and Prevention; [updated Sep 9; accessed Dec 4, 2020]. https://www.cdc.gov/growthcharts/.
COMP. 2019. COMP endorses AAPM position on patient gonadal and fetal shielding. Kanata (Ontario): Canadian Organization of Medical Physicists; [accessed Dec 4, 2020]. https://www.comp-ocpm.ca/download.php?id=1775.
CRCPD. 2015. Part F: medical diagnostic and interventional x-ray and imaging systems. Frankfort (KY): Conference of Radiation Control Program Directors; [updated Apr; accessed Dec 4, 2020]. https://www.crcpd.org/resource/resmgr/docs/SSRCRs/F_Part_2015.pdf.
DeMaio DN, Herrmann T, Noble LB, Orth D, Peterson P, Young J, Odle TG. 2019. Best practices in digital radiography. Radiol Technol. 91(2):198–201.
Fawcett SL, Barter SJ. 2009. The use of gonad shielding in paediatric hip and pelvis radiographs. Br J Radiol. 82(977):363–370.
Fawcett SL, Gomez AC, Barter SJ, Ditchfield M, Set P. 2012. More harm than good? The anatomy of misguided shielding of the ovaries. Br J Radiol. 85(1016):e442–e447.
[FDA] U.S. Food and Drug Administration. 1976. Radiological health. Washington (DC): Fed Reg. p. 30327–30329.
[FDA] U.S. Food and Drug Administration. 2019. Food and drugs; radiation protection recommendations; radiological health; recommendations for the use of specific area gonad shielding on patients during medical diagnostic x-ray procedures. Washington (DC): U.S. Government Publishing Office. 21 CFR Part 1000.50.
Featherstone C, Harnett AN, Brunt AM. 1999. Ultrasound localization of the ovaries for radiation-induced ovarian ablation. Clin Oncol (R Coll Radiol). 11(6):393–397.
Feldman A, Babcock GC, Lanier RR, Morkovin D. 1958. Gonadal exposure dose from diagnostic x-ray procedures. Radiology. 71(2):197–207.
Goldin EM. 2019. President Eric Goldin Health Physics Society endorses the AAPM public position regarding the use of gonadal and fetal shielding in x-ray imaging. Herndon (VA): Health Physics Society.
Goske MJ, Charkot E, Herrmann T, John SD, Mills TT, Morrison G, Smith SN. 2011. Image Gently: challenges for radiologic technologists when performing digital radiography in children. Pediatr Radiol. 41(5):611–619.
Handloser JS, Love RA. 1951. Radiation doses from diagnostic x-ray studies. Radiology. 57(2):252–254.
Haus AG, Cullinan JE. 1989. Screen film processing systems for medical radiography: a historical review. Radiographics. 9(6):1203–1224.
Huda W, Nickoloff EL, Boone JM. 2008. Overview of patient dosimetry in diagnostic radiology in the USA for the past 50 years. Med Phys. 35(12):5713–5728.
[ICRP] International Commission on Radiological Protection. 1955. Recommendations of the International Commission on Radiological Protection. Br J Radiol.(Suppl. 6):1–105.
[ICRP] International Commission on Radiological Protection. 2007. The 2007 recommendations of the International Commission on Radiological Protection. Elsmford (NY): International Commission on Radiological Protection. Publication 103.
Jeukens CRLPN, Kütterer G, Kicken PJ, Frantzen MJ, van Engelshoven JMA, Wildberger JE, Kemerink GJ. 2020. Gonad shielding in pelvic radiography: modern optimised x-ray systems might allow its discontinuation. Insights Imaging. 11(1):15.
Kaplan SL, Magill D, Felice MA, Xiao R, Ali S, Zhu X. 2018. Female gonadal shielding with automatic exposure control increases radiation risks. Pediatr Radiol. 48(2):227–234.
Kaplan SL, Strauss KJ, Magill D, Felice MA, Fancavilla ML, Xiao R, Zhu X. 2020. Quantification of increased patient radiation dose when gonadal shielding is used with automatic exposure control. J Am Coll Radiol. 17(12):1698–1704
Karami V, Zabihzadeh M, Shams N, Saki Malehi A. 2017. Gonad shielding during pelvic radiography: a systematic review and meta-analysis. Arch Iran Med. 20(2):113–123.

Kleinman PL, Strauss KJ, Zurakowski D, Buckley KS, Taylor GA. 2010. Patient size measured on CT images as a function of age at a tertiary care children's hospital. AJR Am J Roentgenol. 194(6):1611–1619.
Magnusson W. 1952. A device for the protection of the testicle in roentgen examinations of adjacent organs and bones. Acta Radiologica. 37(3–4):288–290.
Marsh RM, Silosky M. 2019. Patient shielding in diagnostic imaging: discontinuing a legacy practice. AJR: Am J Roentgenol. 212(4):755–757.
Matsumoto M, Kubota H, Hayashi H, Kanamori H. 1991. Effects of voltage ripple and current mode on diagnostic x-ray spectra and exposures. Med Phys. 18(5):921–927.
[NA/NRC] National Academies/National Research Council. 2006. Health risks from exposure to low levels of ionizing radiation: BEIR VII phase 2. Washington (DC): National Academies Press.
[NCRP] National Council on Radiation Protection and Measurements. 2004. Structural shielding design for medical x-ray imaging facilities. Bethesda (MD): National Council on Radiation Protection and Measurements. Report No. 147.
[NCRP] National Council on Radiation Protection and Measurements. 2013. Preconception and prenatal radiation exposure: health effects and protective guidance. Bethesda (MD): National Council on Radiation Protection and Measurements. Report No. 174.
[NCRP] National Council on Radiation Protection and Measurements. 2018. Implications of recent epidemiologic studies for the linear nonthreshold model and radiation protection. Bethesda (MD): National Council on Radiation Protection and Measurements. Commentary No. 27.
Nickoloff EL, Berman HL. 1993. Factors affecting x-ray spectra. RadioGraphics. 13(6):1337–1348.
Rossi RP, Hendee WR, Ahrens CR. 1976. An evaluation of rare earth screen/film combinations. Radiology. 121(2):465–471.
Schull WJ, Otake M, Neel JV. 1981. Genetic effects of the atomic bombs: a reappraisal. Science. 213(4513):1220–1227.
Sobol WT. 2002. High frequency x-ray generator basics. Med Phys. 29(2):132–144.
Somasundaram E, Brady SL, Strauss KJ. 2020. Achievable dose reductions with gonadal shielding for children and adults during abdominal/pelvic radiographic examinations: A Monte Carlo simulation. Med Phys. 47(11):5514–5522.
Stanford RW, Vance J. 1955. The quantity of radiation received by the reproductive organs of patients during routine diagnostic x-ray examinations. Br J Radiol. 28(329):266–273.

Acknowledgments

This Statement was prepared by Scientific Committee (SC) 4-11 on Gonadal Shielding During Abdominal and Pelvic Radiography. Serving on SC 4-11 were:

Donald P. Frush, *Chair*
Keith J. Strauss, *Vice Chair*
Eric Gingold
Rebecca Milman Marsh
Sarah McKenney
Donald L. Miller
Angela Shogren
Mary Ann Spohrer
Louis K. Wagner
John P. Winston

NCRP expresses appreciation to the Committee members for the time and effort devoted to the preparation of this Statement. NCRP gratefully acknowledges financial support provided for preparation of this Statement by American Association of Physicists in Medicine, American Board of Radiology, American College of Radiology, American Society of Radiologic Technologists, Image Gently®, and Society for Pediatric Radiology. The contents of this Statement are the sole responsibility of NCRP and do not necessarily represent the views of any of the funding organizations or of any of the authors' organizations or agencies.

Kathryn D. Held
President

State of Utah
Administrative Rule Analysis
Revised June 2022

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New ___; Amendment _X__; Repeal ___; Repeal and Reenact ___		
Title No. - Rule No. - Section No.		
Rule or Section Number:	**R313-28-31**	**Filing ID: Office Use Only**

Agency Information

1. Department:	Environmental Quality	
Agency:	Waste Management and Radiation Control	
Room number:	2nd Floor	
Building:	MASOB	
Street address:	195 N. 1950 W.	
City, state and zip:	Salt Lake City, Utah 84116	
Mailing address:	PO Box 144880	
City, state and zip:	Salt Lake City, Utah 84114-4880	
Contact persons:		
Name:	**Phone:**	**Email:**
Tom Ball	801-536-0251	tball@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:

R313-28-31. General and Administrative Requirements.

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**

In January of 2021, the National Council on Radiation Protection and Measurements released NCRP Statement No. 13 entitled, *NCRP Recommendations for Ending Routine Gonadal Shielding During Abdominal and Pelvic Radiography*. In the statement the NCRP states that they have reached the conclusion that in most circumstances gonadal shielding (GS) does not contribute significantly to reducing risks from exposure and may have unintended consequences of increased exposure and loss of valuable diagnostic information and therefore is not justified as a routine part of radiological protection. They further recommend that federal, state, and local regulations and guidance be revised to remove any actual or implied requirement for routine GS.

The statement lists the following factors as reasons for the recommendation:

- The risks of heritable genetic effects are now considered to be much less than previously estimated.
- Improvements in technology since the 1950s have resulted in up to a 95% reduction in the absorbed dose to pelvic organs from radiography.
- GS can interfere with the use of automatic exposure control (AEC) and thereby cause an increase in dose to other pelvic and abdominal organs that may be more radiosensitive.
- GS obscures portions of pelvic anatomy and may obscure important findings on radiographs. This limits the practical dimensions and area of the shield.
- Despite adherence to practice guidelines by technologists, GS may not completely shield the gonads in the majority of patients due to the limited area of the shield and the normal variations in patient anatomy.
- A substantial portion of gonadal dose to the ovaries is delivered by scattered x rays that are not attenuated by GS.

The statement is supported by the following organizations:

- American Association of Physicists in Medicine
- American Board of Radiology
- American College of Radiology
- American Society of Radiologic Technologists
- Society for Pediatric Radiology

The Conference of Radiation Control Program Directors has endorsed the statement and has incorporated the guidance into the current version of Suggested State Regulations, Part F: Medical Diagnostic & Interventional X-Ray & Imaging Systems.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**

Currently R313-28-31(1)(e) states that gonad shielding shall be used during radiographic procedures. This amendment

changes the rule to state that gonad shielding may be used.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

It is not anticipated that there will be any cost or savings to the budget of the state based on this amended rule because it does not add any requirements and does not entirely remove any requirements from the rule. Any state agencies that must comply with the rule will still need to have shielding available for situations where it may be required or requested.

B) Local governments:

It is not anticipated that there will be any cost or savings to the budget of any local governments based on this amended rule because it does not add any requirements and does not entirely remove any requirements from the rule. Any local government agencies that must comply with the rule will still need to have shielding available for situations where it may be required or requested.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

It is not anticipated that there will be any cost or savings to the budgets of any small businesses based on this amended rule because it does not add any requirements and does not entirely remove any requirements from the rule. Any small businesses that must comply with the rule will still need to have shielding available for situations where it may be required or requested.

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

It is not anticipated that there will be any cost or savings to the budgets of any non-small businesses based on this amended rule because it does not add any requirements and does not entirely remove any requirements from the rule. Any non-small businesses that must comply with the rule will still need to have shielding available for situations where it may be required or requested.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**

It is not anticipated that there will be any cost or savings to the budgets of any persons other than small businesses, non-small businesses, state, or local government entities based on this amended rule because it does not add any requirements and does not entirely remove any requirements from the rule. Any persons other than small businesses, non-small businesses, state, or local government entities that must comply with the rule will still need to have shielding available for situations where it may be required or requested.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

There will not be any additional compliance costs for affected persons because any entity that must already comply with the rule because this amendment does not add any additional requirements.

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	**FY2023**	**FY2024**	**FY2025**
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	**FY2023**	**FY2024**	**FY2025**
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, Kimberly D. 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 19-3-104	Section 19-6-107	

Incorporations by Reference Information

7. Incorporations by Reference (if this rule incorporates more than two items by reference, please include additional tables)**:**

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

Official Title of Materials Incorporated (from title page)	
Publisher	
Issue Date	
Issue or Version	

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

Official Title of Materials Incorporated (from title page)	
Publisher	
Issue Date	
Issue or Version	

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:		01/03/2023
B) A public hearing (optional) will be held:		
On (mm/dd/yyyy)**:**	**At** (hh:mm AM/PM)**:**	**At** (place)**:**

9. This rule change MAY become effective on:	01/17/2023

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

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

Agency head or designee and title:	Douglas J. Hansen, Division Director	**Date:**	mm/dd/yyyy

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

R313-28. Use of X-Rays in the Healing Arts.

R313-28-31. General and Administrative Requirements.

(1) [~~Persons~~]A person shall not make, sell, lease, transfer, lend, or install x-ray equipment or the accessories used in connection with x-ray equipment unless the accessories and equipment, [~~when~~]if properly placed in operation and properly used, will meet the applicable requirements of these rules.

