



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 January 12, 2023, at 1:30 pm at the Utah Department of Environmental Quality, (Multi-Agency State Office Building) Conference Room #1015, 195 North 1950 West, SLC.

Board members and interested persons may participate electronically/telephonically.

Join via the Internet: [meet.google.com/gad-sxsd-uvs](https://meet.google.com/gad-sxsd-uvs)  
Join via the Phone: (US) +1 978-593-3748 PIN: 902 672 356#

AGENDA

- I. Call to Order.
- II. Public Comments on Agenda Items.
- III. Declarations of Conflict of Interest.
- IV. Approval of the meeting minutes for the November 10, 2022, Board meeting..... Tab 1  
(Board Action Item)
- V. Petroleum Storage Tanks Update ..... Tab 2
- VI. Petroleum Storage Tank Rules ..... Tab 3
  - A. Proposed changes to R311-200, 202, and 206 of the Petroleum Storage Tank rules  
(Information Item)
- VII. Administrative Rules ..... Tab 4
  - A. Approval to proceed with formal rulemaking and 30-day public comment period on a change to proposed rule changes to Utah Administrative Code R315-101 of the Hazardous Waste Rules amending the rule 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. The proposed rule was originally published for public comment in November of 2021 and then again in October of 2022. Based on comments received during the comment period in October changes have been made to the proposed rule (Board Action Item).

(Over)

- B. Final adoption of proposed rule changes to Utah Administrative Code 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. Final adoption of proposed rule changes to Utah Administrative Code 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 (**Board Action Item**).
- D. Final adoption of proposed rule changes to Utah Administrative Code R313-28-31 to amend the requirement for gonadal shielding (GS) during abdominal and pelvic radiography (**Board Action Item**).

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

- A. Approval of Proposed amendment to Stipulation and Consent Order No. 2106050 between the Board and Clean Harbors Aragonite, LLC issued on February 8, 2022 (**Board Action Item**).

IX. Director’s Report.

X. Other Business.

- A. Miscellaneous Information Items.
- B. Scheduling of next Board meeting (February 9, 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  
November 10, 2022  
1:30 p.m.

**Board Members Participating at Anchor Location:** Brett Mickelson (Chair), Dennis Riding (Vice-Chair), Vern Rogers, Kim Shelley, Shane Whitney

**Board Members Participating Virtually:** Richard Codell, Danielle Endres, Mark Franc, Steve McIff, Nathan Rich

**Board Members Absent/Excused:** Scott Wardle

**UDEQ Staff Members Participating at Anchor Location:** Morgan Atkinson, Tom Ball, Brent Everett, Doug Hansen, Jalynn Knudsen, Arlene Lovato, Deborah Ng, Stevie Norcross, Bret Randall, Elisa Smith, Adam Wingate

**Others Attending at Anchor Location:** None

**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. – None.**

**IV. Approval of the meeting minutes for the October 13, 2022 Board meeting (Board Action Item).**

**It was moved by Dennis Riding and seconded by Shane Whitney and UNANIMOUSLY CARRIED to approve the October 13, 2022 Board meeting minutes.**

**V. Petroleum Storage Tanks Update.**

Brent Everett, Director of the Division of Environmental Response and Remediation (DERR), informed the Board that the cash balance of the Petroleum Storage Tank (PST) Fund at the end of October 2022 was \$27,889,815.00. The DERR continues to watch the balance of the PST Fund closely to ensure sufficient cash is available to cover qualified claims for releases. The cash balance of the fund has continued to trend upward during the 2022 year.

**VI. Administrative Rules.**

**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).**

Tom Ball, Planning and Technical Support Section Manager of the Division of Waste Management and Radiation Control informed the Board that the above rules are due for a five-year review. Mr. Ball stated that it is the Division's intent to notify the Board when conducting five-year reviews of its rules. The Utah Administrative Rulemaking Act requires state agencies 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 or amended. 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.

These Solid Waste Rules have been reviewed and the determination has been made that the rules need to be continued. There is only one rule out of sequence (UAC R315-319) in the rules presented. 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, which is January 12, 2023. It is the Division's intent to file these Notices of Continuation later this month.

Danielle Endres questioned how the Division makes the determination of extending or revising rules?

Mr. Ball stated that the Division conducts a thorough review of each rule, including looking for any inconsistencies and if any changes have occurred since the last five-year review was conducted. Changes could also be based on public comments that have been received, triggering the Division to make an amendment to a specific rule.

Ms. Endres asked if these rule changes are separate or related to any EPA regulations. Does the Division have to check to see if the rules are in-line with EPA regulations?

Mr. Ball stated that some of the Division's rules, specifically all the Utah Hazardous Waste rules, are in-line with federal/EPA regulations, as they essentially mimic the federal/EPA regulations. However, many of the solid waste rules do not have federal/EPA regulations requiring them to mimic them. The rules being addressed today did not have to be compared with or brought in-line with federal/EPA regulations.

Dennis Riding requested clarification regarding the provisions for reviewing written/public comments and asked if the Division received any significant written/public comments. If so, what was the nature of them? Mr. Ball informed the Board that during the past five years, none of the rules presented received any written/public comments that needed to be addressed.

Chairman Mickelson asked what happened to UAC R315-319. Why is it out of sequence? Mr. Ball stated he does not know why UAC R315-319 is out of sequence. It is two years out of sequence, so in two years it will be brought before the Board for its five-year review.

Mark Franc asked, because the rules are required to be reviewed at least every five years, if this rule could be reviewed now and be put in sequence with all the other rules and questioned why that had not been done. Mr. Ball stated that it could have been done, but because of the process of reviewing the rule, it was not. Mr. Ball gave the Board a thorough review of the five-year review process of each rule, which includes the Office of Administrative Rules notifying the Division 180 days prior to a rule expiring, which triggers the Division's five-year review of the rule. Mr. Ball further stated that the Division was not notified about UAC R315-319, hence it was not included in the Division's in-depth five-year review of the rules being presented. However, once the proper five-year review of this rule is accomplished, it could be put into sequence with all the other rules being addressed. Mr. Franc stated this is not a major concern that needs to be addressed; he was just curious about UAC R315-319 being out of sequence.

**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).**

Tom Ball reviewed the request for the Board's approval to proceed with formal rulemaking and a 30-day 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.

Mr. Ball informed the Board that Utah is an authorized state under the federal Resource Conservation and Recovery Act. As an authorized state, Utah has the primary responsibility for implementing the Resource Conservation and Recovery Act in lieu of EPA in Utah. The hazardous waste rules mimic the federal/EPA rules in Utah.

In order for the Division to maintain its status as an authorized state, the Division periodically has to submit its rules to EPA for their review. The Division is currently working on what is referred to as an "authorization package" and has submitted a draft of the "authorization package" to EPA for comments. The EPA has pointed out several issues where the rules needed to be amended requiring a formal rulemaking process before the Division can resubmit an "authorization package" for final review and approval by the EPA.

Based on comments from EPA, the Division is correcting and clarifying the errors in the rules to make them consistent with the federal/EPA regulations. The corrections include the addition of several definitions of terms that exist in the rules but 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; clarifying which rules are incorporated by reference; correcting the addresses to some EPA offices in Washington D.C.; and, updating some references to a Utah rule that is actually a non-delegable rule from the federal regulations that is being corrected to reference the federal regulation.

The Director recommends the Board approve proceeding with formal rulemaking and a 30-day public comment period on the proposed changes to UAC R315-15, R315-260, R315-261, R315-262, R315-263, R315-264, and R315-265 by publishing in the December 1, 2022 edition of the Utah State Bulletin and conducting a 30-day public comment period from December 1, 2022 to January 3, 2023.

Danielle Endres asked for clarification regarding the major changes to the rules dealing with explosives and munitions or questioned if the changes were mainly required to get in-line with EPA regulations.

Mr. Ball stated a rule exists in the federal regulations that the Division refers to as the military munitions rule and this rule is considered less stringent. Therefore, Utah is not required to adopt it. Utah's program has to be at least as stringent as EPA but can be stricter. The rules were considered to be less stringent, hence Utah is not required to adopt them. However, Utah did adopt a few sections of the military munitions rule, and those definitions had to be included in the adopted rules, but the definitions were never placed in the Utah rules definition section, which is why they are now being added to make those definitions clear to those reading the rules.

Nathan Rich asked for clarification regarding the "non-delegable rule" mentioned. Mr. Ball stated that rule is in regard to the types of signatures that can be applied to an electronic manifest.

**It was moved by Nathan Rich and seconded by Steve McIff and UNANIMOUSLY CARRIED to approve proceeding with formal rulemaking on the proposed rule 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, by publishing in the December 1, 2022 edition of the Utah State Bulletin and conducting a 30-day public comment period from December 1, 2022 to January 3, 2023.**

**C. Approval to proceed with formal rulemaking and a 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).**

Tom Ball reviewed the request for the Board's approval to proceed with formal rulemaking and 30-day public comment on proposed changes to Radiation Control Rules UAC R313-28-31 to amend the requirement for gonadal shielding (GS) during abdominal and pelvic radiography. Currently the rule requires that type of shielding, this amendment proposes to make the shielding optional.

Mr. Ball stated that in January of 2021, the National Council on Radiation Protection and Measurements (NCRP) released NCRP Statement No. 13 entitled, "NCRP Recommendations for Ending Routine Gonadal Shielding During Abdominal and Pelvic Radiography." In the statement, the NCRP stated that they have reached the conclusion that in most circumstances gonadal shielding 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 gonadal shielding.

In response to this recommendation, the Conference of Radiation Control Program Directors (CRCPD) has endorsed the statement and has incorporated the guidance into their current version of their *Suggested State Regulations, Part F: Medical Diagnostic and Interventional X-ray and Imaging Systems*. Mr. Ball informed the Board that most of the Division's current rules in the X-ray program are based on guidance from CRCPD and from the NCRP.

Mr. Ball reviewed the lists of factors as reasons for the recommendation that include: 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; shielding can interfere with the use of automatic exposure control and thereby cause an increase in dose to other pelvic and abdominal organs that may be more radiosensitive; shielding obscures portions of pelvic anatomy and may obscure important findings on radiographs, which limits the practical dimensions and area of the shield; despite adherence to practice guidelines by technologists, shielding 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 shielding.

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; and the Society for Pediatric Radiology.

The Director recommends the Board approve proceeding with formal rulemaking and 30-day public comment of the proposed changes to UAC R313-28-31 by publishing in the December 1, 2022 edition of the Utah State Bulletin and conducting a 30-day public comment period from December 1, 2022 to January 3, 2023.

Danielle Endres asked for clarification, as the proposed rule change makes it optional for use and questioned if it is the physician or the patient that decides the use. Also, which agency will be conducting outreach with the physicians to inform them of the proposed changes, will it be the organizations supporting the recommendations or the state of Utah?

Mr. Ball clarified the decision for use is proposed to be done by the physician in consultation with the patient or guardian and some guidance and assistance will be provided to physicians and professionals in this field. The Division has received questions from qualified experts and physicians doing X-rays as to when changes to rules will be implemented. And so, information regarding the rule changes is already available and the medical professionals are currently looking to implementing the changes. Mr. Ball reiterated that it is the responsibility of the medical professionals to educate their patients on whether shielding is needed or not.

Richard Codell asked if rules dealing with radiation exposure to the general public generate more comments than other rules and questioned if one month is enough time to address all the comments.

Mr. Ball stated there is the possibility that the Division could get comments on the proposed rule changes. However, in his experience, there has only been one rule requiring an extension to the public comment period. Therefore, he anticipates that a 30-day public comment period is adequate, but there is a potential that an extension to the public comment period time may be needed.

Doug Hansen, Director of the Division of Waste Management and Radiation Control, commented that the proposed change is relatively straightforward on this matter and he feels that correlation between the complexity of the change has as much to do with the amount of input and the time it takes to review the subject itself, so a 30-day public comment period should be sufficient.

**It was moved by Dennis Riding and seconded by Richard Codell and UNANIMOUSLY CARRIED to approve proceeding with formal rulemaking on the proposed rule changes to UAC R313-28-31 to amend the requirement for gonadal shielding during abdominal and pelvic radiography by publishing in the December 1, 2022 edition of the Utah State Bulletin and conducting a 30-day public comment period from December 1, 2022 to January 3, 2023.**

**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).**

Mr. Ball reviewed the request for the Board's approval to proceed with formal rulemaking and 30-day 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. The changes are necessary to maintain regulatory compatibility with the NRC as required because Utah is an Agreement State with the NRC.

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. The X-ray program rules are not overseen by the NRC but because we found language there that was similar to the language that was being changed by the NRC, we decided that in order to be consistent we would make that change there as well. These amendments will align personal dosimetry requirements in the areas of industrial radiography irradiator and well logging operations with the requirements for all other NRC licenses

This is a Board Action item. The Director recommends the Board approve proceeding with formal rulemaking and public comment to the proposed rule changes UAC R313-15-501, R313-34-3, R313-35-120, R313-36-3 and R313-38-3 by publishing in the December 1, 2022 edition of the *Utah State Bulletin* and conducting a public comment period from December 1, 2022 to January 3, 2023.

Dennis Riding asked what the nature of modern personal dosimeter monitoring devices is in comparison with the old ones. Mr. Ball stated that the rules being changed actually now require companies to send their dosimeter off-site to be analyzed by a third-party company. Whereas most of the modern personal dosimeter devices can be analyzed by the company that is using them with computer software, they can do it themselves. Mr. Ball clarified that the way the rules are currently written, in three areas including industrial, radiographic, and radiation well loggers, they are still required to send their dosimeters off to be analyzed by a third-party company. The proposed rule changes will make them consistent with the requirements for other companies that are licensed by the NRC.

**It was moved by Vern Rogers and seconded by Dennis Riding and UNANIMOUSLY CARRIED to approve proceeding with formal rulemaking on the 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 by publishing in the December 1, 2022 edition of the Utah State Bulletin and conducting a 30-day public comment period from December 1, 2022 to January 3, 2023.**

**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).**

Mr. Ball reviewed the request for the Board's approval to proceed with 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).

Mr. Ball stated that at the September 8, 2022 Board meeting, 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.

The public comment period for this rulemaking ended on October 31, 2022. No comments were received. 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.

Vern Rogers stated he is aware that the NRC is in the process of looking at rule changes to their transportation rules as part of aligning them better with the International Atomic Energy Agency (IAEA) and wanted confirmation that none of those proposed changes are being adopted or looked into as part of this proposed rule change. Mr. Ball confirmed Mr. Rogers statement and informed the Board that those rule changes will be part of a future rulemaking request. Mr. Ball reiterated that the comments being addressed in this meeting are for a past rulemakings. When the NRC reviewed the rule, they found some inconsistencies between the rules, so the proposed rule changes are just correcting those inconsistencies.

**It was moved by Vern Rogers and seconded by Shane Whitney and UNANIMOUSLY CARRIED to adopt the 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 as published in the October 1, 2022 issue of the Utah State Bulletin and set an effective date of November 14, 2022.**

## **VII. X-Ray Program.**

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

Mr. Ball reviewed the request for the Board to approve one new applicant to be certified as a Mammography Imaging Medical Physicist (MIMP). Mr. Ball stated that these individuals are referred to as MIMPs and 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.



This is a Board action item. The Director of the Division of Waste Management and Radiation Control recommends the Board issue a certificate of approval for Mr. Little as a MIMP.

Dennis Riding asked who Lisa Mechem is and why questions regarding this matter are being referred to her? Mr. Ball informed the Board that Ms. Mechem is one of the Division's X-ray program inspectors and she reviews the MIMP applications to ensure they are complete.

Danielle Endres stated that previously, the Board's approval of the MIMPs were for multiple applicants not just one and questioned why only one individual was presented for approval.

Mr. Ball affirmed Ms. Endres statement and explained that previously it was required that MIMPs be certified every year on an annual basis. However, based on questions from the Board a couple of years ago, and after a review of the rules, it was determined that the annual approval of the MIMPs was not actually compatible with the federal requirements. Therefore, the certifications have been extended to a three-year renewal period. The expiration date for those currently registered or certified as MIMPs is calendar year 2024. Mr. Ball stated that however, on occasion, the Division receives an application that is in the middle of the certification period and so the goal is to get those applications processed as quickly as possible to enable the applicants to receive their certification and begin to work in the field.

**It was moved by Dennis Riding and seconded by Vern Rogers and UNANIMOUSLY CARRIED to approve Mr. Johnny Little's application for a Mammography Imaging Medical Physicist (MIMP) in accordance with UCA R313-28-140**

#### **VIII. Hazardous Waste Section.**

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

Adam Wingate, Environmental Engineer in the Division of Waste Management and Radiation Control, reviewed an amendment to Stipulated Consent Order (SCO) No. 2106050 issued to Clean Harbors Aragonite, LLC (CHA) earlier this year, but is referring to the inspection that was conducted in the fiscal year 2021. Mr. Wingate clarified that the SCO was originally issued to CHA on February 8, 2022.

The SCO included a penalty, half of which is to be credited toward a Supplemental Environmental Project (SEP) wherein CHA transports and disposes of confiscated vaping devices from schools in Utah. The program was successful, as a number of collections have been completed and a significant amount of money has been spent in this endeavor. However, CHA still has money available for the schools to utilize and has requested a one-year extension. The original SEP is set to expire February 8, 2023 and CHA has requested an extension to February 8, 2024, so they can continue the program for another school year.

This is an information item and will be brought back to the Board in their January 2023 meeting. The Division Director recommends approval of the Proposed Amendment to the SEP included in SCO No. 2106050, subject to the 30-day public comment period that began on November 6, 2022 and will end on December 6, 2022.

Danielle Endres asked what schools have participated in the program. Stevie Norcross, Assistant Director in the Division of Waste Management and Radiation Control informed the Board that this program is to collect e-cigarettes from any school throughout the state. However, the collection is being conducted as a consolidation effort, meaning either a school district or a local health department consolidates the waste from the schools in their region at one location, and then CHA conducts the pickup from that one location. The opportunity to be part of this program is available for all Utah schools. However, most of the e-cigarette waste is coming from junior highs and high schools, although there have been a few elementary schools that

have participated in the program. Dr. Norcross informed the Board that to date, ten consolidated pickups have occurred.

Danielle Endres asked how will the e-cigarettes be collected when CHA finishes its obligation with the SEP? Dr. Norcross stated the Division has been in communication with the school districts, the State Board of Education, and the local health departments to determine the best path forward as there is not a one-size fits-all solution for this problem and each school district will have to come up with their own process. Dr. Norcross informed the Board that the Salt Lake School District already has a mechanism in place as E-cigarettes waste is being collected directly from each school, which is not as cost effective as consolidating them at one location.

Dr. Norcross stated that in 2020, the Utah State Legislature passed a bill requiring schools to come up with a plan to confiscate and dispose of these E-cigarettes. Dr. Norcross clarified that this SEP is a stop gap to help the schools with that process. However, in the upcoming year they will need to come up with their own program and implement it that includes either CHA directly picking up the E-cigarette waste or potentially taking it to a landfill in their region that accepts very small quantity generator hazardous waste.

Mark Franc stated that it was previously mentioned that this program has been a success and asked for clarification as to why it is considered successful. Was it because of the successful use of the penalty money, as CHA has only spent a portion of the money? Also, Mr. Franc questioned how the money was spent. Was the money spent just on disposal costs?

Mr. Wingate stated that it is a success because the schools were put into a difficult position requiring them to implement a program and were not given many resources or time to accomplish it. So, success could be measured by how much the schools have utilized this program, as there have been ten to eleven school pickups that have occurred from consolidation from multiple schools.

Dr. Norcross added that another possible reason to consider this a success is that although the Division does not have the exact numbers of the schools that have participated, the SEP has saved Utah schools about \$17,000 dollars in disposal costs. Also, another reason to consider this a success could include 242 pounds of E-cigarettes that have been collected and properly disposed of.

Mr. Wingate stated that it was his understanding that the money was primarily utilized for transportation and disposal costs.

Mr. Frank stated that he felt it would be a good idea for the Division to take a look and determine if this is a good way to work out these types of stipulation and consent orders, with SEPs. Specifically, would it be better to collect the money and have the Division implement these types of programs or if it is actually more efficient for the company to implement them?

Director Hansen stated that there may be a structural problem with the Division collecting the money. Director Hansen informed the Board that if the Division collects the money, the Division has no control over what it gets allocated to, as all money collected by the Division is deposited directly into the general fund. So, by creating an SEP, it allows the Division one way to carve out and have some flexibility to offset a penalty that it gives. Specifically, the Division can target where the money goes and has the ability then to direct that offset to a project like this, where the schools have an immediate need. Director Hansen further added that it is always valuable for the Division to evaluate the SEPs projects to examine them and see if the Division obtained the expected outcome and, in this case, there are the indications that has occurred.

Mr. Franc thanked Director Hansen for his explanation on funds being used for SEPs rather than being deposited back into the general fund. Mr. Franc stated his primary concern was he felt it is worthwhile to have some type of accounting in place as to where the dollars/money is spent and what value was received for those dollars/money.

Vern Rogers asked if the SCO is structured with the SEP so that CHA has the ability and the flexibility to incentivize participation from school districts. Specifically, will the SEP monies cover more than just disposal and transportation costs or could funds be used to encourage schools or individuals to participate as part of offsetting the fine. Dr. Norcross stated that the primary focus is the fact that CHA is providing a service and that service is free of cost for the schools. Dr. Norcross stated that the biggest struggle with this legislation is that school districts are dealing with not only trying to collect E-cigarettes and figuring out how to dispose of them, but the costs associated with that. Dr. Norcross reiterated that this SEP was a stop gap to assist schools, as there really isn't anything there otherwise to help incentivize or encourage schools to participate in this process.

Mr. Rogers asked if CHA is allowed to advertise that they are supporting/funding this effort. Can they get some recognition for the efforts made or is there a confidentiality agreement in place? Director Hansen stated that one of the limits of this SEP is that it cannot be used as a marketing or advertising tool, as it is a penalty which is intended to be punitive on some level, so CHA cannot get marketing credit for it.

Mr. Wingate brought up one more point concerning the successfulness or efficient use of funds that the total penalty assessed during the SCO was \$42,800, half of which was distributed to the SEP. However, money spent towards a supplemental program is only valued at 50¢ on the dollar, which is why their financial obligation under the supplemental program is \$42,000 and that's next to a \$21,000 fine that CHA has paid. So, in some way, it effectively gets more value than what is on the face value of it.

## **IX. Director's Report.**

Director Hansen thanked the Board for their robust conversations regarding the agenda and stated that, in part, the agenda was full to carry out the plan for the Board not having to meet in December. However, a Board meeting will be required in January 2023 that will include the matter regarding the proposed rulemaking for UAC R315-101 (Risk Assessment Rule). Director Hansen reminded the Board, that in their October Board meeting, the Board approved UAC R315-101 to go out for rulemaking and public comment. Additional comments have been received and Division staff is in the process of reviewing the comments that had several components to them. Each component is being reviewed and if it is determined there is a need to merit a change in the proposed rules, this matter will be brought back to the Board in its January meeting for approval to proceed with a change to a proposed rule and to conduct a 30-days public comment period for the change to proposed rule UAC R315-101.

Director Hansen announced that Brad Maulding, Corrective Action Section Manager, and Michelle Weis, Environmental Scientist in the Used Oil Program, will be retiring at the end of December. Director Hansen acknowledged both of them for their dedication and contributions to the state of Utah.

## **X. Other Business.**

### **A. Miscellaneous Information Items.**

Kim Shelley, Executive Director of the Department of Environmental Quality reported that the Governor's budget is currently being drafted and anticipates its release in mid-December. Ms. Shelley stated she is looking forward to its release as she anticipates a number of the DEQ programs will be funded and encouraged Board members to read it if the opportunity arises.

### **B. Scheduling of next Board meeting (January 12, 2023).**

The next board meeting is scheduled for January 12, 2023 at the Utah Department of Environmental Quality, Multi-Agency State Office Building.

**PST STATISTICAL SUMMARY**  
**December 1, 2021 -- November 30, 2022**

PROGRAM													
	December	January	February	March	April	May	June	July	August	September	October	November	(+/-) OR Total
Regulated Tanks	4,136	4,132	4,150	4,157	4,178	4,176	4,182	4,178	4,188	4,184	4,191	4,190	54
Tanks with Certificate of Compliance	4,049	4,048	4,059	4,061	4,057	4,057	4,071	4,061	4,065	4,072	4,073	4,085	36
Tanks without COC	87	84	91	96	121	119	111	117	123	112	118	105	18
Cumulative Facilities with Registered A Operators	1,288	1,287	1,285	1,284	1,288	1,286	1,286	1,288	1,285	1,279	1,278	1,276	97.78%
Cumulative Facilities with Registered B Operators	1,288	1,288	1,285	1,285	1,289	1,287	1,287	1,289	1,287	1,280	1,279	1,277	97.85%
New LUST Sites	2	10	12	9	7	6	7	9	11	5	10	8	96
Closed LUST Sites	1	2	13	13	14	13	9	2	12	7	3	14	103
Cumulative Closed LUST Sites	5399	5405	5419	5431	5447	5454	5455	5463	5474	5474	5491	5494	95
FINANCIAL													
	December	January	February	March	April	May	June	July	August	September	October	November	(+/-)
Tanks on PST Fund	2,635	2,629	2,631	2,628	2,619	2,609	2,613	2,651	2,655	2,645	2,636	2,635	0
PST Claims (Cumulative)	702	703	704	705	706	705	710	710	711	711	711	711	9
Equity Balance	-\$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	-\$281,835	\$80,750	\$2,980,917
Cash Balance	\$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	\$27,889,815	\$28,252,400	\$3,755,039
Loans	0	0	0	0	0	1	0	0	1	5	0	0	0
Cumulative Loans	121	121	121	121	121	122	122	122	123	128	128	128	7
Cumulative Amount	\$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	\$6,014,420	\$6,014,420	\$1,276,053
Defaults/Amount	0	0	0	0	0	0	0	0	1	0	0	0	0
	December	January	February	March	April	May	June	July	August	September	October	November	TOTAL
Speed Memos	61	41	50	76	59	78	65	32	47	77	105	60	751
Compliance Letters	16	11	18	16	15	9	6	8	8	7	7	9	130
Notice of Intent to Revoke	1	1	0	2	0	0	0	0	0	0	0	0	4
Orders	1	1	0	2	2	0	0	0	0	0	0	0	6

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

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

**Background:**

On July 14, 2022, the Waste Management and Radiation Control Board adopted changes to the Underground Storage Tank rules to address rulemaking requirements for Aboveground Petroleum Storage Tanks (APST) that were mandated by the passage of Senate Bill SB-40, Storage Tanks Amendments, in the 2021 legislative session. As the Division of Environmental Response and Remediation (DERR) has begun implementing the requirements of SB-40 and the recent changes to R311, the need for a few additional changes to R311 has become apparent. These proposed changes address the following issues:

1. The definition of an APST. As AST owner/operators began notifying the DERR of their above ground storage tanks it became apparent that there were several types of ASTs that meet the statutory definition of an APST but, in the Division's opinion, were not tanks the legislature intended to regulate. The changes to the APST definition will exclude these ASTs from the regulation.
2. Setting the dollar amount of the financial responsibility (FR) requirement. The rule change completed in July 2022 allowed APSTs to utilize any of the underground storage tank FR mechanisms identified in 40 CFR 280 to meet the FR requirement established by SB-40, but failed to clearly establish the dollar amount of FR required. This change sets Utah's FR requirement for APSTs to the amount required by the federal UST regulation under 40 CFR 280 Subpart H.
3. Establish requirements and processes for APST release reporting, investigation, confirmation, response, and corrective action. This change establishes the same requirements and processes for APSTs as that required for federally regulated USTs under 40 CFR 280 Subparts E and F.

Because SB-40 requires all APSTs to meet financial responsibility requirements and obtain a certificate of compliance by July 1, 2023, addressing these issues requires immediate attention so the updated rule will be in place before the July 1<sup>st</sup> deadline.

**The rules to be amended are:**

R311-200 Petroleum Storage Tanks: Definitions.

R311-202 Federal Underground Storage Tank Regulations.

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

A summary of the proposed changes appears in the Board Packet and the text of the changes can be found [on the DERR Website](#). In the rule text document, wording to be added is underlined, and wording to be removed is struck out. The proposed changes will be presented to the UST Advisory Task Force on January 11, 2023. Any significant Task Force comments will be relayed to the Board during the January 12 meeting.

This matter does not require Board action at this time. Upon completion of informal stakeholder comment and pre-filing review by the Division of Administrative Rule in January, the Division intends to return to the Board to initiate the formal rulemaking process.

## Summary of the Proposed Changes:

### R311-200 Underground Storage Tanks: Definitions.

- R311-200-1(2)(a)(iii)(A). Removed some language from the statute definition of an APST that is not applicable in the rule language.
- R311-200-1(2)(a)(iii)(D). Clarified this exclusion to include oil and gas transmission operations.
- R311-200-1(2)(a)(iii)(F). Added exclusion for oil filled electrical equipment such as transformers.
- R311-200-1(2)(a)(iii)(G). Added exclusion for ASTs that are used at a site on a temporary basis.
- R311-200-1(2)(a)(iii)(H). Added exclusion for used oil tanks managed under WMRC's Used Oil recycling program.
- R311-200-1(2)(a)(iii)(I). Added exclusion for airport hydrant fueling systems at military facilities. This is similar to the commercial airport exemption in R311-200-1(2)(a)(iii)(E).
- R311-200-1(2)(a)(iii)(J). Added exclusion for ASTs containing a de minimis concentration of petroleum
- R311-200-1(2)(a)(iii)(K). Added exclusion for ASTs used to store liquefied petroleum gases such as propane
- R311-200-1(2)(a)(iii)(L). Added exclusion for aboveground hot-oil tanks used to store petroleum products that will be manufactured into asphalt paving material

### R311-202 Federal Underground Storage Tank Regulations

- R311-202-1. Format and numbering updated to match current Division of Administrative Rules requirements.
- R311-202-1(2) Establishes 40 CFR 280 Subparts E, F, and H as the APST requirements and standards for release reporting, investigation, and confirmation; release response and corrective action; and financial responsibility respectively.

### R311-206 Underground Storage Tanks: Certificate of compliance and Financial Assurance Mechanism

- R311-206-2(1)(b). Sets the financial assurance coverage amounts for APSTs to be the same required for USTs in 40 CFR 280.93.
- R311-206-3(1)(e). Clarify that the financial assurance needed to qualify for a certificate of compliance is either participation in the Environmental Assurance Program or another mechanism allowed by the rule.

The tentative adoption schedule for the proposed rule changes is:

Request for comments from PST Stakeholders	December 2022 and January 2023
Request for Board approval for publication and public comment	February 9, 2023
Publication in the Utah State Bulletin	March 1, 2023
Public comment period	March 1 – March 30, 2023
Public hearing (date tentative)	March 15, 2023
Board approval for final adoption	April 13, 2023
Final effective date of new rules	April 14, 2023

**WASTE MANAGEMENT AND RADIATION CONTROL BOARD**

**Executive Summary**

**Public Comment – Change to Proposed Rule**

**UAC R315-101**

January 12, 2023

<p><b>What is the issue before the Board?</b></p>	<p>Approval from the Board to proceed with formal rulemaking and public comment on a change to proposed rule. UAC 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. The proposed rule was originally published for public comment in November of 2021 and then again in October of 2022. Based on comments received during the comment period in October changes have been made to the proposed rule.</p>
<p><b>What is the historical background or context for this issue?</b></p>	<p>When proposed rules are published in the Utah State Bulletin an agency has 120 days from the date of publication to set an effective date for the rule. If the 120 days passes without an effective date being set the rule making is abandoned and the agency must start the process again. If an agency determines that changes need to be made to a proposed rule and they are able to file the changes within the 120-day window they can file a change to proposed rule where only the changes being made are considered open for public comment.</p> <p>The revised Rule R315-101 was first submitted to the Office of Administrative Rules in November of 2021 and underwent a 45-day comment period. After responding to comments and working with several commentors and stakeholders to make additional revisions to the rule the entire proposed rule was again published for public comment a second time in October of 2022 because the 120-day window had passed.</p> <p>Comments were received during the October comment period and the Division has determined that, based on the comments, some changes need to be made to the proposed rule. Because the 120-day window does not close until January 28, 2023, the change to proposed rule process is being used.</p> <p>The changes being made to the proposed rule are:</p> <ol style="list-style-type: none"><li>1. To allow flexibility in determining the exposure point concentration, R315-101-5(f)(4)(iii) has been amended to provide additional clarity.</li><li>2. The word “inhalation” has been removed from R315-101-5(j)(10)(ii)(B).</li><li>3. The definition of “Adverse Effect” found in R315-101-13(e) has been revised to add “or humans,” and reference contaminants of concern.</li><li>4. R315-101-7(j) has been amended to include “vapor barriers” in the list of example engineering controls.</li><li>5. The definition of “Cleanup” found in R315-101-13(l) has been revised to include monitored natural attenuation.</li></ol>

	<p>6. Formatting, typographical, and grammatical errors have been corrected.</p> <p>The Rule Analysis Form with proposed changes follows this Executive Summary.</p>
<b>What is the governing statutory or regulatory citation?</b>	<p>The Board is authorized under Subsection 19-6-105 to make rules that establish minimum standards for protection of human health and the environment.</p> <p>The rule changes also meet existing DEQ and state rulemaking procedures.</p>
<b>Is Board action required?</b>	<p>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 change to proposed rule in the <i>Utah State Bulletin</i> and conducting a 30-day public comment period.</p>
<b>What is the Division Director's recommendation?</b>	<p>The Director recommends the Board approve proceeding with formal rulemaking and 30-day public comment by publishing in the February 1, 2023, <i>Utah State Bulletin</i> the changes to proposed Rule R315-101 and conducting a 30-day public comment period from February 1 to March 3, 2023.</p>
<b>Where can more information be obtained?</b>	<p>Please contact Tom Ball by email at <a href="mailto:tball@utah.gov">tball@utah.gov</a> or by phone at (801) 536-0251.</p>



**State of Utah**  
**Administrative Rule Analysis**  
 Revised June 2022

NOTICE OF CHANGE IN PROPOSED RULE		
Title No. - Rule No. - Section No.		
<b>Rule or Section Number:</b>	R315-101	<b>Filing ID: Office Use Only</b>
<b>Date of Previous Publication:</b>	10/01/2022	

**Agency Information**

<b>1. Department:</b>	Environmental Quality	
<b>Agency:</b>	Waste Management and Radiation Control	
<b>Room number:</b>		
<b>Building:</b>	MASOB	
<b>Street address:</b>	195 N. 1950 W.	
<b>City, state and zip:</b>	Salt Lake City, Utah 84116	
<b>Mailing address:</b>	PO Box 144880	
<b>City, state and zip:</b>	Salt Lake City, Utah 84114-4880	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Tom Ball	801-536-0251	tball@utah.gov

**Please address questions regarding information on this notice to the agency.**

**General Information**

<b>2. Rule or section catchline:</b>	R315-101. Cleanup Action and Risk-Based Closure Standards	
<b>3. Reason for this change (Why is the agency submitting this filing?):</b>	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. The proposed rule was originally published for public comment in the October 1, 2022 Utah State Bulletin. Based on comments received the changes discussed in Section 4 below are being made to the proposed rule.	
<b>4. Summary of this change (What does this filing do?):</b>	<p>To allow flexibility in determining the exposure point concentration, R315-101-5(f)(4)(iii) has been amended to provide additional clarity.</p> <p>The word "inhalation" has been removed from R315-101-5(j)(10)(ii)(B).</p> <p>The definition of "Adverse Effect" found in R315-101-13(e) has been revised to add "or humans," and reference contaminants of concern.</p> <p>R315-101-7(j) has been amended to include "vapor barriers" in the list of example engineering controls.</p> <p>The definition of "Cleanup" found in R315-101-13(l) has been revised to include monitored natural attenuation.</p> <p>In addition to the changes listed above formatting, typographical, and grammatical errors have been corrected.</p>	

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>		
<b>A) State budget:</b>	It is not anticipated that there will be any cost or savings to the state budget due to this rule amendment. There will be no change to the procedures and manpower used by the State to review risk assessments and cleanup plans that are based on the amended rule. Any State agencies that may be or may need to perform cleanups or risk assessments would be required to do so under the existing rule. This amendment does not add any requirements to the rule that would increase costs, nor does it remove any requirements that would decrease costs.	
<b>B) Local government:</b>	It is not anticipated that there will be any cost or savings to local governments due to this rule amendment. Any local governments that may be or may need to perform cleanups or risk assessments would be required to do so under the existing rule. This amendment does not add any requirements to the rule that would increase costs, nor does it remove any requirements that would decrease costs.	

**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 rule amendment. Any small businesses that may be or may need to perform cleanups or risk assessments would be required to do so under the existing rule. This amendment does not add any requirements to the rule that would increase costs, nor does it remove any requirements that would decrease costs.

**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 rule amendment. Any non-small businesses that may be or may need to perform cleanups or risk assessments would be required to do so under the existing rule. This amendment does not add any requirements to the rule that would increase costs, nor does it remove any requirements that would decrease costs.

**E) Persons other than small businesses, non-small businesses, or 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 persons other than small businesses, non-small businesses, state, or local government entities due to this rule amendment. Any persons other than small businesses, non-small businesses, state, or local government entities that may be or may need to perform cleanups or risk assessments would be required to do so under the existing rule. This amendment does not add any requirements to the rule that would increase costs, nor does it remove any requirements that would decrease costs.

**F) Compliance costs for affected persons:**

Because this is an amendment to an existing rule and the changes to the rule do not significantly change how cleanups and risk assessments are conducted under the rule it is not anticipated that the compliance costs for affected persons will change due to the rule amendments.

**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
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
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
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**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:**

19-6-105	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*):

<b>Official Title of Materials Incorporated</b>	
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(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:** mm/dd/yyyy

**B) A public hearing (optional) will be held:**

<b>On</b> (mm/dd/yyyy):	<b>At</b> (hh:mm AM/PM):	<b>At</b> (place):

**9. This rule change MAY become effective on:** mm/dd/yyyy

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 Section 63G-3-303. 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.

<b>Agency head or designee and title:</b>	<b>Douglas J. Hansen, Division Director</b>	<b>Date:</b>	mm/dd/yyyy
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*Rule Text Example (Delete this line after entering your rule text)*

**R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.**

**R315-101. Cleanup Action and Risk-Based Closure Standards.**

**R315-101-1. Purpose, Applicability.**

(a) Purpose. Rule R315-101 establishes information requirements to support risk-based cleanup and closure standards at sites for which remediation, including ~~or~~ removal of hazardous constituents to background levels ~~[will not be achieved]~~ is not the remediation objective. The procedures in ~~[this rule]~~ Rule R315-101 also provide for continued management of sites for which ~~[minimal]~~ risk-based clean closure standards ~~[cannot be]~~ are not met.

(b) Applicability.

(1) Rule R315-101 ~~[is applicable]~~ applies to any responsible party, or other interested party on a voluntary basis, such as a prospective purchaser, a lending institution, or land developer, involved in management of a site contaminated with hazardous waste, ~~[or]~~ hazardous constituents, or other contaminants, as determined by the director. ~~[This rule]~~ Rule R315-101 does not apply to a site that has been or will be cleaned to background levels of constituents.

(2) In the event of a release of hazardous waste or material ~~[which]~~ that, when released, becomes a hazardous waste, ~~[these]~~ the requirements of Rule R315-101 apply if the responsible party fails to clean up ~~[all]~~ the released material and any residue or contaminated soil, water, or other material resulting from the release, as required by Section R315-263-31. The requirements of Section R315-263-31 shall be considered met if:

(i) ~~[If]~~ the level of cumulative risk present at the site is ~~[below]~~ less than or equal to  $1 \times 10^{-6}$  for carcinogens and ~~[a]~~ the ~~[H]~~ hazard ~~[I]~~ index ~~[of]~~ is less than or equal to one for non-carcinogens based on ~~[the]~~ a risk assessment conducted ~~[in accordance with]~~ assuming the land use exposure scenario defined in Subsection R315-101-5 ~~[(b)]~~ (g) (1);

~~(ii) [and] the [D]director determines that ecological effects are insignificant based on the approved assessment conducted in accordance with Subsection R315-101-5[.3(a)(8)](j); and~~

~~(iii) [the requirements of R315-9-3 shall be considered met] the director determines that current and potential future impacts to groundwater are insignificant in accordance with Subsection R315-101-5(f)(8).~~

~~(3) [The owner or operator of a hazardous waste management facility or a facility subject to interim status requirements shall meet the requirements of 40 CFR 265.110 through 120, incorporated by reference in Rule R315-265, and Sections R315-264-110 through 120 prior to implementation of any activities described in R315-101. The requirements of Subsections R315-270-1(c)(5) and (6) shall be met for a hazardous waste management unit if the level of risk present at the site is below  $1 \times 10^{-6}$  for carcinogens and a Hazard Index of less than or equal to one for non-carcinogens based on the risk assessment conducted in accordance with R315-101-5.2(b)(1) and the Director determines that ecological effects are insignificant based on the approved assessment conducted in accordance with R315-101-5.3(a)(8). If these risk exposure criteria are met, a request for a risk based closure may be submitted to the Director for review]The responsible party of a hazardous waste management site shall meet the requirements of Sections R315-265-110 through R315-265-120 or Sections R315-264-110 through R315-264-120, as applicable, before implementation of any activities described in Rule R315-101.~~

~~(4) [If the risk present at the site is greater than the exposure limit as defined in R315-101-1(b)(2) or (3) or the Director determines that ecological effects may be significant, then a risk based closure will not be granted and appropriate management will be required and may include corrective action, post closure care, monitoring, deed restrictions, and security of the site. For determinations of appropriate corrective action or management activities at a site, the following criteria shall be considered in order of importance:~~

~~(a) The impact or potential impact of the contamination on the human health;~~

~~(b) The impact or potential impact of the contamination on the environment;~~

~~(c) The technologies available for use in clean up; and~~

~~(d) Economic considerations and cost effectiveness of clean up options]The requirements of Subsections R315-270-1(c)(5) and R315-270-1(c)(6) shall be considered met for a hazardous waste management unit or solid waste management unit if:~~

~~(i) the level of risk, cumulative, present at the site is less than or equal to  $1 \times 10^{-6}$  for carcinogens and a hazard index of less than or equal to one for non-carcinogens, based on the risk assessment conducted, assuming the land use exposure scenario defined in Subsection R315-101-5(g)(1);~~

~~(ii) the director determines that ecological effects are insignificant based on the approved assessment conducted in accordance with Subsection R315-101-5(j); and~~

~~(iii) the director determines that current and potential future impacts to groundwater are insignificant in accordance with Subsection R315-101-5(f)(8).~~

~~(5) If these risk criteria are met, a request for a risk-based clean closure in accordance with Subsection R315-101-7(a) may be submitted to the director for review and approval.~~

~~(6) If the level of risk, cumulative, present at the site is greater than the limits defined in Subsection R315-101-1(b)(2) or R315-101-1(b)(4) or the director determines that ecological effects may be significant in accordance with Subsection R315-101-5(j), or current and potential future impact to groundwater is significant in accordance with Subsection R315-101-5(f)(8), then a risk-based clean closure shall not be granted. Either corrective action, as determined in accordance with Section R315-101-6 and as defined in Subsection R315-101-13(u), appropriate site management as defined in Subsection R315-101-13(f) and as determined in Subsections R315-101-7(b) and R315-101-7(c), or both, shall be required.~~

~~(c) For determination of appropriate corrective action at a site, the following criteria shall be considered in order of importance:~~

~~(1) the impact or potential impact of the contamination on human health;~~

~~(2) the impact or potential impact of the contamination on the environment;~~

~~(3) the technologies available for use in cleanup; and~~

~~(4) economic considerations and cost-effectiveness of cleanup options.~~

~~(d) The responsible party shall follow applicable guidance documents, including Utah and federal risk assessment guidance and methods approved by the director, as set forth in Rule R315-101.~~

### **R315-101-2. Stabilization of Releases.**

~~(a) The responsible party [must]shall immediately take appropriate action to stabilize the site either through source removal or source control. [After the responsible party has attempted to complete the requirements of Sections R315-263-30 through 33 and the Director determines that additional work is needed to stabilize the site, the Director will notify the responsible party that additional work is necessary and provide the responsible party with objectives to be addressed in developing a work plan to further stabilize the site. The work plan shall be submitted to the Director for review and approval within fifteen days of receiving notification that additional work will be necessary to complete the emergency actions required by Sections R315-263-30 through 33. Work plans shall be of a scope commensurate with the work to be performed and site specific characteristics. This work plan shall include a description of the interim measure and how it will meet the criteria of source removal or source control. The implementation of the work plan shall be according to the schedule contained within the approved plan. All interim measures shall be at the expense of the party responsible for the site. If the party responsible for the site fails to take the measures required for stabilizing the site, the Director may request the Executive Director of the Department to take abatement and cost recovery actions as provided in Section 19-6-301, et seq., Utah Hazardous Substances Mitigation Act]If the director determines that the action taken is insufficient to meet the requirements of Section R315-263-30, the responsible party shall submit a work plan pursuant to Subsection R315-101-2(b), to the director for approval within 60 days of receiving notice from the director.~~

(b) The work plan shall:

(1) define the scope of work to be performed;

(2) include a description of the interim measures and other corrective actions to be taken; and

(3) include a description of how the plan shall meet the criteria of source removal or source control.

(c) The responsible party shall implement the work plan in accordance with the schedule contained in the approved plan. The responsible party shall implement interim measures or other corrective actions as approved. If the responsible party fails to take the measures required for stabilizing the site, the director may request the executive director of the Department of Environmental Quality to take abatement and cost recovery actions as provided in Sections 19-6-301 through 19-6-326 of the Utah Hazardous Substances Mitigation Act.

### **R315-101-3. Principle of Non-degradation.**

(a) When closing or managing a contaminated site that has been stabilized in accordance with Section R315-101-2, the responsible party shall, to the extent practicable in accordance with Subsection R315-101-1(c), not allow the mass of contaminants in the source area to increase. [4]Levels of contamination in groundwater, regardless of quality, [surface water, soils, and air to]shall not increase beyond the existing levels of contamination at a site when the responsible party has defined the nature and extent of contamination pursuant to Section R315-101-4. Consideration will be given to naturally occurring variations in groundwater contaminant concentrations, natural groundwater flow, and dispersion.[when site management commences.]

(b) The responsible party [will]shall demonstrate compliance with [this policy]Subsection R315-101-3(a) by submitting appropriate [monitoring data]sampling or other data as may be required by the [D]director.

(c) If at any time the level of contamination increases to a significant level, as determined by the director on a case-by-case basis, the responsible party shall take [immediate corrective]action, as determined by the director, such as source removal or source control, to prevent further degradation of [any medium]groundwater. A work plan addressing interim action or other corrective action to mitigate the situation shall be submitted to the director for review and approval.

### **R315-101-4. Site Characterization, Data Collection and Documentation.**

[The following information shall be collected to characterize the site, and define site boundaries and Area(s) of Contamination:

(a) A legal description of the site;

(b) Historical land use and ownership of the site;

(c) Topographical map(s) of sufficient detail, scale, and accuracy to depict and locate all past and current physical structures including all building(s) and waste activities at the site;

(d) Information and maps of sufficient detail, scale, and accuracy to describe regional, local, and site geology, surface water, and hydrogeological conditions;

(e) An inventory of all current and past wastestreams managed at the site, including process descriptions and suspected contamination source information;

(f) Background levels of suspected hazardous constituents based on the inventory as determined in R315 101 4(e) in media of concern, e.g. sediments, soil, groundwater, surface water, and air which are representative of the site; and

(g) Location and boundaries of all Area(s) of Contamination, including concentrations, types and extent of hazardous constituents. Media to be sampled may include sediments, soil, groundwater, surface water, and air, as applicable.]

(a) Purpose. The intent of a site investigation or characterization is to define the nature and extent of all impacted environmental media, whether on-site or off-site. A phased approach to site characterization may be conducted as applicable on a case-by-case basis. These data shall be collected as part of an initial site investigation to define the nature and extent of potential contamination. The known or suspected history of past or current operations at the facility, in any environmental media shall be considered. Site characterization may also include data collected to demonstrate efficacy of a corrective action remedy pursuant to Section R315-101-6. Before the collection of any data that shall be used in a site characterization, corrective action, or post-remedial corrective action risk assessment, the responsible party shall develop and submit a work plan to the director for review and approval. The work plan shall include the following:

(1) Sampling and analysis plan specifying methods and procedures to be used for data collection and analysis as outlined in Section R315-261-1090, Appendix I, and in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods" EPA Publication SW-846, available at the US EPA Hazardous Waste Test Methods/SW-846 website:

(i) samples shall be analyzed by a Utah certified laboratory using procedures and methods in accordance with "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods" EPA Publication SW-846, available at the US EPA Hazardous Waste Test Methods/SW-846 website;

(ii) analysis not available in Utah or methods not contained in Subsection R315-101-4(a)(1)(i) may be reviewed and approved by the director; and

(iii) documentation for laboratory work shall include the data accompanied by quality assurance and quality control measures taken in accordance with current environmental laboratory standards for a level III data package, or other QA/QC data level as determined by the director on a site-specific basis.

(2) Representative proposed media sample locations with depths, sample analytes and justification that the proposed sampling is sufficient to define the nature and extent of contamination:

(i) surface soil is defined as surface or zero to a maximum of six inches below ground surface, or as determined on a case-by-case basis; and

(ii) subsurface soil is defined as greater than six inches below ground surface, or as determined on a case-by-case basis.

(3) Conceptual site model for a site-specific characterization, identifying and showing potential primary source areas, media of concern, contaminant release mechanism, receptors of interest, exposure pathways and possible contaminant migration pathways, including the following media as applicable based on current site conditions:

(i) sediments;

(ii) soil;

(iii) biota;

(iv) groundwater;

(v) surface water; and

(vi) air.

(4) Data quality objective process steps related to the implementation of the sampling and analysis plan in accordance with "Guidance on Systematic Planning Using the Data Quality Objectives Process," EPA QA/G-4, EPA/240/B-06/001, as incorporated by reference in Section R315-101-12.

(5) Quality assurance project plan for field procedures, chain-of-custody and laboratory analytical methods to be used for the sampled media.

(6) Field quality assurance and quality control procedures to characterize and dispose of any site investigation derived waste in an appropriate manner, including a plan for decontamination procedures, field instrument calibration procedures, any standard operating procedures and other relevant documentation.