(a) X-ray equipment shall be FDA approved for use in the United States and shall be certified in accordance with 21 CFR 1010.2 and identified in accordance with 21 CFR 1010.3.

(2) The registrant shall be responsible for directing the operation of the x-ray machines [~~which~~]that are under the registrant's administrative control. The registrant or registrant's agent shall assure that the requirements of Subsections R313-28-31(2)(a) through R313-28-31(2)(i) are met in the operation of the x-ray machines.

(a) If directed by the director [~~A~~]an x-ray machine [~~which~~]that does not meet the [~~provisions of these rules~~]the requirements of Rule R313-28 shall not be operated for diagnostic purposes[~~, when directed by the Director~~].

(b) Individuals who will be operating the x-ray equipment shall be instructed in the registrant's written radiation safety program and be qualified in the safe use of the equipment. Required operator qualifications are listed in Section R313-28-350.

(c) The registrant of a facility shall create and make available to x-ray operators written safety procedures, including patient holding and restrictions of the operating technique required for the safe operation of the x-ray systems. Individuals who operate x-ray systems shall be responsible for complying with these rules.

(d) Except for individuals who cannot be moved out of the room and the patient being examined, only the staff and ancillary personnel or other individuals needed for the medical procedure or training shall be present in the room during the radiographic exposure and shall be positioned as follows:

(i) individuals other than the patient shall be positioned so that no part of the body will be struck by the useful beam unless protected by not less than 0.5 mm lead equivalent material;

(ii) the x-ray operator, other staff, ancillary personnel, and other individuals needed for the medical procedure shall be protected from primary beam scatter by protective aprons or barriers unless it can be shown that by virtue of distances employed, EXPOSURE levels are reduced to the limits specified in Section R313-15-201; and

(iii) patients who are not being examined and cannot be removed from the room shall be protected from the primary beam scatter by whole body protective barriers of not less than 0.25 mm lead equivalent material or shall be so positioned that the nearest portion of the body is at least two meters from both the tube head and nearest edge of the image receptor.

(e) For patients who have not passed reproductive age, gonad shielding of not less than 0.5 mm lead equivalent material [~~shall~~]may be used during radiographic procedures [~~in which~~]when the gonads are in the useful beam, except for cases [~~in which~~]when this would interfere with the diagnostic procedure.

(f) Individuals shall be exposed to the useful beam for healing arts purposes only [~~when~~]if the exposure has been specifically ordered and authorized by a licensed practitioner of the healing arts after a medical consultation. Deliberate exposures for the following purposes are prohibited:

(i) exposure of an individual for training, demonstration or other non-healing arts purposes except for low dose, whole body scanners used for security purposes in correctional facilities; and

(ii) exposure of an individual for the purpose of healing arts screening except as authorized by Subsection R313-28-31(2)(i).

(g) [~~When~~]If a patient or film must be provided with auxiliary support during a radiation exposure:

(i) mechanical holding devices shall be used [~~when~~]if the technique permits. The written procedures, required by Subsection R313-28-31(2)(c), shall list individual projections where mechanical holding devices can be utilized;

(ii) written safety procedures, as required by Subsection R313-28-31(2)(c), shall indicate the requirements for selecting an individual to hold patients or films and the procedure that individual shall follow;

(iii) the individual holding patients or films during radiographic examinations shall be instructed in personal radiation safety and protected as required by Subsection R313-28-31(2)(d)(i);

(iv) Individuals shall not be used routinely to hold film or patients;

(v) In those cases [~~where~~]when the patient must hold the film, except during intraoral examinations, portions of the body other than the area of clinical interest struck by the useful beam shall be protected by not less than 0.5 mm lead equivalent material; and

(vi) Facilities shall have protective aprons and gloves available in sufficient numbers to provide protection to personnel who are involved with x-ray operations and who are otherwise not shielded.

(h) Personnel monitoring. Individuals who are associated with the operation of an x-ray system are subject to the applicable requirements of Rule R313-15.

(i) Healing arts screening. [~~Persons~~]A person proposing to conduct a healing arts screening program shall not initiate the program without [~~prior~~]first receiving approval [~~of~~]from the [~~D~~]director. When requesting approval, that person shall submit the information outlined in Section R313-28-400. If information submitted becomes invalid or outdated, the [~~D~~]director shall be notified immediately.

(3) Maintenance of records and information. The registrant shall maintain at least the following information for each x-ray machine:

(a) model numbers of major components;

(b) record of surveys or calculations to demonstrate compliance with Section R313-15-302, calibration, maintenance and modifications performed on the x-ray machine; and

(c) a shielding design report for the x-ray suite [~~which~~]that states assumed values for workload and use factors and includes a

drawing of surrounding areas showing assumed values for occupancy factors.

(4) X-ray records. Facilities shall maintain an x-ray record containing the patient's name, the types of examinations, and the dates the examinations were performed. [~~When~~]If the patient or film must be provided with human auxiliary support, the name of the human holder shall be recorded. The registrant shall retain these records for three years after the record is made.

(5) Portable or mobile equipment shall be used only for examinations [~~where~~]if it is impractical to transfer the patient to a stationary radiographic installation.

(6) Hand-held medical x-ray systems. X-ray equipment designed to be hand-held shall comply with Section R313-28-31, excluding Subsection R313-28-31(5), and Section R313-28-52, excluding Subsections R313-28-52(8)(b)(i) and R313-28-52(8)(b)(ii).

(a) When operating hand-held equipment [~~for which~~]if it is not possible for the operator to remain at least six feet from the x-ray machine during x-ray exposure, protective aprons of at least 0.5 millimeter lead equivalence shall be provided for the operator to protect the operator's torso and gonads from backscatter radiation[~~;~~].

(b) In addition to the dose limits in Section R313-15-301, operators of hand-held x-ray equipment shall ensure that members of the public that may be exposed to scatter radiation or primary beam transmission from the hand-held device are not exposed above [~~2~~]two milliroentgen per hour[~~;~~].

(i) Operators will ensure that members of the public likely to be exposed to greater than [~~2~~]two milliroentgen per hour will be provided protective aprons of at least 0.5 millimeter lead equivalence or are moved to a distance [~~such that~~]where the exposure rate to the individual is below [~~2~~]two milliroentgen per hour[~~; and~~].

(c) In addition to the requirements of Subsection R313-28-350(1), each operator of hand-held x-ray equipment shall complete the training program supplied by the manufacturer [~~prior to~~]before using the x-ray unit. Records of training shall be maintained on file for examination by an authorized representative of the [~~D~~]director.

(7) Procedures and auxiliary equipment designed to minimize patient and personnel exposure commensurate with the needed diagnostic information shall be utilized.

(a) The speed of the screen and film combinations used shall be the fastest speed consistent with the diagnostic objective of the examinations. Film cassettes without intensifying screens shall not be used for routine diagnostic radiological imaging, with the exception of standard film packets for intra-oral use in dental radiography. If the requirements of Subsection R313-28-31(6)(a) cannot be met, an exemption may be requested pursuant to Section R313-12-55.

(b) The radiation exposure to the patient shall be the minimum exposure required to produce images of good diagnostic quality.

(c) X-ray systems, other than fluoroscopic, computed tomography, dental or veterinary units, shall not be utilized in procedures [~~where~~]if the source to patient distance is less than 30 centimeters.

KEY: dental, X-rays, mammography, beam limitation
Date of Last Change: April 18, 2022
Notice of Continuation: April 8, 2021
Authorizing, and Implemented or Interpreted Law: 19-3-104; 19-6-107

WASTE MANAGEMENT AND RADIATION CONTROL BOARD
Executive Summary
Public Comment -- Proposed Rule Changes
UAC R313-15-501, R313-34-3, R313-35-120, R313-36-3 and R313-38-3

November 10, 2022

What is the issue before the Board?	Approval from the Board to proceed with formal rulemaking and public comment on proposed changes to UAC R313-15-501, R313-34-3, R313-35-120, R313-36-3 and R313-38-3, to incorporate federal regulatory changes made by the NRC to the federal radioactive materials regulations in 2020 (85 FR 15347). The changes are necessary to maintain regulatory compatibility with the NRC as required because Utah is an Agreement State with the NRC.
What is the historical background or context for this issue?	The proposed changes authorize the use of modern individual monitoring devices in industrial radiographic, irradiator, and well logging operations. Additionally, the Division is amending language in UAC R313-35-120, *X-Ray Systems Less than 1 MeV used for Non-Destructive Testing*, to ensure consistency among the radiation control rules. X-ray program rules are not overseen by the NRC. These amendments will align personnel dosimetry requirements in these areas with the requirements for all other NRC licensees. As an Agreement State with the NRC for the radioactive materials program, Utah is required to maintain regulatory compatibility with the corresponding NRC radioactive materials regulations. The NRC designated the changes as necessary for an Agreement State to adopt to maintain regulatory compatibility with the NRC. In addition to the proposed changes detailed above the Division, at the request of the Governor's Office, is correcting typographical and formatting errors found in the rules. A copy of 85 FR 15347 and the proposed changes to UAC R313-15-501, R313-34-3, R313-35-120, R313-36-3 and R313-38-3 follow this Executive Summary.
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.

DSHW-2022-025555
Attachment 1 DSHW-2022-025551
Attachment 2 DSHW-2022-025553

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 December 1, 2022, *Utah State Bulletin* the proposed changes to UAC R313-15-501, R313-34-3, R313-35-120, R313-36-3 and R313-38-3 and conducting a public comment period from December 1, 2022 to January 3, 2023.
Where can more information be obtained?	Please contact Tom Ball by email at tball@utah.gov or by phone at (801) 536-0251.

Rules and Regulations

Federal Register
Vol. 85, No. 53
Wednesday, March 18, 2020

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents.

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 34, 36, and 39

[NRC–2019–0031]

RIN 3150–AK29

Individual Monitoring Devices

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is amending its regulations to authorize the use of modern individual monitoring devices in industrial radiographic, irradiator, and well logging operations. These amendments will align personnel dosimetry requirements in these areas with the requirements for all other NRC licensees. This direct final rule addresses an issue raised in a petition for rulemaking and will affect NRC and Agreement State licensees. The NRC also is issuing supplemental guidance for use and comment with this direct final rule.

DATES: This direct final rule and supplemental guidance are effective June 16, 2020. If adverse comments on the direct final rule are received by April 17, 2020 the direct final rule will be withdrawn. If the direct final rule is withdrawn, the supplemental guidance also is withdrawn; timely notice of the withdrawal will be published in the **Federal Register**. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. If the direct final rule is withdrawn, comments will be addressed in a subsequent final rule. Comments received on this direct final rule and supplemental guidance will also be considered as comments on the companion proposed rule published in the Proposed Rules section of this issue of the **Federal Register**.

ADDRESSES: You may submit comments by any of the following methods:

- *Federal Rulemaking website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2019–0031. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Email comments to: Rulemaking.Comments@nrc.gov.* If you do not receive an automatic email reply confirming receipt, then contact us at 301–415–1677.
- *Fax comments to:* Secretary, U.S. Nuclear Regulatory Commission at 301–415–1101.
- *Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.
- *Hand deliver comments to:* 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. (Eastern Time) Federal workdays; telephone: 301–415–1677.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Anthony McMurtray, telephone: 301–415–2746; email: *Anthony.McMurtray@nrc.gov;* or Edward Lohr, telephone: 301–415–0253; email: *Edward.Lohr@nrc.gov.* Both are staff of the Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2019–0031 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2019–0031.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2019–0031 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *https://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Rulemaking Procedure

Because the NRC considers this action to be non-controversial, the NRC is using the direct final rule procedure for this rule. The amendment to the rule will become effective on June 16, 2020. However, if the NRC receives significant adverse comments on this direct final rule by April 17, 2020, then the NRC will publish a document that withdraws this direct final rule, as well as the associated supplemental guidance. In such a case, the NRC will treat comments on this direct final rule as comments on the companion proposed rule published in the Proposed Rules section of this issue of the **Federal Register**. Absent significant modifications to the proposed revisions requiring republication, the NRC will not initiate a second comment period on this action.

A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

(1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, a substantive response is required when:

(a) The comment causes the NRC to reevaluate (or reconsider) its position or conduct additional analysis;

(b) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

(c) The comment raises a relevant issue that was not previously addressed or considered by the NRC.

(2) The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

(3) The comment causes the NRC to make a change (other than editorial) to the rule.

For detailed instructions on filing comments, please see the **ADDRESSES** section of this document.

III. Background

The regulations in part 34 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiographic Operations''; 10 CFR part 36, ''Licenses and Radiation Safety Requirements for Irradiators''; and 10 CFR part 39, ''Licenses and Radiation Safety Requirements for Well Logging,'' require the use of personnel dosimetry that is processed and evaluated by an accredited National Voluntary Laboratory Accreditation Program (NVLAP) processor. These regulations restrict the types of personnel dosimeters that can be used and prohibit the use of dosimetry technologies that do not require processing by an accredited NVLAP facility.

On July 14, 2016, the NRC received a petition for rulemaking (PRM) from the American Society for Nondestructive Testing and the Nondestructive Testing Management Association (the petitioners) (ADAMS Accession No. ML16228A045). The petition was docketed by the NRC on August 12, 2016, and assigned Docket No. PRM–34–7. The NRC published a notice of docketing of PRM–34–7 in the **Federal Register** (81 FR 78732) on November 9, 2016. The petitioners requested that the NRC amend its regulations and associated guidance to authorize the use of improved individual monitoring devices for industrial radiographic personnel. Specifically, the petitioners requested that the NRC amend its regulations to authorize the use of digital output personnel dosimeters to satisfy the personnel dosimetry requirements in § 34.47(a).

Personnel dosimetry is a specific type of dosimetry that is used to track an individual worker's dose. The petitioners interchangeably used the terms ''improved individual monitoring devices,'' ''electronic personnel monitoring dosimeters,'' ''electronic dosimeters,'' and ''digital personnel dosimeters'' to describe digital output personnel dosimetry. In this direct final rule, the NRC uses the term ''digital output personnel dosimetry'' in place of these terms. A digital output personnel dosimeter is a specific type of personnel dosimetry that currently cannot be used to meet the requirements in 10 CFR parts 34, 36, and 39 to demonstrate compliance with the occupational dose limits in § 20.1201.

On February 11, 2019, the NRC published a document in the **Federal Register** (84 FR 3116) informing the public that it would consider PRM–34–7 in the rulemaking process. In the **Federal Register** document, the NRC accepted the petitioners' request that the NRC amend its regulations to authorize the use of digital output personnel dosimeters for industrial radiographic personnel and expanded the scope of the rulemaking to include the use of digital output personnel dosimeters in irradiator and well logging operations.

IV. Discussion

The NRC's requirements related to the safe use of sealed sources of byproduct material in industrial radiography are codified in 10 CFR part 34. The regulation in § 34.47(a) states that during radiographic operations, radiographers and radiographer's assistants must wear ''a direct reading dosimeter, an operating alarm ratemeter, and a personnel dosimeter that is processed and evaluated by an accredited National Voluntary Laboratory Accreditation Program (NVLAP) processor.''

Although ''processing'' is not defined in the regulations, the NRC uses it with a specific meaning related to personnel dosimetry. The NRC interprets processing to mean a process, separate from and independent of the design of the dosimeter, that is required to extract dose information from the dosimeter after exposure to radiation. Processing is necessary with film, thermoluminescent dosimetry (TLD), and optically stimulated luminescence (OSL) dosimetry to obtain the dose information. With film, TLD, and OSL dosimetry, the quality of the processing is dependent on the competence of the processor and not on the dosimeter design, whereas quality is built into the design of dosimeters that do not require processing. An in-depth discussion on this topic can be found in the January 14, 2005, **Federal Register** document (70 FR 2577) denying a petition for rulemaking (PRM–20–25).

Film, TLD, and OSL dosimeters are examples of devices that require processing by qualified technicians using separate equipment to obtain data that is used to compute the dose measurement. Therefore, these types of dosimeters must be processed by an accredited NVLAP facility to ensure the quality of the processing. The NVLAP does not certify or accredit dosimetry devices themselves; it only certifies or accredits device processing. Accreditation by the NVLAP provides a level of assurance of quality of the measurement (*i.e.,* accuracy, precision, and reliability) for processors.

Some recently designed personnel dosimeters do not require the type of processing envisioned in the text of § 34.47(a)—that is, data extraction through a process independent of the dosimeter. For example, some personnel dosimeters can provide instantaneous dose readings using internet-enabled computers, smartphones, and tablets. Data is extracted from the detector and then digitally transferred from the dosimeter for computation. The design of the personnel dosimeter, rather than

the training and qualifications of the processing technician, ensures accurate dose information from the dosimeter after exposure to radiation.

Current regulations in § 34.47(a) and similar provisions in 10 CFR parts 36 and 39 require use of personnel dosimeters that require processing. This direct final rule eliminates these requirements for personnel dosimeters that require processing. The requirements in 10 CFR part 20 will continue to provide standards for the use of all personnel dosimeters.

The NRC considered recent peer-reviewed literature and NRC documents on the performance of digital output personnel dosimeters that were authorized by Agreement State and NRC licensees. The NRC determined that digital output personnel dosimetry has been used successfully by NRC licensees in other operational settings, by some Agreement State licensees in all areas—including industrial radiography, and internationally in multiple applications. The NRC did not find any evidence of generic performance problems with digital output personnel dosimetry in other operating settings, nor did the NRC identify any adverse trends that would preclude the use of this dosimetry by all NRC licensees.

In addition, the NRC evaluated the technical specifications of currently available digital output personnel dosimetry and determined that they met or exceeded performance standards, operability criteria (*e.g.,* temperature, humidity), dose ranges, and quality control expectations for use in industrial radiographic, irradiator, and well logging operations. The NRC did not identify issues that would preclude the use of digital output personnel dosimetry in industrial radiographic, irradiator, or well logging operations.

Therefore, the NRC determined that there is no technical basis for continuing to limit the types of personnel dosimeters used in industrial radiography, irradiator, and well logging operations to only those that are processed and evaluated by an accredited NVLAP processor. The levels and types of radiation fields encountered in these operations are also encountered in other industries where digital output personnel dosimeters already are allowed. The NRC determined that mandating the use of a particular type of personnel dosimetry will not prevent or reduce the dose received or result in more accurate, precise, or reliable measurements.

In addition, having access to digital output personnel dosimeters is especially beneficial to industrial radiography licensees. Under § 34.47(d), certain circumstances require workers to cease work immediately until their radiation dose has been determined. This can involve three or more days of wait time while the personnel dosimeter is sent off-site for processing and evaluation, which could cost the licensee revenue and lost time. Workers using digital output personnel dosimeters do not need to send their dosimeters to a processor and can have their radiation dose determined locally so that the issue can be resolved quickly.

Consistent with the agency's focus on implementing risk-informed, performance-based regulations and transforming its regulatory approaches, the NRC is amending the requirements for licensees under 10 CFR parts 34, 36, and 39 to enable the use of any personnel dosimeters. Removing the requirement to use personnel dosimeters that are processed and evaluated by an accredited NVLAP facility will allow the use of digital output personnel dosimeters (which do not require processing) and ensure all NRC licensees are held to the same standards for personnel dosimetry. Also, because the current regulations are based on the use of film, TLD, and OSL dosimeters (all of which require processing by an accredited NVLAP processor), conforming and clarifying changes related to exchange intervals, monitoring, and recordkeeping are being made to 10 CFR parts 34, 36, and 39 to address personnel dosimeters that do not require processing. These amendments will allow greater consistency with the Agreement States' programs.

On May 11, 2018, the NRC issued an Enforcement Guidance Memorandum (EGM–18–001) that provides guidance for dispositioning potential violations of NRC requirements for personnel dosimetry during NRC-licensed activities under 10 CFR parts 34, 36, and 39 (ADAMS Accession No. ML18068A623). In the EGM, the NRC stated that industrial radiographic, irradiator, and well logging licensees who use digital output personnel dosimetry for personnel monitoring (*i.e.,* dosimetry used for the dose of record) would not be subject to enforcement action for some potential violations of NRC requirements associated with the use of these dosimeters provided that specified conditions are met. The NRC considered the specific conditions specified in EGM–18–001 during the development of this direct final rule. The EGM will expire when this direct final rule becomes effective.

V. Guidance Documents

The NRC is issuing supplemental guidance in conjunction with this direct final rule. Guidance on 10 CFR parts 34, 36, and 39 is provided in NUREG–1556, ''Consolidated Guidance About Materials Licenses,'' in the volumes for industrial radiography (Volume 2), irradiators (Volume 6), and well logging (Volume 14). This supplemental guidance is intended for use by applicants, licensees, Agreement States, and the NRC staff when personnel dosimeters that do not require processing are being used. It includes guidance to applicants for the completion and submission of materials license applications to the NRC and model procedures that an applicant or licensee may consider when developing or changing its radiation safety program.

The supplemental guidance documents (ADAMS package Accession No. ML19360A184) are in a markup format to NRC's existing guidance and reflect the provisions in the direct final rule. On the effective date of the direct final rule, licensees that elect to use personnel dosimeters that do not require processing may use the supplemental guidance to comply with the provisions in the direct final rule.

Comments on the supplemental guidance may be submitted as directed in Section I, ''Obtaining Information and Submitting Comments,'' of this document. The NRC will incorporate this supplemental guidance into the next comprehensive revision of NUREG–1556.

VI. Section-by-Section Analysis

The following paragraphs describe the specific changes made in this direct final rule.

Section 34.47 Personnel Monitoring

In § 34.47, this direct final rule revises paragraph (a) by removing the requirement to use a personnel dosimeter that is processed and evaluated by an accredited NVLAP processer, revises paragraph (a)(3) to make conforming changes, and removes paragraph (a)(4).

Paragraph (d) is revised to include the requirement to begin evaluating an individual's personnel dosimeter within 24 hours for personnel dosimeters that do not require processing, if the conditions in the paragraph are met.

Paragraph (f) is revised to state that all dosimetry results received by a licensee are to be retained in accordance with § 34.83.

Section 34.83 Records of Personnel Monitoring Procedures

In § 34.83, this direct final rule revises paragraph (c) by removing the phrase ''received from the accredited NVLAP processor.''

Section 36.55 Personnel Monitoring

In § 36.55, this direct final rule revises paragraph (a) by removing the requirement to use a personnel dosimeter that is processed and evaluated by an accredited NVLAP processer and clarifying that all personnel dosimeters must be capable of detecting high energy photons in the normal and accident dose ranges. The reference to § 20.1501(c) is removed because it does not apply to all personnel dosimetry. Conforming changes are made to clarify that personnel dosimeters that require processing must be replaced at appropriate intervals, that all personnel dosimeters must be evaluated promptly after replacement and at least quarterly, and an individual's radiation dose must be determined at periods not to exceed three months.

Section 39.65 Personnel Monitoring

In § 39.65, this direct final rule revises paragraph (a) by removing the requirement to use a personnel dosimeter that is processed and evaluated by an accredited NVLAP processer. Conforming changes are made to clarify that personnel dosimeters that require processing must be replaced at appropriate intervals, that all personnel dosimeters must be evaluated promptly after replacement and at least quarterly, and an individual's radiation dose must be determined at periods not to exceed three months.

VII. Regulatory Analysis

The NRC has prepared a regulatory analysis (ADAMS Accession No. ML19283B555) to support this direct final rule. The analysis examines the costs and benefits of the alternatives considered by the NRC.

VIII. Regulatory Flexibility Certification

Under the Regulatory Flexibility Act (5 U.S.C. 605(b)), the NRC certifies that this direct final rule will not, if issued, have a significant economic impact on a substantial number of small entities. This direct final rule affects a number of ''small entities'' as defined by the Regulatory Flexibility Act or the size standards established by the NRC (§ 2.810). However, as indicated in the regulatory analysis, these amendments do not have a significant economic impact on the affected small entities.

IX. Backfitting and Issue Finality

The revisions to 10 CFR parts 34, 36, and 39 would not constitute backfitting as these parts do not have a backfitting provision. In addition, the revisions would not impose any additional requirements. Personnel dosimeters that are not processed would be authorized for voluntary use by licensees, but not required.

X. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111–274) requires Federal agencies to write documents in a clear, concise, and well-organized manner. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, ''Plain Language in Government Writing,'' published June 10, 1998 (63 FR 31885).

XI. National Environmental Policy Act

The NRC has determined that this direct final rule is the type of action described in § 51.22(c)(2). Therefore, neither an environmental impact statement nor environmental assessment has been prepared for this direct final rule.

XII. Paperwork Reduction Act

This direct final rule does not contain any new or amended collections of information subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Existing collections of information were approved by the Office of Management and Budget, approval numbers 3150–0007, 3150–0130, and 3150–0158.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the document requesting or requiring the collection displays a currently valid OMB control number.

XIII. Congressional Review Act

This direct final rule is a rule as defined in the Congressional Review Act (5 U.S.C. 801–808). However, the Office of Management and Budget has not found it to be a major rule as defined in the Congressional Review Act.