(b) Background levels. Based on the site characterization sampling results, the responsible party may determine or propose background levels of suspected hazardous constituents and may follow or consider procedures in the Soil Background and Risk Guidance document available on the Interstate Technology Regulatory Council website. The constituent list may be based on the inventory as determined in Subsection R315-101-4(c)(5) in media of concern, including: sediments, soil, groundwater, surface water, and air that are representative of the site.

(c) Additional information. The following additional information shall be collected to characterize the site and to define site boundaries and areas of contamination:

(1) a description of the site, including legal boundaries;

(2) historical land use and ownership of the site, including existing aerial photos of the site through time if requested by the director;

(3) topographical and other relevant maps of sufficient detail, scale, and accuracy to depict and locate each past and current physical structure including any buildings and waste activities at the site;

(4) information and maps of sufficient detail, scale, and accuracy to describe regional, local, and site geology, surface water, groundwater and groundwater quality, drainage features and other hydrogeological conditions;

(5) an inventory of each current and past waste stream managed at the site, hazardous waste management units, areas of concern and solid waste management units at the site, including process descriptions, amounts and types of waste generated and disposed and suspected contamination source information;

(6) location and boundaries of areas of concern including any hazardous waste management units and solid waste management units;

(7) any past sampling results, and an inventory of any releases, discharges and spills;

(8) available information such as reports and data on any previous corrective actions; and

(9) a list of all off-site property owners whose property has been or may have been affected by the release of contaminants for which the responsible party is responsible. This list shall include the name and address of each property owner and shall identify the current land use of each property.

(d) Petroleum wastes and total petroleum hydrocarbon.

At sites where petroleum wastes may be present, the media samples shall be analyzed for volatile organic compounds, semi-volatile organic compounds including Polyaromatic Hydrocarbons (PAHs), and total metals.

(e) The responsible party may propose other analytical suites for the impacted media for review and approval by the director. This shall include Polychlorinated Biphenyls (PCBs), dioxins and furans, and any other emerging contaminant of concern, as determined on a case-by-case basis, based on the history of the site and activities.

(f) Relevant information gathered in Subsections R315-101-4(a) through R315-101-4(e) shall be submitted in a site characterization report to the director for review and approval. In addition, the site characterization report shall include:

(1) site location, legal description and objectives of the site investigation;

(2) methodology and field activities completed, including the handling of any site investigation derived wastes;

(3) maps of sufficient detail and accuracy to depict waste management units, areas of contamination, nature and extent of contamination, topography, geology, groundwater quality, and potentiometric surface;

(4) site and regional geological, hydrogeological, and hydrological descriptions;

(5) a detailed discussion of any areas of contamination found during the site characterization field work;

(6) listing and concentrations of any historic and current hazardous constituents identified in Section R315-101-4;

(7) background levels of hazardous constituents, including details of statistical methods used to analyze the data gathered, if applicable;

(8) the hazardous constituents identified in accordance with Subsections R315-101-4(f)(6) and R315-101-4(f)(7) shall be known

as contaminants of interest;

(9) descriptions of historic and current releases of hazardous constituents and expected extent of migration from the areas of contamination;

(10) deviations from the approved site characterization work plan and the sampling and analysis plan;

(11) discussion of the evaluated potential exposure pathways including groundwater, surface water, sediments, surface and subsurface soils and air;

(12) a summary outlining the completion of data quality objectives, completed analytical request forms for each analysis performed reported on dry-weight basis, actual sampling locations and depths with justification for variations to the approved sampling and analysis plan, any statistical analysis performed if completed, and quality assurance and quality control results and analytical data validation report in accordance with current environmental laboratory standards for a level II data package, or other QA/QC data level, as determined by the director on a site-specific basis;

(13) revised conceptual site model identified in Subsection R315-101-4(a)(3) based on the information presented in the final site characterization report; and

(14) conclusions and recommendations for additional site work and applicable supporting documentation, including figures, tables, and appendices.

(15) Groundwater, on-site or off-site, shall be considered impacted if contaminant levels are above screening levels as defined in Subsection R315-101-5(f)(1)(vii) or maximum contaminant levels.

(g) Additional site characterization data shall be collected after corrective action or other remedial actions. The confirmation data shall be used to support a closure risk assessment.

### **R315-101-5. Human Health and Ecological Risk Evaluation Criteria<sup>[5]</sup> and Risk Assessment.**

#### [5.1] REQUIRED STUDY

(a) When conducting the risk assessment, the responsible party ~~[will use all applicable site characterization data and shall consider the following parameters]~~ shall use the conceptual site model, as defined in Subsection R315-101-13(o) and as described in Subsection R315-101-4(a)(3) or R315-101-4(f)(13), as applicable, and shall use applicable site characterization or confirmation data. For the areas of contamination as defined in Subsection R315-101-13(g), the following shall be included when conducting the risk assessment:

(1) ~~[I]~~ identification, concentration, and distribution of ~~[all]~~ any suspected hazardous constituents identified in ~~[Subs]~~ Section R315-101-4~~[e]~~ and defined as contaminants of interest in Subsection R315-101-4(f)(8);

~~[2] All area(s) of contamination at the site;~~

~~[3]~~(2) ~~[F]~~ fate of contaminants of interest and any pathways ~~[of contaminant]~~ and transport of contaminants of interest; ~~[and]~~

~~[4] Potentially exposed populations;~~(3) any potential exposure routes;

(4) human receptors; and

(5) ecological receptors.

[5.2](b) [CHARACTERIZATION AND EVALUATION OF RISK] General Human Health Risk Assessment Methodology.

~~[a]~~(1) A risk assessment shall be conducted once the nature and extent of contamination has been adequately defined or corrective action completed. The risk assessment may be performed for impacted media by choosing either a Tier 1 approach in accordance with Subsection R315-101-5(f) or a Tier 2 risk assessment process in accordance with Subsection R315-101-5(g). Tier 1 shall be a screening risk assessment and Tier 2 shall be a refined risk assessment that may include site-specific exposure assumptions and allowance of alternative approaches, such as a Monte Carlo exposure risk analysis, probabilistic risk assessment. If excess risks are noted for the Tier 1 assessment, a Tier 2 assessment is required. ~~[The responsible party shall conduct a risk assessment which includes the following:]~~

(2) The concentration term for each medium and for each contaminant of interest identified in Section R315-101-4 and Subsection R315-101-4(f)(8) and determined to be a contaminant of potential concern following comparison to background shall be evaluated using either the maximum detected concentration or an upper confidence limit as derived using the US EPA ProUCL program.

(3) The fate, pathways, and transport of contaminants of interest identified in Section R315-101-4, defined in Subsection R315-101-4(f)(8), and determined to be a contaminant of potential concern following comparison to background, shall be evaluated using the conceptual site model developed pursuant to Subsection R315-101-4(a)(3) or R315-101-4(f)(13), as applicable and approved by the director.

~~[1]~~ The concentration term "C" for each medium for each hazardous constituent identified in R315-101-5.1(a)(1);

~~[2]~~ Evaluation of the fate of contaminants and of all pathways of contaminant transport identified in R315-101-5.1(a)(3);

~~[3]~~ Exposure assessment identifying the RME for all exposure pathways, intakes, and identified constituents;

~~[4]~~ Current toxicity information for carcinogenic and noncarcinogenic effects;

~~[5]~~ Risk characterization identifying carcinogenic risk, individual and multiple substances, and noncarcinogenic hazardous index, individual and multiple substances;

~~[6]~~ An ecological evaluation which provides for terrestrial and aquatic processes; and

~~[7]~~ Current toxicity information for all the constituents and biological processes relevant to the ecological evaluation.

(b) The risk assessment shall be conducted using one or both of the standard exposure scenarios listed below, as needed to determine site management options:

(1) Residential. This exposure scenario includes ingestion of water (must include surface water and ground water regardless of water quality), ingestion of soil and dust, ingestion of contaminated and potentially contaminated food, inhalation of contaminants, dermal

contact with chemicals in soil, and dermal contact with chemicals in water for a human being ages zero through 70 years old using the equations and default variable values found in the Risk Assessment Guidance for Superfund, Volume 1: Human Health Evaluation Manual Supplemental Guidance, "Standard Default Exposure Factors", Interim Final, OSWER Directive 9285.6-03, March 25, 1991 or most recent edition;

~~(2) Actual land use conditions or potential land use conditions based upon applicable zoning and future land use planning considerations, if potential land use conditions offer a more protective exposure scenario than actual land use conditions. This exposure scenario involves an assessment based on actual site conditions using standard default variable values. The potential land use exposure scenario should include a conceptual model including current site conditions, expected future conditions based upon site specific physical and chemical information, and the assumption that contaminated media will not have undergone any remedial engineering.~~

### ~~5.3 DATA PRESENTATION~~

~~(a) A risk assessment report shall be submitted to the Director and must include at a minimum the following:~~

~~(1) An executive summary;~~

~~(2) An overview of the site and the areas of contamination;~~

~~(3) A site characterization report which includes:~~

~~(i) Maps of sufficient detail and accuracy to depict areas of contamination, topography, geology, and groundwater contours or potentiometric surface;~~

~~(ii) Site and regional geological and hydrological descriptions;~~

~~(iii) A detailed discussion of areas of contamination;~~

~~(iv) Background levels of hazardous constituents including details of statistical methods used to determine background; and~~

~~(v) Descriptions of releases of hazardous constituents and expected extent of migration from the area of contamination.~~

~~(4) Identification and concentration of hazardous constituents identified in R315-101-5.1(a)(1). A sampling and analysis plan shall be prepared and utilized for the collection of all data. This plan shall be developed using procedures and methods outlined in Section R315-261-1090 and the most current version of "SW 846, Test Methods for Evaluating Solid Waste." It shall contain a summary outlining data quality objectives, completed analytical request forms for all analysis performed, dry weight equivalents, sampling location identification and justification, standard operating procedures used for data collection, all statistical analysis performed, quality assurance and quality control plans (QA/QC plan) and QA/QC results, instrument calibration results, and analytical methods including constituent detection limits;~~

~~(5) Exposure assessment identifying exposure levels for all exposure pathways identified in R315-101-5.2(a)(3). If fate and transport models are used, the users manual, model theory, computer software for the model, installation verification data set for the model and parametric analysis of the input parameters must be provided upon request of the Director;~~

~~(6) Identification of toxicity information gathered for all identified hazardous constituents for carcinogenic, slope factors and weight of evidence classification, noncarcinogenic effects, chronic reference doses (RfDs) and critical effects associated with RfDs from, in order of preference, the Integrated Risk Information System (IRIS), Health Effects Assessment Summary Tables (HEAST), Agency for Toxic Substances and Disease Registry (ATSDR) toxicological profiles, Environmental Criteria and Assessment Office (ECAO), or other scientifically accepted listings. The source and date of the toxicological information must be identified and be acceptable to the Director;~~

~~(7) The risk characterization identifying carcinogenic risk, individual and multiple substances, noncarcinogenic hazardous index, individual and multiple substances, chronic hazard quotient, subchronic hazard quotient, uncertainties, and a tabulation of all risk characterization data presented in a format approved by the Director; and~~

~~(8) Unless justification is provided to the Director, and a waiver of this requirement is granted by the Director in writing, an ecological assessment of the site which contains at least the following:~~

~~(i) An inventory of the current biological community;~~

~~(ii) Estimates of ecological effects based on a subset of ecological endpoints;~~

~~(iii) The magnitude and variation of toxic effects; and~~

~~(iv) Identification of extent of effects, specifically from the presence of hazardous waste.~~

~~(b) If the risk assessment report does not contain all required information of sufficient quality and detail, the Director will notify the responsible party in writing of the deficiencies and require resubmittal of the report in a designated time frame.~~

~~(c) If the risk assessment report contains all required information of sufficient quality and detail, the Director will approve the risk assessment report in writing.]~~

~~(c) The exposure scenarios identified in the conceptual site model shall be estimated using reasonable maximum exposure parameters and shall be based on both current and potential future anticipated land use and receptors defined in Subsections R315-101-5(g)(1) and R315-101-5(g)(2).~~

~~(d) The conceptual site model shall include a determination as to whether or not each of the following pathways is complete under both current and anticipated future conditions. Risks shall be quantified for those receptors where exposure pathways have a reasonable potential for being complete unless it may be demonstrated that the risk is less significant when compared to other quantified receptor risks.~~

~~(1) Potential exposure pathways for surficial soils include:~~

~~(i) leaching to groundwater;~~

~~(ii) migration to a surface water body; and~~

~~(iii) human exposure through ingestion of soil, dermal contact with soil, inhalation of vapors and particulates emitted by surficial soils.~~



- (2) Potential exposure pathways for subsurface soils include:
- (i) leaching or vapor migration, including sinking vapors, to groundwater;
  - (ii) migration to a surface water body;
  - (iii) volatilization and upward migration of vapors from subsurface soil and potential indoor or outdoor inhalation of these emissions; and
  - (iv) human exposure through ingestion of soil, dermal contact, inhalation of vapors and particulates.
- (3) The soil exposure interval applicable to residents is defined as surface down to ten feet below ground surface. The soil exposure interval applicable to the industrial or commercial worker is defined as surface to one foot below ground surface. The soil exposure interval applicable to the construction worker is defined as surface down to depth of construction of ten feet below ground surface. Alternative soil exposure intervals shall be determined on a case-by-case basis as approved by the director.
- (4) Soil exposure pathways applicable to all receptors where the conceptual site model, in accordance with Subsection R315-101-4(a)(3) or R315-101-4(f)(13), identifies soil as a complete or potentially complete exposure pathway, shall include:
- (i) ingestion;
  - (ii) dermal contact with soil;
  - (iii) inhalation of vapor emissions; and
  - (iv) inhalation of particulates from soil.
- (5) Groundwater exposure pathways applicable to all receptors where the conceptual site model, in accordance with Subsection R315-101-4(a)(3) or R315-101-4(f)(13), identifies groundwater as a complete or potentially complete exposure pathway, shall include:
- (i) ingestion;
  - (ii) dermal contact with groundwater; and
  - (iii) inhalation of vapor emissions.
- (6) Additional exposure to groundwater shall be considered on a site-specific basis which may include:
- (i) volatilization and upward migration of vapors from groundwater and potential indoor inhalation of vapor emissions;
  - (ii) volatilization and upward migration of vapors from groundwater and potential outdoor inhalation of vapor emissions;
  - (iii) potable use of groundwater, including ingestion of groundwater, dermal contact with groundwater during showering or bathing, and inhalation of vapors from domestic use of groundwater if pathway is complete; and
  - (iv) migration to surface water body and potential impacts to surface water and potential exposures to surface water.
- (7) Other exposure pathways that may need to be considered on a site-specific basis may include the following:
- (i) contact with soils and ingestion of soils, sediments, inhalation of vapors and particulates, surface water and groundwater for any other anticipated human contacts, such as recreational and trespasser activities;
  - (ii) ingestion of produce grown in impacted soils;
  - (iii) use of groundwater for irrigation purposes;
  - (iv) use of groundwater for industrial purposes;
  - (v) ingestion of livestock or fish or other aquatic organisms that, as a result of media contamination, have bioaccumulated constituents of potential concern through the food chain; and
  - (vi) ingestion, dermal contact, and inhalation of vapors from surface water such as from recreational activities, including swimming.
- (e) The responsible party shall develop a risk assessment work plan for review and approval by the director before the risk evaluation.
- (f) Tier 1 screening risk assessment. The Tier 1 evaluation shall assume no institutional or engineering controls in place, such as security, signage, pavements, personal protective equipment, fences, or remediation. The Tier 1 risk assessment evaluation may not be appropriate under circumstances when every complete exposure pathway is not covered by the screening values. The Tier 2 refined risk assessment approach may be more appropriate for evaluation in this circumstance.
- (1) Screening levels. The Tier 1 evaluation shall use one or more of the following screening levels:
- (i) US EPA Regional Screening Levels available at the US EPA Risk Assessment, Regional Screening Levels (RSLs) website;
  - (ii) site-specific background 95% upper tolerance limit levels developed in accordance with the US EPA ProUCL model;
  - (iii) vapor intrusion screening levels calculated using US EPA Vapor Intrusion Screening Level Calculator, as incorporated by reference in Section R315-101-12, available at the US EPA Vapor Intrusion Screening Levels Calculator website;
  - (iv) petroleum vapor intrusion screening guidelines developed in accordance with "Technical Guide for Addressing Petroleum Vapor Intrusion at Leaking Underground Storage Tank Sites," US EPA, as incorporated by reference in Section R315-101-12;
  - (v) site-specific confidence limits for groundwater background established for the site in accordance with "Statistical Analysis of Groundwater Monitoring Data at RCRA Facilities, Unified Guidance," US EPA, as incorporated by reference in Section R315-101-12; or
  - (vi) in instances where a US EPA Regional Screening Level is not available, a responsible party, with the approval of the director, may develop and calculate a site-specific screening value.
- (2)(i) The US EPA Regional Screening Levels, confidence limits, site-specific background levels, calculated site-specific screening values, and vapor intrusion screening levels shall be known collectively as screening values.
- (ii) Documents referenced in Subsections R315-101-5(f)(1)(i) through R315-101-5(f)(1)(vi) and other director approved sources shall be used as sources for obtaining screening values.
- (3) Determination of constituents of potential concern.
- (i) For inorganic contaminants of interest, the following steps shall be followed for determination of constituents of potential

concern that shall be included in the risk evaluation.

(A) The maximum detected concentration of each contaminant of interest for soil, sediment, and groundwater, or other site-specific media such as surface water, may be compared to the site-specific background reference level, defined as the 95% upper tolerance limit or a confidence limit. If the maximum detected site concentration is greater than the background reference level, the inorganic contaminants of interest shall be considered a constituent of potential concern. If site-specific background reference levels are not available, the detected inorganic contaminant shall be retained as a contaminant of potential concern.

(B) For those inorganic contaminants of interest whose maximum concentrations are greater than the background reference, a test of means hypothesis shall be used to determine if inorganic contaminants of interest are present at elevated levels over background levels.

(C) If the results of the test of means hypothesis indicate the detected inorganic contaminant of interest is elevated over background level, it will be retained as a constituent of potential concern.

(D) If a test of means hypothesis cannot be performed due to sample size or if there is no established site-specific background reference level, the inorganic contaminant of interest shall be retained as a constituent of potential concern.

(ii) For organic contaminants of interest, all contaminants with a minimum of one detection shall be retained as constituents of potential concern. If site-specific background reference levels are available for organics, additional refinement of organic contaminants of potential concern may be conducted in accordance with Subsection R315-101-5(f)(3)(i).

(4) Exposure point concentration.

(i) The initial exposure point concentration for all inorganic and organic constituents of potential concern shall be the maximum detected concentration for each medium evaluated in the Tier 1 assessment.

(ii) If the maximum detected concentration results in a cancer risk greater than  $1 \times 10^{-6}$  or a hazard quotient greater than one, a refined exposure point concentration based on a 95% upper confidence limit on the mean may be calculated using the EPA ProUCL program. The lesser of the maximum concentration and the 95% upper confidence limit concentration shall be selected as the exposure point concentration.

(iii) If the minimum required sample size of eight or more for calculating the 95% upper confidence limit cannot be met or there are insufficient numbers of detection, the maximum detected concentration, or an alternative concentration as approved by the director, shall be the exposure point concentration.

(5) Cumulative risk shall be determined for all carcinogenic constituents of potential concern and a hazard index shall be determined for all noncarcinogenic contaminants of potential concern.

(i) The cumulative effects screening cancer risk estimate is calculated as the sum of the ratios of exposure point concentrations and screening values for the combined land use exposure pathways, identified under the conceptual site model developed in accordance with Subsection R315-101-4(a)(3) or R315-101-4(f)(13) as applicable for impacted media, multiplied by  $1 \times 10^{-6}$ .

(ii) The hazard index is calculated as the sum of the ratios of exposure point concentrations and screening values for the combined residential land use exposure pathways identified under the conceptual site model in accordance with Subsection R315-101-4(a)(3) or R315-101-4(f)(13) as applicable impacted media.

(iii) If a contaminant of potential concern has both carcinogenic and non-carcinogenic toxicity, both toxicities shall be evaluated using both the carcinogenic and non-carcinogenic based US EPA Regional Screening Level or other screening levels.

(iv) If the cumulative effects screening cancer risk is less than or equal to  $1 \times 10^{-6}$  and hazard index is less than or equal to one, then the cumulative effects screening risks posed by detected carcinogenic contaminants of interest at the site meet acceptable risk levels and additional evaluation for the receptor and scenario is not required.

(v) If the cumulative effects screening cancer risk is greater than  $1 \times 10^{-6}$  or the hazard index is greater than one, then a Tier 2 risk assessment or further evaluation may be required.

(6) Residential land use.

(i) Risks to residents from ingestion of livestock grazing on a contaminated site shall be evaluated and added to the cumulative effects risk equation if it is determined to be a plausible and complete exposure pathway.

(ii) Vapor intrusion pathway if complete, shall be evaluated and added to the cumulative effects screening risk equation.

(iii) Any other relevant exposure pathway consistent with the residential exposure pathway shall be evaluated and added to the cumulative risk.

(iv) If it is determined that the residential land use cumulative effects screening cancer risk posed by constituents of potential concern is less than or equal to the target cancer risk of  $1 \times 10^{-6}$  and the hazard index is less than or equal to one for each combined residential land use exposure pathways, and it is determined that there are no current and potential future impacts to groundwater as determined by site-specific attenuation factors derived using "Supplemental Guidance For Developing Soil Screening Levels," US EPA, as incorporated by reference in Section R315-101-12, Subsections R315-101-4(f)(15), R315-101-5(f)(8) and R315-101-5(f)(1)(vii), and ecological impacts are insignificant in accordance with Subsection R315-101-5(j), then the site meets the risk-based clean closure criteria for no further action or unrestricted land use as identified in Subsection R315-101-7(a).

(v) If it is determined that the residential land use cumulative effects screening cancer risk posed by constituents of potential concern is greater than the target risk of  $1 \times 10^{-6}$  or the hazard index is greater than one for each combined residential land use exposure pathway, then further evaluation of the site may be conducted using either the Tier 2 refined risk assessment evaluation approach for a residential land use exposure scenario as identified in Subsection R315-101-5(g)(1) or a non-residential land use exposure scenario as identified in Subsection R315-101-5(g)(2), and site management as identified in Section R315-101-7, or the responsible party may choose to conduct corrective action as identified in Section R315-101-6 to mitigate risks at the site to residential acceptable levels.

(vi) An ecological evaluation shall also be completed as part of the screening residential land use risk evaluation as described in

Subsection R315-101-5(j).

(vii) A groundwater impact evaluation shall also be completed as part of the screening residential land use risk evaluation as identified in Subsection R315-101-5(f)(8).

(7) Industrial or commercial land use or construction worker.

(i) If the cumulative effects screening risk is less than or equal to a cancer risk of  $1 \times 10^{-6}$  and the hazard index is less than or equal to one, then the cumulative effects screening risks posed by detected contaminants of potential concern at the site meets the industrial or commercial land use or construction worker risk or both, the site meets the criteria for restricted land use as identified in the Subsection R315-101-7(b).

(ii) If the cumulative effects screening risk is greater than a cancer risk of  $1 \times 10^{-6}$  or the hazard index is greater than one, then the cumulative effects screening risks posed by the detected contaminants of potential concern at the site do not meet the industrial or commercial land use or construction worker or both, and a Tier 2 assessment or further evaluation is required.

(iii) If the cumulative effects screening risk is greater than cancer risk of  $1 \times 10^{-6}$  but less than  $1 \times 10^{-4}$  and the hazard index is less than or equal to one, then restricted land use closure with land use controls may be used in accordance with Subsections R315-101-7(b)(1) and R315-101-7(c).

(iv) Exposure scenarios not covered in the screening values shall be evaluated separately and added to the cumulative effects risks. Evaluations may include the vapor intrusion pathway if it is determined to be complete using the vapor intrusion screening levels.

(v) Other receptors relevant to the industrial or commercial land use or both scenario, such as a trespasser or recreational user, shall be evaluated.

(vi) An ecological evaluation, as identified in Subsection R315-101-5(j), shall also be completed as part of the screening industrial or commercial land use or construction worker or both risk evaluation.

(vii) A groundwater impact evaluation, as identified in Subsections R315-101-5(f)(8) and R315-101-4(f)(15), shall also be completed as part of the screening industrial or commercial land use or both risk evaluation.