XIV. Compatibility of Agreement State Regulations

Under the ''Agreement State Program Policy Statement'' approved by the Commission on October 2, 2017 and published in the **Federal Register** on October 18, 2017 (82 FR 48535), the NRC program elements (including regulations) are placed into Compatibility Categories A, B, C, D, NRC, or Adequacy Category Health and Safety (H&S). Compatibility Category A are those program elements that are basic radiation protection standards and scientific terms and definitions that are necessary to understand radiation protection concepts. An Agreement State should adopt Category A program elements in an essentially identical manner in order to provide uniformity in the regulation of agreement material on a nationwide basis. Compatibility Category B are those program elements that apply to activities that have direct and significant effects in multiple jurisdictions. An Agreement State should adopt Category B program elements in an essentially identical manner. Compatibility Category C are those program elements that do not meet the criteria of Category A or B, but the essential objectives of which an Agreement State should adopt to avoid conflict, duplication, gaps, or other conditions that would jeopardize an orderly pattern in the regulation of agreement material on a national basis. An Agreement State should adopt the essential objectives of the Category C program elements. Compatibility Category D are those program elements that do not meet any of the criteria of Category A, B, or C, and thus, do not need to be adopted by Agreement States for purposes of compatibility. Compatibility Category NRC are those program elements that address areas of regulation that cannot be relinquished to the Agreement States under the Atomic Energy Act of 1954, as amended, or provisions of title 10 of the *Code of Federal Regulations.* These program elements should not be adopted by the Agreement States. Compatibility Category H&S are program elements that are required because of a particular health and safety role in the regulation of agreement material within the State and should be adopted in a manner that embodies the essential objectives of the NRC program.

This direct final rule is a matter of compatibility between the NRC and the Agreement States, thereby providing consistency among Agreement State and the NRC requirements. The compatibility categories are designated in the following table:

COMPATIBILITY TABLE

Section	Change	Subject	Compatibility	
			Existing	New
Part 34:				
34.47(a)	Amend	Personnel monitoring	C	C
34.47(a)(3)	Amend	Personnel monitoring	C	C
34.47(d)	Amend	Personnel monitoring	C	C
34.47(f)	Amend	Personnel monitoring	C	C
34.83(c)	Amend	Records of personnel monitoring	C	C
Part 36:				
36.55(a)	Amend	Personnel monitoring	H&S	H&S
Part 39:				
39.65(a)	Amend	Personnel monitoring devices	C	C

XV. Voluntary Consensus Statement

The National Technology Transfer and Advancement Act of 1995, Public Law 104–113, requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this direct final rule, the NRC will revise parts 34, 36, and 39 by removing the requirement to use a personnel dosimeter that is processed and evaluated by an accredited NVLAP processer. This action does not constitute the establishment of a standard that contains generally applicable requirements.

List of Subjects

10 CFR Part 34

Criminal penalties, Manpower training programs, Occupational safety and health, Packaging and containers, Penalties, Radiation protection, Radiography, Reporting and recordkeeping requirements, Scientific equipment, Security measures, X-rays.

10 CFR Part 36

Byproduct material, Criminal penalties, Nuclear energy, Nuclear materials, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment, Security measures.

10 CFR Part 39

Byproduct material, Criminal penalties, Labeling, Nuclear energy, Nuclear material, Occupational safety and health, Oil and gas exploration—well logging, Penalties, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment, Security measures, Source material, Special nuclear material.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; the Nuclear Waste Policy Act of 1982, as amended; and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR parts 34, 36, and 39:

PART 34—LICENSES FOR INDUSTRIAL RADIOGRAPHY AND RADIATION SAFETY REQUIREMENTS FOR INDUSTRIAL RADIOGRAPHIC OPERATIONS

■ 1. The authority citation for part 34 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 81, 161, 181, 182, 183, 223, 234, 274 (42 U.S.C. 2111, 2201, 2231, 2232, 2233, 2273, 2282, 2021); Energy Reorganization Act of 1974, secs. 201, 206 (42 U.S.C. 5841, 5846); 44 U.S.C. 3504 note.

■ 2. In § 34.47:

■ a. In paragraph (a) introductory text, remove the phrase ''that is processed and evaluated by an accredited National Voluntary Laboratory Accreditation Program (NVLAP) processor'';

■ b. Revise paragraph (a)(3);

■ c. Remove paragraph (a)(4); and

■ d. Revise paragraphs (d) and (f).

The revisions read as follows:

§ 34.47 Personnel monitoring.

(a) * * *

(3) Film badges must be replaced at least monthly and all other personnel dosimeters that require replacement must be replaced at least quarterly. All personnel dosimeters must be evaluated at least quarterly or promptly after replacement, whichever is more frequent.

* * * * *

(d) If an individual's pocket chamber is found to be off-scale, or if his or her electronic personal dosimeter reads greater than 2 millisieverts (200 millirems), and the possibility of radiation exposure cannot be ruled out as the cause, the individual's personnel dosimeter that requires processing must be sent for processing and evaluation within 24 hours. For personnel dosimeters that do not require processing, evaluation of the dosimeter must be started within 24 hours. In addition, the individual may not resume work associated with licensed material use until a determination of the individual's radiation dose has been made. This determination must be made by the RSO or the RSO's designee. The results of this determination must be included in the records maintained in accordance with § 34.83.

* * * * *

(f) Dosimetry results must be retained in accordance with § 34.83.

* * * * *

§ 34.83 [Amended]

■ 3. In § 34.83(c), remove the phrase ''received from the accredited NVLAP processor''.

PART 36—LICENSES AND RADIATION SAFETY REQUIREMENTS FOR IRRADIATORS

■ 4. The authority citation for part 36 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 81, 161, 181, 182, 183, 223, 234, 274 (42 U.S.C. 2111, 2112, 2201, 2231, 2233, 2273, 2282, 2021); Energy Reorganization Act of 1974, secs. 201, 206 (42 U.S.C. 5841, 5846); 44 U.S.C. 3504 note.

■ 5. In § 36.55, revise paragraph (a) to read as follows:

§ 36.55 Personnel monitoring.

(a) Irradiator operators shall wear a personnel dosimeter while operating a panoramic irradiator or while in the area around the pool of an underwater irradiator. The personnel dosimeter must be capable of detecting high energy photons in the normal and accident dose ranges. Each personnel dosimeter must be assigned to and worn by only one individual. Film badges must be replaced at least monthly and all other personnel dosimeters that require replacement must be replaced at least quarterly. All personnel dosimeters

must be evaluated at least quarterly or promptly after replacement, whichever is more frequent.

* * * * *

PART 39—LICENSES AND RADIATION SAFETY REQUIREMENTS FOR WELL LOGGING

■ 6. The authority citation for part 39 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 53, 57, 62, 63, 65, 69, 81, 161, 181, 182, 183, 223, 234 (42 U.S.C. 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2112, 2201, 2232, 2233, 2273, 2282); Energy Reorganization Act of 1974, secs. 201, 206 (42 U.S.C. 5841, 5846); 44 U.S.C. 3504 note.

■ 7. In § 39.65, revise paragraph (a) to read as follows:

§ 39.65 Personnel monitoring.

(a) The licensee may not permit an individual to act as a logging supervisor or logging assistant unless that person wears a personnel dosimeter at all times during the handling of licensed radioactive materials. Each personnel dosimeter must be assigned to and worn by only one individual. Film badges must be replaced at least monthly and all other personnel dosimeters that require replacement must be replaced at least quarterly. All personnel dosimeters must be evaluated at least quarterly or promptly after replacement, whichever is more frequent.

* * * * *

Dated at Rockville, Maryland, this 3rd day of March, 2020.

For the Nuclear Regulatory Commission.

Margaret M. Doane,

Executive Director for Operations.

[FR Doc. 2020–05295 Filed 3–17–20; 8:45 am]

BILLING CODE 7590–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1241

[Document Number NASA–20–028: Docket Number—NASA–2020–0001]

RIN 2700–AE51

To Research, Evaluate, Assess, and Treat (TREAT) Astronauts

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Interim final rule; request for comments.

SUMMARY: With this interim final rule, the National Aeronautics and Space Administration (NASA) is amending its regulations to add a new part that will implement the provisions of the TREAT Astronauts Act. The new regulations will provide for the medical monitoring and diagnosis of conditions that are potentially spaceflight-associated and treatment of conditions that are spaceflight-associated for former U.S. Government astronauts and payload specialists.

DATES:

Effective: March 18, 2020.

Comments due: Send comments on or before May 18, 2020.

ADDRESSES: You may send comments, identified by docket number NASA–2019–0004 and/or RIN number 2700–AE51, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for sending comments.
- *Email: HQ-TREATAstronautsAct@nasa.gov.* Include docket number NASA–2019–0004 and/or RIN number 2700–AE51 in the subject line of the message.
- *Mail:* NASA Headquarters, Mail Code 2M21, ATTN: Gwyn E. Smith, 300 E St. SW, Washington, DC 20546–0001.

Instructions: All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Gwyn E. Smith, Policy Manager, Office of the Chief Health and Medical Officer, 1–833–996–1685, *HQ-TREATAstronautsAct@nasa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

NASA currently has a voluntary medical monitoring program, Lifetime Surveillance of Astronaut Health (LSAH) program, for all U.S. Government astronauts and payload specialists at the NASA Johnson Space Center (JSC). Once they leave the astronaut corps, former U.S. Government astronauts and payload specialists rely on workers' compensation and other U.S. Government programs to provide diagnosis and treatment for spaceflight-associated conditions. There is no formal mechanism for NASA to receive diagnosis and treatment data on such conditions.

As of November 2019, there are approximately 250 living former U.S. Government astronauts and payload specialists. The Agency currently affords occupationally related medical monitoring services through the LSAH program to former U.S. Government astronauts and payload specialists at the JSC with a 60–70 percent participation rate.

On March 21, 2017, the President signed into law the National Aeronautics and Space Administration Transition Authorization Act of 2017, Public Law 115–10 (2017). Title IV, Subtitle D, the ''To Research, Evaluate, Assess, and Treat Astronauts Act'' (hereafter ''TREAT Astronauts Act'' or ''Act'') is codified at Section 20149 of Title 51 of the U.S. Code.

The TREAT Astronauts Act provides NASA the authority to expand the voluntary monitoring program by developing a more comprehensive occupational surveillance program that will enable earlier detection and diagnosis of medical conditions ''potentially associated'' with spaceflight and treatment of medical conditions associated with spaceflight. NASA currently uses data from the LSAH program to tailor clinical care for individual astronauts, as well as to inform the human systems risks, current spaceflight operations, and future vehicle standards. The comprehensive occupational surveillance program will provide NASA with more comprehensive data that will ultimately contribute to an improved understanding of the long-term impact of spaceflight. This enhanced program is expected to increase the former U.S. Government astronaut and payload specialist participation rate in the occupational surveillance program to over 80 percent.

Human spaceflight poses significant challenges and is full of substantial risk. NASA and its astronauts acknowledge and accept the risks of spaceflight are beyond those of ordinary daily living. Participation in long duration missions or multiple shorter duration missions, increases health risks such as, vision impairment, bone demineralization, and behavioral health issues. In addition, exposure to high levels of radiation and microgravity can result in acute and long-term health consequences that can increase the risk of cancer and tissue degeneration and have potential effects on the musculoskeletal system, central nervous system, cardiovascular system, immune function, and vision.

NASA has also seen an increase in health issues former U.S. Government astronauts and payload specialists face, many years after their NASA service. One of the vital tools NASA needs to prepare for future long-duration and exploration missions is more data on the health effects humans face in

State of Utah
Administrative Rule Analysis
Revised June 2022

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New ___; Amendment _X_; Repeal ___; Repeal and Reenact ___		
Title No. - Rule No. - Section No.		
Rule or Section Number:	**R313-15-501**	**Filing ID: Office Use Only**

Agency Information

1. Department:	Environmental Quality	
Agency:	Waste Management and Radiation Control	
Room number:	Second Floor	
Building:	MASOB	
Street address:	195 N. 1950 W.	
City, state and zip:	Salt Lake City, Utah 84116	
Mailing address:	PO Box 144880	
City, state and zip:	Salt Lake City, Utah 84114-4880	
Contact persons:		
Name:	**Phone:**	**Email:**
Tom Ball	801-536-0251	tball@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:

R313-15-501. Surveys and Monitoring - General.

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**

The NRC has amended its regulations to authorize the use of modern individual monitoring devices in industrial radiographic, irradiator, and well logging operations. These amendments will align personnel dosimetry requirements in these areas with the requirements for all other NRC licensees. As an Agreement State, Utah must adopt these changes into the Radiation Control Rules to maintain compatibility with the federal program.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**

Subsections R313-15-501(4)(a) and (b) are being deleted from the rule to remove the requirement that personnel dosimeters be processed by NVLP accredited processors. Subsection R313-15-501(4) is being amended to state that personnel dosimeters that require processing shall be evaluated at least quarterly or promptly after replacement, whichever is more frequent.
Additionally, the Division is correcting typographical and formatting errors that have been discovered in the rule.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

It is not anticipated that there will be any additional costs or savings to the state budget due to this amendment because any agencies using personnel dosimeters must still have them processed. The amendment provides more flexibility regarding the processing of the dosimeters.

B) Local governments:

It is not anticipated that there will be any additional costs or savings to local government budgets due to this amendment because any agencies using personnel dosimeters must still have them processed. The amendment provides more flexibility regarding the processing of the dosimeters.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

It is not anticipated that there will be any additional costs or savings to small businesses due to this amendment because any businesses using personnel dosimeters must still have them processed. The amendment provides more flexibility regarding the processing of the dosimeters.

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

It is not anticipated that there will be any additional costs or savings to non-small businesses due to this amendment because any businesses using personnel dosimeters must still have them processed. The amendment provides more flexibility regarding the processing of the dosimeters.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**

It is not anticipated that there will be any additional costs or savings to persons other than small businesses, non-small businesses, state or local government entities due to this amendment because any businesses using personnel dosimeters must still have them processed. The amendment provides more flexibility regarding the processing of the dosimeters.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

There will be no additional compliance costs for affected persons due to this amendment beyond any costs that they already incur to comply with the rule prior to this amendment.

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	**FY2023**	**FY2024**	**FY2025**
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	**FY2023**	**FY2024**	**FY2025**
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, Kimberly D. 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:

19-3-104	19-6-104	

Incorporations by Reference Information

7. Incorporations by Reference (if this rule incorporates more than two items by reference, please include additional tables)**:**

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

Official Title of Materials Incorporated (from title page)	
Publisher	
Issue Date	
Issue or Version	

B) This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; *if none, leave blank*)**:**	
Official Title of Materials Incorporated (from title page)	
Publisher	
Issue Date	
Issue or Version	

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:		01/03/2023
B) A public hearing (optional) will be held:		
On (mm/dd/yyyy)**:**	**At** (hh:mm AM/PM)**:**	**At** (place)**:**

9. This rule change MAY become effective on:	01/17/2023
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

To the agency: Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the *Utah State Bulletin* and delaying the first possible effective date.			
Agency head or designee and title:	Douglas J. Hansen, Division Director	**Date:**	mm/dd/yyyy

R313. Environmental Quality, Waste Management and Radiation Control, Radiation.
R313-15. Standards for Protection Against Radiation.

R313-15-501. Surveys and Monitoring - General.

(1) Each licensee or registrant shall make, or cause to be made, surveys of areas, including the subsurface, that:

(a) [~~M~~]may be necessary for the licensee or registrant to comply with Rule R313-15; and

(b) [~~A~~]are reasonable under the circumstances to evaluate:

(i) [~~T~~]the magnitude and the extent of radiation levels; and

(ii) [~~C~~]concentrations or quantities of residual radioactive material; and

(iii) [~~T~~]the potential radiological hazards of the radiation levels and residual radioactivity detected.

(2) Notwithstanding Subsection R313-15-1103(1), records from surveys describing the location and amount of subsurface residual radioactivity identified at the site shall be kept with records important for decommissioning, and [~~such~~]the records shall be retained in accordance with Subsection R313-22-35(7), as applicable.

(3) The licensee or registrant shall ensure that instruments and equipment used for quantitative radiation measurements, for example, dose rate and effluent monitoring, are calibrated at intervals not to exceed 12 months for the radiation measured, except when a more frequent interval is specified in another applicable part of these rules or a license condition.

(4) [~~All~~]Each personnel dosimeter[~~s~~], except for direct and indirect reading pocket ionization chambers and those dosimeters used to measure the dose to any extremity, that require processing to determine the radiation dose and that are used by licensees and registrants to comply with Section R313-15-201, with other applicable provisions of these rules, or with conditions specified in a license or registration shall be evaluated at least quarterly or promptly after replacement, whichever is more frequent.[~~processed and evaluated by a dosimetry processor:~~]

[~~(a) Holding current personnel dosimetry accreditation from the National Voluntary Laboratory Accreditation Program (NVLAP) of the National Institute of Standards and Technology; and~~

~~(b) Approved in this accreditation process for the type of radiation or radiations included in the NVLAP program that most closely approximates the type of radiation or radiations for which the individual wearing the dosimeter is monitored.~~]

(5) The licensee or registrant shall ensure that adequate precautions are taken to prevent a deceptive exposure of an individual monitoring device.

KEY: radioactive materials, contamination, waste disposal, safety
Date of Enactment or Last Substantive Amendment: February 14, 2020
Notice of Continuation: January 17, 2017
Authorizing, and Implemented or Interpreted Law: 19-3-104; 19-6-104

State of Utah
Administrative Rule Analysis
Revised June 2022

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New ___; Amendment _X_; Repeal ___; Repeal and Reenact ___		
Title No. - Rule No. - Section No.		
Rule or Section Number:	**R313-34-3**	**Filing ID: Office Use Only**

Agency Information

1. Department:	Environmental Quality	
Agency:	Waste Management and Radiation Control	
Room number:	Second Floor	
Building:	MASOB	
Street address:	195 N. 1950 W.	
City, state and zip:	Salt Lake City, Utah 84116	
Mailing address:	PO Box 144880	
City, state and zip:	Salt Lake City, Utah 84114-4880	
Contact persons:		
Name:	**Phone:**	**Email:**
Tom Ball	801-536-0251	tball@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:

R313-34-3. Clarifications or Exemptions.

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**

The NRC has amended its regulations to authorize the use of modern individual monitoring devices in industrial radiographic, irradiator, and well logging operations. These amendments will align personnel dosimetry requirements in these areas with the requirements for all other NRC licensees. As an Agreement State, Utah must adopt these changes into the Radiation Control Rules to maintain compatibility with the federal program.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**

Section R313-34-3 incorporates by reference 10 CFR 36. This amendment updates the date of the rule incorporated from 2014 to 2020.
Additionally, the Division is correcting typographical and formatting errors that have been discovered in the rule.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

It is not anticipated that there will be any additional costs or savings to the state budget due to this amendment because any agencies using personnel dosimeters must still have them processed. The amendment provides more flexibility regarding the processing of the dosimeters.

B) Local governments:

It is not anticipated that there will be any additional costs or savings to local government budgets due to this amendment because any agencies using personnel dosimeters must still have them processed. The amendment provides more flexibility regarding the processing of the dosimeters.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

It is not anticipated that there will be any additional costs or savings to small businesses due to this amendment because any businesses using personnel dosimeters must still have them processed. The amendment provides more flexibility regarding the processing of the dosimeters.

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

It is not anticipated that there will be any additional costs or savings to non-small businesses due to this amendment because any businesses using personnel dosimeters must still have them processed. The amendment provides more flexibility regarding the processing of the dosimeters.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**

It is not anticipated that there will be any additional costs or savings to persons other than small businesses, non-small businesses, state or local government entities due to this amendment because any businesses using personnel dosimeters must still have them processed. The amendment provides more flexibility regarding the processing of the dosimeters.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

There will be no additional compliance costs for affected persons due to this amendment beyond any costs that they already incur to comply with the rule prior to this amendment.

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	**FY2023**	**FY2024**	**FY2025**
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	**FY2023**	**FY2024**	**FY2025**
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, Kimberly D. 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:

19-3-104(4)	19-3-104(7)	

Incorporations by Reference Information

7. Incorporations by Reference (if this rule incorporates more than two items by reference, please include additional tables)**:**

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

Official Title of Materials Incorporated (from title page)	Title 10 – Energy, Chapter I – Nuclear Regulatory Commission Part 36 Licenses and Radiation Safety Requirements for Irradiators 36.1 – 36.93
Publisher	National Archives
Issue Date	4/01/2020
Issue or Version	

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

Official Title of Materials Incorporated (from title page)	
Publisher	
Issue Date	
Issue or Version	

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:		01/03/2023
B) A public hearing (optional) will be held:		
On (mm/dd/yyyy)**:**	**At** (hh:mm AM/PM)**:**	**At** (place)**:**

9. This rule change MAY become effective on:	01/17/2023
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

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

Agency head or designee and title:	Douglas J. Hansen, Division Director	**Date:**	mm/dd/yyyy

R313. Environmental Quality, Waste Management and Radiation Control, Radiation.
R313-34. Requirements for Irradiators.

R313-34-3. Clarifications or Exemptions.

For purposes of Rule R313-34, 10 CFR 36, [~~2014~~]2020 ed., is incorporated by reference with the following clarifications or exceptions:

(1) The exclusion of the following 10 CFR sections: 36.1, 36.5, 36.8, 36.11, 36.17, 36.19(a), 36.91, and 36.93[~~;~~].

(2) The substitution of the following:

(a) Radiation Control Act for Atomic Energy Act of 1954;

(b) Utah Radiation Control Rules for the reference to NRC regulations and the Commission's regulations;

(c) [~~T~~]the Director or the Executive Secretary's for the Commission or the Commission's, and NRC in the following 10 CFR sections: 36.13, 36.13(f), 36.15, 36.19(b), 36.53(c), 36.69, and 36.81(a), 36.81(d) and 36.81(e); and

(d) [~~I~~]in 10 CFR 36.51(a)(1), Rule R313-15 for NRC[~~;~~].

(3) Appendix B of 10 CFR Part 20 refers to the 2014 ed. of 10 CFR[~~; and~~].

(4) The substitution of Title R313 references for the following 10 CFR references:

(a) Section R313-12-51 for reference to 10 CFR 30.51;

(b) Rule R313-15 for the reference to 10 CFR 20;

(c) Subsection R313-15-501(3) for the reference to 10 CFR 20.1501(c);

(d) Section R313-15-902 for the reference to 10 CFR 20.1902;

(e) Rule R313-18 for the reference to 10 CFR 19;

(f) Section R313-19-41 for the reference to 10 CFR 30.41;

(g) Section R313-19-50 for the reference to 10 CFR 30.50;

(h) Section R313-22-33 for the reference to 10 CFR 30.33;

(i) Section R313-22-210 for the reference to 10 CFR 32.210;

(j) Section R313-22-35 for the reference to 10 CFR 30.35; and

(k) Rule R313-70 for the reference to 10 CFR 170.31.

KEY: irradiators, survey, radiation, radiation safety

Date of Enactment or Last Substantive Amendment: May 5, 2015
Notice of Continuation: January 17, 2017
Authorizing, and Implemented or Interpreted Law: 19-3-104(4); 19-3-104(7)

State of Utah
Administrative Rule Analysis
Revised June 2022

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New ___; Amendment _X_; Repeal ___; Repeal and Reenact ___		
Title No. - Rule No. - Section No.		
Rule or Section Number:	**R313-35-120**	**Filing ID: Office Use Only**

Agency Information

1. Department:	Environmental Quality	
Agency:	Waste Management and Radiation Control	
Room number:	Second Floor	
Building:	MASOB	
Street address:	195 N. 1950 W.	
City, state and zip:	Salt Lake City, Utah 84116	
Mailing address:	PO Box 144880	
City, state and zip:	Salt Lake City, Utah 84114-4880	
Contact persons:		
Name:	**Phone:**	**Email:**
Tom Ball	801-536-0251	tball@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:

R313-35-120. X-Ray Systems Less than 1 MeV used for Non-Destructive Testing.

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**

The NRC has amended its regulations to authorize the use of modern individual monitoring devices in industrial radiographic, irradiator, and well logging operations. These amendments will align personnel dosimetry requirements in these areas with the requirements for all other NRC licensees. As an Agreement State, Utah must adopt these changes into the Radiation Control Rules to maintain compatibility with the federal program.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**

Subsection R313-35-120(3)(c)(i)(B)(IV) is being amended to clarify that when a dosimeter is sent for processing it must also be evaluated. A requirement is being added to the rule stating that personnel dosimeters that do not require processing shall be evaluated within 24 hours. The word “exposure” is being changed to “dose” in the last sentence of the rule clarifying that it is an individual’s radiation dose that needs to be determined, not exposure.
Additionally, the Division is correcting typographical and formatting errors that have been discovered in the rule.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

It is not anticipated that there will be any additional costs or savings to the state budget due to this amendment because any agencies using personnel dosimeters must still have them processed. The amendment provides more flexibility regarding the processing of the dosimeters.

B) Local governments:

It is not anticipated that there will be any additional costs or savings to local government budgets due to this amendment because any agencies using personnel dosimeters must still have them processed. The amendment provides more flexibility regarding the processing of the dosimeters.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

It is not anticipated that there will be any additional costs or savings to small businesses due to this amendment because any businesses using personnel dosimeters must still have them processed. The amendment provides more flexibility regarding the processing of the dosimeters.

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

It is not anticipated that there will be any additional costs or savings to non-small businesses due to this amendment because any businesses using personnel dosimeters must still have them processed. The amendment provides more flexibility regarding the processing of the dosimeters.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**

It is not anticipated that there will be any additional costs or savings to persons other than small businesses, non-small businesses, state or local government entities due to this amendment because any businesses using personnel dosimeters must still have them processed. The amendment provides more flexibility regarding the processing of the dosimeters.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

There will be no additional compliance costs for affected persons due to this amendment beyond any costs that they already incur to comply with the rule prior to this amendment.