(8) For evaluation of potential future impacts to groundwater one or more of the following steps shall be used:

(i) Step 1. Compare the maximum detected concentration for constituents of potential concern in soil to the US EPA Regional Screening Levels, groundwater protection soil screening level based on a dilution attenuation factor of 20, unless it may be demonstrated that background levels for the contaminants of concern at the site exceed the applicable soil screening levels. If the maximum detected concentrations exceed the US EPA Soil Screening Levels for groundwater protection, the potential exists for future impacts to groundwater. The groundwater protection soil screening level value shall be the greater of either the maximum contaminant level or the risk-based groundwater protection soil screening level value for evaluation. If the potential for future groundwater contamination exists, the responsible party may provide additional lines of evidence and a re-evaluation using a refined exposure point concentration of the 95% upper confidence limit. If sufficient data are not available to calculate a 95% upper confidence limit, the maximum constituent of potential concern concentration value shall be used for evaluation, or the director may approve an alternate value; or

(ii) Step 2. Derive a site-specific dilution attenuation factor and a site-specific groundwater protection soil screening level value. The development of the site-specific dilution attenuation factor shall follow "Supplemental Guidance for Developing Soil Screening Levels," US EPA, as incorporated by reference in Section R315-101-12. If the 95% upper confidence limit concentration exceeds the calculated groundwater protection soil screening level, the potential exists for future impacts to groundwater. The groundwater protection soil screening level value shall be the greater of either the maximum contaminant level or the risk-based groundwater protection soil screening level value for evaluation. If the potential for future groundwater contamination exists, the responsible party may choose to submit a work plan for approval by the director describing actions that will be taken to protect groundwater from future impacts due to soil contamination. In addition, the work plan shall include a proposal for collection of sufficient monitoring data to evaluate both current and future groundwater conditions; or

(iii) Step 3. The responsible party shall propose an alternate method for evaluating potential future impacts to groundwater due to soil contamination to the director for approval. If it is determined that the potential for future groundwater contamination exists, the responsible party shall submit a work plan for approval by the director describing actions that will be taken to protect groundwater from future impacts due to soil contamination. In addition, the work plan shall include a proposal for collection of sufficient monitoring data to evaluate both current and future groundwater conditions.

(g) Tier 2 refined risk assessment. A Tier 2 refined risk assessment shall be conducted using the methodologies described in the "US EPA Risk Assessment Guidance for Superfund Sites," Parts A to F, as incorporated by reference in Section R315-101-12, and following standard land use exposure assumption scenarios listed in Subsections R315-101-5(g)(1) and R315-101-5(g)(2):

(1) Residential Land Use.

(i) child receptor; and

(ii) adult receptor

(2) Non-residential Land Use.

(i) commercial or industrial or both;

(ii) construction worker; and

(iii) trespasser or recreationalist as applicable.

(3)(i) The Tier 2 risk assessment shall assume no institutional or engineering controls in place, such as security, signage, pavements, personal protective equipment, fences or remediation.

(ii) The risk assessment shall use US EPA standard default exposure parameters, variables and equations based on reasonable maximum exposure in the evaluation, unless scientific evidence suggests otherwise. If a US EPA standard default exposure parameter or

variable is not available, the responsible party shall use the "Exposure Factors Handbook," US EPA, as incorporated by reference in Section R315-101-12, for default values, or other sources as approved by the director.

(iii) A refined risk assessment may be conducted using site-specific exposure parameters and a Monte Carlo simulation in a probabilistic risk analysis with the approval of the director.

(4) Evaluations shall be conducted in accordance with US EPA approved standards and methodologies and other methodologies as approved by the director. This may include the following guidance:

(i) "Guidelines for the Health Risk Assessment of Chemical Mixtures," Risk Assessment Forum, EPA/630/R-98/002, as incorporated by reference in Section R315-101-12;

(ii) "Risk Assessment Guidance for Superfund Volume 1: Human Health Evaluation Manual (Parts A-F)," Office of Emergency and Remedial Response EPA/504/1-89/002, Interim Final, as incorporated by reference in Section R315-101-12;

(iii) "Human Health Evaluation Manual, Supplemental Guidance: Update of Standard Default Exposure Factors," US EPA OSWER Directive 9200.1-20, as incorporated by reference in Section R315-101-12;

(iv) "Supplementary Guidance for Conducting Health Risk Assessment of Chemical Mixtures," US EPA, as incorporated by reference in Section R315-101-12;

(v) "Soil Screening Guidance Technical Background Document," US EPA and "Supplemental Guidance for Developing Soil Screening Levels for Superfund Sites," US EPA, as incorporated by reference in Section R315-101-12;

(vi) "Guidelines for Carcinogen Risk Assessment," EPA/630/P-03/001F, as incorporated by reference in Section R315-101-12;

(vii) "Supplemental Guidance for Assessing Susceptibility from Early-Life Exposure to Carcinogens," EPA/630/R-03/00F, as incorporated by reference in Section R315-101-12;

(viii) "OSWER Technical Guidance for Assessing and Mitigating the Vapor Intrusion Pathway from Subsurface Vapor Sources to Indoor Air," US EPA OSWER 9200.2-154, as incorporated by reference in Section R315-101-12;

(ix) "Technical Guide for Addressing Petroleum Vapor Intrusion At Leaking Underground Storage Tank Sites," US EPA, as incorporated by reference in Section R315-101-12; and

(x) "Risk Assessment Guidance for Superfund, Part A, Volume III, Process for Conducting Probabilistic Risk Assessment," US EPA 540-OR-02-002 OSWER 9285.7-45 PB 2002 963302, as incorporated by reference in Section R315-101-12.

(5) In performing the Tier 2 risk assessment, the responsible party shall use toxicity information for carcinogenic and non-carcinogenic effects in accordance with Subsections R315-101-5(i) and R315-101-5(j)(8).

(6) Risk characterization shall identify carcinogenic risks and non-carcinogenic risks for the constituents of potential concern.

(7) The age dependent adjustment factors shall be applied to carcinogens with a mutagenic mode of action.

(8) Risk characterization shall be based on cumulative risk effects and assumption of additivity in the absence of adequate evidence of toxicological interactions as follows.

(i) For non-carcinogenic toxicants acting by similar modes of action or affecting common organs, dose addition shall be followed.

(ii) For carcinogenic risks or toxicants acting independently, response addition shall be followed.

(9) Carcinogenic cumulative risk may also be calculated as the sum of the probabilities of each chemical across the exposure pathways for cumulative risks less than 0.01. For cumulative risks greater than 0.01, the One-Hit Model, as specified in "Risk Assessment Guidance for Super Fund Volume 1: Human Health Evaluation Manual," Part A, US EPA, Office of Emergency and Remedial Response EPA/504/1-89/002, Interim Final, as incorporated by reference in Section R315-101-12, shall be used.

(10) Non-carcinogenic hazard indices shall be calculated as the sum of the non-carcinogenic effects for each chemical across the exposure pathways. However, if the hazard index is greater than one, the hazard quotients should be summed separately by target organ or mode of action.

(11) If total petroleum hydrocarbons are present, the risk assessment shall be evaluated using indicator compounds, and shall be conducted in accordance with Subsections R315-101-5(f), R315-101-5(f)(8), R315-101-5(g), R315-101-5(j), "Supplementary Guidance for Conducting Health Risk Assessment of Chemical Mixtures," EPA/630/R-00/002, as incorporated by reference in Section R315-101-12, and the US DOE Risk Assessment Information System website, and in accordance with other procedures approved by the director.

(i) The cumulative risk of the petroleum mixture shall assume additivity, dose addition or response addition, unless there is data suggesting toxicological interaction.

(ii) The risk assessment shall be based on the conceptual site model identified in Subsection R315-101-4(a)(3) or R315-101-4(f)(13) as applicable.

(12) Current and future anticipated land use scenarios evaluation.

(i) The evaluation shall be based on current and reasonably anticipated future uses of the property. Sources of information on land uses may include:

(A) current zoning and comprehensive plan maps and applicable regulations provided by the local jurisdiction for the properties within the locality of the site;

(B) inquiries made and responses as to whether there are regional trends that are relevant to land uses and activities in the locality of the site;

(C) inquiries made of any environmental protection zones or regulations; and

(D)(I) the property owner's planned use of land.

(II) An inactive or vacant, fenced or non-fenced, property with no proposed land use in an area zoned for industrial or commercial land use or both shall be assumed to be reasonably used for industrial or commercial use or both in the future.

(III) An inactive or vacant, fenced or non-fenced, property in an area zoned for residential land use shall be assumed to be

reasonably used for residential land use in the future.

(IV) For the protection of human health and the environment, if future anticipated land use conditions offer a more protective exposure scenario than the current land use scenario, the more protective future anticipated land use shall be evaluated.

(V) A summary of the results and conclusions along with supporting documentation as to what the current and reasonably anticipated future land uses are for parcels within the locality of the site shall be submitted with the Tier 2 refined risk assessment for approval.

(h) Data and results presentation.

(1) A risk assessment report shall be submitted to the director for review and approval. The report may be a stand-alone document or included in a site characterization or closure report. The risk assessment, whether submitted by itself or included in a larger report, shall include, at a minimum, the following:

(i) an executive summary;

(ii) an overview of the site;

(iii) a detailed discussion of areas of contamination;

(iv) an exposure assessment identifying exposure levels for the exposure pathways identified in Subsections R315-101-5(c) and R315-101-5(j)(4)(i);

(v) if fate and transport models are used, the user's manual, model theory, computer software for the model, installation verification data set for the model and input files for the model runs shall be provided upon request by the director;

(vi) the output results of the model runs;

(vii) background levels of identified hazardous constituents including any statistical methods used in evaluation of background data;

(viii) identification and concentration of the contaminants of interest identified in Subsection R315-101-4(f)(8);

(ix) a list of constituents of potential concern, contaminants of concern, and contaminants with mutagenic mode of action for human health and constituents of potential ecological concern;

(x) US EPA Regional Screening Levels or, when US EPA Regional Screening Levels are not used, the toxicity information of identified constituents of potential concern, specifically listing mutagenic constituents of potential concern, including slope factors, inhalation unit risks, weight-of-evidence classification, non-carcinogenic chronic reference doses, age dependent adjustment factors, chronic reference concentrations and critical effects associated with reference doses and reference concentrations, toxicity reference values and any other ecological benchmarks used in the risk assessment;

(xi) a list of identified ecological receptors;

(xii) a list of identified ecological habitats;

(xiii) risk characterization calculations including data used; and

(xiv) the risk characterization identifying carcinogenic risk and non-carcinogenic risk for the constituents of potential concern, ecological hazard indices as determined in accordance with Subsection R315-101-5(j), uncertainties analysis, and a tabulation of the risk characterization data presented in a format approved by the director.

(2) If the risk assessment report does not contain the required information of sufficient quality and detail, the director will notify the responsible party in writing of deficiencies and shall require resubmittal of the report in a designated time frame.

(3) If the risk assessment report contains the required information of sufficient quality and detail, the director will approve, the risk assessment report in writing.

(i) Identification of sources of toxicity information.

(1) Sources of toxicity information gathered for identified hazardous constituents, weight-of-evidence classification and critical effects associated with reference doses and reference concentrations shall be in order of preference based on the US EPA hierarchy of human health toxicity values tiered system, "Human Health Toxicity Values in Superfund Risk Assessment," US EPA OSWER Directive 9285.7-53, as incorporated by reference in Section R315-101-12. The approved hierarchy, in order of acceptance is as follows:

(i) US EPA Integrated Risk Information System.

(ii) US EPA Provisional Peer Reviewed Toxicity Values.

(iii) Additional sources may include US EPA and non-US EPA sources of toxicity information with priority given to sources that have been peer reviewed including the following:

(A) California Environmental Protection Agency toxicity values;

(B) Agency for Toxic Substances and Disease Registry Minimal Risk Levels;

(C) US EPA additional sources; or

(D) US EPA Health Effects Assessment Summary toxicity data.

(2) US EPA Regional Screening Levels; and

(3) US DOE Risk Assessment Information System website.

(j) Ecological risk assessment.

(1) Before conducting the risk assessment, the responsible party shall submit a work plan for approval.

(2) An ecological risk assessment for the site shall include terrestrial and aquatic processes as appropriate using toxicity information for the constituents and biological processes relevant to the ecological evaluation. This shall include plants, soil invertebrates, benthic invertebrates, wildlife species and other ecological receptors as approved by the director. A list of all ecological receptors of interest shall also be included.

(3) A waiver of Subsection R315-101-5(j) may be granted by the director if the responsible party demonstrates that ecological

receptors will not be affected by any contamination using any of the following criteria:

- (i) environmental conditions at the site may be used to eliminate the need for ecological risk assessment;
- (ii) the affected property is not a viable habitat and the site cannot be used by potential ecological receptors as a habitat;
- (iii) complete or potentially complete exposure pathways do not exist due to prevailing conditions or property setting; or
- (iv) detected chemicals at the site are below the ecological screening benchmark levels.
- (4) An ecological risk assessment for a site shall be conducted to include the following information:
  - (i) a problem formulation, identification of constituents of potential ecological concern, identification of habitats, media sampled, potential ecological effects, relevant ecological receptors, relevant exposure pathways, initial definition of assessment and measurement endpoints, with respect to current and reasonably anticipated future land and water uses as described in a conceptual site model;
  - (ii) the data quality objectives for the ecological risk assessment shall be based on the conceptual site model, with emphasis on analytical detection limits appropriate for ecological receptors;
  - (iii) an exposure analysis to include identification and selection of constituents of potential ecological concern, identification and selection of target or representative ecological receptors, an exposure pathway model relating target or representative receptors, exposure routes and measurement endpoints for both current and reasonably anticipated future land and water use scenarios;
  - (iv) an ecological response analysis including a summary of current information regarding the toxicological effects, ecological effects, bioconcentration potential, bioaccumulation potential, biomagnification potential, persistence of the identified constituents of potential ecological concern and ecological benchmark values;
  - (v) a risk characterization presenting the quantitative ecological risks potentially associated with the site, a discussion of any available site-specific ecological studies, a detailed discussion of risks associated with the bioconcentration potential, bioaccumulation potential, biomagnification potential, and persistence of each contaminant, and consideration of any other available, published and peer reviewed scientific information on other sources of adverse ecological conditions as appropriate;
  - (vi) an evaluation of the potential for significant adverse effects on the health or viability of individual ecological receptors or local populations, including a weight-of-evidence analysis or population viability analysis. These evaluations may include field studies, laboratory investigations, appropriate population models, or any combination of these or other methods of evaluation as approved by the director; and
  - (vii) a quantitative and qualitative uncertainty analysis as appropriate for each element of the risk assessment.
- (5) Ecological risk assessment estimates shall be conducted:
  - (i) at the individual level for species present in the locality of the site if the species is listed as threatened or endangered, or is a state sensitive species; and
  - (ii) at the population level for any other species of plants or animals in the locality of the site.
- (6) Cumulative hazard from multiple hazardous substances shall be assessed by summing the hazards posed separately by individual hazardous substances in the locality of the site, unless it is demonstrated that the summation assumption is not appropriate.
- (7) Ecological risk assessment shall be conducted in accordance with the following:
  - (i) "Framework for Ecological Risk Assessment," EPA/630/R-92/001, as incorporated by reference in Section R315-101-12;
  - (ii) "Ecological Risk Assessment Guidance for Superfund: Process for Designing and Conducting Ecological Risk Assessments Interim Final," EPA 540-R-97-006, OSWER 9285.7-25, PB97-963211, as incorporated by reference in Section R315-101-12;
  - (iii) "Guidelines for Ecological Risk Assessment," US EPA, as incorporated by reference in Section R315-101-12;
  - (iv) US EPA "Guidance for Developing Ecological Screening Levels," US EPA, as incorporated by reference in Section R315-101-12; and
  - (v) any other sources as approved by the director.
- (8) Appropriate sources of exposure factor information and toxicological parameters may include the following:
  - (i) "Wildlife Exposure Factors Handbook," US EPA, as incorporated by reference in Section R315-101-12;
  - (ii) "Toxicological Benchmarks for Wildlife," Oak Ridge National Laboratory (ORNL), as incorporated by reference in Section R315-101-12;
  - (iii) Los Alamos National Laboratory (LANL) ECORisk Database;
  - (iv) US EPA Ecological Soil Screening Levels;
  - (v) "Guidance for Developing Ecological Soil Screening Levels," US EPA, as incorporated by reference in Section R315-101-12;
- and
  - (vi) any other sources as approved by the director.
- (9) In the absence of available and acceptable toxicity information, the director may require the development of site-specific toxicity information.
- (10) An ecological risk assessment shall be conducted using a tiered evaluation approach as described in Subsections R315-101-5(j)(10)(i) through R315-101-5(j)(10)(x).
  - (i) A Tier 1 ecological screening risk assessment shall use conservative assumptions and shall include:
    - (A) a conceptual site model;
    - (B) an evaluation of fate and transport mechanisms;
    - (C) an identification of constituents of potential ecological concern;
    - (D) a characterization of the ecological setting; and
    - (E) a selection of toxicity endpoints and receptors of ecological significance.
  - (ii) Tier 1 ecological screening risk assessment - exposure pathways:

(A) each ecological receptor is considered to be exposed to constituents of potential ecological concern in soil in the zero to two feet below ground surface interval. In addition, burrowing animals and deep-rooted plants may be considered to be exposed to constituents of potential ecological concern in soils deeper than two feet; and

(B) exposure pathways may include ingestion, direct contact, exposure through uptake of biota exposed to constituents of potential ecological concern, and plant uptake of constituents of potential ecological concern.

(iii) The exposure assessment for the Tier 1 ecological screening risk assessment shall be conducted by assuming:

(A) the maximum detected concentrations as the exposure point concentration for calculating exposure doses;

(B) the area use factor is equal to one indicating that the home range of the receptor is the entire contaminated area;

(C) the bioavailability of contaminants is equal to 100%;

(D) the maximum reported ingestion rate from literature;

(E) the dietary composition consists of direct ingestion of 100% of the constituents of potential ecological concern levels in soil;

(F) each calculation is performed on a dry-weight basis; and

(G) minimum receptor body weight.

(iv) The toxicity assessment for the Tier 1 ecological screening risk assessment shall be conducted by assuming:

(A) for wildlife, the dose-based toxicity reference values, which are receptor, media, and chemical specific, shall be the applicable protective standards available in peer reviewed literature sources;

(B) the toxicity reference values selected shall be those based on no observed adverse effects levels for evaluation;

(C) the responsible party may use a literature search to determine availability of data for derivation of a toxicity reference value if detected constituents of potential ecological concern have no published toxicity reference values, and shall provide the following:

(I) the responsible party shall provide supporting data to the director for approval of the newly derived toxicity reference value; and

(II) if the responsible party cannot derive a toxicity reference value based on literature, the detected constituents of potential ecological concern shall be addressed qualitatively in the uncertainty analysis of the ecological risk assessment report;

(D) for plants and other invertebrate receptors, such as soil organisms, benthic organisms and aquatic organisms, concentration-based effects benchmarks shall be used:

(I) concentration levels identified in peer reviewed literature sources shall be used as measurement endpoints for evaluation of chemical effects on receptors;

(E) the effects concentration levels shall be the no observed effects concentrations; and

(F) the responsible party may use a literature search to determine availability of data for derivation of effects concentration levels if detected constituents of potential ecological concern have no published effects concentration levels;

(I) the responsible party shall provide supporting data to the director for approval of the newly derived effects concentration levels; and

(II) if the responsible party cannot derive effects concentration levels based on literature, the detected constituents of potential ecological concern shall be addressed qualitatively in the uncertainty analysis of the ecological risk assessment report.

(v) The risk characterization of the Tier 1 ecological screening risk assessment.

(A) For plants and other invertebrate receptors, a screening hazard quotient, shall be calculated as the maximum detected exposure concentration of constituents of potential ecological concern divided by the no observed effects concentration.

(B) For wildlife, a screening hazard quotient shall be calculated as the estimated exposure dose or contaminant intake divided by the no observed adverse effects level-based toxicity reference value.

(C) Tier 1 screening results.

(I) If the calculated screening hazard quotient or hazard index is less than or equal to one, no further evaluation is required.

(II) If the calculated screening hazard quotient or hazard index is greater than one, then there may be the potential for adverse ecological risk from the detected constituents of potential ecological concern at the site. The responsible party shall either conduct corrective action or conduct further evaluation in a Tier 2 refined ecological risk assessment.

(vi) A Tier 2 refined ecological risk assessment shall:

(A) use constituents of potential ecological concern with screening hazard quotients or hazard indices greater than one for a refined problem formulation; and

(B) use site-specific exposure assumptions in Subsections R315-101-5(j)(10)(ii) and R315-101-5(j)(10)(iii) for the refined evaluation.

(vii) The exposure assessment in the Tier 2 refined ecological risk assessment shall include exposure dose calculated utilizing site-specific exposure assumptions as follows:

(A) exposure point concentration:

(I) calculate exposure point concentration as the 95% upper confidence limit if sufficient data are available in accordance with US EPA ProUCL software; and

(II) if sufficient data are not available to calculate the 95% upper confidence limit, an alternate value, as approved by the director, shall be used as the exposure point concentration;

(B) estimate the site-specific area use factor for each representative receptor by dividing the receptor's average home range by the area of contamination or area of the solid waste management units:

(I) this estimate shall have a value between zero and one;

(C) the bioavailability of constituents of potential ecological concern shall be assumed to be other than 100% based on available

literature or other sources as approved by the director;

(D) the ingestion rate for each representative receptor shall be assumed to be the average reported ingestion rate in reported literature or estimated from average body weight using allometric equations;

(E) the dietary composition shall be based on receptor specific percentages of plant, animal, and soil matter;

(i) the non-dietary ingestion of soil shall be assumed to be in addition to the dietary intake rate to add up to 100%, soil and dietary items;

(F) the concentrations of constituents of potential ecological concern in receptor dietary elements, plant and animal matter, shall be predicted by using bio uptake and bioaccumulation models;

(G) each calculation shall be performed on a dry-weight basis;

(H) if a bioaccumulation model is not available, 100% uptake factor shall be assumed;

(I) each equation and variables used to estimate constituents of potential ecological concern in plants shall be listed;

(J) the methodologies for determination of bioaccumulation factors for the constituents of potential ecological concern shall be documented; and

(K) exposure doses for wildlife receptors shall be assessed using bio uptake and bioaccumulation modeling to predict the concentration of constituents of potential ecological concern in animal matter that may be ingested by wildlife receptors.

(viii) The toxicity assessment for a Tier 2 refined ecological risk assessment shall be based on:

(A) the lowest observed adverse effects levels for wildlife receptors and lowest observed effects concentrations for plants and invertebrate receptors; and

(B) the toxicity reference values shall be based on the lowest observed adverse effects levels for each wildlife receptor and shall be based on lowest observed effects concentrations for any other receptors including invertebrates, with the exception of endangered, threatened and sensitive species for which a no observed adverse effects level applies.

(ix) The risk characterization of the Tier 2 refined ecological risk assessment.

(A) For wildlife vertebrate receptors, a hazard quotient shall be calculated as the ratio of the estimated receptor-specific contaminant intake or dose to the lowest observed adverse effects level-based toxicity reference value.

(B) For plants and other invertebrate receptors, a qualitative discussion of the potential for adverse effects shall be provided in the assessment. The assessment shall be based on plant hazard quotients or hazard indices as well as site observations that were made during a habitat survey.

(C) Hazard quotients shall be summed for the constituents of potential ecological concern with similar receptor-specific modes of toxicity.

(D) Tier 2 assessment results.

(I) If the hazard quotient or the hazard index is less than or equal to one, adverse ecological effects are not expected and no further action is needed.

(II) If the hazard index is greater than one, there is potential for adverse ecological effects to occur at the site and the responsible party shall either conduct corrective action or conduct further evaluation in a Tier 3 refined ecological risk assessment as outlined in Subsection R315-101-5(j)(10)(x).

(x) A Tier 3 refined ecological risk assessment shall be conducted based on:

(A) a site-specific ecological evaluation;

(B) uptake factors, bioaccumulation factors, bioavailability factors, and plant uptake factors determined from the analysis of animal and plant tissue collected at the site;

(C) the evaluation of unique exposure pathways and effects of exposure to various life stages or other assessment endpoints as determined by the director;

(D) the evaluation of habitat suitability including habitat quality; and

(E) the calculation of refined hazard quotients and hazard indices for the constituents of potential ecological concern shall take into account information from Subsections R315-101-5(j)(10)(i) through R315-101-5(j)(10)(x).

(xi) Tier 3 refined ecological risk assessment results and possible outcomes.

(A) If the Tier 3 refined evaluation results in a hazard index greater than one, the responsible party, shall, in conjunction with the results of a Tier 2 refined evaluation, use several lines of evidence and a weight-of-evidence approach to facilitate a final determination regarding the need for corrective action.

(B) Site remediation shall be required if unacceptable or potential significant adverse ecological effects are documented by the risk assessment results.

(C) The director has the discretion to require corrective action at the site based on data and ecological significance as reported.

(11) Results presentation.

An ecological risk assessment report shall be prepared and submitted to the director in accordance with the requirements in Subsection R315-101-5(h).

### **R315-101-6. Corrective Action.**

(a) Corrective action is required at a site when:

(1) the level of risk present at the site is greater than  $1 \times 10^{-4}$  for carcinogens or a hazard index greater than one for non-carcinogens for the risk assessment conducted assuming the land use exposure scenario defined in Subsection R315-101-5(g)(1) or R315-101-5(g)(2);

(2) the director determines that ecological effects are significant based on the approved assessment conducted in accordance with



Subsection R315-101-5(j); or

(3)(i) groundwater contamination is exceeded, on-site or off-site, in accordance with Subsection R315-101-4(f)(15) or groundwater contaminant concentrations have been shown to be above a corrective action level using a statistical corrective action test in accordance with "Statistical Analysis of Groundwater Monitoring Data at RCRA Facilities" US EPA Unified Guidance, as incorporated by reference in Section R315-101-12, or the "Groundwater Statistics and Monitoring Compliance Guidance Document," Interstate Technology Regulatory Council (ITRC), as incorporated by reference in Section R315-101-12; or

(ii) residual contamination present at the site poses a potential threat to groundwater in accordance with Subsection R315-101-5(f)(8) and "Supplemental Guidance for Developing Soil Screening Levels for Superfund Sites," US EPA, as incorporated by reference in Section R315-101-12, and "Soil Screening Guidance Technical Background Document," US EPA, as incorporated by reference in Section R315-101-12.

(b) The responsible party shall submit a corrective action work plan that includes the responsible party's proposed remedial option for cleanup of the site for review and approval before implementation of the corrective action activities at the site. Determination of appropriate corrective action measures shall be made in accordance with criteria identified in Subsection R315-101-1(c). Any proposed modifications to the approved plan shall be reviewed and approved by the director before implementation of the proposed modification.

(c) Any corrective action levels proposed shall be protective of the complete exposure pathways or potentially complete exposure pathways for all receptors.

(d) The responsible party shall submit a corrective action report after completion of corrective action activities at the site to the director for review and approval.

(e) The corrective action report shall include a request for a corrective action completeness determination from the director.

### **R315-101-[6]7. Risk Management: Site Management Plan and Closure Equivalency.**

(a) A determination of no further action or corrective action complete without controls or unrestricted land use or risk-based clean closure and no site management shall be approved when:

(1) the level of risk present at the site is less than or equal to  $1 \times 10^{-6}$  as the point of departure for carcinogens and the hazard index is less than or equal to one for non-carcinogens based on the approved risk assessment conducted assuming the land use exposure scenario defined in Subsection R315-101-5(g)(1);

(2) the director determines that ecological effects as the site are insignificant based on the approved assessment conducted in accordance with Subsection R315-101-5(j); and

(3) current impacts to groundwater are insignificant in accordance with Subsection R315-101-4(f)(15) and residual contamination present at the site possess no future threat to groundwater in accordance with Subsection R315-101-5(f)(8) and "Soil Screening Guidance Technical Background Document," US EPA, as incorporated by reference in Section R315-101-12, or groundwater contaminant concentrations have been shown to be below a corrective action level using statistical corrective action test in accordance with "Statistical Analysis of Groundwater Monitoring Data at RCRA Facilities," US EPA Unified Guidance, as incorporated by reference in Section R315-101-12 or the "Groundwater Statistics and Monitoring Compliance Guidance Document," Interstate Technology Regulatory Council (ITRC) as incorporated by reference in Section R315-101-12, as applicable.]

(a) A site management plan which is supported by the findings in the approved risk assessment report shall be submitted to the Director within 60 days of approval of the risk assessment report. This plan may be submitted along with the risk assessment report and must include a schedule for implementation.]

(b) A determination of either corrective action complete with controls or restricted land use along with a site management plan shall be approved when:

(1) the level of risk present as the site is greater than  $1 \times 10^{-6}$  but less than  $1 \times 10^{-4}$  for carcinogens and the hazard index is less than or equal to one for non-carcinogens based on the approved risk assessment conducted assuming the land use exposure scenario defined in Subsection R315-101-5(g)(1) or R315-101-5(g)(2); and

(2) clean closure is not supported by conclusions of either the site investigation or corrective action risk assessment.

[(b) The Director shall review and approve or disapprove of the conclusions of the proposed site management plan. If the Director finds that the site management plan is not adequate for protection of human health and the environment, the responsible party shall then submit a revised site management plan addressing the comments of the Director within an appropriate time frame as specified by the Director. The Director shall review and approve or reject the revised site management plan. Upon draft approval of the site management plan, the Director shall follow the requirements of R315 101 7 prior to issuance of final approval. The approved site management plan shall be implemented according to the approved schedule. If the Director rejects this revised site management plan, the revised plan will be considered deficient for the reasons specified by the Director in a statement of disapproval.](c) The site management plan shall:

(1) be submitted within 60 days of approval of the risk assessment report and include a schedule for implementation;

(2) be supported by the findings in the approved risk assessment report and contain appropriate site management activities;

(3) encompass any activities, controls and conditions necessary to manage the risk to human health and the environment so that acceptable risk levels are not exceeded under current or reasonably anticipated future land use conditions;

(4) ensure that the assumptions made in the estimation of risk and applicable target risk levels are being met; and

(5) ensure that adverse ecological effects are controlled and managed so that documented hazard quotients and indices are less than or equal to one.

[(c)(1) The site management plan may contain a no further action option only if the level of risk present at the site is below  $1 \times 10^{-6}$  for carcinogens and a Hazard Index of "less than or equal to one" for non carcinogens based on the approved assessment conducted in

accordance with R315 101 5.2(b)(1) and the Director determines that ecological effects are insignificant based on the approved assessment conducted in accordance with R315 101 5.3(a)(8);

~~(2) The requirements of Subsections R315 270 1(c)(5) and (6) shall be deemed met for a hazardous waste management unit if the level of risk present at the site is below  $1 \times 10^{-6}$  for carcinogens and a Hazard Index of "less than or equal to one" for non carcinogens based on the risk assessment conducted in accordance with R315 101 5.2(b)(1) and the Director determines that ecological effects are insignificant based on the approved assessment conducted in accordance with R315 101 5.3(a)(8). If this risk exposure criterion is met, a request for a risk based closure may be submitted; or~~

~~(3) If the risk present at the site is greater than or equal to  $1 \times 10^{-6}$  for carcinogens or a Hazard Index of "greater than one" for non carcinogens based upon the exposure assessment conducted in accordance with R315 101 5.2(b)(1), or the Director determines that ecological effects may be significant based on the approved assessment conducted in accordance with R315 101 5.3(a)(8), a risk based closure will not be granted. The responsible party shall then submit a site management plan fulfilling the requirements of R315 101 6(d) or (e) as applicable.](d) Appropriate site management activities shall be measures and controls taken to manage and reduce risks greater than  $1 \times 10^{-6}$  but less than  $1 \times 10^{-4}$  under both current and reasonably anticipated future land use conditions, through land use controls, such as institutional controls and engineering controls, groundwater monitoring, post-closure care, or corrective action as determined by the director on a case-by-case basis as defined in Subsection R315-101-13(f).~~

~~[(d) If the level of risk present at the site is less than  $1 \times 10^{-4}$  for carcinogens and a hazard index is "less than or equal to one" for the risk assessment conducted in accordance with R315 101 5.2(b)(2) but greater than or equal to  $1 \times 10^{-6}$  for carcinogens or a hazard index is greater than one for a risk assessment conducted in accordance with R315 101 5.2(b)(1) or the Director determines that ecological effects may be significant based on the approved assessment conducted in accordance with R315 101 5.3(a)(8), the site management plan may contain, but is not required to contain, procedures for corrective action. The site management plan shall contain appropriate management activities e.g., monitoring, deed notations, site security, or post closure care, as determined on a case by case basis in accordance with criteria identified in R315 101 1(b)(4).](e) The site management plan shall be reviewed and approved by the director before implementation of the plan. Before approval, the site management plan shall be subject to the public notice requirements of Section R315-101-10.~~

~~[(e) The site management plan must contain procedures for corrective action if the level of risk present at the site is greater than or equal to  $1 \times 10^{-4}$  for carcinogens or a Hazard Index of "greater than one" for non carcinogens based on the approved assessment conducted in accordance with R315 101 5.2(b)(2) or the Director concludes that corrective action is required to mitigate ecological effects based on the approved assessment conducted in accordance with R315 101 5.3(a)(8). For determination of appropriate corrective action the criteria identified in R315 101 1(b)(4) shall be considered.](f)(1) If the director finds that the site management plan is not adequate for protection of human health and the environment, the responsible party shall resubmit a revised site management plan addressing the comments of the director within an appropriate time frame as specified by the director. The director shall review and approve or reject the revised site management plan. The responsible party shall resubmit the site management plan addressing the deficiencies in a time frame specified by the director.~~

~~(2) The site management plan shall be implemented in accordance with the approved schedule.~~

~~[(f) If hazardous constituents are present only in groundwater at the site, and if the hazardous constituents are listed in Table 1 of Section R315 264 94, the Maximum Concentration Levels listed in Table 1 can be presented in lieu of health risk estimates for those constituents. The RME for Table 1 constituents must be determined in accordance with approved site characterization methods listed in R315 101 4.]~~

~~(g)(1) Upon completion of the requirements in Subsection R315-101-7(a), corrective action shall be considered complete without controls and the land is acceptable for unrestricted use.~~

~~(2) The requirements of Subsections R315-270-1(c)(5) and (6) shall be deemed met if Subsection R315-101-7(a) is met.~~

~~(h) The site management plan shall include a land use control plan that specifies allowable and prohibited use of the site.~~

~~(i) Land use controls shall guarantee that pathways of exposure to contaminants of concern remain incomplete for as long as there are hazardous wastes or hazardous waste constituents remaining that could pose an unacceptable risk to human health and the environment.~~

~~(j) Land use controls shall be reliable, enforceable, and consistent with the risk posed by the contaminants of concern as documented in the approved risk assessment report. Land use controls may include engineering controls such as capping, paving, vapor barriers, fencing, signage, site security, and institutional controls, such as post-closure care and land use restrictions, as determined on a case-by-case basis and approved by the director.~~

~~(k) In instances where contamination, including groundwater, has migrated off-site, and the director determines that the contaminant concentration poses a potential risk exceeding the acceptable risk level for residential land use exposure scenario defined in Subsection R315-101-5(g)(1), the responsible party shall:~~

~~(1) Submit a proposed written notice of contamination to the director for approval before its distribution to the off-site property owners affected or potentially affected by the contamination.~~

~~(i) The written notice shall at a minimum, include the following:~~

~~(A) names of the contaminants detected above applicable screening levels;~~

~~(B) the corresponding screening levels;~~

~~(C) the respective detected contaminant concentrations; and~~

~~(D) adverse effects on human health and the environment.~~

~~(2) Notify the off-site property owners, in writing, within 30 days of director approval of written notice.~~

~~(3) Provide the director with a certified mail return receipt, or any other form of delivery that provides confirmation of receipt.~~

(4) With the property owner's consent, and with the director's approval, conduct corrective action in accordance with Section R315-101-6 to reduce concentrations of constituents of concern on the property to or below residential land use exposure scenario defined in Subsection R315-101-5(g)(1) or R315-101-4(f)(15) as applicable, if it is determined by the director that the action is necessary for protection of human health and the environment, or that groundwater use is designated as a drinking water source or is potentially a drinking water source; or

(5) If groundwater contamination has migrated off-site but Subsections R315-101-7(k)(1) through R315-101-7(k)(4) are not applicable, the responsible party shall inform the off-site property owner in writing of the contamination, as required by Subsection R315-101-7(k)(1), and with the property owner's consent, and with the director's approval, conduct corrective action in accordance with Section R315-101-6 to reduce concentrations of contaminants of concern on the off-site property to non-residential land use exposure levels consistent with the requirements of Subsection R315-101-5(g)(2) and the designated groundwater use, and develop a site management plan in accordance with Section R315-101-7. The responsible party shall prepare and obtain the director's approval for an environmental covenant concerning the property. The responsible party shall request the property owner to record the environmental covenant and document to the director its efforts to have the environmental covenant recorded.

(1) If the responsible party cannot gain access to further characterize the off-site property, or to assess and manage risks, or to conduct corrective action on the off-site property, the responsible party shall:

(1) document each attempt to gain access to the off-site property, and obtain concurrence from the director that the attempts made were reasonable and that no further attempts need to be made;

(2) meet the applicable target risk levels or some approved groundwater protection standards at the boundary of the site; and

(3) with a site management plan approved by the director, take the necessary actions to prevent further migration of contaminants of concern beyond the site boundary.

(m) For impacts to off-site groundwater, surface water bodies and sediments, and other media, the corrective action levels shall be protective of each receptor, human and ecological, for each current and potential future exposure pathway.

(n) The site management plan in Subsections R315-101-7(k)(5) and R315-101-7(l)(3) addressing off-site and site groundwater contamination respectively, shall include the activities and conditions necessary to address current and potential future impacts to groundwater. The proposed controls and measures shall be consistent with Section R315-101-3 and prevent further ground water degradation at the site or off-site property so that risks are controlled, reduced or maintained at levels within the acceptable risk range as defined in Subsection R315-101-13(c).

(o) Once the site management plan as specified in Subsection R315-101-7(b), R315-101-7(k)(5) or R315-101-7(l)(3) as applicable has been approved by the director, the contamination level shall not be allowed to exceed the level of risk specified in the plan. The responsible party has the burden to demonstrate that future levels of contamination at either the site or off-site property or both are either below or within the range of risk levels specified in the site management plan.

(p) If the responsible party cannot demonstrate that the level of contamination at either the site or off-site property or both is either below or within the range of risk levels specified in the site management plan, then further corrective action may be required as determined by the director to bring the risk levels to within the acceptable risk range as specified in the site management plan. A revised site management plan may be required by the director.

(q) In instances where contaminated groundwater has been determined by the director as having no complete exposure pathways and there is no migration of the contaminated plume off-site, or when the director has approved a claim of technical impracticability for corrective action, then, instead of meeting specific cleanup levels, the acceptable management goals and remedy, shall be the following:

(1) source control of releases of contaminants that may pose a threat to human health and the environment;

(2) protection of human health and the environment from any potential exposure pathways to contaminated groundwater;

(3) long-term plume containment system for protection of human health and the environment;

(4) perpetual care obligation of the responsible party;

(5) periodic groundwater monitoring, unless terminated by the director after an evaluation of the site-specific conditions and risk characteristics, to demonstrate that contaminant levels are not increasing and the groundwater plume is stationary; and,

(6) periodic re-evaluation of the technical impracticability decision as part of routine performance monitoring to ensure long-term protection of human health and the environment.

#### **R315-101-8. Contents of a Site Management Plan, Land Use Controls, Environmental Covenants, Restrictions, Controls and Conditions.**

(a) The content of the site management plan. The site management plan to be approved by the director shall contain at a minimum:

(1) a legal description of the site including a legal plat map, a copy of the recorded deed showing ownership, and documents showing all liens;

(2) a summary of the media investigations conducted at the site including the characterization, delineation and listing of identified constituents of potential concern and contaminants of concern;

(3) a summary of the completed human health risk assessment and ecological risk assessment performed in accordance with Section R315-101-5;

(4) an implementation schedule of the site management plan within the site;

(5) a description of the groundwater conditions under the site and within the impacted aquifer, as defined in a site characterization report and including activity and use limitations for potable, culinary, domestic, process, irrigation or any other groundwater uses;

(6) a complete list of the persons or entities that have rights of reasonable access to the site at any time after the effective date of the site management plan for activities such as monitoring and compliance with the site management plan, along with any other terms and conditions of the site management plan;

(i) the site management plan shall also indicate that persons with legal interest in land and those subject to the site management plan are required to allow compliance with the site management plan;

(7) provisions that the director, and the director's authorized officers, employees, or representatives may at any reasonable time and upon presentation of appropriate credentials, have access to the site to monitor, sample or determine compliance with the site management plan or environmental covenant;

(8) a list of the contact names and information for site management plan inquiries; and

(9) a general description of any site-specific groundwater monitoring including:

(i) a general overview of the proposal;

(ii) a summary of site groundwater conditions; and

(iii) the current and potential uses of groundwater and the contaminants of concern.

(b) Activities related to monitoring potential contamination of the groundwater at the site shall be conducted under an approved groundwater monitoring plan. The responsible party shall submit a draft plan to the director and shall not proceed with any portion of the plan until the director has given written approval.

(1) Based on the results of the groundwater monitoring, the potential need for additional site management activities shall be evaluated and implemented, if necessary, to protect human health and the environment. Groundwater monitoring shall be the responsibility of the property owner and its assignees.

(c) If an existing groundwater monitoring well is lost, abandoned, destroyed, or needs to be relocated for development purpose, the owner shall replace the wells in an area that provides the groundwater data required by the site management plan. Any proposal to replace groundwater monitoring wells requires review and approval by the director. If drinking water wells are proposed, the responsible party shall provide prior notice to the director after obtaining either any necessary permits approval or both for the installation of the proposed drinking water wells by the appropriate state, local or other regulatory agencies.

(d) Site management plan modification and termination. The site management plan shall be subject to review and may be terminated or modified as follows.

(1) If groundwater sampling data within the site or off-site property indicates that approved groundwater corrective action levels found in Subsections R315-101-4(f)(15), R315-101-6(a)(3)(i), and R315-101-7(k)(4), as applicable, have been met for the site or impacted off-site property, the responsible party may request modification or termination of the groundwater monitoring program, as follows:

(i) groundwater data shall be evaluated using a statistical corrective action test in accordance with the "Statistical Analysis of Groundwater Monitoring Data at RCRA Facilities, Unified Guidance," US EPA, or the "Groundwater Statistics and Monitoring Compliance Guidance Document," Interstate Technology Regulatory Council (ITRC), as incorporated by reference in Section R315-101-12;

(ii) a demonstration that future levels of contamination will not exceed the approved groundwater corrective action levels; and

(iii) land use controls, either engineering or institutional or both, shall be relied upon to ensure protection of human health and the environment if the approved corrective action levels are more than the drinking water standards, maximum contaminant levels.

(2) If soil sampling data, including soil vapor, within the site or off-site indicate corrective action levels as found in Section R315-101-6 have been met for the soil portion of the site, the owner may request a modification or termination of the section of the site management plan addressing soil management at the site or at an impacted off-site property.

(3) If the owner or responsible party satisfies Subsections R315-101-8(d)(1) and R315-101-8(d)(2) and, in addition, meets the requirements defined in Subsection R315-101-7(a), the owner may request a corrective action complete without controls determination or a no further action determination.

(4) If Subsection R315-101-8(d)(3) is satisfied, a request for termination of the site management plan and the environmental covenant may be submitted to the director for approval.

(5) The director may require public comment on any modifications or termination of the approved site management plan and environmental covenant in accordance with Section R315-101-10.

(6) The director may require a re-evaluation of the approved risk assessment, the site management plan and the environmental covenant upon receipt of new information or data that brings into question the protectiveness of the existing site management plan.

(e) Land use controls.

(1) The site management plan shall identify land use limitations for the site, such as residential, industrial, commercial, recreational, agricultural or any other comparable use with a similar level of human occupancy and exposure. The site management plan shall also identify the land use controls to be placed upon the site. Any subsequent plans for development of the site shall demonstrate to the director that the level of risk present for the proposed use shall not exceed the applicable risk levels specified in the site management plan.

(2) The site management plan shall contain as many land use controls, institutional and engineering, as is deemed necessary to protect human health and the environment. Controls may include maintaining pavement, capping, soil excavation restrictions, and groundwater use limitations. Each control shall be approved by the director.

(3) The proposed land use controls shall be developed and included in the site management plan.

(4) Land use controls shall be used at any site where cumulative carcinogenic risk exceeds a level of  $1 \times 10^{-6}$  but is less than  $1 \times 10^{-4}$  after cleanup or as indicated by the approved risk assessment report.

(5) Land use controls shall ensure that pathways of exposure to contaminants of concern remain incomplete for as long as there are contaminants of concern remaining that could pose an unacceptable risk to human health or the environment.

(6) Land use controls shall be enforceable pursuant to Section 57-25-111 and consistent with the risks posed by the contaminants of concern reported in the approved risk assessment report. The responsible party, or a subsequent landowner who assumes the responsibility of maintaining land use controls, shall be responsible for reimbursing the agency for any costs associated with periodic administrative oversight to ensure that land use controls are maintained and are in compliance with the site management plan. Costs shall not exceed the authorized statutory rate for technical oversight by the agency at the time of service.

(f) An environmental covenant. An environmental covenant pursuant to Sections 57-25-101 through 57-25-114 shall be required for each site unless it has been documented that any contaminants of interest at the site are at or below background levels or the following requirements have been met:

(1) the level of risk is less than or equal to  $1 \times 10^{-6}$  for carcinogens and the hazard index is less than or equal to one for non-carcinogens pursuant to the risk assessment conducted assuming the land use exposure scenario defined in Subsection R315-101-5(g)(1);

(2) the ecological effects have been determined to be insignificant; and

(3) there are no current or potential future impacts to groundwater.

(g) The content of the environmental covenant. The environmental covenant shall contain at a minimum:

(1) a brief narrative description of the contamination and remedy;

(2) a list of the constituents of potential concern and contaminants of concern;

(3) a list of the exposure pathways;

(4) the limits of exposure;

(5) the locations and extent of the contamination;

(6) a brief narrative description of land use limitations for the site;

(7) any groundwater use limitations;

(8) any ground surface use limitations; and

(9) any worker safety limitations.

(h) For all legal interests in the subject property created after the recording of the environmental covenant and for all interests voluntarily subordinated to the environmental covenant the environmental covenant shall indicate that persons with legal interest in land and those subject to the site management plan are required to maintain compliance with the site management plan.

(i) The environmental covenant shall include provisions that the director, and the director's authorized officers, employees, or representatives may at any reasonable time and upon presentation of appropriate credentials, have access to the site to monitor, sample or determine compliance with the site management plan or the environmental covenant.

(j) The terms and conditions of the land use controls established on the property shall be consistent with the environmental covenant recorded for the site.

(k) Within 30 days of the director signing the environmental covenant, the owner shall record the approved environmental covenant with the county recorder's office, and within 30 days of recording shall submit a copy of the recorded document to the director.

(l) Restrictions, controls and conditions. Restrictions, controls and conditions specified in the environmental covenant and the site management plan shall be enforceable by the director under Section 57-25-111 and Rule R315-101.

### **R315-101-9. Owner Responsibilities.**

(a) The owner or responsible party shall ensure compliance with the environmental covenant and the land use restrictions such as groundwater use restrictions, soil removal restrictions, hazard notifications, implementation of the groundwater monitoring program and any other restrictions or conditions cited in the site management plan. Documentation of compliance with the site management plan requirements shall be submitted to the director upon request.

(b) The owner or responsible party shall notify present and future workers at the site of the residual risk at the site and the existence of the site management plan. This includes site workers present for a typical work week and construction workers who may be temporary. If the site management plan specifies controls to prevent workers from exposure, the owner or responsible party shall provide those controls.

(c) Within 48 hours of becoming aware of a deviation from the site management plan the owner or responsible party shall notify the director of the deviation. The owner or responsible party shall submit to the director a written report within 30 days detailing the nature of the deviation and an evaluation of whether the situation and existing site management practices compromise the level of protection afforded by the original site management plan requirements and whether an alternate site management plan is needed to provide a comparable level of protection. Any proposed modification to the site management plan requirements shall require director approval.

(d) The environmental covenant shall run with the land and shall be binding on the current and all subsequent owners. The site management plan requirements shall be imposed and enforced on the current owner through an environmental covenant. Additionally, after the environmental covenant is recorded in the appropriate county recorder's office, each deed, title or other instrument conveying an interest in the property executed by the owner or the owner's successors in title to the property shall include a notice stating that the property is subject to the site management plan and environmental covenant, and shall reference the recorded location of the site management plan and environmental covenant and the restrictions applicable to the property in the site management plan.

(e) In instances where groundwater contamination has migrated off-site, and the director determines that the contaminant concentration poses a potential risk, the responsible party shall notify the impacted off-site property owners in accordance with Subsections R315-101-7(k) and R315-101-7(l).

(f) The responsible party, with the approval of the director, shall comply with Subsection R315-101-7(k)(4), R315-101-7(k)(5) or R315-101-7(l) as applicable.

#### **R315-101-~~7~~10. Public Participation.**

(a) The ~~[D]~~director may provide for public participation in ~~[all]~~each phase[s] of the cleanup action process, as defined in Sections R315-101-4 through R315-101-~~6~~7. ~~[-As directed by the Director and based on the circumstances and level of public interest at the site, pertinent work plans shall describe how information will be made available to the public through, for example, fact sheets or information repositories and, where appropriate, contain proposed time frames for public input through, for example, public meetings, hearings, or comment periods.-]~~

(b) Before approving the site management plan, ~~[T]~~the ~~[D]~~director shall ~~[-also]~~ provide public notice~~[-a]~~ for public comment periods~~[-]~~ and public hearings~~[(s)]~~ for the site management plan in accordance with Sections R315-124-10 through R315-124-12 and R315-124-17.

#### **R315-101-~~8~~11. ~~[Cleanup/Management Action]~~Administrative Oversight.**

(a) ~~[Upon approval of the site management plan by the Director, all remedial activities at the site shall proceed according to the schedule established in the approved site management plan using the method(s) described therein]~~ The director or the director's representatives shall have access to the site as described in Section R315-260-5 and at any time when activity pursuant to Rule R315-101 is taking place. The director or the director's representatives may collect environmental samples or document any visit to the site by photographic, or videographic or some other reasonable means.

(b) ~~[Cleanup/Management Report. The Cleanup/Management Report shall detail remediation, treatment, and monitoring activities undertaken at the site by the responsible party as required by the approved site management plan. If the Cleanup/Management Report provides analytical data as evidence that levels of contamination at the site meet the requirements established in the site management plan for a risk based closure or no further action as defined in R315 101 6(c)(2), the responsible party shall submit a certification of completion as outlined in R315 101 8(c), or request risk based closure as outlined in Subsection R315 270 1(c)(6), whichever is applicable]~~The director shall send an invoice to the responsible party for review of plans, reports or other technical documents submitted, contractor costs, laboratory costs and time spent on correspondence, telephone calls, meetings, field work, and any associated activities to meet the requirements of Rule R315-101.