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	**FY2023**	**FY2024**	**FY2025**
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	**FY2023**	**FY2024**	**FY2025**
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, Kimberly D. 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:

19-3-104	19-6-107	

Incorporations by Reference Information

7. Incorporations by Reference (if this rule incorporates more than two items by reference, please include additional tables)**:**

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

Official Title of Materials Incorporated (from title page)	
Publisher	
Issue Date	
Issue or Version	

B) This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; *if none, leave blank*):	
Official Title of Materials Incorporated (from title page)	
Publisher	
Issue Date	
Issue or Version	

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:		01/03/2023
B) A public hearing (optional) will be held:		
On (mm/dd/yyyy):	**At** (hh:mm AM/PM):	**At** (place):

9. This rule change MAY become effective on:	01/17/2023
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

To the agency: Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the *Utah State Bulletin* and delaying the first possible effective date.			
Agency head or designee and title:	Douglas J. Hansen, Division Director	**Date:**	mm/dd/yyyy

R313. Environmental Quality, Waste Management and Radiation Control, Radiation.
R313-35. Requirements for X-Ray Equipment Used for Non-Medical Applications.

R313-35-120. X-Ray Systems Less than 1 MeV used for Non-Destructive Testing.

(1) Cabinet x-ray systems.

Cabinet x-ray systems shall meet the requirements of Section R313-35-80.

(2) Fixed Gauges.

(a) Warning Devices. A light, which is clearly visible from [~~all~~]any accessible area[~~s~~] around the x-ray system, shall indicate when the x-ray system is operating.

(b) Personnel Monitoring. Notwithstanding Subsection R313-15-502(1)(a), individuals conducting x-ray system maintenance requiring the x-ray beam to be on shall be provided with and required to wear personnel monitoring devices.

(3) Industrial and Other X-ray Systems.

(a) Equipment.

(i) The registrant shall perform visual and operability checks of indication lights and warning lights before use on each day the equipment is to be used to ensure that the equipment is in good working condition. If equipment problems are found, the equipment shall be removed from service until repaired.

(ii) Inspection and routine maintenance of x-ray systems, interlocks, indication lights, exposure switches, and cables shall be made at intervals not to exceed six months or before the first use thereafter to ensure the proper functioning of components important to safety. If equipment problems are found, the equipment shall be removed from service until repaired.

(iii) Records demonstrating compliance with Subsection R313-35-120(3)(a)(i) shall be made [~~when~~]if problems with the equipment are found. These records shall be maintained for a period of three years.

(iv) Records demonstrating compliance with Subsection R313-35-120(3)(a)(ii) shall be made. These records shall be maintained for a period of three years.

(b) Controls. X-ray systems [~~which~~]that produce a high radiation area shall be controlled to meet the requirements of Section R313-15-601.

(c) Personnel Monitoring Requirements.

(i) Registrants shall not permit individuals to conduct x-ray operations unless [~~all~~]each of the following conditions are met.

(A) Individuals shall wear a thermoluminescent dosimeter or film badge.

(I) Each film badge or thermoluminescent dosimeter shall be assigned to and worn by only one individual.

(II) Film badges shall be replaced at periods not to exceed one month and thermoluminescent dosimeters shall be replaced at periods not to exceed three months.

(B) Individuals shall wear a direct reading dosimeter if conducting non-destructive testing at a temporary job site or in a room or building not meeting the requirements of Section R313-15-301.

(I) Pocket dosimeters shall have a range from zero to two millisieverts, [~~(~~]200 millirem[~~)~~], and [~~must~~]shall be recharged at the beginning of each shift.

(II) Direct reading dosimeters shall be read and the exposures recorded at the beginning and end of each shift. Records shall be maintained for three years after the record is made.

(III) Direct reading dosimeters shall be checked at intervals not to exceed 12 months for correct response to radiation and the results shall be recorded. Records shall be maintained for a period three years from the date the record is made. Acceptable dosimeters shall read within plus or minus 20 percent of the true radiation exposure.

(IV) If an individual's ion-chamber pocket dosimeter is found to be off scale or if the individual's electronic personnel dosimeter reads greater than [~~2~~]two millisieverts, [~~(~~]200 millirems[)], and the possibility of radiation exposure cannot be ruled out as the cause, the individual's film badge or thermoluminescent dosimeter shall be sent for processing and evaluation within 24 hours. For personnel dosimeters that do not require processing, evaluation of the dosimeter shall be started within 24 hours. In addition, the individual shall not resume work with sources of radiation until a determination of the individual's radiation [~~exposure~~]dose has been made.

(d) Controls. In addition to the requirements of Section R313-15-601, barriers, temporary or otherwise, and pathways leading to high radiation areas shall be identified in accordance with Section R313-15-902.

(e) Surveillance. During non-destructive testing applications conducted at a temporary job site or in a room or building not meeting the requirements of Section R313-15-301, the operator shall maintain continuous direct visual surveillance of the operation to protect against unauthorized entry into a high radiation area.

KEY: industry, x-rays, veterinarians, surveys
Date of Enactment or Last Substantive Amendment: May 22, 2015
Notice of Continuation: January 17, 2017
Authorizing, and Implemented or Interpreted Law: 19-3-104; 19-6-107

State of Utah
Administrative Rule Analysis
Revised June 2022

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New ___; Amendment _X_; Repeal ___; Repeal and Reenact ___		
Title No. - Rule No. - Section No.		
Rule or Section Number:	**R313-36-3**	**Filing ID: Office Use Only**

Agency Information

1. Department:	Environmental Quality	
Agency:	Waste Management and Radiation Control	
Room number:	Second Floor	
Building:	MASOB	
Street address:	195 N. 1950 W.	
City, state and zip:	Salt Lake City, Utah 84116	
Mailing address:	PO Box 144880	
City, state and zip:	Salt Lake City, Utah 84114-4880	
Contact persons:		
Name:	**Phone:**	**Email:**
Tom Ball	801-536-0251	tball@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:

R313-36-3. Clarifications or Exceptions.

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**

The NRC has amended its regulations to authorize the use of modern individual monitoring devices in industrial radiographic, irradiator, and well logging operations. These amendments will align personnel dosimetry requirements in these areas with the requirements for all other NRC licensees. As an Agreement State, Utah must adopt these changes into the Radiation Control Rules to maintain compatibility with the federal program.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**

Section R313-36-3 incorporates by reference several sections and subsections of 10 CFR 34 including 10 CFR 34.45(a)(10) through 34.101. This amendment updates the date of the rule incorporation from 2019 to 2020.
Additionally, the Division is correcting typographical and formatting errors that have been discovered in the rule.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

It is not anticipated that there will be any additional costs or savings to the state budget due to this amendment because any agencies using personnel dosimeters must still have them processed. The amendment provides more flexibility regarding the processing of the dosimeters.

B) Local governments:

It is not anticipated that there will be any additional costs or savings to local government budgets due to this amendment because any agencies using personnel dosimeters must still have them processed. The amendment provides more flexibility regarding the processing of the dosimeters.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

It is not anticipated that there will be any additional costs or savings to small businesses due to this amendment because any businesses using personnel dosimeters must still have them processed. The amendment provides more flexibility regarding the processing of the dosimeters.

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

It is not anticipated that there will be any additional costs or savings to non-small businesses due to this amendment because any businesses using personnel dosimeters must still have them processed. The amendment provides more flexibility regarding the processing of the dosimeters.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**

It is not anticipated that there will be any additional costs or savings to persons other than small businesses, non-small businesses, state or local government entities due to this amendment because any businesses using personnel dosimeters must still have them processed. The amendment provides more flexibility regarding the processing of the dosimeters.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

There will be no additional compliance costs for affected persons due to this amendment beyond any costs that they already incur to comply with the rule prior to this amendment.

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	**FY2023**	**FY2024**	**FY2025**
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	**FY2023**	**FY2024**	**FY2025**
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, Kimberly D. 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:

19-3-103.1(1)(a)	19-6-104	

Incorporations by Reference Information

7. Incorporations by Reference (if this rule incorporates more than two items by reference, please include additional tables)**:**

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

Official Title of Materials Incorporated (from title page)	Title 10 – Energy, Chapter I – Nuclear Regulatory Commission, Part 34 Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiographic Operations 34.1 – 34.123
Publisher	National Archives
Issue Date	4/01/2020
Issue or Version	

B) This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials

incorporated by reference must be submitted to the Office of Administrative Rules; *if none, leave blank*):	
Official Title of Materials Incorporated (from title page)	
Publisher	
Issue Date	
Issue or Version	

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:		01/03/2023
B) A public hearing (optional) will be held:		
On (mm/dd/yyyy):	**At** (hh:mm AM/PM):	**At** (place):

9. This rule change MAY become effective on:	01/17/2023
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

To the agency: Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the *Utah State Bulletin* and delaying the first possible effective date.			
Agency head or designee and title:	Douglas J. Hansen, Division Director	**Date:**	mm/dd/yyyy

R313. Environmental Quality, Radiation Control.
R313-36. Special Requirements for Industrial Radiographic Operations.

R313-36-3. Clarifications or Exceptions.

For purposes of Rule R313-36, 10 CFR 34.3; 34.13; 34.20(a)(1); 34.20(b) through 34.41(b); 34.42(a) through 34.42(c); 34.43(a)(1); 34.43(b) through 34.45(a)(8); 34.45(a)(10) through 34.101 [~~(2019)~~](2020), are incorporated by reference with the following clarifications or exceptions:

(1) The exclusion of the following:

(a) in 10 CFR 34.3, exclude definitions for "Lay-barge radiography," "Offshore platform radiography," and "Underwater radiography";

(b) in 10 CFR 34.27(d), exclude "A copy of the report must be sent to the Administrator of the appropriate Nuclear Regulatory Commission's Regional Office listed in appendix D of 10 CFR part 20 of this chapter "Standards for Protection Against Radiation."";" and

(c) in 10 CFR 34.27(e), exclude "Licensees will have until June 27, 1998, to comply with the DU leak-testing requirements of this paragraph."

(2) The substitution of the following wording:

(a) "radioactive materials" for references to "byproduct materials";

(b) "Utah Radiation Control Rules" for references to:

(i) "Commission's regulations";

(ii) "Federal regulations";

(iii) "NRC regulations"; and

(iv) "Commission regulations.";

(c) "[~~D~~]director" for references to:

(i) "Commission";

(ii) "appropriate NRC regional office listed in Section 30.6(b)(2)";

(iii) "Director, Office of Nuclear Material Safety and Safeguards" except as used in 10 CFR 34.43(a)(1); and

(iv) "NRC's Office of Nuclear Material Safety and Safeguards";

(d) "Director, the U.S. Nuclear Regulatory Commission, or an Agreement State" for references to:

(i) "NRC or an Agreement State"; and

(ii) "Commission or an Agreement State";

(e) "Director, the U.S. Nuclear Regulatory Commission, or by an Agreement State" for references to "Commission or by an Agreement State";

(f) "License(s)" for references to "NRC license(s)";

(g) "NRC or Agreement State License" for references to "Agreement State license"; and

(h) "the Utah Radiation Control Rules" for references to "this chapter."

(3) The substitution of the following rule references:

(a) In 10 CFR 34.51, "Rule R313-12" for references to "10 CFR part 20 of this chapter";

(b) "Rule R313-15" for references to "10 CFR part 20" and "10 CFR part 20 of this chapter" except as found in 10 CFR 34.51;
(c) "Subsection R313-15-601(1)(a)" for references to "Subsection 20.1601(a)(1) of this chapter";
(d) "Subsections R313-15-902(1) and R313-15-902(2)" for references to "10 CFR 20.1902(a) and (b) of this chapter";
(e) "Section R313-15-903" for references to "Section 20.1903 of this chapter";
(f) "Section R313-15-1203" for references to "10 CFR 20.2203" and "Section 20.2203 of this chapter";
(g) "Section R313-12-110" for references to "Section 30.6(a) of this chapter" except as used in 10 CFR 34.43(a)(1);
(h) "Section R313-19-30" for references to "Section 150.20 of this chapter";
(i) "Section R313-19-50" for references to "Section 30.50";
(j) "Section R313-19-100" for references to "10 CFR part 71", and "49 CFR parts 171 - 173";
(k) "Section R313-22-33" for references to "Section 30.33 of this chapter";
(l) "Rule R313-36" for references to "NRC regulations contained in this part";
(m) "Subsection R313-19-100(5)" for references to "Section 71.5 of this chapter"; and
(n) "Section R313-19-5" for references to "Sections 30.7, 30.9, and 30.10 of this chapter."

KEY: industry, radioactive material, licensing, surveys
Date of Enactment or Last Substantive Amendment: January 15, 2021
Notice of Continuation: July 1, 2016
Authorizing, and Implemented or Interpreted Law: 19-3-103.1(1)(a); 19-3-104

State of Utah
Administrative Rule Analysis
Revised June 2022

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New ___; Amendment _X_; Repeal ___; Repeal and Reenact ___		
Title No. - Rule No. - Section No.		
Rule or Section Number:	**R313-38-3**	**Filing ID: Office Use Only**

Agency Information

1. Department:	Environmental Quality	
Agency:	Waste Management and Radiation Control	
Room number:	Second Floor	
Building:	MASOB	
Street address:	195 N. 1950 W.	
City, state and zip:	Salt Lake City, Utah 84116	
Mailing address:	PO Box 144880	
City, state and zip:	Salt Lake City, Utah 84114-4880	
Contact persons:		
Name:	**Phone:**	**Email:**
Tom Ball	801-536-0251	tball@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:

R313-38-3. Clarifications or Exceptions.