(c) ~~[Certification of Completion. Within 60 days of the completion of all activities documented in the Cleanup/Management Report, a Certification of Completion of Cleanup/Management Action shall be submitted to the Director by registered mail. The certification of completion shall state the site has been managed in accordance with the specifications in the approved Site Management Plan and shall be signed by the responsible party and by an independent Utah registered professional engineer]~~The owner shall pay any invoices it receives from the director in accordance with the instructions on the invoice.

(d) ~~[Oversight.~~

(1) The Director or his representatives shall have access to the site as described in Section R315 260 5 and at all times when activity pursuant to R315 101 is taking place. The Director or his representatives may take samples or make records of any visit to the site by photographic, electronic, videotape or any other reasonable means.

(2) The Director shall bill the responsible party for review of plans submitted to meet the requirements of this Rule.

(3) The responsible party shall notify the Director at least seven days prior to any sampling event or remediation activity]The responsible party shall notify the director at least seven days before any field work such as a sampling event or remediation activity.

(e) Information submitted to the director shall be signed by the responsible party.

#### **R315-101-12. Documents Incorporated by Reference.**

For purposes of Rule R315-101 regarding cleanup action and Risk-Based Closure Standards, the following documents are incorporated by reference.

(a) Interstate Technology Regulatory Council (ITRC), December 2013, "Groundwater Statistics and Monitoring Compliance" Guidance Document.

(b) Los Alamos National Laboratory (LANL), 2011, "ECORisk Database."

(c) Oakridge National Laboratory (ORNL), 1996, "Toxicological Benchmarks for Wildlife: 1996 Revision." ES/ER/TM-86/R3.

(d) Oakridge National Laboratory (ORNL), May 1998, "A Guide to the ORNL Ecotoxicological Screening Benchmarks: Background, Development, and Application," ORNL/TM-13615.

(e) United States Environmental Protection Agency (US EPA), 1986, "Guidelines for the Health Risk Assessment of Chemical Mixtures," Risk Assessment Forum, EPA/630/R-98/002.

(f) United States Environmental Protection Agency (US EPA), 1989, "Risk Assessment Guidance for Super Fund Volume 1: Human Health Evaluation Manual (Part A)", Office of Emergency and Remedial Response EPA/504/1-89/002, Interim Final.

(g) United States Environmental Protection Agency (US EPA), March 25, 1991, "Risk Assessment Guidance for Super Fund Volume 1: Human Health Evaluation Manual Supplemental Guidance Standard Default Exposure Factors." Interim Final. OSWER Directive 9285.6-03.

(h) United States Environmental Protection Agency (US EPA), December 1991, "Risk Assessment Guidance for Super Fund Volume 1: Human Health Evaluation Manual (Part B, Development of Risk-based Preliminary Remediation Goals)," Office of Emergency and Remedial Response EPA/504/1-89/003, Interim Final.

(i) United States Environmental Protection Agency (US EPA), December 1993, "Wildlife Exposure Factors Handbook, Volume I of II," EPA/600/R-93/187.

(j) United States Environmental Protection Agency (US EPA), May 1992, "Supplemental Guidance to RAGS: Calculating the Concentration Term," Office of Solid Waste and Emergency Response, Washington, D.C. OSWER Directive 9285.7-081.

(k) United States Environmental Protection Agency (US EPA), February 1992, "Framework for Ecological Risk Assessment," EPA/630/R-92/001.

(l) United States Environmental Protection Agency (US EPA), December 1993, "Wildlife Exposure Factors Handbook, Appendix: Literature Review Database, Volume II of II" EPA/600/R-93/187.

(m) United States Environmental Protection Agency (US EPA), May 1996, "Soil Screening Guidance Technical Background Document," EPA/540/R95/128.

(n) United States Environmental Protection Agency (US EPA), June 1997, "Ecological Risk Assessment Guidance for Superfund: Process for Designing and Conducting Ecological Risk Assessments," Interim Final, EPA 540-R.97-006, OSWER 9285.7-25, PB97-963211.

(o) United States Environmental Protection Agency (US EPA), April 1998, "Guidelines for Ecological Risk Assessment."

(p) United States Environmental Protection Agency (US EPA), August 2000, "Supplementary Guidance for Conducting Health Risk Assessment of Chemical Mixtures," EPA/630/R-00/002, August Risk Assessment Forum Technical Panel.

(q) United States Environmental Protection Agency (US EPA), December 2001, "Risk Assessment Guidance for Superfund: Volume 1 Human Health Evaluation Manual (Part D, Standardized Planning, Reporting, and Review of Superfund Risk Assessments)," Final, OSWER 9285.7-47.

(r) United States Environmental Protection Agency (US EPA), March 2001, "EPA Requirements for Quality Management Plans," EPA QA/R-2, EPA/240/B-01/002.

(s) United States Environmental Protection Agency (US EPA), December 2001, "Risk Assessment Guidance for Superfund: Volume III - Part A, Process for Conducting Probabilistic Risk Assessment," EPA 540-0R-02-002 OSWER 9285.7-45 PB 2002 963302.

(t) United States Environmental Protection Agency (US EPA), December 2002, "Supplemental Guidance for Developing Soil Screening Levels for Superfund Sites," OSWER 9355.4-24.

(u) United States Environmental Protection Agency (US EPA), December 2002, "Guidance for Quality Assurance Project Plans," EPA QA/G-5, EPA/240/R-02/009, OSWER 2002.

(v) United States Environmental Protection Agency (US EPA), December 2002(a), "Calculating Upper Confidence Limits for Exposure Point Concentrations at Hazardous Waste Sites."

(w) United States Environmental Protection Agency (US EPA), February 2005, "Guidance for Developing Ecological Soil Screening Levels," Office of Solid Waste and Emergency Response OSWER Directive 9285.7-55.

(x) United States Environmental Protection Agency (US EPA), December 2003, "Human Health Toxicity Values in Superfund Risk Assessment," Office of Solid Waste and Emergency Response, OSWER Directive 9285.7-53.

(y) United States Environmental Protection Agency (US EPA), February 2004, "User's Guide for Evaluating Subsurface Vapor Intrusion into Buildings."

(z) United States Environmental Protection Agency (US EPA), July 2004, "Risk Assessment Guidance for Superfund Volume 1: Human Health Evaluation Manual (Part E, Supplemental Guidance for Dermal Risk Assessment)," EPA/540/R/99/005, Final.

(aa) United States Environmental Protection Agency (US EPA), March 2005(b), "Guidelines for Carcinogen Risk Assessment," EPA/630/P-03/001F.

(bb) United States Environmental Protection Agency (US EPA), March 2005(c), "Supplemental Guidance for Assessing Susceptibility from Early-Life Exposure to Carcinogens," EPA/630/R-03/003F.

(cc) United States Environmental Protection Agency (US EPA), February 2006, "Guidance on Systematic Planning Using the Data Quality Objectives Process," EPA/240/B-06/001.

(dd) United States Environmental Protection Agency (US EPA), January 2009, "Risk Assessment Guidance for Superfund Volume 1: Human Health Evaluation Manual (Part F, Supplemental Guidance for Inhalation Risk Assessment)," EPA/540/R/070/002, OSWER 9285.7-82.

(ee) United States Environmental Protection Agency (US EPA), March 2009, "Statistical Analysis of Groundwater Monitoring Data at RCRA Facilities, Unified Guidance," Final, EPA 530/R-09-007.

(ff) United States Environmental Protection Agency (US EPA), December 1991, "Risk Assessment Guidance for Super Fund Volume 1: Human Health Evaluation Manual (Part C, Risk Evaluation of Remedial Alternatives)," Office of Emergency and Remedial Response EPA/540/R-92/004, Interim.

(gg) United States Environmental Protection Agency (US EPA), September 2011, "Exposure Factors Handbook: 2011 Edition," Office of Research and Development, EPA/600/R-090/052F.

(hh) United States Environmental Protection Agency (US EPA), February 2012, "Superfund Vapor Intrusion FAQs."

(ii) United States Environmental Protection Agency (US EPA), October 2015, "ProUCL Version 5.1 Technical Guide Statistical Software for Environmental Applications for Data Sets with and without Nondetect Observations," EPA/600/R-07/041.

(jj) United States Environmental Protection Agency (US EPA), February 2014, "Human Health Evaluation Manual, Supplemental Guidance: Update of Standard Default Exposure Factors," OSWER Directive 9200.1-20.

(kk) United States Environmental Protection Agency (US EPA), May 2014, "Vapor Intrusion Screening Level (VISL) Calculator User's Guide."

(ll) United States Environmental Protection Agency (US EPA), June 2015, "OSWER Technical Guide for Assessing and Mitigating the Vapor Intrusion Pathway from Subsurface Vapor Sources to Indoor Air," OSWER 9200.2-154.

(mm) United States Environmental Protection Agency (US EPA), June 2015, "Technical Guide for Addressing Petroleum Vapor Intrusion at Leaking Underground Storage Tank Sites."

(nn) United States Environmental Protection Agency (US EPA), March 2005, "Update of Ecological Soil Screening Level (Eco-SSL) Guidance and Contaminant Specific Documents."

(oo) United States Environmental Protection Agency (US EPA), September 1986, "Guidelines for Mutagenicity Risk Assessment", EPA/630/R-98/003.

(pp) United States Environmental Protection Agency (US EPA), September 1995, "Establishing Background Levels," OSWER Directive 9285.7-19FS, EPA/540/F-94/030.

### **R315-101-13. Definitions.**

Terms used in Rule R315-101 regarding cleanup action and Risk-Based Closure Standards are defined as follows:

(a) "95% Upper Confidence Limit or 95% UCL" means an estimate of the arithmetic average concentration for a contaminant and it provides reasonable confidence that the true site average will not be underestimated.

(b) "95% Upper Tolerance Limit or 95% UTL" means a value not to be exceeded of possible background concentration values and so provides a reasonable upper limit on what is likely to be observed in the background with 95% confidence.

(c) "Acceptable Risk Range" means cancer risk greater than or equal to  $1 \times 10^{-6}$  but less than or equal  $1 \times 10^{-4}$  or a hazard index less than or equal to one with justifiable, reasonable and practicable measures in place to reduce and control risk within the range.

(d) "Action Level" means the existence of a contaminant concentration in the environment that is high enough to warrant an action or trigger a response action under the National Oil and Hazardous Substances Contingency Plan.

(e) "Adverse Effect" means any effect that causes harm to the normal functioning of plants, animals, or humans due to exposure to any contaminants of concern.

(f) "Appropriate Site Management Activities" means measures that are reasonable and practical that will be taken to control and reduce risks greater than  $1 \times 10^{-6}$  and less than  $1 \times 10^{-4}$  for carcinogen and hazard index equal to or less than one for non-carcinogens under both current and reasonably anticipated future land use conditions, for example, institutional controls, engineering controls, groundwater monitoring, post-closure care, or corrective action and ensuring that assumptions made in the estimation of cancer risk and non-cancer hazard in the risk assessment report are not violated.

(g) "Area of Contamination" means a hazardous waste management unit or a solid waste management unit or an area where a release has occurred.

(h) "Assessment Endpoints" means an explicit expression of environmental value that is to be protected. It is the part of the ecosystem that should be protected at a superfund site, and it is generally some characteristic of a species of plant or animal, for example, reproduction, growth, that may be described numerically.

(i) "Background" means substances or locations that are not influenced by releases from a site and are naturally occurring in the environment in forms that have not been influenced by human activity or are natural and human-made substances present in the environment as a result of anthropogenic activities and not related to the site.

(j) "The boundary" means the furthest extent where contamination from a defined source has migrated in any medium when the release is first identified.

(k) "Cancer Risk" means the probability that an individual with contract cancer after lifetime exposure to a carcinogen.

(l) "Cleanup" means the range of corrective action activities that occur in the context of addressing environmental contamination at RCRA sites to lower contaminant concentration or decrease chemical toxicity. Activities may include waste removal, contaminated media removal or source reduction, such as excavation or pumping, in-place treatment of waste or contaminated media, such as bioremediation, monitored natural attenuation, containment of waste or contaminated media, such as barrier walls, low permeability covers, liners or capping, or various combination of these approaches.

(m) "Concentration Term - 95% Upper Confidence Limit" means the intake variable and it is an estimate of the arithmetic average concentration for a contaminant based on a set of site sampling results. Because of the uncertainty associated with estimating the true average concentration at a site, the 95% Upper Confidence Limit of the arithmetic mean is used to represent this variable and provides reasonable confidence that the true site average will not be underestimated.

(n) "Complete Exposure Pathway" means how a contaminant may be traced or expected to travel from a source to a plant or animal that may be affected by that chemical and shall meet the following:

(1) the presence of a source and transport;

(2) exposure point or contact (receptor); and

(3) exposure route. Otherwise exposure is incomplete.

(o) "Conceptual Site Model" means a written, illustrative, or both, representation of a site that documents the physical, chemical and biological processes that control the transport, migration, actual or potential, or both impacts of contamination in soil, air, ground water, surface water, sediments, to human or ecological receptors, or both, exposure pathways, at a site or at a reasonably anticipated site under both current and potential future land use scenarios.

(p) "Contaminate" means to make a medium polluted through the introduction of hazardous waste or hazardous constituents as identified in Section R315-261-1092, which incorporates by reference 40 CFR 261, Appendix VIII.

(q) "Contaminants of Concern" means Constituents of Potential Concern that significantly contribute to a pathway in a land use



scenario for a receptor that either exceeds a cumulative cancer risk of  $1 \times 10^{-4}$  or exceeds a non-cancer hazard index of one.

(r) "Contaminants of Interest" means chemicals detected at the site during the site characterization process that may pose threat to human health or the environment.

(s) "Constituents of Potential Concern" means constituents detected in a medium that are selected to be addressed in the risk assessment process because contact with humans may result in adverse effects.

(t) "Constituents of Potential Ecological Concern" means any constituent that is shown to pose possible ecological risk at a site. It is generally a constituent that may or may not be causing risk or adverse effects to plants and animals at a site.

(u) "Corrective Action" means the cleaning up of environmental problems caused by the mismanagement of wastes, or the cleanup process or program under RCRA and any activities related to the investigation, characterization, and cleanup of release of hazardous waste or hazardous constituents from solid waste management units or hazardous waste management units at a permitted or interim status treatment storage or disposal facilities or voluntary cleanup sites or brownfield sites.

(v) "Corrective Action Complete With Controls" means a condition of a solid waste management unit, a hazardous waste management unit, an area of contamination or a contaminated site where site characterization or risk assessment indicate corrective action is required and completed and the results of the risk assessment meet the closure standards and requirements specified in Subsection R315-101-7(b), or a condition of a solid waste management unit, a hazardous waste management unit, area of contamination or a contaminated site where site characterization or risk assessment indicate corrective action is not required but also meets the closure standards and requirements specified in Subsection R315-101-7(b).

(w) "Corrective Action Complete Without Controls" means a condition of a solid waste management unit, a hazardous waste management unit, area of contamination or a contaminated site where site characterization or risk assessment indicate corrective action is required and completed and the results of the risk assessment meet the closure standards and requirements equivalent to a no further action or meeting the requirements of Subsection R315-101-7(a) or a condition of a solid waste management unit, a hazardous waste management unit, area of contamination or a contaminated site when site characterization or risk assessment indicate corrective action is not required but also meets the closure standards and requirements equivalent to a no further action or meeting the requirements of Subsection R315-101-7(a).

(x) "Corrective Action Level" means the concentration of a contaminant in a medium after cleanup of a site that is protective of human health and the environment.

(y) "Data Quality Objectives" means qualitative and quantitative statements of the quality of data needed to support specific decisions or regulatory actions.

(z) "Dilution Attenuation Factor" means the ratio of the contaminant concentration in soil leachate to the concentration in groundwater at the receptor point.

(aa) "Environment" means the surroundings or conditions in which a person, animal, or plant lives or operates.

(bb) "Exposure" means contact of an organism with a chemical or physical agent and it is the amount of the agent available at the exchange boundaries of the organism.

(cc) "Exposure Pathway" means the course a chemical or physical agent takes from a source to an exposed organism.

(dd) "Exposure Point Concentration" means either a statistical derivation of measured data or modeled data that represents an estimate of the chemical concentration available from a particular medium or route of exposure. The exposure point concentration value is used to quantify potential cancer risks and non-cancer hazards.

(ee) "Groundwater Cleanup Levels" means site-specific groundwater chemical concentration levels based on groundwater use designation and exposure pathway established to ensure the protection of human health and the environment when defining groundwater cleanup objectives.

(ff) "Groundwater Use" means the current or reasonably expected maximum beneficial use of groundwater that warrants the most stringent cleanup levels, including drinking or other uses.

(gg) "Hazard Index" means the sum of hazard quotients.

(hh) "Hazard Quotient" means the ratio of exposed dose to some reference dose or reference concentration.

(ii) "Lowest Observed Adverse Effects Level or Lowest Observed Adverse Effects Concentration" means the lowest level of a chemical stressor evaluated in a toxicity test that shows harmful effects on a plant or animal. A Lowest Observed Adverse Effects Level is based on dose of a chemical ingested while Lowest Observed Adverse Effects Concentration refers to direct exposure to a chemical such as through the skin.

(jj) "Maximum Contaminant Level" means the highest level of a contaminant that is allowed in drinking water and is set as close to the "Maximum Contaminant Level Goal" as feasible using the best available treatment technology and taking cost into consideration. Maximum Contaminant Levels are enforceable standards.

(kk) "Maximum Contaminant Level Goal" means the level of a contaminant in drinking water below which there is no known or expected risk to health. Maximum Contaminant Level Goals allow for a margin of safety and are non-enforceable public health goals.

(ll) "Measures of Effects" means quantitative measurements of effects expressed as statistical or numerical assessment endpoint summaries of the observations that make up the measurement.

(mm) "Measurement End Point" means a measurable ecological characteristic that is related to the valued characteristic chosen as the assessment endpoint and it is a measure of biological effects such as death, reproduction, or growth, of a particular species.

(nn) "Natural Resources" means land, fish, wildlife, biota, air, water, ground water, drinking water supplies, and other similar resources.

(oo) "No Further Action" means the state of a solid waste management unit, a hazardous waste management unit, or a

contaminated site at closure meeting the requirements in Subsection R315-101-7(a) and it is equivalent to corrective action complete without controls if the site was under corrective action activities. No further action is equivalent to unrestricted land use.

(pp) "No Observed Adverse Effects Level or No Observed Adverse Effects Concentration" means the highest level of a chemical stressor in a toxicity test that did not cause a harmful effect in a plant or animal. A No Observed Adverse Effects Level refers to a dose of chemical that is ingested, while a No Observed Adverse Effects Concentration refers to direct exposure to a chemical such as through the skin.

(qq) "Point of Departure" means the target risk level that risk to an individual is considered insignificant.

(rr) "Potentially Complete Exposure Pathway" means a pathway that, due to current site conditions is incomplete, but could become complete at a future time because of changing site practices. For example, the ingestion pathway of groundwater from a residential well in a high total dissolved solids aquifer. This pathway could be complete if treatment technologies like reverse osmosis become economically feasible and are observed to be employed successfully in that aquifer.

(ss) "Reasonable Maximum Exposure" means the highest exposure that is reasonably expected to occur at a site. Reasonable Maximum Exposure combines upper-bound and mid-range exposure factors so that the result represents an exposure scenario that is both protective and reasonable; not the worst possible case.

(tt) "Regional Screening Levels" means risk-based chemical concentrations derived from standardized equations combining exposure assumptions with US EPA chemical-specific toxicity values and target risk levels that are used for site screening and initial cleanup goals.

(uu) "Release" means spill or discharge of hazardous waste, hazardous constituents, or material that becomes hazardous waste when released to the environment.

(vv) "Responsible Party" means the owner or operator of a site, or any other person responsible for the release of hazardous waste or hazardous constituents.

(ww) "Risk-Based Clean Closure" means closure of a site where hazardous waste was managed or any medium that has been contaminated by a release of hazardous waste or hazardous constituents, and where hazardous waste or hazardous constituents remain at the site in any medium at concentrations determined, in Rule R315-101, to cause minimal levels of risk to human health and the environment so as to require no further action or monitoring by the responsible party nor any notice of hazardous waste management on the record of title to the property.

(xx) "Risk-Based Concentration" means the concentration of a contaminant the values of which are derived from equations combining toxicity factors with standard exposure scenarios to calculate chemical concentrations corresponding to some fixed levels of risks in any medium, such as water, air, fish tissue, sediment, and soil.

(yy) "Robust Statistic" means a statistic that is resistant to errors in the results, produced by deviations from assumptions, such as, normality. This means that the limits are not susceptible to outliers, or distributional assumptions. For example, if the limits are centered on the median, instead of on the mean, or on a modified, "robust mean," and constructed with suitable weighting, or influence, or function, they could be considered "robust."

(zz) "Site" means the area of contamination and any other area that could be impacted by the released contaminants, or could influence the migration of those contaminants, regardless of whether the site is owned by the responsible party.

(aaa) "Site Specific Screening Value" means contaminant screening values derived for media, such as soil, sediment, water, at a site based on relevant site assumptions and factors.

(bbb) "Source Control" means a range of actions, for example, removal, treatment in place, and containment, designed to protect human health and the environment by eliminating or minimizing migration of or exposure to significant contamination.

(ccc) "Target Risk" means any acceptable specified risk level. The preferred target risk is  $1 \times 10^{-6}$  which is at the protective end of the acceptable risk range for screening of contaminants in risk assessment and considered to be the point of departure.

**KEY: hazardous waste**

**Date of Enactment or Last Substantive Amendment: April 25, 2013**

**Notice of Continuation: March 10, 2016**

**Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-106**

**WASTE MANAGEMENT AND RADIATION CONTROL BOARD**  
**Executive Summary**  
**Final Adoption**  
**UAC R315-15, R315-260, R315-261, R315-262, R315-263, R315-264, and**  
**R315-265**  
**January 12, 2023**

<b>What is the issue before the Board?</b>	Final approval from the Board is needed to adopt changes to 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.
<b>What is the historical background or context for this issue?</b>	<p>At the Board meeting on November 10, 2022, the Board approved the proposed changes to R315-15, R315-260, R315-261, R315-262, R315-263, R315-264, and R315-265 to be filed with the Office of Administrative Rules for publication in the Utah State Bulletin. The proposed rule changes were published in the December 1, 2022, issue of the Utah State Bulletin (Vol. 2022, No. 23).</p> <p>Selected pages from the Utah State Bulletin showing the publication of the proposed changes follow this Executive Summary.</p> <p>The public comment period for this rulemaking ended on January 3, 2023. No comments were received.</p>
<b>What is the governing statutory or regulatory citation?</b>	<p>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.</p> <p>The rule changes also meet existing DEQ and state rulemaking procedures.</p>
<b>Is Board action required?</b>	Yes. Board approval for final adoption of the rule changes is necessary.
<b>What is the Division Director's recommendation?</b>	The Director recommends the Board approve final adoption of the changes to UAC R315-15, -260, -261, -262, -263, -264, and -265 as published in the December 1, 2022, issue of the Utah State Bulletin and set an effective date of January 17, 2023.
<b>Where can more information be obtained?</b>	Please contact Tom Ball by email at <a href="mailto:tball@utah.gov">tball@utah.gov</a> or by phone at (801) 536-0251.

# UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT  
Filed November 02, 2022, 12:00 a.m. through November 15, 2022, 11:59 p.m.

Number 2022-23  
December 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

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Utah state bulletin.

Semimonthly.

1. Delegated legislation--Utah--Periodicals. 2. Administrative procedure--Utah--Periodicals.
- I. Utah. Office of Administrative Rules.

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TABLE OF CONTENTS

R307-313. VOC and Blue Smoke Controls for Hot Mix Asphalt Plants ..... 81

R307-328. Gasoline Transfer and Storage ..... 84

Waste Management and Radiation Control, Radiation

R313-15-501. Surveys and Monitoring - General ..... 88

R313-28-31. General and Administrative Requirements ..... 90

R313-34-3. Clarifications or Exemptions ..... 94

R313-35-120. X-Ray Systems Less than 1 MeV used for Non-Destructive Testing ..... 96

R313-36-3. Clarifications or Exceptions ..... 98

R313-38-3. Clarifications or Exceptions ..... 101

Waste Management and Radiation Control, Waste Management

R315-15-5. Standards for Used Oil Processors and Re-Refiners ..... 103

R315-260-10. Definitions ..... 110

R315-261. General Requirements -- Identification and Listing of Hazardous Waste ..... 121

R315-262-24. Manifest Requirements Applicable to Small and Large  
Quantity Generators -- Use of the Electronic Manifest ..... 129

R315-263. Standards Applicable to Transporters of Hazardous Waste and  
Standards Applicable to Emergency Control of Spills for All Hazardous  
Waste Handlers..... 132

R315-264-71. Manifest System, Recordkeeping, and Reporting -- Use of  
Manifest System ..... 136

R315-265. Interim Status Standards for Owners and Operators of Hazardous  
Waste Treatment, Storage, and Disposal Facilities ..... 140

HEALTH AND HUMAN SERVICES

Administration, Administrative Services, Licensing

R501-16. Intermediate Secure Treatment Programs for Minors..... 146

INSURANCE

Administration

R590-194. Coverage of Dietary Products for Inborn Errors of Amino Acid  
or Urea Cycle Metabolism..... 149

R590-225. Submission of Property and Casualty Rate and Form Filings ..... 152

R590-239. Exemption of Student Health Centers From Insurance Code ..... 161

R590-246. Professional Employer Organization (PEO) License Application Rule ..... 164

R590-250. PEO Assurance Organization Designation ..... 167

R590-254. Annual Financial Reporting Rule..... 169

R590-258. Email Address Requirement ..... 179

R590-265. Hazardous Financial Condition Rule ..... 181

R590-269. Individual Open Enrollment Period ..... 184

(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"; and

(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 Last Change: 2023[March 17, 2015]**  
**Notice of Continuation: October 19, 2021**  
**Authorizing, and Implemented or Interpreted Law: 19-3-104; 19-6-107**

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	R315-15-5	Filing ID: 55066

**Agency Information**

<b>1. Department:</b>	Environmental Quality	
<b>Agency:</b>	Waste Management and Radiation Control, Waste Management	
<b>Room number:</b>	2nd Floor	
<b>Building:</b>	MASOB	
<b>Street address:</b>	195 N 1950 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 144880	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-4880	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Tom Ball	801-536-0251	tball@utah.gov

**Please address questions regarding information on this notice to the agency.**

**General Information**

<b>2. Rule or section catchline:</b>
R315-15-5. Standards for Used Oil Processors and Re-Refiners
<b>3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):</b>
Based on comments received from Region 8, U.S. EPA minor changes have been made to this rule 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 this 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 of Waste Management and Radiation Control, Waste Management is correcting typographical and formatting errors that have been discovered in this 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 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
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
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
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**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 19-6-704	Section 19-6-720	
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**Incorporations by Reference Information**

**7. Incorporations by Reference:**

**A) This rule adds, updates, or removes the following title of materials incorporated by references:**

<b>Official Title of Materials Incorporated (from title page)</b>	Title 40 - Protection of Environment, Chapter I - Environmental Protection Agency, Subchapter I - Solid Wastes, Part 265- Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities, Subpart N – Landfills, 265.310 Closure and post-closure care
<b>Publisher</b>	Environmental Protection Agency
<b>Issue Date</b>	01/04/2017

**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.)

<b>A) Comments will be accepted until:</b>	01/03/2023
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**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**

<b>Agency head or designee and title:</b>	Douglas J. Hansen, Division Director	<b>Date:</b>	11/10/2022
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**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;

NOTICES OF PROPOSED RULES

- (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 ~~try~~~~[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-]an~~other 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 (2017) which is ~~adopted~~ incorporated 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[~~F~~]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<sup>[f]</sup> 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<sup>[f]</sup> or re-refiners shall keep a written record of each used oil shipment accepted for processing<sup>[f]</sup> 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<sup>[f]</sup> or re-refiner;

(2) the name and address of the generator or processor<sup>[f]</sup> or re-refiner from whom the used oil was sent for processing<sup>[f]</sup> or re-refining;

(3) the EPA identification number of the transporter who delivered the used oil to the processor<sup>[f]</sup> or re-refiner;

(4) the EPA identification number, if applicable, of the generator or processor<sup>[f]</sup> or re-refiner from whom the used oil was sent for processing<sup>[f]</sup> or re-refining;

(5) the quantity of used oil accepted;

(6) the date of acceptance; and

(7) written documentation that the processor<sup>[f]</sup> 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<sup>[f]</sup> or re-refiners shall keep a written record of each shipment of used oil that is shipped to a used oil burner, processor<sup>[f]</sup> 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<sup>[f]</sup> or re-refiner, or disposal facility;

(2) the name and address of the burner, processor<sup>[f]</sup> 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<sup>[f]</sup> or re-refiner, or disposal facility;

(4) the EPA identification number of the burner, processor<sup>[f]</sup> 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<sup>[f]</sup> 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<sup>[f]</sup> 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<sup>[f]</sup> 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: 2023[May 27, 2022]**

**Notice of Continuation: January 14, 2021**

**Authorizing, and Implemented or Interpreted Law: 19-6-704; 19-6-720**

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	R315-260-10	Filing ID: 55067

**Agency Information**

1. Department:	Environmental Quality
Agency:	Waste Management and Radiation Control, Waste Management
Room number:	2nd Floor
Building:	MASOB

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<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Tom Ball	801-536-0251	tball@utah.gov
<b>Please address questions regarding information on this notice to the agency.</b>		

**General Information**

<b>2. Rule or section catchline:</b>
R315-260-10. Definitions
<b>3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):</b>
Based on comments received from Region 8, U.S. EPA several definitions are being added to this 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.
<b>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):</b>
The following definitions are begin added to the rule: Cathode ray tube (CRT) exporter, Explosives or munitions emergency, Explosives or munitions emergency response, Explosives or munitions emergency response specialist, and 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 of Waste Management and Radiation Control, Waste Management is correcting typographical and formatting errors that have been discovered in this rule.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
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<b>A) State budget:</b>			
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>B) Local governments:</b>			
There is no cost or savings to any local government entities because of this amendment because the amendment does not remove any existing requirements or add any new requirements.			
<b>C) Small businesses ("small business" means a business employing 1-49 persons):</b>			
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.			
<b>D) Non-small businesses ("non-small business" means a business employing 50 or more persons):</b>			
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.			
<b>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 <i>agency</i>):</b>			
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.			
<b>F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):</b>			
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.			
<b>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.)</b>			
<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2023</b>	<b>FY2024</b>	<b>FY2025</b>
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
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>FY2023</b>	<b>FY2024</b>	<b>FY2025</b>
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
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>H) Department head comments on fiscal impact and approval of regulatory impact analysis:</b>			
The Executive Director of the Department of Environmental Quality, Kimberly D. Shelley, has reviewed and approved this fiscal analysis.			

**Citation Information**

<b>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:</b>		
Section 19-1-301	Section 19-6-105	Section 19-6-106

**Public Notice Information**

<b>8. The public may submit written or oral comments to the agency identified in box 1.</b> (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.)	
<b>A) Comments will be accepted until:</b>	01/03/2023
<b>9. This rule change MAY become effective on:</b>	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**

<b>Agency head or designee and title:</b>	Douglas J. Hansen, Division Director	<b>Date:</b>	11/10/2022
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**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~~ can 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) ~~[F]~~ 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) ~~[F]~~ 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) ~~[F]~~ 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 ~~[-]; and~~

(iv) ~~[H]~~ hazardous secondary materials in units that meet the applicable requirements of Rule[s] 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.

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

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

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

(36) "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) "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) "Division" means the Division of Waste Management and Radiation Control.

(39) "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) "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) "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) "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) "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) "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) "EPA identification number" means the number assigned by EPA to each generator, transporter, and treatment, storage, or disposal facility.

(46) "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) "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]federal, [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~~]before 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~~]before 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 made 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.

([54]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~~]before 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 [F]federal [G]government, any independent agency or establishment of the [F]federal [G]government including any [G]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.

([64]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;[-6F]

(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[-]; or

(iii) see Appendix V to Rule R315-264 in Section R315-264-1105 and Appendix V to 40 CFR 265, which is 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.

([74]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~~ use 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~~±~~ ~~[F]~~the 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 Rule ~~s~~ 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

NOTICES OF PROPOSED RULES

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]judgments 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 Subsection[s] 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 Subsections R315-261-4(e) and ~~R315-261-4(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~~make 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:

NOTICES OF PROPOSED RULES

(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 Subsection[s] 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.

([462]167) "Universal waste transporter" means a person engaged in the off-site transportation of universal waste by air, rail, highway, or water.

([463]168) "Unsaturated zone" or "zone of aeration" means the zone between the land surface and the water table.

([464]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.

([465]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.

([466]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 Subsection[s] 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.

([467]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).

([468]173) "Vessel" includes any description of watercraft, used or capable of being used as a means of transportation on the water.

([469]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.

([470]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.

([474]176) "Water, bulk shipment" means the bulk transportation of hazardous waste which is loaded or carried on board a vessel without containers or labels.

([472]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.

([473]178) "Well injection": See "underground injection"

([474]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.

([475]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~~]before the release of hazardous waste or hazardous constituents to ground water or surface water.

**KEY: hazardous waste**

**Date of Last Change: 2023[~~December 13, 2021~~]**

**Notice of Continuation: January 14, 2021**

**Authorizing, and Implemented or Interpreted Law: 19-1-301; 19-6-105; 19-6-106**

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	R315-261	Filing ID: 55068

**Agency Information**

1. Department:	Environmental Quality
Agency:	Waste Management and Radiation Control, Waste Management
Room number:	2nd Floor
Building:	MASOB
Street address:	195 N 1950 W



<b>City, state and zip:</b>	Salt Lake City, UT 84116	
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<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Tom Ball	801-536-0251	tball@utah.gov
<b>Please address questions regarding information on this notice to the agency.</b>		

**General Information**

<b>2. Rule or section catchline:</b>
R315-261. General Requirements -- Identification and Listing of Hazardous Waste
<b>3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):</b>
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.
<b>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):</b>
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 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 of Waste Management and Radiation Control, Waste Management is correcting typographical and formatting errors that have been discovered in this rule.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
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>B) Local governments:</b>
There is no cost or savings to any local government entities because of this amendment because the amendment does not remove any existing requirements or add any new requirements.
<b>C) Small businesses ("small business" means a business employing 1-49 persons):</b>
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.
<b>D) Non-small businesses ("non-small business" means a business employing 50 or more persons):</b>
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.
<b>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 <i>agency</i>):</b>
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.
<b>F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):</b>
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.
<b>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.)</b>

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
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
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
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>H) Department head comments on fiscal impact and approval of regulatory impact analysis:</b>			
The Executive Director of the Department of Environmental Quality, Kimberly D. Shelley, has reviewed and approved this fiscal analysis.			

**Citation Information**

<b>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:</b>		
Section 19-6-105	Section 19-6-106	

**Incorporations by Reference Information**

<b>7. Incorporations by Reference:</b>	
<b>A) This rule adds, updates, or removes the following title of materials incorporated by references:</b>	
<b>Official Title of Materials Incorporated (from title page)</b>	Title 40 – Protection of Environment, Chapter I – Environmental Protection, Subchapter I – Solid Wastes, Appendix IX to Part 261 – Wastes Excluded Under Sections 260.20 and 260.22

<b>Publisher</b>	Environmental Protection Agency
<b>Issue Date</b>	11/08/2022

**Public Notice Information**

<b>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.)</b>	
<b>A) Comments will be accepted until:</b>	01/03/2023

<b>9. This rule change MAY become effective on:</b>	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**

<b>Agency head or designee and title:</b>	Douglas J. Hansen, Division Director	<b>Date:</b>	11/10/2022
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**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 incorporated by reference in Section R315-265-1, Sections R315-266-100 through R315-266-112;

(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) ~~[F]~~ 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 Section 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 halogenated solvents or those listed in F001, F004, or F005; and still bottoms from the recovery of	(T)

NOTICES OF PROPOSED RULES

	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 operations where cyanides are used in the process	(R,T)
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 <del>such</del> 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 <del>adopted</del> incorporated 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	(H)

	the production of Hexachlorophene from highly purified 2,4,5-trichlorophenol	
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 use; as a reactant, chemical intermediate, or component in a formulating process; of tetra-, penta-, or hexachlorobenzenes under alkaline conditions	(H)
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 <del>but not limited to,</del> 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 Section[s] 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	(T)

	including five, with varying amounts and positions of chlorine substitution	
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 Hazardous Waste Nos. F020, F021, F022, F023, F026, and F027	(T)
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	(T)

NOTICES OF PROPOSED RULES

	bottom sediment sludge from the treatment of wastewater from wood preserving processes that use creosote or pentachlorophenol, or both	
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. <del>Such</del> 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, 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	(T)
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. <del>Such</del> These	(T)

	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	
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 R315-261-35. Leachate resulting from the disposal of one or more of the following EPA Hazardous Wastes and no other Hazardous Wastes <del>retains</del> 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~~use 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~~use 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~~ 60 days before the initial shipment is intended to be shipped off~~[-]~~ site. This notification may cover export activities extending over a ~~twelve~~ 12 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~~[-ete]~~; type~~{s}~~ of container, drums, boxes, tanks~~[-ete]~~.

(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

NOTICES OF PROPOSED RULES

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 Acknowledgment 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 ~~E~~ 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 Sections 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) ~~[F]~~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) ~~[F]~~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) ~~[F]~~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: 2023[July 14, 2022]**  
**Notice of Continuation: January 14, 2021**  
**Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-106**

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	R315-262-24	Filing ID: 55069

**Agency Information**

<b>1. Department:</b>	Environmental Quality	
<b>Agency:</b>	Waste Management and Radiation Control, Waste Management	
<b>Room number:</b>	2nd Floor	
<b>Building:</b>	MASOB	
<b>Street address:</b>	195 N 1950 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 144880	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-4880	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Tom Ball	801-536-0251	tball@utah.gov

**Please address questions regarding information on this notice to the agency.**

**General Information**

<b>2. Rule or section catchline:</b>
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 of Waste Management and Radiation Control, Waste Management is correcting typographical and formatting errors that have been discovered in this 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 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**

<b>Fiscal Cost</b>	<b>FY2023</b>	<b>FY2024</b>	<b>FY2025</b>
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
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>FY2023</b>	<b>FY2024</b>	<b>FY2025</b>
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
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**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 19-6-105	Section 19-6-106
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**Incorporations by Reference Information**

**7. Incorporations by Reference:**

**A) This rule adds, updates, or removes the following title of materials incorporated by references:**

<b>Official Title of Materials Incorporated (from title page)</b>	Title 40 – Protection of Environment, Chapter I – Environmental Protection Agency, Subchapter I – Solid Wastes, Part 262 – Standards Applicable to Generators of Hazardous Waste, Subpart B – Manifest Requirements Applicable to Small and Large Quantity Generators, Section 262.25 Electronic manifest signatures
<b>Publisher</b>	Environmental Protection Agency
<b>Issue Date</b>	11/08/2022

**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.)

<b>A) Comments will be accepted until:</b>	01/03/2023
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<b>9. This rule change MAY become effective on:</b>	01/17/2023
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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**

<b>Agency head or designee and title:</b>	Douglas J. Hansen, Division Director	<b>Date:</b>	11/10/2022
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**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~~ Title R315 to ~~obtain~~ get, complete, sign, provide, use, or ~~retain~~ keep a manifest.

(1) Any requirement in ~~these regulations~~ Title R315 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~~ Title R315 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~~ Title R315 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 when~~ 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~~ rest 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

NOTICES OF PROPOSED RULES

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: 2023 July 14, 2022**

**Notice of Continuation: January 14, 2021**

**Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-106**

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	R315-263	Filing ID: 55070

**Agency Information**

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

**General Information**

<b>2. Rule or section catchline:</b>
R315-263. Standards Applicable to Transporters of Hazardous Waste and Standards Applicable to Emergency Control of Spills for All Hazardous Waste Handlers
<b>3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):</b>
Based on comments received from Region 8, U.S. EPA an incorrect rule reference is being corrected.
<b>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):</b>
Subsections R315-263-20(a)(1), R315-263-20(a)(4)(i), and R315-263-25(a) 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 of Waste Management and Radiation Control, Waste Management is correcting typographical and formatting errors that have been discovered in this rule.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
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>B) Local governments:</b>
There is no cost or savings to any local government entities because of this amendment because the amendment does not remove any existing requirements or add any new requirements.
<b>C) Small businesses ("small business" means a business employing 1-49 persons):</b>
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.
<b>D) Non-small businesses ("non-small business" means a business employing 50 or more persons):</b>

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**

<b>Fiscal Cost</b>	<b>FY2023</b>	<b>FY2024</b>	<b>FY2025</b>
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
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>FY2023</b>	<b>FY2024</b>	<b>FY2025</b>
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
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**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 19-6-105	Section 19-6-106	
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**Incorporations by Reference Information**

**7. Incorporations by Reference:**

**A) This rule adds, updates, or removes the following title of materials incorporated by references:**

<b>Official Title of Materials Incorporated (from title page)</b>	Title 40 – Protection of Environment, Chapter I – Environmental Protection Agency, Subchapter I – Solid Wastes, Part 262 – Standards Applicable to Generators of Hazardous Waste, Subpart B – Manifest Requirements Applicable to Small and Large Quantity Generators, Section 262.25 Electronic manifest signatures
<b>Publisher</b>	Environmental Protection Agency
<b>Issue Date</b>	11/08/2022

**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.)

<b>A) Comments will be accepted until:</b>	01/03/2023
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<b>9. This rule change MAY become effective on:</b>	01/17/2023
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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**

<b>Agency head or designee and title:</b>	Douglas J. Hansen, Division Director	<b>Date:</b>	11/10/2022
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**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 ~~M~~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~~Title R315 to ~~obtain~~get, complete, sign, carry, provide, give, use, or ~~retain~~keep a manifest.

(i) Any requirement in ~~these regulations~~Title R315 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~~Title R315 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~~Title R315 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~~is 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~~Title R315 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) ~~Give~~ 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) ~~The~~ 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 Subsection[s] R315-262-83(d) or R315-262-84(d) accompanies the hazardous waste; and

(3) ~~The~~ 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) ~~The~~ 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) ~~F~~ the next non-rail transporter, if any; or

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

(C) ~~F~~ 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 Subsection[s] 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 1,000 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) ~~F~~ the waste is being transported pursuant to a reclamation agreement as provided for in Subsection R315-262-20(e);

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

NOTICES OF PROPOSED RULES

- (i) [X]the name, address, and U.S. EPA Identification Number of the generator of the waste;
- (ii) [X]the quantity of waste accepted;
- (iii) [AH]any DOT[-]required shipping information; and
- (iv) [X]the date the waste is accepted;[-and]
- (3) [X]the transporter carries this record when transporting waste to the reclamation facility; and
- (4) [X]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: 2023|July 14, 2022|**

**Notice of Continuation: January 14, 2021**

**Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-106**

Based on 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 of Waste Management and Radiation Control, Waste Management is correcting typographical and formatting errors that have been discovered in this rule.

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	R315-264-71	Filing ID: 55071

**Agency Information**

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

**General Information**

<b>2. Rule or section catchline:</b>
R315-264-71. Manifest System, Recordkeeping, and Reporting -- Use of Manifest System
<b>3. Purpose of the new rule or reason for the change</b> (Why is the agency submitting this filing?):

**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 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.)

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2023</b>	<b>FY2024</b>	<b>FY2025</b>
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
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>FY2023</b>	<b>FY2024</b>	<b>FY2025</b>
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
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**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 19-6-105	Section 19-6-106	
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**Incorporations by Reference Information**

**7. Incorporations by Reference:**

**A) This rule adds, updates, or removes the following title of materials incorporated by references:**

<b>Official Title of Materials Incorporated (from title page)</b>	Title 40 – Protection of Environment, Chapter I – Environmental Protection Agency, Subchapter I – Solid Wastes, Part 262 – Standards Applicable to Generators of Hazardous Waste, Subpart B – Manifest Requirements Applicable to Small and Large Quantity Generators, Section 262.25 Electronic manifest signatures
<b>Publisher</b>	Environmental Protection Agency
<b>Issue Date</b>	11/08/2022

**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.)

<b>A) Comments will be accepted until:</b>	01/03/2023
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**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**

<b>Agency head or designee and title:</b>	Douglas J. Hansen, Division Director	<b>Date:</b>	11/10/2022
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**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~~ the owner or operator's agent shall:

(i) ~~[S]~~ [S] sign and date each copy of the manifest;

(ii) ~~[N]~~ [N] note any discrepancies, as defined in Subsection R315-264-72(a), on each copy of the manifest;

(iii) ~~[F]~~ [F] immediately give the transporter at least one copy of the manifest;

(iv) ~~[W]~~ [W] within 30 days of delivery, send a copy, Page 2, of the manifest to the generator~~;~~;

(v) ~~[P]~~ [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]~~ [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 ~~[C]~~ [S] continuation ~~[S]~~ sheet~~(s)~~ or sheets, EPA Form 8700-22A; and

(ii) ~~[S]~~ [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, ~~[c]~~ [bulk shipment], transporter, hazardous waste ~~[which]that~~ is accompanied by a shipping paper containing ~~[all]~~ [all] the information required on the manifest; excluding the EPA identification numbers, generator's certification, and signatures; the owner or operator, or ~~his~~ the owner or operator's agent, shall:

(1) ~~[S]~~ [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]~~ [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]~~ [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) ~~[F]~~ [F] immediately give the rail or water, ~~[c]~~ [bulk shipment], transporter at least one copy of the manifest or shipping paper, if the manifest has not been received;

(4) ~~[W]~~ [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, ~~[c]~~ [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) When~~ever~~ 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]~~ [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~~ Title R315 to ~~obtain~~ get, complete, sign, provide, use, or ~~retain~~ keep a manifest.

(1) Any requirement in ~~these regulations~~ Title R315 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~~ Title R315 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~~ Title R315 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~~ is scheduled to receive delivery of the waste shipment.

(4) Any requirement in ~~these regulations~~ Title R315 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~~[7]~~.

(2) The owner or operator of the facility shall give back to the final transporter one copy of the paper replacement manifest~~[7]~~.

(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~~[7]~~ ~~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:

NOTICES OF PROPOSED RULES

(i) [X]the Manifest Tracking Number and date of receipt by the facility of the original manifests for which data are being corrected;

(ii) [X]the item numbers of the original manifest that is the subject of the submitted corrections; and

(iii) [X]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(1)(3), and with notice of the corrections to other interested persons shown on the manifest.

**KEY: hazardous waste, TSD facilities**

**Date of Last Change: 2023[July 14, 2022]**

**Notice of Continuation: January 14, 2021**

**Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-106**

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	R315-265	Filing ID: 55072

**Agency Information**

<b>1. Department:</b>	Environmental Quality	
<b>Agency:</b>	Waste Management and Radiation Control, Waste Management	
<b>Room number:</b>	2nd Floor	
<b>Building:</b>	MASOB	
<b>Street address:</b>	195 N 1950 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 144880	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-4880	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
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. Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities

**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 subsection that was mistakenly left out of this 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 this rule. This subsection was mistakenly left out of this 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 Section R315-265-1 to ensure equivalency with the federal regulations.

Additionally, the Division of Waste Management and Radiation Control, Waste Management is correcting typographical and formatting errors that have been discovered in this 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 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.)

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2023</b>	<b>FY2024</b>	<b>FY2025</b>
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
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>FY2023</b>	<b>FY2024</b>	<b>FY2025</b>

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
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**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 19-6-105	Section 19-6-106	
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**Incorporations by Reference Information**

**7. Incorporations by Reference:**

**A) This rule adds, updates, or removes the following title of materials incorporated by references:**

<b>Official Title of Materials Incorporated (from title page)</b>	Title 40 – Protection of Environment, Chapter I – Environmental Protection Agency, Subchapter I – Solid Wastes, Part 262 – Standards Applicable to Generators of Hazardous Waste, Subpart B – Manifest Requirements Applicable to Small and Large Quantity Generators, Section 262.25 Electronic manifest signatures
<b>Publisher</b>	Environmental Protection Agency
<b>Issue Date</b>	11/08/2022

**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.)

<b>A) Comments will be accepted until:</b>	01/03/2023
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<b>9. This rule change MAY become effective on:</b>	01/17/2023
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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**

<b>Agency head or designee and title:</b>	Douglas J. Hansen, Division Director	<b>Date:</b>	11/10/2022
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**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]irector" 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~~ Title R315, 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~~ the owner or operators' 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, 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 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 ~~C~~ continuation ~~S~~ 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

NOTICES OF PROPOSED RULES

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, ~~[c]~~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]~~the owner or operators' 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, ~~[c]~~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, ~~[c]~~bulk shipment~~]~~.

(5) ~~[R]~~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) When~~[ever]~~ 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]~~Title R315 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]~~Title R315 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]~~Title R315 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]~~is scheduled to receive delivery of the hazardous waste shipment.

(4) Any requirement in ~~[these regulations]~~Title R315 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[~~7~~].

(2) The owner or operator of the facility shall give back to the final transporter one copy of the paper replacement manifest[~~7~~].

(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) [~~F~~]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) [~~F~~]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~~]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 R315-265-71(1)(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: 2023[July 14, 2022]**

**Notice of Continuation: January 14, 2021**

**Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-106**

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Repeal		
Rule or Section Number:	R501-16	Filing ID: 55057

**Agency Information**

<b>1. Department:</b>	Health and Human Services	
<b>Agency:</b>	Administration, Administrative Services, Licensing	
<b>Building:</b>	MASOB	
<b>Street address:</b>	195 N 1950 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Jonah Shaw	385-310-2389	jshaw@utah.gov
Janice Weinman	385-321-5586	jweinman@utah.gov
<b>Please address questions regarding information on this notice to the agency.</b>		

**WASTE MANAGEMENT AND RADIATION CONTROL BOARD**

**Executive Summary**

**Final Adoption**

**Amendments to UAC R313-15-501, R313-34-3, R313-35-120, R313-36-3 and R313-38-3**

January 12, 2023

<b>What is the issue before the Board?</b>	Approval from the Board is needed for final adoption of changes to Utah Administrative Code 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.
<b>What is the historical background or context for this issue?</b>	<p>At the Board meeting on November 10, 2022, the Board approved the proposed changes to R313-15-501, R313-34-3, R313-35-120, R313-36-3 and R313-38-3 to be filed with the Office of Administrative Rules for publication in the Utah State Bulletin. The proposed changes were published in the December 1, 2022, issue of the Utah State Bulletin (Vol. 2022, No. 23).</p> <p>Selected pages from the Utah State Bulletin showing the publication of the proposed changes follow this Executive Summary.</p> <p>The public comment period for this rulemaking ended on January 3, 2023. No comments were received.</p>
<b>What is the governing statutory or regulatory citation?</b>	<p>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.</p> <p>The rule changes also meet existing DEQ and state rulemaking procedures.</p>
<b>Is Board action required?</b>	Yes. Board approval for final adoption of the rule changes is necessary.
<b>What is the Division Director's recommendation?</b>	The Director recommends the Board approve final adoption of the changes to UAC R313-15-501, R313-34-3, R313-35-120, R313-36-3 and R313-38-3 as published in the December 1, 2022, issue of the Utah State Bulletin and set an effective date of January 17, 2023.
<b>Where can more information be obtained?</b>	Please contact Tom Ball by email at <a href="mailto:tball@utah.gov">tball@utah.gov</a> or by phone at (801) 536-0251.

# UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT  
Filed November 02, 2022, 12:00 a.m. through November 15, 2022, 11:59 p.m.

Number 2022-23  
December 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

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Utah state bulletin.

Semimonthly.

1. Delegated legislation--Utah--Periodicals. 2. Administrative procedure--Utah--Periodicals.
- I. Utah. Office of Administrative Rules.

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TABLE OF CONTENTS

R307-313. VOC and Blue Smoke Controls for Hot Mix Asphalt Plants ..... 81

R307-328. Gasoline Transfer and Storage ..... 84

**Waste Management and Radiation Control, Radiation**

R313-15-501. Surveys and Monitoring - General ..... 88

R313-28-31. General and Administrative Requirements ..... 90

R313-34-3. Clarifications or Exemptions ..... 94

R313-35-120. X-Ray Systems Less than 1 MeV used for Non-Destructive Testing ..... 96

R313-36-3. Clarifications or Exceptions ..... 98

R313-38-3. Clarifications or Exceptions ..... 101

**Waste Management and Radiation Control, Waste Management**

R315-15-5. Standards for Used Oil Processors and Re-Refiners ..... 103

R315-260-10. Definitions ..... 110

R315-261. General Requirements -- Identification and Listing of Hazardous Waste ..... 121

R315-262-24. Manifest Requirements Applicable to Small and Large  
Quantity Generators -- Use of the Electronic Manifest ..... 129

R315-263. Standards Applicable to Transporters of Hazardous Waste and  
Standards Applicable to Emergency Control of Spills for All Hazardous  
Waste Handlers..... 132

R315-264-71. Manifest System, Recordkeeping, and Reporting -- Use of  
Manifest System ..... 136

R315-265. Interim Status Standards for Owners and Operators of Hazardous  
Waste Treatment, Storage, and Disposal Facilities ..... 140

**HEALTH AND HUMAN SERVICES**

Administration, Administrative Services, Licensing

R501-16. Intermediate Secure Treatment Programs for Minors..... 146

**INSURANCE**

Administration

R590-194. Coverage of Dietary Products for Inborn Errors of Amino Acid  
or Urea Cycle Metabolism..... 149

R590-225. Submission of Property and Casualty Rate and Form Filings ..... 152

R590-239. Exemption of Student Health Centers From Insurance Code ..... 161

R590-246. Professional Employer Organization (PEO) License Application Rule ..... 164

R590-250. PEO Assurance Organization Designation ..... 167

R590-254. Annual Financial Reporting Rule..... 169

R590-258. Email Address Requirement ..... 179

R590-265. Hazardous Financial Condition Rule ..... 181

R590-269. Individual Open Enrollment Period ..... 184

NOTICES OF PROPOSED RULES

(2) Manufacturer's operational specifications, records, and testing[s] of any control system shall use the applicable EPA Reference Methods of 40 CFR Part 60[~~, the most recent EPA test methods,~~] or other EPA-approved [state] methods, to determine the efficiency of the control device. In addition, the owner or operator must meet the applicable requirements of record keeping for any control device. A record of all tests, monitoring, and inspections required by Rule R307-328 shall be maintained by the owner or operator for a minimum of [2]two years and shall be made available to the director or the director's representative upon request. Any malfunctioning control device shall be repaired within 15 calendar days after it is found by the owner or operator to be malfunctioning[~~]~~ unless otherwise approved by the director.

(3) For purposes of determining compliance with emission limits, volatile organic compounds and nitrogen oxides will be measured by the test methods identified in federal regulations or approved by the director. Where such a method also inadvertently measures compounds with negligible photochemical reactivity, an owner or operator may exclude these negligibly reactive compounds when determining compliance with an emissions standard.

**R307-328-9. Compliance Schedule.**

(1) Effective May 1, 20[00, all]23, facilities subject to this rule [~~Facilities located in Davis, Salt Lake, Utah, and Weber Counties~~] shall be in compliance with this rule.

~~(2) All other facilities located in Utah, shall be in compliance with this rule according to the following phase in schedule:~~

~~(a) Facilities located in Box Elder, Cache, Tooele and Washington Counties shall be in compliance with this rule by April 30, 2009.~~

~~(b) Facilities located in Emery, Iron, Juab, Millard, Sevier, Summit and Uintah Counties shall be in compliance with this rule by April 30, 2010.~~

~~(c) All facilities located in Utah shall be in compliance with this rule by April 30, 2011.~~

~~(3) If this implementation schedule results in a scheduling and/or financial hardship for an individual facility, that facility may request a six month extension from the director. A maximum of two six month extensions may be granted. Regardless of extension requests submitted, all facilities must be in compliance with this rule not later than April 30, 2011.~~

~~(4) A request for an extension must be documented and contain valid reasons why a facility will not able to meet the phase in schedule indicated in (2)(a) or (b) above. A late start on preparation or planning is not a valid reason to grant an extension. The request for extension must also contain a proposed implementation schedule that shows compliance to this rule at the earliest possible date, but no later than April 30, 2011.~~

~~(5) The vapor tightness testing standard in R307-328-7(1) shall apply to tests conducted after June 7, 2011. All gasoline cargo tanks shall be tested using the vapor tightness testing standard in R307-328-7(1) by June 7, 2012.~~

**R307-328-10. Authorized Contractors.**

~~[(1) All m]Modifications performed on underground storage tanks regulated by Title 19, Chapter 6, Part 4, the Utah Underground Storage Tank Act[~~, to bring them into compliance with R307-328,~~] shall be performed by contractors certified under Rule R311-201 to bring these underground storage tanks into compliance with Rule R307-328.~~

**KEY: air pollution, gasoline transport, ozone**  
**Date of Last Change: 2023[October 19, 2021]**  
**Notice of Continuation: December 1, 2021**  
**Authorizing, and Implemented or Interpreted Law: 19-2-101; 19-2-104(1)(a)**

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	R313-15-501	Filing ID: 55060

**Agency Information**

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

**General Information**

<b>2. Rule or section catchline:</b>
R313-15-501. Surveys and Monitoring - General
<b>3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):</b>
The Nuclear Regulatory Commission (United States) (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.
<b>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):</b>

Subsections R313-15-501(4)(a) and (b) are being deleted from the rule to remove the requirement that personnel dosimeters be processed by National Voluntary Laboratory Program (NVLAP) 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 of Waste Management and Radiation Control, Radiation (Division) is correcting typographical and formatting errors that have been discovered in this 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 governments 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**

<b>Fiscal Cost</b>	<b>FY2023</b>	<b>FY2024</b>	<b>FY2025</b>
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
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>FY2023</b>	<b>FY2024</b>	<b>FY2025</b>
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
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**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 19-6-104	
------------------	------------------	--

**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.)

<b>A) Comments will be accepted until:</b>	01/03/2023
--	------------

<b>9. This rule change MAY become effective on:</b>	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**

<b>Agency head or designee and title:</b>	Douglas J. Hansen, Division Director	<b>Date:</b>	11/10/2022
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**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) ~~[F]~~ the magnitude and the extent of radiation levels; and
  - (ii) ~~[C]~~ concentrations or quantities of residual radioactive material; and
  - (iii) ~~[F]~~ 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]~~ Title R313 or a license condition.

(4) ~~[A]~~ 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]~~ Title R313, 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 Last Change: 2023** ~~[February 14, 2020]~~

**Notice of Continuation: October 19, 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:	R313-28-31	Filing ID: 55065

**Agency Information**

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

**General Information**

<b>2. Rule or section catchline:</b>
R313-28-31. General and Administrative Requirements
<b>3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):</b>
In January of 2021, the National Council on Radiation Protection and Measurements released NCRP Statement No. 13 entitled, <i>NCRP Recommendations for Ending</i>



**KEY:** dental, X-rays, mammography, beam limitation  
**Date of Last Change:** 2023|April 18, 2022|  
**Notice of Continuation:** April 8, 2021  
**Authorizing, and Implemented or Interpreted Law:** 19-3-104;  
 19-6-107

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	R313-34-3	Filing ID: 55061

**Agency Information**

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

**General Information**

<b>2. Rule or section catchline:</b>
R313-34-3. Clarifications or Exemptions
<b>3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):</b>
The Nuclear Regulatory Commission (United States) (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.
<b>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):</b>
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 of Waste Management and Radiation Control, Radiation is correcting typographical and formatting errors that have been discovered in this rule.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
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>B) Local governments:</b>
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.
<b>C) Small businesses ("small business" means a business employing 1-49 persons):</b>
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.
<b>D) Non-small businesses ("non-small business" means a business employing 50 or more persons):</b>
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.
<b>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 <i>agency</i>):</b>
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.
<b>F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):</b>

There will be no additional compliance costs for affected persons due to this amendment beyond any costs that they already incur to comply with this 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.)

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2023</b>	<b>FY2024</b>	<b>FY2025</b>
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
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>FY2023</b>	<b>FY2024</b>	<b>FY2025</b>
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
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**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:**

Subsection 19-3-104(4)	Subsection 19-3-104(7)	
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**Incorporations by Reference Information**

<b>7. Incorporations by Reference:</b>	
<b>A) This rule adds, updates, or removes the following title of materials incorporated by references:</b>	
<b>Official Title of Materials Incorporated (from title page)</b>	Title 10 – Energy, Chapter I – Nuclear Regulatory Commission Part 36 Licenses and Radiation Safety Requirements for Irradiators 36.1 – 36.93
<b>Publisher</b>	National Archives
<b>Issue Date</b>	04/01/2020

**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.)

<b>A) Comments will be accepted until:</b>	01/03/2023
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<b>9. This rule change MAY become effective on:</b>	01/17/2023
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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**

<b>Agency head or designee and title:</b>	Douglas J. Hansen, Division Director	<b>Date:</b>	11/10/2022
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**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) [F]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(e), 36.69, and 36.81(a), 36.81(d) and 36.81(e); and
  - (d) [F]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;

NOTICES OF PROPOSED RULES

- (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 Last Change: 2023 [May 5, 2015]**  
**Notice of Continuation: October 19, 2021**  
**Authorizing, and Implemented or Interpreted Law: 19-3-104(4); 19-3-104(7)**

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	R313-35-120	Filing ID: 55062

**Agency Information**

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

**General Information**

<b>2. Rule or section catchline:</b>
R313-35-120. X-Ray Systems Less than 1 MeV used for Non-Destructive Testing
<b>3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):</b>
The Nuclear Regulatory Commission (United States) (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 of Waste Management and Radiation Control, Radiation is correcting typographical and formatting errors that have been discovered in this 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 governments 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.)

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2023</b>	<b>FY2024</b>	<b>FY2025</b>
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
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>FY2023</b>	<b>FY2024</b>	<b>FY2025</b>
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

<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
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<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
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**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	
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**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.)

<b>A) Comments will be accepted until:</b>	01/03/2023
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**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**

<b>Agency head or designee and title:</b>	Douglas J. Hansen, Division Director	<b>Date:</b>	11/10/2022
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**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 ~~an~~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.

NOTICES OF PROPOSED RULES

(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 ~~at~~ 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 Last Change: 2023~~May 22, 2015~~**

**Notice of Continuation: October 19, 2021**

**Authorizing, and Implemented or Interpreted Law: 19-3-104; 19-6-107**

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	<b>R313-36-3</b>	Filing ID: 55063

**Agency Information**

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

**General Information**

<b>2. Rule or section catchline:</b>
R313-36-3. Clarifications or Exceptions
<b>3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):</b>
The Nuclear Regulatory Commission (United States) (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 this rule incorporation from 2019 to 2020. Additionally, the Division of Waste Management and Radiation Control, Radiation is correcting typographical and formatting errors that have been discovered in this 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 governments 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 this 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
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**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**

<b>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:</b>		
Subsection 19-3-103.1(1)(a)	Section 19-6-104	

**Incorporations by Reference Information**

<b>7. Incorporations by Reference:</b>	
<b>A) This rule adds, updates, or removes the following title of materials incorporated by references:</b>	
<b>Official Title of Materials Incorporated (from title page)</b>	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
<b>Publisher</b>	National Archives
<b>Issue Date</b>	04/01/2020

**Public Notice Information**

<b>8. The public may submit written or oral comments to the agency identified in box 1.</b> (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.)	
<b>A) Comments will be accepted until:</b>	01/03/2023

<b>9. This rule change MAY become effective on:</b>	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**

<b>Agency head or designee and title:</b>	Douglas J. Hansen, Division Director	<b>Date:</b>	11/10/2022
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**R313. Environmental Quality, Waste Management and Radiation Control, Radiation.**

**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]irector" 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 Last Change:** 2023 [January 15, 2021]  
**Notice of Continuation:** April 8, 2021  
**Authorizing, and Implemented or Interpreted Law:** 19-3-103.1(1)(a); 19-3-104

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	R313-38-3	Filing ID: 55064

**Agency Information**

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

**General Information**

<b>2. Rule or section catchline:</b>
R313-38-3. Clarifications or Exceptions
<b>3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):</b>
The Nuclear Regulatory Commission (United States) (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.
<b>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):</b>
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 of Waste Management and Radiation Control, Radiation is correcting typographical and formatting errors that have been discovered in this 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 governments 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 this 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.)

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2023</b>	<b>FY2024</b>	<b>FY2025</b>
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
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>FY2023</b>	<b>FY2024</b>	<b>FY2025</b>
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
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**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**

<b>7. Incorporations by Reference:</b>	
<b>A) This rule adds, updates, or removes the following title of materials incorporated by references:</b>	
<b>Official Title of Materials Incorporated (from title page)</b>	Title 10 – Energy, Chapter I – Nuclear Regulatory Commission, Part 39 Licenses and Radiation Safety Requirements for Well Logging 39.1 – 39.103
<b>Publisher</b>	National Archives
<b>Issue Date</b>	04/01/2020

**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.)

<b>A) Comments will be accepted until:</b>	01/03/2023
--	------------

<b>9. This rule change MAY become effective on:</b>	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**

<b>Agency head or designee and title:</b>	Douglas J. Hansen, Division Director	<b>Date:</b>	11/10/2022
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**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]icense" 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]ertinent Federal regulations";
  - (c) "[D]irector" 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 Last Change: 2023[March 17, 2015]**  
**Notice of Continuation: October 19, 2021**  
**Authorizing, and Implemented or Interpreted Law: 19-3-104; 19-6-107**

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	R315-15-5	Filing ID: 55066

**Agency Information**

<b>1. Department:</b>	Environmental Quality	
<b>Agency:</b>	Waste Management and Radiation Control, Waste Management	
<b>Room number:</b>	2nd Floor	
<b>Building:</b>	MASOB	
<b>Street address:</b>	195 N 1950 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 144880	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-4880	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Tom Ball	801-536-0251	tball@utah.gov

**Please address questions regarding information on this notice to the agency.**

**General Information**

<b>2. Rule or section catchline:</b>
R315-15-5. Standards for Used Oil Processors and Re-Refiners
<b>3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):</b>
Based on comments received from Region 8, U.S. EPA minor changes have been made to this rule to correct typographical errors, and to provide clarity and consistency with the federal regulations.

**WASTE MANAGEMENT AND RADIATION CONTROL BOARD**  
**Executive Summary**  
**Final Adoption**  
**Amendments to UAC R313-28-31**  
**January 12, 2023**

<p><b>What is the issue before the Board?</b></p>	<p>Approval from the Board is needed for final adoption of changes to UAC R313-28-31 to amend the requirement for gonadal shielding (GS) during abdominal and pelvic radiography.</p>
<p><b>What is the historical background or context for this issue?</b></p>	<p>At the Board meeting on November 10, 2022, the Board approved the proposed changes to R313-28-31 to be filed with the Office of Administrative Rules for publication in the Utah State Bulletin. The proposed changes were published in the December 1, 2022, issue of the Utah State Bulletin (Vol. 2022, No. 23).</p> <p>Selected pages from the Utah State Bulletin showing the publication of the proposed changes follow this Executive Summary.</p> <p>The public comment period for this rulemaking ended on January 3, 2023. No comments were received.</p>
<p><b>What is the governing statutory or regulatory citation?</b></p>	<p>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.</p> <p>The rule changes also meet existing DEQ and state rulemaking procedures.</p>
<p><b>Is Board action required?</b></p>	<p>Yes. Board approval for final adoption of the rule changes is necessary.</p>
<p><b>What is the Division Director's recommendation?</b></p>	<p>The Director recommends the Board approve final adoption of the changes to UAC R313-28-31 as published in the December 1, 2022, issue of the Utah State Bulletin and set an effective date of January 17, 2023.</p>
<p><b>Where can more information be obtained?</b></p>	<p>Please contact Tom Ball by email at <a href="mailto:tball@utah.gov">tball@utah.gov</a> or by phone at (801) 536-0251.</p>

# UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT  
Filed November 02, 2022, 12:00 a.m. through November 15, 2022, 11:59 p.m.

Number 2022-23  
December 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

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Utah state bulletin.

Semimonthly.

1. Delegated legislation--Utah--Periodicals. 2. Administrative procedure--Utah--Periodicals.
- I. Utah. Office of Administrative Rules.

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TABLE OF CONTENTS

R307-313. VOC and Blue Smoke Controls for Hot Mix Asphalt Plants ..... 81

R307-328. Gasoline Transfer and Storage ..... 84

Waste Management and Radiation Control, Radiation

R313-15-501. Surveys and Monitoring - General ..... 88

R313-28-31. General and Administrative Requirements ..... 90

R313-34-3. Clarifications or Exemptions ..... 94

R313-35-120. X-Ray Systems Less than 1 MeV used for Non-Destructive Testing ..... 96

R313-36-3. Clarifications or Exceptions ..... 98

R313-38-3. Clarifications or Exceptions ..... 101

Waste Management and Radiation Control, Waste Management

R315-15-5. Standards for Used Oil Processors and Re-Refiners ..... 103

R315-260-10. Definitions ..... 110

R315-261. General Requirements -- Identification and Listing of Hazardous Waste ..... 121

R315-262-24. Manifest Requirements Applicable to Small and Large  
Quantity Generators -- Use of the Electronic Manifest ..... 129

R315-263. Standards Applicable to Transporters of Hazardous Waste and  
Standards Applicable to Emergency Control of Spills for All Hazardous  
Waste Handlers ..... 132

R315-264-71. Manifest System, Recordkeeping, and Reporting -- Use of  
Manifest System ..... 136

R315-265. Interim Status Standards for Owners and Operators of Hazardous  
Waste Treatment, Storage, and Disposal Facilities ..... 140

HEALTH AND HUMAN SERVICES

Administration, Administrative Services, Licensing

R501-16. Intermediate Secure Treatment Programs for Minors ..... 146

INSURANCE

Administration

R590-194. Coverage of Dietary Products for Inborn Errors of Amino Acid  
or Urea Cycle Metabolism ..... 149

R590-225. Submission of Property and Casualty Rate and Form Filings ..... 152

R590-239. Exemption of Student Health Centers From Insurance Code ..... 161

R590-246. Professional Employer Organization (PEO) License Application Rule ..... 164

R590-250. PEO Assurance Organization Designation ..... 167

R590-254. Annual Financial Reporting Rule ..... 169

R590-258. Email Address Requirement ..... 179

R590-265. Hazardous Financial Condition Rule ..... 181

R590-269. Individual Open Enrollment Period ..... 184

**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 19-6-104	
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**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.)

<b>A) Comments will be accepted until:</b>	01/03/2023
--	------------

<b>9. This rule change MAY become effective on:</b>	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**

<b>Agency head or designee and title:</b>	Douglas J. Hansen, Division Director	<b>Date:</b>	11/10/2022
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**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) ~~[F]~~ the magnitude and the extent of radiation levels; and
  - (ii) ~~[C]~~ concentrations or quantities of residual radioactive material; and
  - (iii) ~~[F]~~ 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]~~ Title R313 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]~~ Title R313, 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 Last Change:** ~~2023~~ ~~February 14, 2020~~

**Notice of Continuation:** October 19, 2021

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

NOTICE OF PROPOSED RULE		
<b>TYPE OF RULE:</b> Amendment		
<b>Rule or Section Number:</b>	<b>R313-28-31</b>	<b>Filing ID:</b> 55065

**Agency Information**

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

**General Information**

<b>2. Rule or section catchline:</b>
R313-28-31. General and Administrative Requirements
<b>3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):</b>
In January of 2021, the National Council on Radiation Protection and Measurements released NCRP Statement No. 13 entitled, <i>NCRP Recommendations for Ending</i>

*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:

- 1) The risks of heritable genetic effects are now considered to be much less than previously estimated.
- 2) Improvements in technology since the 1950s have resulted in up to a 95% reduction in the absorbed dose to pelvic organs from radiography.
- 3) 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.
- 4) GS obscures portions of pelvic anatomy and may obscure important findings on radiographs. This limits the practical dimensions and area of the shield.
- 5) 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.
- 6) 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:

- 1) American Association of Physicists in Medicine
- 2) American Board of Radiology
- 3) American College of Radiology
- 4) American Society of Radiologic Technologists
- 5) 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 Subsection R313-28-31(1)(e) states that GS shall be used during radiographic procedures. This amendment changes this rule to state that GS 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 this 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 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 this 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 this 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 this 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 this 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 this 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
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
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
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**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	
------------------	------------------	--

**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.)

<b>A) Comments will be accepted until:</b>	01/03/2023
--	------------

<b>9. This rule change MAY become effective on:</b>	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**

<b>Agency head or designee and title:</b>	Douglas J. Hansen, Division Director	<b>Date:</b>	11/10/2022
---	--------------------------------------	--------------	------------

**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~~ Title R313.

(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~~ the applicable requirements of Title R313.

(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:** 2023|April 18, 2022|  
**Notice of Continuation:** April 8, 2021  
**Authorizing, and Implemented or Interpreted Law:** 19-3-104;  
 19-6-107

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	R313-34-3	Filing ID: 55061

**Agency Information**

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

**General Information**

<b>2. Rule or section catchline:</b>
R313-34-3. Clarifications or Exemptions
<b>3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):</b>
The Nuclear Regulatory Commission (United States) (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.
<b>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):</b>
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 of Waste Management and Radiation Control, Radiation is correcting typographical and formatting errors that have been discovered in this rule.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
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>B) Local governments:</b>
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.
<b>C) Small businesses ("small business" means a business employing 1-49 persons):</b>
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.
<b>D) Non-small businesses ("non-small business" means a business employing 50 or more persons):</b>
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.
<b>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 <i>agency</i>):</b>
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.
<b>F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):</b>

# WASTE MANAGEMENT AND RADIATION CONTROL BOARD

## Executive Summary

### Clean Harbors Aragonite, LLC

#### Amendment to Stipulation and Consent Order No. 2106050

January 12, 2023

<b>What is the issue before the Board?</b>	<p>This is an amendment to Stipulated Consent Order (SCO) No. 2106050 issued to Clean Harbors Aragonite, LLC (CHA) on February 8, 2022.</p> <p>Specifically, the amendment extends the deadline by which CHA must complete the Supplemental Environmental Project (SEP).</p>
<b>What is the historical background or context for this issue?</b>	<p>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.</p> <p>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.</p> <p>The original SEP is set to expire February 8, 2023. However, CHA still has money available for the schools to utilize. CHA has requested a one-year extension so they can continue the program for another school year.</p> <p>A copy of the SCO Amendment is included in the Board package.</p>
<b>What is the governing statutory or regulatory citation?</b>	<p>§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.</p>
<b>Is Board action required?</b>	<p>Yes, this is a Board Action Item. The same amendment was presented to the Board as an information item during the November 10, 2022 meeting.</p>
<b>What is the Division Director's recommendation?</b>	<p>No public comments were received during the public comment period.</p> <p>The Division Director recommends approval of the Proposed Amendment to the SEP included in SCO No. 2106050.</p>
<b>Where can more information be obtained?</b>	<p>For technical information, contact Adam Wingate at (801) 536-0212. For legal information, contact Elizabeth Burns at (385) 441-4789.</p>

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In the Matter of:	:	<b>STIPULATION AND CONSENT ORDER</b>
	:	<b>AMENDMENT</b>
CLEAN HARBORS ARAGONITE, LLC.	:	<b>No. 2106050</b>
Notice of Violation and Compliance Order	:	
No. 2102003	:	
UTD 981 552 177	:	

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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 8, 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. 2102003*, the parties hereto mutually agree and consent to AMEND the STIPULATION AND CONSENT ORDER 2106050 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

\_\_\_\_\_  
Douglas J. Hansen, Director

Date: \_\_\_\_\_

Date: \_\_\_\_\_

DRAFT