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**

The NRC has amended its regulations to authorize the use of modern individual monitoring devices in industrial radiographic, irradiator, and well logging operations. These amendments will align personnel dosimetry requirements in these areas with the requirements for all other NRC licensees. As an Agreement State, Utah must adopt these changes into the Radiation Control Rules to maintain compatibility with the federal program.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**

Section R313-38-3 incorporates by reference 10 CFR 39. This amendment updates the date of the rule incorporation from 2013 to 2020.
Additionally, the Division is correcting typographical and formatting errors that have been discovered in the rule.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

It is not anticipated that there will be any additional costs or savings to the state budget due to this amendment because any agencies using personnel dosimeters must still have them processed. The amendment provides more flexibility regarding the processing of the dosimeters.

B) Local governments:

It is not anticipated that there will be any additional costs or savings to local government budgets due to this amendment because any agencies using personnel dosimeters must still have them processed. The amendment provides more flexibility regarding the processing of the dosimeters.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

It is not anticipated that there will be any additional costs or savings to small businesses due to this amendment because any businesses using personnel dosimeters must still have them processed. The amendment provides more flexibility regarding the processing of the dosimeters.

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

It is not anticipated that there will be any additional costs or savings to non-small businesses due to this amendment because any businesses using personnel dosimeters must still have them processed. The amendment provides more flexibility regarding the processing of the dosimeters.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**

It is not anticipated that there will be any additional costs or savings to persons other than small businesses, non-small businesses, state or local government entities due to this amendment because any businesses using personnel dosimeters must still have them processed. The amendment provides more flexibility regarding the processing of the dosimeters.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

There will be no additional compliance costs for affected persons due to this amendment beyond any costs that they already incur to comply with the rule prior to this amendment.

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	**FY2023**	**FY2024**	**FY2025**
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	**FY2023**	**FY2024**	**FY2025**
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, Kimberly D. 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:

19-3-104	19-6-107	

Incorporations by Reference Information

7. Incorporations by Reference (if this rule incorporates more than two items by reference, please include additional tables)**:**

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

Official Title of Materials Incorporated (from title page)	Title 10 – Energy, Chapter I – Nuclear Regulatory Commission, Part 39 Licenses and Radiation Safety Requirements for Well Logging 39.1 – 39.103
Publisher	National Archives
Issue Date	4/01/2020
Issue or Version	

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

Official Title of Materials Incorporated (from title page)	
Publisher	
Issue Date	
Issue or Version	

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:		01/03/2023
B) A public hearing (optional) will be held:		
On (mm/dd/yyyy)**:**	**At** (hh:mm AM/PM)**:**	**At** (place)**:**

9. This rule change MAY become effective on:	01/17/2023
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

To the agency: Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the *Utah State Bulletin* and delaying the first possible effective date.			
Agency head or designee and title:	Douglas J. Hansen, Division Director	**Date:**	mm/dd/yyyy

R313. Environmental Quality, Waste Management and Radiation Control, Radiation.
R313-38. Licenses and Radiation Safety Requirements for Well Logging.

R313-38-3. Clarifications or Exceptions.

For purposes of Rule R313-38, 10 CFR 39 [~~(2013)~~](2020), is incorporated by reference with the following clarifications or exceptions:

(1) The exclusion of the following 10 CFR sections: 39.1, 39.5, 39.8, 39.11, 39.101, and 39.103[~~;~~].
(2) The exclusion of the following 10 CFR references within 10 CFR 39: Sec. 40.32, and Sec. 70.23[~~;~~].
(3) The exclusion of "licensed material" in 10 CFR 39.2 definitions[~~;~~].
(4) The substitution of the following wording:
(a) "[~~L~~]license" for reference to "NRC license";
(b) "Utah Radiation Control Rules" for the references to:
(i) [~~The~~]"Commission's regulations";
(ii) [~~The~~]"NRC regulations";
(iii) "NRC regulations"; and
(iv) "[~~P~~]pertinent Federal regulations";
(c) "[~~D~~]director" for reference to "Commission", except as stated in Subsection R313-38-3(4)(d);
(d) "[~~R~~]representatives of the [~~D~~]director" for the references to the "Commission" in:
(i) 10 CFR 39.33(d);
(ii) 10 CFR 39.35(a);
(iii) 10 CFR 39.37;
(iv) 10 CFR 39.39(b); and
(v) 10 CFR 39.67(f);
(e) "[~~D~~]director" for references to:
(i) "NRC" in:
(A) 10 CFR 39.63(l);
(B) 10 CFR 39.77(c)(1)(i) and (ii); and
(C) 10 CFR 39.77(d)(9);[~~and~~]

(ii) "Appropriate NRC Regional Office" in:
(A) 10 CFR 39.77(a);
(B) 10 CFR 39.77(c)(1); and
(C) 10 CFR 39.77(d); and
(iii) "Appropriate NRC Regional Office listed in appendix D of part 20 of this chapter" in[~~:~~
~~(A)~~] 10 CFR 39.35(d)(2);
(f) "Director, the U.S. Nuclear Regulatory Commission or an Agreement State" for the references to:
(i) "Commission or an Agreement State" in:
(A) 10 CFR 39.35(b); and
(B) 10 CFR 39.43(d) and (e); and
(ii) "Commission pursuant to Sec. 39.13(c) or by an Agreement State" in:
(A) 10 CFR 39.43(c); and
(B) 10 CFR 39.51;
(g) In 10 CFR 39.35(d)(1), "persons specifically licensed by the Director, the U.S. Nuclear Regulatory Commission, or an Agreement State" for the reference to "an NRC or Agreement State licensee that is authorized"; and
(h) In 10 CFR 39.75(e), "a U.S. Nuclear Regulatory Commission or an Agreement State" for the reference to "the Agreement State"[~~;~~].
(5) The substitution of the following Title R313 references for specific 10 CFR references:
(a) Section R313-12-3 for the reference to Sec. 20.1003 of this chapter;
(b) Section R313-12-54 for the reference to 10 CFR 39.17;
(c) Subsection R313-12-55(1) for the reference to 10 CFR 39.91;
(d) Rule R313-15 for references to:
(i) Part 20; and
(ii) Part 20 of this chapter;
(e) Subsection R313-15-901(1) for the reference to Sec. 20.1901(a);
(f) Section R313-15-906 for the reference to Sec. 20.1906 of this chapter;
(g) Sections R313-15-1201 through R313-15-1203 for the references to:
(i) Secs. 20.2201-20.2202; and
(ii) Sec. 20.2203;
(h) Rule R313-18 for the reference to part 19;
(i) Section R313-19-30 for the reference to Sec. 150.20 of this chapter;
(j) Section R313-19-50 for the references to:
(i) Sec. 30.50; and
(ii) Part 21 of this chapter;
(k) Section R313-19-71 for the reference to Sec. 30.71;
(l) Section R313-19-100 for the references to:
(i) 10 CFR Part 71; and
(ii) Sec. 71.5 of this chapter;[~~and~~]
(m) Section R313-22-33 for the reference to 10 CFR 30.33; and
(n) Rules R313-15, R313-18, and R313-38 for corresponding references to:
(i) Parts 19, 20, and 39 of this chapter; and
(ii) A copy of parts 19, 20, and 39 of NRC regulations.

KEY: radioactive materials, well logging, surveys, subsurface tracer studies
Date of Enactment or Last Substantive Amendment: March 17, 2015
Notice of Continuation: January 17, 2017
Authorizing, and Implemented or Interpreted Law: 19-3-104; 19-6-107

WASTE MANAGEMENT AND RADIATION CONTROL BOARD

Executive Summary

Final Adoption

Amendments to UAC R313-19-100

November 10, 2022

What is the issue before the Board?	Approval from the Board is needed for final adoption of changes to R313-19-100, *Transportation*, to incorporate federal regulatory changes requested by the Nuclear Regulatory Commission (NRC)to maintain the compatibility of Utah radiation control rules with the federal regulations.
What is the historical background or context for this issue?	At the Board meeting on September 8, 2022, the Board approved the proposed changes to R313-19-100 to be filed with the Office of Administrative Rules for publication in the Utah State Bulletin. The proposed changes were published in the October 1, 2022, issue of the Utah State Bulletin (Vol. 2022, No. 19). Selected pages from the Utah State Bulletin showing the publication of the proposed changes follow this Executive Summary. The public comment period for this rulemaking ended on October 31, 2022. No comments were received.
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 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 R313-19-100 as published in the October 1, 2022, issue of the Utah State Bulletin and set an effective date of November 14, 2022.
Where can more information be obtained?	Please contact Tom Ball by email at tball@utah.gov or by phone at (801) 536-0251.

DSHW-2022-025540
Attachment DSHW-2022-025538

UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
Filed September 02, 2022, 12:00 a.m. through September 15, 2022, 11:59 p.m.

Number 2022-19
October 01, 2022

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.

KFU440.A73S7
348.792'025--DDC 85-643197

The State Superintendent of the Utah State Board of Education, Sydnee Dickson, has reviewed and approved this fiscal 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:		
Article X, Section 3	Subsection 53E-3-401(4)	

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:	10/31/2022

9. This rule change MAY become effective on:	11/07/2022
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:	Angie Stallings, Deputy Superintendent of Policy	**Date:**	09/15/2022

R277. Education, Administration.
R277-728. Honors Courses.
R277-728-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

(2) The purpose of this rule is to establish standards for honors courses in k-12 schools.

R277-728-2. Definitions.

"Honors course" means a course that focuses on extension and purposeful differentiation while facilitating more depth within course standards.

R277-728-3. Honors Course Objectives.

(1) An honors course shall:

(a) offer students opportunities to learn from the perspectives of others;

(b) encourage students to find multiple possible solution pathways, where appropriate;

(c) use data to reason;

(d) encourage students to take risks and persevere in problem solving;

(e) personalize student learning experiences; and

(f) emphasize deep understanding of grade level content and above-level content, if appropriate.

(2) An honors course may not:

(a) emphasize teacher lecture;

(b) emphasize rote memorization of rules and procedures or basic recall of facts;

(c) equate an honors distinction with an increased workload, such as requiring more assignments or reading additional texts without clear intent; or

(d) include little to no collaborative work.

(3)(a) An honors course shall be open and available to any interested student.

(b) A school may not prohibit enrollment in an honors course based on a students past performance, experience, or other measures.

(4) School staff shall uniformly promote honors courses to all students and families.

(5) To the extent possible, a school shall provide enough sections for honors courses to meet student demand.

(6) A school shall remove barriers and provide opportunities to students from all representative demographics to reach their academic potential.

KEY: honors
Date of Last Change: 2022
Authorizing, and Implemented, or Interpreted Law: Art X Sec 3; 53E-3-401(4)

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	**R313-19-100**	**Filing ID: 54863**

Agency Information

1. Department:	Environmental Quality	
Agency:	Waste Management and Radiation Control, Radiation	
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:**
Thomas Ball	801-536-0251	tball@utah.gov
Spencer Wickham	801-536-0082	swickham@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:

R313-19-100. Transportation

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**

In a letter to the director of the Division of Waste Management and Radiation Control, Radiation (Division) dated 07/11/2022, the Nuclear Regulatory Commission (NRC) stated that Utah has erroneously incorporated by reference 10 CFR Part 71.19(a) and (b) into Section R313-19-100. The NRC stated that 10 CFR Part 71.19 is designated as Compatibility Category NRC, which means that these are program elements that belong solely to the NRC and should not be adopted by the Agreement States.

The Division is removing 10 CFR Part 71.19(a) and (b) from R313-19-100 to meet the Compatibility Category NRC designation.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**

The change removes the incorporation by reference of 10 CFR 71.19(a) and (b) from Section R313-19-100 to meet the Compatibility Category NRC designation assigned to 10 CFR part 71.19.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

It is not anticipated that there will be any cost or savings to the state budget due to this change because the change does not result in any changes to state agency operations.

B) Local governments:

It is not anticipated that there will be any cost or savings to local governments due to this change because the change does not result in any changes to local government agency operations.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

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

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

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

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**

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

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

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

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	**FY2023**	**FY2024**	**FY2025**
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	**FY2023**	**FY2024**	**FY2025**
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, Kimberly D. Shelley, has reviewed and approved this fiscal 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 19-3-103.1		

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:	10/31/2022

9. This rule change MAY become effective on:	11/14/2022

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, Director	**Date:**	09/08/2022

R313. Environmental Quality, Waste Management and Radiation Control, Radiation.
R313-19. Requirements of General Applicability to Licensing of Radioactive Material.
R313-19-100. Transportation.

For purposes of Section R313-19-100, 10 CFR 71.0(c), 71.0(d)(1), 71.1(a), 71.3, 71.4, 71.13, 71.14(a), 71.15, 71.17, [~~71.19(a), 71.19(b),~~]71.21 through 71.23, 71.47, 71.83, 71.85 introductory paragraph, 71.85(d), 71.87 through 71.89, 71.91(a), 71.91(c), 71.91(d), 71.97, 71.101(a), 71.101(b), 71.101(c)(1), 71.101(g), 71.103(a), 71.103(b), 71.105, 71.106, 71.127, 71.129, 71.131, 71.133, 71.135, 71.137, and Appendix A to Part 71 (2020) are incorporated by reference with the following clarifications or exceptions:

(1) The exclusion of the following:

(a) In 10 CFR 71.4 the following definitions:

(i) "close reflection by water";

(ii) "licensed material";

(iii) "optimum interspersed hydrogenous moderation";

(iv) "spent nuclear fuel or spent fuel;"

(v) "special form radioactive material", since this definition exists in Section R313-12-3; and

(vi) "state."

(b) In 10 CFR 71.91(c) and 71.91(d), the phrase "certificate holder and applicant for a COC";

(c)_ In 10 CFR 71.101(a), the sentence "Each certificate holder and applicant for a package approval is responsible for satisfying the quality assurance requirements that apply to the design, fabrication, testing, and modification of package subject to this subpart;" and

(d) In 10 CFR 71.101(b), each instance of "certification holder, and applicant for a COC."

(2) The substitution of the following rule references:

(a) "Rule R313-36, incorporating 10 CFR 34.31(b) by reference," for "Sec. 34.31(b) of this chapter" as found in 10 CFR 71.101(g);

(b) "Section R313-15-502" for reference to "10 CFR 20.1502";

(c) "Rule R313-14" for reference to "10 CFR Part 2 Subpart B";

(d) "Rule R313-32, 10 CFR Part 35," for reference to "10 CFR part 35";

(e) "Subsection R313-15-906(5)" for reference to "10 CFR 20.1906(e)";

(f) "Subsection R313-19-100(5)" for "Sec.71.5";

(g)(i) "10 CFR 71.101(a), 71.101(b), 71.101(c)(1), 71.101(g), 71.103(a), 71.103(b), 71.105, 71.106, and 71.127 through 71.137" for "subpart H of this part" or for "subpart H";

(ii) "10 CFR 71.101(a), 71.101(b), 71.101(c)(1), 71.101(g), 71.103(a), 71.103(b), 71.105, 71.106, and 71.127 through 71.137" for "this subpart" in 71.101(a) and 71.101(c)(1).

(h) "10 CFR 71.0(c), 71.0(d)(1), 71.1(a), 71.3, 71.4, Subsection R313-19-100(5), Sections R313-19-1 and R313-19-5, 71.83, 71.85 introductory paragraph, 71.85(d) through 71.89, 71.91(a), 71.91(c), 71.91(d), 71.97, 71.101(a), 71.101(b), 71.101(c)(1), 71.101(g), 71.103(a), 71.103(b), 71.105, 71.106, and 71.127 through 71.137" for "subparts A, G, and H of this part";

(i) "10 CFR 71.47" for "subparts E and F of this part";

(j) "10 CFR 71.101(a), 71.101(b), 71.101(c)(1), 71.101(g), 71.103(a), 71.103(b), 71.105, 71.106, and 71.127 through 71.137" for "Sec. Sec. 71.101 through 71.137." in 71.101(b) and 71.105(a);

(k) "10 CFR 71.85(a) through (c)" for "paragraphs (a) through (c) of this section" in 71.85(d);

(l) "10 CFR 73.24" for "73.24 of this chapter" in 71.88(b);

(m) "71.14(a)" for "71.14" in 71.91(a);

(n) "R313-12-110" for "Sec. 71.1(a)" and for the NRC contact information in 71.101(c)(1) and 71.106(b); and

(o) "10 CFR 71.111" for "Sec. 71.111" in 71.135.

(3) The substitution of the following terms:

(a) "Director" for:

(i) "Commission" in 10 CFR 71.0(c), 71.17(a), 71.17(b), 71.21(a), 71.21(b), 71.22(a), 71.22(b), 71.23(a), 71.23(b), 71.91(c), and 71.101(c)(1);

(b) "Director, the U.S. Nuclear Regulatory Commission, or an Agreement State" for "Commission" in 10 CFR 71.3;

(c) "Specific or general" for "NRC" in 10 CFR 71.0(c);

(d) "The Director at the address specified in SecR313-12-110" for reference to "ATTN: Document Control Desk, Director, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards" in 10 CFR 71.101(c)(1);

(e) "Each" for "Using an appropriate method listed in Sec. 71.1(a), each" in 10 CFR 71.101(c)(1);

(f) "The material shall be contained in a Type A package meeting the requirements of 49 CFR 173.417(a)." for "The fissile material need not be contained in a package which meets the standards of subparts E and F of this part; however, the material must be contained in a Type A package. The Type A package must also meet the DOT requirements of 49 CFR 173.417(a)." as found in 10 CFR 71.22(a) and 71.23(a);

(g) "Licensee" for "licensee, certificate holder, and applicant for a COC"; and

(h) "Licensee is" for reference to "licensee, certificate holder, and applicant for a COC are."

(4) The insertion of "NRC-issued" in 10 CFR 71.17(c)(1) immediately before "Certificate of Compliance."

(5) Transportation of licensed material

(a) Each licensee who transports licensed material outside the site of usage, as specified in the license issued by the Director, the U.S. Nuclear Regulatory Commission or an Agreement State, or where transport is on public highways, or who delivers licensed material to a carrier for transport, shall comply with the applicable requirements of the U.S. Department of Transportation regulations in 49 CFR parts 107, 171 through 180, and 390 through 397 (2014), appropriate to the mode of transport.

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

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

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

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

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

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

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

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

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

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

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

(B) Air--49 CFR part 175.

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

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

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

KEY: licenses, reciprocity, transportation, exemptions
Date of Last Change: [~~May 16,~~] 2022
Notice of Continuation: April 8, 2021
Authorizing, and Implemented or Interpreted Law: 19-3-104; 19-6-104

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	**R315-101**	**Filing ID: 54864**

Agency Information

1. Department:	Environmental Quality	
Agency:	Waste Management and Radiation Control, Waste Management	
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	801-536-0251	tball@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R315-101. Cleanup Action and Risk-Based Closure Standards
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**
Rule R315-101 is being amended to include the most up-to-date methods and procedures being used by industry to conduct cleanups of contaminated sites and risk assessments based on EPA guidance.

WASTE MANAGEMENT AND RADIATION CONTROL BOARD
Executive Summary
Approval of Mammography Imaging Medical Physicists
November 10, 2022

What is the issue before the Board?	Approval of new, qualified Mammography Imaging Medical Physicist.
What is the historical background or context for this issue?	Individuals referred to as Mammography Imaging Medical Physicists (MIMP) must submit an application for review of qualifications to be certified by the Board. These physicists perform radiation surveys and evaluate the quality control programs of the facilities in Utah providing mammography examinations. The Division has received a new application for Mr. Johnny Little to be certified as a MIMP. Division staff have reviewed the applicants' qualifications and he has met the requirements detailed in Utah Administrative Code R313-28-140.
What is the governing statutory or regulatory citation?	In accordance with Subsection 19-3-103.1(2)(c) of the Utah Code Annotated, the Board shall review the qualifications of, and issue certificates of approval to, individuals who: (i) survey mammography equipment; or (ii) oversee quality assurance practices at mammography facilities. This statutory requirement was effective May 8, 2012.
Is Board action required?	Yes.
What is the Division Director's recommendation?	The Director of the Division of Waste Management and Radiation Control recommends the Board issue a certificate of approval for the applicant reviewed and presented to the Board.
Where can more information be obtained?	Please contact Lisa Mechem, DVM, at (801) 536-4286.

WASTE MANAGEMENT AND RADIATION CONTROL BOARD
Executive Summary
Clean Harbors Aragonite, LLC
Amendment to Stipulation and Consent Order No. 2106050
November 10, 2022

What is the issue before the Board?	This is an amendment to Stipulated Consent Order (SCO) No. 2106050 issued to Clean Harbors Aragonite, LLC (CHA) on February 8, 2022. Specifically, the amendment extends the deadline by which CHA must complete the Supplemental Environmental Project (SEP).
What is the historical background or context for this issue?	SCO No. 2106050 resolved Notice of Violation (NOV) No. 2102003 and was presented to and approved by the Board during the January 13, 2022 meeting. The SCO included a penalty of $42,806.00, half of which is to be credited toward a SEP wherein CHA transports and disposes of confiscated vaping devices from schools in Utah. The original SEP is set to expire February 8, 2023. However, the program was very successful, and CHA still has money available for the schools to utilize. CHA has requested a one-year extension so they could continue the program for another school year. A copy of the SCO Amendment is included in the Board package.
What is the governing statutory or regulatory citation?	§19-6-104 of the Utah Solid and Hazardous Waste Act authorizes the Board to issue orders and approve or disapprove settlements negotiated by the Director with a civil penalty over $25,000.
Is Board action required?	No, this is an information item only. The amendment will go out for public comment and then we will return to the Board with an action item.
What is the Division Director's recommendation?	The Division Director recommends approval of the Proposed Amendment to the SEP included in SCO No. 2106050, subject to public comment.
Where can more information be obtained?	For technical information, contact Adam Wingate at (801) 536-0212. For legal information, contact Connie Nakahara at (385) 414-0450.

---oo0oo---

In the Matter of:	:	**STIPULATION AND CONSENT ORDER AMENDMENT**
CLEAN HARBORS ARAGONITE, LLC. Notice of Violation and Compliance Order No. 2102003 UTD 981 552 177	:	**No. 2106050**

---oo0oo---

This **AMENDMENT TO STIPULATION AND CONSENT ORDER (**AMENDMENT) is issued by the Director of the Division Waste Management and Radiation Control pursuant to the Utah Solid and Hazardous Waste Act (the Act) and Utah Code § 19-6-101, *et seq*.

JURISDICTION

1. The Director has jurisdiction over the Aragonite facility owned and operated by Clean Harbors Aragonite, LLC. (CHA) and the subject matter of STIPULATION AND CONSENT ORDER No. 2106050 (CONSENT ORDER), effective February 8, 2022, and this AMENDMENT pursuant to Utah Code §§ 19-6-107 and 19-6-112. CHA consents to and will not challenge issuance of the CONSENT ORDER, this AMENDMENT, or the Director's jurisdiction to enter and enforce the CONSENT ORDER, as amended. CHA and the Director are the parties to this agreement.

FINDINGS

2. Pursuant to the terms of the CONSENT ORDER, CHA may be credited a portion of the imposed penalty if it completed a Supplemental Environmental Project (SEP) related to ensuring the proper transportation, tracking, and disposal of hazardous waste vape cartridges collected from schools located within the State of Utah. CHA must complete the SEP within one year of the effective date of the CONSENT ORDER.

3. On October 12, 2022, CHA requested an extension of time to complete the SEP because (a) "[t]he schools will be able to collect more volume [of hazardous waste vape cartridges] and continue to consolidate the pickups [from the schools] . . ." and (b) the additional time will allow the established program to continue longer . . .." *See* DSHW-2022-025112.

4. The Director finds an extension of time for CHA to complete the SEP is warranted to collect more hazardous waste vape cartridges from schools within the State of Utah over a longer period.

AMENDMENT TO STIPULATION AND CONSENT ORDER

5. This AMENDMENT was negotiated in good faith and the parties now agree to extend the time for CHA to complete the SEP described in the CONSENT ORDER ¶¶ 15.03 and 15.04 until February 28, 2024.

EFFECT OF AMENDMENT TO CONSENT ORDER

6. For the purpose of this AMENDMENT, the parties agree and stipulate to the above stated facts. The obligations in the CONSENT ORDER, as amended, apply to and are binding upon the Division of Waste Management and Radiation Control and upon CHA and any of CHA's successors, assigns, or other entities or persons otherwise bound by law.

EFFECTIVE DATE

7. This AMENDMENT shall become effective upon the date of execution by the Director.

PUBLIC PARTICIPATION

8. This AMENDMENT shall be subject to public notice and comment for a period of at least 30 days ("Comment Period") in accordance with Utah Admin. Code R315-124-34. The Director reserves the right to withdraw or withhold its consent if any comment received during the Comment Period disclose facts or consideration indicating this AMENDMENT is inappropriate, improper, or inadequate.

SIGNATORY

9. The undersigned representative of Clean Harbors Aragonite certifies they are authorized to enter into this AMENDMENT and to execute and legally bind CHA.

Pursuant to the Utah Solid and Hazardous Waste Act (the Act), Utah Code § 19-6-101, *et seq*., *in the Matter of Clean Harbors Aragonite Notice of Violation and Compliance Order No. 2205051*, the parties hereto mutually agree and consent to AMEND the STIPULATION AND CONSENT ORDER 2210117 as evidenced below:

CLEAN HARBORS ARAGONITE, LLC

THE STATE OF UTAH
DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF WASTE MANAGEMENT AND RADIATION CONTROL

_____
Eric Gerstenberg, President

Date:_____

_____
Douglas J. Hansen, Director

Date:_____